

**REGIONAL DISTRICT OF NANAIMO  
ELECTORAL AREA PLANNING COMMITTEE  
TUESDAY, NOVEMBER 14, 2006  
6:30 PM**

*(RDN Board Chambers)*

**A G E N D A**

**PAGES**

**CALL TO ORDER**

**DELEGATIONS**

**MINUTES**

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

**COMMUNICATION/CORRESPONDENCE**

- 7-10 **Ross Peterson**, re Development on the Nanoose Estuary at 2991 Northwest Bay Road.

**BUSINESS ARISING FROM THE MINUTES**

**PLANNING**

**AMENDMENT APPLICATIONS**

- 11-17 Zoning Amendment Application No. AA0604 – Addison – Myles Lake Road – Area C.

***DEVELOPMENT PERMIT APPLICATIONS***

- 18-28 Development Permit Application No. 60647 – Mardaga and Giroux – 3790 Mallard Place – Area E.

- 29-37 Development Permit Application No. 60652 – Luksay – Viking Way – Area G.

***DEVELOPMENT VARIANCE PERMIT***

- 38-47 Development Variance Permit Application No. 90622 – Peck – 2135 Sherritt Drive – Area E.

- 48-56 Development Variance Permit Application No. 90624 – Dailly – 1315 Marina Way – Area E.

- 57-65 Development Variance Permit Application No. 90625 – Malo – 2620 South Forks Road – Area C.

***OTHER***

66-79

Request for Acceptance of Parkland and Relaxation of the Minimum 10% Perimeter Frontage Requirement – JE Anderson & Associates, BCLS, on behalf of 504351 BC Ltd. (Camelot Homes) – Ballenas and Wall Beach Roads – Area E.

**ADDENDUM**

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**NEW BUSINESS**

**IN CAMERA**

**ADJOURNMENT**

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE  
MEETING HELD ON TUESDAY, OCTOBER 10, 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
Alternate	
Director F. Van Eynde	Electoral Area E
Director L. Biggemann	Electoral Area F
Director J. Stanhope	Electoral Area G
Alternate	
Director M. Lefebvre	City of Parksville

**Also in Attendance:**

P. Thorkelsson	General Manager, Development Services
W. Moorman	Manager of Engineering
N. Tonn	Recording Secretary

**CALL TO ORDER**

The Chairperson welcomed Alternate Directors Van Eynde and Lefebvre, to the meeting.

**DELEGATIONS**

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

Mr. Meyer has withdrawn his request to speak.

**LATE DELEGATIONS**

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

CARRIED

**Barbara Ehmig, Budget Steel, re Budget Steel – 2073 Main Road – Area A.**

Ms. Ehmig provided a verbal update on Budget Steel's current business standards, providing written material for the Committee's information, and requested that the Budget Steel's application be denied at its present location.

**Hazel Dunaway, re Budget Steel – 2073 Main Road – Area A.**

Ms. Dunaway raised her concerns regarding the increased noise and traffic associated with Budget Steel's business.

**MINUTES**

MOVED Director Stanhope, SECONDED Director Biggemann, that the minutes of the Electoral Area Planning Committee meeting held September 12, 2006 be adopted.

CARRIED

## PLANNING

### DEVELOPMENT PERMIT APPLICATIONS

#### **Development Permit Application No. 60624 – Fern Road Consulting Ltd. on behalf of A G Project Management Inc. – McColl Road – Area H.**

The Chairperson noted that the floor elevation of 1.5 metres above the present natural boundary of the ocean in the staff report, should be 1.9 metres.

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

CARRIED

#### **Development Permit Application No. 60651 – Anderson/Sims – 5151 Island Highway West – Area H.**

The Chairperson requested that Schedule 1 to Development Permit Application No. 60651 be amended to include the following:

- 1) The receipt by RDN staff of written confirmation of the Ministry of Transportation's acceptance of the encroachment on to Driftwood Road is required prior to final approval of the application.
- 2) The existing dwelling unit is to be removed and the area reclaimed as per the recommendations of the Geotechnical Engineer upon completion of the new dwelling unit.

MOVED Director Stanhope, SECONDED Director Young, that Development Permit Application No. 60651 for a parcel located at 5151 Island Highway, including variances to legalize two existing accessory buildings and one existing deck, and allow the construction of an over height dwelling unit, be approved according to the terms outlined in Schedule No. 1 as amended, subject to the Board's consideration of the comments received as a result of public notification.

CARRIED

### DEVELOPMENT VARIANCE PERMIT

#### **Development Variance Permit Application No. 90608 – Zajec/Sims – 2260 Alberni Highway – Area F.**

MOVED Director Biggemann, SECONDED Director Van Eynde,:

1. That Development Variance Permit Application No. 90608, to vary "Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002", for property located at 2260 Alberni Highway, as outlined on Schedule No. 1, be approved subject to the Board's consideration of the comments received as a result of public notification.
2. That if terms number 1 to 5 contained in Schedule No. 1 are not complete to the satisfaction of the Regional District of Nanaimo by January 5, 2007, that the Board approval of this permit be withdrawn, and the Board direct staff to withhold the issuance of this permit and proceed with the removal of the illegal addition in accordance with the Court Order issued in November 2005.

CARRIED

**Development Variance Permit Application No. 90620 – Dave Scott for 3536696 Canada Inc – 2360 Bonnington Drive – Area E.**

MOVED Director Van Eynde, SECONDED Director Biggemann, that Development Variance Permit Application No. 90620, to vary the permitted height of an existing dwelling at 2360 Bonnington Drive from 9.83 metres to 10.04 metres, be approved according to the terms outlined in Schedule No. 1 and subject to the Board's consideration of comments received as a result of public notification.

CARRIED

**OTHER**

**Request for Relaxation of the Minimum 10% Perimeter Requirement – Fern Road Consulting Ltd., on behalf of Arthur Coben & Peter Swann – 510 & 530 Grovehill Road – Area H.**

MOVED Director Stanhope, SECONDED Director Burnett, that the request from Fern Road Consulting Ltd., on behalf of Arthur Coben & Peter Swann, to relax the minimum 10% frontage requirement for the proposed Remainder of Lot 42, as shown on the submitted plan of the subdivision of Lot 42, District Lot 81, Newcastle District, Plan 1967, Except Part in Red on Plan 513RW, be approved.

CARRIED

**Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement – Timberlake-Jones Engineering Ltd., on behalf of 699399 BC Ltd. – off Northwest Bay Road – Area E.**

MOVED Director Van Eynde, SECONDED Director Stanhope, that the request for relaxation of the minimum 10% frontage requirement for proposed Strata Lot 9 in conjunction with the subdivision of the property legally described as District Lot 68, Nanoose District, Except Amended Parcel A Thereof and Except Those Parts in Plans 3940, 26680, 27026, 27376, 30341 and VIP80336 be approved subject to Schedule Nos. 1 and 2 of the staff report.

CARRIED

**ADJOURNMENT**

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

CARRIED

**TIME: 6:50 PM**

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CHAIRPERSON



1482 Madrona Drive  
Nanoose Bay, B.C. V9P 9C9

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

Members of the Board;

**Re: Development on the Nanoose Estuary at 2991 Northwest Bay Road.**

October 3, 2006

RDN		
CAO	<input checked="" type="checkbox"/>	GMES
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GMDS	<input checked="" type="checkbox"/>	GMR&P
OCT 10 2006		
CHAIR		BOARD
EAP		

With the belief that it is never too late to do the right thing, I urge the board to reconsider its decision to authorize the continued development of the bread & breakfast structure on the Nanoose Estuary at 2991 Northwest Bay Road.

I have written to the Board previously on this issue (letter of June 8, 2006 attached). At that time, it was my understanding that the Board acknowledged the environmental importance and sensitivity of the Estuary and that the subject development encroached upon the Estuary. Further, the Board was concerned about its liability should it decide to rescind the building permit issued. I was optimistic that the Board would ultimately do the right thing by revoking the permit, negotiating some reasonable settlement for costs borne by the developer under the issued permit, and rehabilitating the damaged habitat. I was also optimistic that the Board would have issued a stop work order on the development until a resolution was reached with the developer in order to minimize environmental damage and any costs that may have to be paid in compensation.

I have since learned that as a result of advice from the RDN solicitor, authorization has been given for the development to proceed. I am greatly disappointed by this decision; both in terms of the loss of valuable estuary habitat that would result from this development, and by the way that RDN has chosen to handle this issue.

It has been obvious to everyone that the subject development is within the active Nanoose Estuary, subject to periodic inundation, and characterized by classic estuary vegetation. The June 23, 2006 report by Streamline Consulting Ltd. (RDN's consultant engaged to investigate the development issue) confirms this. Just because this area did not appear on RDN's 1999 mapping of sensitive areas does not make it less so. RDN was in a position to know the land was wetland as part of its permit application review process.

The June 23 Streamline report does a good job of identifying the importance of this wetland, and in recommending a relocation of the development structure to the upland portion of the property as "*the most environmentally beneficial approach*". I am disheartened to have learned about the Streamline Consulting Ltd. Report via a freedom of information request, and not directly from RDN. The Board and staff certainly knew about the public concerns with this development and could have released the report to interested parties voluntarily and much earlier in the summer. To not have done so gives


the appearance of deliberately hiding the information, and erodes public confidence in RDN's willingness to conform to its environmental protection policies, and to do so in an open and transparent way. I think the public has a right to a more open consultation process. It may be unkind to say so, but it would appear that RDN has spent more time rationalizing a poor decision than in finding ways to protect the environment.

Linked to all this, and perhaps is a contributing factor to RDN's initial issuance of the building permit, is the question of RDN's in-house expertise in the technical evaluation of environmental protection needs and procedures. I have long believed that with the devolution of environmental protection capability within the federal and provincial governments and the resulting downloading of these responsibilities to local government, the necessary technical expertise would have to be acquired by local governments in order that the same level of protection can be applied regardless of which level of government was left with the authority. This would require staff addition(s), or contracts for professional services. I am aware that the Board has asked for a staff report on this matter, but several months have since passed without a report issued. I suggest that appropriate in-house expertise at the time would have identified the subject land as productive wetland, subject to RDN protection, and would have recommended a denial of a building permit. Appropriate in-house expertise would therefore have precluded the environmental disruption and all the associated time and costs of this ongoing debate.

Why discuss what might have been? It's still not too late to do the right thing; although the costs of reparation (to the developer and to the environment) will continue to grow the longer RDN waits to reverse its decision. A prompt decision by the Board to reverse its decision will have the following positive results:

- The saving and restoration of a part of the valuable Nanoose Estuary, and thereby complying with the policies of federal DFO for the protection of fisheries habitat, and Environment Canada for the protection of wildlife habitat.
- Compliance with RDN's own environmental protection policies, including those of the Nanoose Bay OCP.
- Recovery of RDN's credibility in the eyes of the public who have every right to expect its local government will defend its environmental protection policies; many of which have been put in place through public consultation.

Again, please do the responsible thing and demonstrate that the public's wishes for environmental protection are not being ignored, just to overcome a liability issue.

Sincerely,  
  
Ross Peterson



# ATTACHMENT

June 8, 2006

RDN Board  
Regional District of Nanaimo  
6300 Hammond Bay Road  
Nanaimo, B.C.

Board Members;

**Re: Proposed Bed and Breakfast Construction on Nanoose Estuary, at 2991  
Northwest Bay Road.**

There are times when in the affairs of local governance, errors are made and the best thing to do is acknowledge the mistake, make appropriate reparation, and move on; and in the process learn something from the experience. The issuance of the building permit for the proposed B&B on the Nanoose Estuary is one such example. In this case, I feel the RDN should acknowledge the building permit is contrary to federal protection policy and public wishes, negotiate some settlement with the property owner to compensate for his costs after the permit was issued, and through this process regain the public's confidence that the regional District of Nanaimo is indeed operating as a responsible steward of the natural environment, and respecting the public's wishes for protection.

Technically, the proposed siting of the B&B is clearly within the biological estuary zone, and there is no way to mitigate or offset the habitat loss. The federal Department of Fisheries and Oceans exercises a "no net loss" policy in its habitat protection practices, and there would be no means of achieving this with a building constructed directly on the estuary habitat. Also, the current Nanoose Bay Official Community Plan shows this part of the estuary to be within a Sensitive Ecosystem (Wetland), and therefore subject to protection from development impacts. While the 1999 OCP neglected to include this Sensitive Ecosystem designation, the RDN had the relevant mapping of the Sensitive Ecosystem areas years before that clearly shows the location of this wetland.

It seems to me that a simple site visit by RDN staff as part of the building permit review process would have shown that the proposed B&B infringes on the active estuary or Sensitive Ecosystem. This should have been enough to deny the permit. Perhaps a site visit was not conducted(?). Or perhaps staff do not regularly consult environmental protection mapping.

I understand that the federal Department of Fisheries and Oceans is currently reviewing this proposed development and may recommend that RDN exercise its authority to exclude development from the estuary. But, I think the public needs to know that its local government also cares about the protection of the natural environment, and has the will to act by revoking the building permit, regardless of any recommendation by the DFO.

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Please do the responsible thing, and demonstrate that the public's wishes for environmental protection are not being ignored.

Sincerely,

Ross Peterson, Retired Aquatic Biologist.  
1482 Madrona Drive  
Nanoose Bay, B.C.  
V9P 9C9



RDN	
CAO	GMF&IS
GMDS	GMR&PS
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NOV 09 2006	
SMCA	
CHAIR	BOARD
EAP	

# MEMORANDUM

**TO:** Paul Thorkelsson  
General Manager, Development Services

**DATE:** November 1, 2006

**FROM:** Susan Cormie  
Acting Manager, Current Planning

**FILE:** 3360 30 AA0604

**SUBJECT:** Proposed OCP & Zoning Amendment Application No. AA0604 - Addison Electoral Area 'C' - Myles Lake Road

## PURPOSE

To consider an application to amend the Arrowsmith Benson - Cranberry Bright Official Community Plan and Bylaw No. 500, 1987 to re-designate the subject property from the Resource designation to the Rural designation and to rezone the subject property from Subdivision District 'V' to Subdivision District 'D' in order to facilitate a 4-lot subdivision.

## BACKGROUND

The Planning Department has received an amendment application for the property legally known as Lot 1, Section 7, Range 3, Cranberry District, Plan VIP68949, which is located adjacent to Myles Lake Road in Electoral Area 'C' (see Attachment No. 1 on page 6 for location of subject property).

Surrounding land uses include Rural 1 zoned parcels to the north and east, Blind Lake, which is zoned Water 1 and Rural 9 zoned parcels to the south, and a Resource Management 4 zoned parcel to the west.

The subject property is approximately 8.45 ha in size and presently supports a dwelling unit and accessory buildings.

The property is not situated within a community water or community sewer service area.

### *Official Community Plan*

The subject property is currently designated within a 'Resource' land use designation pursuant to the "Regional District of Nanaimo Arrowsmith Benson - Cranberry Bright Official Community Plan Bylaw No. 1148, 1999". Land within this designation is to have a minimum parcel size of 8.0 or 50.0 hectares depending upon the provincial land use designations at the time the OCP was adopted. Permitted uses included forestry, agriculture, aggregate or mineral extraction or processing, historical or archaeological activities, limited outdoor recreational uses, campgrounds or recreational vehicle parks, residential uses, home-based businesses, and temporary uses.

The OCP also designates the subject property within the following development permit areas:

- The Watercourse Protection Development Permit Area for the protection of Blind Lake and its riparian areas as measured 15.0 metres from the natural boundary or where there

- is a bank within 15.0 metres of the natural boundary, 15.0 metres from the top of the bank; and,
- The Sensitive Ecosystem Development Permit Area for the wetlands adjacent to Blind Lake.

As the applicant is proposing parcels less than 8.0 and/or 50.0 hectares in size, an amendment to the OCP from the 'Resource' land use designation to the 'Rural' land use designation, which supports a minimum parcel size of 2.0 ha, is required.

#### ***Current Zoning***

The subject property is currently zoned Rural 6 (RU6) and is located within Subdivision District 'V' (minimum parcel size 50.0 ha) pursuant to Land Use and Subdivision Bylaw No. 500, 1987. Permitted uses under the Rural 6 zone include Agriculture, Aquaculture, Home-Based Business, Produce Stand, Residential Use, and Silviculture. The RU6 zoning permits a maximum of one dwelling unit per parcel. The minimum parcel size for the 'V' Subdivision District is 50.0 ha with or without community water and sewer services.

As the applicant is proposing parcels less than 50.0 hectares in size, an amendment to the current Subdivision District 'V' (50.0 ha minimum parcel size or without community water and sewer services) to Subdivision District 'D' (2.0 ha minimum parcel size with or without community water and sewer services), is required.

#### ***Proposal as Submitted***

The applicant is proposing to develop the subject parcel with 4 rural parcels with a minimum parcel size of 2.0 ha with private individual potable water wells and septic disposal systems and to provide approximately 1115 m<sup>2</sup> of land to provide a pedestrian access trail to Blind Lake (*see Attachment No. 2 on page 7 for Plan of Proposed Subdivision*).

#### **ALTERNATIVES**

1. To consider an amendment to the Regional Growth Strategy Plan in order to proceed with the OCP / Zoning Amendment Application as submitted.
2. To deny the amendment application.
3. To hold the amendment application in abeyance pending the preparation of an Amendment Application Review Process, as part of the 10-year Regional Growth Strategy Plan (RGS) Review.

#### **GROWTH STRATEGY PLAN & OFFICIAL COMMUNITY PLAN IMPLICATIONS**

This application is not considered to be consistent with the "Regional District of Nanaimo Regional Growth Strategy Bylaw No. 1309, 2002," (RGS) as set out in Goal No. 3 to protect and strengthen the Region's rural economy and lifestyle. Specifically, Policy 3A states that the minimum parcel size of lands designated as Resource Lands and Open Space will not be reduced below the minimum parcel size established in the official community plan as the date of the adoption of the RGS. For the subject property, the "Regional District of Nanaimo Arrowsmith Benson - Cranberry Bright Official Community Plan Bylaw No. 1148, 1999," which was adopted July 13, 1999, specifies a minimum parcel size of 50.0 hectares.

Therefore, an amendment to the RGS would be required prior to the consideration of the submitted amendment application.

It is noted that a 10-year review of the Regional Growth Strategy Plan is scheduled for 2007.

### ***Forest Land Reserve***

Policy 3B of the RGS states that the Regional District of Nanaimo (RDN) and member municipalities agree to encourage forestry uses on land designated as Resource Lands and Open Space, particularly on land in the Forest Land Reserve (FLR). It is noted that, at the time of the adoption of the OCP, the subject property was situated within the provincially designated Forest Land Reserve. Since that time, the Forest Land Reserve has been repealed and replaced with the *Private Managed Forest Land Act*. Policy 3B also states that should the Province remove land from the FLR, the appropriate use of the property will be determined by the RDN through the OCP and Zoning Bylaws.

It is noted that, as part of the OCP implementation process in 1999/2000, the subject property was rezoned to its present rural zoning and subdivision district.

More recently, Amendment Bylaw No. 500.325, adopted in February 2006, amended the subdivision district for parcels designated in the RGS as Resource Lands and Open Space. While the subject property was not included in the Amendment Bylaw No. 500.325 as it already had the 50.0 ha minimum parcel size designation, there were numerous other former FLR properties rezoned under Bylaw No. 500.325 to a minimum 50.0 ha parcel size. It is noted that the status of properties as former FLR or 'Private Managed Forest Land' was not included in the identification methodology used in the technical analysis of this bylaw amendment.

### **DEVELOPMENT IMPLICATIONS**

Staff is concerned that considering an amendment to one of the former FLR parcels could have land use implications for other formerly designated FLR parcels in that property owners may feel there is justification to apply for similar development rights for their parcels. As with this amendment application, these 'fine tuning' applications would not be considered in compliance with the RGS. Therefore, from a technical planning perspective, it would be desirable to establish review criteria for other similar applications rather than have these types of applications considered on a one-by-one basis. This would ensure fairness and consistency for those amendment applications that would require a RGS amendment as part of the land use amendment process. The establishment of this Amendment Application Review Process, as part of the 10-Year RGS Review which is scheduled for 2007, would be subject to consideration of the Board.

To date, staff has received a number of verbal enquiries concerning parcels located throughout the Regional District. It is noted that there has been and continues to be an active development market, which is continually placing developmental pressure on many of the Region's rural areas. Many property owners have indicated that they would like their parcels brought forward for consideration of an amendment to the RGS. As stated above, rather than consider such amendment applications on an individual piece meal basis, a more comprehensive approach is recommended to ensure consistency and fairness in evaluating these types of 'fine tuning' applications.

### **SITE SPECIFIC DEVELOPMENT IMPLICATIONS**

If this amendment application proceeds, the applicant will be required to submit technical information including a number of professional reports to support the proposed development of the site.

#### ***Public Consultation Implications***

If this amendment application proceeds, a Public Information Meeting would be held as part of the application process in order to gather public input.

### ***Park Land Implications***

The applicant has offered to dedicate a pedestrian access trail to Blind Lake, which would connect to land which the Board accepted as park land as part of a subdivision application on the neighbouring property. This park land has not yet been dedicated as the subdivision has not been approved.

It is noted that the park land proposed as part of this amendment application would probably be considered as community park land rather than a regionally significant park land.

### ***Agencies' Implications***

The Ministry of Transportation, Ministry of Environment, Ministry of Health, and the Local Fire Chief have not yet been referred the amendment application. Referrals to these agencies will be forwarded if the application proceeds.

### **VOTING**

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

### **SUMMARY**

Amendment Application No. AA0604 proposes to amend the "Regional District of Nanaimo Arrowsmith Benson - Cranberry Bright Official Community Plan and Bylaw No. 500, 1987" to allow for the potential subdivision of 4 parcels with a minimum parcel size of 2.0 ha to be served by potable water system and individual septic disposal fields. The applicant is also offering to contribute approximately 1115 m<sup>2</sup> of the subject property as a park land amenity.

The proposed amendment is to amend the OCP land use designation from Resource to Rural and to amend the current zoning of the property from Subdivision District 'V' (50.0 ha minimum parcel size) to Subdivision District 'D' (2.0 ha minimum parcel size). However, as this amendment proposal is not considered to be consistent with the "Regional District of Nanaimo Regional Growth Strategy Bylaw No. 1309, 2002," (RGS), the application cannot proceed without first receiving an amendment to the RGS.


Staff notes that other property owners with parcels that have similar land use history (formerly designated within the FLR) to the subject property may wish to apply for an amendment to the RGS as well in order to increase development rights on their parcels. As the Regional Growth Strategy Plan is scheduled for a 10-year review in 2007 and as a number of similar types of amendment applications (proposing increases in density) are expected to be submitted, in order to ensure a fair and consistent process for the review of such 'fine tuning' applications, it would be desirable from a planning perspective to conduct a comprehensive review of RGS applications rather than a piecemeal approach of considering similar applications individually.

