

REGIONAL DISTRICT OF NANAIMO

ELECTORAL AREA PLANNING COMMITTEE

TUESDAY, SEPTEMBER 11, 2007

6:00 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-5 Minutes from the special meeting of the Electoral Area Planning Committee held July 24, 2007.

BUSINESS ARISING FROM THE MINUTES

UNFINISHED BUSINESS

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 6-16 Development Permit Application No. 60624 – Fern Road Consulting Ltd. on behalf of A.G. Project Management Inc. – Lot A McColl Road – Area H.
- 17-29 Development Permit Application No. 60709 – Wood/Mason – 5003 Thompson Clarke Drive West – Area H.
- 30-35 Development Permit Application No. 60718 – Fern Road Consulting Ltd. on behalf of Joseph Walters – Jamieson Road & Island Highway No. 19A – Area H.
- 36-41 Development Permit Application No. 60722 – Fern Road Consulting Ltd. on behalf of D & K Radke – Lot A Kenmuir Road – Area H.
- 42-57 Development Permit Application No. 60724 – Davenport – 985 Surfside Drive – Area G.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 58-65 Development Variance Permit Application No. 90626 – Albers – 941
Shorewood Drive – Area G.
- 66-74 Development Variance Permit Application No. 90712 – Eilers/Allen –
3410 Carmichael Road – Area E.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE SPECIAL ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, JULY 24, 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 D. Bartram	Electoral Area H

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 DELEGATION

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

CARRIED

Larry and Melinda Pope, re Development Permit Application No. 90628 – Pope – 4594 Maple Guard Drive – Area H.

Mr. Pope provided additional information with respect to Development Permit Application No. 90628 and requested the Board's approval, with emphasis on approval of the studio.

MINUTES

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

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0706 – Fern Road Consulting Ltd., on behalf of John and Susan Peyton – Spider Lake Road – Area H.

MOVED Director Stanhope, SECONDED Director Young,:

1. That the request from Fern Road Consulting Ltd. to waive Board Policy No. B.1.1 entitled "Registration of Land Title Office Documents in Conjunction with the Amendment Application Process" for Zoning Amendment Application No. 0706 be denied.

2. That Zoning Amendment Application No. ZA0706, as submitted by Fern Road Consulting Ltd. on behalf of John and Susan Peyton, to rezone Lot 3, Block 360, Newcastle District, Plan 35096 from Subdivision District 'B' to Subdivision District 'D' be approved to proceed to public hearing subject to the conditions outlined in Schedule No. 1.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.342, 2007" be given 1st and 2nd reading.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.342, 2007" proceed to public hearing.
5. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.342, 2007" be delegated to Director Bartram or his alternate.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60713 – Burrell – 3145 Yellow Point Road – Area A.

MOVED Director Burnett, SECONDED Director Young, that Development Permit Application No. 60713, to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", for the property legally described as Lot 7, Section 1, Range 7, Cedar District, Plan 28656 be approved subject to the conditions outlined in Schedules No. 1, 2, 3, 4 and 5, and subject to the notification procedures pursuant to the *Local Government Act*.

CARRIED

Development Permit Application No. 60714 – Plotnikoff – Lot 2, Shoreline Drive – Area H.

MOVED Director Holme, SECONDED Director Biggemann, that Development Permit Application No. 60714, to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006", for the property legally described as Lot 2, District Lot 28, Newcastle District, Plan 24584, be approved subject to the conditions outlined in Schedules No. 1, 2, 3 and 4 and subject to the Board's consideration of comments received as a result of public notification.

CARRIED

Development Permit Application No. 60715 – Maibach Industries Ltd. – 2093 South Wellington Road – Area A.

MOVED Director Burnett, SECONDED Director Young, that Development Permit Application No. 60715 to vary "Regional District of Nanaimo Sign Bylaw No. 993, 1995", to recognize an existing fascia sign, increasing the maximum number of signs to six (6) for the property legally described as Lot 1, Section 12, Range 7, Cranberry District, Plan 18166, be approved subject to the conditions outlined in Schedules No. 1 and 2, and the notification requirements of the *Local Government Act*.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90628 – Pope – 4594 Maple Guard Drive – Area H.

The Chairperson noted that item No. 3 on Schedule 1 should be deleted.

MOVED Director Holme, SECONDED Director Stanhope, that Development Variance Permit Application No. 90628, to legalize the siting of a studio located at Lot 9, District Lot 40, Newcastle District, Plan 16121 be approved subject to the conditions outlined in Schedules No. 1, 2 and 3, and notification requirements of the *Local Government Act*.

CARRIED

Development Variance Permit Application No. 90704 – Five Cedar Poultry Farm – 2663 Barnes Road – Area A.

MOVED Director Burnett, SECONDED Director Biggemann, that Development Variance Permit Application No. 90704, to legalize the siting of an existing barn located at the Westerly 10 acres of the Easterly 45 acres of Section 17, Range 3, Cedar District, be approved according to the terms outlined in Schedule No. 1, and subject to the notification procedures pursuant to the *Local Government Act*.

CARRIED

OTHER

Electoral Area ‘G’ Official Community Plan Update.

MOVED Director Stanhope, SECONDED Director Holme, that the Electoral Area ‘G’ Official Community Plan Update report be received for information.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:22 PM

CHAIRPERSON



RDN			
CAO	GMF&IS		
GMDS	GMR&PS		
GMES	GMTS		
SEP 04 2007			
SMCA			
CHAIR	BOARD		
Sept EAPE			

MEMORANDUM

TO: Geoff Garbutt
Manager, Current Planning

DATE: August 24, 2007

FROM: Odete Pinho
Planner

FILE: 3060 30 60624

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

PURPOSE

To consider an application for a Development Permit with Variances to permit the siting of a single residential dwelling and a seawall.

BACKGROUND

This is an application to permit the construction of a 270 m² single residential dwelling and a 1.8 m tall riprap seawall on a property located in the Bowser area of Electoral Area 'H'. The subject property is an undeveloped waterfront lot located on McColl Road (unconstructed), and the Island Highway (see Attachment No. 1 for location of subject property). This is an application to amend a development permit that was approved by the Board on October 31, 2006. This development permit application has been revised to include a proposed seawall structure.

Pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003", the subject property is within the Hazard Lands and Environmentally Sensitive Features Development Permit Areas. The Highway Corridors Development Permit Area for the form and character of commercial, industrial, or multi-family residential development does not apply to this property. The site also contains a watercourse, which enters the property via a drain pipe under the highway. This is not considered a watercourse under the Riparian Areas Regulations (RAR) and as such, the property is exempt from the Fish Habitat Protection Development Permit requirements. The subject property is not located within a building inspection area and as such, the regulations of the "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006" do not apply.

Property Information

Location: Lot A McColl Road , Electoral Area 'H'

Legal: Lot A, District Lot 85, Newcastle District, Plan VIP82060

Size of Property: 0.16 ha

Title Check: Development Permit 60553; Covenant FA85348 floodplain setback 7.5m, 1.5m elevation and save harmless clause & Covenant FA85350 geotechnical assessments by EBA Engineering, dated July 6, 2006; May 29, 2006 and June 2, 2006 for the safety of the building site and embankment stability.

RDN Regulations

Zoning Designation:	Residential 2 (RS2M)	Dwelling Units/Parcel:	1
OCP/OCP Bylaw No:	Bylaw No. 1335, 2003	Parcel Coverage:	35%
OCP Designation:	Rural Residential	Site Area Requirements:	N/A
Zoning Setbacks:	8.0 metres horizontal distance inland from the natural boundary of the sea 15 metres horizontal distance from a watercourse (drainage on property) 8.0 metres setback from the road, 5.0 metres setback from side yards		
Proposed Uses:	Residential dwelling and shoreline protection device		

The property is 0.16 hectares (0.4 acres) in size and contains a steep slope approximately 10.0 metres in height next to the Island Highway and a flat portion which extends upland from the natural boundary approximately 30.0 metres. The shoreline adjacent to the subject property is gently sloping and shows no apparent signs of erosion. The subject property has accreted land which has received permission from the Surveyor Generals office, and is shown on the current land survey (*see Schedule No. 2*).

ALTERNATIVES

1. To approve Development Permit with Variances No. 60624, to permit the proposed residence and seawall, subject to the conditions outlined on Schedules No. 1, 2, 3, 4 and 5.
2. To deny the requested permit.

ZONING IMPLICATIONS & PROPOSED VARIANCES

- 1) The proposed residence contravenes the maximum building height requirements of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are proposing to vary **Section 3.4.62** of Bylaw 500 as follows:
 - The maximum height of the residence is proposed to be varied by increasing the maximum height from 8.0 metres to 9.6 metres.
- 2) The proposed residence contravenes side yard setbacks of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are proposing to vary **Section 3.4.62** of Bylaw 500 as follows:
 - The minimum setback from the side yard (adjacent to McColl Road) is proposed to be relaxed from 5.0 metres to 2.1 metres.
- 3) The proposed seawall and a retaining wall contravenes side yard setbacks of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are proposing to vary **Section 3.4.62** of Bylaw 500 as follows:
 - The minimum setback from the side yards is proposed to be relaxed from 5.0 metres to 0 metres.
- 4) The proposed seawall contravenes the setbacks from the ocean of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are proposing to vary **Section 3.3.9a)** of Bylaw 500 as follows:
 - The minimum setback from the ocean is proposed to be relaxed from 8.0 metres to 0 metres.

LAND USE & DEVELOPMENT IMPLICATIONS

RDN Board Policy B1.5 provides guidelines for reviewing development variances. The applicant is requesting a series of variances to setbacks and height, to accommodate a dwelling unit, retaining wall and seawall on the property. The request for the variances is due to site constraints, including a watercourse setback (from a freshwater drainage), side yards that abut road frontage, a steeply sloped portion of the lot and setbacks from the sea. Furthermore, the proposed residence height variance is requested to meet a 1.5m elevation of the floor above the natural boundary of the ocean, as per geotechnical engineering recommendations. *Schedules No. 2, 3 and 4* outline the proposed site plan, building footprint and proposed height for the development of the subject property.

RDN Board Policy B1.9 for Marine Retaining Walls, provides staff with guidelines for reviewing and evaluating applications for seawalls adjacent to the ocean for the purpose of erosion protection. This application proposes to build a 1.8 m tall riprap seawall, that is 8 m wide and approximately 40 m in length. The proposed seawall is a significantly sized structure that also proposes to elevate the ground level over 1.5 m above the current natural grade. The justification for the seawall has been provided through geotechnical engineering reports.

