

**REGIONAL DISTRICT OF NANAIMO**

**ELECTORAL AREA PLANNING COMMITTEE**

**TUESDAY, JUNE 12, 2007**

**6:00 PM**

*(RDN Board Chambers)*

**A G E N D A**

**PAGES**

**CALL TO ORDER**

**DELEGATIONS**

**MINUTES**

- 3-5 Minutes from the regular meeting of the Electoral Area Planning Committee held May 8, 2007.

**BUSINESS ARISING FROM THE MINUTES**

**UNFINISHED BUSINESS**

- 6-11 Reconsideration of Development Permit Application No. 60703 – Request for 10% Frontage Relaxation – Ring Contracting Ltd. – 470 Nanaimo River Road – Area C.

**PLANNING**

***AMENDMENT APPLICATIONS***

- 12-22 Zoning Amendment Application No. ZA0702 – Angela Quek, Pacific Edge Architecture Inc. on behalf of Kijosa Investment Corporation – 1680 Timberlands Road - Area A.

***DEVELOPMENT PERMIT APPLICATIONS***

- 23-29 Development Permit Application No. 60719 – Brandt Tractor Properties Ltd. – 1830 Schoolhouse Road – Area A.
- 30-36 Development Permit Application No. 60721 – Laidlaw/Shurvell – 2716 Hay Rake Road – Area C.

***DEVELOPMENT VARIANCE PERMIT APPLICATIONS***

- 37-50 Development Variance Permit Application No. 90621 and Request for Acceptance of Park Land in Conjunction with Subdivision Application No. 26822 – Leigh Millan on behalf of BCAB Developments Ltd. – Whiting Way – Area A.
- 51-55 Development Variance Permit Application No. 90706 – Armstrong/Clark – 5049 Thompson Clarke Drive West – Area H.

56-63 Development Variance Permit Application No. 90708 – Dave Murray on behalf of Gaigher Holdings Inc. – 153 Jamieson Road – Area II.

64-71 Development Variance Permit Application No. 90709 – 2985 Dolphin Drive -- Area E.

***OTHER***

72-75 Amendment to Impact Assessment Bylaw No. 1165.

**ADDENDUM**

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**NEW BUSINESS**

**IN CAMERA**

**ADJOURNMENT**

**REGIONAL DISTRICT OF NANAIMO**

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE  
MEETING HELD ON TUESDAY, MAY 8, 2007, AT 6:00 PM  
IN THE RDN BOARD CHAMBERS**

**Present:**

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

**Also in Attendance:**

M. Pearse	Senior Manager, Corporate Administration
P. Thorkelsson	General Manager, Development Services
G. Garbutt	Manager, Current Planning
N. Tonn	Recording Secretary

**LATE DELEGATIONS**

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

CARRIED

**Helen Sims, Oceanside Development & Construction Association, re RDN Sustainable Development Checklist.**

Ms. Sims raised her concerns regarding the voluntary Sustainable Builder's Checklist and the limitations existing bylaws put on some avenues available to the development community to make sustainable changes.

**MINUTES**

MOVED Director Holme, SECONDED Director Young, that the minutes of the Electoral Area Planning Committee meeting held April 10, 2007 be adopted.

CARRIED

**PLANNING**

**AMENDMENT APPLICATIONS**

**Zoning Amendment Application No. ZA0704 – Ben Mellin on behalf of KR Burrell – Spider Lake and Marshland Roads – Area H.**

MOVED Director Holme, SECONDED Director Young:

1. That Zoning Amendment Application No. ZA0704 as submitted by Ben Mellin, on behalf of KR Burrell to rezone Lot 3, Block 390, Newcastle District, Plan 39504 from Resource Management 1, Subdivision District A (RM1A) to Rural 1, Subdivision District D (RUID) be approved to proceed to public hearing subject to the conditions included in Schedule No. 1.

2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.337, 2007" be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.337, 2007" proceed to public hearing.
4. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.337, 2007" be delegated to Director Bartram or his alternate.

CARRIED

#### **DEVELOPMENT PERMIT APPLICATIONS**

##### **Development Permit Application No. 60703 – Request for 10% Frontage Relaxation – Ring Contracting Ltd. – 470 Nanaimo River Road – Area C.**

MOVED Director Young, SECONDED Director Burnett,:

1. That Development Permit Application No. 60703 submitted by Ring Contracting Ltd., in conjunction with the subdivision on the parcel legally described as Lot 2, Section 6, Range 5, Cranberry District, Plan VIP55807 and located at 470 Nanaimo River Road in Electoral Area 'C' and designated within the Watercourse Protection Development Permit Area, be approved subject to the conditions outlined in Schedule Nos. 1, 2 and 3 of the corresponding staff report and notification procedure pursuant to the *Local Government Act*.
2. That the request for relaxation of the minimum 10% perimeter frontage requirement for proposed Lot A be approved.

CARRIED

##### **Development Permit Application No. 60717 – Clemens/Greeve – Maple Guard Drive – Area H.**

MOVED Director Holme, SECONDED Director Stanhope, that Development Permit Application No. 60717, to construct a dwelling unit within the Hazard Lands Development Permit Area pursuant to "Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003", for the property legally described as Lot 30, District Lot 40, Newcastle District, Plan 16121 be approved subject to the conditions outlined in Schedules 1 and 2.

CARRIED

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

##### **Development Variance Permit Application No. 90703 – 1887 Bonito Crescent – Area E.**

MOVED Director Holme, SECONDED Director Stanhope, that Development Variance Permit Application No. 90703, to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", for the property legally described as Lot 37, District Lot 78, Nanoose District, Plan 14275 be approved subject to the conditions outlined in Schedules 1, 2 and 3, and subject to the Board's consideration of comments received as a result of public notification.

CARRIED

**AMENDMENT APPLICATIONS**

**Zoning Amendment Application No. 0707 – Mountain Fire Protection District – Jingle Pot Road and Meadow Drive – Area C.**

MOVED Director Young, SECONDED Director Burnett,:

1. That “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.340, 2007” to amend the Public 4 zone be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
2. That the public hearing for “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.340, 2007” be waived and notice in accordance with Section 893 of the *Local Government Act* be given.

CARRIED

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**RDN Sustainable Development Checklist.**

Staff were directed to review the sustainable development checklist including the information provided by the Oceanside Development and Construction Association, and report back to the Board with recommendations.

**ADJOURNMENT**

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

CARRIED

**TIME: 6:16 PM**

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CHAIRPERSON



RDN	
CAO	GMF&IS
GMDS	GMR&PS
GMES	GMTS
JUN - 4 2007	
SMCA	
CHAIR	BOARD
EAP	

**MEMORANDUM**

**TO:** Geoff Garbutt  
Manager, Current Planning

**DATE:** June 1, 2007

**FROM:** Susan Cormie  
Senior Planner

**FILE:** 3060 30 60703  
c/r 3320 20 26726

**SUBJECT:** Reconsideration of Development Permit Application No. 60703 / Request for 10% Frontage Relaxation  
Ring Contracting Ltd.  
Electoral Area 'C' – 470 Nanaimo River Road

**PURPOSE**

To reconsider an application for a development permit with variance in conjunction with the creation of a 2-lot subdivision within the Watercourse Protection Development Permit Area and to reconsider a request for relaxation of the minimum 10% frontage requirement on a parcel located in Electoral Area 'C'.

**BACKGROUND**

At the regular Board meeting held on May 22, 2007, the following resolution was passed with respect to Development Permit Application No. 60703 and consideration of relaxation of the minimum 10% frontage requirement:

*That Development Permit Application No. 60703 be referred back to staff for reconsideration.*

The Electoral Area Planning Committee will recall that this application/request is in conjunction with the proposed subdivision of the parcel legally described as Lot 2, Section 6, Range 5, Cranberry District, Plan VIP55807, located at 470 Nanaimo River Road in Electoral Area 'C', and zoned Rural 9 Subdivision District 'D' (RUD9) (2.0 ha minimum parcel size with or without community services) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. 1 for location of subject property and Schedule No. 2 for proposed subdivision layout).

The parent parcel is designated within the Watercourse Protection Development Permit Area (DPA) in this case for the protection of Stark Creek pursuant to the "Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999" (OCP).

The Committee will also recall that the applicant is requesting a variance to the parcel averaging provision as set out in Bylaw No. 500, 1987 and a relaxation of the minimum 10% perimeter frontage for proposed Lot A to 8.6%.

As a result of this Board direction, staff followed up with the Ministry of Transportation and the applicant's agent to review the subdivision proposal and the issues raised by members of the public.

## **ALTERNATIVES**

1. To approve Development Permit Application No. 60703 with variance, as submitted, subject to the conditions outlined in Schedules No. 1 and 2 and to approve the request for relaxation of the minimum 10% perimeter frontage requirement for proposed Lot A.
2. To deny the Development Permit as submitted and provide staff with further direction and to refuse the request for relaxation of the minimum 10% frontage requirement.

## **DEVELOPMENT IMPLICATIONS**

### *Access Implications*

A concern was raised with respect to one of the accesses serving the parent parcel, which has a steep grade. Staff have confirmed with the Ministry of Transportation staff with respect to the existing accesses to the parent parcel and have found that the Ministry is agreeable to the panhandle access to serve both parcels, but would like the second access, that is of concern, removed. The removal of this access can be included as a condition of the development permit (*see Schedule No. 1 for Conditions of Approval*).

### *Future Subdivision Implications*

A concern was also raised with respect to further subdivision of Proposed Lot B. The parcel averaging provision as set out in Bylaw No. 500, 1987 requires that an applicant register a Section 219 covenant restricting any further subdivision where a parcel is at least twice the size of the corresponding subdivision district, in this case, 2.0 ha. The Bylaw, despite its intent to prohibit further subdivision where parcel averaging is allowed, does not include any reference to requiring a Section 219 covenant to prohibit a Section 946 subdivision, which has a minimum parcel size of 1.0 ha.

In this case, if a variance to the parcel averaging provision is not granted, the ability of a future owner to subdivision under Section 946 would not be possible. If the proposed parcel averaging variance is granted, a future owner may be able to apply for such a subdivision, thus bypassing the intent of the bylaw provision. It is noted that other subdivision related issues such as minimum 10% frontage provision may limit the ability to further subdivide. Despite this, in order to ensure that no further subdivision of the land could occur, staff recommends a Section 219 covenant restricting further subdivision be placed on proposed Lot B. This is in keeping with the intent of the bylaw and the applicant's agent has indicated concurrence with such a covenant. This covenant will be secured through the subdivision review process.

## **VOTING**

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

## **SUMMARY**


The Regional Board of Directors referred this application for development permit with variance and 10% frontage relaxation request back to staff for further review as a result of concerns raised by the public involving access and further subdivision. Staff have confirmed with Ministry of Transportation staff that only one access will be permitted to serve the proposed parcels and that the second steep access is required to be removed. With respect to the possibility of further subdivision on proposed Lot B, the applicant is in concurrence to register a Section 219 covenant on title restricting any further subdivision.

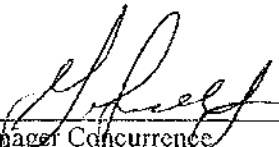
This will be included as a condition of the development permit and will be secured through the subdivision approval process (see Schedule No. 1 for Conditions of Approval).

Given that the concerns raised by members of the public can be resolved, staff recommends Alternative No. 1, to approve the development permit with variance and to approve the request for relaxation of the minimum 10% frontage requirements as outlined in Schedules No. 1 and 2 of this staff report and subject to the notification process pursuant to the *Local Government Act*.


#### RECOMMENDATIONS

1. That Development Permit Application No. 60703 submitted by Ring Contracting Ltd., in conjunction with the subdivision on the parcel legally described as Lot 2, Section 6, Range 5, Cranberry District, Plan VIP55807 and located at 470 Nanaimo River Road in Electoral Area 'C' and designated within the Watercourse Protection Development Permit Area, be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report and notification procedure pursuant to the *Local Government Act*.
2. That the request for relaxation of the minimum 10% perimeter frontage requirement for proposed Lot A be approved.

  
Report Writer

  
Manager Concurrence

  
General Manager Concurrence

  
CAO Concurrence

COMMENTS:



**Schedule No. 1  
Development Permit Application No. 60703  
In conjunction with the Subdivision Application for the Property Legally Described as  
Lot 2, Section 6, Range 5, Cranberry District, Plan VIP55807  
Conditions of Approval/Variance to Bylaw 500, 1987**

The following sets out the conditions of approval:

**1. Subdivision**

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

**2. Watercourse Development Permit Area (for the protection of Stark Creek)**

No development shall occur within the Watercourse Protection Development Permit Area, including but not limited to no building or structures including fences, decks, and patios, outdoor storage, septic fields, wells, and placement of soils; or any alteration of the land by man.

**3. Riparian Area Assessment**

a. The applicant shall meet the requirements of the Riparian Area Assessment Report No. 383 prepared by Steve Toth, Toth and Associates Environmental Services and accepted March 19, 2007, and specifically including the environmental monitoring requirements as set out in Section 5 of the Report.

b. No development is to occur within the SPEA or below the top of the steep bank.

**4. Section 219 Covenant**

The applicant shall, at his expense, prepare and register a Section 219 covenant restricting any further subdivision of Proposed Lot B concurrently with the plan of subdivision. Draft covenant to be forwarded to Regional District for review prior to registration at Land Title Office, Victoria. Applicant's solicitor to provide a legal letter undertaking to register this covenant.

**5. Ministry of Transportation**

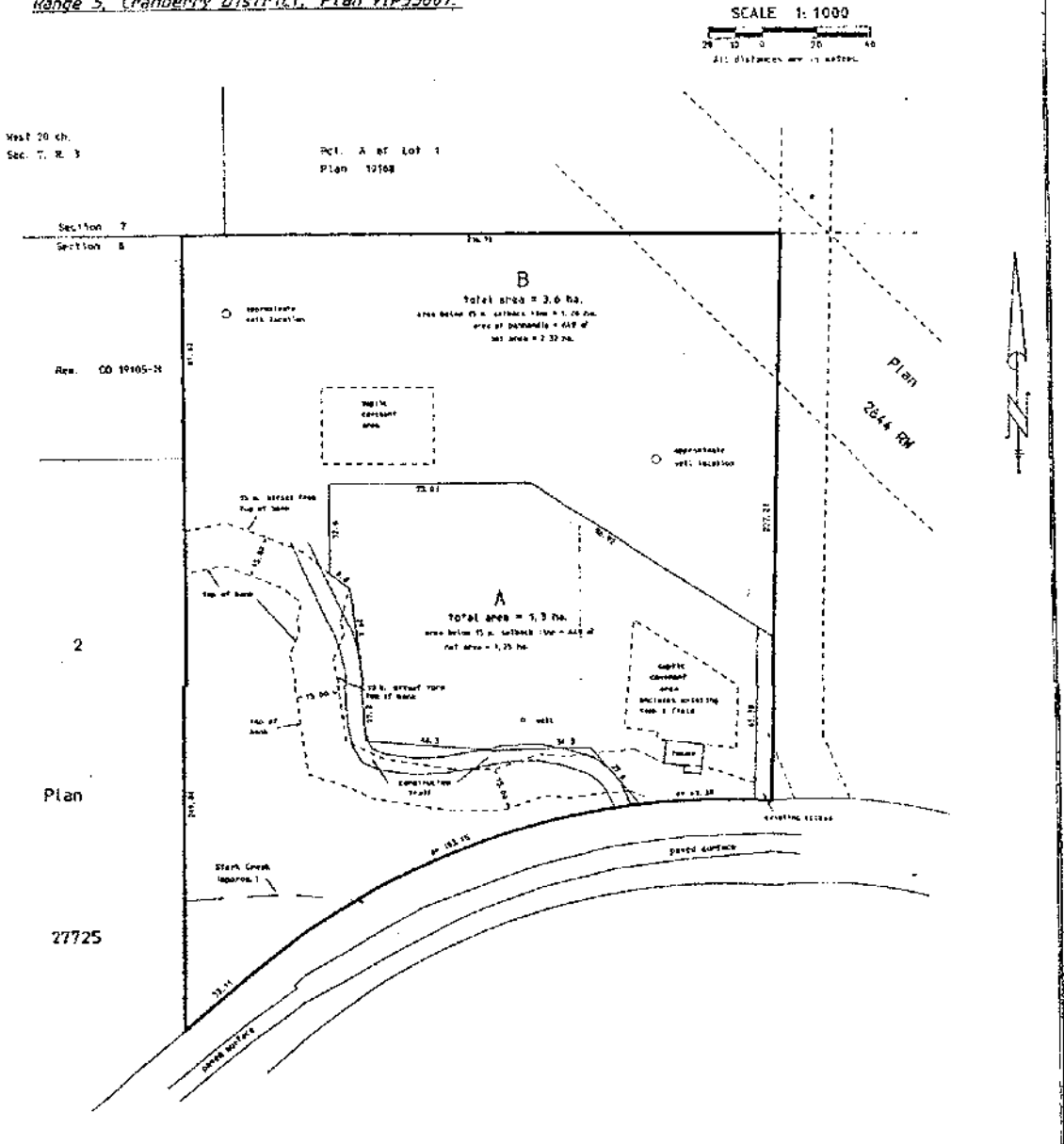
Applicant to remove second steep sloped access to the satisfaction of the Ministry of Transportation.

**6. With respect to the lands, the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, the following variance is proposed:**

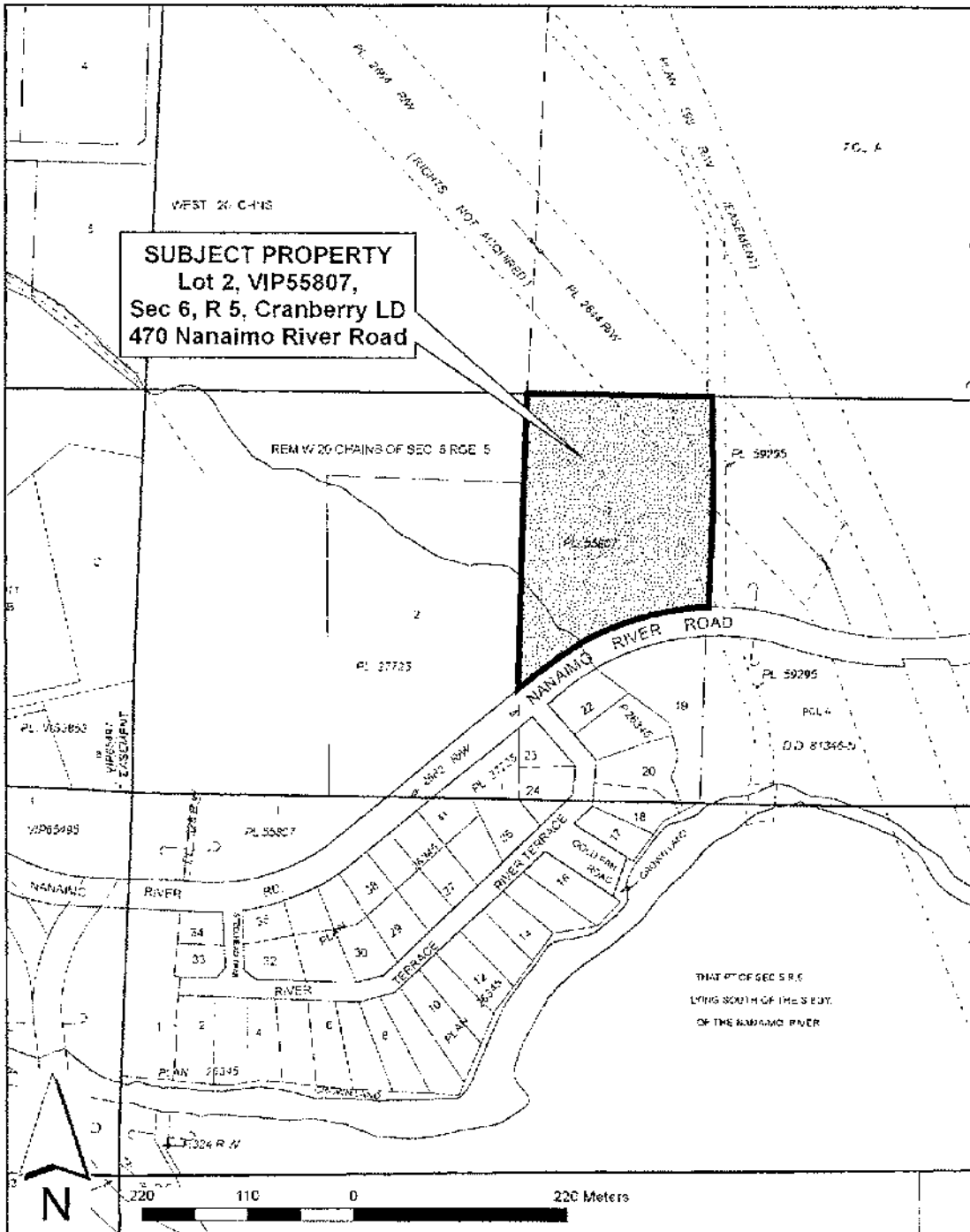
The requirements of Section 4.3.4 be relaxed by varying the parcel averaging provision from 80% to 65% in order to accommodate the creation of Proposed Lot A as shown on the Proposed Plan of Subdivision set out in Schedule No. 2.

**Schedule No. 2**  
**Development Permit Application No. 60703**  
 In conjunction with the Subdivision Application for the Property Legally Described as  
 Lot 2, Section 6, Range 5, Cranberry District, Plan VIP55807  
**Proposed Plan of Subdivision**  
 (as submitted by applicant)

Plan of proposed subdivision of Lot 2, Section 6,  
Range 5, Cranberry District, Plan VIP55807.