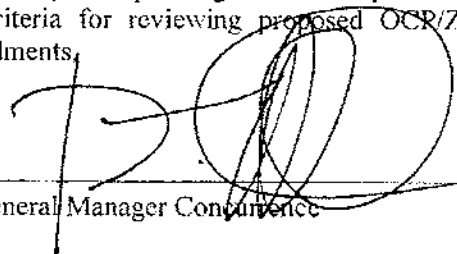
As the 10-year review of the RGS is scheduled for 2007 and there are other properties that will be applying for amendment applications which are not consistent with the RGS, staff recommends that an Amendment Application Review Process be developed for reviewing these 'fine tuning' applications. This Review Process would be forwarded for consideration to the Regional Board as part of the staff report concerning the 10-year RGS Review.

Therefore, staff recommends Alternative No. 3 to direct staff to prepare an Amendment Application Review Process, as part of the 10-year RGS Review, for reviewing those proposed OCP/Zoning Amendment Applications which involve RGS 'fine tuning' amendments and that the submitted amendment application will be considered under this process.


**RECOMMENDATION**

That Amendment Application No. AA0604 be held in abeyance pending the development of an Amendment Application Review Process establishing criteria for reviewing proposed OCR/Zoning amendment applications involving RGS 'fine tuning' amendments.

  
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Report Writer

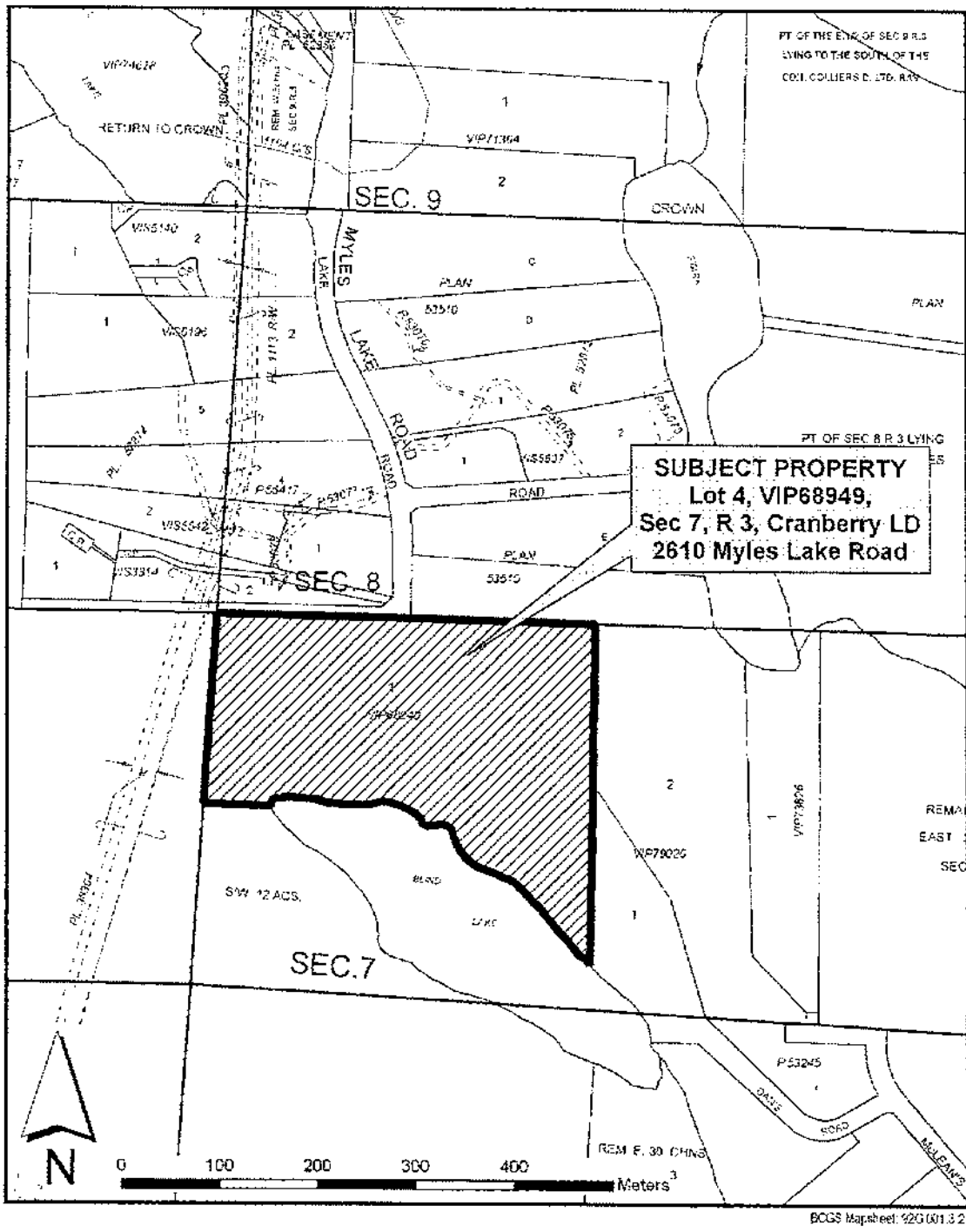
  
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General Manager Concurrence

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Manager Concurrence

  
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CAO Concurrence

COMMENTS:  
*devsvs/reports/2006/aa no 3360 30 0604 Addison Report*

Attachment No. 1  
Location of Subject Property









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EAPC

## MEMORANDUM

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**TO:** Susan Cormie  
Acting Manager, Current Planning

**DATE:** November 6, 2006

**FROM:** Norma Stumborg  
Planner

**FILE:** 3060 30 60647

**SUBJECT:** Development Permit Application No. 60647 – Mardaga and Giroux  
Electoral Area 'E' – 3790 Mallard Place

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### PURPOSE

To consider an application for a Development Permit to construct a dwelling unit at 3790 Mallard Place in Electoral Area 'E'. No variances are being requested as part of this application.

### BACKGROUND

The subject property, legally described as Lot 22, District Lot 78, Nanoose District, Plan 28595, is zoned Residential 1 Subdivision District N (RS1N) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The subject property is 0.48 hectares in area and is located on the south side of Mallard Place, fronting the ocean in Electoral Area 'E' (*See Attachment No. 1 on page 11*).

The subject property is located within the Sensitive Ecosystem Protection Development Permit Area pursuant to "Nanoose Bay Official Community Plan Bylaw No. 1400, 2006." The purpose of this development permit area is to protect the natural environment, its ecosystems, and biological diversity.

In order to satisfy the Sensitive Ecosystem Protection Development Permit Area guidelines, the applicant has submitted a Biophysical Assessment and General Environmental Management Plan dated July 31, 2006, and an Environmental Protection Plan and Vegetation Retention Objectives dated October 2006, both prepared by a Registered Professional Biologist.

The subject property is located within a building inspection service area and is serviced by Regional District of Nanaimo (RDN) water system and a proposed on-site sewage treatment system. A dwelling unit and septic system was recently removed from the subject parcel. The subject property is in a single-family residential neighbourhood and is surrounded on all sides by Residential 1 (RS1) zoned properties.

The shoreline of the property is designated 'Coastal Bluff' pursuant to the Environmental Sensitive Atlas. The lot is heavily vegetated with mature mixed forest and rock outcrops, and a large stand of Garry Oak trees exist on the site.

### ALTERNATIVES

1. To approve the Development Permit subject to the terms outlined in Schedules No. 1, 2, and 3.
2. To deny the requested development permit.

## DEVELOPMENT IMPLICATIONS

### *Land Use and Development Implications*

The property is highest on the northern corner where the panhandle driveway access is located and slopes down towards the building site near the ocean. The previous house and septic system was removed, and the building site for the proposed dwelling unit encompasses the footprint of the previous house and septic system. Given that most of the remaining land on the parcel is bedrock and not suitable for a septic field, the applicant proposes to construct an engineered sewer treatment facility in accordance with the Ministry of Health standards. A large rock outcropping with some trees and shrubs are located on the southern edge of the property near the ocean. The applicant proposes to blast and excavate this rock outcropping in order to site the garage.

The 'Coastal Bluff' ecosystem and Garry Oak habitat are the environmentally sensitive features identified on the property. The subject property contains a mixed forest dominated by large Douglas Fir, Arbutus, and a stand of Garry Oak trees on the west side of the property adjacent to the driveway. The applicant proposes to remove most of the underbrush on the lot.

The development and subject property was evaluated by a Registered Professional Biologist who prepared a Biophysical Assessment and General Environmental Management Plan and an Environmental Protection Plan and Vegetation Retention Objectives Report that provides recommendations for protecting the ecosystems including the following:

- Sediment and Erosion Control Plan
- Spill Management
- Construction Waste Management
- Air Quality, Noise, and Storm Water Management
- Measures to Protect the Fish and Wildlife
- Vegetation Retention and Replanting Plan (*See Schedule No. 3*)
- Environmental Mitigation Measures
- Environmental Monitoring Program

Specifically, the report requires that several wildlife trees be retained as they provide valuable nesting habitat for a variety of birds and that an Environmental Monitor be on-site during the construction and post-construction period to ensure that environmental impacts resulting from the construction activities are minimized in accordance with the recommendations of the Environmental Protection Plan and Vegetation Retention Objectives Report. Developing the property in accordance with the recommendations of the Professional Biologist is a term of this permit.

Prior to the issuance of a building permit, staff recommends that the applicant registers a section 219 covenant on title that specifies the no-vegetation removal area and associated terms. Additionally, staff recommends that the Biophysical Assessment and Environmental Management Report dated July 31, 2006, and the Environmental Protection Plan and Vegetation Retention Objectives Reports dated October 2006 both prepared by EBA Engineering Consultants Ltd. be registered on title prior to the issuance of the building permit to inform future owners of the sensitive ecosystem contained on the land. The applicants are in concurrence to prepare and register this covenant document.

Also required, prior to the issuance of this development permit, is that the applicant submit a landscaping security deposit that equals the total value of the materials and installation of the landscape work as

determined by a professional landscaper, or in accordance with the landscaping requirements of Bylaw 500, six thousand, five hundred dollars (\$6,500), which is \$50 per square meter of landscaping in the submitted plans.

The terms and conditions of the development permit are set out in Schedule No. 1.

**VOTING**

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

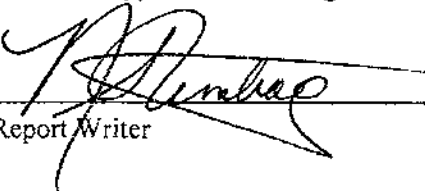
**SUMMARY/CONCLUSIONS**

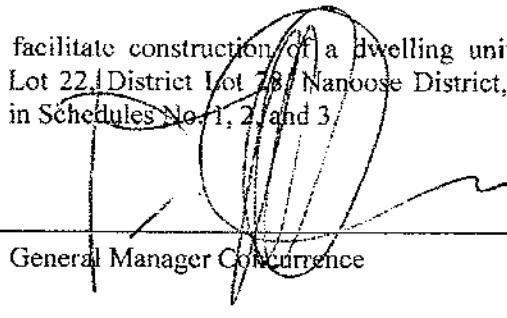
This is an application for a development permit to construct a dwelling unit and accessory building at 3790 Mallard Place within the Sensitive Ecosystem Development Permit Area, pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005." No variances are being requested as part of this application. The 'Coastal Bluff' ecosystem and Garry Oak habitat are the environmentally sensitive features on the property. A Registered Professional Biologist prepared an Environmental Protection Plan for the site that provides recommendations to minimize the impact on the environmentally sensitive features and includes that an Environmental Monitor be on-site during construction and post-construction periods to ensure that environmental impacts resulting from the construction activities are minimized in accordance with the Environmental Protection Plan and Vegetation Retention Objectives Report.

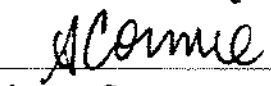
So that future owners are aware of the sensitive ecosystem area and features, it is recommended that a section 219 covenant is registered on title that specifies the no-vegetation removal area and associated terms and includes the Biophysical Assessment and General Environmental Management Plan dated July 31, 2006, and the Environmental Protection Plan and Vegetation Retention Objectives Report dated October 2006 both prepared by EBA Engineering Consultants Ltd. The applicants are in concurrence to prepare and register such a covenant document. In staff's assessment of this application, the proposed development appropriately addresses the Sensitive Ecosystem Protection Development Permit guidelines. Therefore, staff recommends that the requested development permit be approved subject to the terms and conditions outlined in Schedules No. 1, 2, and 3 of the staff report.


**RECOMMENDATION**

That Development Permit Application No. 60647 to facilitate construction of a dwelling unit and accessory building, for the parcel legally described as Lot 22, District Lot 78, Nanoose District, Plan 28595, be approved according to the conditions outlined in Schedules No. 1, 2, and 3.

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

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

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

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

*Act's*

**COMMENTS:**

*devsvs/reports/2006/dp no 3060 30 60647 Mardaga Report*

**Schedule No. 1**  
**Development Permit Application No. 60647**  
**Terms and Conditions**

**Development of Site**

1. The subject property shall be developed in substantial compliance with Schedules No. 1, 2, and 3.
2. All construction to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
3. A building permit shall be obtained from the RDN Building Inspection Department for the dwelling and accessory building prior to the commencement of any work on the site.
4. The applicant shall submit a survey, prepared by a British Columbia Land Surveyor, to the Chief Building Inspector that confirms the height and siting of the proposed dwelling unit and accessory building prior to occupancy.
5. The applicant shall construct a septic disposal and/or treatment system in accordance with the Ministry of Health standards.

**Ecosystem Protection**

6. The subject property shall be developed in accordance with all recommendations contained in the Biophysical Assessment and General Environmental Management Plan dated July 31, 2006, and the Environmental Protection Plan and Vegetation Retention Objectives Report dated October 2006, both prepared by EBA Engineering Consultants Ltd.
7. An Environmental Monitor shall be on-site during the construction and post-construction works in accordance with the Environmental Protection Plan and Vegetation Retention Objectives Report dated October 2006 prepared by EBA Engineering Consultants Ltd.
8. The Replanting Plan shall be done in accordance with Schedule No. 3 and the recommendations specified by the Professional Biologist on pages eight (8) through (10) inclusive of the Environmental Protection Plan and Vegetation Retention Objectives Report dated October 2006 and prepared by EBA Engineering Consultants Ltd.

**Landscaping**

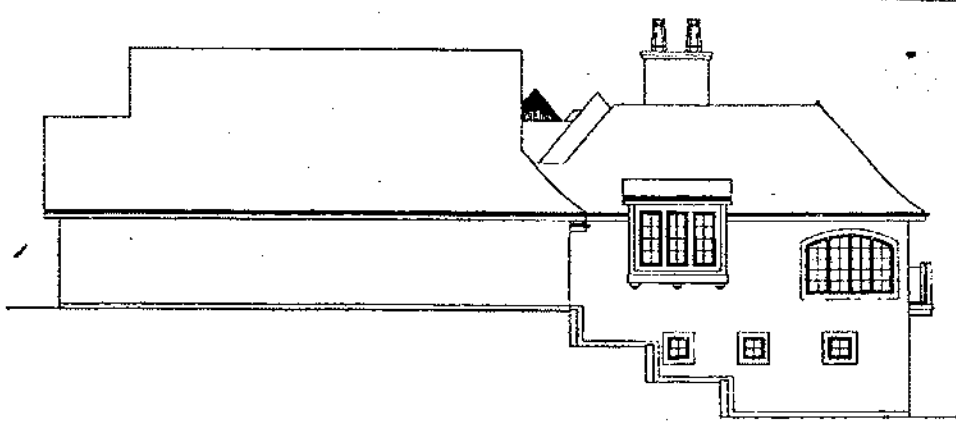
9. The applicant shall submit a landscaping security deposit that equals the total value of the materials and installation of the landscape work as determined by a professional landscaper, or in accordance with the landscaping requirements of "Regional District of Nanaimo Land Use and Subdivision Bylaw 500, 1987," six thousand, five hundred dollars (\$6,500.00) calculated at \$50 per square meter of landscaping as per the submitted plans.

**Covenant**

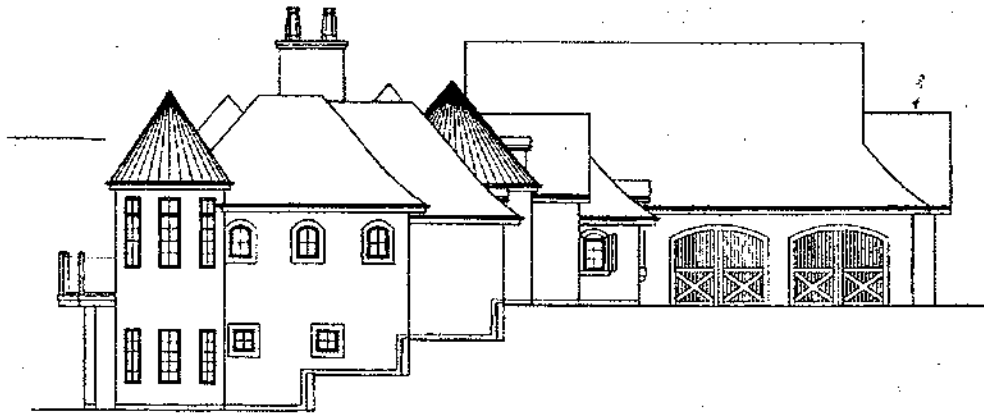
10. Prior to the issuance of this permit the applicant must, at the applicant's expense and to the satisfaction of the Regional District of Nanaimo, register a section 219 covenant(s) with a priority agreement that includes no-vegetation removal area and terms and registers the Biophysical Assessment and Environmental Management Report dated July 31, 2006, and the Environmental Protection Plan and Vegetation Retention Objectives Reports dated October 2006, both prepared by EBA Engineering Consultants Ltd.



Schedule No. 3 (Page 2 of 3)  
Development Permit Application No. 60647  
Site Plan and Building Elevations  
(as submitted by applicant, modified to fit this page)



Right Side Elevation



Left Side Elevation

Schedule No. 3 (Page 3 of 3)  
Development Permit Application No. 60647  
Site Plan and Building Elevations  
(as submitted by applicant, modified to fit this page)



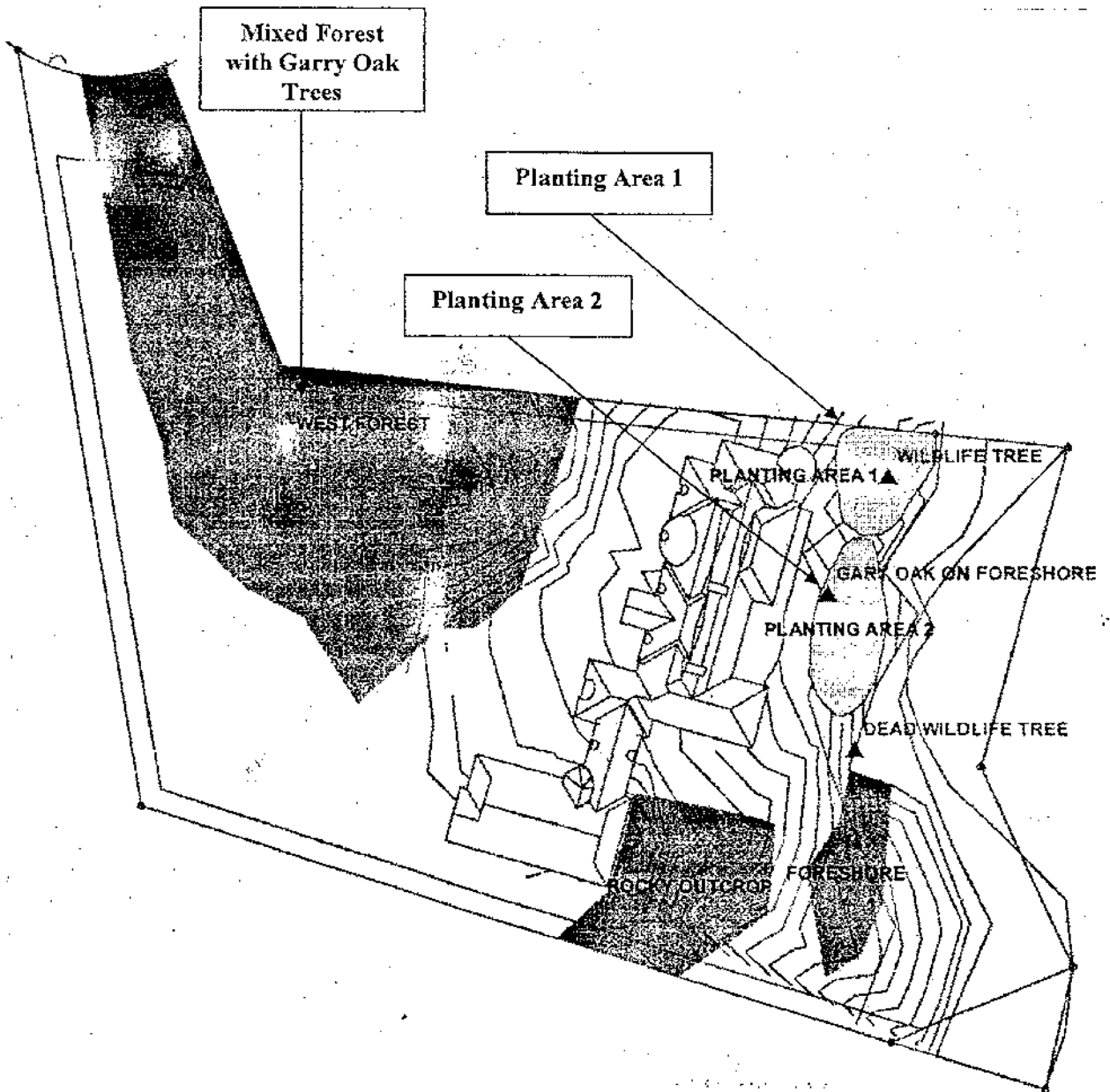
Front Elevation



Back Elevation



Schedule No. 3 (1 of 3)  
Development Permit Application No. 60647  
Replanting Plan



**Schedule No. 3 (2 of 3)**  
**Development Permit Application No. 60647**  
**Replanting Plan**

<b>TABLE 1. RECOMMENDED PLANT SPECIES BY TYPE</b>		
<b>Common Name</b>	<b>Scientific (Latin) Name</b>	<b>Form/Mature Size</b>
<b>Deciduous Tree Species</b>		
Garry oak*	<i>Quercus garryana</i>	Scrubby or tall, depending on conditions. To 15 m in height.
Hawthorn	<i>Cretagus douglasii</i>	Small tree to 10 m tall
<b>Coniferous Tree Species</b>		
Douglas fir*	<i>Pseudotsuga menziesii</i>	To 30 m
Arbutus*	<i>Arbutus menziesii</i>	To 30 m
<b>Shrub Species</b>		
Oceanspray*	<i>Holodiscus discolor</i>	Upright shrub, 4.5 m tall
Red flowering currant	<i>Ribes sanguineum</i>	1.5-3 m tall
Tall Oregon grape*	<i>Mabonia aquifolium</i>	Upright evergreen shrub, 3 m tall, suitable for open areas
Dull Oregon grape*	<i>Mabonia nervosa</i>	Upright evergreen shrub, 0.9 -1.5 m tall, suitable under firs
Kinnikinnick*	<i>Arctostaphylos uva-ursi</i>	Groundcover, 5-10 cm tall
Baldhip or wild rose	<i>Rosa gymnocarpa, Rosa axonioides</i>	Sparse shrub, 1-2 m tall
Snowberry (or Waxberry)	<i>Symphoricarpos alba</i>	Upright shrub to 2 m tall
Sala*	<i>Gaultheria shallon</i>	Creeping or upright evergreen bush, typically 1-2 m tall
Honeysuckle	<i>Lonicera ciliosa/bisidula</i>	Upright shrub, 3 m tall
Oregon Boxwood	<i>Pachistima myrsinites</i>	Low dense evergreen bush, to 0.8 m tall
<b>Ferns</b>		
Bracken fern	<i>Pteridium aquilinum</i>	To 3 m tall, suitable for open areas
Sword fern	<i>Polystichum munitum</i>	Evergreen fern to 1.5 m tall, suitable for moister areas