Three geotechnical reports, prepared by Hay & Company and EBA Engineering Consultants, dated May 8, 2007, August 21, 2006 and July 18, 2005, indicate that the proposed seawall and residence is considered to be of low risk to having detrimental impact to the local environment and adjoining properties. The design of the proposed seawall is outlined in *Schedule No. 4*.

The applicant is required to acquire authorization from the Department of Fisheries and Oceans (DFO) and to follow their Best Management Practices (BMP) document. The onus is exclusively on the applicant to ensure that the seawall and its installation does not cause harmful alteration, disruption or destruction to fish habitat pursuant to Section 35(1) of the *Fisheries Act*.

The Ministry of Transportation has required that the watercourse entering the property from under the highway be piped in order to deal with erosion and drainage issues on the embankment. The applicant has submitted approval from the Ministry of Transportation to construct works designed by Newcastle Engineering for the drainage of upland water. The MOT has given approval for the highway access design to McColl Road shown on *Attachment 2*. The Ministry of Transportation (MOT) has approved the setback relaxation from 5 metres to 0.0 metres along the unconstructed portion of McColl Road.

The applicant is required to be in compliance with the *Heritage Conservation Act*. Should archaeological or cultural remains be found on the site, the applicant must stop works and comply with the *Act*.

The proposed development would require the removal of all native vegetation during the site development process. A landscape plan, prepared by The Landscape Consultants, dated June 20, 2007, outlines a native revegetation plan for the site as outlined in *Schedule No. 5*.

As per board policy B1.9, staff recommends that the applicant be required to register a Section 219 covenant, that registers the Geotechnical Reports prepared by Hay & Company and EBA Engineering Consultants and the landscape plan prepared by The Landscape Consultants on the title of the property. The covenant would also include a save harmless clause that releases the Regional District of Nanaimo from all losses and damages that may occur to these structures.

Public Consultation Process

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

VOTING

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


SUMMARY

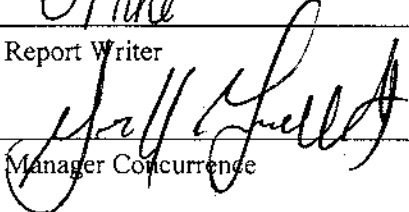
This is an application for a Development Permit with Variances to permit the siting of a residence and seawall at Lot A, McColl Road in the Bowser area of Electoral Area 'H'.

In staff's assessment, this structure has met the Regional District of Nanaimo's requirements including: a geotechnical engineering report for the residence and the seawall; survey by a British Columbia Land Surveyor and landscape plan for site revegetation. Authorization from the Department of Fisheries and Oceans has not yet been granted to the proposed development and the onus is exclusively on the applicant to acquire authorization prior to site development. RDN approval of the proposed development (in whole or in part) in no way obliges DFO to approve this development. Given the constraints on the subject property and conformity with the Development Permit policies, staff recommends that this application be approved subject to the conditions outlined in Schedules No. 1, 2, 3, 4 and 5.

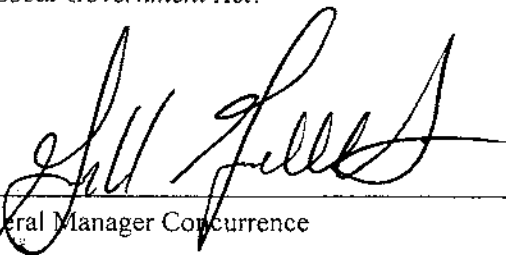
RECOMMENDATIONS


That Development Permit Application No. 60624, to vary the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" for the property legally described as Lot A, District Lot 85, Newcastle District, Plan VIP82060 be approved subject to the conditions outlined in Schedules No. 1, 2, 3, 4 and 5 and subject to the notification requirements of the *Local Government Act*.



Report Writer


Manager Concurrence



General Manager Concurrence
A


CAO Concurrence

COMMENTS:

devsvs/reports/2007/dp aug 3060 30 60624 AG Project Management Inc Report

Schedule No. 1
Terms of Approval for Development Permit No. 60624
For Lot A, District Lot 85, Newcastle District, Plan VIP82060

Bylaw No. 500, 1987 – Requested Variances:

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

1. **Section 3.4.62 – Maximum Height of Buildings and Structures** is proposed to be varied by increasing the maximum dwelling unit height from 8.0 metres to 9.6 metres for the dwelling unit shown on Schedule No. 3 and generally sited as shown on *Schedule No. 2*.
2. **Section 3.4.62 – Minimum Setback Requirements** is proposed to be varied by relaxing the minimum required setback from all lot lines from 5.0 metres to 2.1 metres for the dwelling unit shown on *Schedule No. 2*.
3. **Section 3.4.62 – Minimum Setback Requirements** is proposed to be varied by relaxing the exterior side lot line from 5.0 metres to 0 metres in order to allow the construction of a retaining wall as shown on *Schedule 4*.
4. **Section 3.3.9 a) – Setbacks from the Sea Requirements** are proposed to be varied by relaxing the setback from the ocean from 8.0 metres to 0 metres to allow for the construction of a retaining wall and seawall as shown on *Schedule No. 4*.

Conditions of Approval:

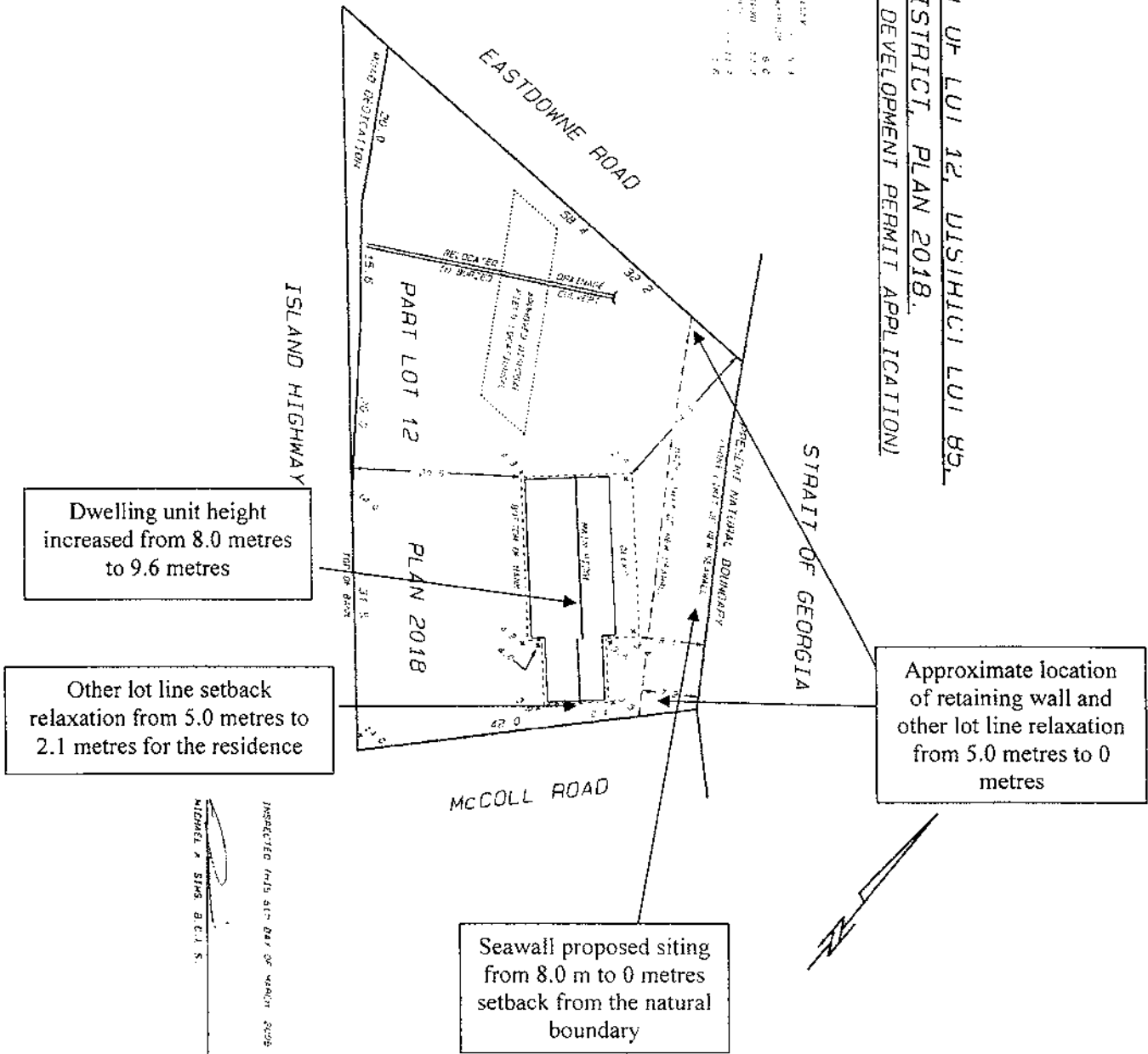
5. This Development Permit allows the construction of a residence and seawall developed in compliance with Schedules No. 1, 2, 3, 4 and 5. The construction of the seawall is to be located exclusively above the present natural boundary of the marine foreshore (as per Sims Associates, May 10th 2007 survey on *Schedule 2* and as per the designs on *Schedules No. 3 and 4*).
6. 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 Reports by Hay & Company and EBA Engineering and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages. The reports to be registered include: Hay & Company seawall design dated May 8, 2007; EBA Engineering site stability report dated July 18, 2005; Hay & Company flood construction levels and erosion protection report dated August 21, 2006.
7. The construction of the proposed seawall will require written authorization from the Department of Fisheries prior to the issuance of this Development Permit. Site construction shall follow the Department of Fisheries and Oceans Best Management Practices for shoreline protection devices.
8. If archaeological /cultural materials are found during site development, the onus is on the property owner to comply with the *Heritage Conservation Act* and to acquire a site alteration permits.
9. Applicant is to revegetate the area between the foreshore and the proposed dwelling unit as per the landscape plan prepared by The Landscape Consultants, dated June 20, 2007, and outlined in *Schedule No. 5*.
10. A final survey prepared by a British Columbia Land Surveyor shall be submitted by the applicant to the Regional District of Nanaimo that shows the siting and height of the dwelling and seawall, driveway, and retaining wall within 60 days of the date of completion of the proposed works.