**Attachment No. 1**  
**Location of Subject Property**





RDN	
CAO	GMFSIS
GMDS	GMR&PS
GMES	GMIS
JUN - 4 2007	
SMCA	
CHAIR	BOARD
EAP	

## MEMORANDUM

**TO:** Geoff Garbutt  
Manager, Current Planning

**DATE:** June 1, 2007

**FROM:** Susan Cormie  
Senior Planner

**FILE:** 3360 30 0702

**SUBJECT:** Zoning Amendment Application No. ZA0702 / Angela Quek, Pacific Edge Architecture Inc. on behalf of Kijosa Investment Corporation  
Electoral Area 'A' – 1680 Timberlands Road

### PURPOSE

To consider an application to rezone the existing licenced beverage establishment, retail beer and wine store, and accessory residential suite at 1680 Timberlands Road in Electoral Area 'A' in order to allow the construction of 11 hotel units.

### BACKGROUND

The Regional District has received a zoning amendment application for the subject parcel legally described as Lot 1, District Lot 15, Bright District, Plan 29967, Except Plan 38105 and located at 1680 Timberlands Road in the Cassidy area of Electoral Area 'A' (see Attachment No. 1 for location of subject property).

The parent parcel, which totals 0.56 ha in size, is currently situated within Land Use Contract No. 98 which permits a neighbourhood pub and accessory uses. The underlying zoning is Residential 6 (RS6) Subdivision District 'D' (minimum parcel size 2.0 ha with or without community water and sewer services) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

Surrounding uses include properties within Land Use Contract No. 98 to the north and east (Timberland Mobile Home Park and individual parcels); Timberlands and Hallberg Roads to the south and west respectively with resource management zoned parcels across from these roads.

The parent parcel is designated within Fish Habitat Protection Development Permit Area No. 7 pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001". This development permit area was established to ensure consistency with the provincial *Riparian Areas Regulation*. This development permit area was adopted by bylaw on January 23, 2007.

The development is currently served by a private water system owned and operated by the owner of the Timberland Mobile Home Park and by a private individual on-site septic disposal system. Access to the site is via both Timberlands and Hallberg Roads. The applicant has submitted a completed RDN Sustainable Community Builder Checklist.

The parent parcel is located outside an RDN Building Services area.

### ***Proposed Development***

The applicant is applying to amend the current Land Use Contract No. 98 (Bylaw No. 239) to discharge the contract and to rezone the subject property from Residential 6 (RS6) Subdivision District 'D' (2.0 ha minimum parcel size) to a new Comprehensive Development zone in order allow for 11 hotels units in addition to the existing licenced beverage establishment, retail beer and wine store, and accessory residential suite (*see Attachment No. 2 showing the proposed layout*).

As part of the application information process, the applicant has submitted the following information:

- site plan showing the land use, parking areas, and landscaping;
- building profiles;
- an Assurance of Compliance report prepared by Qualicum Engineering Services with respect to the site's septic disposal; and
- a Preliminary Hydrogeological Impact Assessment prepared by EBA Engineering Ltd.

The building is proposed to be finished with a combination of stucco with wood trim and Hardie Board planking. The applicant is also proposing to provide a new private water well, enhance the existing landscaping, improve the off-street parking, off-street loading, and the garbage disposal areas.

### ***Public Information Meeting***

A Public Information Meeting was held on May 23, 2007 at South Wellington Community Hall. Notification of the meeting was advertised in The Harbour City Star newspaper and on the RDN website, along with a direct mail out to all property owners within 200 metres of the subject property. Approximately 9 persons attended this information meeting and provided comments with respect to the proposal following a presentation of the proposal by the applicant's agent (*see Attachment No. 3 'Report of the Public Information Meeting May 23, 2007'*). Issues raised at this Public Information Meeting included the following:

- Concern for noise from trucks;
- Concern for safety in the Pub parking lot;
- Concern for ensuring a safe septic disposal system and safe drinking water; and
- Concern for the location of proposed potable water well.

## **ALTERNATIVES**

1. To approve the discharge of Land Use Contract No. 98 and approve the zoning amendment application to rezone the subject parcel from Residential 6 Subdivision District 'D' (RS6D) to Comprehensive Development Zone 36 (CD36) subject to the conditions outlined in Schedule No. 1.
2. To not approve the discharge of the land use contract and the amendment application.

## **DEVELOPMENT IMPLICATIONS**

### ***Official Community Plan / Development Permit Implications***

Pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001" (OCP), the parent parcel is Designated Cassidy Village Centre. The Plan identifies this centre as a local neighbourhood service centre and encourages a mix and concentration of uses. Therefore, the OCP supports the use of the land for the proposed expansion of the existing development.

With respect to the Fish Habitat Protection Development Permit Area, the applicant has provided confirmation that there are no streams within 30.0 metres of the parent parcel and is exempt from requiring a development permit.

### ***Site Development Implications***

The owner is proposing to construct 11 hotel suites on an expanded second floor and has provided architectural designed building profiles plans (*see Attachment No. 3 for building profiles*). As there is no form and character development permit area for the Cassidy area, there is no bylaw requirement for building details and therefore, this has not been incorporated into the proposed CD36 amendment bylaw. Other site related requirements such as off-street parking, off-street loading, and garbage areas along with landscaping (*see Attachment No. 2 for landscaping details*) will be incorporated into the proposed CD zone. It is noted that the new CD zone will recognize the siting of the existing development in terms of off-street parking and building setbacks.

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

The site is proposed to be served by private water service and private septic disposal system. With respect to the provision of potable water, as part of the conditions of approval, the applicant will be required to provide proof, to the satisfaction of the Regional District, that there will be sufficient potable water in a quantity to meet the minimum Bylaw No. 500, 1987 standard of 3.5 m<sup>3</sup> per day on a year-round basis and in a quantity which meets or exceeds Canadian Drinking Water (CSA) standards (*see Schedule No. 1 for list of conditions*).

With respect to septic disposal, the Vancouver Island Health Authority has commented that since the septic disposal standards have changed, the need for a reserve field is recommended. Therefore, as a condition of this amendment application, it is recommended that the applicant meet the requirements of the Vancouver Island Health Authority.

In addition, as the subject property is designated within the Cassidy Village Centre which promotes future community water and sewer services, staff recommends that the applicant be required to provide a covenant requiring that the parcel be connected to community water and sewer upon availability. The applicant is in concurrence with the covenant.

### ***Environmental Implications***

The subject property is situated above the Upper Cassidy Aquifer and the Lower Cassidy Aquifer. In keeping with the OCP policy, the applicant has submitted a Hydrogeological report to address any potential impacts. The hydrogeological report recommends improvements to the parking lot drainage runoff and that a professional hydrologist be retained to locate the well, characterize the water quality and quantity and to ensure wellhead/aquifer protection is developed. As a condition of zoning amendment, staff recommends that this report along with the Septic Assurance report be registered on title to ensure the site is developed as recommended (*see Schedule No. 1 for Conditions of Approval*). The applicant is in concurrence to register these documents. In addition, staff also recommends that a water oil separator be installed as part of the drainage of the parking area. This requirement will be included in the CD zone. The applicant is also in concurrence to provide this site drainage improvement. Staff feels that these measures will help to assure that the proposed development will not have a negative impact on the aquifers.

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

Under the provisions of the *Local Government Act*, a land use contract may be discharged by bylaw. This requires a public process including a public hearing. The RDN solicitor has advised that the corresponding Bylaw No. 239 to amend Land Use Contract No. 98 can be considered concurrently with the zoning amendment application. Staff recommends that the corresponding costs to remove the notation of the land use contract from title be paid for by the applicant. The applicant is in concurrence with this condition.

## PUBLIC CONSULTATION IMPLICATIONS

Comments and written correspondence from the public have raised some issues. The applicant has indicated that he can adequately address the applicable issues raised at the meeting. Issues raised by the public, along with applicant and staff comments, are outlined below:

*Concern for current noise level in the area with respect to trucks* – As this is an off-site issue involving truck traffic on Timberlands Road, it does not impact the proposal as submitted.

*Concern for pedestrian safety in the parking lot area* – It is expected that the reconfiguration of the parking lot will cut down on the amount of traffic currently cutting through the parking area in order to ‘short cut’ to the intersection of Timberlands and Hallberg Roads.

*Concern for volume of traffic* – Ministry of Transportation staff has indicated that additional traffic associated with the proposed hotel use is not expected to negatively impact the existing traffic patterns.

*Concern for ensuring a safe septic disposal system and safe drinking water* – The applicant has indicated that he will be providing a new well for the proposed development. The applicant has provided a certified assurance from a professional engineer for the septic disposal system.

## INTERGOVERNMENTAL IMPLICATIONS

Formal referrals concerning the application were sent to the following agencies:

*Ministry of Transportation* – Ministry staff has indicated that the Ministry has issued an access permit for the proposed addition to the existing uses. It is noted that the proposed amendment bylaws will require Ministry approval, pursuant to the *Transportation Act*, as the subject parcel is within 800 metres of a controlled access.

*Vancouver Island Health Authority* – The Health Inspector has recommended a septic disposal reserve field be incorporated into the proposal.

*Local Fire Chief* – Comments have not yet been received from the local fire chief; however the applicant’s agent has met with the fire chief who expressed no initial concerns or comments.

## VOTING

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

## SUMMARY

This is an amendment application proposing to discharge an existing land use contract and amend the underlying zoning to permit the continuation of the existing licenced beverage establishment, retail beer and wine store, and accessory residential suite and allow an additional land use consisting of 11 hotel units for the property located at 1680 Timberlands Road in Electoral Area ‘A’.

The property, which is Designated Cassidy Village, supports a variety of land uses. In addition, the parent parcel is designated within the recently adopted Fish Habitat Development Permit Area No. 7 (DPA). In this case, as the application will meet the exemption provisions of the DPA, therefore a development permit is not required as part of this application process.

A Public Information Meeting was held in conjunction with this amendment application. The applicant has indicated that he can adequately address the applicable issues raised at the meeting including improving safety of the parking lot area and providing a new well and septic disposal reserve area.

Conditions of approval, as outlined in *Schedule No. 1*, include the registration of Section 219 covenants for future water and sewer service connections and the submitted engineers report prior to the

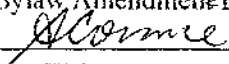
consideration of adoption of the proposed amendment bylaw, proof of potable water, proof of a reserve field for septic disposal, and payment of legal fees associated with the discharge of the land use contract. In addition, site-specific comprehensive development zone CD36 has been prepared to provide for specific provisions in consideration of both the existing and proposed development. These include specific regulations dealing with hotel and residential density, minimum setbacks, maximum building heights, off-street parking areas, and off-street loading zone.

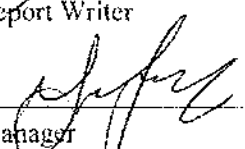
Ministry of Transportation staff have indicated they have no issues with the proposed application. While the Local Fire Chief has yet to formally comment on the proposal, staff understands from the applicant's agent that the fire chief has no initial concerns. This will be verified by staff if the application proceeds to public hearing process. The Vancouver Island Health Authority has recommended that the applicant provide a reserve septic field. The applicant is in concurrence with this recommendation which has been included as a condition of approval. The submitted hydrogeological reports notes that the proposed use will not negatively impact the aquifers.

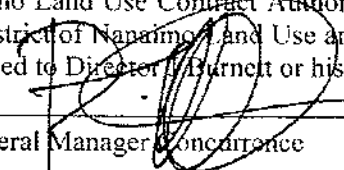
Given that the proposal is in keeping with the related OCP policies, staff supports Alternative No. 1 to approve the amendment application subject to the conditions set out in Schedule No. 1 for 1<sup>st</sup> and 2<sup>nd</sup> reading and to proceed to Public Hearing.


#### RECOMMENDATIONS

1. That the minutes of the Public Information Meeting held on May 23, 2007 be received.
2. That Zoning Amendment Application No. ZA0702, as submitted by Angela Quek, Pacific Edge Architecture Inc. on behalf of Kijosa Investment Corporation to discharge Land Use Contract No. 98 and to rezone the property legally described as Lot 1, District Lot 15, Bright District, Plan 29967, Except Plan 38105 and located at 1680 Timberlands Road from Residential 6 Subdivision District 'D' (RS6D) to Comprehensive Development Zone 36 be approved to proceed to public hearing subject to the conditions included in Schedule No. 1.
3. That "Regional District of Nanaimo Land Use Contract Authorization Bylaw Amendment Bylaw No. 239.03, 2007" be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.341, 2007" be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
5. That "Regional District of Nanaimo Land Use Contract Authorization Bylaw Amendment Bylaw No. 239.03, 2007" proceed to Public Hearing.
6. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.341, 2007" proceed to Public Hearing.
7. That the Public Hearing on "Regional District of Nanaimo Land Use Contract Authorization Bylaw Amendment Bylaw No. 239.03, 2007" and "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.341, 2007" be delegated to Director Burnett or his alternate.

  
Report Writer

  
Manager

  
General Manager Concurrence

  
CAO Concurrence

COMMENTS:

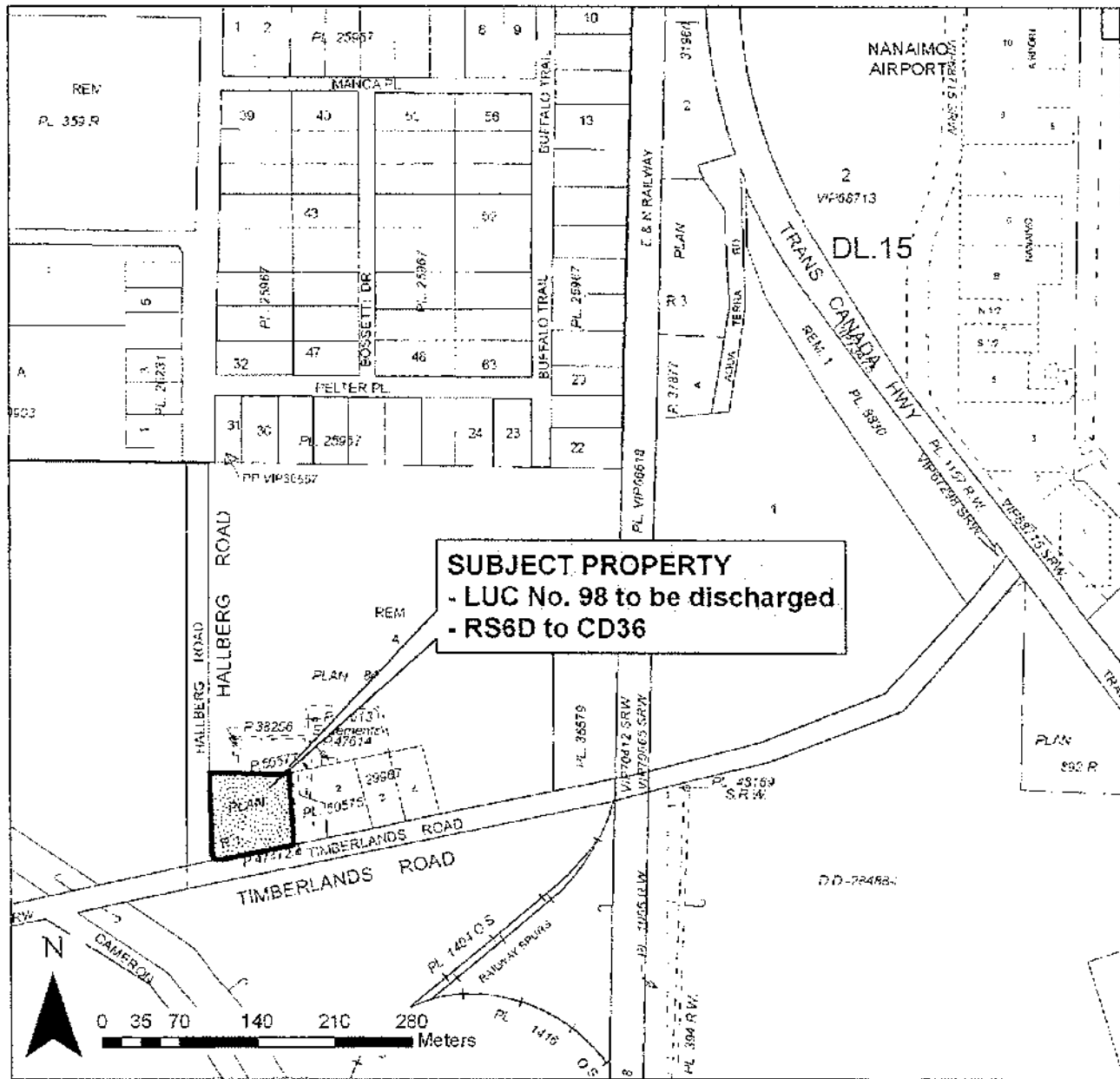


**Schedule No. 1**  
**Conditions of Approval in Conjunction with**  
**Discharge of Land Use Contract No. 98 and Zoning Amendment Application No. ZA0702**

The applicant is to complete the following prior to the corresponding amendment bylaw being considered for 4<sup>th</sup> reading:

1. Applicant to provide reasonable proof of potable water in a quantity to meet minimum Bylaw No. 500, 1987 standard of 3.5 m<sup>3</sup> per day on a year round basis and of a quality to meet the Canadian Drinking Water Standards (CDWS) for health and aesthetics to the satisfaction of the Regional District Proof shall be via a drilled well (constructed as per the current well regulations) and pump tested and certified by a qualified professional as set out, as a minimum, in the Preliminary Hydrogeological Impact Assessment prepared by EBA Engineering Ltd. and dated April 5, 2007 including wellhead/aquifer protection..
2. Applicant to provide a reserve area for septic disposal to the satisfaction of the Vancouver Island Health Authority. If a Section 219 covenant is required, this covenant must be registered prior to consideration of the amendment bylaw.
3. The applicant is to prepare and register on title of the subject property, at his expense, the following Section 219 covenant documents. These documents must be registered prior to the amendment bylaw being considered for 4<sup>th</sup> reading. Draft covenant documents are to be submitted for review to Regional District prior to registration at Land Title Office, Victoria:
  - a. The two page report entitled Assurance of Compliance report prepared by Qualicum Engineering Services and dated March 27, 2007; and
  - b. The seven page report plus attachments entitled Preliminary Hydrogeological Impact Assessment prepared by EBA Engineering Ltd. and dated April 5, 2007. Applicant is to follow the recommendations of this report in the development of the subject property.
  - c. A covenant restricting that, at the time the subject property becomes capable of connecting to community water and/or community sewer, the owner shall at his expense, disconnect the private water and septic services to current standards and connect to the community services.
4. The applicant is to pay the associated legal costs to discharge the land use contract from title. A deposit in the amount of \$500.00 is to be submitted prior to consideration of 4<sup>th</sup> reading of the amendment bylaw.

Attachment No. 1  
Location of Subject Property



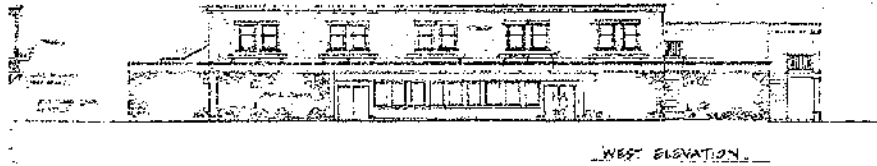
Attachment No. 2

Proposed Site Plan Including Landscaping in Conjunction with  
Discharge of Land Use Contract No. 98 and Zoning Amendment Application No. ZA0702  
(as submitted by applicant / reduced for convenience)



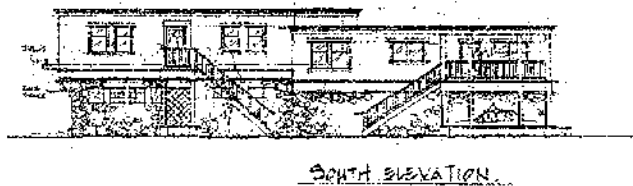
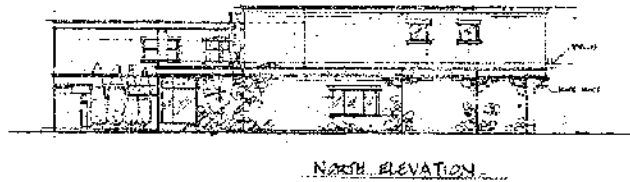
Attachment No. 3

Proposed Building Profiles in Conjunction with  
Discharge of Land Use Contract No. 98 and Zoning Amendment Application No. ZA0702  
(as submitted by applicant / reduced for convenience)



**TIMBERLANDS PUB & COUNTRY INN**

1680 Timberlands Road, Ladysmith, B.C. V9G 1K3



**TIMBERLANDS PUB & COUNTRY INN**

1680 Timberlands Road, Ladysmith, B.C. V9G 1K3



**Attachment No. 4**  
**Report of the Public Information Meeting**  
**Held at South Wellington Community Hall 1555 Morden Road, South Wellington**  
**on May 23, 2007 at 7:00 pm**  
**in Association with Discharge of Land Use Contract No. 98 and**  
**Zoning Amendment Application No. 0702**  
**1680 Timberlands Road, Electoral Area 'A'**

*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.*

There were 9 people in attendance.

**Present for the Regional District:**

Director Joe Burnett, Director for Electoral Area 'A', Meeting Chair  
Susan Cormie, Senior Planner

**Present for the Applicant:**

Angela Quek, applicant's agent  
Peter Stokes, applicant

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

The Chair stated the purpose of the public meeting and asked the Senior Planner to provide an overview of the proposed development.

The Senior Planner explained that the purpose of this application is to discharge the existing Land Use Contract No. 98 and amend "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" to accommodate the existing licenced beverage establishment, the retail beer and wine store, and the accessory residential suite and to permit 11 hotels units. The Senior Planner explained that that the Electoral Area 'A' Official Community Plan designates the subject property within the Cassidy Village Center Area, which supports a variety of land use including a range of housing types.

The Chair then asked the applicant to speak to the application.