\* Species observed on the Property

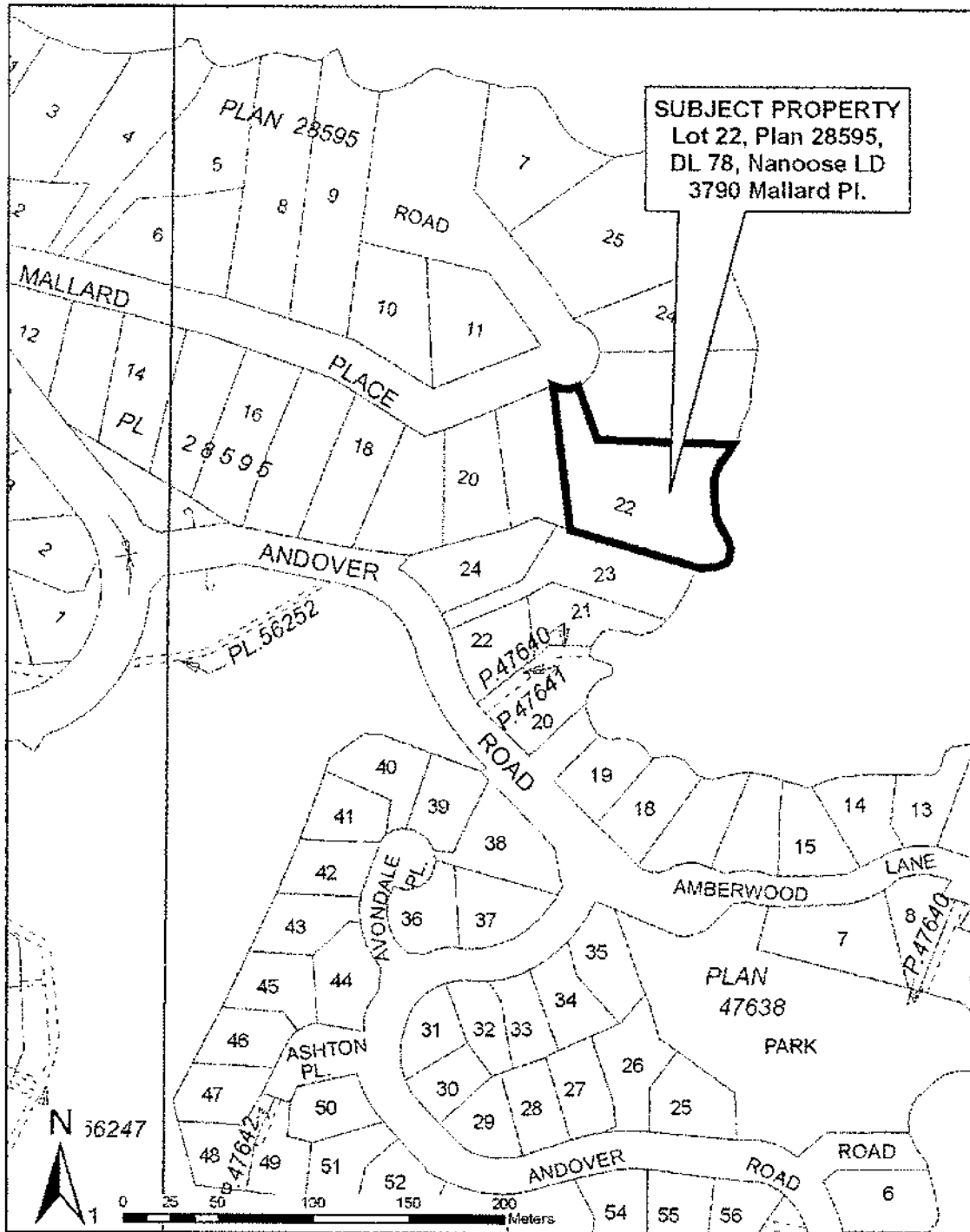
A diverse mix of plants should be chosen according to the above list. Other native species may be appropriate provided they are suitable for rocky coastal sites. Advice from a landscape architect or nursery personnel with experience in native plants should be obtained.

**Schedule No. 3 (3 of 3)**  
**Development Permit Application No. 60647**  
**Replanting Plan**

The Table below provides additional information regarding the number of plants to be added to each area, and required spacing.

<b>TABLE 2. NUMBERS OF PLANTS PER AREA</b>						
<b>Area</b>	<b>Trees</b>			<b>Shrubs/Ferns</b>		
	<b>#</b>	<b>Size</b>	<b>Spacing</b>	<b>#</b>	<b>Size</b>	<b>Spacing</b>
West Forest	5	1.2 m tall or greater	2-3 m on centre	10	1 gallon pot	1-2 m on centre
Rocky Outcrop	5	1.2 m tall or greater	2-3 m on centre	5	1 gallon pot	1-2 m on centre
Foreshore	5	1.2 m tall or greater	2-3 m on centre	5	1 gallon pot	1-2 m on centre
Planting Area 1	5	1.2 m tall or greater	2-3 m on centre	5	1 gallon pot	1-2 m on centre
Planting Area 2	3	1.2 m tall or greater	2-3 m on centre	5	1 gallon pot	1-2 m on centre
<b>TOTAL</b>		<b>23</b>			<b>30</b>	

**Attachment No. 1**  
**Development Permit No. 60647**  
**Location of Subject Property**



Mapsheet 92F.030 3.4



RDN	
CAO <i>(RW)</i>	GMF&IS
GMDS	GMR&PS
GMES	GMIS
NOV 03 2006	
SMCA	
CHAIR	BOARD
<i>EXP</i>	

**MEMORANDUM**

**TO:** Susan Cormie  
Acting Manager, Current Planning

**DATE:** November 3, 2006

**FROM:** Greg Keller  
Planner

**FILE:** 3060 30 60652

**SUBJECT:** Development Permit Application No. 60652 - Luksay  
Lot 23, District Lot 28, Nanoose District, Plan VIP76143  
Electoral Area 'G' – Viking Way

**PURPOSE**

To consider an application to amend a Development Permit by relaxing the minimum setback requirements for the front lot line to facilitate the construction of a new dwelling unit.

**BACKGROUND**

The subject property, legally described as Lot 23, District Lot 28, Nanoose District, Plan VIP76143, is located on Viking Way in the Columbia Beach area of Electoral Area 'G' (*see Attachment No. 1*).

The subject property is zoned Residential 5 (RS5) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The Residential 5 zone has a minimum setback requirement for buildings and structures, other than multiple dwelling units, of 8.0 metres from the front and exterior lot lines and 3.0 metres from other lot lines. The applicant is requesting to vary the front lot line in order to site a dwelling unit on the subject parcel.

Pursuant to the previous Official Community Plan, "French Creek Official Community Plan Bylaw No. 741, 1987," the subject property was designated within Development Permit Area (DPA) 'D' French Creek. The purpose of this DPA was to protect the natural environment, to protect development against hazardous conditions, and to address the form and character of commercial and multiple dwelling unit development.

Development Permit No. 77 was issued in 1994 and permitted the subdivision and development of the lands within the DPA. In addition, DP No. 77 established minimum setback requirements from the ocean and from French Creek, established flood construction elevations, and designated areas where vegetation must be retained. DP No. 77 also varied the height for the dwelling units in this portion of the subdivision to 9.5 metres above natural grade to accommodate the flood construction elevation and varied the interior side and rear lot line setbacks from 3.0 metres to 2.0 metres for single-family dwelling units.

In addition, Development Permit No. 0249 was issued in order to amend the lot layout as previously approved by DP No. 77.

In this case, the applicant is requesting to amend DP No. 77 to include a variance to Section 3.4.65 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," to relax the front lot line setback requirement from 8.0 metres to 5.48 metres in order to facilitate the construction of a dwelling unit.

#### ALTERNATIVES

1. To approve the development permit amendment and variance request as submitted, subject to the terms outlined in Schedule No. 1 and to the notification procedure pursuant to the *Local Government Act*.
2. To deny the requested development permit amendment application.

#### LAND USE AND DEVELOPMENT IMPLICATIONS

Due to the small size, triangular shape, long road frontage, and the minimum required setbacks of the RS5 zone, the applicants would have difficulty siting a dwelling unit on the subject property in accordance with Bylaw No. 500. The applicants are proposing to construct a single-storey dwelling unit with a main floor area of 157.5 m<sup>2</sup> (695 ft<sup>2</sup>) and a 35.3 m<sup>2</sup> (380 ft<sup>2</sup>) bonus room above the garage. The applicants are also proposing to include a 514 ft<sup>2</sup> attached garage.

The surrounding properties are developed with dwelling units of similar size. Therefore, in staff's opinion, the size of the proposed dwelling unit is reasonable and is in keeping with the surrounding character of development.

Without the proposed variance, the construction of the proposed dwelling unit would not be possible. This is due to a combination of the small size of the subject property (658 m<sup>2</sup>) and irregular shape, which makes it very difficult to design and site a reasonably sized dwelling unit on the subject property. The building envelope on the subject parcel is 292.5 m<sup>2</sup> after the minimum required setback of 8.0 metres from the front and exterior lot lines and 2.0 metre setback from all other lot lines is applied. The applicant is proposing to utilize 240.8 m<sup>2</sup>, which is less than the 292.5 m<sup>2</sup> of usable building envelope permitted by the RS5 zone. Therefore, the proposed variance, if approved, would result in the construction of a smaller dwelling unit than what is permitted if the proposed dwelling unit was constructed in accordance with the RS5 zone.

If this property was located within a Residential 1 (RS1) zone, which is the typical zone for single-dwelling unit use and typical of most other subdivisions in the area, the minimum permitted setbacks for an exterior lot line would be 5.0 metres instead of 8.0 metres. The proposed setbacks requested as part of this application would be consistent with the majority of properties located within the French Creek area and are considered to be appropriate for the proposed construction of a single-family residential dwelling unit on this property.

The visibility along Viking Way should not be adversely impacted due to the variance being requested. In addition, the proposed variance is not anticipated to have a negative impact on the adjacent properties

given that there are no views and that the proposed variance, if approved, would result in an equivalent setback to what is required in a typical low density residential zone.

In staff's assessment of this application, the proposed variance is reasonable and is supported by a valid land-use justification given that the development of the subject parcel is hindered by the irregular shape, small size, and long road frontage. Furthermore, the proposed variance is not anticipated to have a negative impact on the adjacent properties, and if approved, would be consistent with the minimum required setback in other single dwelling residential lots in the French Creek Area.

#### **DEVELOPMENT PERMIT AREA IMPLICATIONS**

Prior to the subdivision of the parent parcel, the subject property was originally in a Development Permit Area (DPA). Development Permits No. 77 and 0249, both of which apply to the subject property, were issued pursuant to the previous designation. However, when French Creek Official Community Plan Bylaw No. 1115 was adopted in 1998, this Development Permit area designation was removed. Therefore, the current application, although not currently within a DPA, requires an amendment to the original DP No. 77.

#### **PUBLIC CONSULTATION IMPLICATIONS**

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

#### **VOTING**

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

#### **SUMMARY/CONCLUSIONS**

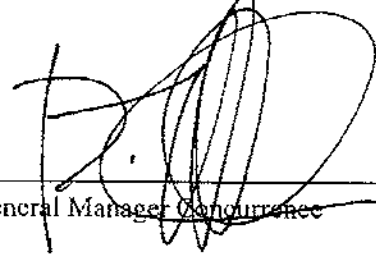
This is an application to amend the provisions of Development Permit No. 77 and to relax the minimum front lot line setback requirement of the RS5 zone to facilitate the construction of a dwelling unit as proposed by the applicant. The Residential 5 (RS5) zone requires buildings and structures to be located a minimum of 8.0 metres from the exterior lot lines. The applicants are requesting to relax the minimum required front lot line setback requirements from 8.0 metres to 5.48 metres to accommodate the siting of the proposed dwelling unit.


The subject property is an irregularly shaped parcel of relatively small size, which makes it difficult to construct a conventional dwelling unit in accordance with Bylaw No. 500 and Development Permit No. 77. In addition, the applicants are proposing to construct a dwelling unit that is of comparable in size to the other dwelling units in the neighbourhood. For these reasons, staff support Alternative No. 1 to approve the development permit with variance.


**RECOMMENDATION**

That Development Permit Amendment Application No. 60652, to vary the minimum front lot line setback requirements of the Residential 5 (RS5) zone from 8.0 metres to 5.48 metres to permit the construction of a dwelling unit on Lot 23, District Lot 28, Nanoose District, Plan VIP76143 located on Viking Way, be approved subject to the terms outlined in Schedule No. 1 and to the notification procedure pursuant to the *Local Government Act*.

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

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

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

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

COMMENTS:  
*devsyst/reports/2006/dp no 60652 Luksay Report*



**Schedule No. 1**  
**Terms of Development Permit No. 60652**  
**Lot 23, DL 28, Nanoose District, Plan VIP76143**  
**Viking Way**

**Variance**

- a) Section 3.4.65 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is proposed to be varied as follows:
  - i) The front lot line is relaxed from 8.0 metres to 5.48 metres in order to accommodate the siting of one dwelling unit.
- b) The variance applies only to a dwelling unit designed and sited as shown on Schedules No. 2 and 3.

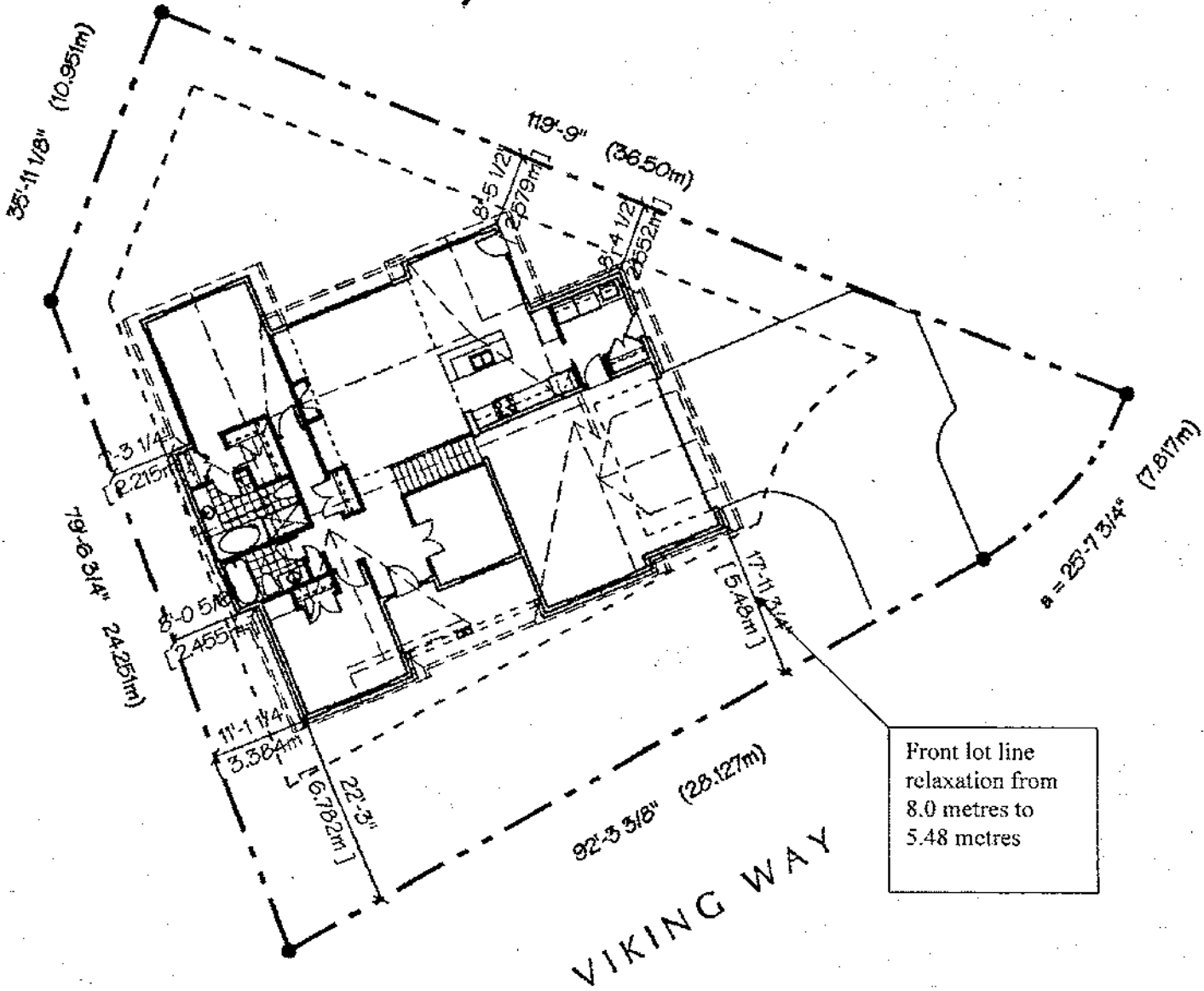
**Development of Site**

- c) 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," and Development Permits No. 77 and 0249, except where varied by this Permit.
- d) Applicant to obtain building permit prior to commencing construction.
- e) Development to be in substantial compliance with Schedules No. 2 and 3.

**Survey**

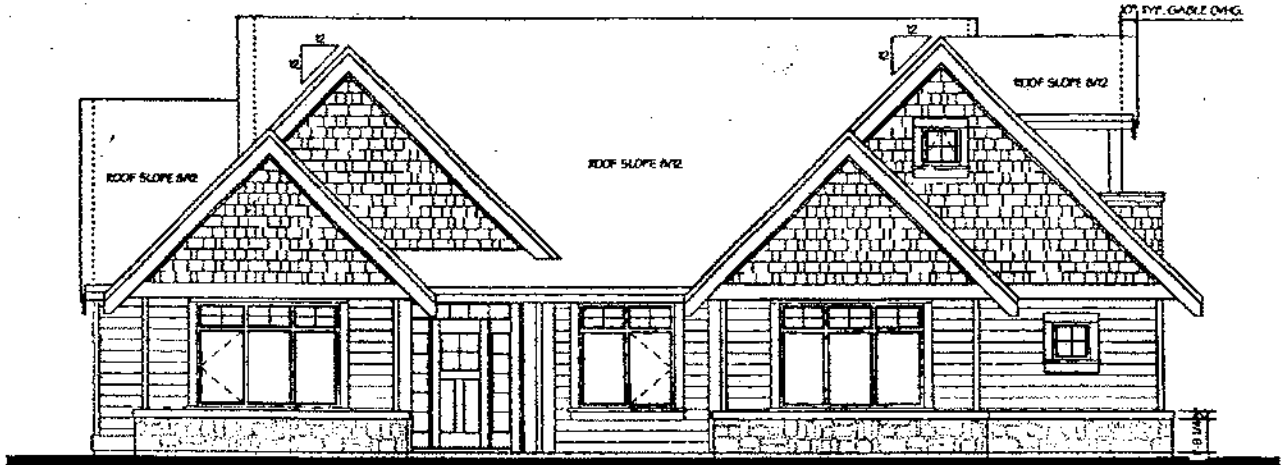
- f) A survey prepared by a British Columbia Land Surveyor (BCLS) is required upon completion of the dwelling unit and prior to occupancy to confirm its siting and height. This survey should include indication of the outermost part of the building including the overhang, gutters, etc., and shall be prepared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

Schedule No. 2  
Development Permit No. 60652  
Site Plan (as submitted by applicants, reduced for convenience)  
Lot 23, DL 28, Nanoose District, Plan VIP76143



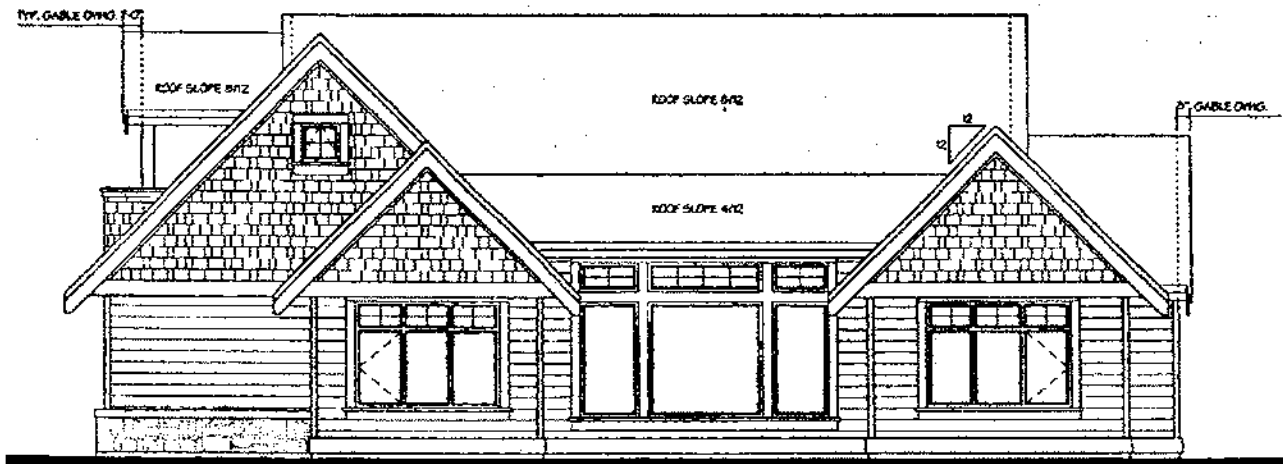
Front lot line relaxation from 8.0 metres to 5.48 metres

Schedule No. 3  
Proposed Profiles (Page 1 of 2)  
Development Permit No. 60652



Front Elevation

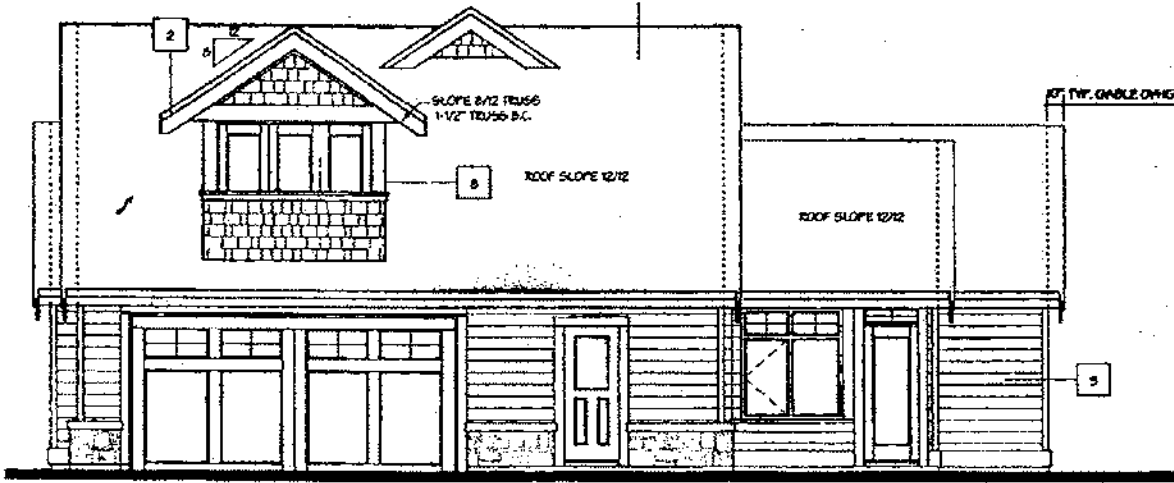
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Rear Elevation