Schedule No. 2
 Development Permit No. 60624
 Site Survey and Summary of Requested Variances

SIMS ASSOCIATES
 LAND SURVEYING
 223 EDWIN ABBOTT STREET
 NANTUCKET BRANCH, B.C. V9B 1Y4
 PHONE: 250-514-7474 FAX: 250-514-7474
 CELL: 250-243-8815
 E-MAIL: 250@250.ca

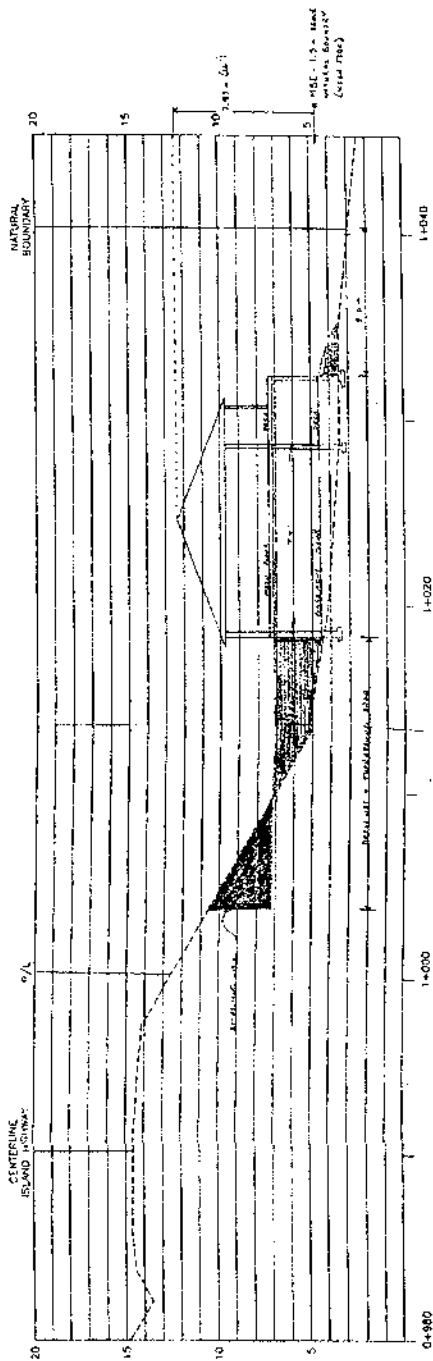
HEIGHTS
 PROPOSED MAX. BUILDING HEIGHT: 10.6 METRES
 EXISTING MAX. BUILDING HEIGHT: 8.0 METRES
 MAX. HEIGHT TO ROOF: 10.6 METRES
 MAX. HEIGHT TO FINISH FLOOR: 10.6 METRES
 MAX. HEIGHT TO FINISH CEILING: 10.6 METRES
 MAX. HEIGHT TO FINISH FLOOR: 10.6 METRES
 MAX. HEIGHT TO FINISH CEILING: 10.6 METRES
 MAX. HEIGHT TO FINISH FLOOR: 10.6 METRES
 MAX. HEIGHT TO FINISH CEILING: 10.6 METRES

PLAN OF PART OF LOTS 12, DISTRICT L01 B5,
 NEWCASTLE DISTRICT, PLAN 2018,
 (TO ACCOMPANY DEVELOPMENT PERMIT APPLICATION)
 SCALE 1:500



INSPECTED 14/5 4:15 PM 25/08/2008
 MICHAEL A. SIMS B.C.I.S.

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



**Schedule No. 5
Development Permit 60624
Proposed Foreshore Landscape Plan**

**The Landscape
Consultants**

The Landscape Consultants
3550 Crocus Rd.,
Qualicum Beach, B.C.
V9K 1V9

Phone: 250 752 3161
FAX: 250 752 3161
email: luke@shaw.ca

Sims Associates,
223 W. Fern Ave.,
Qualicum Beach, B.C.

20 June 2007

Re A.G. Property Management.
Lot A, District Lot 85.
Landscaping Requirements

I have examined the site plans for the above property and have the following comments to make, regarding the requirement for landscaping the shoreline, as per the R.D.N. by-laws.

There is limited space for planting of any kind between the proposed house and the proposed shoreline protection structure, there being only 800 mm between them. It will be necessary, therefore to push topsoil into the voids in the riprap and plant tough maritime species into these spaces. It should be feasible to plant a width of 4.5 metres of the structure.

It is important to bear in mind that the very qualities which make some of these plants desirable in the riprap, make them extremely undesirable closer to the house. Vigourous and invasive roots do not belong near perimeter drains and accordingly I do not propose using them in the narrow strip between the house and the shoreline structure, but they are exactly what will be required to maintain a footing in, and colonise, the wall.

I would further suggest that for optimum success, planting be carried out in the Spring. This would enable roots to make significant growth before the dry season, and more importantly, before the onslaught of the winter storms, when newly planted material may be all too easily washed out.

It would need 250 plants from the following species:

- 70% Elymus mollis, Dunegrass
- 10% Fragaria chiloensis, Coastal strawberry
- 10% Sedum spathulifolium, Broad-leaved stonecrop
- 10% Sedum lanceolatum, Lance leaved stonecrop

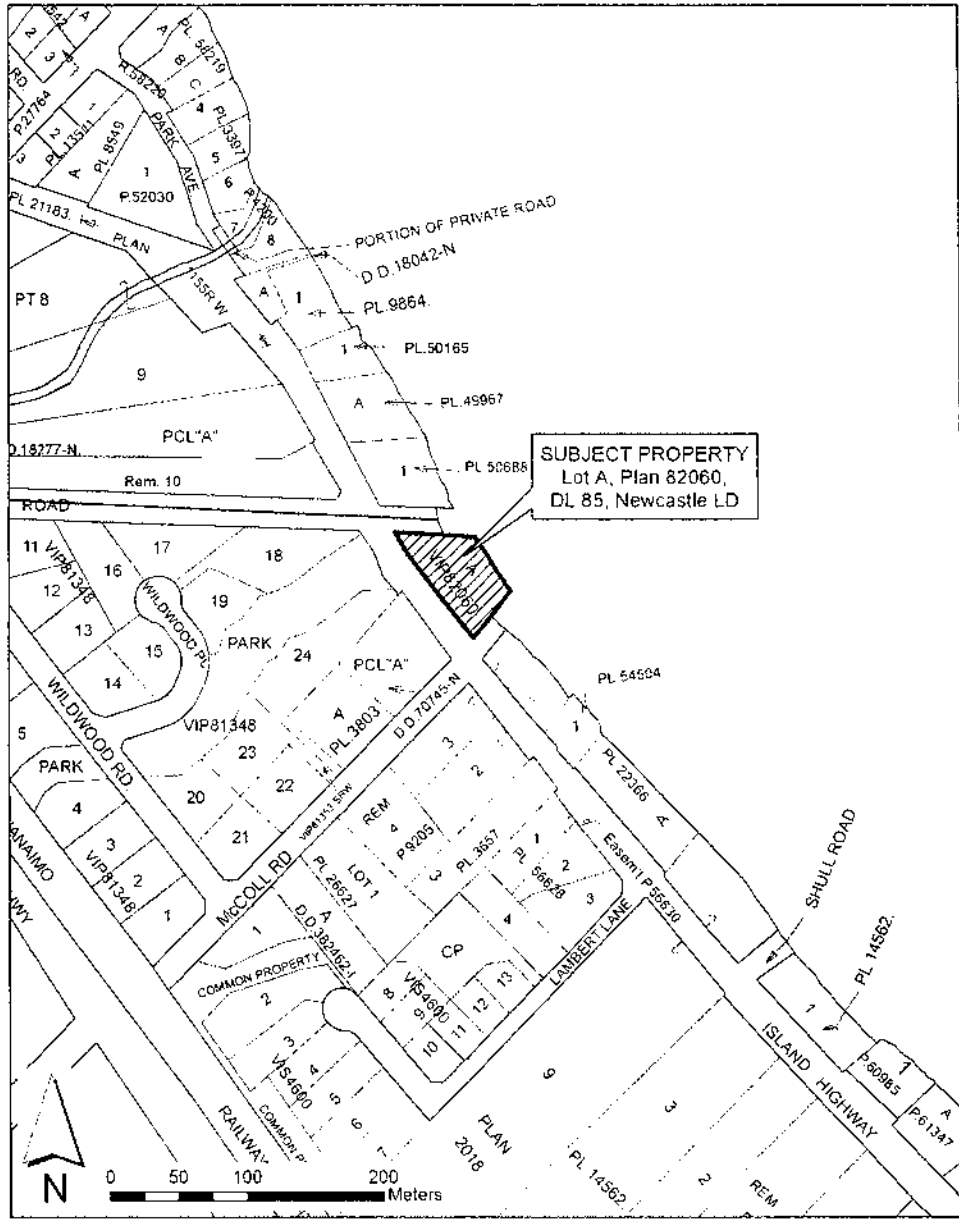
I estimate the cost to supply and plant the plants in one gallon pots would be 3750.00 plus G.S.T. This does not include the placing of the soil, which should be done along with the wall construction. This should be accurate enough for budget and bonding purposes. If a quote is required to carry out the works, I would be pleased to offer one nearer the time.

I trust this is helpful and if you or your client have any questions, I would be pleased to help.