The applicant, Peter Stokes, provided background information on the proposed development and explained that they are proposing a small quality hotel within the bounds of the existing structure which will provide a place to stay for tourists as well as people visiting residents of the nearby mobile home park. The applicant noted that the hotel addition will provide some additional local employment as well.

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

The applicant's agent gave a presentation on the concept and explained that they are proposing to add a second floor for the 11 hotel units; provide separate entrances to the pub, hotel, and wine and beer store; and add a common / meeting room. The applicant's agent explained that they propose to improve the appearance of the building and provide additional landscaping.

The applicant added that they have had servicing related studies completed as part of the proposal they will be constructing their own water supply.

The Chair then invited members of the public to provide comments or ask questions concerning the proposal.

Bonnie Skinner, No. 105 – Timberlands Park, stated that while she liked the concept she had a number of concerns including the current noise level in the area with respect to trucks; the pedestrian accident level with walking across the pub parking and water safety.

The applicant explained that he is also concerned about the parking lot and as part of the proposed design, the lot will eliminate people driving directly through and this should improve the safety of the parking lot area. The applicant noted that most of the noise related comments are related to the truck traffic on Timberlands Road. The applicant felt that the addition of 11 hotel units would not have a further negative impact on the current traffic situation. The applicant noted that he lives in the neighbourhood as well and is concerned about pub noise at closing times and agreed that this is an ongoing issue. The applicant spoke to the concern about potable water safety and noted that the wastewater septic field and tank has been inspected and passed.

Ms. Berchuld, 143 Timberlands Park stated that she remembers that drainage field for a 2-bedroom house needed 300 feet of drainage field and she would think that a the hotel use would need much more.

The applicant stated that there are different requirements for different uses.

Ernie, No. 43 -- 3560 Timberlands Park, asked where the new well is proposed to be placed.

The applicant explained that it is proposed to go near the garbage container area and will meet the minimum distance requirements from septic disposal fields.

The Chair asked about wheelchair access to the hotel rooms.

The applicant's agent explained that there is still discussion about how to provide access to the second floor, but there will be full access to this floor.

The Chair then invited comments and questions from the audience.

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

The applicant stated that the plans are posted in the pub and everyone is welcome to look at them.

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

The meeting concluded at 7:40 pm.

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Susan Cormic  
Recording Secretary



RDN	
CAO	GMF&IS
GMDS	GMR&PS
GMES	GMTS
JUN - 1 2007	
SMCA	
CHAIR	BOARD
EAR ✓	

## MEMORANDUM

**TO:** Geoff Garbutt, Manager of Current Planning  
Manager, Community Planning

**DATE:** May 30, 2007

**FROM:** Kristy Marks  
Planner

**FILE:** 3060 30 60719

**SUBJECT:** Development Permit Application No. 60719 – Brandt Tractor Properties Ltd.  
Lot B, Section 14, Range 6, Cranberry District, Plan VIP72567  
Electoral Area 'A' – 1830 Schoolhouse Road

### PURPOSE

To consider an application for a Development Permit with variances to permit the construction of a second freestanding sign at 1830 Schoolhouse Road.

### BACKGROUND

The Planning Department has received a development permit application for the property legally described as Lot B, Section 14, Range 6, Cranberry District, Plan VIP72567 and located at 1830 Schoolhouse Road in Electoral Area 'A' (*see Attachment No. 1 for location of subject property*). The subject property is 1.30 ha and is zoned Industrial 1 (IN1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The subject parcel is designated within the South Wellington and Fish Habitat Protection Development Permit Areas (DPA) pursuant to "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001". The applicant has indicated that there are no streams on or within 30 metres of the subject property and therefore the proposed development is exempt from the Fish Habitat Protection DPA guidelines. The subject property is bounded by industrial properties to the north and south, residential lots to the east, and Schoolhouse Road and the Trans Canada Highway to the west.

The Board of the Regional District previously issued two development permits on the subject property. Development Permit No. 9604 was issued on September 11, 1996, to allow for the construction of the existing buildings and associated landscaping on the neighbouring strata lot. Development Permit No. 9709 was issued on February 16, 2000, and varied the requirements of Bylaw No. 500 to relax the minimum required front lot line setback from 8.0 metres to 0.0 metres to legalize the existing buildings and the Landscaping Regulations and Standards to allow for the heavy equipment to be displayed within the landscape buffer setback area. DP No. 9709 also varied Bylaw No. 993 to relax the maximum height from 4.0 metres to 6.0 metres for an existing freestanding sign. The applicant has filled in the "Sustainable Community Builder Checklist", as per Board policy. There are no sustainability implications related to this application.

## PROPOSED VARIANCES

The applicant is proposing to construct a second freestanding sign with an area of 4.42 metres by 2.18 metres (16.35m<sup>2</sup> in face area) (*see Schedule Nos. 2 and 3 for proposed sign*). The proposal as submitted would vary "Regional District of Nanaimo Sign Bylaw No. 993, 1995" requirements as follows:

- 1) Section 5 – Subsection (a) – the maximum number of signs is increased from two (2) to three (3).
- 2) Section 5 – Subsection (c) – the maximum height of the sign is increased from 4.0 metres to 4.42 metres for sign 'C' shown on Schedule No. 2.
- 3) Section 5 – Subsection (c) – the maximum face area of the sign is increased from 11m<sup>2</sup> to 16.57m<sup>2</sup> for sign 'C' shown on Schedule No. 2.

There are no variances being requested to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

## ALTERNATIVES

1. To approve the Development Permit No. 60719 as submitted.
2. To deny the requested permit.

## DEVELOPMENT IMPLICATIONS

### *Land Use and Aesthetic Implications*

The proposed variance is being requested to permit the construction a second freestanding sign to be located on the west side of the property adjacent to Schoolhouse Road and the Trans Canada Highway. The proposed sign exceeds the maximum height and face area requirement of Sign Bylaw No. 993, 1998 and the request would increase the maximum number of signs permitted on the subject property as outlined above. Bylaw No. 993 limits sign height and width to 4.0 metres sign face area to 11 m<sup>2</sup> and the number of freestanding signs on a parcel to one. The proposed sign is equipped with internal fluorescent illumination and advertises lines of equipment.

As both the existing freestanding sign and the proposed sign will be visible from the Trans Canada Highway, staff is of the opinion that the proposed sign will have an impact on the highway view corridor and create a visual distraction. In addition, the existing freestanding sign could be modified in future to accommodate the other lines of equipment that the applicant wishes to advertise.

The South Wellington Development Permit Area guidelines require signage to be visually unobtrusive and require a minimum amount of lighting. For the above noted reasons staff is of the opinion that the proposed sign is not substantially in compliance with the guidelines of the South Wellington DPA.

### *Board Policy B1.5*

RDN Policy B1.5 provides staff with guidelines for reviewing and evaluating development variance permit applications. The policy requires that the potential impacts of the variance are warranted by the need for the variance. The applicants are requesting the variance to allow for a second freestanding sign in order to promote the other lines of equipment they carry. In staff's assessment, the applicants have not



provided an acceptable land use justification in support of the variances requested and other options exist to alter the existing freestanding sign or fascia signage to accommodate expanded signage.

#### FUTURE DEVELOPMENT IMPLICATIONS

Properties in the South Wellington area along the Trans Canada Highway are primarily zoned for Commercial and Industrial uses. Many of these properties have signage designed to be visible from the Trans Canada Highway. It is anticipated that staff will continue to receive requests to construct additional signs that do not meet the requirements of Sign Bylaw No. 993 in this area.

#### PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process, pursuant to the *Local Government Act*, property owners located within a 50 metre radius, must 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'.

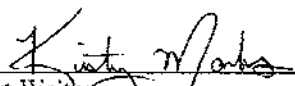
#### SUMMARY/CONCLUSIONS

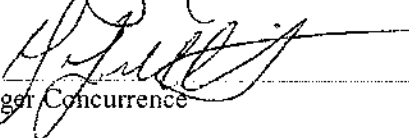
This is an application for a Development Permit with variances to permit the construction of a second freestanding sign at 1830 Schoolhouse Road.

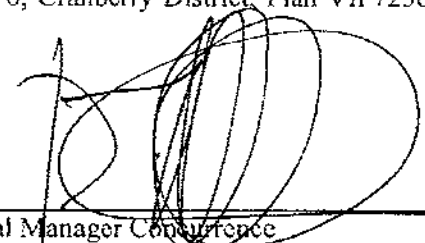
In staff's assessment the proposed development is not in substantial compliance with the guidelines of the South Wellington Development Permit Area No. 1. Given the opportunities for alterations of the existing fascia and freestanding sign, the potential visual impacts, and the fact that no acceptable land use justification has been provided by the applicant, staff recommends that the application for Development Permit with variances be denied.


#### RECOMMENDATION

That Development Permit No. 60719 to vary "Regional District of Nanaimo Sign Bylaw No. 993, 1995", for the property legally described as Lot B, Section 14, Range 6, Cranberry District, Plan VIP72567 be denied.

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

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

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

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

COMMENTS:

**Schedule No. 1  
Terms of Approval  
Development Permit Application No. 60719  
for Lot B, Section 14, Range 6, Cranberry District, Plan VIP72567**

The following sets out the conditions of approval:

**Variations**

- 1) "Regional District of Nanaimo Sign Bylaw No. 993, 1995," is varied as follows:
  - 1) Section 5 – Subsection (a) – the maximum number of signs is increased from two (2) to three (3) in the general location shown on Schedule No. 2
  - 2) Section 5 – Subsection (c) – the maximum height of the sign is increased from 4.0 metres to 4.42 metres for sign 'C' shown on Schedule No. 3
  - 3) Section 5 – Subsection (c) – the maximum face area of the sign is increased from 11m<sup>2</sup> to 16.57m<sup>2</sup> for sign 'C' shown on Schedule No. 3

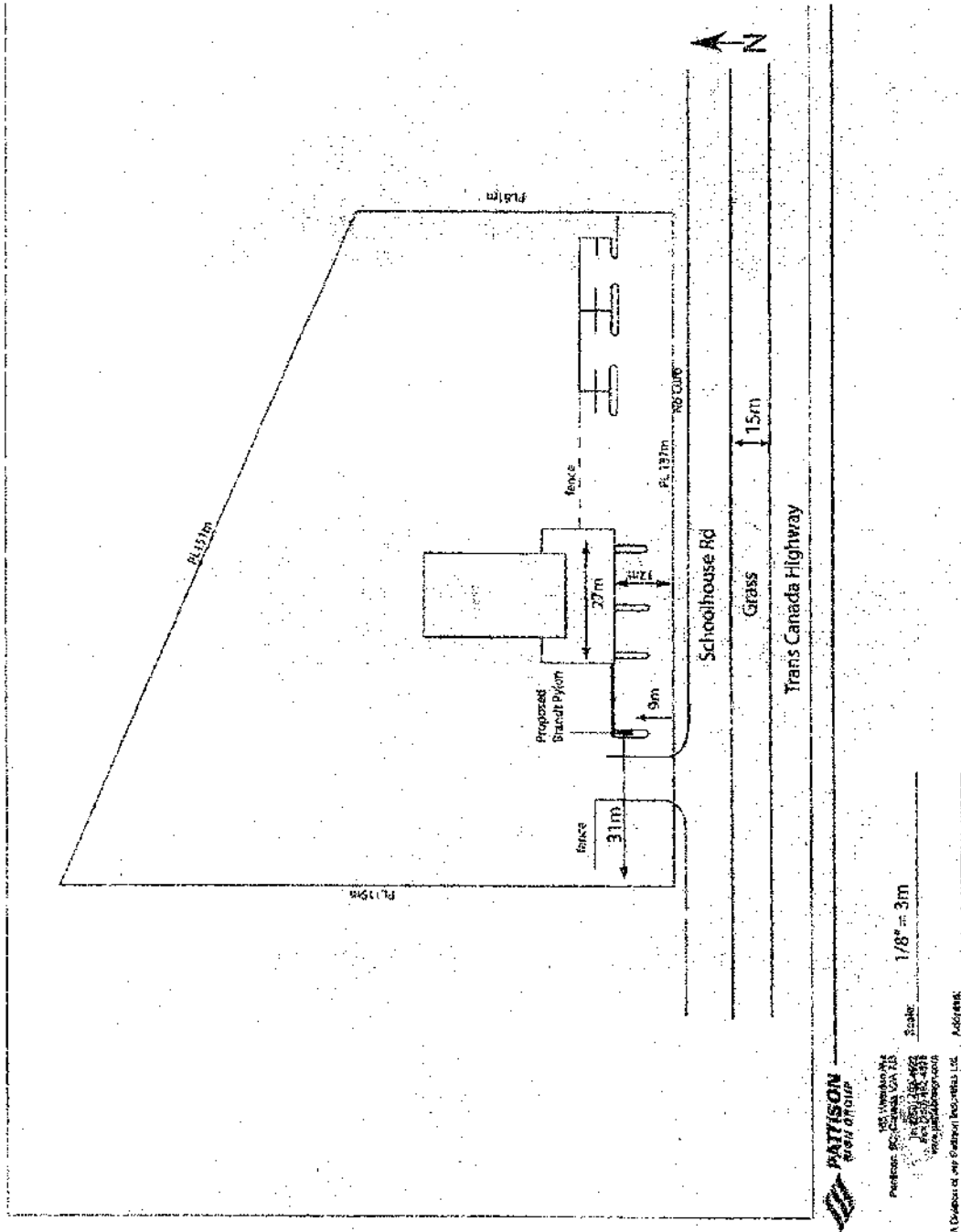
**Building / Site Development**

- 2) The subject property shall be developed in accordance with Schedule Nos. 1-3.
- 3) All development shall comply with "Regional District of Nanaimo Land Use and Subdivision No. 500, 1987," and "Regional District of Nanaimo Sign Bylaw No. 993, 1995," except where varied by this permit.

**Signage**

- 4) No additional signs shall be enlarged, erected, constructed, or placed on the subject property without Regional District of Nanaimo approval.
- 5) Sign contents may change so long as the type, dimensions, area, and general location of all signs remain consistent with this permit.

Schedule No. 2  
Proposed Sign Location (as submitted by the applicant)  
(Reduced for Convenience)



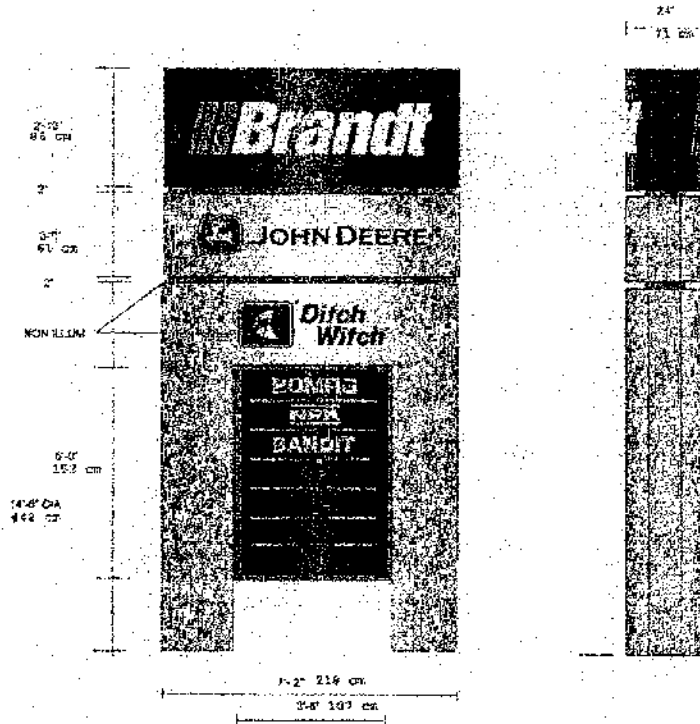
**PATTON**  
Engineering Group

185 Westboro Rd  
Peterborough, ON K9J 7L5  
Tel: (705) 752-4922  
Fax: (705) 752-4923  
www.pattonengr.com

Scale: 1/8" = 3m

A Division of the Gashorn Incorporated, Ltd. Address:

**Schedule No. 3  
Proposed Sign (as submitted by the applicant)  
(Reduced for Convenience)**



MANUFACTURE AND INSTALL... EXTERIOR  
**ONE DF ILLUMINATED PYLON DISPLAY**  
OVERALL SIZE: 7'-2" X 14'-6"

▶ **CONSTRUCTION** - CABINETS W/ ROUNDED FLAT ROUTED ALUM FACES PTD AS REQ'D AND NON ILLUM FIRST SURFACE APPLIED VINYL LOGOS ON SUPPLIER ID DISPLAY  
SUBSTRATE: FLAT ALUM (RADIUSED) AND ROUTED... FIRST SURFACE APPLIED VINYL WHERE REQ'D  
CABINET: 1 TOP PAINTED SEMI GLOSS BLACK  
VEHICLE DISPLAY AND DECOR PTD MET. SILVER 79834 SILVER/METALLIC  
SUPPLIER ID DISPLAY PTD SEMI GLOSS BLACK  
S. METAL REVEALS PTD ORANGE  
ILLUMINATION: T-12 HO/DL FLUORESCENT

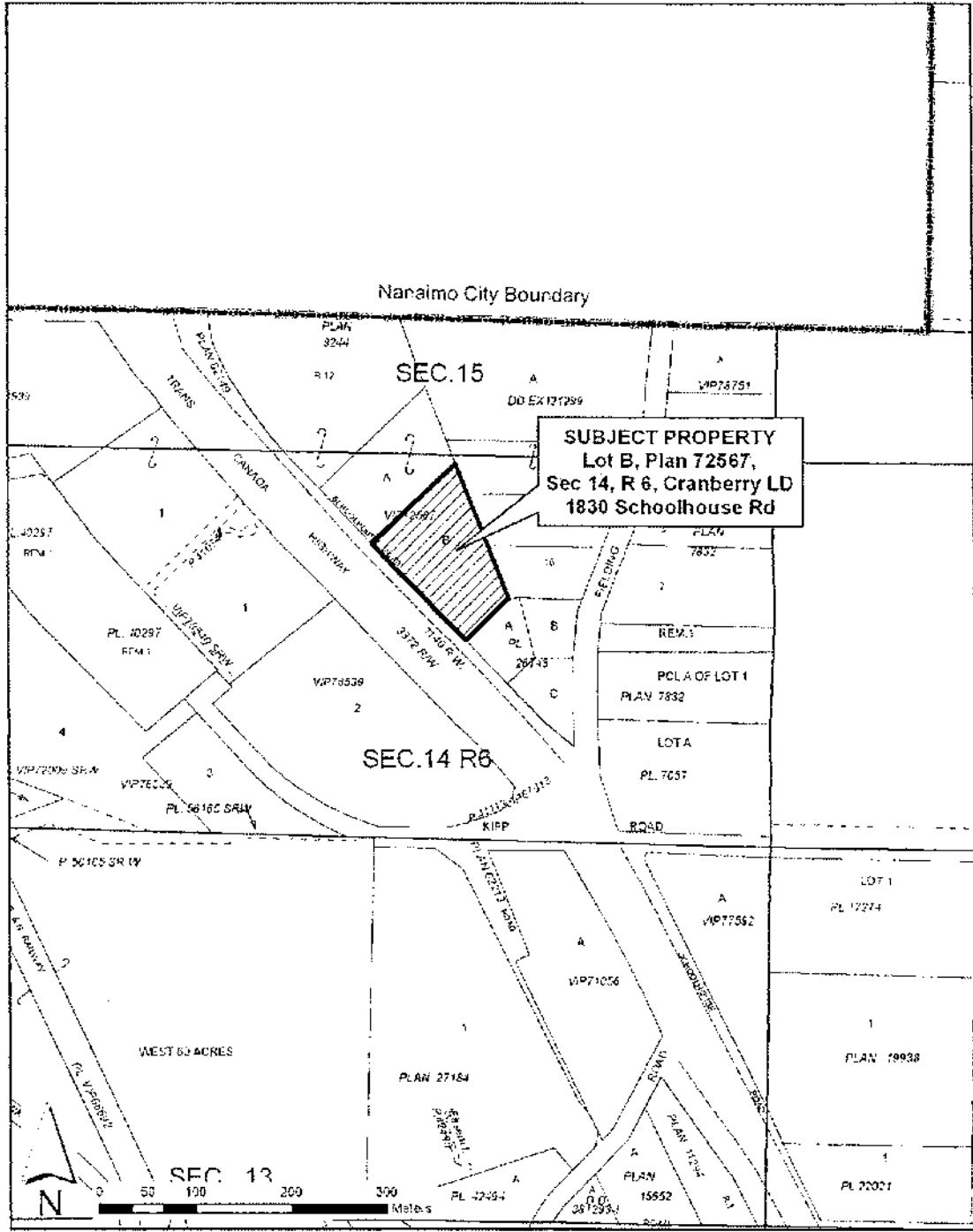
NOTE: WHITE COPY "BRANDT", "NEW", "BRANDT"  
WILL CHANGE COLOR ONCE CLIENT HAS APPROVED SAMPLE  
AND WITH TO SEND CHANGE ORDER FOR FINAL COLOR CHANGE

▶ **GRAPHICS**  
BRANDT COPY & LOGO: ROUTED PUSH THRU 1/2" CLEAR PLEX W/ VINYL APPLIED 1ST SURFACE ONLY  
PROTECTED RETURNS  
JOHN DEERE LOGO AND  
DITCH WITCH LOGO  
NON ILLUM VINYL COPY AND LOGO APPLIED FIRST SURFACE TO PANEL  
BACKGROUND COPY & LOGOS: WHITE VINYL ON BLACK SKGC  
ORANGE STRIPES

▶ **GOLDUR DATA:**  
WHITE = WHITE  
BLACK = SEMI GLOSS BLACK  
METALLIC SILVER 79834  
ORANGE TO MATCH 3520-74  
RED VINYL ACRYL WHITE - TO MATCH PMS 129  
JOHN DEERE LOGO TO MATCH PMS 134

<b>PATTISON</b> 1000 W. 10th St. Regina, Saskatchewan S4S 0A7 Tel: (306) 339-2000 Fax: (306) 339-2300 www.pattison.com	CLIENT: BRANDT TRACTOR PROJECT: SIGN	DATE: JUL 17 2006	1430 Schoolhouse Rd Regina, SK S4S 0A7
	DRAWN BY: [ ] CHECKED BY: [ ] APPROVED BY: [ ]	ESTIMATE NO: [ ] QUOTE NO: [ ]	ORDER NO: [ ] INVOICE NO: [ ]

**Attachment No. 1**  
**Location of Subject Property**





RDN	
CAO	GMF&IS
GMDS	GMR&PS
GMES	GIMTS
JUN - 1 2007	
SVCS	BOARD
SEAIR	
EAP	

**MEMORANDUM**

**TO:** Geoff Garbutt  
Manager of Current Planning

**DATE:** May 29, 2007

**FROM:** Odete Pinho  
Planner

**FILE:** 3060 30 60721

**SUBJECT:** Development Permit Application No. 60721 – Laidlaw/ Shurvell  
Lot 2, Section 10, Ranges 4 and 5, Mountain District, Plan 25557  
Electoral Area 'C' – 2716 Hay Rake Road

**PURPOSE**

To consider an application to permit the construction of an addition to a single residential dwelling within a Fish Habitat Protection Development Permit Area and a watercourse setback area.