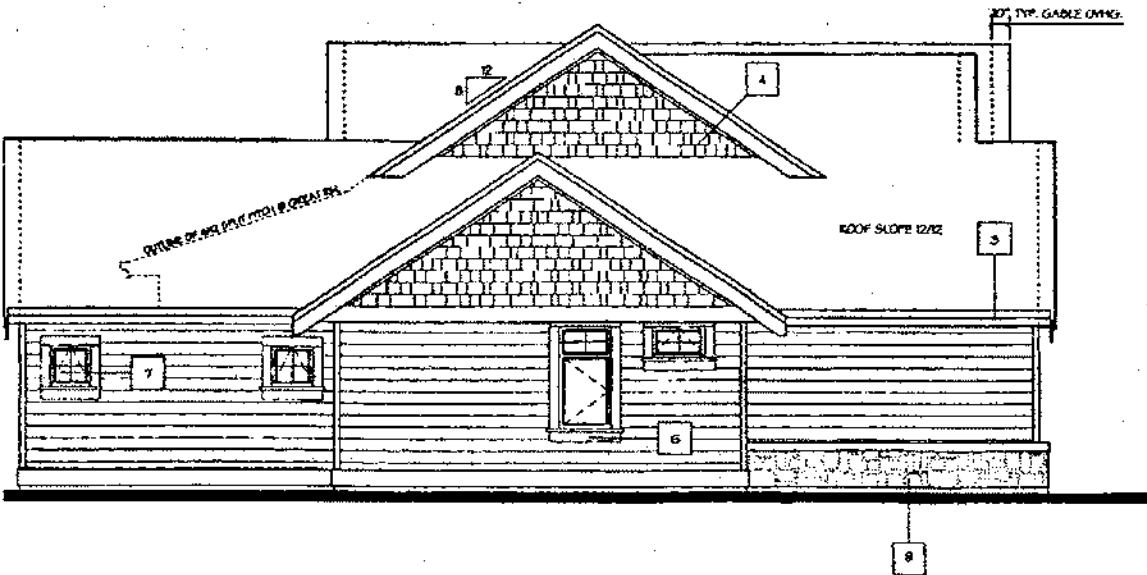
Not To Scale

Schedule No. 3  
Proposed Profiles (Page 2 of 2)  
Development Permit No. 60652



Right Elevation

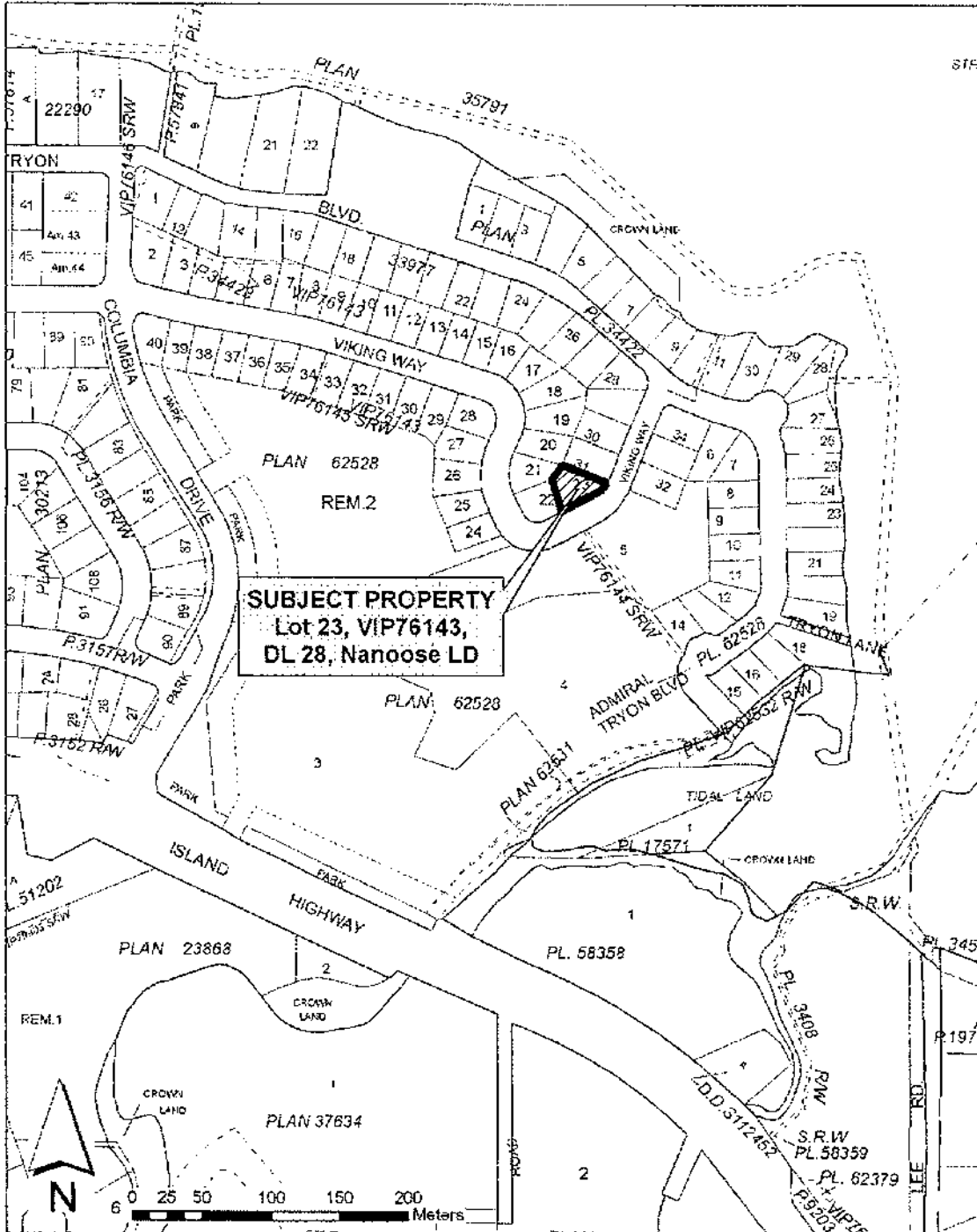
Not To Scale



Left Elevation

Not To Scale

Attachment No. 1  
Subject Property  
Development Permit No. 60652



Mapsheet 52F.039.3.1



RDN			
CAO	GMF&S		
GMDS	GMR&PS		
GMES	GMTS		
NOV 03 2006			
SMCA			
CHAIR	BOARD		
EAP			

**MEMORANDUM**

**TO:** Susan Cormic  
Acting Manager, Current Planning

**DATE:** October 31, 2006

**FROM:** Greg Keller  
Planner

**FILE:** 3090 30 90622

**SUBJECT:** Development Variance Permit Application No. 90622 - Peck  
Electoral Area 'E' - 2135 Sherritt Drive

**PURPOSE**

To consider an application for a Development Variance Permit to permit the siting of an addition and modification to an existing single dwelling unit and accessory building for property located in Electoral Area 'E'.

**BACKGROUND**

This application is a request for a development variance permit to relax the minimum interior side lot line and the maximum height requirements in order to allow the continued construction of an addition to an existing single dwelling unit located on the property legally described as Lot A, District Lot 37, Nanoose District, Plan 46562 (see Attachment No. 1 on page 10 for location of subject property).

The subject property, which is approximately 1.069 ha in size and located at 2135 Sherritt Drive in Electoral Area 'E', is currently zoned Residential 1 Subdivision District 'F' (RS1F) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line, 2.0 metres from the interior side lot line, 2.0 metres from the rear lot line, and 5.0 metres from the other lot line.

The Residential 1 zone permits a maximum of one dwelling unit per parcel with a maximum dwelling unit height of 8.0 metres as measured from the natural grade. Currently, the subject property is developed with a dwelling unit and a detached garage.

The property is served by a private well and private septic disposal and is within the Regional District of Nanaimo (RDN) building inspection area.

The subject parcel is not designated within a development permit area pursuant to the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005," and the RDN Environmentally Sensitive Features Atlas does not indicate the presence of any environmentally sensitive features.

**Proposal**

The applicants have begun construction of an addition to an existing garage, which includes one storey above the existing garage and two storeys to the rear of the existing garage. The garage addition is

proposed to be attached to the existing dwelling unit with a fully enclosed and heated breezeway making the existing garage and proposed addition part of the existing dwelling unit. After construction of this addition under Building Permit No. 27717 commenced, the applicant reviewed the building plans and determined that the upper floor would not have sufficient usable space due to the low ceiling height near the outside edge of the building as a result of the steep pitch of the roof (12/12) and the low four foot knee wall. As a result, the applicant is proposing to amend the building plans by increasing the height of the knee wall by two feet to maximize the usable floor area on the upper floor. This proposed change will result in the building being above the maximum 8.0 metre dwelling unit height.

In addition to the request for relaxation of the maximum dwelling unit height requirement, upon the applicant having a BCLS determine the maximum height of the proposed building for the purpose of applying for a Development Variance Permit, it was discovered that the existing garage building was originally constructed within the minimum 2.0 metre side lot line setback requirement.

Therefore, as the applicable bylaw provisions cannot be met, the applicants are proposing to vary the minimum interior side lot line setback requirement and increase the maximum dwelling unit height requirement to allow for an addition to the single dwelling unit, which is proposed to include the existing garage as part of the dwelling unit. The proposed variances are outlined in *Schedule No. 4 on page 9*.

#### **ALTERNATIVES**

1. To approve Development Variance Permit No. 90622 subject to Schedules No. 1, 2, 3, and 4 and to the notification procedure pursuant to the *Local Government Act*.
2. To deny the requested permit.

#### **DEVELOPMENT IMPLICATIONS**

The subject property is primarily flat with a slight drop in elevation at the building site. This site constraint, although minor, combined with the steep roof pitch results in the increase of the overall height of the house. The steep roof is proposed in order to architecturally match the addition to the existing dwelling unit, which already has a 12/12 roof pitch. The proposed height variance will also allow for more usable floor area on the upper floor of the proposed structure.

There are mature trees throughout the subject property that screen the proposed development from the majority of the surrounding properties. While the proposed addition will be visible from the property to the south of the subject property, the proposed addition is not anticipated to have a negative impact on this adjacent property.

With respect to Regional District of Nanaimo Policy B1.5 – Development Variance Permit, Development Permit with Variance, and Floodplain Exemption Application Evaluation Policy, the applicants have demonstrated a satisfactory land use justification in support of the requested height variance.

#### **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 will receive notice of the proposal and will have an opportunity to comment on the proposed variances prior to the Board's consideration of this application.

**VOTING**

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

**SUMMARY**

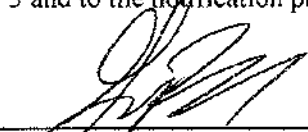
This is an application for a Development Variance Permit to relax the minimum side lot line setback requirement and the maximum permitted dwelling unit height in order to permit an addition to an existing dwelling unit and accessory garage, which is proposed to be incorporated into the dwelling unit. It is noted that the existing garage was originally sited within the setback area. The requested variances are outlined in *Schedule No. 4*.

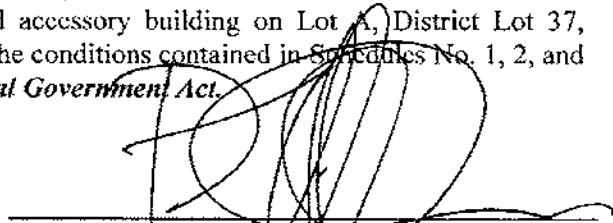
Due to the mature vegetation on the subject property, the proposed variances are not anticipated to have a negative impact on the adjacent properties. Furthermore, the existing accessory building, which the applicants are proposing to attach to the dwelling unit, has been located in its current location for a number of years with no complaints received from adjacent property owners.


As the proposed development is not expected to have a negative impact on the surrounding properties, the architectural integrity of the dwelling unit will be included in the addition; and as the application will meet the applicable objectives of Board Policy B1.5, staff recommends Alternative No. 1 to approve Development Variance Permit No. 90622 subject to the conditions set out in Schedules No. 1, 2, and 3 and to the notification procedures pursuant to the *Local Government Act*.


**RECOMMENDATION**

That Development Variance Permit Application No. 90622, submitted to vary the minimum setback and maximum height requirements, as set out on Schedule No. 4, to allow the construction of an addition and modification to an existing single dwelling unit and accessory building on Lot A, District Lot 37, Nanoose District, Plan 46562, be approved subject to the conditions contained in Schedules No. 1, 2, and 3 and to the notification procedure pursuant to the *Local Government Act*.

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

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

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

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

**COMMENTS:**

*devsvs/reports/2006/dvp no 3090 30 90622 Peck Report*



**Schedule No. 1**

**Development Variance Permit Application No. 90622**

**Lot A, District Lot 37, Nanoose District, Plan 46562**

**2135 Sherritt Drive**

**Conditions of Approval**

**Development of Site**

1. The variances authorized by this permit apply only to the structure in the location shown on Schedule No. 2 and constructed in substantial compliance with Schedule No. 3.
2. All development must be in compliance with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," except where varied by this permit.
3. The applicant shall obtain a valid building permit from the Regional District of Nanaimo to the satisfaction of the Regional District of Nanaimo.
4. The applicant shall, at the applicant's expense, provide a survey showing the final siting and height of the addition to the satisfaction of the Building Inspection Department.

Schedule No. 2 (Page 1 of 2)

Development Variance Permit Application No. 90622

Lot A, District Lot 37, Nanoose District, Plan 46562

2135 Sherritt Drive

Building Location Certificate

(as submitted by applicant/reduced for convenience)

BRITISH COLUMBIA LAND SURVEYOR'S SKETCH PLAN

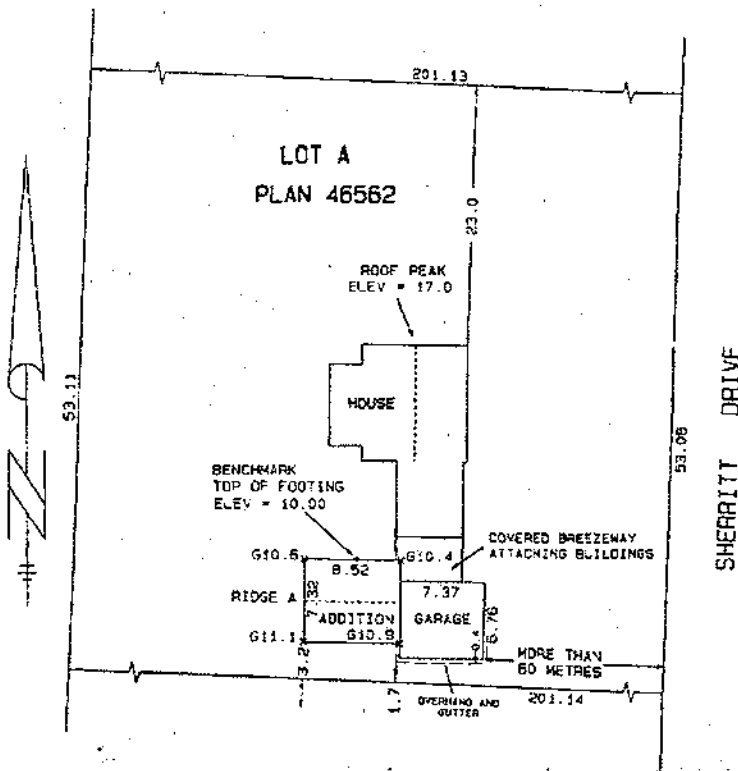
LEGAL DESCRIPTION :

LOT A, PLAN 46562, DISTRICT LOT 37, NANOOSE DISTRICT

ELEVATIONS ARE IN METRES AND ARE REFERRED TO AN ASSUMED DATUM.

ELEVATIONS AT BUILDING CORNERS ARE INTERPOLATED FROM SURROUNDING UNOBTURBED GRADE

GRADE BENEATH RIDGE A = 10.65M  
MAXIMUM RIDGE ELEVATION = 18.65M  
ADDITION SUBFLOOR ELEVATION = 10.92M  
PROPOSED RIDGE ELEVATION = 19.18M  
HEIGHT VARIANCE REQUESTED = 0.61M (2 FEET)



THIS DOCUMENT PREPARED FOR : WAYNE PECK

SCALE : 1:400  
ALL MEASUREMENTS IN METRES

ADDRESS : 2135 SHERRITT DRIVE

LEIGH A. MILLAN  
BRITISH COLUMBIA  
LAND SURVEYOR  
CANADA LANDS SURVEYOR

SUITE NUMBER 102  
170 WALLACE STREET  
NANAIMO, B.C. V9R-5B1

FILE NO. 2387  
F.B. NO. LGOSELEAF

COMP FILE ABLC.411

CERTIFIED CORRECT

DATE : SEPTEMBER 19, 2006

*Leigh A. Millan* R.C.S. C.L.S.

© 2006 NOT VALID UNLESS  
ORIGINALLY SIGNED  
AND SEALED

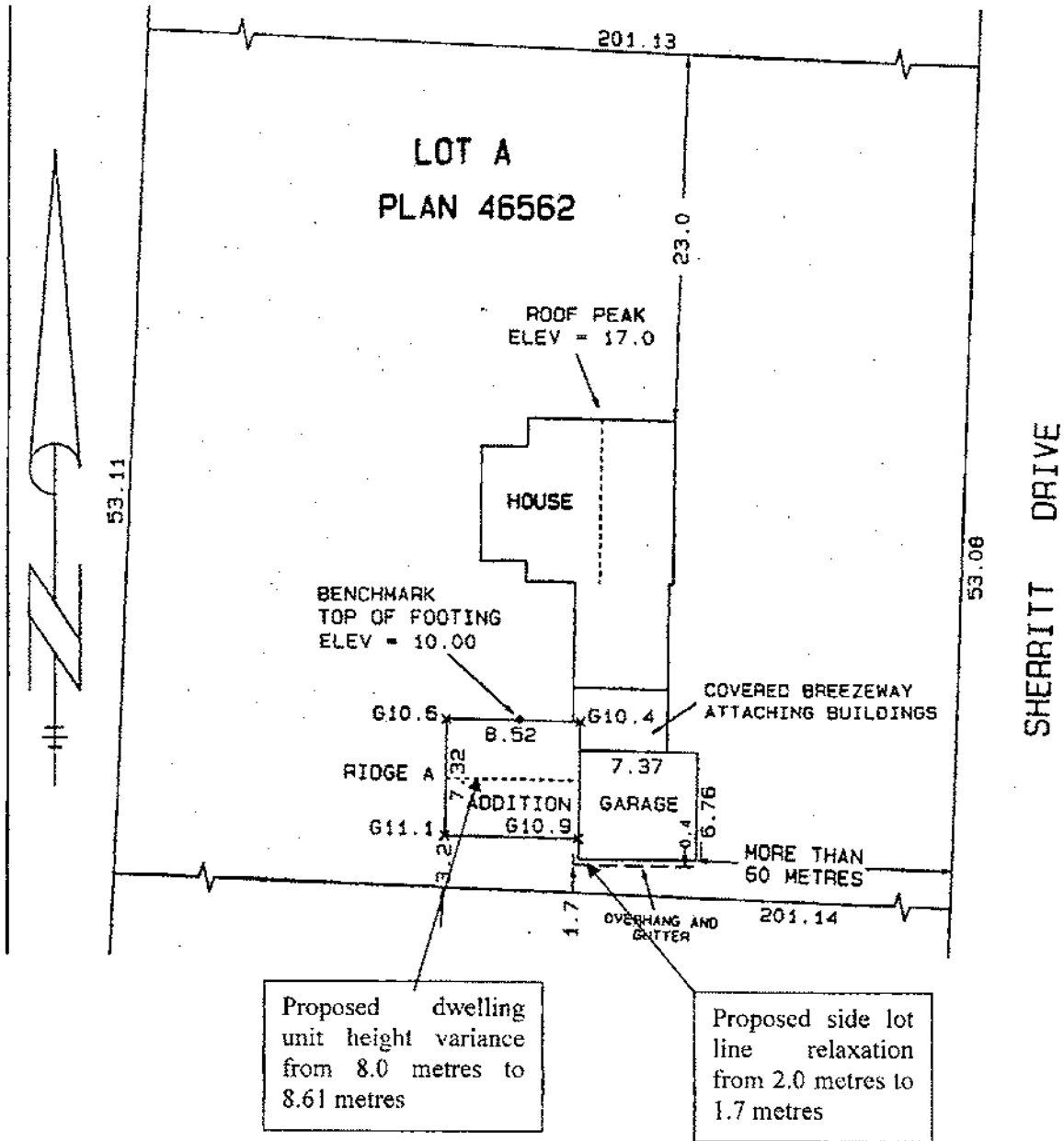
Schedule No. 2 (Page 2 of 2)