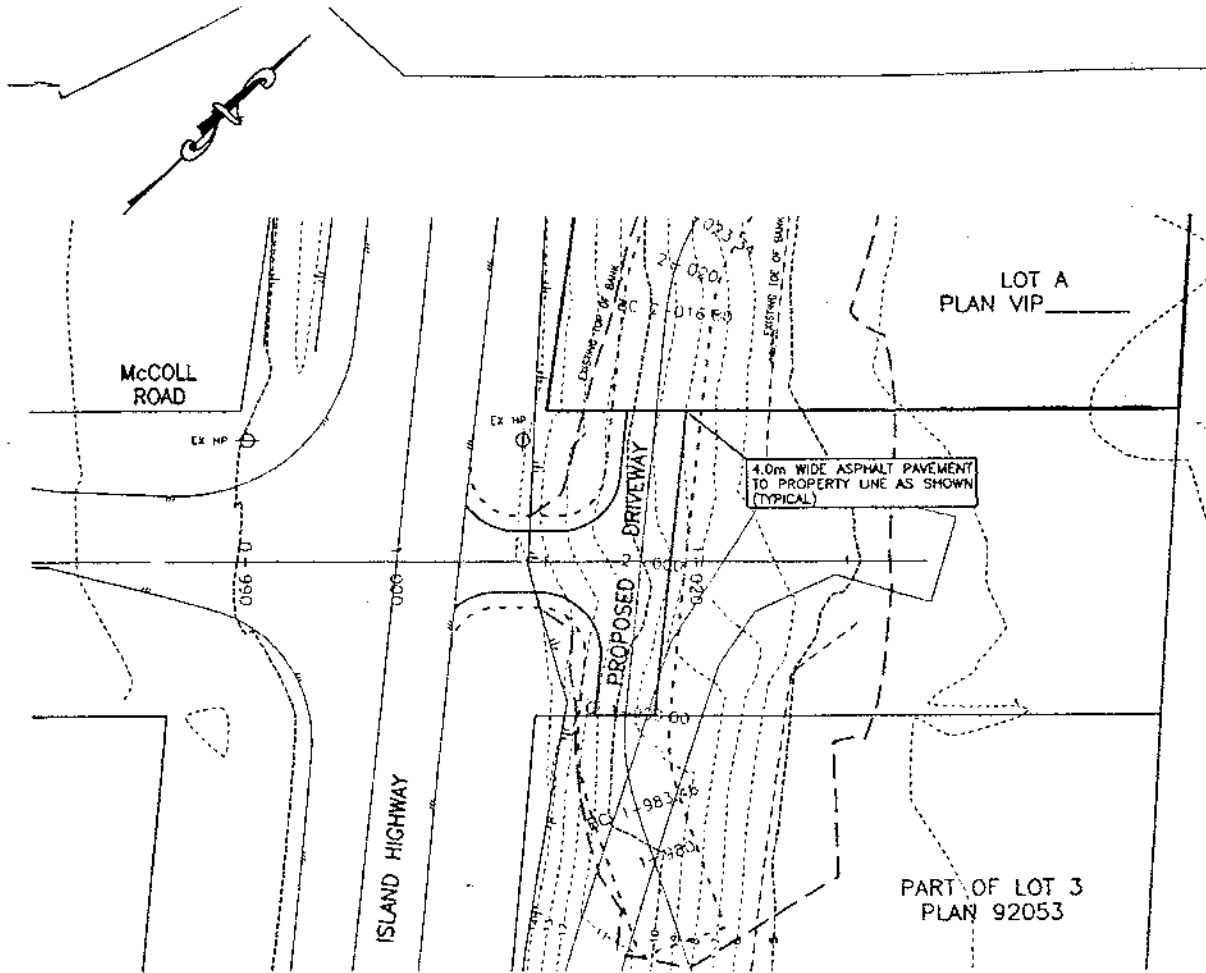
Yours sincerely,

Luke Downs

Attachment No. 1
Location of Subject Property
Development Permit 60624



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





RDN	
CAO	GMF&IS
GMDS	GMR&PS
GMES	GMTS
AUG 28 2007	
SMCA	
CHAIR	BOARD
Supt EAP	

MEMORANDUM

TO: Geoff Garbutt
Manager of Current Planning

DATE: August 21, 2007

FROM: Odete Pinho
Planner

FILE: 3060 30 60709

SUBJECT: Development Permit Application No. 60709 – Wood/ Mason
Lot 1, District Lot 28, Newcastle District, Plan 34851
Electoral Area 'H' – 5003 Thompson Clarke Drive West

PURPOSE

To consider an application for a Development Permit with variances to permit the construction of a single residential dwelling.

BACKGROUND

This is an application to permit the construction of a residential dwelling within a Fish Habitat Protection Development Permit Area, on a property located at 5003 Thompson Clarke Drive West in Electoral Area 'H' (see subject property map - Attachment 1). The subject property is a cleared and vacant lot, with an unnamed creek, which incises a ravine through the western half of the property. The parcel is approximately 0.25 hectares in size, bounded by Thompson Clarke Drive West to the South, residential properties to the East and West and a vacant property to the North.

The property is subject to a Fish Habitat Protection Development Permit Area designation pursuant to "Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003". The applicant's wish to build a residential dwelling that is less than 30.0 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, the residence is proposed to be located less than 15.0 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". A geotechnical report has also been commissioned by the applicant in support of this development permit.

Property Information

Location: 5003 Thompson Clarke Drive West, Electoral Area 'H'
Legal: Lot 1, District Lot 28, Newcastle District, Plan 34851
Title Check: J117490 & J117491, no build or vegetation clearing, per survey (Schedule No. 2)

RDN Regulations

Zoning Designation: Residential Two (RS-2) **Dwelling /Parcel:** 1
OCP/OCP Bylaw No: Bylaw No. 1335, 2003 **OCP Designation:** Rural Residential
Setbacks: 15.0 metres horizontal distance from the top of the slope of a watercourse
Environmentally Sensitive Area Atlas: Fish Habitat Protection Development Permit Area

ALTERNATIVES

1. To approve Development Permit with Variances No. 60709, to permit the proposed residence, subject to the conditions outlined on Schedules No. 1-5.
2. To deny the requested permit.

ZONING IMPLICATIONS & PROPOSED VARIANCES

The proposed residence contravenes the watercourse setback requirements of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are proposing to vary **Section 3.3.8.a.i)** of Bylaw 500 as follows:

- The minimum setback from a watercourse is to be relaxed from 15.0 metres horizontal distance from the natural boundary, to 10.0 metres (*as per Schedule No. 2*).

The applicant has submitted building plans for the proposed dwelling, and proposes that the residential dwelling conform to all other the zoning setbacks and height requirements of Bylaw 500 (*See Schedules No. 2 and 3*).

LAND USE & DEVELOPMENT IMPLICATIONS

RDN Board Policy B1.5 provides guidelines for reviewing development variances. In this case, the subject property would be left with a constrained building envelope should all setback requirements be applied. The property is constrained by steep slopes, a creek with a deep ravine, and restrictive covenants which would leave a small building envelope.

A report by Lewkowich Geotechnical Engineering Ltd. dated May 11th, 2007, recommends that the proposed dwelling unit be located no less than 10.0 metres from the top of bank of the unnamed creek. The engineers report considers the development of this property to be of low risk to having detrimental impact on the environment. The report also includes recommended measures for ensuring the continued stability of the banks (see Schedule No. 4). As per board policy, staff recommends that the applicant be required to register a Section 219 covenant on the title of the property.

Environmental Impact - Riparian Areas Regulation

The applicant had Chatwin Engineering Ltd. conduct a professional assessment of the proposed addition and its potential impacts to the unnamed creek on the property. The biologist's report, dated November 24th, 2006, recommends a Streamside Protection and Enhancement Area (SPEA) of 10.0 metres. No vegetation is to be removed within 10.0 metres of the creek. After the winter storms of November 2006, there were trees that fell on the northern side of the creek and within 10.0 metres of the creek. The fallen vegetation was removed and as such a follow-up biologist report was prepared on July 25th, 2007 recommending revegetation inside the SPEA (see Schedule No. 5). The Riparian Area Assessment report recommends native vegetation planting along the lawn edge closest to the stream, to enhance the riparian area. The Ministry of Environment has accepted both assessment reports and given local government authority to proceed with development approvals. 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, prior to the Board's consideration of the permit.

VOTING

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

SUMMARY/CONCLUSIONS


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

In staff's assessment, this application has met the Development Permit Area requirements including: a biologist Riparian Areas Regulation assessment, a revegetation plan, a geotechnical report to address steep slopes, and a survey by a British Columbia Land Surveyor. The applicants have demonstrated that the structure will minimally impact the natural environment.

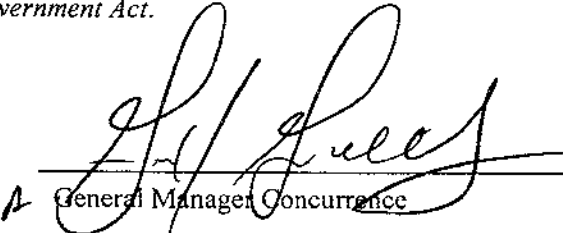
Given conformity with the Development Permit Area guidelines and the restricted building envelope on this property, staff recommends approval of this application.

RECOMMENDATION

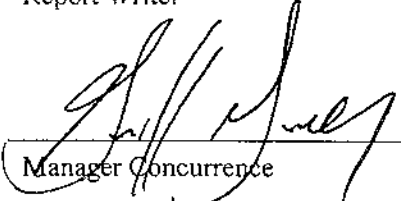
That Development Permit Application No. 60709, to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," for the property legally described as Lot 1, District Lot 28, Newcastle District, Plan 34851, be approved subject to the conditions outlined in Schedules No. 1-5 and the public notification requirements of the *Local Government Act*.




Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

Schedule No. 1

Terms of Approval For Development Permit No. 60709

Lot 1, District Lot 28, Newcastle District, Plan 34851 – 5003 Thompson Clarke Drive West

Bylaw No. 500, 1987 – Requested Variances:

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

1. **Section 3.3.8.a.1. – Watercourse Setback** is hereby varied by reducing the setback for the proposed residence, located on Lot 1, District Lot 28, Newcastle District, Plan 34851 from 15.0 metres to 10.0 metres, as shown on Schedule No. 2. This variance applies only to the principle residence.

Conditions of Approval:

2. Applicant to register Section 219 Covenant with respect to the Geotechnical Report by Lewkowich Geotechnical Engineering Ltd. dated May 11th, 2007, at Land Titles Victoria to the satisfaction of the Regional District of Nanaimo with all costs of registration borne on the applicant.
3. Applicant to plant native vegetation between the completed residence and the top of bank of the creek, as per the recommendations of Chatwin Engineering Ltd., dated July 25th, 2007. 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).
4. Confirmation of building height and setbacks by a British Columbia Land Surveyor will be required at the framing stage of the residence.