**BACKGROUND**

This is an application to permit an addition to a residential dwelling, on a property located at 2716 Hay Rake Road in Electoral Area 'C' (see subject property map - Attachment 1). The subject property is approximately 1.5 hectares in size, and is bounded by rural residential properties on all sides. The property is subject to a Fish Habitat Development Permit Area designation pursuant to the "East Wellington – Pleasant Valley Official Community Plan Bylaw No. 1055, 1997". This Development Permit Area was established for the protection of riparian areas and fish habitat. This property contains a tributary of McGarrigle Creek, and the applicants wish to build an addition to the existing residential dwelling that is less than 30 metres from the creek. As such, this proposal must be preceded by a development permit with an assessment report by a Qualified Environmental Professional. In addition, this renovation is proposed to be located less than 9 metres from the top of bank of a watercourse, and as such a variance is requested to the watercourse setback provisions of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

**Property Information**

**Location:** 2716 Hay Rake Road, Electoral Area 'C'  
**Legal:** Lot 2, Section 10, Ranges 4 and 5, Mountain District, Plan 25557  
**Title Check:** None affecting the interests of the RDN

**RDN Regulations**

<b>Zoning Designation:</b>	Rural 1 (RU1)	<b>Dwelling Units/Parcel:</b>	1
<b>OCP/OCP Bylaw No:</b>	Bylaw No. 1055, 1997	<b>Parcel Coverage:</b>	25%
<b>OCP Designation:</b>	Rural Residential	<b>Site Area Requirements:</b>	N/A
<b>Setbacks:</b>	9 metres horizontal distance from the top of the slope of a watercourse		
<b>Environmentally Sensitive Area Atlas:</b>	Fish Habitat Protection Development Permit Area		

## ALTERNATIVES

1. To approve Development Permit No. 60721, to permit the proposed addition to a residential dwelling, subject to the conditions outlined in Schedules No. 1, 2 and 3.
2. To deny the requested permit.

## ZONING IMPLICATIONS & PROPOSED VARIANCES

The proposed residential extension contravenes the setback requirements of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirement for buildings and structures is: 9.0 metres horizontal distance from top of the slope or the first significant and regular break in the slope adjacent to a watercourse.

The applicants are proposing to vary **Section 3.3.8(b) (i)** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

The minimum setback from the top of a slope of the watercourse, is proposed to be relaxed from 9 metres to 6.8 metres, as shown on the survey submitted by the applicant (*Schedule 2*).

## LAND USE AND DEVELOPMENT IMPLICATIONS

### ***Board Policy B1.5***

RDN Policy B1.5 (Regional District of Nanaimo Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation Policy) provides staff with guidelines for reviewing and evaluating development permit with variance applications. The policy requires that the potential impacts of the variance are warranted by the need for the variance. The applicants' justification for the variance, is that the existing house and garden design poses a physical constraint and hardship, whereby an extension to the residence would most logically be sited in the proposed location.

### ***Environmental Impact - Riparian Areas Regulation***

The applicant had Toth and Associates Environmental Services, conduct a professional assessment of the proposed addition and its potential impacts on the tributary of McGarrigle Creek. The biologist report recommends 'bending the Streamside Protection and Enhancement Area' (SPEA) to allow for construction within 10 metres of the creek. The Department of Fisheries and Oceans has been consulted on this proposed 'bending of the SPEA' and DFO Project Assessment Biologist, Al Magnan, has stated no objections to the proposed intrusion. The Ministry of Environment has also accepted this assessment report and given local government authority to proceed with development approvals. The Riparian Area Assessment report recommends native vegetation planting along the lawn edge closest to the stream, to enhance the riparian area. This vegetation is to be native plants such as: Oregon grape, salal and/ or cedars, which are currently native to the site. The applicant has also filled in the "Sustainable Community Builder Checklist", as per Board policy.

## PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process, pursuant to the *Local Government Act*, property owners located within a 50 metre radius, must receive notice of the proposal and will have an opportunity to comment on the proposed variance to the watercourse setback provisions of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", prior to the Board's consideration of the permit.

**VOTING**

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

**SUMMARY/CONCLUSIONS**

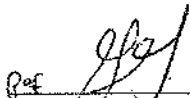
This is an application for a Development Permit with variance to permit the siting of an addition to a single residential dwelling within a Fish Habitat Protection Development Permit Area and a watercourse setback area.

In staff's assessment, this structure has met the Regional District of Nanaimo's requirements including: a biologist Riparian Areas Regulation assessment, consent from the Fisheries and Oceans Canada to encroach on the Streamside Protection and Enhancement Area, and a survey by a British Columbia Land Surveyor. The applicants have demonstrated that the structure will minimally impact the natural environment.

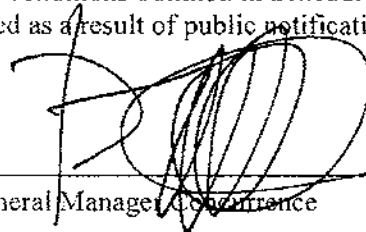
Staff recommends that this application be approved.

**RECOMMENDATION**

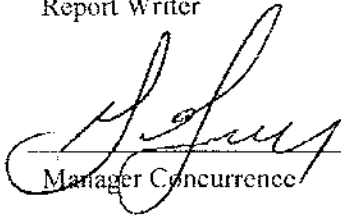
That Development Permit Application No. 60721, to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," for the property legally described as Lot 2, Section 10, Ranges 4 and 5, Mountain District, Plan 25557, be approved subject to the conditions outlined in Schedules 1, 2, and 3, and subject to the Board's consideration of comments received as a result of public notification.



Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:



**Schedule No. 1**  
**Terms of Development Permit Application No. 60721**  
**Lot 2, Section 10, Ranges 4 and 5, Mountain District, Plan 25557**

**Issuance of Permit**

1. This Development Permit allows the construction of an addition to an existing residential dwelling, developed in substantial compliance with Schedules No. 1, 2 and 3.
2. Native vegetation shall be planted between the completed residential addition and the top of bank of the creek. The intent is to revegetate the streamside area that is currently planted in a lawn. Plantings shall include Oregon grape, salal, ferns and cedar trees (or other appropriate native plantings).

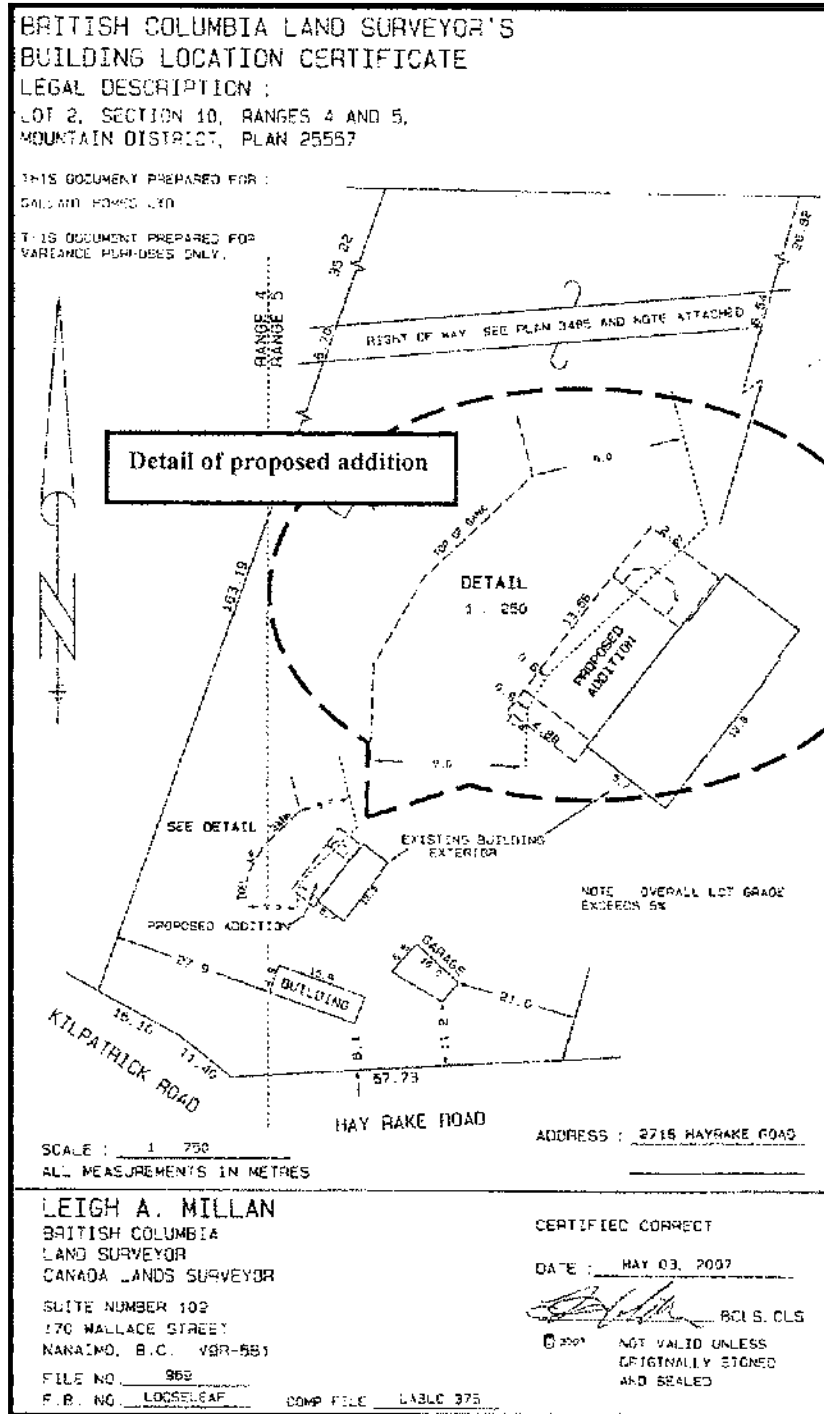
**Variances**

3. Section 3.3.8(b)(i) of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is varied to permit construction of an addition to an existing residential dwelling shown on Schedule No. 2 and 3 as follows:
  - a. The minimum setback from the top of a slope of the watercourse, is proposed to be relaxed from 9 metres to a distance of 6.8 metres, as shown on the survey submitted by the applicant (*Schedule 2*).

Schedule No. 2

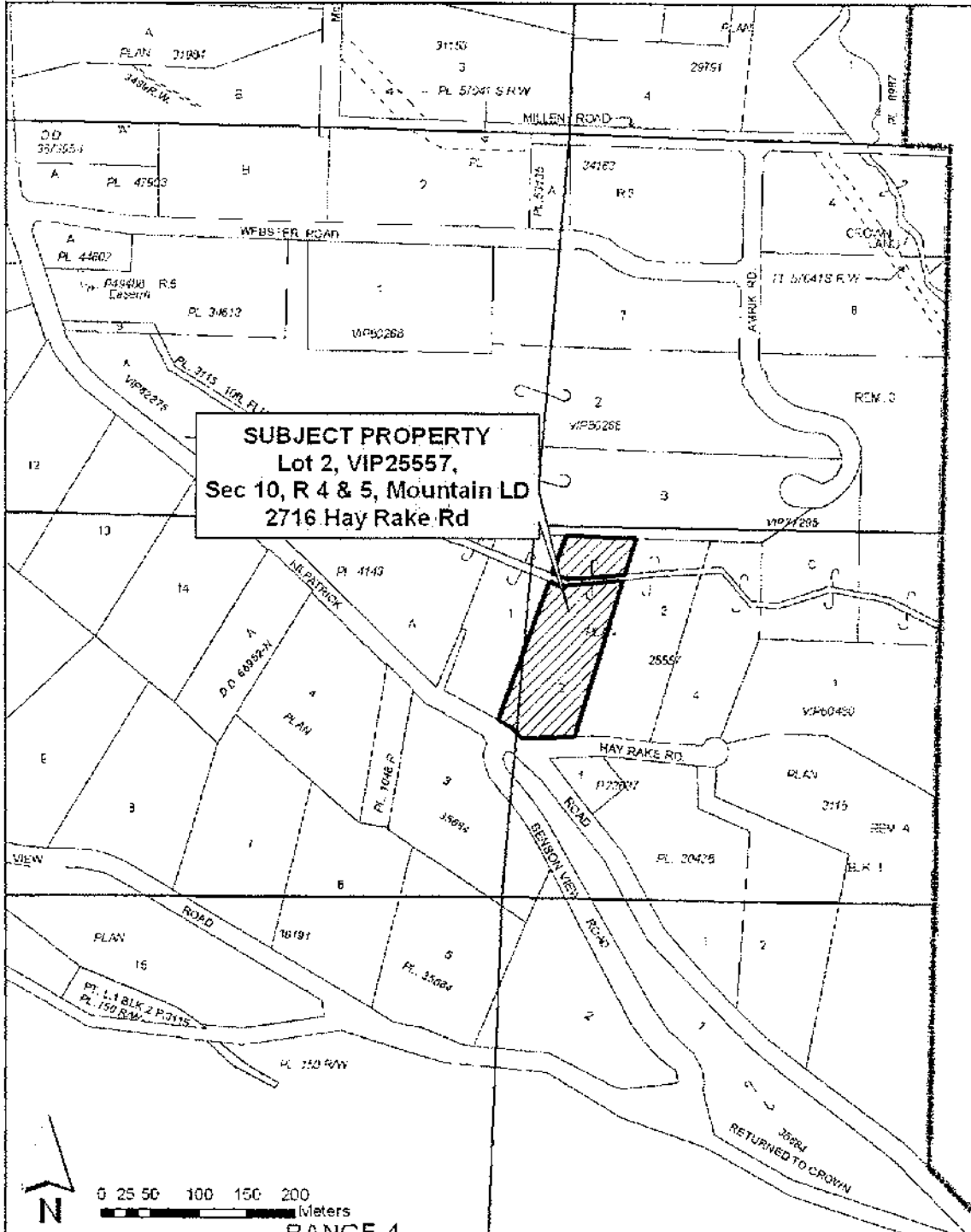
Location for Development Permit No. 60721

Lot 2, Section 10, Ranges 4 and 5, Mountain District, Plan 25557 - 2716 Hay Rake Road





### Attachment I Subject Property





RDN	
CAO	GMR&S
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MEMORANDUM

TO: Geoff Garbutt  
 Manager, Current Planning

DATE: June 1, 2007

FROM: Susan Cormic  
 Senior Planner

FILES: 3090 30 90621  
 3060 30 26822

SUBJECT: Development Variance Permit Application No. 90621 and Request for Acceptance of Park Land in Conjunction with Subdivision Application No. 26822  
 Leigh Millan, BCLS, on behalf of BCAB Developments Ltd.  
 Electoral Area 'A' - Whiting Way

PURPOSE

To consider an application for a Development Variance Permit and a request for acceptance of park land dedication in conjunction with the creation of an 8-lot subdivision on property adjacent to Whiting Way in Electoral Area 'A'.

BACKGROUND

This is an application for a Development Variance Permit as part of the proposed subdivision of the property legally described as Lot 1, Section 1, Range 6, Cedar District, Plan VIP68894 Except Part in Plan VIP75488 and VIP80291 and located adjacent to Whiting Way in Electoral Area 'A' (see Attachment No. 1 for location of parent parcel).

This subdivision application is also subject to the consideration of park land or cash in-lieu of park land or a combination of both. In this case, the applicant's agent has submitted a proposal offering the transfer of land to the Regional District for park land purposes.

The parent property is currently zoned Rural 4 (RU4) and is within Subdivision District 'D' pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.

The parent parcel consists of varied topography and contains a large pond which is part of a larger wetland system located within the Cowichan Valley Regional District and designated as a Crown Land Ecological Reserve Area. In addition to the larger pond, there are 2 other man made ponds located on the parcel.

The parent parcel is designated within the Fish Habitat Protection Development Permit Area No. 7 pursuant to the Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001.

Surrounding land uses include rural zoned parcels to the north, east, and west and the Crown Land Ecological Reserve Area to the south. The parent parcel is located within an RDN Building Services Area.

Proposed Development / Proposed Variance

The applicant is proposing to develop 8 rural residential parcels ranging in size from 1.6 ha to 2.44 ha and 1 parcel for park land purposes which is approximately 4.1 ha in size. The parcels are proposed to be served by individual private septic disposal systems and private water wells (see Schedule No. 3 for proposed subdivision).

Section 4.3.4 of Bylaw No. 500, 1987 states that a maximum of 50% of proposed parcels within land to be subdivided may be reduced to 80% of the size otherwise permitted in the applicable subdivision district, subject to certain provisions such as registering a covenant restricting further subdivision on title on those parcels capable of further subdivision. As the applicant is proposing more than 50% of the parcels be created with a minimum parcel size below the required 2.0 ha minimum size, a variance is required to relax the total percentage of parcels proposed to be less than the minimum parcel size from 50% to 67% (see *Schedule No. 2 for the proposed variance to Bylaw No. 500*).

Under the current zoning provisions, proposed Lots 1 to 4, 7, and 8 would be able to support 1 dwelling unit each while proposed Lots 5 and 6 would be able to support 2 dwelling units each.

#### ***Park Land Requirements***

Where an official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash or a combination of both. In this case, the OCP specifies that park land dedication may be considered at the time of subdivision subject to meeting the preferred park land criteria set out in the Plan. Pursuant to the *Local Government Act*, the maximum amount of park land that the Regional District may request for this property is 5% of the total site area, in this case approximately 1.0 ha.

#### ***Park Land Proposal***

The applicant is proposing to transfer to the Regional District approximately 4.0 ha or 20.1 % of the total land area, which includes the larger pond which is part of a larger wetland system located within the Cowichan Valley Regional District and designated as a Crown Land Ecological Reserve Area. In addition to the pond, the proposed park land area contains a wooded area overlooking the pond, which is accessed by an existing trail built over the pond by culvert. The park land is proposed to be accessed via a pedestrian walkway from the extension of Whiting Way (see *Schedule No. 3 for location of proposed park land and trail access*).

The park land proposal was referred to the Electoral Area 'A' Parks and Green Space Advisory Committee on July 20, 2006 and presented at a Public Information Meeting held on September 13, 2006.

#### **ALTERNATIVES**

1. To approve Development Variance Permit Application No. 90621, as submitted, subject to the conditions outlined in Schedules No. 1, 2, and 3 and to the notification requirements pursuant to the *Local Government Act* and to accept the offer of park land in the amount and location as set out in Schedules No. 3 and 4.
2. To deny the development variance permit as submitted; to not accept the offer of park land in the amount and location as proposed and instead require the applicant to dedicate park land in a different location and amount.
3. To approve the development variance permit as submitted, subject to the conditions outlined in Schedules No. 1, 2, and 3 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

### *Parcel Averaging Implications*

As part of the development variance permit application, the applicant is requesting a variance to the parcel averaging provisions of Bylaw No. 500 in order that the proposed lot configuration would be able to proceed (*see Schedule No. 2 for Proposed Variance*). This proposal will not increase the overall density of the parent parcels and in fact those parcels proposed to have a reduced minimum parcel size will be limited to 1 dwelling unit per parcel, which results in a reduction in overall residential density. It is expected that adequate building sites will be available for each proposed parcel. As the maximum density provisions of Bylaw No. 500 can be maintained, staff supports this request for a variance to the parcel averaging provisions. In addition, it is noted that there is no opportunity for further subdivision of these proposed parcels; therefore no covenant is necessary to restrict further subdivision.

### *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 Electoral Area 'A' OCP contains park land related policies, which stipulate that park land is desirable where preferred criteria may be met such as waterfront access, environmentally sensitive areas, providing trail linkages, preserving viewpoints, or providing sites for passive outdoor recreation activities. In this case, the proposed park land includes a portion of a wetland and its adjacent riparian area. There is opportunity to provide a future trail corridor. Therefore, this proposal meets a number of the criteria of OCP.

Based on the size of the parcel, the maximum amount of park land the Regional Board may request (5%) would be approximately 1.0 ha. The applicant is offering to dedicate approximately 4.1 ha or approximately 20.7 % of the total area of the parent parcel. The park land proposal encompasses a portion of a large pond, a wooded area overlooking the pond, and a 15.0 metre wide corridor along the north side of the pond. The park is proposed to be accessed by way of a trail from Whiting Way in which a portion of the corridor contains an existing trail built over the pond by culvert.

With respect to access to the future trail corridor, the location of the corridor is at the end of the proposed extension of Whiting Way. While the applicant will be required through the subdivision process to dedicate Whiting Way to the west boundary of the parent parcel, the Ministry will not be requiring construction of the full road dedication. As the proposed trail entrance to the park land, is situated at the west boundary of the parent parcel, the applicant is in concurrence to provide a trail access from the end of the built road to the park land entrance. In addition, the applicant is also in concurrence to construct the park land entrance corridor and widened the trail as need be to ensure full pedestrian access is achievable. Ministry staff has verbally indicated that they have no issue with the un-constructed road way being used as trail to the park land access point.