Development Variance Permit Application No. 90622

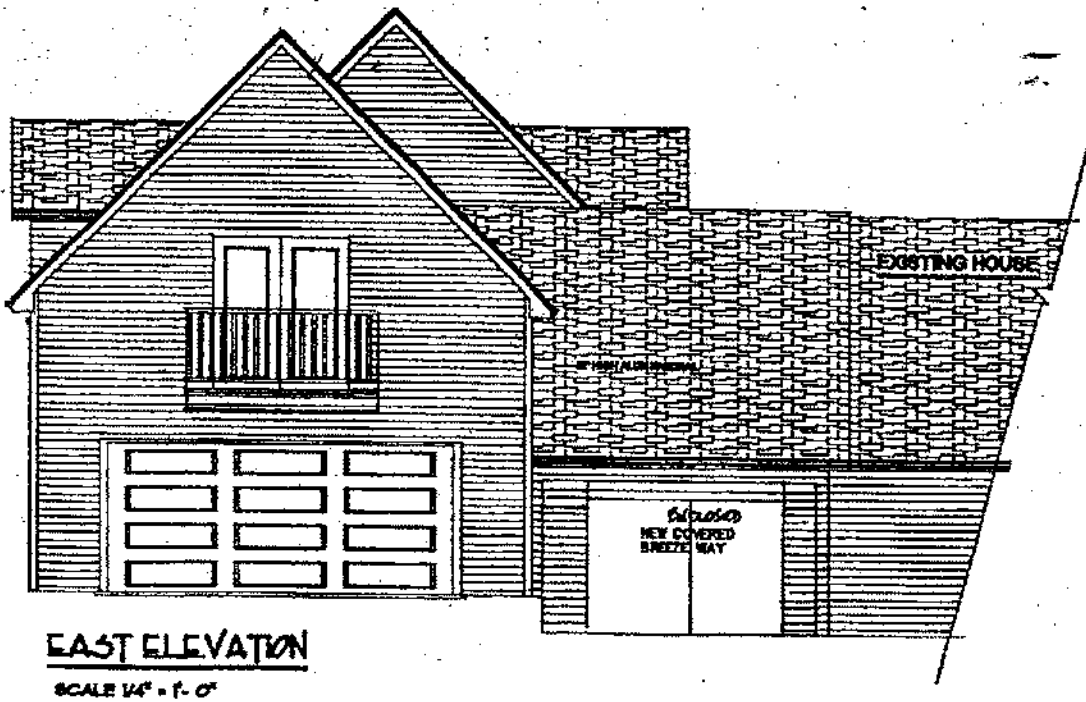
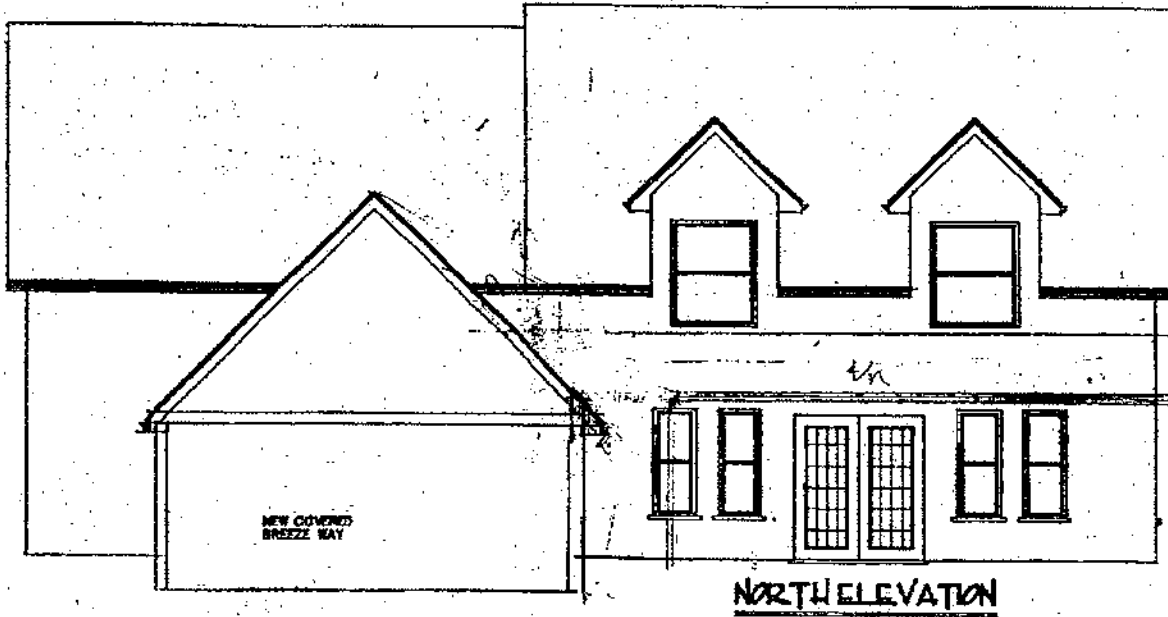
Lot A, District Lot 37, Nanoose District, Plan 46562

2135 Sherritt Drive

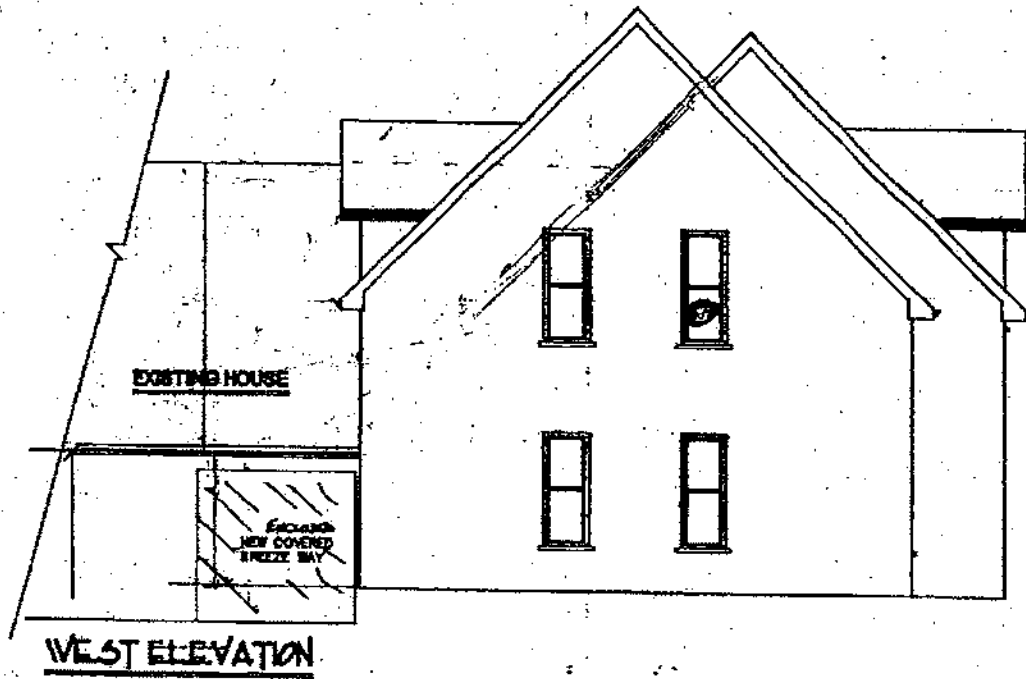
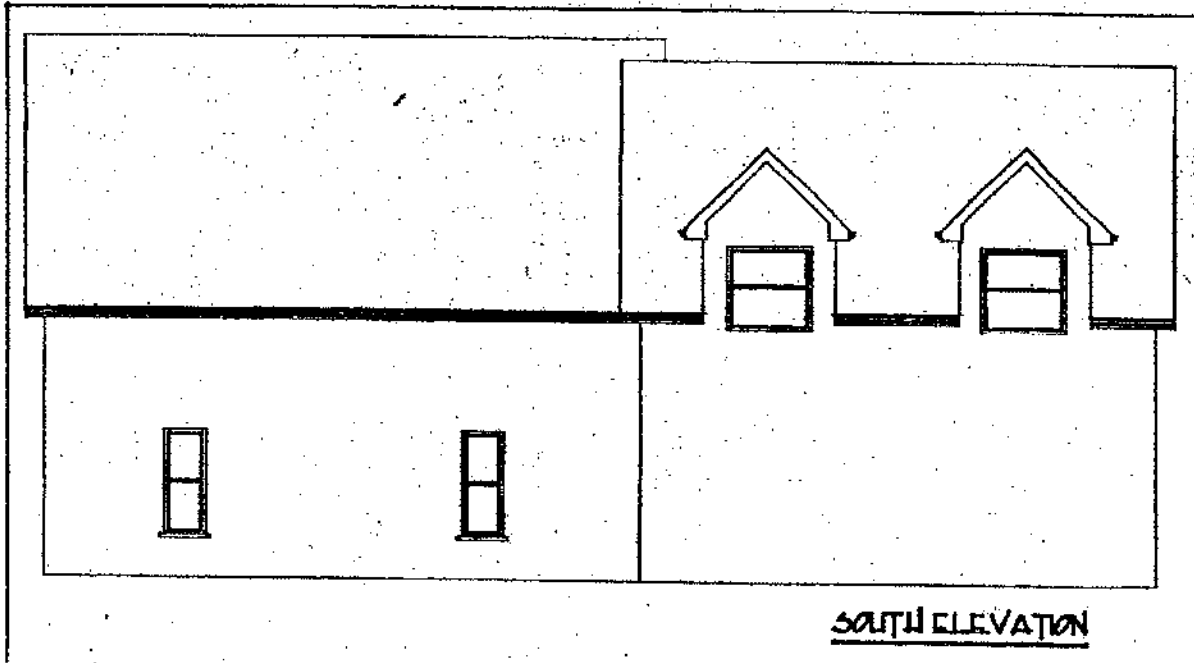
Enlargement of Building Location Certificate Showing Proposed Variances  
(as submitted by applicant/enlarged for convenience)



Schedule No. 3 (Page 1 of 2)  
Development Variance Permit Application No. 90622  
Building Profile  
(as submitted by applicant/reduced for convenience)  
2135 Sherritt Drive



Schedule No. 3 (Page 2 of 2)  
Development Variance Permit Application No. 90622  
Building Profile  
(as submitted by applicant/reduced for convenience)  
2135 Sherritt Drive



**Schedule No. 4**

**Development Variance Permit Application No. 90622**

**Lot A, District Lot 37, Nanoose District, Plan 46562**

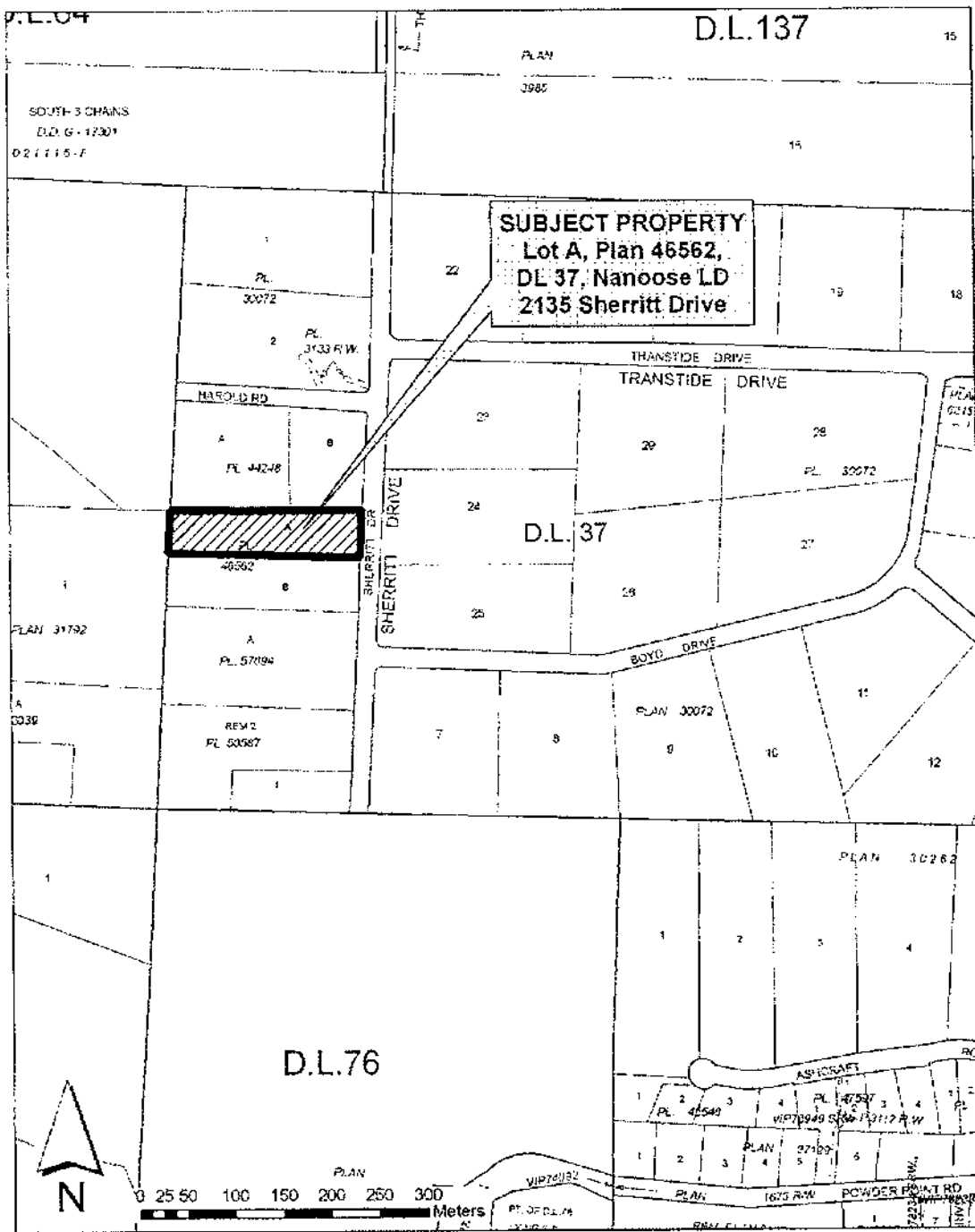
**2135 Sherritt Drive**

**Requested Variances**

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

1. **Section 3.4.61 Maximum Number and Size of Buildings and Structures** is proposed to be varied by increasing the maximum dwelling unit height from 8.0 metres to 8.61 metres to permit the addition to the existing dwelling unit shown on Schedules No. 2 and 3.
2. **Section 3.4.61 Minimum Setback Requirements** is proposed to be varied by relaxing the interior lot line from 2.0 metres to 1.7 metres to allow the siting of the existing garage, which will be incorporated as part of the single dwelling unit as shown on Schedules No. 2 and 3.

Attachment No. 1  
Subject Property Map  
Development Variance Permit Application No. 90622





RDN	
CAO	GMFRIS
GMDS	GMR&PS
GMES	GMTS
NOV 07 2006	
SMCA	
CHAIR	BOARD
EAPC	

## MEMORANDUM

**TO:** Susan Cormie  
Acting Manager, Current Planning

**DATE:** November 6, 2006

**FROM:** Norma Stumborg  
Planner

**FILE:** 3090 30 90624

**SUBJECT:** Development Variance Permit Application No. 90624 — Dailly  
Electoral Area 'E' — 1315 Marina Way

### PURPOSE

To consider an application for a Development Variance Permit for the construction of a new accessory building on a parcel located at 1315 Marina Way in Electoral Area 'E'.

### BACKGROUND

The applicants are proposing to demolish an existing garage and construct a new accessory building for housing vehicles and providing a workshop/storage area in the attic.

The subject property is currently zoned Residential 1 (RS1) Subdivision District 'N' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The parcel, legally described as Lot 32, Block A, District Lot 38, Nanoose District, Plan 10777, is located on the west side of Marina Way fronting the ocean in Electoral Area 'E' (*See Attachment No. 1*).

The subject property is located within a building inspection service area and is serviced by a Regional District of Nanaimo (RDN) water system and individual on-site sewage disposal. The subject parcel is not located within a Development Permit Area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1400, 2005." The Environmentally Sensitive Features Atlas does not indicate the presence of any environmentally sensitive features.

The parcel is approximately 1,424 m<sup>2</sup> in size and slopes down from Marina Way to sea level about 10.0 metres. The proposed accessory building will be located immediately adjacent to the road about 60.0 metres from the natural boundary of the ocean. The subject property slopes from the northeast corner down diagonally to the southwest corner. The slope consists of a rock bluff with two benches positioned about a third and two thirds of the way down the slope until it reaches a flat area near the ocean where the existing dwelling unit is located. With the exception of the dwelling unit site, the parcel is heavily vegetated with mature trees and lower level bushes.

The applicant is requesting variances to Section 3.4.61 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," to relax the minimum northern interior side lot line setback from 2.0 metres to 1.1 metres, the minimum front lot line setback from 8.0 metres to 0.0 metres, and the maximum height for an accessory building from 6.0 metres to 7.3 metres for the purpose of siting a new garage (*see Schedule No. 1 for proposed variances*).



## ALTERNATIVES

1. To approve Development Variance Permit No. 90624 subject to the conditions outlined in Schedules No. 1, 2, and 3 and the notification procedure pursuant to the *Local Government Act*.
2. To deny the Development Variance Permit.

## LAND USE AND DEVELOPMENT IMPLICATIONS

With respect to Regional District of Nanaimo Policy B1.5 – Development Variance Permit, Development Permit with Variance, and Floodplain Exemption Application Evaluation Policy, the applicants have demonstrated a satisfactory land-use justification in support of the requested variances as the variable slope and bedrock on this parcel creates a physical constraint for siting a garage.

The existing garage, which is approximately 26 m<sup>2</sup> in size, is old and dilapidated, predates zoning, and encroaches on the road right-of-way. The applicants propose to demolish the existing garage and construct a new garage with an attic for storage and a workshop area that is located within the bounds of their property. Due to the steepness of the subject property, access to the dwelling unit is by foot as a vehicular driveway is not practical. There are no alternate locations for the garage on the site as building area is limited by the steepness of the land, the existing vegetation, and rock outcrops.

The proposed garage is not considered to be excessively high or large despite the need for a height variance. The structure itself is proposed to be 58 m<sup>2</sup> in area and 5.8 metres high. With respect to the request for a variance to the maximum 6.0 metre height requirement, the property drops off at the back of the proposed building site thus creating the need for the height variance.

The existing dwelling units on the adjacent parcels are not visible from the proposed building site and there is already a screen of trees on the subject property that are much higher than the proposed garage. Therefore, the new garage is not expected to block views.

With respect to the siting of the proposed garage at the dedicated road right-of-way, the Ministry of Transportation has granted a relaxation to the Ministry's 4.5 metre minimum setback rule. It is noted that the built portion of the road is located approximately 11.0 metres from the proposed garage location and as a result, the proposed garage is not expected to cause any traffic disruption. The Ministry of Transportation has approved the siting of the new garage.

The applicants are proposing to finish the garage with rock work and natural siding materials, which is in character with the surrounding neighbourhood.

The applicants have taken measures to reduce the height and impacts on the land. None of the existing natural vegetation will have to be removed for the construction of the new structure. The roof line has been tiered so that the height of the structure adjacent to the street is lower. The trusses have been altered so that the interior ceiling height in the workshop area will be less than 1.98 metres and the storage area in the front will be less than 1.2 metres.

## PUBLIC IMPLICATIONS

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

**VOTING**

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

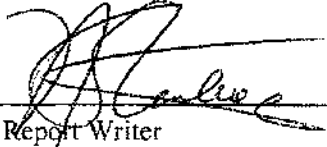
**SUMMARY**

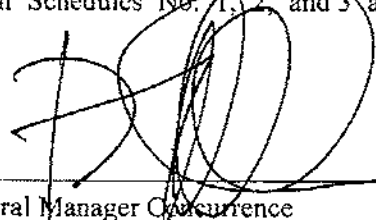
This is an application for variances to the interior side and front lot line setbacks and maximum height requirements for the property located at 1315 Marina Way in Electoral Area 'E' in order to accommodate the construction of an accessory building. These requested variances are outlined in Schedule No. 1. This building is proposed to replace an existing garage in a similar location but larger in size and taller. The Ministry of Transportation has granted a relaxation to the Provincial 4.5 metre setback requirement. The proposed does not appear to impact views of neighbouring property owners.


As the proposed accessory building is not expected to have a negative impact on the surrounding properties and the application meets the applicable objectives of Board Policy B1.5 as the lot constraints limit the location of an accessory building and as the Ministry of Transportation has granted relaxation to the Provincial 4.5 metre setback requirement, staff recommends Alternative No. 1 to approve Development Variance Permit No. 90624 subject to the conditions set out in Schedules No. 1, 2, and 3 and to the notification procedures pursuant to the *Local Government Act*.


**RECOMMENDATION**

That Development Variance Permit Application No. 90624, to relax the minimum setback and maximum height requirements, as set out on Schedule No. 1, to accommodate the construction of an accessory building for the property legally described as Lot 32, Block A, District Lot 38, Nanoose District, Plan 10777, be approved subject to the conditions contained in Schedules No. 1, 2, and 3 and to the notification procedure pursuant to the *Local Government Act*.

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

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

*Acting*  
  
\_\_\_\_\_  
Acting Manager Concurrence

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

**COMMENTS:**

*devsys/reports/2006/dvp no 3090 30 90624 Daily Report*

**Schedule No. 1  
Development Variance Permit Application No. 90624  
Conditions**

**Proposed Variances**

In order to allow the siting of the accessory building the following variances are proposed to be relaxed:

**Section 3.4.61 - Minimum Setback Requirements** is proposed to be varied by relaxing the interior side lot line setback from 2.0 metres to 1.1 metres;

**Section 3.4.61 - Minimum Setback Requirement** is proposed to be varied by relaxing the front lot line setback from 8.0 metres to 0.1 metres; and,

**Section 3.4.61 - Maximum Number and Size of Buildings and Structures** is proposed to be varied by relaxing the maximum accessory building height from 6.0 metres to 7.3 metres

to accommodate the construction of an accessory building as shown on Schedules No. 2 and 3.