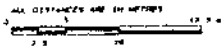
Schedule No. 2

Siting of Proposed Residence for Development Permit No. 60709

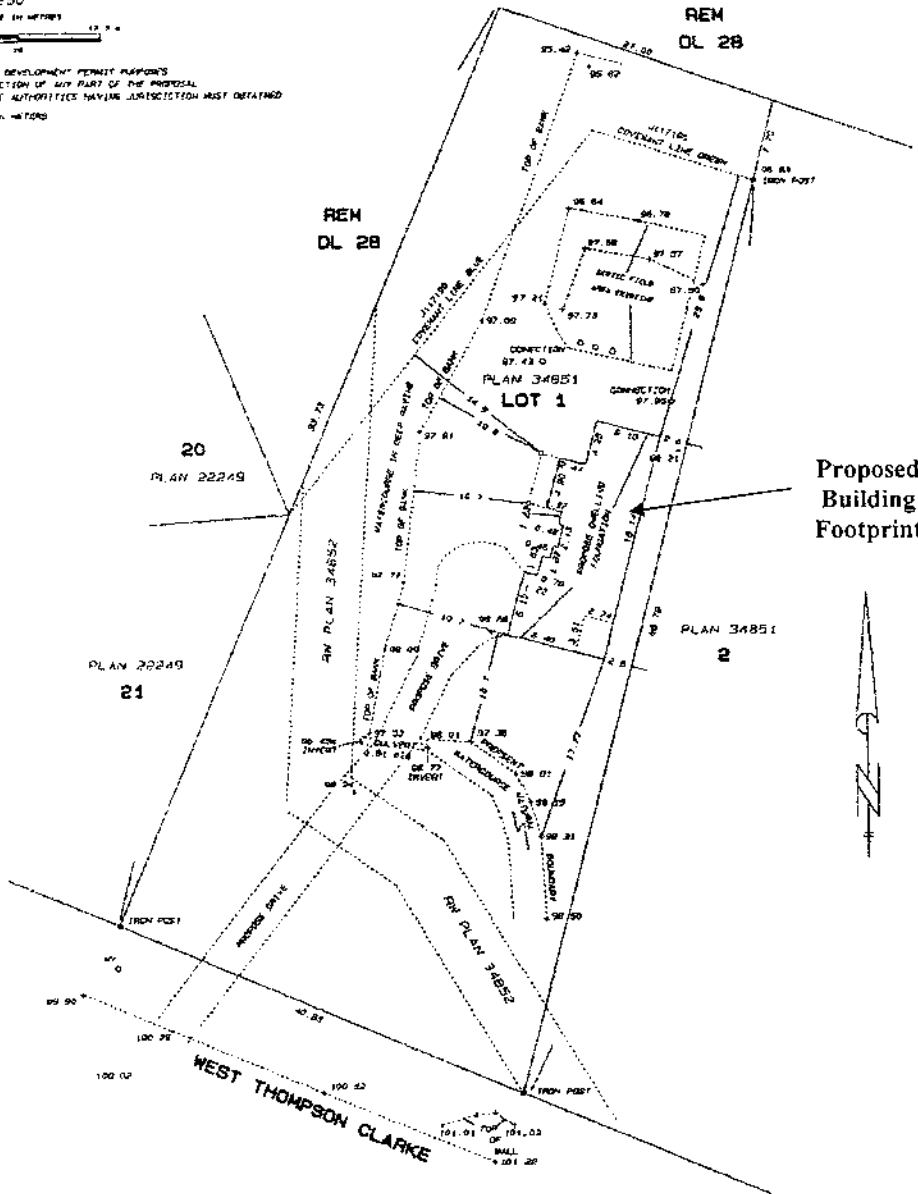
Lot 1, District Lot 28, Newcastle District, Plan 34851 - 5003 Thompson Clarke Drive West

PLAN OF SURVEY OF LOT 1, DISTRICT LOT 28,
NEWCASTLE DISTRICT, PLAN 34851

SCALE 1:250



THIS PLAN IS FOR DEVELOPMENT PERMIT PURPOSES
PRIOR TO CONSTRUCTION OF ANY PART OF THE PROPOSAL
APPROVAL FROM THE AUTHORITIES HAVING JURISDICTION MUST OBTAINED
ELEVATIONS ARE IN METERS



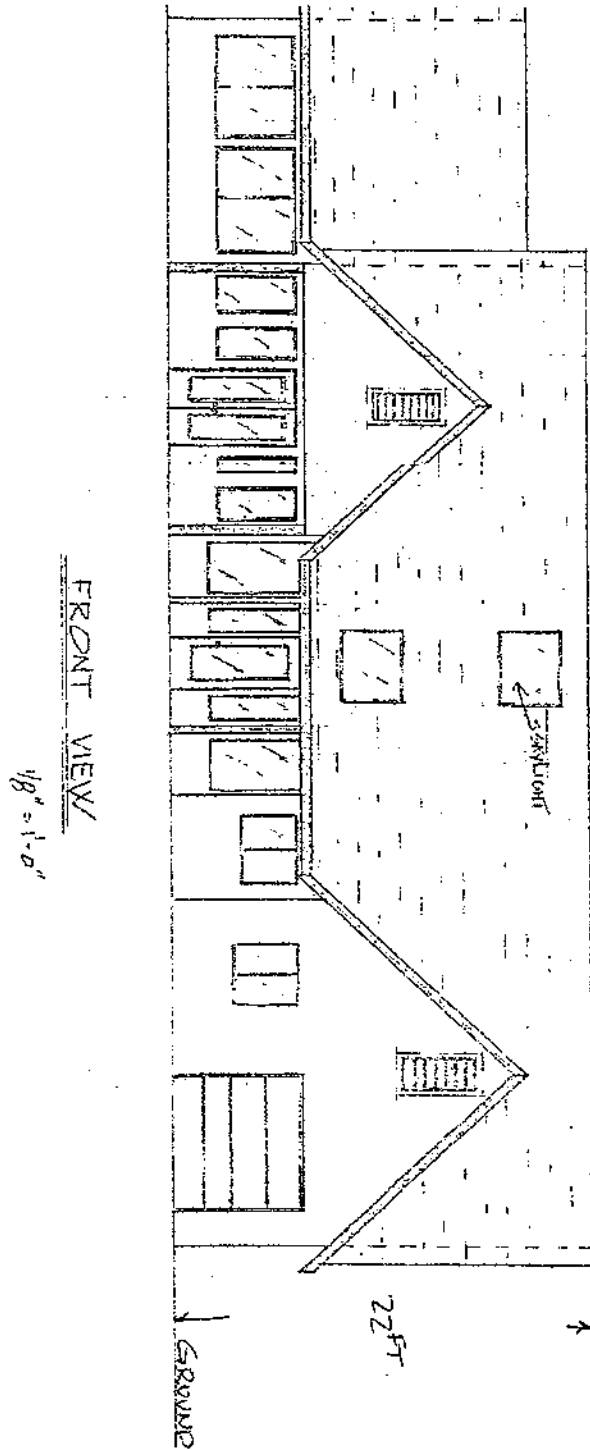
TYLER A. WALTON
REGISTERED PROFESSIONAL LAND SURVEYOR
2700 LAMBTON ROAD
DANFORTH ONTARIO M1S 2L7

PLAN 34851 (1) - 1/27/07

PREPARED BY: TYLER A. WALTON, P.L.S.
PLAN DATED: JANUARY 11, 2007

RECEIVED

Schedule No. 3
House Plans for a Proposed Residence for Development Permit No. 60709
Lot 1, District Lot 28, Newcastle District, Plan 34851 – 5003 Thompson Clarke Drive West



Schedule No. 4**Geotechnical Report for a Development Permit No. 60709****Lot 1, District Lot 28, Newcastle District, Plan 34851 – 5003 Thompson Clarke Drive West****LEWKOWICH GEOTECHNICAL ENGINEERING LTD.**Suite E, 2569 Kenworth Road, Nanaimo, BC, V9T 3M4
Phone: (250) 756-0355 Fax: (250) 756-3831
dclark@lewkowich.com**GEOTECHNICAL SITE REPORT**Penelope Wood
RR 1, Site 152, Comp 53,
Bowser, B.C.
V0R 1G0File: G5263.01
May 11, 2007

ATTENTION: Mrs. Penelope Wood

**PROJECT: PROPOSED RESIDENCE,
5003 THOMPSON CLARKE DRIVE WEST, BOWSER, B.C.
LOT 1, DISTRICT LOT 28, NEWCASTLE DISTRICT,, PLAN 34851**
SUBJECT: GEOTECHNICAL SLOPE ASSESSMENT

1. As requested, Lewkowich Geotechnical Engineering Ltd. (LGE) has carried out a geotechnical assessment of the slope at a proposed single family residential lot on 5003 Thompson Clarke Drive West, Bowser, B.C. The purpose of the assessment was to establish a safe construction setback distance from the top of slope located near the center of the proposed lot.
2. LGE visited the site on April 20, 2007. The following is a brief summary of the observations made during the site visit.
 - a. The new building site is located west of an existing residence and east of an unnamed creek, which incises a ravine through the west half of the proposed lot. The site is bound on the east and west by additional residential properties and on the south by Thompson Clark Road and on the north by vacant property abutting Shoreline Drive.
 - b. The proposed building site is currently undeveloped and covered with lawn. The remainder of the lot is landscaped with forest. The slope down to the creek is vegetated with trees, ferns, moss and other local plants. Some out cropping of the native soil were apparent at intermittent points scattered across the slope's surface.
 - c. The slope at the site is approximately 1 to 14 m in total height along the creek bed. This rise covers a run of approximately 2 to 25m. The slope surface is relatively even and tends to increase in angle nearer to the creek. The main slope of the site is located near the north edge of the property and goes down to the flat lower edge along side of shoreline drive. Mature, upright trees were noted covering

Geotechnical Slope Assessment
5003 Thompson Clarke Drive West, Bowser, B.C.

LGE File No: G5263
May 11, 2007

most of the slope areas. A single failure tension crack was noted near the top of the creek where a block of the glacial till soils had been undermined by the creek. The block of soil was approximately 1.5m wide, 4m long and 3.5m deep. It is expected that the block will slowly be deposited into the creek as it is further eroded from the bottom by the creek. The soil exposed on the slope surface consists of stiff, dense, sandy silt and glacial till. The till was noted to contain some gravel, cobbles and boulders. The soils higher up on the slopes, within 2m vertical to the top of bank were noted to consist of dense sandy gravels. The creek bed displayed very few cobbles and boulders to protect the slope from undermining and erosion. The glacial till soils did show excellent erosion resistance (for soils) but in the long term the creek will erode and undermine the slopes.

- d. During the inspection, water was noted flowing from an installed interceptor drain pipe. It is understood that this drain was installed to intercept waters flowing through the surface gravels uphill of the installed septic field.
 - e. No tension cracks, scarps, inclined trees or other signs of slope failure were noted in the main north slope during the visit.
3. Based on the conditions observed during the April 20, 2007 site visit, the foundations for the proposed single family residence should be set back a minimum of 10.7 m from the top of creek slope as noted in Plan 34851. The following discussions and recommendations apply to these setbacks.
- a. The slope exhibited some evidence of surficial, downslope movement (tension crack and displaced block of soil). The undermining of large blocks of soil may be delayed or prevented by the installation of erosion protection. The toe of the slope should be protected from direct creek action by placing boulders (preferably flat stone) to line the creek bed, especially in areas of high water velocity (high rate of drop).
 - b. The slope is protected from erosion by a well developed layer of vegetation. Minor sloughing and surficial creep on the slope may occur, and could result in gradual retrogression of the slope crest. If any additional signs of movement are noted in the future, the undersigned should be contacted. This action may be observed over time and corrected with slope protection measures if the need arises.



Geotechnical Slope Assessment
5003 Thompson Clarke Drive West, Bowser, B.C.