### *Area 'A' Parks, Recreation and Green Space Advisory Committee Implications*

The original proposal for park land was referred to the Electoral Area 'A' Parks and Green Space Advisory Committee. The Committee noted that the park land proposal is a generous offer and offered a suggestion to expand the park land proposal to include a 15.0 metre strip along the north boundary of wetland for park in lieu of a proposed covenant area. In response to this suggestion, the applicant amended the original park land proposal to incorporate this 15-metre strip in the park land proposal (*see Attachment No. 2 for Advisory Committee comments*).

### ***Recreation and Park Department Implications***

Recreation and Parks staff has reviewed this request for park land and fully support the park land proposal. Recreation and Parks staff commented that the park land should be retained for its environmental values and noted that while there may be some challenges for the managing the park land in the future (in terms of trail development), this should not be seen as an impediment for accepting park land in this location. Construction and management of this 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.

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

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

The Ministry of Transportation is responsible for subdivision approval, which includes road design and engineering, storm drainage, and acceptance of proof of potable water 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 parcels and impose conditions of development as required.

### ***Existing Dwelling Units Implications***

There is currently one travel trailer located on the parent parcel. As a travel trailer is not permitted under the zoning regulations, it will be required be removed. This will be addressed as part of the subdivision review process.

### **SUSTAINABILITY CHECKLIST**

The applicant has not submitted a completed RDN Sustainable Community Builder Checklist as this application was made prior to the checklist being included into the application form.

### **PUBLIC IMPLICATIONS**

A Public Information Meeting (PIM) was held on September 13, 2006. Eleven (11) persons attended this meeting. Park land-related issues raised at this meeting included concern for the availability of vehicle parking for park land visitors and a suggestion that the access to the main park land area be placed in an alternate location (*see Attachment No. 3 for Minutes of Public Information Meeting*).

With respect to the public comments about the need for parking, as this proposed park land is a passive park, vehicular traffic is not expected to be high. Despite this, the applicant has offered to construct 2 parking spaces at the end of the built road to accommodate extra parking.

With respect to the suggestion for an alternate access, staff feel that the proposed access provides a more direct connection to the pond crossing which provides pedestrian access to the wood land over looking the pond. The suggested access would require construction of a walkway along the 15-metre corridor on the north side of the pond in order to connect to the pond crossing. Recreation and Parks staff would prefer that the trail not be developed at this time without prior trail planning being completed to ensure that the sensitive ecosystem is not damaged or destroyed.

Non-park land issues raised at the Public Information Meeting included concerns for the road design at the end of Whiting Way and protection of existing wells in the surrounding area. Staff will forward these concerns to the Ministry of Transportation's Approving Authority to be considered as part of its subdivision review.



## ENVIRONMENTAL IMPLICATIONS

With respect to the recently adopted Fish Habitat Protection Development Permit Area, this subdivision application currently has in-stream status from requiring a development permit under Section 943 of the *Local Government Act*. Despite this, as a development variance permit is required in order for the subdivision to proceed as proposed, the applicant is required to submit a Riparian Area Assessment to the Ministry of Environment. The assessment has been submitted and has now been accepted by the Ministry. The Assessment establishes a Streamside Protection and Enhancement Area (SPEA) of 15.0 to 52.0 metres and includes a number of measures to protect and maintain this SPEA. These required measures are included in the conditions of the development variance permit.

The proposed park land will fully encompass the larger pond and riparian areas, therefore providing a high level of environmental protection.

With respect to the other ponds located within the parent parcel, no fisheries resource values were found. Despite this, the applicant has proposed to register a covenant to protect these ponds and their riparian areas. As part of the subdivision review, staff will recommend that the Approving Officer require protection of these ponds and their riparian areas by way of Section 219 covenants.

## FINANCIAL IMPLICATIONS

The subject property has an assessed value of \$687,000.00 according to the 2007 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 approximately \$34,350.00 contribution (based on a full 5%) to Electoral Area 'A' community parks fund.

## VOTING

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

## SUMMARY

This is a subdivision application that involves a development variance permit and a request for acceptance of park land for property located adjacent to Whiting Way in the Yellow Point area Electoral Area 'A'.

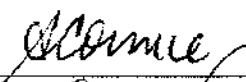
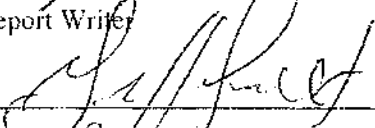
The original park land proposal, as submitted by the applicant, was referred to the Electoral Area 'A' Parks and Green Space Advisory Committee, which offered a suggestion to expand the park land to include the riparian area along the north side of the pond. The applicant, in response, amended the park land component to incorporate the Committee's suggestion.

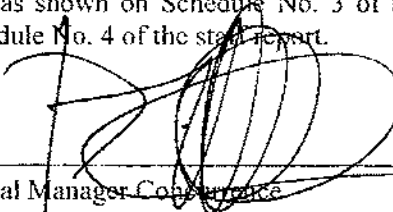

A Public Information Meeting was held on September 13, 2006 with respect to this park land proposal. Park land related comments including a concern for available vehicular parking for park users and the location of the proposed access corridor. As this proposed park land is for passive use, vehicular traffic is not expected to be high. Despite this, the applicant has offered to provide some on-street parking at the constructed end of Whiting Way.

Therefore, given that the park land as offered will provide a park land for the community well exceeding the minimum 5% requirement, that the applicant will up grade / construct the trail corridor along the dedicated road and park land access, and that there are buildable site areas for the proposed smaller parcels, staff recommends Alternative No. 1 to approve the development variance permit subject to Schedules No. 1, 2, and 3 subject to the public notification requirements and to accept the park land in the amount and location as shown on Schedule No. 3 and subject to the requirements in Schedule No. 4.

## RECOMMENDATIONS

1. That Development Variance Permit Application No. 90621, submitted by Leigh Millan, BCLS, on behalf of BCAB Developments Ltd., in conjunction with the subdivision on the parcel legally described as Lot 1 Section 1 Range 6 Cedar District Plan VIP68894 Except Part in Plan VIP75488 and VIP80291 and located adjacent to Whiting Way be approved subject to the conditions outlined in Schedules No. 1 and 3 of the corresponding staff report and the notification requirements pursuant to the *Local Government Act* with respect to the proposed variance outlined in Schedule No. 2.
2. That the park land proposal, in the amount and location as shown on Schedule No. 3 of the staff report, be accepted subject to the conditions set out in Schedule No. 4 of the staff report.

  
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Report Writer  
  
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Manager Concurrence

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

## COMMENTS:

devsr/reports/2007/ju 3320 30 26822 dvp 90621 park land BCAB Millan.doc

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**Schedule No. 1**

**Development Variance Permit Application No. 90621**

**In Conjunction with the Parcel Legally Described as Lot 1 Section 1 Range 6 Cedar District  
Plan VIP68894 Except Part in Plan VIP75488 and VIP80291**

**Conditions of Approval**

The following sets out the conditions of approval:

**1. Subdivision**

- a. The subdivision shall be in substantial compliance with Schedule No. 3 (to be attached to and forming part of this Permit).
- b. No construction, other than the surveying required for subdivision, shall occur within the riparian area of the watercourses in association with the subdivision development and the following sediment and erosion control measures shall be taken as necessary:
  - i. tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
  - ii direct run off flows away from ponds using swales or low berms.
  - iii exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
  - iv temporary fills or soil stockpiles are to be covered with polyethylene or tarps.

**2. Measures to Protect and Maintain the SPEA**

The applicant shall complete the recommendations set out in Section 4 of the Riparian Area Assessment No. 273 prepared by Steven Toth and dated October 25, 2006.

**Schedule No. 2**

**Development Variance Permit Application No. 90621**

**In Conjunction with the Parcel Legally Described as Lot 1 Section 1 Range 6 Cedar District  
Plan VIP68894 Except Part in Plan VIP75488 and VIP80291**

**Bylaw No. 500, 1987 – Requested Variance**

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

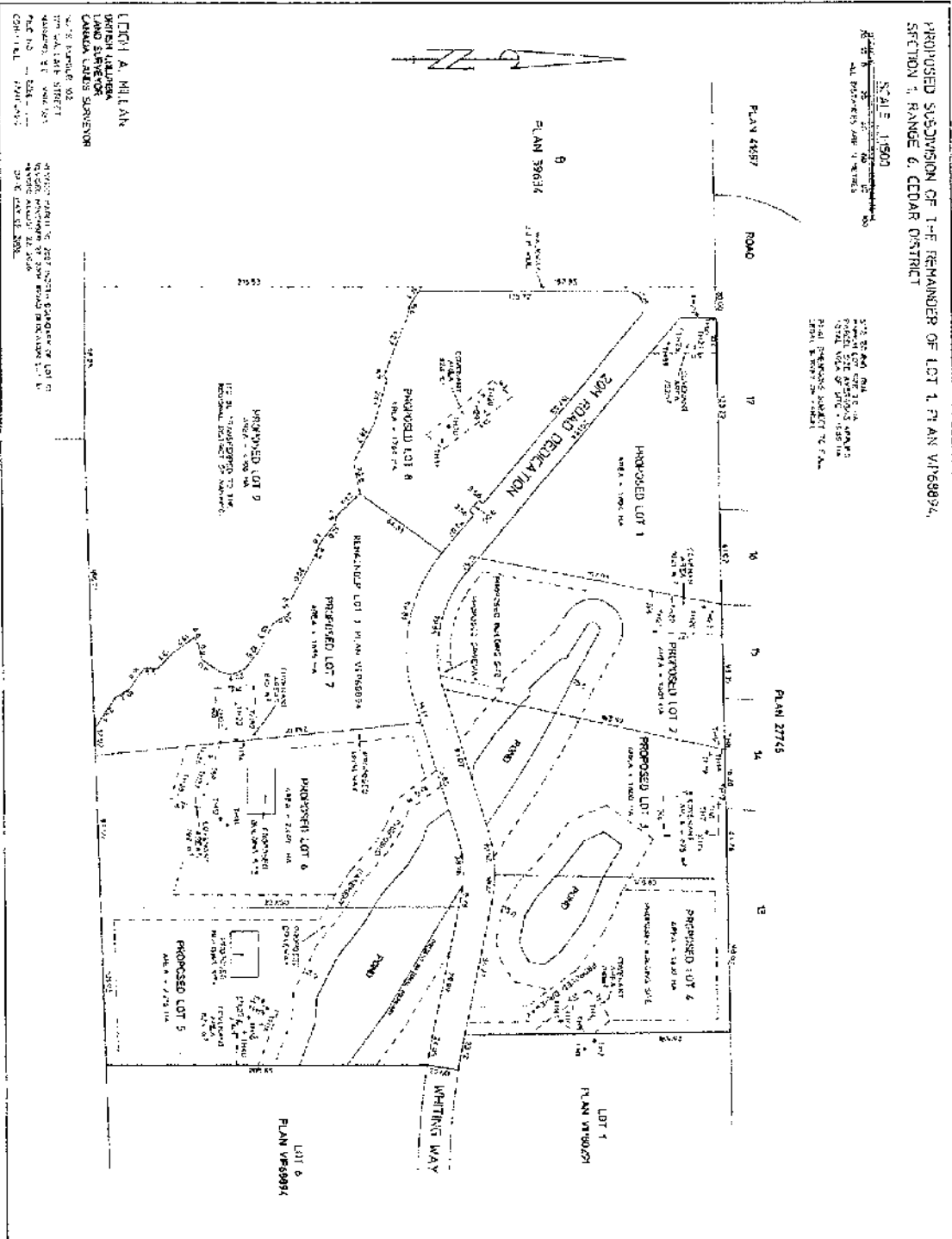
1. The requirements of Section 4.3.4 are proposed to be relaxed by varying the parcel averaging provision from a maximum of 50% of the proposed parcels can be less than 2.0 ha in size to a maximum of 66.7% can be less than 2.0 ha in size provided that these parcels are not less than 1.6 ha in size.

Schedule No. 3

Development Variance Permit Application No. 90621

In Conjunction with the Parcel Legally Described as Lot 1 Section 1 Range 6 Cedar District  
Plan VIP68894 Except Part in Plan VIP75488 and VIP80291

Proposed Subdivision including the Location and Area of the Proposed Park Land  
(as submitted by applicant / reduced for convenience)



**Schedule No. 4**

**Subdivision File No. 26822**

**In Conjunction with the Parcel Legally Described as Lot 1 Section 1 Range 6 Cedar District  
Plan VIP68894 Except Part in Plan VIP75488 and VIP80291**

**Transfer of Lands for Park Purposes and Conditions**

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

An area, not less than 4.1 ha and shown on the location labeled Proposed Lot 9 on Schedule No. 3, shall be transferred to the Regional District for park purposes.

**2. Trail Construction**

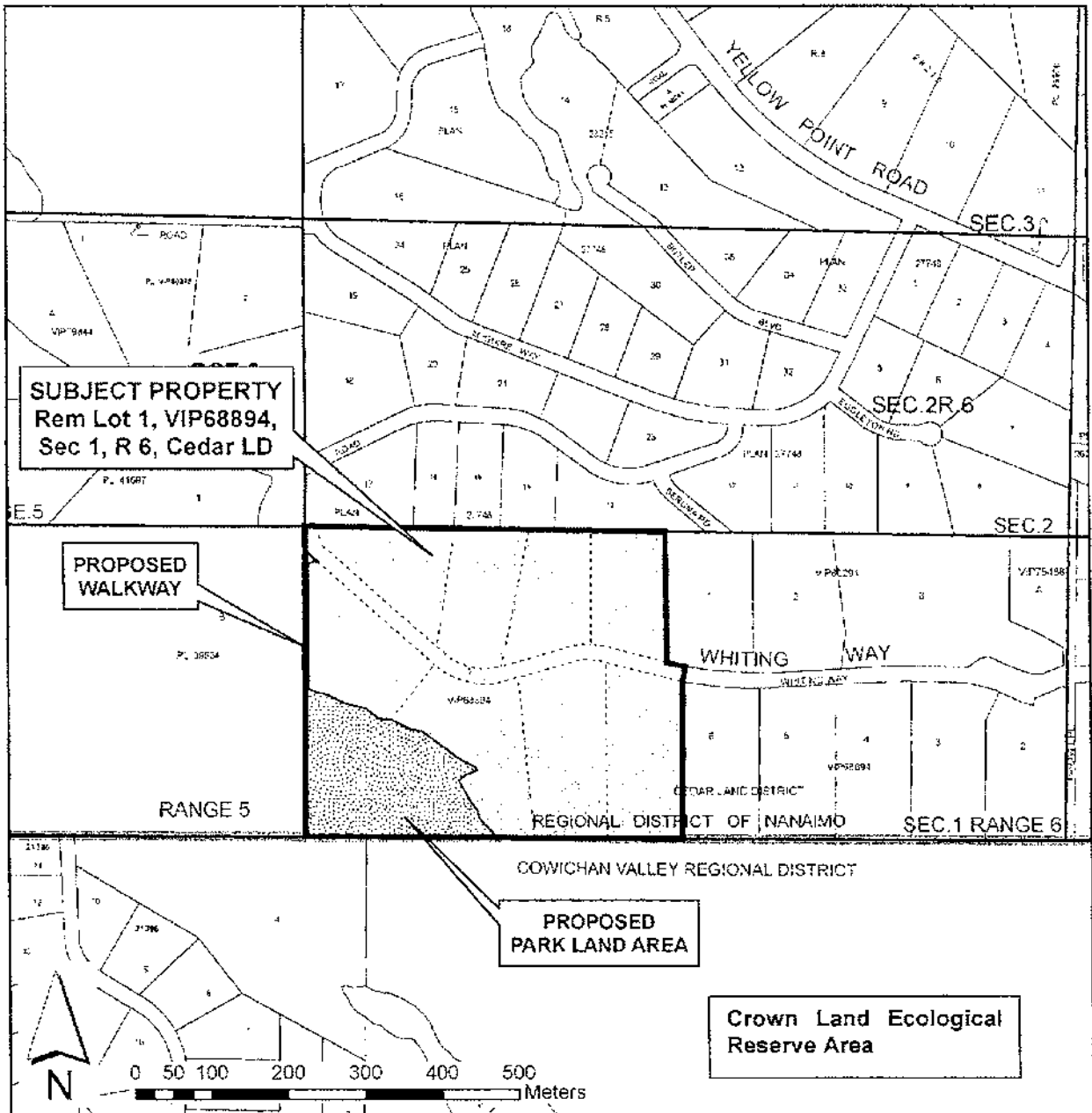
The applicant shall up grade / construct a trail access from the end of the built road to the main park land entrance including the panhandle access from Whiting Way to the park land area in consultation with and to the satisfaction of the RDN Recreation and Parks Department. To ensure full pedestrian access is achievable, adjustment to the location of the trail corridor to join in with the existing portion of the trail crossing the larger pond may be required. Applicant to obtain confirmation from RDN Recreation and Parks Department prior to final survey.

**3. Parking Area**

The applicant will construct 2 parking spaces at the end of the built road to accommodate extra parking to the satisfaction of the Recreation and Parks Department.

Attachment No. 1

Location of Subject Property



Attachment No. 2

Correspondence from the Electoral Area 'A' Parks & Green Space Advisory Committee  
In Conjunction with Subdivision Application No. 26822



**PARK LAND DEDICATION REVIEW**

*Referral Form*

*Parks and Open Space Advisory Committee*

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

Lot 1, Section 1, Range 6, Cedar District, Plan VIP68894 Except Part in Plan VIP75488 & VIP80291,

and located at Whiting Way, Electoral Area 'A'.

Attachments provided to Committee:

- Location map
- Park Proposal Map
- Other: a background memorandum prepared by Senior Planner

The Electoral Area A Parks & Green 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:**

Members of the Committee welcomed the opportunity to view the property and envision a future for the Park that will serve our community well. Committee, developer, and staff are aware of the wish to maximize the Park boundary (to incorporate the current 15-metre riparian covenant area) using available "wiggle room" in altering Lot lines so as to not negatively impact on septic covenants.

Following the site visit, at the regular meeting of the Committee, the following resolution was passed.

***MOVED F. Garnish, SECONDED J. Burnett that the applicant's attractive proposal for dedication of parkland be considered for acceptance by the RDN Board after staff consideration of committee suggestions made on-site as to maximizing the N.E. upland (Lots 7 & 8) perimeter setback as Park to accommodate a trail.***

**CARRIED**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary

Meeting held on: July 20, 2006



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**Attachment No. 3**

**Minutes of a Public Information Meeting  
Held at the Cedar Heritage Centre, 1644 MacMillan Road on June 1, 2006 at 5:00 pm  
Subdivision Application No. 26822  
For the property legally described as  
Lot 1 Section 1 Range 6 Cedar District Plan VIP68894 Except Part in Plan VIP75488 and  
VIP80291**

*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 11 persons

**For the RDN:**

Chair: Director Joe Burnett

Susan Cormie, Senior Planner

The Chair opened the meeting at 5:07 pm and followed with greetings to the public and an introduction of the staff.

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 and a summary of the park land proposal.

The Senior Planner provided an overview of statutory provisions and a summary of the park land proposal.

The Chair then invited comments and questions from the audience with respect to the park land proposal.

Rosemarie Meidinger, 13695 Long Lake Road, Cowichan Valley asked who is the applicant.

The Senior Planner advised that the applicant is BCAB Developments Ltd. and the agent is Leigh Millan, BCL.S.

Paul Grey, 3285 Roper Road, suggested placing the access to the proposed park land between 2 lots instead of at the end of the road. Mr. Grey also asked about parking for the park users? Mr. Grey asked about why the road shaped is configured in the way shown on the plan of subdivision.

The Senior Planner explained that the applicant has just amended the plan to include the 15.0-metre strip around the north side of the wetland, so access was never discussed in a previous location. In addition, the Senior Planner explained the proposed access at the end of the road will be able to connect to the existing land bridge that crosses the wetland.

Frank Garnish, 2512 Barnes Road, stated that he was also asking about the idea to change the location of the access to the park land and asked if Lot B is situated within the RDN.

The Senior Planner explained that Lot B, located to the west of the subject property, is situated within the RDN and in addition, those parcels to the south, are located within the Cowichan Valley Regional District.

Mr. Garnish stated that he supported the proposed park land.

Ken Schechter, 4960 Brody's Place asked what the perimeter of the park land would be.

The Chairperson thought it would be about 800 metres.

Rosemarie Meidinger, 13695 Long Lake Road, Cowichan Valley, asked what is in this for the developer.

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Sheila Gourlay, no address, asked if there was money on the table for the park land.

The Chairperson explained that this is a request for acceptance of park land and not a request for cash in-lieu-of park land dedication.

Ken Schachner, 4960 Brody's Place asked who would own park land.

The Senior Planner explained that for park land dedication, the property is vested in the name of the Crown with the local government looking after the site and in this case, the property is proposed to be transferred to the RDN for park land purposes and so the Regional District of Nanaimo would own the park land.

Maria Edmond, 3411 McQuire Way, asked what kind of subdivision was this and will the developer be requiring to provide wells as she is concerned with protection of the existing wells in the surrounding area.

The Senior Planner explained that for the parcels proposed to be 2.0 ha or less in size, the minimum parcel, the maximum number of dwelling units would be 1 per parcel and for any parcel proposed to be greater than 2.0 ha in size, a maximum of 2 dwelling units would be permitted. The Senior Planner explained that the provision of potable water is a requirement of subdivision and is subject to the approval of the Regional Approving Officer.

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 5:33 pm.