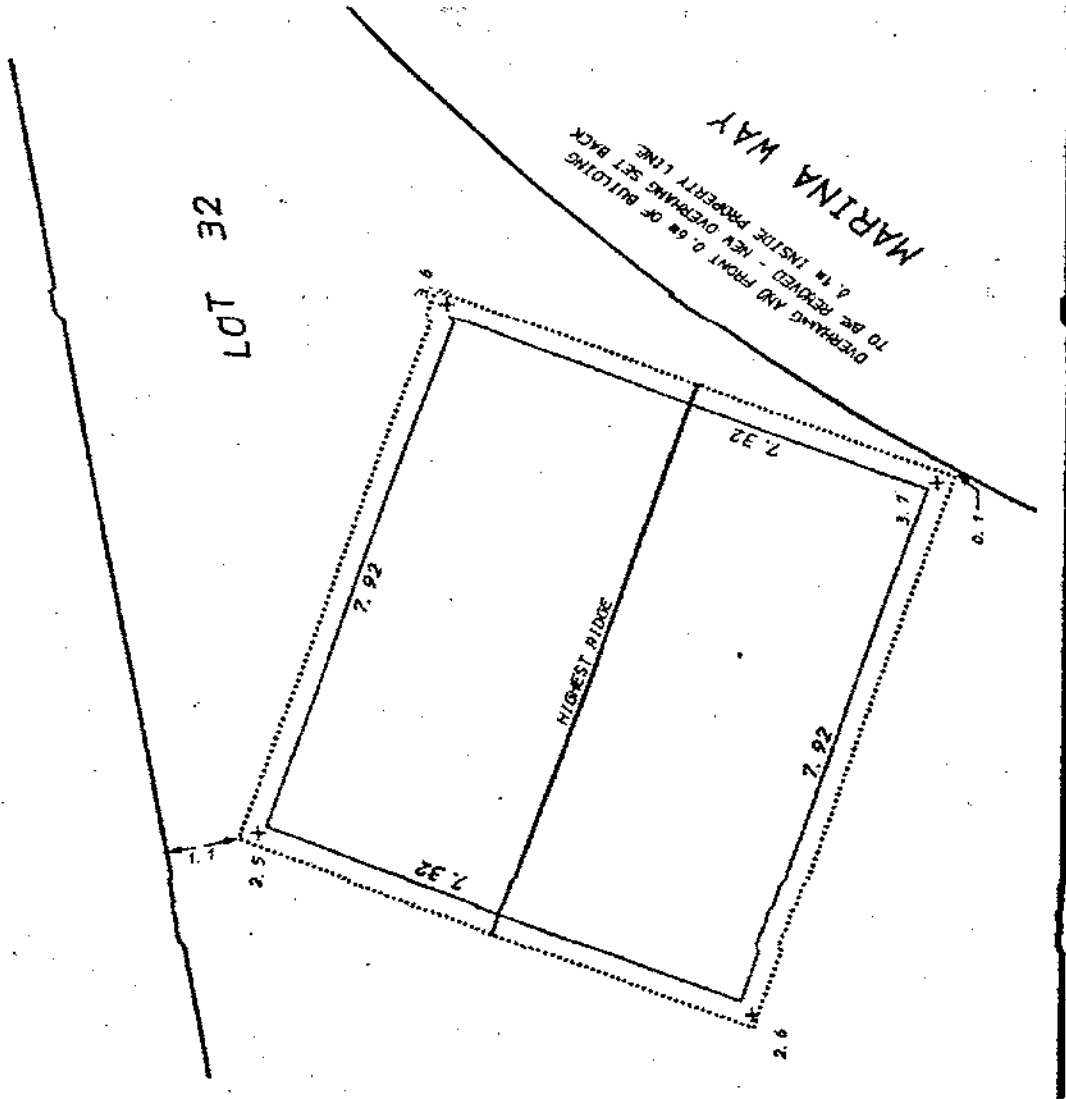
**Accessory Building:**

The following conditions apply shall apply to this development variance permit:

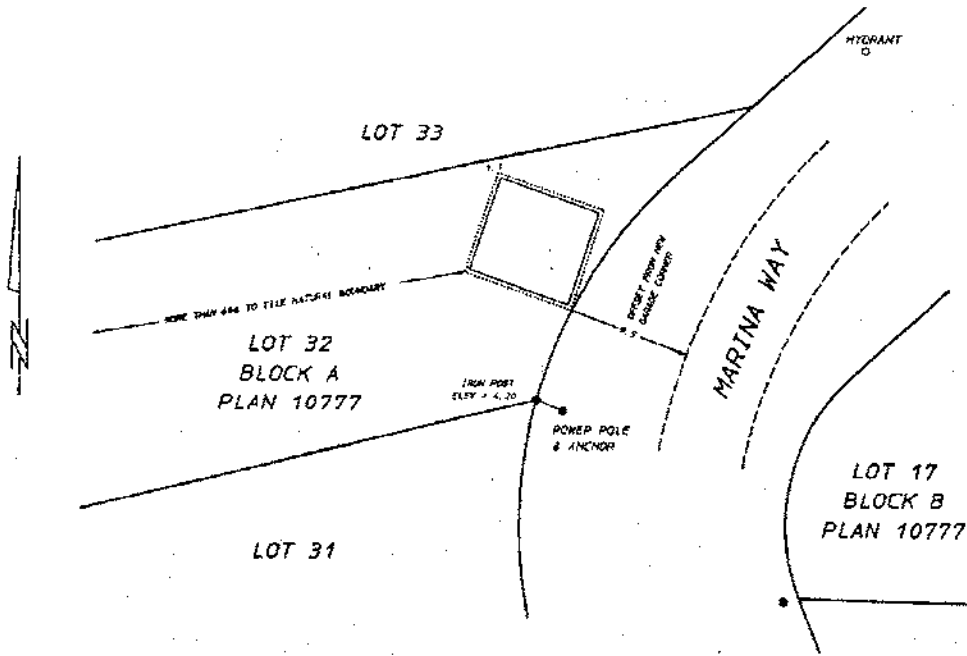
1. The variances as set out in Schedule No. 1 shall apply to the accessory building shown in Schedules No. 2 and 3.
2. The structure shall be constructed in substantial compliance with Schedules No. 1, 2, and 3.
3. The applicant shall obtain a building permit from the RDN Building Inspection Department prior to the commencement of construction of the accessory building.
4. The applicant shall submit a survey, prepared by a British Columbia Land Surveyor, to the satisfaction of the Regional District of Nanaimo confirming the height and siting of the proposed accessory building.

Schedule No. 2 (1 of 2)  
Development Variance Permit No. 90624  
Site Plan  
(As Submitted by Applicant / Reduced for Convenience)

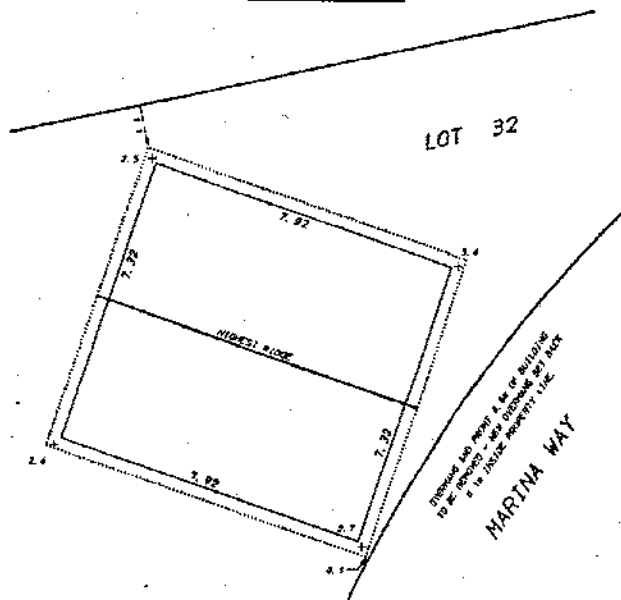
DETAIL  
SCALE 1:100



Schedule No. 2 (2 of 2)  
 Development Variance Permit Application No. 90624  
 Enlargement of Site Plan  
 (As Submitted by Applicant / Enlarged for Convenience)



**DETAIL**  
**SCALE 1: 100**



Inspected this 2nd day of November, 2006.

Michael A. Sims, B.C.I.S.

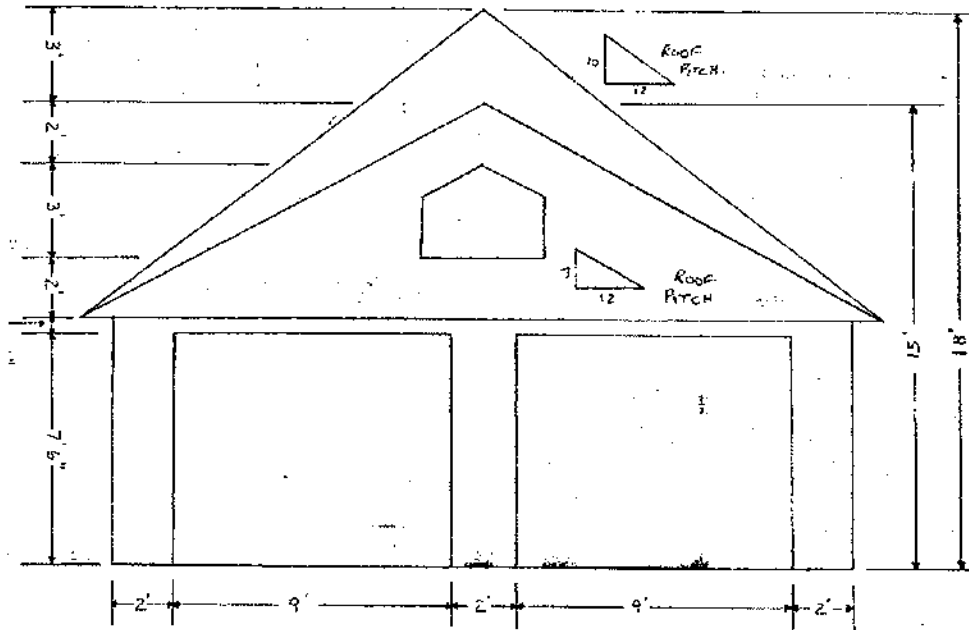
**HEIGHTS**

EXISTING TOP OF GARAGE FLOOR	4.4
DESIGN HEIGHT OF CONSTRUCTION TOP OF GARAGE FLOOR TO HIGHEST FLOOR	2.8
PROJECTED ELEVATION OF HIGHEST FLOOR	6.9
MAXIMUM BUILDING ELEVATION ALLOWED ACCORDING TO BYLAW 500	6.3
VARIANCE REQUIRED	1.3

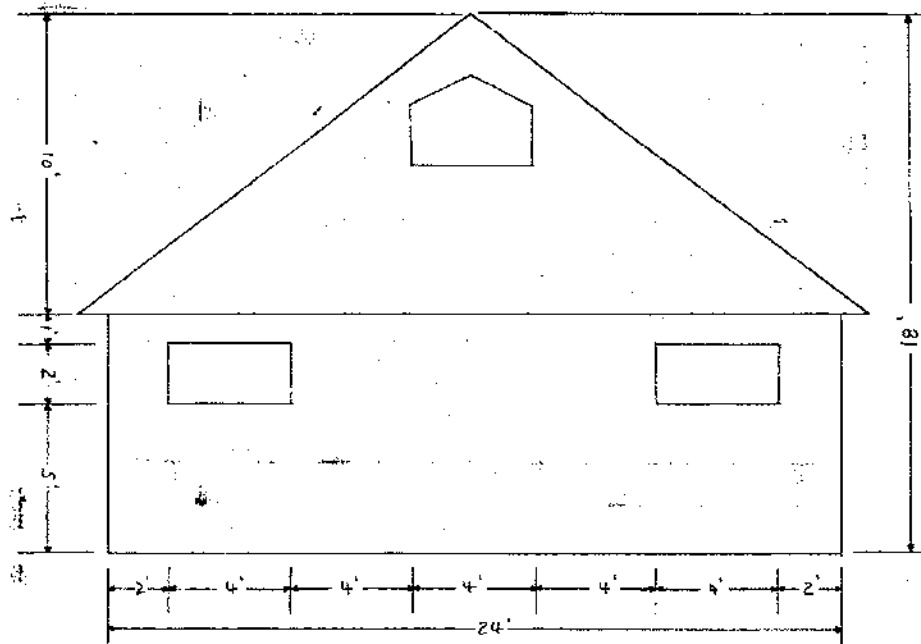
**SIMS ASSOCIATES**

LAND SURVEYING  
 2771 HIGHWAY 108, ST. JOHN'S, Nfld.  
 PHONE: 709-753-1234 FAX: 709-753-1235  
 FILE: 06-202-01  
 DRAW: 06-202-12  
 DATE: 10/26/06

Schedule No. 3 (1 of 2)  
Development Variance Permit Application No. 90624  
Building Profiles  
(As Submitted by Applicant / Reduced for Convenience)

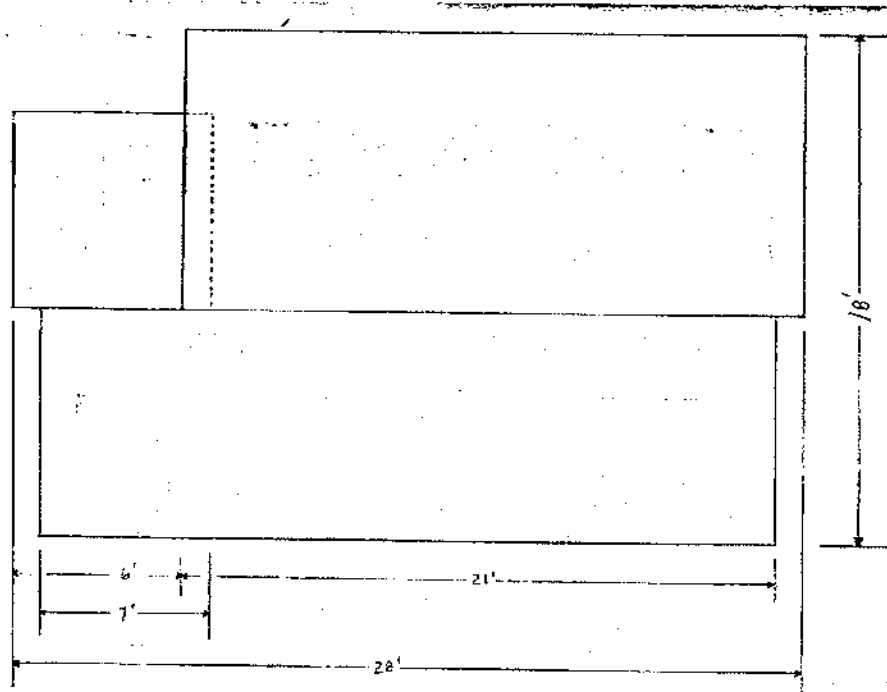


Front View

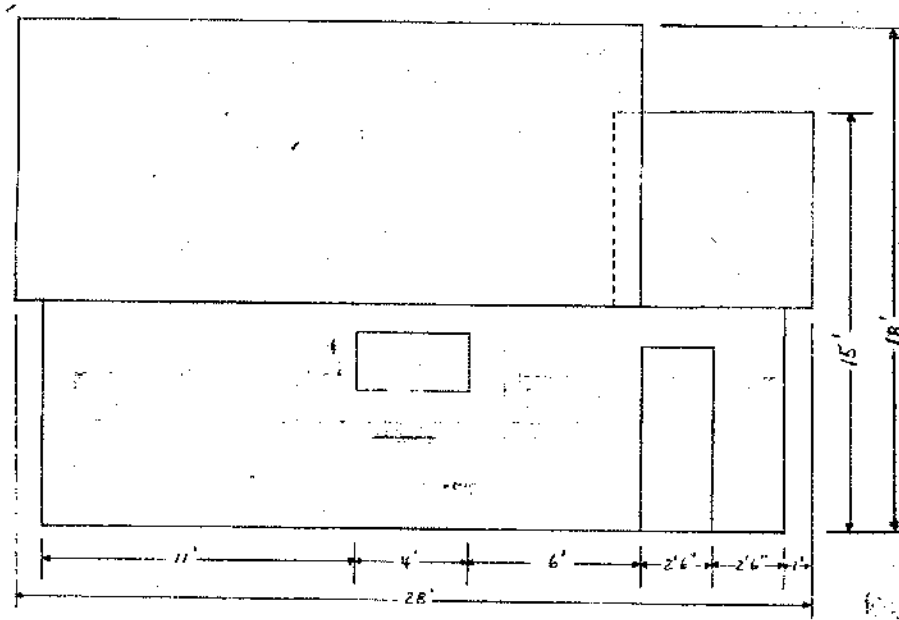


Rear View

Schedule No. 3 (2 of 2)  
Development Variance Permit Application No. 90624  
Building Profiles  
(As Submitted by Applicant / Reduced for Convenience)

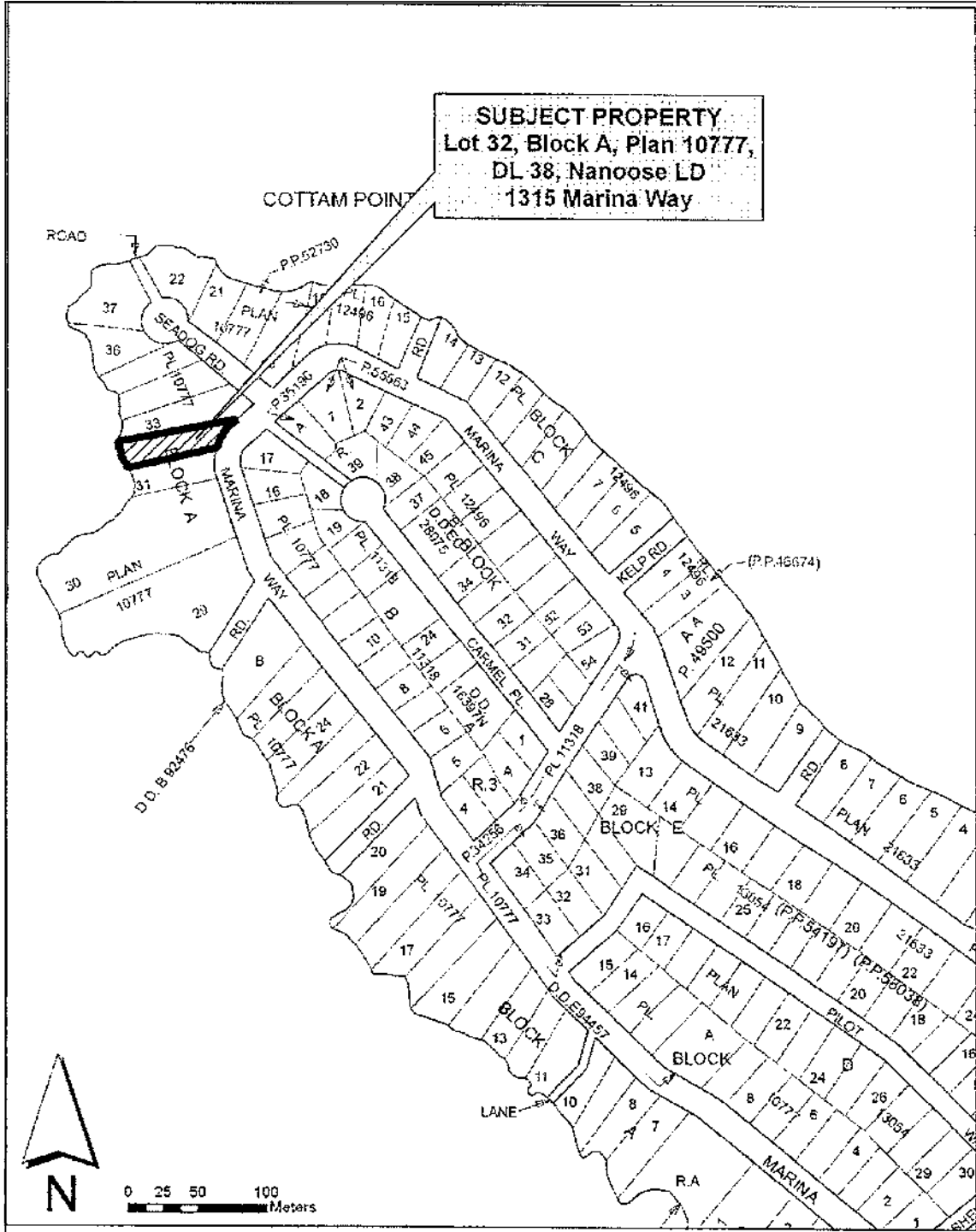


North Side View



South Side View

Attachment No. 1  
Location of Subject Property







RDN	
CAO <i>CR</i>	GMF&IS
GMDS	GMR&PS
GMS	GMS
NOV 03 2006	
SEDA	
CHAIR	BOARD
<i>EAP</i>	

MEMORANDUM

**TO:** Susan Cornic  
Acting Manager of Current Planning

**DATE:** November 2, 2006

**FROM:** Greg Keller  
Planner

**FILE:** 3090 30 90625

**SUBJECT:** Development Variance Permit Application No. 90625 - Malo  
Electoral Area 'C' – 2620 South Forks Road

PURPOSE

To consider an application for a Development Variance Permit to legalize the siting of an existing accessory building located on a property at 2620 South Forks Road in Electoral Area 'C'.

BACKGROUND

This is a Development Variance Permit application to relax the minimum required lot line setback for two existing accessory buildings located on the property legally described as Lot 4, District Lot 3, Douglas District, Plan VIP73765, as shown on Attachment No. 1. The subject property is located in Electoral Area 'C' at 2620 South Forks Road.

The subject property is approximately 2.09 hectares in area and is currently zoned Rural 9, Subdivision District 'D' (RU9D) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The subject parcel is not located within a Development Permit Area pursuant to "Regional District of Nanaimo Arrowsmith Benson -- Cranberry Bright Official Community Plan Bylaw No. 1148, 1999," and the Environmentally Sensitive Features Atlas does not indicate the presence of any environmentally sensitive features. In addition, the subject property is not located within a Regional District of Nanaimo Building Inspection area; therefore, no building permits are required.

The applicants indicate that the subject property was undeveloped when purchased. The applicants proceeded with constructing one dwelling unit and one accessory building on the subject property before proceeding to construct a second dwelling unit. Upon receiving a report from the adjacent property owner that the second dwelling unit was being constructed within the 8.0 metre minimum lot line setback requirement, Bylaw Enforcement staff conducted a site visit and found that the building in question appeared to be within the minimum setback requirements. Bylaw Enforcement staff then contacted the applicants and requested that they come into our office to apply for a Development Variance Permit.

The applicant's responded to Bylaw Enforcement's request and applied for a Development Variance Permit. At that time the subject building was substantially complete. Upon initial review of this Development Variance Permit application, it was determined that there is a section 219 covenant (Land Title Office document number ET059323) registered in favor of the Regional District of Nanaimo on the title of the subject property that restricts the maximum number of dwelling units to one dwelling unit per parcel. This covenant was required as a condition of subdivision to ensure that the future development of the parcels being created complied with the Rural 9 zoning requirements.

The Rural 9 (RU9) zone permits a maximum of one dwelling unit per parcel, with the exception of allowing a maximum of two dwelling units per parcel on one of the lots created in an eligible subdivision. In this case, one of the lots created by plan VIP73765 (the plan number that created the subject parcel) already has two dwelling units; therefore, all other lots created by the same plan number including the subject property are permitted to have a maximum of one dwelling unit per parcel.

Please note, in accordance with section 922(2) of the *Local Government Act*, a Development Variance Permit must not vary the use or density of land specified in a zoning bylaw. A second dwelling unit on the subject property is considered to be an increase in density and is not a lawful use. Therefore, a Development Variance Permit can not be issued to permit a second dwelling unit.

Staff met with the applicants to discuss options for the use of the building. Staff explained that the building can only be used as an accessory building and not as a dwelling unit. As the existing building is currently constructed as a dwelling unit with facilities for cooking, living, and sanitation, the building must be decommissioned into an accessory building. The applicant's have agreed to decommission the dwelling unit by removing the wiring for the stove, both at the panel and at the outlet, and have submitted a letter from their electrician indicating that the proposed works have been completed.

### ***Proposed Variances***

The applicants are proposing to vary Section 3.4.89 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," to legalize the siting of two accessory buildings as follows:

1. The minimum setback requirement from the north lot line is relaxed from 8.0 metres to 2.7 metres for an existing accessory building labeled 'BUILDING' in the location shown on Schedule No. 2 and generally constructed as shown on Schedule No. 3.
2. The minimum setback requirement from the north lot line is relaxed from 8.0 metres to 6.3 metres for an existing accessory building labeled 'GARAGE' in the location shown on Schedule No. 2 and generally constructed as shown on Schedule No. 3.

### **ALTERNATIVES**

1. To approve Development Variance Permit No. 90625, subject to the Board's consideration of the comments received as a result of public notification.
2. To deny the Development Variance Permit as requested and direct staff to take action to have the structure removed or brought into conformity with the zoning bylaw.

### **LAND USE AND DEVELOPMENT IMPLICATIONS**

The requested variance is not anticipated to have a negative impact on the adjacent properties. The property to the north is developed with a dwelling unit and is separated from the subject property by approximately 150.0 metres and existing native deciduous and evergreen trees, shrubs, and plants, which partially screen the proposed development. In addition, the applicants are proposing to further screen the existing accessory buildings by planting a row of cedar trees adjacent to the north lot line.

The property to the south is developed and is separated from the subject parcel by similar vegetation and a row of cedar trees previously planted by the applicants. There were no notable views to be impacted by the proposed variances.

Based on the applicant's proposal to remove the wiring for the stove, staff is of the opinion that the proposed building meets the definition of an accessory building, pursuant to Bylaw No. 500 as it does not function as a dwelling unit. However, the outer appearance and architectural design of the building resembles a dwelling unit.