LGE File No: G5263
May 11, 2007

- c. Sundecks and ancillary structures (such as gazebos) may be located within the setback area (i.e. within 10.7m of the top of slope). However, the foundations for these structures should not be connected to, or form an integral part of, the foundations for the residence. Further, the sundeck structure should also be completely separate from the structure of the residence. Note that any structure or feature within the setback area could be adversely impacted through the eventual retrogression of the slope crest described above.
- d. Structural (roof and perimeter) drainage from the residence should not be discharged directly onto the slope. A solid pipe should be used to transport the storm and ground water to the base of the slope where it then may be discharged, either to a suitable non-erodible outfall or dispersing lateral perforated pipe. Rock pits should not be constructed.
- e. It is anticipated that the foundations for the proposed residence will be founded on a subgrade of stiff/hard, sandy silt (likely glacial till). If organic or predominately fine grained (silt/clay) soils are encountered at foundation subgrade elevation during construction, the Geotechnical Engineer should be notified immediately, so recommendations for achieving adequate bearing can be provided.
- f. During construction, no debris or soil is to be pushed and/or dumped onto the slope surface. Similarly, no placement of fill is to take place within the setback zone.
- g. After construction, no yard waste or related debris is to be dumped onto the slope surface.
- h. Select removal and topping of trees on the slope is permissible. The slope is not to be clear cut and/or stripped of vegetation.
- i. The footing excavation should be inspected by the undersigned, during construction, in order to check for geotechnical concerns.



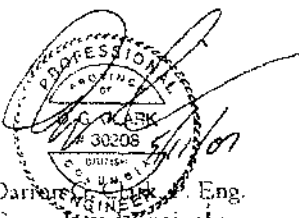
Geotechnical Slope Assessment
5003 Thompson Clarke Drive West, Bowser, B.C.

LGE File No: G5263

May 11, 2007

4. Under the conditions outlined above, the proposed development would be safe - from a geotechnical perspective - for the use intended (single family residence), considering a probability of failure of 10 percent in 50 years.
5. Lewkowich Geotechnical Engineering Ltd. acknowledges that this report may be requested by the Building Inspector of the Regional District of Nanaimo as a precondition to the issuance of a building permit and that this report, or any conditions contained in this report may be included in a restrictive covenant under Section 56 of the *Community Charter* and filed against the title to the subject property.
6. Lewkowich Geotechnical Engineering Ltd. acknowledges that this report has been prepared for and at the expense of the owner of the subject land. Lewkowich Geotechnical Engineering Ltd. has not acted for or as an agent of the Regional District of Nanaimo in the preparation of this report.
7. Lewkowich Geotechnical Engineering Ltd. trusts that the information presented above meets your current requirements. If you have any questions, or require further information, please do not hesitate to contact the undersigned.

Respectfully Submitted,
Lewkowich Geotechnical Engineering Ltd.



Dan Clark, P. Eng.
Geotechnical Engineer

Schedule No. 5

Revegetation Plan for a Development Permit No. 60709

Lot 1, District Lot 28, Newcastle District, Plan 34851 – 5003 Thompson Clarke Drive West



July 25, 2007

Penelope & Russell Wood
Penelope Wood
RR1 Site 152 Comp 53
Bowser BC V0R 1G0

Via Mail

Attention: Penny Wood

RE: Vegetation Removal Assessment of
5003 Thompson Clarke Drive West, Bowser BC
Lot 1, District Lot 28, Newcastle District, Plan 34851
PID 000308871

Dear Penny,

1.0 INTRODUCTION

Chatwin Engineering Ltd. was retained by Penelope Wood to complete an assessment to determine if winter blow down and subsequent clean-up had removed vegetation within the established riparian area. A previous assessment by Chatwin Engineering determined the Streamside Protection and Enhancement Area (SPEA) for the unnamed creek traversing the property to be 10m from the high water mark of the stream.

In preparation of this report, Chatwin completed a site visit of the property on July 24, 2007 to determine the extent of the vegetation removal. This letter report is to be considered as an addendum to Chatwin's original report completed in October 2006.

2.0 RESULTS

The unnamed tributary traversing the property is divided into two reaches. The first is a low gradient pool/riffle complex which cuts diagonally (northwest) across the front of the property where a 600mm CSP culvert carries the flow under a dirt driveway. The watercourse bends sharply north as it drops into a narrow, steep ravine along the west side of the property. The driveway crosses the creek to an open grassed area where the property owner is proposing to construct a new residence.

Chatwin observed that the majority of the riparian vegetation within the property still remains intact and in a healthy state. A small area on the east side of the property and north of the creek appears to have had recent vegetation removal (see attached photo). Approximately 15m² (5m wide by 3m deep) of the cleared area is within the SPEA. The understory vegetation is mainly intact and includes dull Oregon grape (*Mahonia nervosa*), trailing blackberry (*Rubus ursinus*), thimbleberry (*Rubus parviflorus*), one red flowering currant (*Ribes sanguineum*), red huckleberry (*Vaccinium parvifolium*), star flower (*Trientalis latifolia*), wail lettuce (*Lactuca muralis*) and three red cedar (*Thuja plicata*) and grand fir (*Abies grandis*) seedlings.

1614 Morey Road, Nanaimo, B.C. Canada V9S 1J7

Bus: 250.753.9171 • Fax: 250.754.4459

email: info@chatwinengineering.com • www.chatwinengineering.com

3.0 RECOMMENDATIONS

Chatwin recommends that the cleared area within the SPEA be planted with three tree seedlings spaced 1m² apart and that the understory be allowed to re-vegetate naturally. Appropriate tree species include red cedar, grand fir and western hemlock (*Tsuga heterophylla*). Trees should be planted in the fall after the first rains begin. Watering will most likely be required through the first summer season. If the seedlings die within the first two years they should be replaced.

4.0 CONCLUSION

Chatwin Engineering Ltd. was retained by Penelope Wood to complete this assessment as per the Regional District of Nanaimo Development Permit requirements. Information in this report is based on the provincial Riparian Areas Regulation under Section 12 of the Provincial Fish Protection Act and from the use of acceptable biological practices. No other warranty has been expressed or implied. Recommendations provided in this report are based on knowledge of the site and professional biological judgment.

Chatwin Engineering Ltd. trusts that the information provided within this report satisfies your requirements. If you have any questions or request further information, please contact the undersigned at (250) 753-9171.

Yours truly,

CHATWIN ENGINEERING LTD.



Sarah Bonar, B.Sc.
Project Biologist



Chris Zamora, R.P.Bio
Manager, Environmental Services

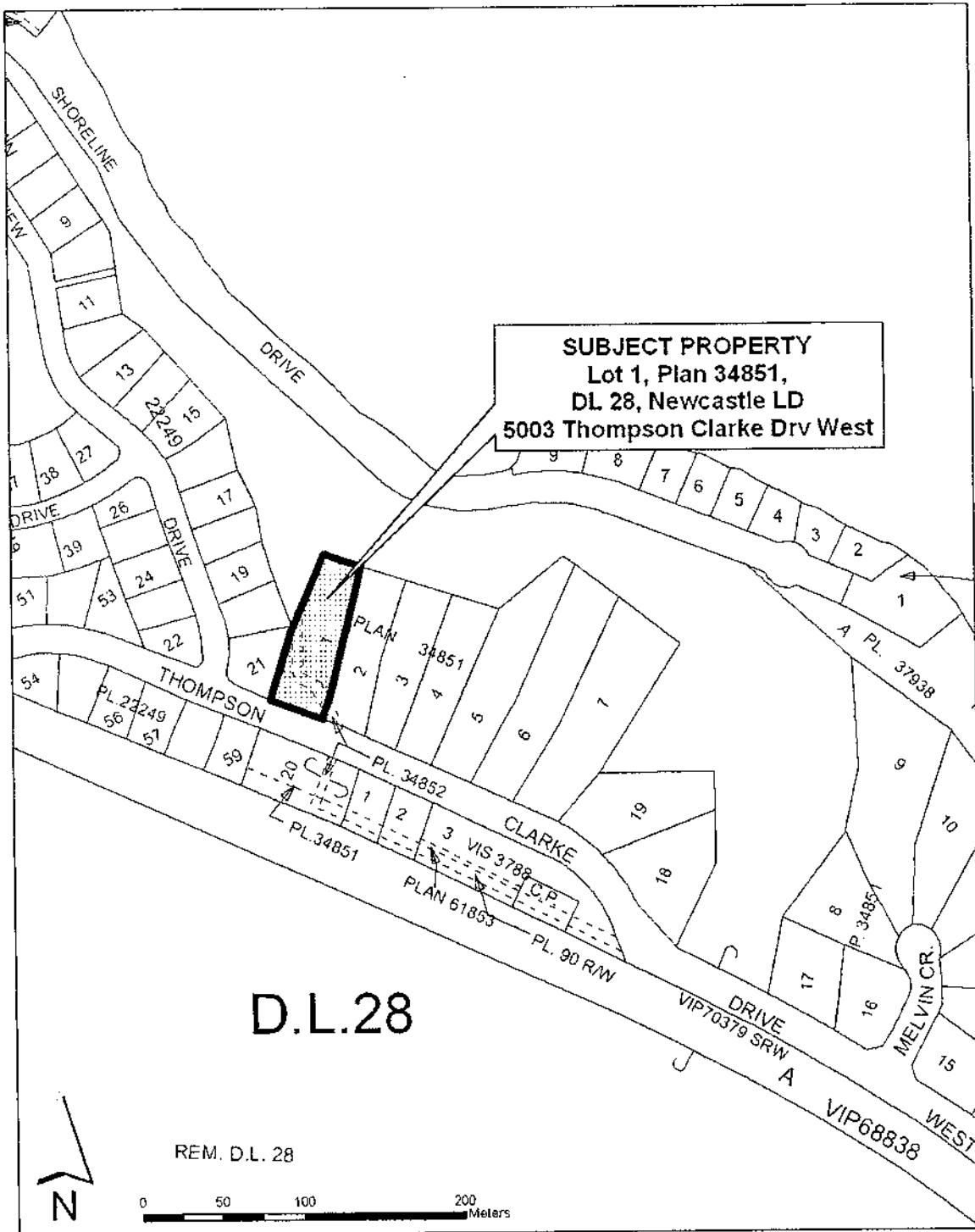
CC: Peter Mason, Surveyor
Odete Pinho, RDN Planner

J:\Projects\W893-01\Letter Report for RDN.doc

Attachment No. 1

Location of Subject Property – Development Permit No. 60709

Lot 1, District Lot 28, Newcastle District, Plan 34851 – 5003 Thompson Clarke Drive West





RDN			
CAO	(initials)	GMF&IS	
GMDS		GMR&PS	
GMES		GMTS	
SEP - 4 2007			
SMCA			
CHIEF		BOARD	
Sept 4		DATE:	

MEMORANDUM

TO: Geoff Garbutt
Manager, Current Planning

FROM: Susan Cormie
Senior Planner

FILE: 3060 30 60718
c/r 3320 20 27329

SUBJECT: Development Permit Application No. 60718
Fern Road Consulting Ltd., on behalf of Joseph Walters
Electoral Area 'H' – Jamieson Road & the Island Highway No. 19A

PURPOSE

To consider an application for a development permit in conjunction with the creation of a 2-lot subdivision within an Environmentally Sensitive Features Development Permit Area in Electoral Area 'H'.