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Susan Cormie  
Recording Secretary



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MAY 28 2007	
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CHAIR	BOARD

**MEMORANDUM**

**TO:** Geoff Garbutt  
 Manager of Current Planning

**DATE:** May 23, 2007

**FROM:** Odete Pinho  
 Planner

**FILE:** 3090 30 90706

**SUBJECT:** Development Variance Permit Application No. 90706 –Armstrong / Clark  
 Lot 48, District Lot 28, Newcastle District, Plan 22249  
 Electoral Area 'H', RDN Map Ref. No. – 92F.047.3.2

**PURPOSE**

To consider an application for a Development Variance Permit that would legalize an over-height single residential dwelling.

**BACKGROUND**

The subject property is located at 5049 Thompson Clarke Drive West in Electoral Area 'H' (*See attached subject property map*). The parcel is approximately 0.08 hectares in size and is zoned Residential (RS2), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

The single residential dwelling is constructed 0.07 meters (2.7 inches) over-height. The subject property is bordered by developed residential properties on all sides. This development represents infill in an existing residential area. The applicant has filled in the "Sustainable Community Builder Checklist", as per Board policy.

*Requested Variance Summary*

Required Maximum Height	Constructed Height	Requested Variation
8 metres	8.07 m	+0.07 m

**ALTERNATIVES**

- To approve Development Variance Permit No. 90706 subject to the conditions outlined in Schedule No. 1, and subject to the Board's consideration of comments received after public notification.
- To deny the requested variation in height.

**POLICY B1.5**

An elevations survey of the subject property indicates that the building is 8.07 m in height (*as seen in attached Schedule 2*). Regional District of Nanaimo Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Policy B1.5 Evaluation provides staff with guidelines for reviewing and evaluating development variance permit applications. The policy requires that the potential impacts of the variance are warranted by the need for the variance.

The applicants have submitted a letter citing the following justifications for the proposed height variance:

- The owners had constructed the residence with the intention of building within the required height. Efforts were made to design the home in a manner that minimized the height of the residence, including recessing the first floor into the bank.
- There are no residents' views that are impacted by this over height structure.
- The site grade was a natural constraint that led to the building being deemed over height.
- The over height of 7 cm (2.7 inches) is minor in nature.

#### LAND USE AND DEVELOPMENT IMPLICATIONS

As the structure is 0.07 metre over-height, this variation in height is minor and staff does not expect that the structure will impede the views of adjacent property owners. In staff's assessment, the height of the dwelling is not expected to negatively impact adjacent property owners.

This property is currently in a non-building inspection area. Properties in the RDN that receive building inspection services are subject to a review process that would have addressed and corrected a proposed excessive height structure prior to construction. While this is an 'after the fact' variance, that is generally not supported, the minor nature of this request makes it possible for staff to recommend approval of the request.

#### Public Consultation Process

As part of the required public notification process, pursuant to the *Local Government Act*, property owners and tenants located within a 50 metre radius, will receive a direct notice of the proposal, and will have an opportunity to comment on the proposed variance, prior to the Board's consideration of the application.


**VOTING** - Electoral Area Directors – one vote, except Electoral Area 'B'.

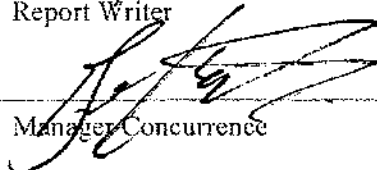
#### SUMMARY/CONCLUSIONS

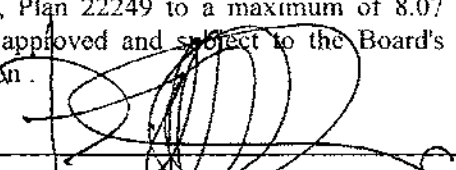
This application for a Development Variance Permit requests a 0.07 metre variation in the height of a proposed single residential dwelling from a permitted maximum height of 8 metres to an existing height of 8.07 metres. Staff does not anticipate that the increased height will have a negative impact on the neighbouring properties views, or streetscape. Staff recommends that the requested Development Variance Permit be approved subject to the terms outlined in Schedule No. 1 of this report, and subject to notification requirements pursuant to the *Local Government Act*.

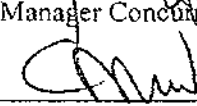
#### RECOMMENDATION

That Development Variance Permit Application No. 90706, to permit the height of a single family residence located at Lot 48, District Lot 28, Newcastle District, Plan 22249 to a maximum of 8.07 metres, according to the terms outlined in Schedule No. 1, be approved and subject to the Board's consideration of comments received, as a result of public notification.

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

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

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

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

**Schedule No. 1**  
**Terms of Development Permit No. 90706**

*Variances*

- a) The "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," Section 3.4.62, is hereby varied by increasing the maximum dwelling unit height for the principle residence, located on Lot 48, District Lot 28, Newcastle District, Plan 22249 from 8 metres to 8.07 metres. The variance applies only to the principle residence.

Schedule No. 2  
Development Variance Permit No. 90706  
Survey Elevations

BRITISH COLUMBIA LAND SURVEYOR'S  
BUILDING LOCATION CERTIFICATE:

LOT 48, DISTRICT LOT  
28, NEWCASTLE DISTRICT,  
PLAN 22249

PARCEL IDENTIFIER: 509-110-728

STREET ADDRESS:

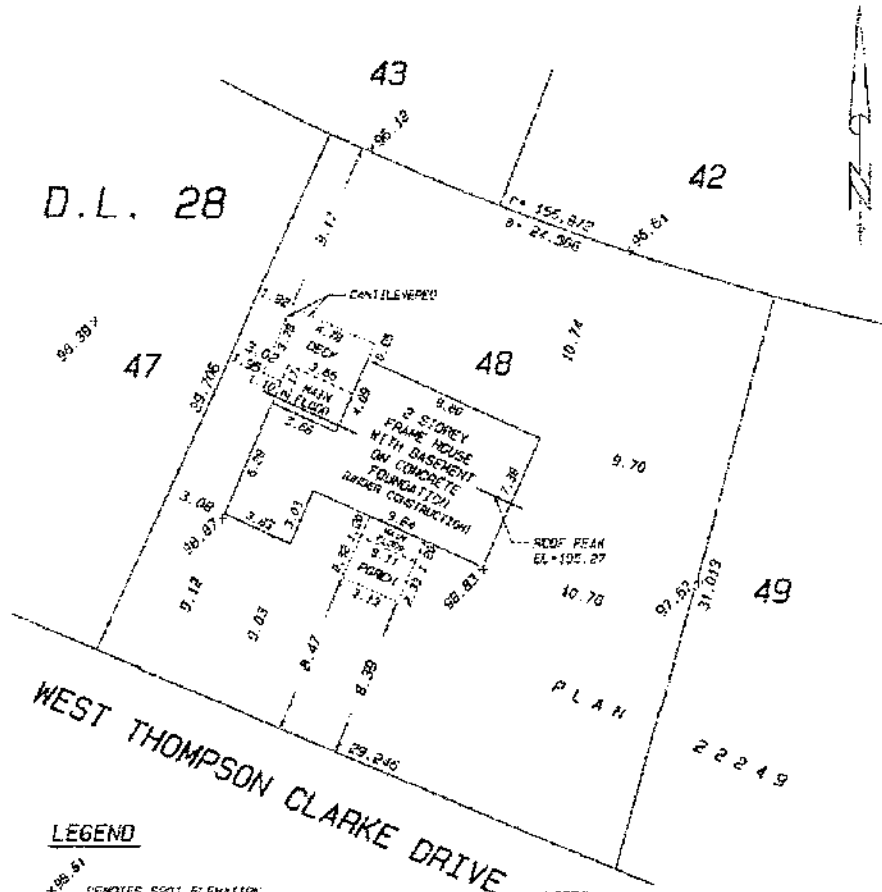
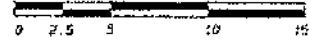
5049 WEST THOMPSON CLARKE DRIVE, REEF CAY, B.C.

THIS DOCUMENT SHOWS THE RELATIVE LOCATION OF  
THE SURVEYED STRUCTURES AND FEATURES WITH  
RESPECT TO THE BOUNDARIES OF THE PARCEL  
DESCRIBED. THIS DOCUMENT SHALL NOT BE USED  
TO DEFINE PROPERTY LINES OR PROPERTY CORNERS.

PARCEL DIMENSIONS SHOWN HAVE BEEN DERIVED  
FROM PLAN 22249 AND SURVEY EVIDENCE AS SHOWN

SCALE: 1:250

ALL DISTANCES ARE IN METRES.



LEGEND

± 88.51  
DENOTES SPOT ELEVATION  
TAKEN TO BE NATURAL GRADE

THIS BUILDING LOCATION CERTIFICATE HAS BEEN  
PREPARED IN ACCORDANCE WITH THE MANUAL OF  
STANDARD PRACTICE AND IS CERTIFIED CORRECT  
THIS 16 DAY OF APRIL, 2007.

*[Signature]* B.C.L.S.  
THIS DOCUMENT IS NOT VALID UNLESS ORIGINALLY  
SIGNED AND SEALED

The signatory accepts no responsibility or liability  
for any damages that may be suffered by a third  
party as a result of any decisions made, or actions  
taken based on this document.

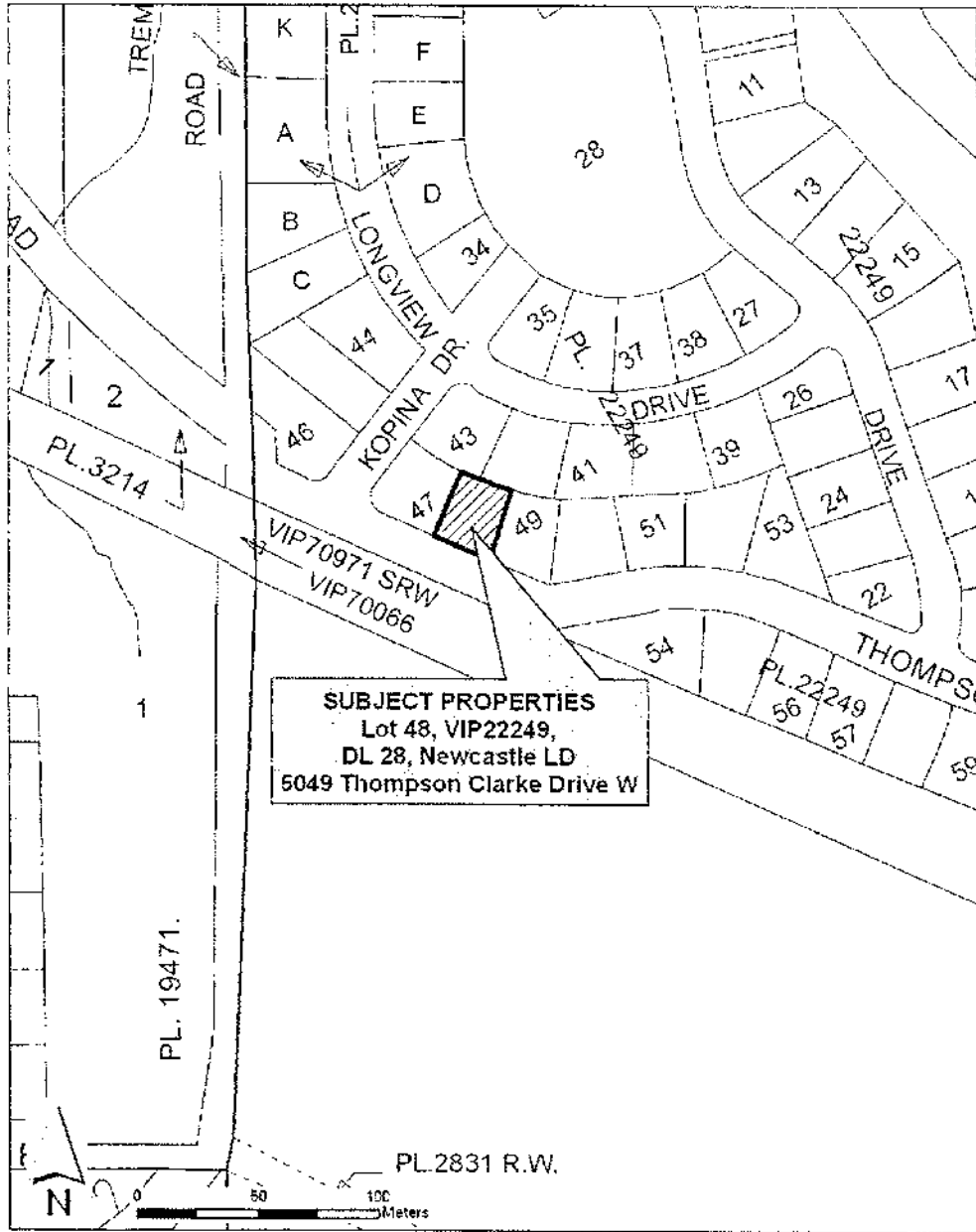
All rights reserved. No person may copy, reproduce,  
transmit or alter this document in whole or in part  
without the consent of the signatory.

NOTES

BUILDING DIMENSIONS AND OFFSETS TO PROPERTY  
LINES ARE SHOWN TO EXTENDED OF BUILDING WALLS.  
ELEVATIONS ARE SHOWN IN METRES AND ARE DERIVED  
FROM AN ASSIGNED DATUM.  
THE LOCATION OF IMPROVEMENTS ON THIS PARCEL MAY  
BE AFFECTED BY RESTRICTIVE COVENANT CONTROL.  
ROOF PEAK HEIGHT IS 8.07m WITH RESPECT TO  
AVERAGE NATURAL GRADE INTERPOLATED ALONG THE  
NORTHERLY AND SOUTHERLY SIDES OF THE BUILDING.

**McElmurray Associates**  
Professional Land Surveyors  
495 - 6th Street  
Courtenay, B.C. V9N 5V4  
Tel: 306-5425 Fax 306-7700  
File: 05140  
M# : 6663

**Attachment No. 1**  
**Subject Property**  
**Development Variance Permit No. 90706**





RDN	
CAO	GMF&IS
GMDS	GM&PS
GMES	GMFS
JUN - 5 2007	
SMCA	
CHAIR	BOARD
DAP	

# MEMORANDUM

**TO:** Geoff Garbutt  
Manager, Current Planning

**DATE:** June 5, 2007

**FROM:** Angela Mays  
Planning Assistant

**FILE:** 3090 30 90708

**SUBJECT:** Development Variance Permit Application No. 90708  
Applicant - Dave Murray  
Owner - Gaigher Holdings Inc.  
Electoral Area 'H', 153 Jamieson Road

## PURPOSE

To consider a Development Variance Permit application to recognize the siting of an existing single dwelling unit from a future lot line on a property within a proposed bare land strata subdivision in Electoral Area 'H'.

## BACKGROUND

The subject property, located in Electoral Area 'H' and currently addressed as 153 Jamieson Road, involves a proposed strata lot (SL 8) as part of a 15-lot bare land strata subdivision under consideration for subdivision approval (*see Attachment No. 1 for the proposed subdivision and Attachment No. 2 for location of parent parcel*). The parent parcel is zoned Residential 2 (RS2) and is situated within Subdivision District 'M' (2000 m<sup>2</sup> with community water service connections) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". As Strata Lot No. 8 is proposed to be 2400 m<sup>2</sup> in size, it will be able to meet the minimum parcel size requirement of Bylaw No. 500, 1987. It is noted that the parent parcel, prior to subdivision, is capable of supporting a maximum of 2 dwelling units under the zoning regulations.

The parent parcel is designated within the following development permit areas (DPA) pursuant to the Regional District of Nanaimo Electoral Area 'H' Bylaw No. 1335, 2003:

- The Environmentally Sensitive Features Development Permit Area, in this case for the protection of the aquifer; and
- The Fish Habitat Protection Development Permit Area for the protection of the natural environment in accordance with the *Fish Protection Act*.

As this is an application is for the siting of a single residential dwelling unit and the applicant has confirmed that there are no watercourses located within 30 metres of the subject property, the proposal will meet the exemption provisions of the DPAs. Therefore, a Development Permit is not required. It is noted that a development permit (DP60554) for aquifer protection has been issued as part of the subdivision application process.

The owner applied for final approval of subdivision to the Ministry of Transportation's Approving Authority (*see Attachment No. 1 for proposed plan of subdivision*). Through the subdivision process, it was discovered that the recently constructed dwelling unit would not be able to meet the minimum



setback requirement from the future front lot line. The subdivision cannot proceed until this issue has been resolved. As a result of this situation, the applicant has applied for a development variance permit to recognize the siting of the existing single dwelling unit from the future front lot line of proposed Bare Land Strata Lot No. 8.

At the time of construction, the single storey dwelling unit which is 165 m<sup>2</sup> in size, the applicant was under the impression that the front lot line setback would be the future Sunshine Place with the other exterior lot line being the future Palm Pacific Drive (*see Schedules No. 2 & 3 for location of dwelling unit and photo showing building elevation*). In addition, at the time of construction of the dwelling unit, the applicant had a draft subdivision plan provided by the property owner, that did not include the corner cut. Following the construction of the dwelling unit, it was brought to applicant's attention that Sunshine Place would be a Common Property Access Route (private drive) and the proposed plan of subdivision was being adjusted to include a corner cut at the corner of the future Sunshine Place and Palm Pacific Drive.

The proposed bare land strata lot is to be served with community water and a strata owned and operated septic disposal system. The parent parcel is not situated within a RDN Building Services Area. The applicant has submitted a "Sustainable Community Builder Checklist" as per Board policy.

#### ***Requested Variance***

The applicant is requesting a relaxation of the minimum setback requirement for the future front lot line from 8.0 metres to 5.9 metres to accommodate the location of the existing dwelling unit (*see Schedule No. 1 for proposed variance*).

#### **ALTERNATIVES**

1. To approve Development Variance Permit No. 90708 subject to the conditions outlined in Schedules No. 1, 2, and 3 subject to the notification procedures pursuant to the *Local Government Act*.
2. To deny the variance as requested.

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

##### ***Siting Implications***

As outlined above, the applicant is requesting a variance to recognize the siting an existing dwelling from a future front lot line within a proposed bare land strata subdivision. As a result of a misunderstanding concerning the status of Sunshine Place as a future public road or a future access route (common property) along with the Ministry of Transportation's requirement to construct a corner cut as part of the public road network, the dwelling unit was incorrectly sited. With the inclusion of the corner cut, this future property line becomes the front lot line rather than the lot line adjacent to the future Sunshine Place Access Route. It is noted that under the original subdivision lot layout, the minimum setback requirements for the dwelling unit would have been met.

The subdivision plan is in the final stage of approval with the survey plan being completed and all associated works and services in place. Therefore, reconfiguration of the subdivision to accommodate the siting of the dwelling unit would be expensive and may not be able to be reconfigured to the satisfaction of the Approving Authority.

The extension of the future Palm Pacific Road is not proposed to be constructed beyond Strata Lot 8 and as a result of this condition of subdivision approval; staff feels that this proposed siting of dwelling unit

will not negatively impact the surrounding neighbourhood. The siting of the dwelling unit is also not expected to negatively impact view corridors of existing or future dwelling units.

**Ministry of Transportation Implications**

Ministry staff does not have any issues with this relaxation request as the Ministry's minimum setback requirement of 5.0 metres from public road will be able to be met. It is noted that the corner cut is being required by the Approving Authority as a condition of subdivision to ensure safe site distances for vehicular traffic.

**Public Consultation Process**

As part of the required public notification process, pursuant to the *Local Government Act*, property owners located within a 50 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 application.

**VOTING**

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

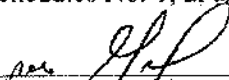
**SUMMARY**

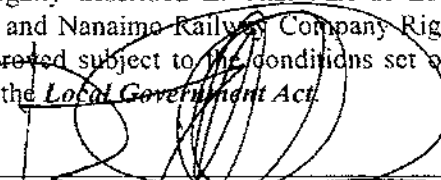
This is a Development Variance Permit application involving a relaxation to the minimum setback requirement from a future front lot line from 8.0 metres to 5.9 metres to permit a dwelling unit to remain in the same location at the time the parent parcel will be subdivided. Based upon a misunderstanding with respect to which future lot line would be considered the front lot line, the applicant constructed a dwelling unit. The siting of this dwelling unit came to staff's attention when the owner applied for final subdivision approval and it was discovered that the dwelling unit would not be able to meet the minimum setback requirement from the future front lot line. Ministry of Transportation staff have no issues with the proposed variance. Staff feels that the siting of the dwelling unit will not negatively impact surrounding present and future residents as there are no traffic or view implications.

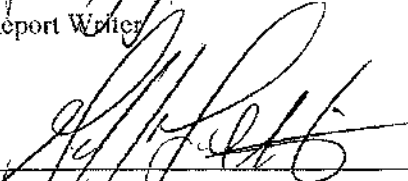
Due to the unauthorized subdivision plan provided to the applicant prior to construction and the fact that the dwelling unit came to RDN attention only after the dwelling unit construction was at lock up stage, staff recommends that Development Variance Permit No. 90708 be approved subject to the conditions set out in Schedules No. 1, 2, and 3 of the staff report and subject to notification requirements pursuant to the *Local Government Act*.

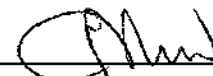
**RECOMMENDATION**

That Development Variance Permit Application No. 90708, submitted by David Murray, on behalf of Gaigher Holdings Inc., in conjunction with the property legally described as That Part of Lot 40, Newcastle District, Lying to the Southwest of the Esquimalt and Nanaimo Railway Company Right of Way, Except Those Parts in Plans 15180 and 43604 be approved subject to the conditions set out in Schedules No. 1, 2, and 3 and the notification requirements of the *Local Government Act*.