Staff has concerns that potential purchasers of the subject property may not be aware that the existing accessory building cannot be used as a dwelling unit in the future. However, the existing covenant, restricting the maximum number of dwelling units to one dwelling unit per parcel, will remain on title and should inform potential purchasers of the subject property that the accessory building can not be used as a dwelling unit. Therefore, staff is not recommending that additional restrictions be registered on title as a condition of this permit.

The applicants have indicated that they were unaware of the zoning regulations and covenant restrictions that are applicable to the subject property when construction of the buildings had begun. As a result, the buildings were constructed in contravention to the RU9 zoning requirements and in violation of a covenant registered on title.

Due to the circumstances, there is not a strong planning related rationale to support the requested variance. However, the request is for a variance, which does not appear to impact the adjacent properties and complies with all other requirements of the Rural 9 zone. In addition, as part of this application, all property owners within 50.0 metres of the subject property will receive notice of the requested variances and will have an opportunity to express their concerns to the Board. Staff note that altering the structure to bring it into compliance with Bylaw No. 500 would require the structures to be removed or relocated and would be onerous for the applicants, with little benefit to the adjacent properties.

#### **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 will receive 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'.

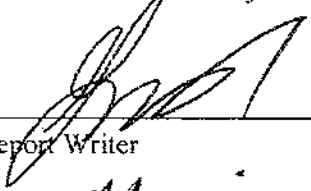
#### **SUMMARY/CONCLUSIONS**

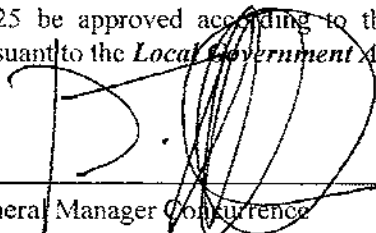
This is an application for a Development Variance Permit to legalize the siting of two existing accessory buildings for a property located at 2620 South Forks Road in Electoral Area 'C'. The proposed variances, if approved, would vary Section 3.4.89 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," – **Minimum Setback Requirements** by relaxing the minimum setback requirements from 8.0 metres to 2.7 and 6.3 metres respectively, as shown on Schedule No. 2 for two existing accessory buildings.


Due to the large separation distance between the subject buildings and the closest dwelling unit and density of existing native vegetation, the requested variances do not negatively affect the adjacent properties. Therefore, staff recommends this application be approved subject to the notification procedure pursuant to the *Local Government Act*.


**RECOMMENDATION**

That Development Variance Permit Application No. 90625 be approved according to the terms of Schedule No. 1 and subject to the notification procedure pursuant to the *Local Government Act*.

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

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

*Act*  
  
\_\_\_\_\_  
Manager Concurrence

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

**COMMENTS:**

*devvs/reports/2006/dvp no 3090 30 90625 Malo Report*

**Schedule No. 1**  
**Terms of Development Variance Permit Application No. 90625**  
**for Lot 4, District Lot 3, Douglas District, Plan VIP73765**  
**2620 South Forks Road**

1. With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw 500, 1987," the following variances are requested:
  - a. Section 3.4.89.3(b) Minimum Setback Requirements from the north lot line is relaxed from 8.0 metres to 2.7 metres for an existing accessory building labeled 'BUILDING' on Schedule No. 3 in the location shown on Schedule No. 2 and generally constructed as shown on Schedule No. 3.
  - b. Section 3.4.89.3(b) Minimum Setback Requirements from the north lot line is relaxed from 8.0 metres to 6.3 metres for an existing accessory building labeled 'GARAGE' on Schedule No. 3 in the location shown on Schedule No. 2 and generally constructed as shown on Schedule No. 3.
2. The variances authorized by this permit apply to the accessory buildings located and designed in substantial compliance with Schedules No. 2 and 3.
3. No accessory building shall be used for year-round occupancy nor shall it contain permanent provisions for living, sleeping, cooking, and sanitation.

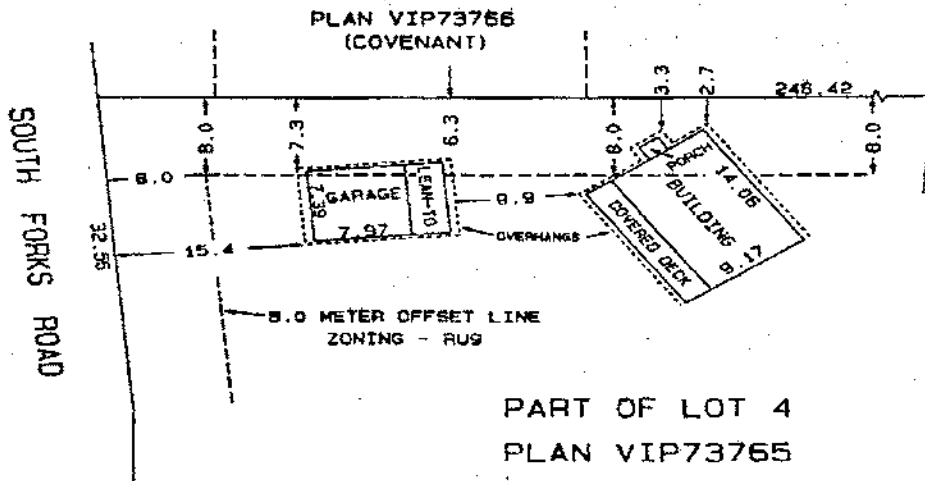
Schedule No. 2

Site Plan (submitted by applicant)

Development Variance Permit Application No. 90625

BRITISH COLUMBIA LAND SURVEYOR'S  
BUILDING LOCATION CERTIFICATE  
LEGAL DESCRIPTION :

PART OF LOT 4, PLAN VIP73765,  
DISTRICT LOT 3, DOUGLAS DISTRICT



THIS DOCUMENT PREPARED FOR  
BOARD OF VARIANCE APPLICATION

THIS DOCUMENT PREPARED FOR :  
MATTHEW MALO  
CHARMAINE DELIGNY

SCALE : 1:500  
ALL MEASUREMENTS IN METRES

ADDRESS : 2820 SOUTH FORKS ROAD

LEIGH A. MILLAN  
BRITISH COLUMBIA  
LAND SURVEYOR  
CANADA LANDS SURVEYOR

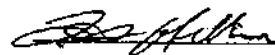
SUITE NUMBER 102  
170 WALLACE STREET  
NANAIMO, B.C. V8R-5B1

FILE NO. 2751  
F.B. NO. LOOSELEAF

COMP FILE ABLC 417

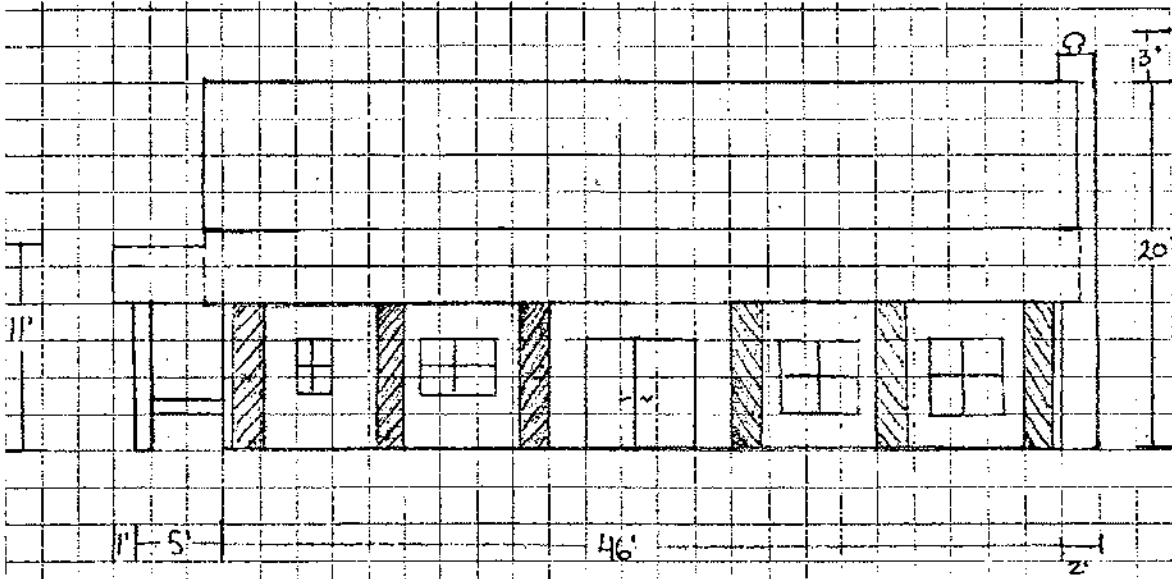
CERTIFIED CORRECT

DATE : OCTOBER 12, 2006

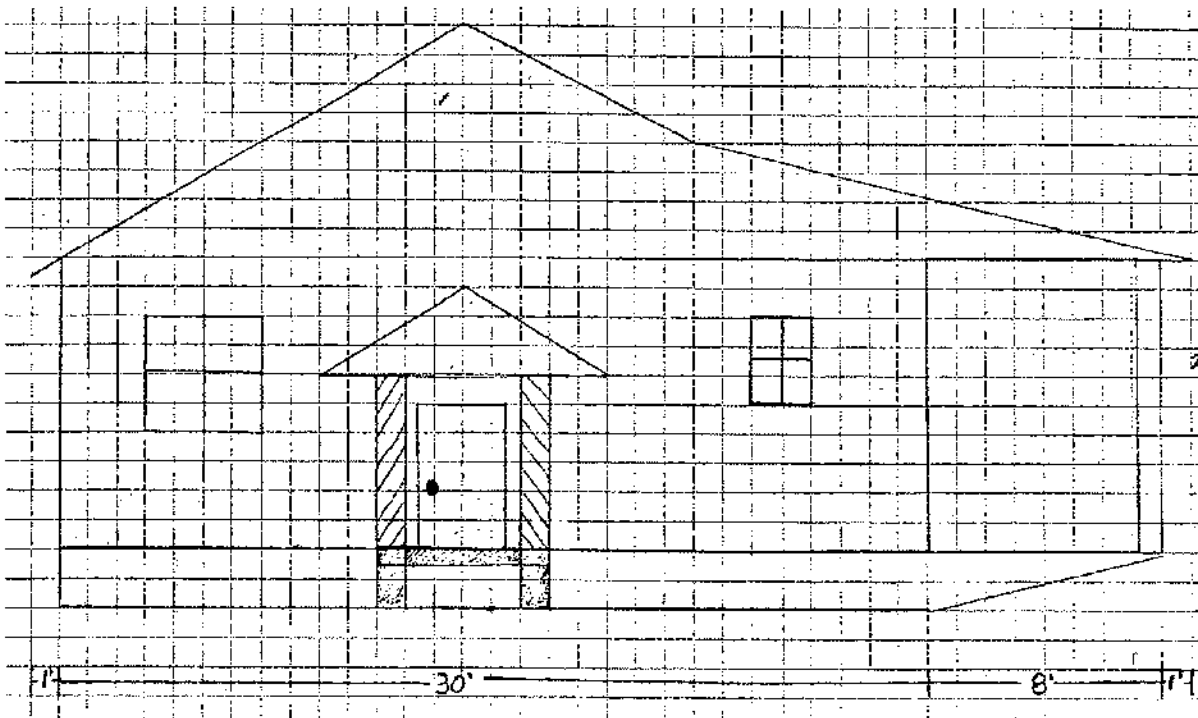
 BCLS, CLS

© 2006 NOT VALID UNLESS  
ORIGINALLY SIGNED  
AND SEALED

Schedule No. 3 (Page 1 of 2)  
Building Profile (submitted by applicant)  
NOT TO SCALE  
Development Variance Permit Application No. 90625



South West Elevation (building labeled 'BUILDING' on Schedule No. 2)



Northwest Elevation (building labeled 'BUILDING' on Schedule No. 2)

**Schedule No. 3 (Page 2 of 2)**  
**Building Profile (submitted by applicant)**  
**NOT TO SCALE**  
**Development Variance Permit Application No. 90625**



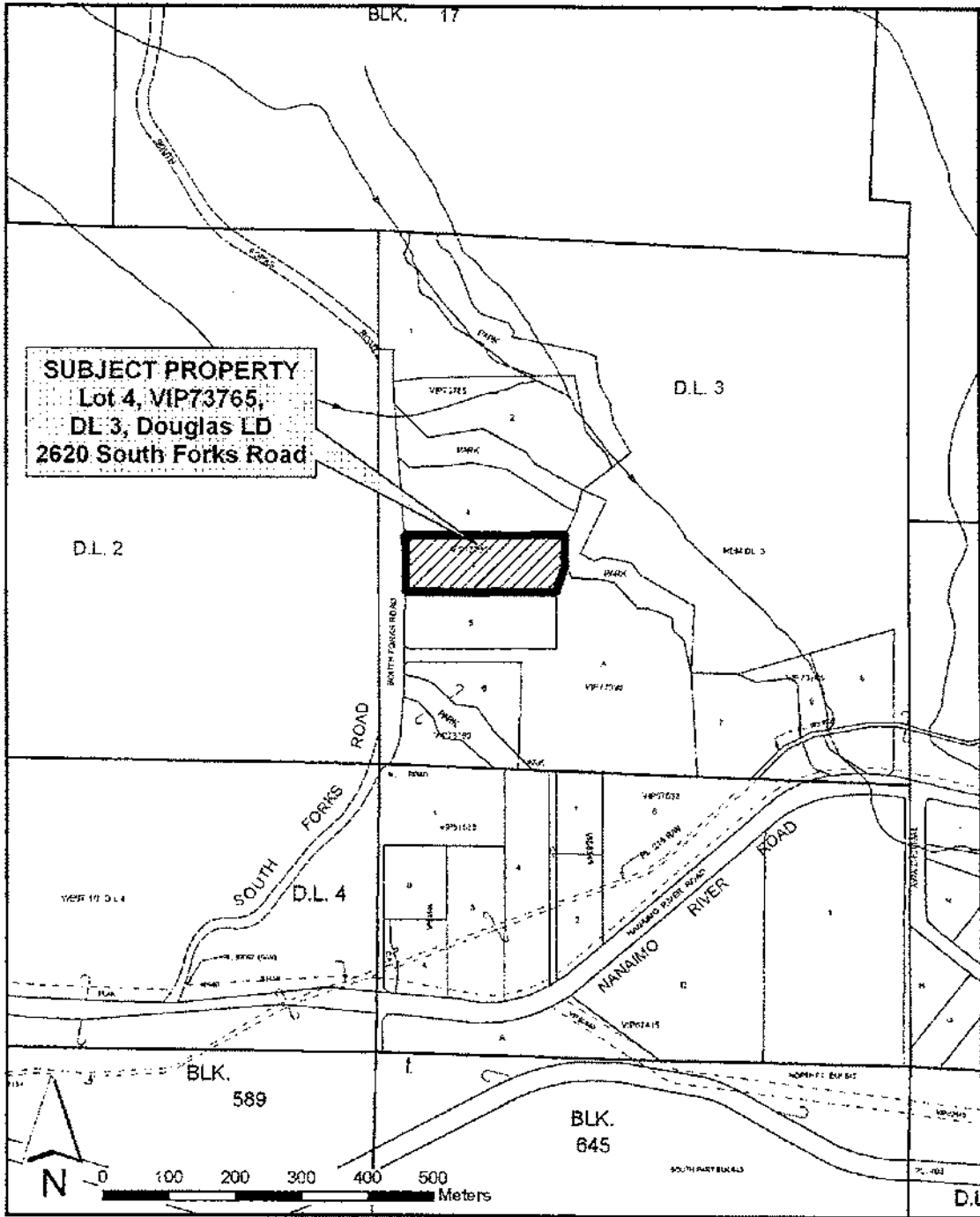
**South Elevation (building labeled 'GARAGE' on Schedule No. 2)**



**South West Elevation (building labeled 'GARAGE' on Schedule No. 2)**



Attachment No. 1  
Subject Property Map  
Development Variance Permit Application No. 90625



BCGS Mapsheet: 92G.001.3.3



RDN			
CAO		GMF&IS	
GMDS		GMR&PS	
GMES		GMS	
NOV 03 2006			
SMCA			
CHAIR		BOARD	

MEMORANDUM

**TO:** Wayne Moorman  
Manager, Engineering & Subdivisions

**DATE:** November 1, 2006

**FROM:** Susan Cormie  
Senior Planner

**FILE:** 3060 30 26314

**SUBJECT:** Requests for Acceptance of Park Land and Relaxation of the Minimum 10% Perimeter Frontage Requirement  
JE Anderson & Associates, BCLS, on behalf of 504351 B.C. Ltd. (Camelot Homes)  
Electoral Area 'E' – Ballenas and Wall Beach Roads

PURPOSE

To consider requests for relaxation of the minimum 10% perimeter frontage requirement and for acceptance of park land dedication in conjunction with the creation of a 9-lot bare land strata subdivision on property adjacent to Ballenas and Wall Beach Roads in the Madrona area of Electoral Area 'E'.

BACKGROUND

This is a subdivision application, which is subject to the consideration of park land or cash in-lieu-of park land or a combination of both for the property legally described as Lot 1, District Lot 72, Nanoose District, Plan 4058 Except Those Parts in Plans 15430, 17630 and 17681 located adjacent to Ballenas and Wall Beach Roads in the Madrona area of Electoral Area 'E' (see Attachment No. 1 on page 9 for location of subject property). In this case, the applicant has submitted a proposal offering the dedication of park land.

This is also a request for relaxation of the minimum 10% perimeter frontage requirement for one of the proposed bare land strata lots.

The parent parcel, which is approximately 2.23 ha in size, is currently zoned Residential 1 (RS1) and is within Subdivision District 'N' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The parent parcel is currently vacant and the majority of the site has been recently cleared.

In addition, the parent parcel is designated within the Sensitive Ecosystem Protection Development Permit Area for the protection of an eagle nesting tree and its buffer area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1400, 2005". It is noted that the applicant, under a previous development permit application, registered a section 219 covenant on title for protection of the tree and its buffer area.

The parent parcel is reasonably flat in topography. Surrounding land uses include residential zoned parcels to the north, east, and west and a rural zoned parcel to the south.

Proposed Development

The applicant is proposing to create 9 bare land strata lots, varying in size from 1368 m<sup>2</sup> to 2781 m<sup>2</sup>, therefore meeting the parcel averaging provisions pursuant to the Bare Land Strata Regulations. The

bare land strata lots are proposed to be served by a private strata-operated septic disposal system and individual community water service connections from the Regional District. (see Schedule No. 1 on page 7 for proposed subdivision layout).

**10% Minimum Perimeter Frontage Requirement**

Proposed Strata Lot 5, as shown on the submitted plan of subdivision, will not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontage is as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
Strata Lot 5	30.0 m	6.0 m	2.0 %

Therefore, as this proposed parcel does 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.

**Park Land Requirements**

Where an official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash or a combination of both. The Nanoose Bay Official Community Plan Bylaw No. 1400 (OCP) specifies that park land dedication may be considered at the time of subdivision subject to meeting the preferred park land criteria set out in the Plan. Pursuant to the *Local Government Act*, the maximum amount of park land that the Regional District may request for this property is 5% of the total site area, in this case approximately 1115 m<sup>2</sup>.

**Park Land Proposal**

The applicant is proposing to dedicate the following as park land:

- an area of 1462 m<sup>2</sup> which includes an access trail from the unnamed road along the south property line; and
- an area which encompasses an eagle nest tree and its buffer area totaling 2050 m<sup>2</sup> in size and which is contiguous to the proposed park land.

The proposed park land dedication totals 3512 m<sup>2</sup> or approximately 15.7% of the parent parcel (see Schedule No. 1 on page 7 for location of proposed park land).

The park land proposal was referred to the Electoral Area 'E' Parks and Open Space Advisory Committee on April 3, 2006 and presented at a Public Information Meeting held on September 21, 2006.

**ALTERNATIVES**

1. To approve the request for relaxation of the minimum 10% perimeter frontage and to accept the offer of dedication of park land in the amount and location as set out in Schedule Nos. 1 and 2.
2. To deny the request for relaxation of the minimum 10% frontage requirement and not accept the offer of park land dedication in the amount and location as proposed and instead require the applicant to dedicate park land in a different location and amount.
3. To approve the minimum 10% perimeter frontage requirement and to not accept the park land proposal as submitted and require the applicant to provide 5% cash in-lieu-of park land.

## **DEVELOPMENT IMPLICATIONS**

### ***Lot Configuration / Site Constraints Implications***

Due to the site constraints of the parent property, with respect to the eagle nest tree and its buffer area, combined with the existing surrounding land use pattern, the property cannot easily support an additional dedicated road; therefore, limiting the availability of road frontage for all the proposed lots. Due to its larger parcel size and with the septic system being situated on common property, proposed Strata Lot 5 will be capable of supporting the intended residential use despite the narrower frontage.

### ***Ministry of Transportation***

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

### ***Official Community Plan / Park Land Implications***

Where the official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash or a combination of both. The Nanoose Bay OCP contains park land related policies, which stipulate that park land is desirable where preferred criteria may be met such as improvement to waterfront access, protection of environmentally sensitive areas, preservation of viewpoints or connection of community focal features and the waterfront. In this case, the proposed park land includes an eagle nest tree and its buffer area. Therefore, this proposal would meet one of the criteria of OCP.

Based on the size of the parcel, the maximum amount of park land the Regional Board may request would be approximately 1115 m<sup>2</sup> (5%). The applicant is offering to dedicate approximately 3512 m<sup>2</sup> or approximately 15.7% of the total area of the parent parcel. The park land proposal encompasses an eagle nest tree and its buffer area. The park is proposed to be accessed by way of a pedestrian trail from the unnamed road right of way to the south of the parent parcel. It is noted that the eagle nest tree and its buffer area is currently protected by means of a section 219 covenant; the park land would offer an added protection for this environmentally sensitive feature.

### ***Nanoose Bay Parks, Recreation and Open Space Advisory Committee Implications***

The proposal for park land was referred to the Nanoose Bay Parks and Open Space Advisory Committee. The Committee commented that cash in-lieu-of park land would be the preferred choice (*see Attachment No. 2 on page 10 for Advisory Committee comments*).

### ***Site Servicing Implications***

With respect to septic disposal, the proposed subdivision has received approval for septic disposal from the Central Vancouver Island Health Authority.

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

Community water service is to be provided by the Regional District.

## **PUBLIC IMPLICATIONS**

A Public Information Meeting (PIM) was held on September 21, 2006. Fifteen (15) persons attended this meeting. Park land related issues raised at this meeting included: concern for protection of the eagle nest

tree, concern for access into the park land, concern for how usable the park land would be, and comments with respect to the future strata corporation being responsible for the area and the eagle nest tree (*see Attachment No. 3 on page 11 for Minutes of Public Information Meeting*).

With respect to the public's comments about the protection of the eagle nest tree, the applicant's agent offered that the applicant would fence the buffer area which would assist in restricting access to the buffer area for both the park land users and future home owners.

With respect to the comments concerning access to the park land, the applicant is in concurrence to construct a walking trail to the main body of the park land. The applicant also offered to widen the access panhandle to 4.0 metres to ensure adequate access, which is shown on the revised plan of subdivision shown on *Schedule No. 1 on page 7*.