BACKGROUND

The parent parcel, legally described as Lot 4, District Lot 40, Newcastle District, Plan 43604, is located adjacent to Jamieson Road and the Island Highway No. 19A in Electoral Area 'H' (*See Attachment No. 1 for location of parent parcel*).

The parent parcel, which totals approximately 9800 m² in size, is currently zoned Residential 2 (RS2) and is within Subdivision District 'M' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The parent parcel currently supports two dwelling units and is surrounded by a residentially zoned parcel to the North and East, the Island Highway No. 19A to the South, and Jamieson Road to the West.

The parent parcel is designated within the Environmentally Sensitive Features Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003". The development permit area, in this case, was established for the protection of the aquifer. Therefore, as the applicants are proposing to develop the site, a development permit is required. The parent parcel is not located within the Regional District of Nanaimo (RDN) Building Services Area.

Proposed Development

The applicant is proposing to construct 2 fee simple parcels both greater than the minimum 2000 m² parcel size with community water service connections from Deep Bay Water Works District and private individual septic disposal systems (*see Schedule No. 2 for proposed subdivision layout*).

As part of the application, the applicant has submitted a Hydrogeological Impact Assessment prepared by EBA Engineering Consultants Ltd., dated July 25, 2007.

ALTERNATIVES

1. To approve the Development Permit Application No. 60718, as submitted, subject to the conditions outlined in Schedules No. 1 and 2.
2. To deny the development permit as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Development Permit Guidelines Implications

With respect to the development permit guidelines for protection of the aquifer, the applicant has submitted an Environmental Report which concludes that the proposed residential development represents a low risk of potential environmental impairment to the underlying groundwater aquifers and recommends that the Regional District restrict the installation of underground fuel storage tanks. The report also takes into account that the proposed parcels are capable of supporting 2 dwelling units with community water service connections and private septic disposal. Staff recommends that no underground fuel storage tanks be included as a condition of development (*see Schedule No. 1 for Conditions of Approval*).

Site Servicing Implications

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

Community water service connections are subject to the approval of the Deep Bay Water Works District.

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

Environmentally Sensitive Areas Atlas

The Environmentally Sensitive Areas Atlas indicates there are no environmentally sensitive features on the parent parcel.

VOTING

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

SUMMARY

This is an application for a development permit in conjunction with a 2-lot subdivision development on a parcel located adjacent to Jamieson Road and the Island Highway No. 19A in Electoral Area ‘H’. The parent parcel is designated within the Environmentally Sensitive Features Development Permit Area pursuant to the Electoral Area ‘H’ OCP specifically for the purpose of ensuring protection of the aquifer. The submitted engineer’s report concludes that the proposed residential development represents a low risk of potential environmental impairment to the underlying groundwater aquifer and recommends that underground storage tanks not be permitted. Therefore, staff recommends that the development permit include the engineer’s report and restrictions on underground fuel storage.

As the proposed subdivision is consistent with the applicable guidelines concerning protection of the aquifer outlined in the Environmentally Sensitive Features Development Permit Area, staff recommends Alternative No. 1, to approve the development permit subject to conditions outlined in Schedules No. 1 and 2.

RECOMMENDATION

That Development Permit Application No. 60718 submitted by Fern Road Consulting Ltd., on behalf of Joseph Walters, in conjunction with the subdivision on the parcel legally described as Lot 4, District Lot 40, Newcastle District, Plan 43604 and designated within the Environmentally Sensitive Features Development Permit Area, be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

Alomia

Report Writer

[Signature]

Manager Concurrence

[Signature]

General Manager Concurrence

[Signature]

CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 60718**

The following sets out the conditions of approval:

1. Hydrological Report

The construction of the subdivision and subsequent development of the proposed parcels shall be in accordance with the Environmental Report; prepared by EBA Engineering Consulting Ltd., File No. N23101054 and dated July 25, 2007 (to be attached to and forming part of the Development Permit).

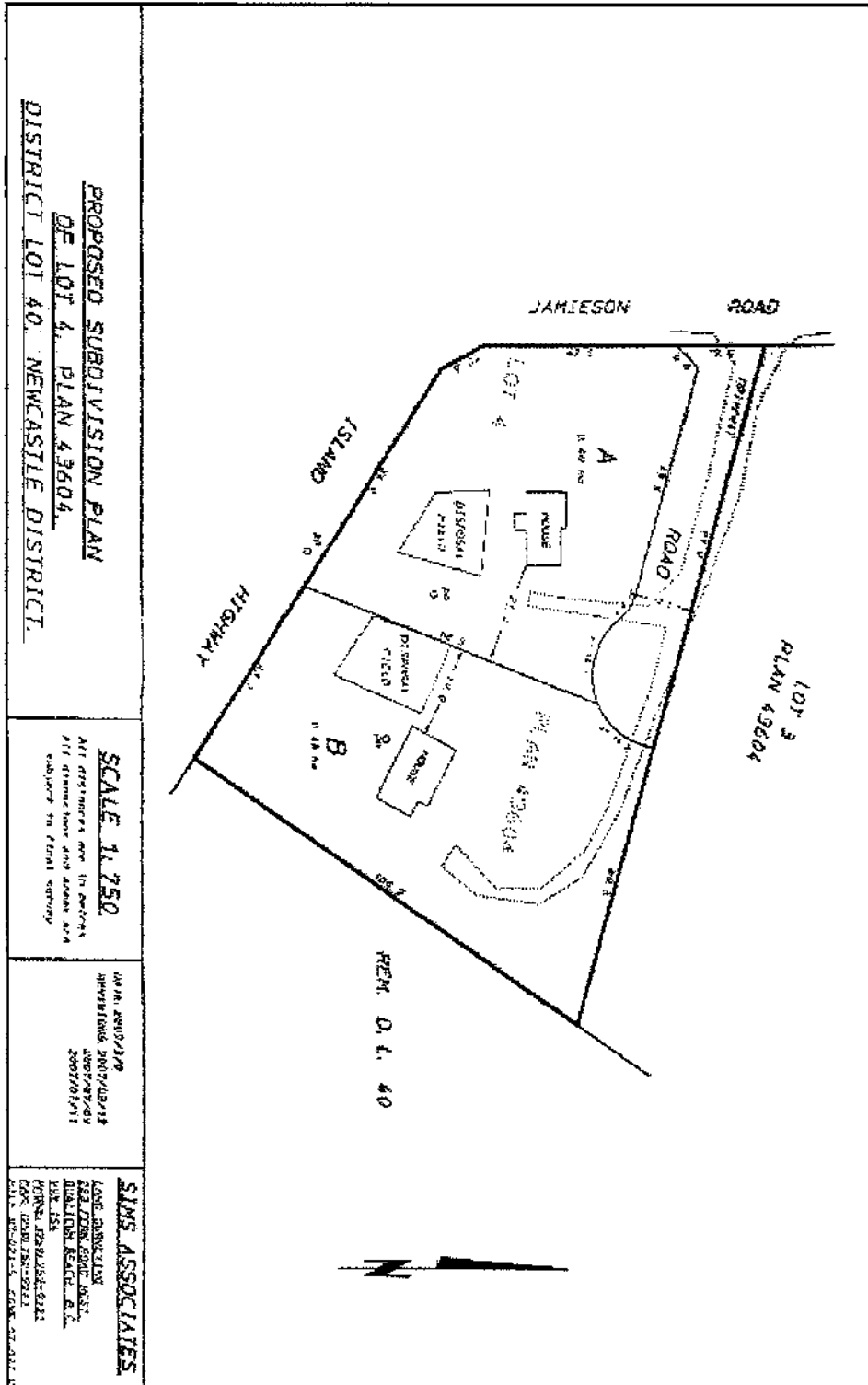
2. Subdivision

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

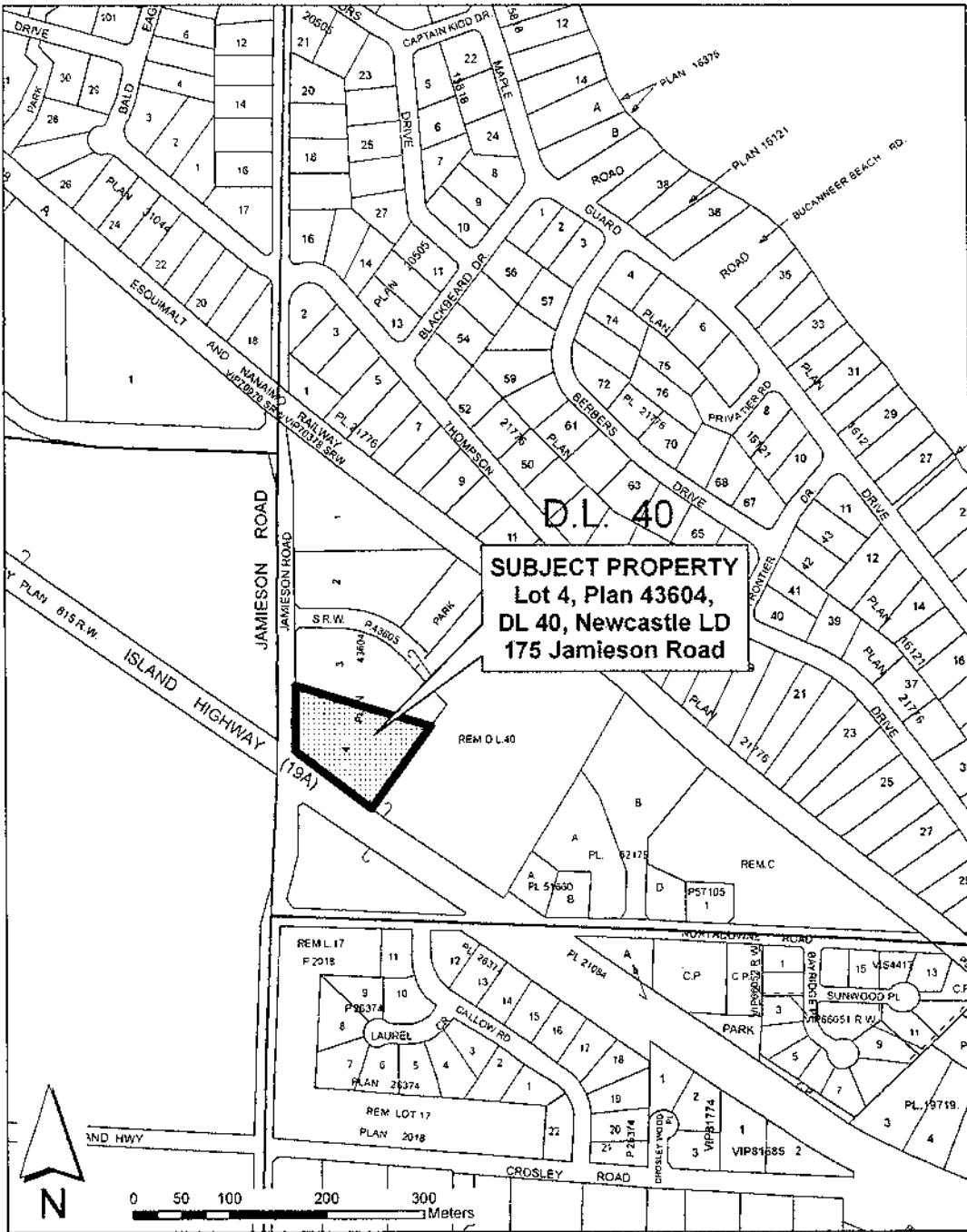
3. Protection of Aquifer

There shall be no underground fuel storage on the proposed parcels.