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

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

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

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

**Schedule No. 1  
Development Variance Permit No. 90708  
Proposed Variance & Conditions of Approval**

**Proposed Variance**

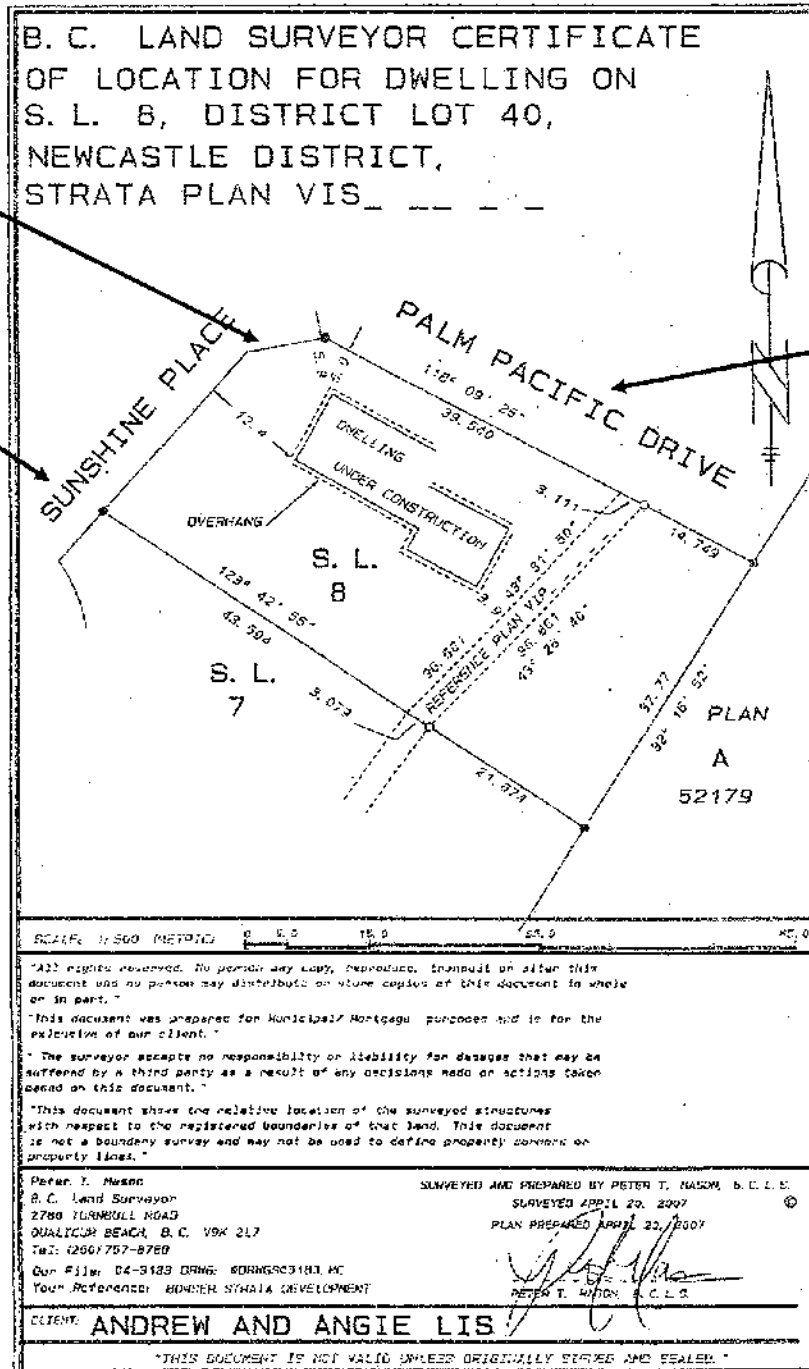
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," the following variance is proposed:

1. pursuant to section 3.4.62, the minimum front lot line requirement is proposed to be varied from 8.0 metres to 5.9 metres to accommodate the siting of a single dwelling unit to be situated on the future Strata Lot 8 as shown on the building location plan on Schedule No. 2 (to be attached to and forming part of the Permit).

**Conditions of Approval**

1. The dwelling unit shall be sited in accordance with Schedule No. 2 (to be attached to and forming part of this permit).
2. The dwelling unit shall be constructed as shown on Schedule No. 3 (to be attached to and forming part of this Permit) and shall be a maximum of 1 storey in height.

**Schedule No. 2**  
**Development Variance Permit No. 90708**  
**Location of Dwelling Unit in Relation to Future Lot Lines**

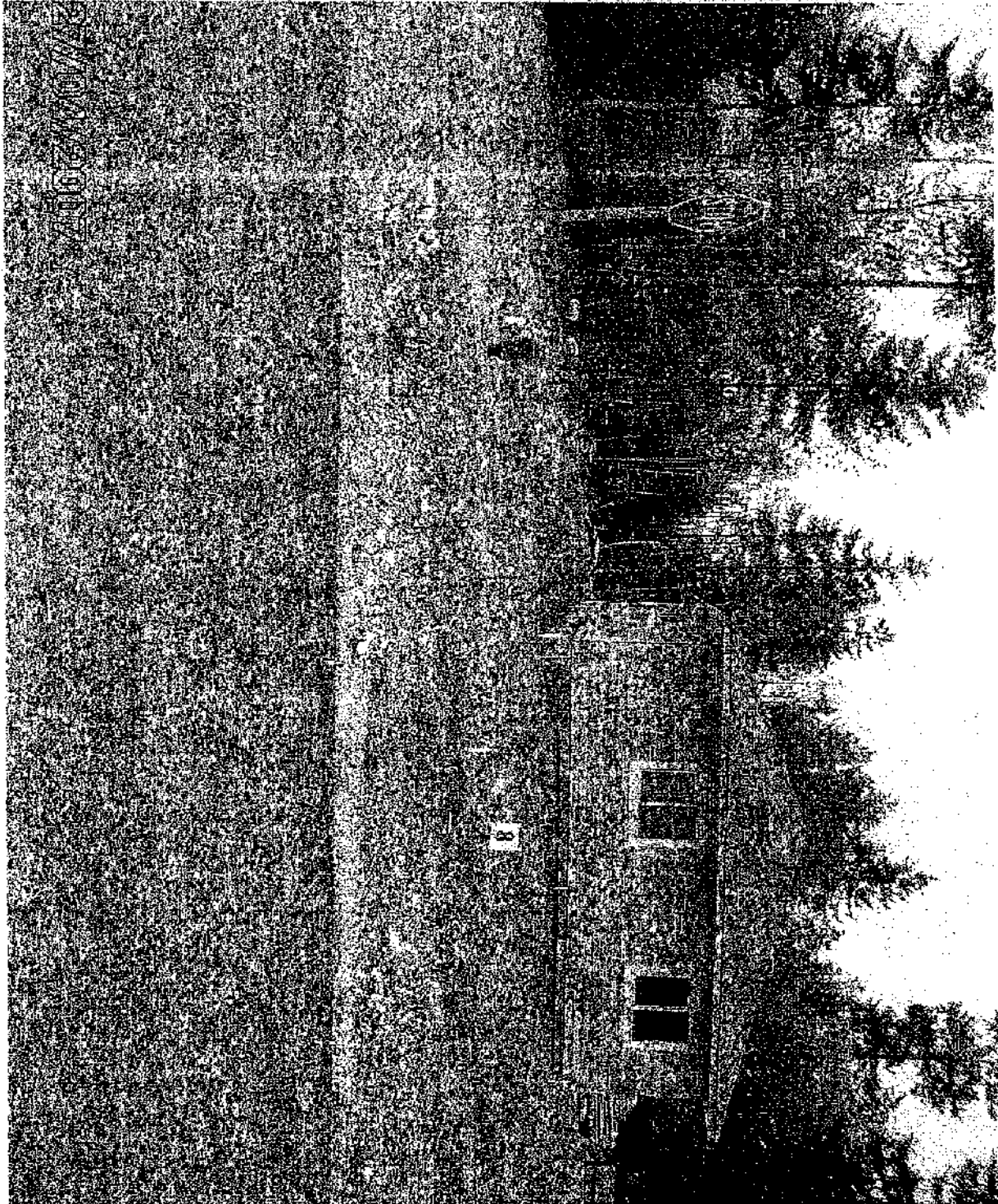


Proposed Variance from future front lot line from 8.0 m to 5.9 m

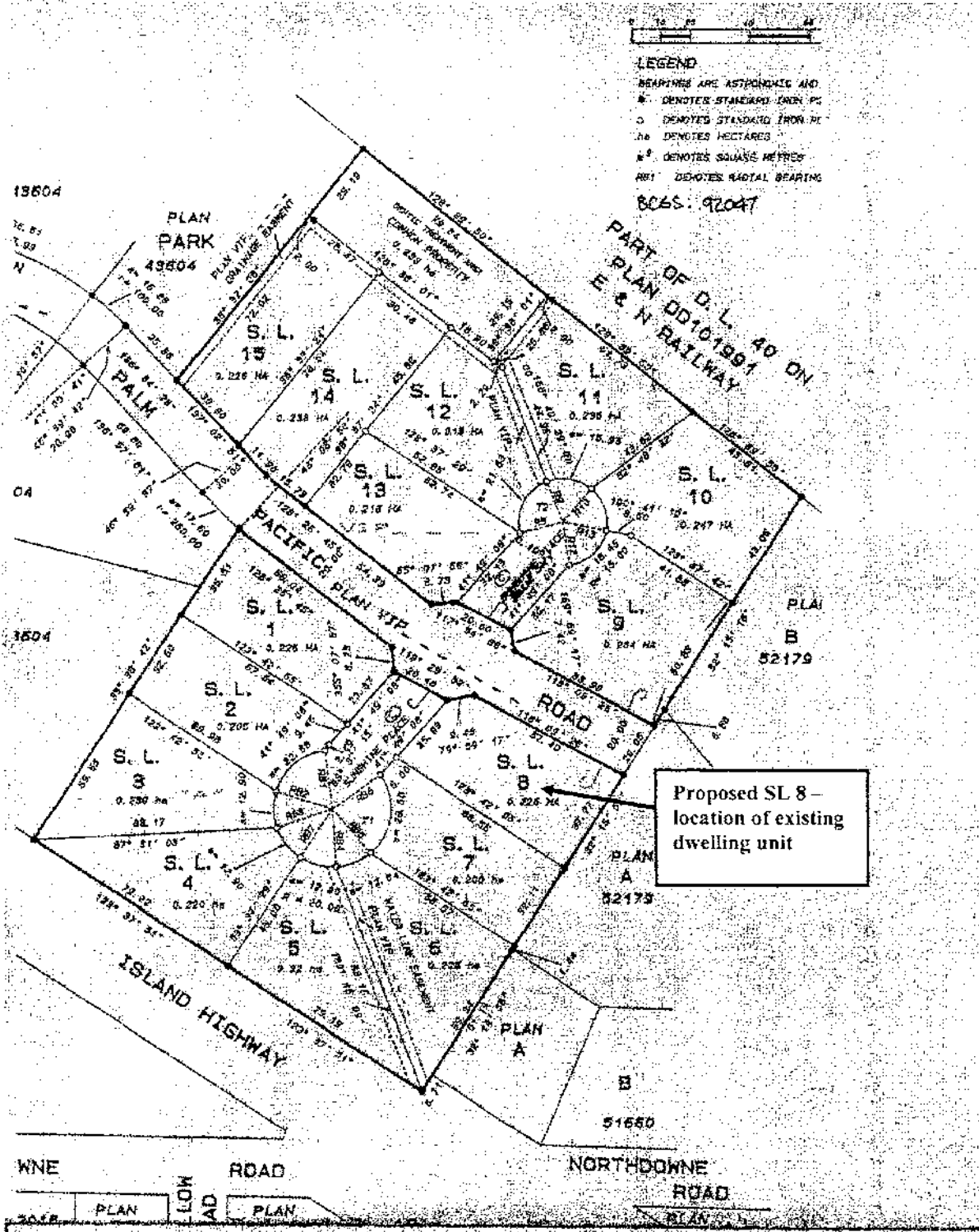
Proposed Strata Access Route (private drive)

Proposed Public Road - not required to be constructed

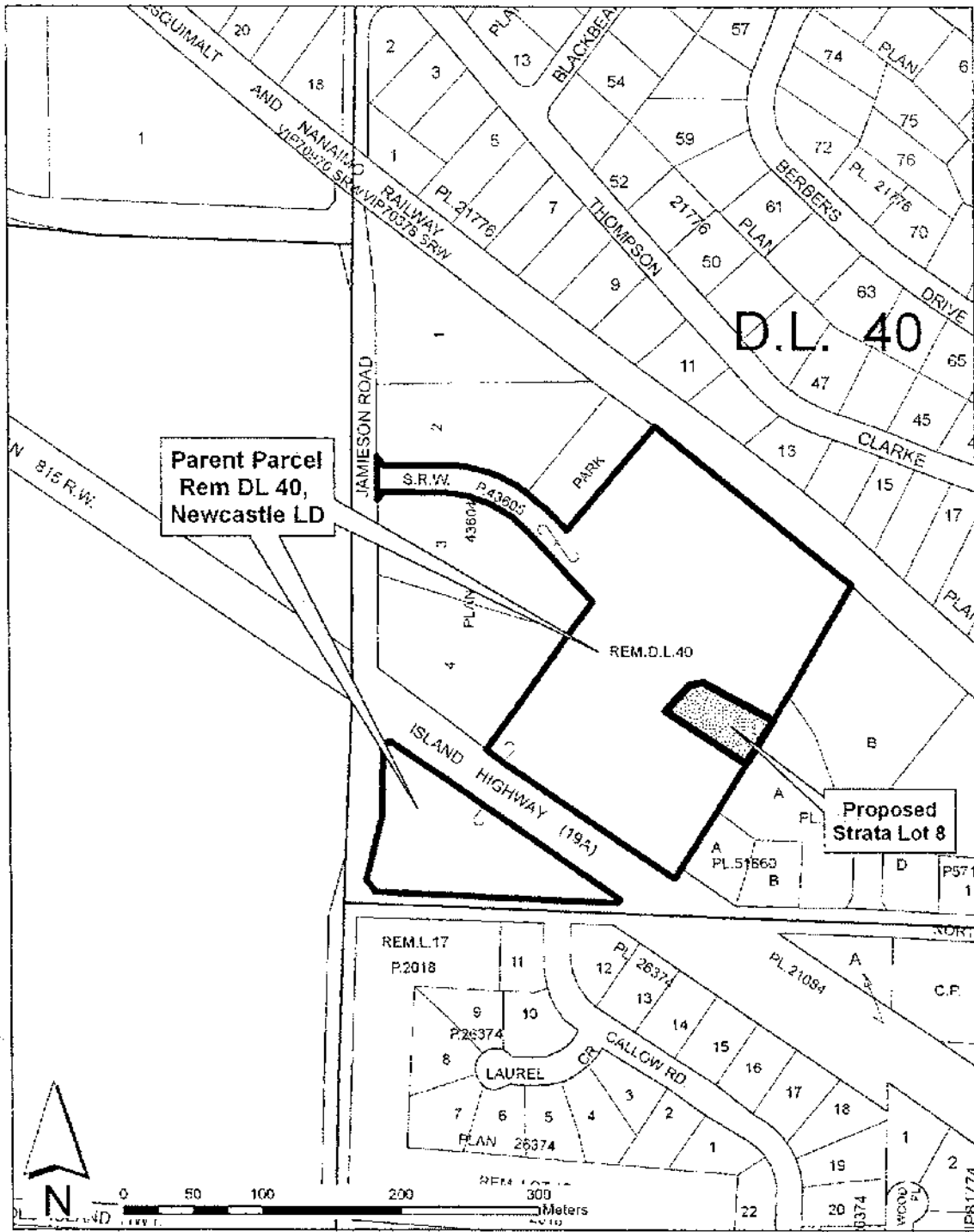
**Schedule No. 3**  
**Development Variance Permit No. 90708**  
**Dwelling Unit Showing Elevations**



Attachment No. 1  
Development Variance Permit No. 90708  
Proposed Bare Land Strata Subdivision



**Attachment No. 2**  
**Development Variance Permit No. 90708**  
**Location of Subject Property**





RDN	
CAO	GMF&IS
GMDS	GMR&PS
GMES	GMTS
JUN - 4 2007	
SMCA	
CHAIR	BOARD
EAP	

**MEMORANDUM**

**TO:** Geoff Garbutt  
Manager, Community Planning

**DATE:** May 22, 2007

**FROM:** Odete Pinho  
Planner

**FILE:** 3090 30 90709

**SUBJECT:** Development Variance Permit Application No. 90709  
Electoral Area 'E' - 2985 Dolphin Drive

**PURPOSE**

To consider an application for a Development Variance Permit to permit the siting of beach access stairs with four landing decks.

**BACKGROUND**

This application is to permit the construction of beach access stairs with four landings on a property located in Nanoose Bay. The subject property is currently developed with a single family residence located at 2985 Dolphin Drive (*see Attachment No. 1 for location of the subject property*). The subject property is separated from the ocean by a nearly vertical, vegetated rocky bluff 10 metres in height.

**Property Information**

**Location:** 2985 Dolphin Drive, Electoral Area 'E'  
**Legal:** Lot A, District Lot 78, Nanoose District, Plan 29682  
**Size of Property:** approximately 0.20 ha  
**Title Check:** Not affecting the interests of the RDN -- Building scheme

**RDN Regulations**

<b>Zoning Designation:</b>	Residential 1 (RS1N)	<b>Dwelling Units/Parcel:</b>	1
<b>OCP/OCP Bylaw No:</b>	Bylaw No. 1118, 1998	<b>Parcel Coverage:</b>	35%
<b>OCP Designation:</b>	Coast Residential	<b>Site Area Requirements:</b>	N/A
<b>Setbacks:</b>	8.0 metres horizontal distance inland from the top of a slope of 30% or greater; or 15 metres horizontal distance from the natural boundary, whichever is greater		
<b>Proposed Uses:</b>	Residential beach access stairs		
<b>Environmentally Sensitive Area Atlas:</b>	Fish Habitat -- Coastline indicated on ESA Atlas		



## ALTERNATIVES

1. To approve Development Variance Permit No. 90709, to permit proposed beach access stairs, subject to the conditions outlined in Schedules No. 1, 2 and 3.
2. To deny the requested permit.

## ZONING IMPLICATIONS & PROPOSED VARIANCES

The proposed stairs contravene the setback requirements of "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 horizontal distance from the top of a slope of 30% or greater; or 15 metres horizontal distance from the natural boundary, whichever is greater.

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

The minimum setback from the top of a slope of 30 percent or greater adjacent to the ocean, is proposed to be relaxed from 8.0 metres horizontal distance inland from the top of the slope to 0.0 metres as shown on the survey submitted by the applicant (*Schedule 2*).

The minimum setback from the natural boundary, is proposed to be relaxed from 15.0 metres horizontal distance to 0 metres horizontal distance from the natural boundary, as shown on the survey submitted by the applicant.

The applicants are proposing to vary **Section 3.4.61** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

The minimum setback from the interior right side lot line, is proposed to be relaxed from 2.0 metres to 1.6 metres as shown on the survey submitted by the applicant (*Schedule 2*).

## LAND USE AND DEVELOPMENT IMPLICATIONS

### ***Board Policy B1.5***

RDN Policy B1.5 (Regional District of Nanaimo Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation Policy) provides staff with guidelines for reviewing and evaluating development variance permit applications. The applicants have provided justification for the variance, as the 10 m rock bluff is a physical constraint, whereby stairs would be required to access the beach from the property. The policy requires that the potential impacts of the variance are warranted by the need for the variance.

The applicants have submitted a letter siting the following justifications for the proposed stairs:

- full enjoyment of property by the owners and their B&B guests;
- safe personal access, as using the nearby shared access requires walking on a narrow roadway.

### ***Geotechnical Issues***

The applicant had EBA Engineering Consultants Ltd., conduct a preliminary assessment of the stairs location and it was found that the building site is stable and safe for the intended use. Waters & Associates Building Designers, have prepared the stair layout drawings (*Schedule 3*). The stairs have been designed to ensure that the proposed structure follows the geotechnical guidelines. The drawings

have been stamped by R.S. Mullen, Professional Engineer, and dated April 26, 2007. More detailed drawings may be required by the Building Department, should the proposed structure be approved for construction.

With respect to the construction of beach access stairs, a number of potential issues have been identified including ground and structural stability, long term viability and maintenance of these structures and potential liability. Given these issues, staff recommends, that the applicant be required to register a Section 219 covenant, that registers the Geotechnical Report prepared by EBA Engineering Consultants Ltd., dated March 8, 2006 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages resulting from the use of the stairs, erosion and/or landslide.

#### ***Aesthetic Impact***

Large structures like the proposed beach access stairs have the potential to impact the appearance of the marine foreshore, as seen by recreational users of the beach area, and boaters. The uppermost landing deck and handrails of the proposed structure will be visible from the adjacent properties to the east and west, which also enjoy panoramic views of the Strait of Georgia. The proposed stairway is to be entirely contained within the subject property.

#### ***Environmental Impact***

The proposed stairway is to be approached by an existing concrete patio. The applicants do not propose to remove any vegetation on the bank to minimize the environmental impact and to create an aesthetically discreet access that is to be hidden within the existing vegetation. The proposed stairs and platforms would require fixing the structure to the bedrock. Department of Fisheries and Oceans has been consulted on this application and has stated no concerns, as the structure does not impact encrusting invertebrates, algae or salt marsh vegetation. The applicant has filled in the "Sustainable Community Builder Checklist", as per Board policy.

#### ***Shared Access***

Section 75 of the *Land Titles Act*, requires that subdivisions bordering on water must provide access to the water at distances not greater than 200 m between centre lines. The subject property is located 70 metres from Park Place Community Park, with a pedestrian accessible, low-gradient, public path to the beach, however the applicants have stated that this access is not desirable as the roadway is narrow with trees and shrubs growing near the roadside. In their opinion it is unsafe for their son and guests to the bed and breakfast to walk along Dolphin Drive which can be busy with large construction trucks. The neighbours to the east also have private beach access stairs.