With respect to the usability of the park land, a number of neighbours stated that they preferred the park land area being left as natural as possible and did not see the need for many improvements in the park land other than a trail access and perhaps a future viewing platform. It is also noted that the applicant has, since the Public Information Meeting, amended the proposed park land by 'squaring' the boundary around the eagle nest tree to help alleviate the possibility of future encroachment by neighbouring lots.

With respect to the strata corporation being responsible for the park land area, the area would be common property and would require a statutory right-of-way to allow public access. The applicant would still be required to provide park land in another location or pay cash in-lieu-of park land in order to meet the provisions of section 941 of the *Local Government Act*. In discussion with staff following the Public Information Meeting, the applicant would prefer to have his offer to dedicate park land in the same location and amount remain as is and not involve a strata corporation maintaining the proposed park land area.

There were no non-park land issues raised at the Public Information Meeting.

## **ENVIRONMENTAL IMPLICATIONS**

### ***Development Permit Implications***

This application for subdivision will meet the exemption provisions pursuant to the Sensitive Ecosystem Protection Development Permit Area (DPA) of the Nanoose Bay OCP in that the eagle nest tree is protected by way of a section 219 covenant document. Therefore, a development permit is not required to be issued for the protection of the eagle nest tree and its buffer area.

The park land will fully encompass the eagle nest tree and its buffer area as established by a biologist's report and protected by a section 219 covenant. In addition, staff recommends that fencing be provided around the buffer area to clearly delineate the area and to help avoid encroachment into the buffer area from future property owners and park land users. The applicant is in concurrence with this condition.

## **RECREATION AND PARKS IMPLICATIONS**

Recreation and Parks staff commented that due to the isolated location of the proposed park land, the fact that the eagle nest tree is protected by way of a section 219 covenant and, as the proposed park land contains some low area, cash in-lieu-of park land dedication is recommended. If the park land should be accepted, staff notes that the construction and management of an access trail should not be expected at

this time, or in the near future, as the Recreation and Parks Department is not in the position to develop the proposed park land.

### **FINANCIAL IMPLICATIONS**

The subject property has an assessed value of \$316,000.00 according to the 2006 assessment roll. The valuation of the property for 5% cash in-lieu-of park land charges will be based on a certified appraisal of the land at the time of preliminary subdivision approval (PLA). Therefore, it is anticipated that the appraised market value would result in an approximate \$15,800.00 contribution (based on a full 5%) to Electoral Area 'E' community parks fund.

### **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 one (1) of the proposed bare land strata lots and a request to accept park land in conjunction with a subdivision application for property located adjacent to Ballenas and Wall Beach Roads in the Madrona area of Electoral Area 'E'. The proposed strata lot that requires a relaxation of the minimum 10% frontage requirement will be capable of supporting the intended residential uses permitted in the zoning provisions.


The park land proposal, as submitted by the applicant, was referred to the Nanoose Bay Parks and Open Space Advisory Committee, which does not support dedication of park land and commented that cash in-lieu-of park land be preferred instead of park land dedication. In addition, Recreation and Parks staff recommend that cash in-lieu-of park land be preferred as well.

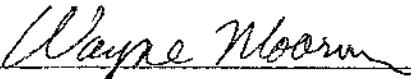
A Public Information Meeting was held on September 21, 2006 with respect to this park land proposal. Adjacent and nearby neighbours support the park land as submitted and would like to see the land remain in as natural a state as possible with the exception of a trail corridor and some fencing to protect the eagle tree buffer area.

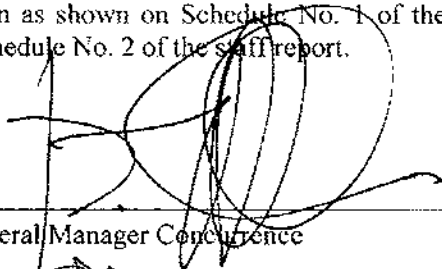
Therefore, given that the park land as offered will provide added protection for the eagle nest tree and that the neighbours support the dedication of park land in this location, that the applicant will construct a barrier to separate the eagle tree buffer area from the proposed park land and a trail to access the park land, and as there is a buildable site area for proposed Strata Lot 5, staff recommends Alternative No. 1 to approve the frontage relaxation requirement for Proposed Strata Lot 5 and to accept the park land in the amount and location as shown on Schedule No. 1 and subject to the conditions of approval set out in Schedule No. 2.

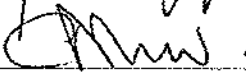
**RECOMMENDATIONS**

1. That request for relaxation of the minimum 10% perimeter frontage requirement, submitted by JE Anderson, BCLS, on behalf of 504351 B.C. Ltd. (Camelot Homes), in conjunction with the subdivision on the parcel legally described as Lot 1, District Lot 72, Nanoose District, Plan 4058 Except Those Parts in Plans 15430, 17630 and 17681 and located adjacent to Ballenas and Wall Beach Roads be approved.
2. That the park land proposal, in the amount and location as shown on Schedule No. 1 of the staff report, be accepted subject to the conditions set out in Schedule No. 2 of the staff report.

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

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

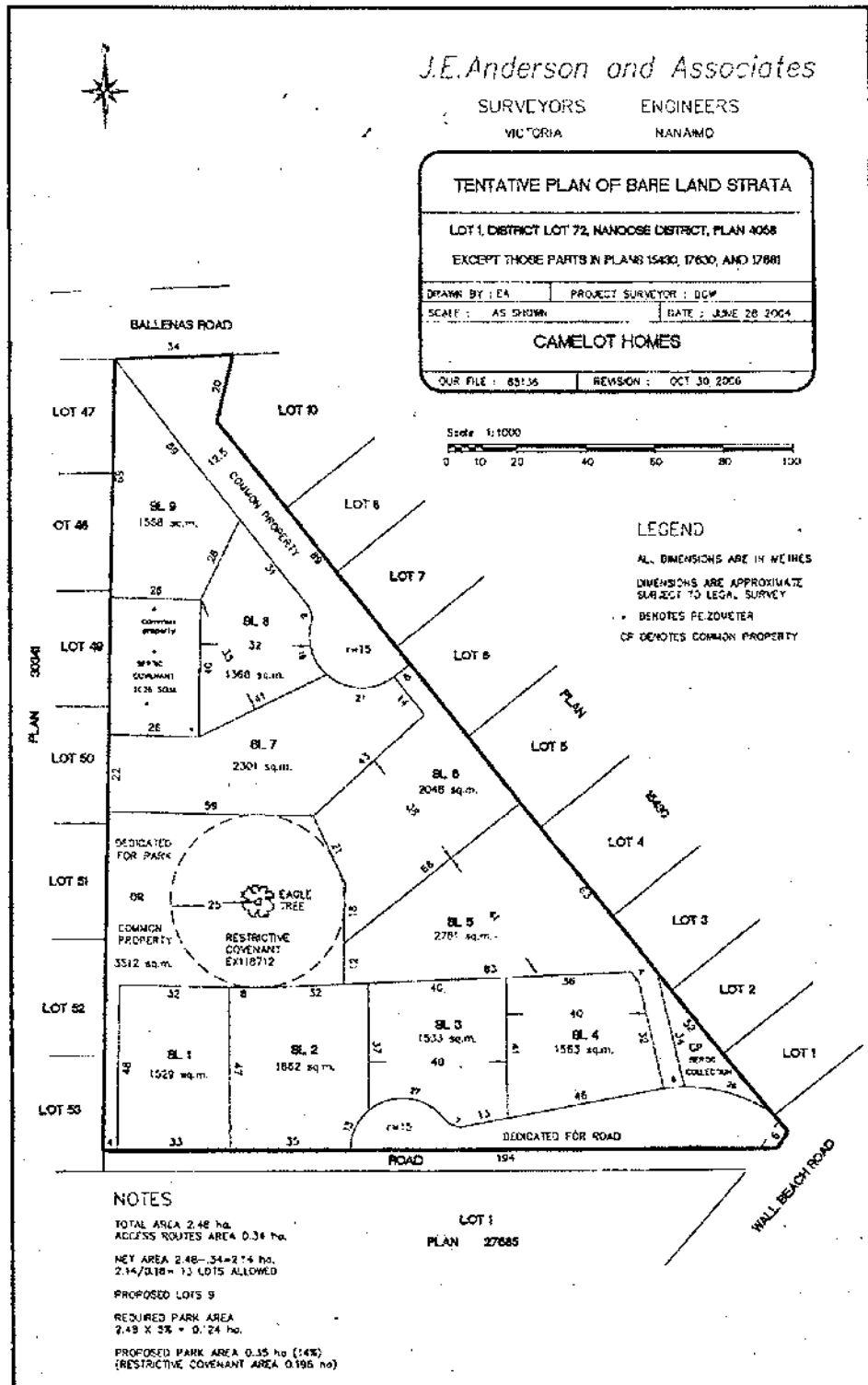
  
\_\_\_\_\_  
General Manager Concurrence

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

**COMMENTS:**

*devsrs/reports/2006/no 3320 30 26314 10% park land Camelot Homes JE Anderson.doc*

Schedule No. 1  
 Proposed Subdivision including the Location and Area of the Proposed Park Land  
 (as submitted by applicant / reduced for convenience)





**Schedule No. 2  
Subdivision File No. 26314  
Park Land Conditions**

**In conjunction with the subdivision application for the property legally described as  
Lot 1, District Lot 72, Nanoose District, Plan 4058  
Except Those Parts in Plans 15430, 17630 and 17681**

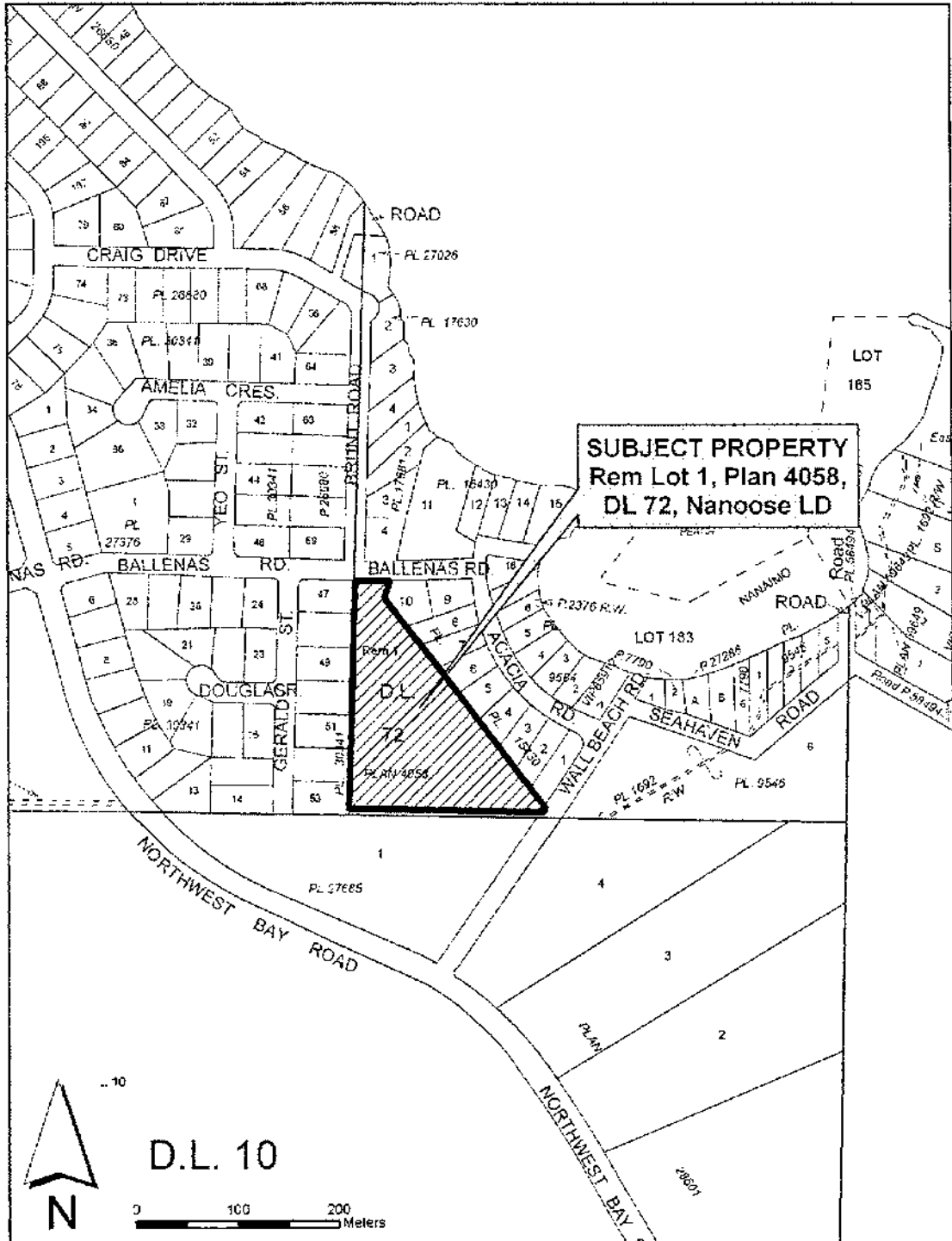
**1. Area and Location of Park Land**

- a. An area, not less than 3512 m<sup>2</sup> and shown on the locations labeled park on Schedule No. 1, shall be dedicated as park land on the plan of subdivision.
- b. Panhandle access to be a minimum of 4.0 metres in width.

**2. Fencing / Trail Construction**

- a. The applicant is to construct and/or provide the following improvements as part of the development of the land being dedicated for park land:
  - i) Split rail fencing or other similar barrier to be constructed around the 25-metre eagle nest tree;
  - ii) All debris is to be removed from the park land area;
  - iii) A walking trail is to be constructed along the unnamed road from the paved portion of the road to the entrance to the park land; and,
  - iv) Panhandle access trail to be constructed to allow access to the park land.
- b. Applicant to contact Recreation and Parks staff prior to commencing any works or activities within the proposed park land. Any works may only proceed following written approval from the Recreation and Parks staff.
- c. Applicant is responsible for receiving approval from the Ministry of Transportation to construct a walking trail along unnamed road prior to commencing works.

Attachment No. 1  
Location of Subject Property



Attachment No. 2  
Comments from the Nanoose Bay Parks & Open Space Advisory Committee

**PARK LAND DEDICATION REVIEW**

Referral Form  
Parks and Open Space Advisory Committee

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

**Conceptual Park Land Proposal in conjunction with Subdivision Application for Lot 1, DL 72, Nanoose District, Plan 4058 Except Those Parts in Plans 15430, 17630, and 17681;**

and located at **Ballenas & Wall Beach Roads, Electoral Area 'E'**

Attachments provided to Committee:

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

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



Support park land in the amount and location as proposed.



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

Comments:

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

The Committee members' comments on the proposed parkland include:

- The land being offered for park has been cleared of all vegetation,
- The ground appeared to be very wet with standing water and was slightly lower so is a natural water collection area,
- The proposed trail did not provide a through-route and did little to enhance the proposed parkland, or the subdivision,
- The location of the proposed parkland, at the rear of the subdivision, did not appeal,
- The eagle tree buffer area was vegetated, and protection of this was not a function of the Parks department.

MOVED K. Stanners, SECONDED G. Cartlidge that the Committee recommends the Regional Board request cash in-lieu-of parkland be accepted following a certified appraisal of the property.

CARRIED

\_\_\_\_\_  
Chairperson

Meeting held on: April 3, 2006

\_\_\_\_\_  
Secretary

**Attachment No. 3**  
**Minutes of a Public Information Meeting**  
**Held at the Nanoose Place Multi Purpose 1, 2925 Northwest Bay Road**  
**on September 21, 2006 at 7:00 pm**  
**Subdivision Application No. 26314**  
**For the property legally described as**  
**Lot 1, District Lot 72, Nanoose District, Plan 4058**  
**Except Those Parts in Plans 15430, 17630 and 17681**

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

**Present:**

Public in attendance: approximately 15 persons

**For the RDN:**

Chair: Director George Holme, Electoral Area 'E'  
Wayne Moorman, Manager, Engineering and Subdivisions  
Susan Cormie, Senior Planner

**For the applicant:**

Dave Wallace, BCLS, agent  
Dan MacLeod, owner, Camelot Homes Ltd.

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

The Chair stated the purpose of the Public Meeting and asked the Senior Planner to provide an overview of the statutory provisions as it relates to park land provision.

The Senior Planner provided a summary of the statutory provisions.

The Chair then invited the applicant's agent, Dave Wallace, to present a summary of the park land proposal.

Mr. Wallace provided a summary of the proposed park land explaining that it includes an eagle nest tree and 15% of the total area of the parent parcel. Mr. Wallace suggested that in lieu of a park land dedication, the property could be retained as common property under the strata corporation with a statutory right-of-way in place to allow the public to enter the site to view the eagle nest tree.

The Chair then invited members of the public to speak.

Adrienne Hardman, Lot 53, asked what is meant by the term park land.

The applicant's agent explained that, in this case, the park land includes an eagle nest tree which must be left in its natural state.

The Senior Planner advised that there are different types of parks such as active playground parks, parks which include improvements, and parks that are passive and left in their natural state. This park would probably be left in its natural state other than for a trail and perhaps a viewing area.

Ms. Hardman asked how will people get into the park and how will a fire truck access the park?

The Manager commented that there is a water stand pipe near the proposed park land entrance and access would be via the unnamed street.

Ms. Hardman commented that she would like to see the park left in its natural state and that there are lots of small animals that use the park area.

The applicant's agent suggested that as an alternative, the property could be left as common property under the strata corporation but with a statutory right-of-way to allow the public to enter the park land. The applicant's agent stated that the maintenance of the area would then be the strata corporation's responsibility instead of the Regional District's responsibility.

The Chair noted that many parks are left in their natural state and this park would be left as is.

Sandy Kinloch, 1712 Gerard Road, stated that the park land is behind her house and has a few trees on it. Ms. Kinloch stated that she felt the park land should be left natural, with a trail, and she supports the park land location as proposed.

Mr. Kinloch, 1712 Gerald Road, stated that he does not have a problem with the park land and noted that lots of people come here in the summer and set up cameras to film the eagles. Mr. Kinloch commented that the park land dedication would allow people to access closer to the tree. Mr. Kinloch concluded by stating that the park land is a great idea.

Sandra Grey, resident of Area 'F', stated that she has been the bald eagle nest tree monitor for the last 10 years for this tree. Ms. Grey outlined her role in monitoring the tree and stated that she did not know what to recommend but felt that fencing would help. Ms. Grey also noted that there are very few alternatives for nest trees in the area anymore.

John Hardman, Lot 53, asked about the road.

The applicant's agent stated that the road is a publicly dedicated road maintained by the Ministry of Transportation and that the road construction would end at the cul-de-sac.

Mr. Hardman asked if this would be a pathway into the park land.

The applicant's agent stated that a pathway could be put along the unconstructed portion of the road.

John Hartman stated that the access should be by path and that he would support the park land and would like to see it restored to its natural state. Mr. Hartman also noted that this additional area would give the eagles more breathing room and that it is a shame to see everything go.

The Chairman stated that there would probably be no signage announcing the park land and it would be left natural.

Frank Van Eynde, 1599 Beaver Creek Road, stated that he is a member of the Advisory Committee and the committee's concern was that the property is land locked and he thought the common property would be a good idea with the strata corporation looking after the area.

Bob deBuyscher, Lot 11, stated that he is in favour of the park land as is and commented that a viewing platform could be erected and that the 25-metre area should be well marked.

The applicant's agent stated that the owner would support to preserve and enhance the eagle tree area and satisfy the neighbours.

Sandy Grey, Area 'F', asked who maintains the covenant area.

The Senior Planner explained that the covenant document is enforced by the Regional District.

Dan MacLeod, Camelot Homes, asked how do we maintain the covenant.

Sandy Grey noted that the edge of the covenant slowly diminishes over time and the buffer area often becomes eroded.

Bill Kinloch, Lot 52, commented that the covenant area should not be touched as all.

The applicant's agent noted that there are a couple of ways to protect the covenant area.

Adrienne Hardman, Lot 53, suggested that the park land area be squared off along the edges and that a nice looking fence be built to protect the covenant area.

The applicant's agent commented that if the area is squared off, this would create a better buffer and it will better protect the tree.

Bill Kinloch, Lot 52, commented that there is a stand pipe along the unnamed road and that offers fire protection for the proposed park land area.

The Chairman announced that written correspondence has been received from Dave and Kathy Jamieson, 1641 Acacia Road, commenting that they support the park land be reserved for a nature preserve. A copy of this correspondence is attached to these minutes.

Gay Cartlidge, Garry Oak Drive, commented that as a member of the Parks and Open Space Advisory Committee, on the day the committee visited the site, it was very wet and wondered if it is in the same condition. Ms. Cartlidge commented that the Advisory Committee was concerned that visitors would have trouble accessing the park land.

The applicant's agent noted that drainage would be addressed through the subdivision process and the Ministry of Transportation.

John Hardman, Lot 53, asked about the difference between park land or common property and what are the pros and cons.

The applicant's agent stated that the strata corporation would have the responsibility to maintain the common area and any drainage concerns would have to be addressed by the strata.

Frank Van Eynde noted that the Advisory Committee's concern is that the RDN will not have to do anything and common property is a better solution.

Adrienne Hardman, Lot 53, commented that most neighbours like it the way the property is now.

John Hardman, Lot 53, asked if the RDN would maintain this park land the same way that the beach accesses are maintained.

The Senior Planner explained that beach accesses are a function of the Ministry of Transportation.

The Chair asked if there were any further comments with respect to the park land proposal.

There being none, the Chair thanked those in attendance and closed the public information meeting.

The meeting concluded at 7:37 pm.

---

Susan Cormic  
Recording Secretary

-----Original Message-----

From: david jamieson [mailto:davidjamieson@shaw.ca]  
Sent: September 19, 2006 11:14 PM  
To: Laustsen, Denise; George Holme  
Subject: Lot 1, DL 72, Nanoose District, Plan 4058 et al, Public Meeting

To: RDN Planning Dept

From: Dave & Kathy Jamieson  
1641 Acacia Road  
Nanoose Bay, B.C.

Re: Proposed Camelot Homes Development

Kathy and I have owned property on Acacia Road near the proposed Camelot Homes development since 1979. We have no opposition to the development of the property and commend the proponent on the proposal to dedicate about 15% of the parcel area to park land dedication (including the buffer area around the eagle nesting tree). As long time residents we can attest to the prolific quality of that particular tree and the enjoyment the generations of eagle adults and young have provided to the residents of the Wall Beach area. However we have a suggestion regarding the designation and intended use of the parkland. Recognizing(at least in our opinion) that the key issue is the continued viability of the eagle nesting tree, we suggest that the whole proposed parkland area be designated a nature preserve with limited public access to minimize disturbance to the the birds. A suitable site near the boundary of the proposed parkland should be selected as a viewing station of the nest and its occupants, perhaps with a simple shelter constructed, and the remainder fenced to minimize human contact. We believe this would be the highest and best use for the area set aside by the proponent and provide the greatest benefit to the current residents and our new neighbors soon to arrive.

Yours truly,  
Dave & Kathy Jamieson