### **FUTURE DEVELOPMENT IMPLICATIONS**

As directed by the Board, staff are in the process of drafting a report and policy on beach access stairs for the Board's consideration at the July Electoral Area Planning Committee meeting. The policy intends to balance safety and environmental implications with access issues.

### **PUBLIC CONSULTATION IMPLICATIONS**

As part of the required public notification process, pursuant to the *Local Government Act*, property owners located within a 50 metre radius, must 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 permit the siting of a set of beach access stairs and landing decks at 2985 Dolphin Drive in Nanoose Bay.

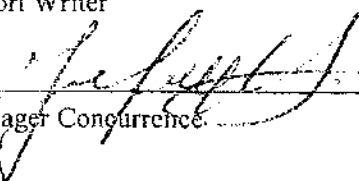
In staff's assessment, this structure has met the Regional District of Nanaimo's requirements including: a geotechnical engineering report; engineered drawings; survey by a British Columbia Land Surveyor and consent from the Department of Fisheries and Oceans. The applicants have demonstrated that the structure will be safe, minimally impact neighbours and the natural environment, and will be fully contained within their property boundaries.

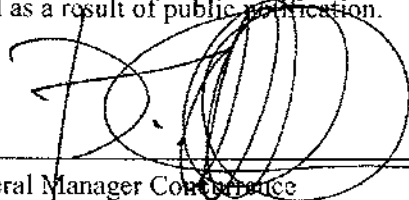
Staff recommends that this application be approved.

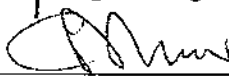
**RECOMMENDATION**

That Development Variance Permit Application No. 90709, to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," for the property legally described as Lot A, District Lot 78, Nanoose District, Plan 29682, be approved subject to the conditions outlined in Schedules 1, 2, and 3, and subject to the Board's consideration of comments received as a result of public notification.

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

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

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

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

COMMENTS:

**Schedule No. 1**  
**Terms of Development Variance Permit Application No. 90709**  
**for 2985 Dolphin Drive, Lot A District Lot 78, Nanoose District, Plan 29682**

**Issuance of Permit**

1. This Development Permit allows the construction of beach access stairs developed in substantial compliance with Schedules No. 1, 2 and 3.
2. Staff shall withhold the issuance of this permit until the applicant, at the applicant's expense, registers a Section 219 covenant that registers the Geotechnical Report prepared by EBA Engineering Consultants Ltd., dated March 8, 2007 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of erosion and/or landslide.

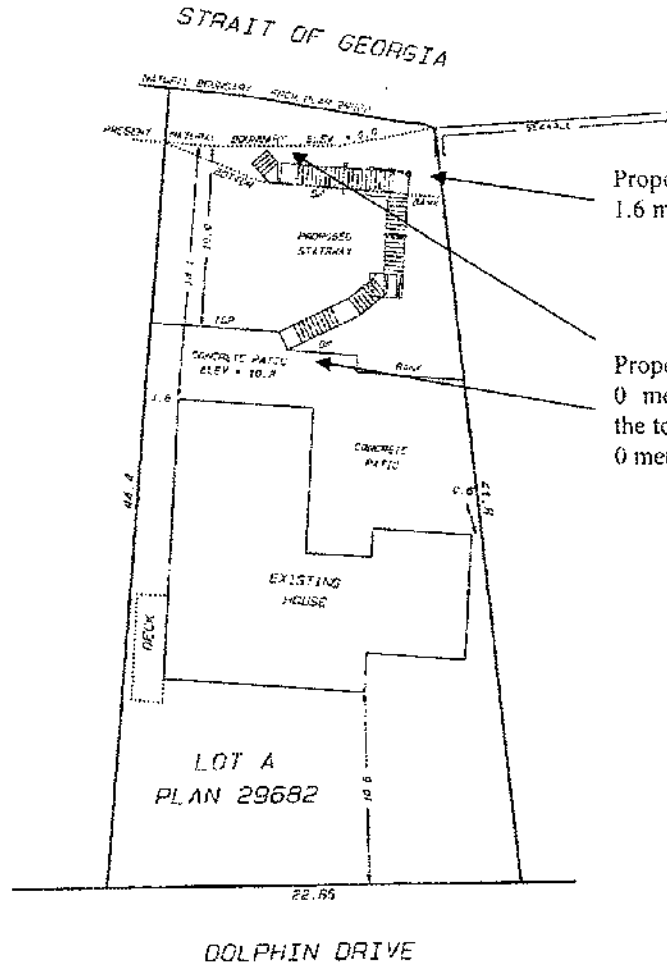
**Variations**

3. **Section 3.3.9(b)** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is varied to permit the beach access stairs shown on Schedule No. 2 and 3 as follows:
  - a. The minimum setback from the top of a slope of 30 percent or greater adjacent to the ocean is proposed to be relaxed from 8.0 metres horizontal distance inland from the top of the slope to 0.0 metres, as shown on the survey submitted by the applicant.
  - b. The minimum setback from the natural boundary is proposed to be relaxed from 15.0 metres horizontal distance to 0 metres horizontal distance, from the natural boundary as shown on the survey submitted by the applicant.
4. **Section 3.4.61** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is varied to permit the beach access stairs shown on Schedule No. 2 and 3 as follows:
  - a. The minimum setback from the right side lot line, is proposed to be relaxed from 2.0 metres to 1.6 metres.

Schedule No. 2  
Building Location Certificate  
Development Variance Permit Application No. 90709

PLAN OF LOT A, DISTRICT LOT 78,  
NANOOSE DISTRICT, PLAN 29682  
SHOWING PROPOSED STAIR WAY  
FOR DEVELOPMENT VARIANCE PERMIT APPLICATION

SCALE: 1:200 ALL DISTANCES ARE IN METRES.  
CIVIC ADDRESS: 2005 DOLPHIN DRIVE, NANOOSE



Proposed variance from 2 metres to 1.6 metres right side yard setback

Proposed variance from 8 metres to 0 metres horizontal distance from the top of the bank and from 15 m to 0 metres from the natural boundary

NOTE:  
THIS LOT SUBJECT TO L.T.C. (VANCE MAPPING  
#76310 AND 257725).

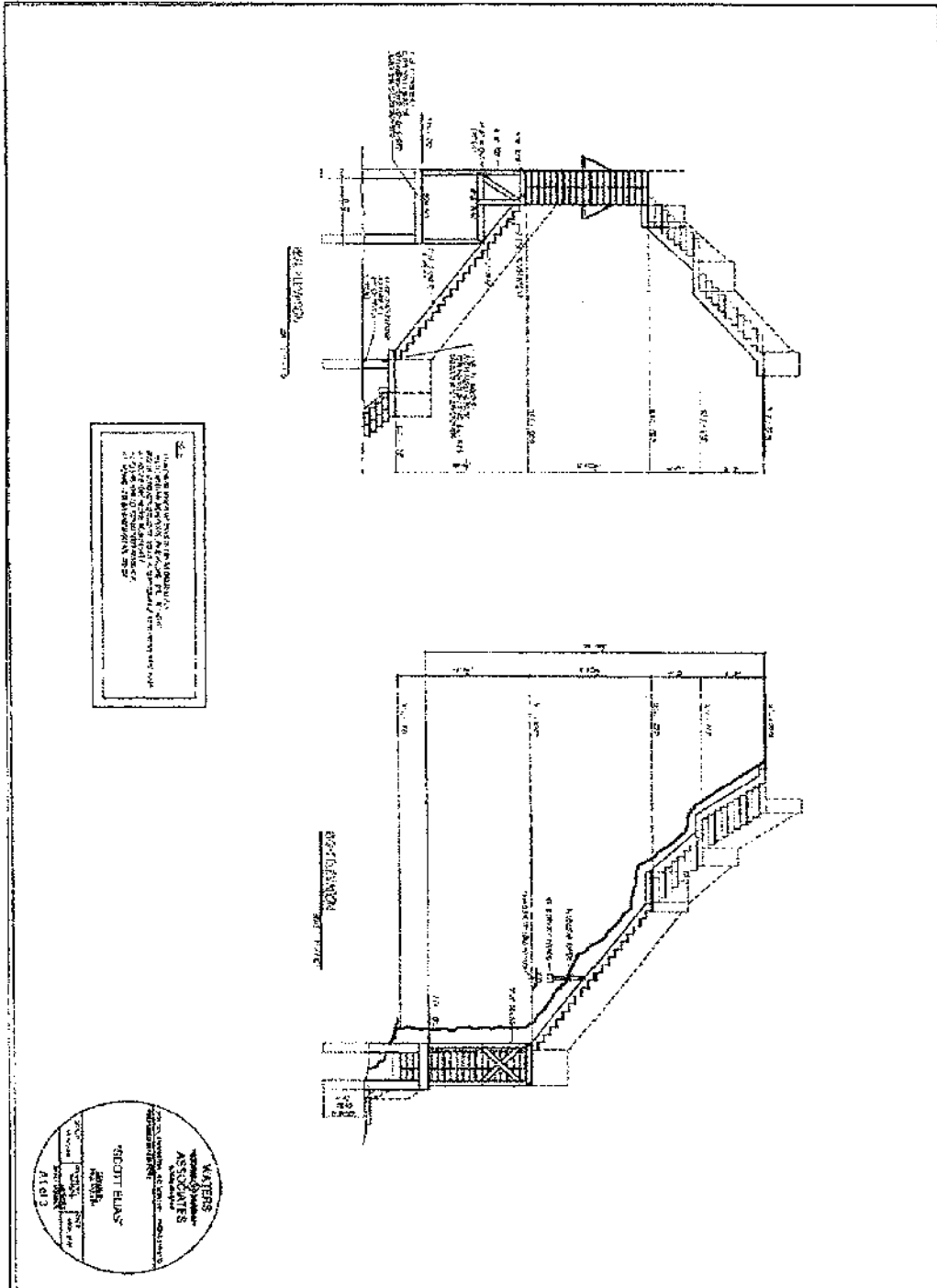
THIS SURVEY IS PREPARED FOR THE ABOVE NAMED APPLICANTS AND THEIR  
LENDER AND PURPOSED TO SHOW ONLY THE LOCATIONS SHOWN ON  
THE ABOVE DESCRIBED PARCELS AND THEIR RELATIVE LOCATION THEREON.  
THIS PLAN PROVIDES NO WARRANTY OF REPRESENTATION WHATSOEVER WITH  
REGARD TO ANY OTHER BUILDING, ROAD, NEIGHBOURHOOD, PARKING FACILITY,  
SEWER, UNDERGROUND, ABOVEGROUND, OR OVERHEAD UTILITY  
OR ANY OTHER IMPROVEMENTS AND THEIR RELATIVE LOCATION TO ANY INTENDED  
OR EXISTING BOUNDARIES OF THE ABOVE DESCRIBED PARCELS, AND IS NOT  
TO BE USED TO RE-ESTABLISH PROPERTY LINES.

This Survey is not valid unless  
originally signed and sealed.  
This Survey is controlled by legislation  
and may not be reproduced.  
Innocent third party of May, 2007

*[Signature]*  
M. LAM, P. ENG., S.C.T.S.

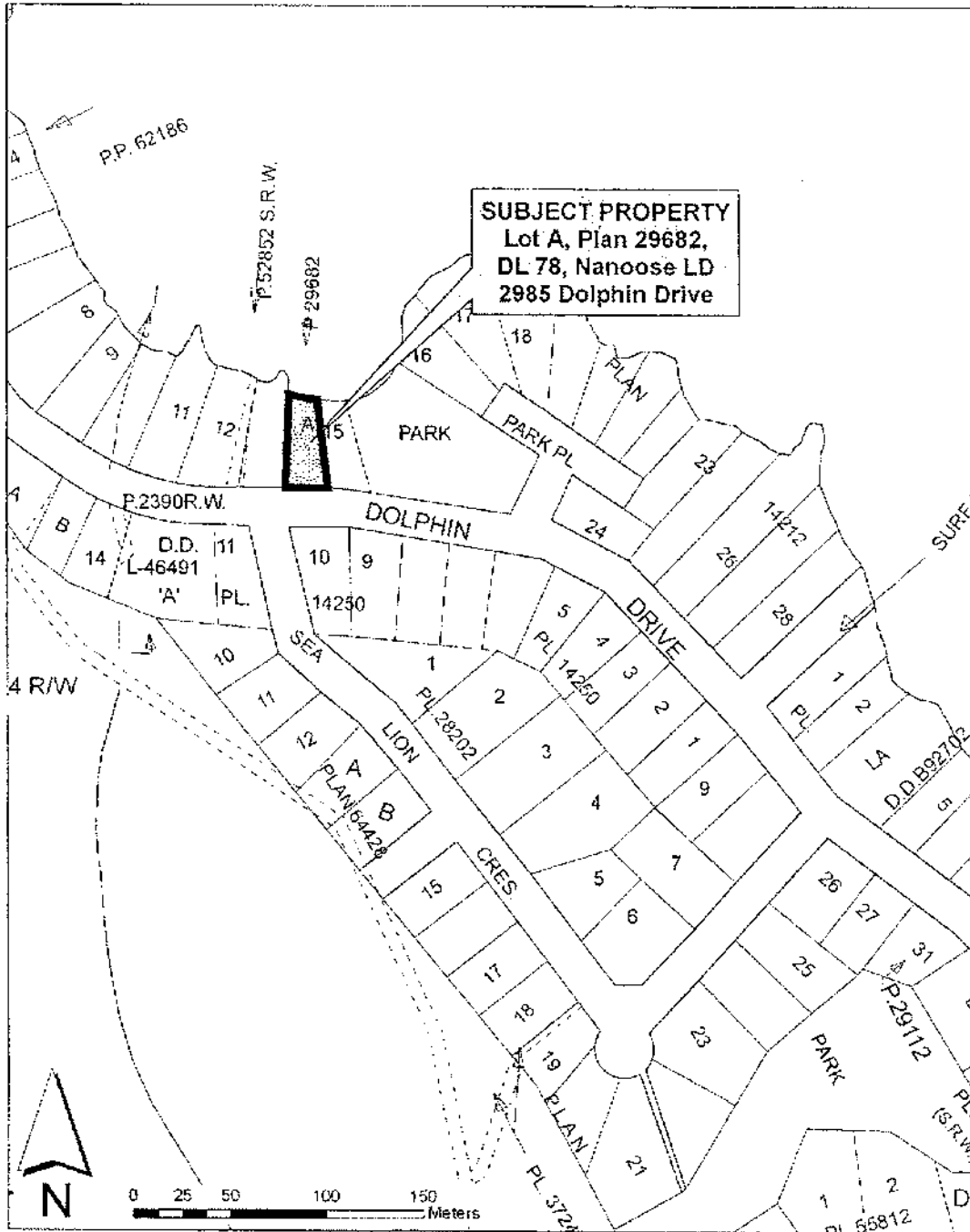
SIMS ASSOCIATES O  
LAND SURVEYING LTD  
228 FURF ROAD WEST  
QUALIFON BEACH, B.C. V0K 1J0  
PHONE: 250-6181 FAX: 250-69245  
DIP FILE# 04-131-01

Schedule No. 3  
 Stairway Profile (Submitted by Applicant) - Development Variance Permit No. 90709



Attachment No. 1

Location of Subject Property - 2985 Dolphin Drive  
Lot A, District Lot 78, Nanoose District, Plan 29682  
Electoral Area 'E' - Map Reference No. 92F.030.3.3



---

TO: Geoff Garbutt  
Manager, Current Planning

DATE: June 1, 2007

FROM: Susan Cormie  
Senior Planner

FILE: Bylaw No. 1165.03

SUBJECT: Proposed Amendments to Impact Assessment Bylaw No. 1165

---

#### PURPOSE

To consider amendments to Impact Assessment Bylaw No. 1165 to provide additional time in responding to applicants and to amend signing authority for information requests.

#### BACKGROUND

The requirements, as set out in "Regional District of Nanaimo Impact Assessment Bylaw No. 1165, 1999", are applicable at the time an application for a zoning amendment, a temporary use permit or a development permit is submitted to the Regional District (see copy of Bylaw No. 1165 attached). Under the provisions of this Bylaw, applicants are required to submit a completed Preliminary Community and Site Impact Review Form with a development-related application. Following the review of this Form, the General Manager may require an applicant to submit additional information in support of their application. Such information could be related to transportation, community services, public amenities, protection of the natural environment, groundwater quantity and quality, impact on Agricultural Reserve Lands, and aesthetic values such as a visual character, lighting, noise or odour.

As part of the procedures in the administration of this Bylaw, the General Manager of Development Services must currently inform an applicant of his or her decision in writing to require development related information within 5 business days of having received the application.

#### ALTERNATIVES

1. That "Regional District of Nanaimo Impact Assessment Bylaw Amendment Bylaw No. 1165.03, 2007" be given 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> reading and proceed with adoption and further that staff be directed to review Bylaw No. 1165.
2. That Amendment Bylaw No. 1165.03 not be adopted and alternative direction be provided.

#### DEVELOPMENT APPLICATION IMPLICATIONS

While the original intent of this procedure was to decrease the length of time to advance an application through the planning approval process, there has been a substantial increase in the number of development-related applications and complexity of land use development issues on parcels since Bylaw No. 1165 was adopted in August 1999. For example, in 2000 there were 45 development-related applications while in 2003 there were 88 applications and in 2006 there were 109 applications. This demonstrates a 142% increase in applications since 2000. In addition to volume, many of the applications are now more complicated and require a higher level of review. From the perspective of development approvals, the increase in complexity can be attributed to a number of factors including:

- the expansion of legislation requirements including new development permit areas;
- recent changes in Provincial legislation such as the *Riparian Area Regulation*;



- public concern and level of expectations with respect to the management of development;
- the nature of development proposals; physical conditions related to lands proposed for development; and
- the higher level of information required under development permit process (for example, reports prepared by professional engineers for geotechnical hydrogeological, septic or transportation-related assessments and professional biologists for environmental impact assessments).

As a result of the increase in volume and complexity of development-related applications, it has become increasingly more difficult for staff to be able to meet the required 5 day response time.

Therefore, to alleviate this concern, staff recommends that Bylaw No. 1165 be amended to increase the response time from 5 business days to 20 business days. This will allow sufficient time for staff to thoroughly review an application and provide a completed response to an applicant.

#### ***Future Amendments to Bylaw No. 1165***

Given the increased volume of development approval applications, the complexity of such applications, and the legislative changes since Bylaw No. 1165 was adopted (1999) staff recommends that this bylaw be given a comprehensive review to ensure it is consistent with current legislation and related approval process procedures.

#### **DEVELOPMENT APPROVAL PROCESS IMPLICATIONS**

As the proposed additional response time will allow staff to provide a more complete review of development-related applications at the onset of the development approval process, thus avoiding the need to request additional information at a later time. This will have a positive impact on processing time in that an applicant will be clear as to all required information at the start of the process and will result in applications being forwarded to the Electoral Area Planning Committee and the Board in a more expeditious manner.

#### **LEGAL IMPLICATIONS**

The RDN solicitor has advised that all applicable development-related applications must be responded to and information requirements outlined within the time frame established in the bylaw.

#### **SUMMARY**

This report outlines a proposed amendment to the Impact Assessment Bylaw to lengthen the required time for staff to respond to a submitted application from a maximum of 5 business days to a maximum of 20 business days. Due to the increased volume in the number of development-related applications submitted to the Regional District combined with the complexity of applications, staff has found it increasingly difficult to meet the current 5 day response time. An increased response time would allow staff to ensure that a detailed review of submitted applications would be completed.

Given that the RDN solicitor has advised all applicable development-related applications must be responded to within the time frame established by bylaw and to ensure sufficient time for staff to thoroughly review applications, staff recommends Alternative No.1 to amend Bylaw No. 1165 to increase the required response time from 5 business days to 20 business days, remove the signing authority for such response correspondence.

**RECOMMENDATIONS**

1. That "Regional District of Nanaimo Impact Assessment Bylaw Amendment Bylaw No 1165.03, 2007" be given three (3) readings.
2. That "Regional District of Nanaimo Impact Assessment Bylaw Amendment Bylaw No. 1165.03, 2007" be adopted.

*per [Signature]*  
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Report Writer

*[Signature]*  
\_\_\_\_\_  
Manager Concurrence

*[Signature]*  
\_\_\_\_\_  
General Manager Concurrence

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CAO Concurrence

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 1165.03

A Bylaw to Amend Regional District of Nanaimo Impact Assessment Bylaw No. 1165, 1999

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

1. "Regional District of Nanaimo Impact Assessment Bylaw No. 1165, 1999" is hereby amended as follows:
  - (a) by deleting Subsection 6. (b) of **PART IV – PROCEDURE** and replacing this subsection with the following:
    - (b) The Manager must inform the applicant of his or her decision to require information under Section 6. (a) (ii) within 20 business days of having received the information under Section 5.
  - (b) by deleting Subsection 12. of **PART V – IMPACT REPORT PROPOSAL** and replacing this subsection with the following:
    12. The Manager must, within 20 business days of receipt of the Impact Report Proposal, indicate to the applicant that if:
      - (a) the Impact Report Proposal submitted by the applicant is acceptable;
      - (b) the Impact Report Proposal submitted by the applicant must include additional information as specified by the Manager;
      - (c) the person or persons, proposed by the applicant, to prepare the impact information are not acceptable and another person or persons must be proposed;
      - (d) the Impact Report Proposal is unacceptable and must be replaced by the applicant within 30 days or appealed to the Board under **PART VII**; or
      - (e) additional time is required to complete the review of the Impact Report Proposal.
  - (c) by deleting Subsection 13. of **PART V – IMPACT REPORT PROPOSAL** and replacing this subsection with the following:
    13. If the Manager does not provide advice by the end of the twentieth business day, the Manager is deemed to have accepted the proposed Impact Report Proposal.
2. This Bylaw may be cited as "Regional District of Nanaimo Impact Assessment Bylaw No. 1165.03, 2007".

Introduced and read three times this

Adopted this

Chairperson

Sr. Mgr., Corporate Administration