Schedule No. 2
 Development Permit No. 60718
 Proposed Plan of Subdivision
 (as submitted by applicant / reduced for convenience)



Attachment No. 1
Location of Subject Property
Development Permit No. 60718



BCGS MAPSHEET NO. 92F047 4.4



RDN			
CAO	<input checked="" type="checkbox"/>	GMF&IS	
GMDS		GMR&PS	
GMES		GMTS	
SEP - 4 2007			
SMCA			
CHAIR		BOARD	
Sgt EAP			

MEMORANDUM

TO: Geoff Garbutt
Manager, Current Planning

DATE: September 4, 2007

FROM: Susan Cormie
Senior Planner

FILE: 3060 30 60722
c/r 3320 20 27366

SUBJECT: Development Permit Application No. 60722
Fern Road Consulting Ltd., on behalf of D & K Radke
Electoral Area 'H' – Kenmuir Road

PURPOSE

To consider an application for a development permit in conjunction with the creation of a 4-lot subdivision within an Environmentally Sensitive Features Development Permit Area in Electoral Area 'H'.

BACKGROUND

The parent parcel, legally described as Lot A, District Lot 19, Newcastle District, Plan VIP62179 is located adjacent to Kenmuir Road in the Dunsmuir area Electoral Area 'H' (See Attachment No. 1 for location of parent parcel).

The parent parcel, which totals approximately 1.24 ha in size, is currently zoned Residential 2 (RS2) and is within Subdivision District 'M' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The parent parcel currently supports two dwelling units and accessory buildings. The parent parcel is surrounded by a residentially zoned parcel to the north, east, and west, and a small community park and residentially zoned parcels to the south. Access to the parent parcel is from Kenmuir Road located to the east. It is noted that the provision of park land for this proposal has been fulfilled by way of dedication under a previous subdivision application.

The parent parcel is designated within the Environmentally Sensitive Features Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003". The development permit area, in this case, was established for the protection of the aquifer. Therefore, as the applicants are proposing to develop the site, a development permit is required.

The parent parcel is not located within an RDN Building Services Area.

Proposed Development

The applicant is proposing to construct 4 fee simple parcels all greater than the minimum 2000 m² parcel size with community water service connections from Qualicum Bay – Horne Lake Water Works District and private individual septic disposal systems (see Schedule No. 2 for proposed subdivision layout). In support of the subdivision proposal, the applicant has submitted a Hydrogeological Impact Assessment prepared by EBA Engineering Consultants Ltd.

ALTERNATIVES

1. To approve the Development Permit Application No. 60722, as submitted, subject to the conditions outlined in Schedules No. 1 and 2.
2. To deny the development permit as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Development Permit Guidelines Implications

With respect to the development permit guidelines for protection of the aquifer, the applicant has submitted an Environmental Report which concludes that the proposed residential development represents a low risk of potential environmental impairment to the underlying groundwater aquifers and recommends that the Regional District restrict the installation of underground fuel storage tanks. Staff recommends that no underground fuel storage tanks be included as a condition of development (*see Schedule No. 1 for Conditions of Approval*).

Site Servicing Implications

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

Community water service connections are subject to the approval of the Qualicum Bay – Horne Lake Water Works District.

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

Environmentally Sensitive Areas Atlas

The Environmentally Sensitive Areas Atlas indicates there are no environmentally sensitive features on the parent parcel.

VOTING

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

SUMMARY

This is an application for a development permit in conjunction with a 4-lot subdivision development on a parcel located adjacent to Kenmuir Road in Electoral Area ‘H’. The parent parcel is designated within the Environmentally Sensitive Features Development Permit Area pursuant to the Electoral Area ‘H’ OCP specifically for the purpose of ensuring protection of the aquifer. The submitted engineer’s report concludes that the proposed residential development represents a low risk of potential environmental impairment to the underlying groundwater aquifer and recommends that underground storage tanks not be permitted. Therefore, staff recommends that the development permit include the engineer’s report and restrictions on the installation of underground fuel storage tanks.

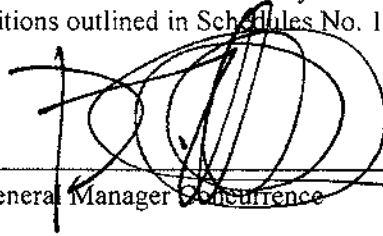
As the proposed subdivision is consistent with the applicable guidelines concerning protection of the aquifer outlined in the Environmentally Sensitive Features Development Permit Area, staff recommends Alternative No. 1, to approve the development permit subject to conditions outlined in Schedules No. 1 and 2.

RECOMMENDATION

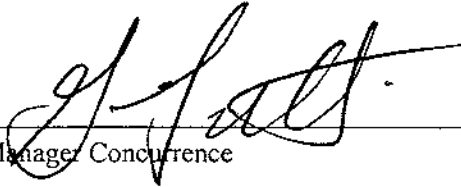
That Development Permit Application No. 60722 submitted by Fern Road Consulting Ltd., on behalf of D & K Radke, in conjunction with the subdivision on the parcel legally described as Lot A, District Lot 19, Newcastle District, Plan VIP62179 and designated within the Environmentally Sensitive Features Development Permit Area, be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.



Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 60722**

The following sets out the conditions of approval:

1. Hydrological Report

The construction of the subdivision and subsequent development of the proposed parcels shall be in accordance with the Environmental Report; prepared by EBA Engineering Consulting Ltd., File No. N23101094 and dated May 31, 2007 (to be attached to and forming part of the Development Permit).

2. Subdivision

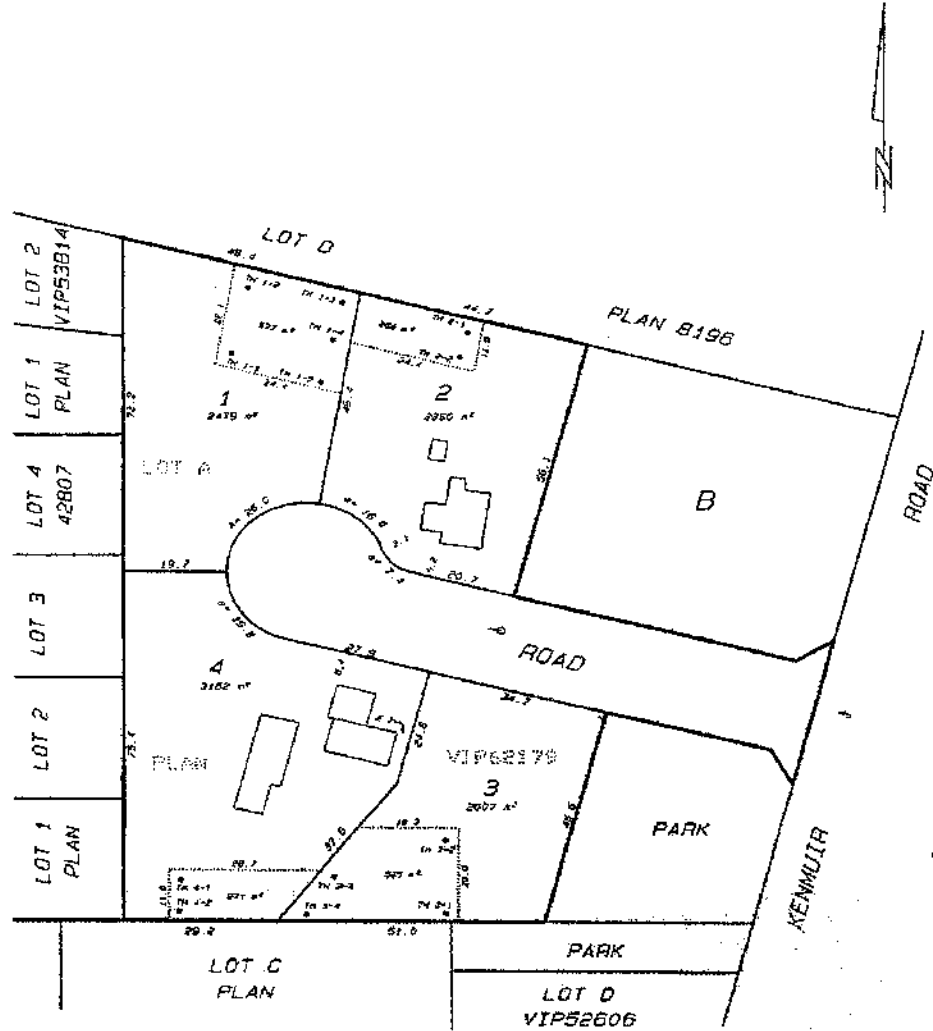
The subdivision of the lands shall be in substantial compliance with Schedule No. '2' (to be attached to and forming part of the Development Permit).

3. Protection of Aquifer

There shall be no underground fuel storage on the proposed parcels.

Schedule No. 2
 Development Permit No. 60722
 Proposed Plan of Subdivision
 (as submitted by applicant / reduced for convenience)

PROPOSED SUBDIVISION PLAN OF LOT A, D.L. 19,
 NEWCASTLE DISTRICT, PLAN VIP62179



NOTES:

SETBACKS SHOWN ARE TO OVERHAND

 GENDRES HEALTH COVENANT AREA

SCALE 1:750

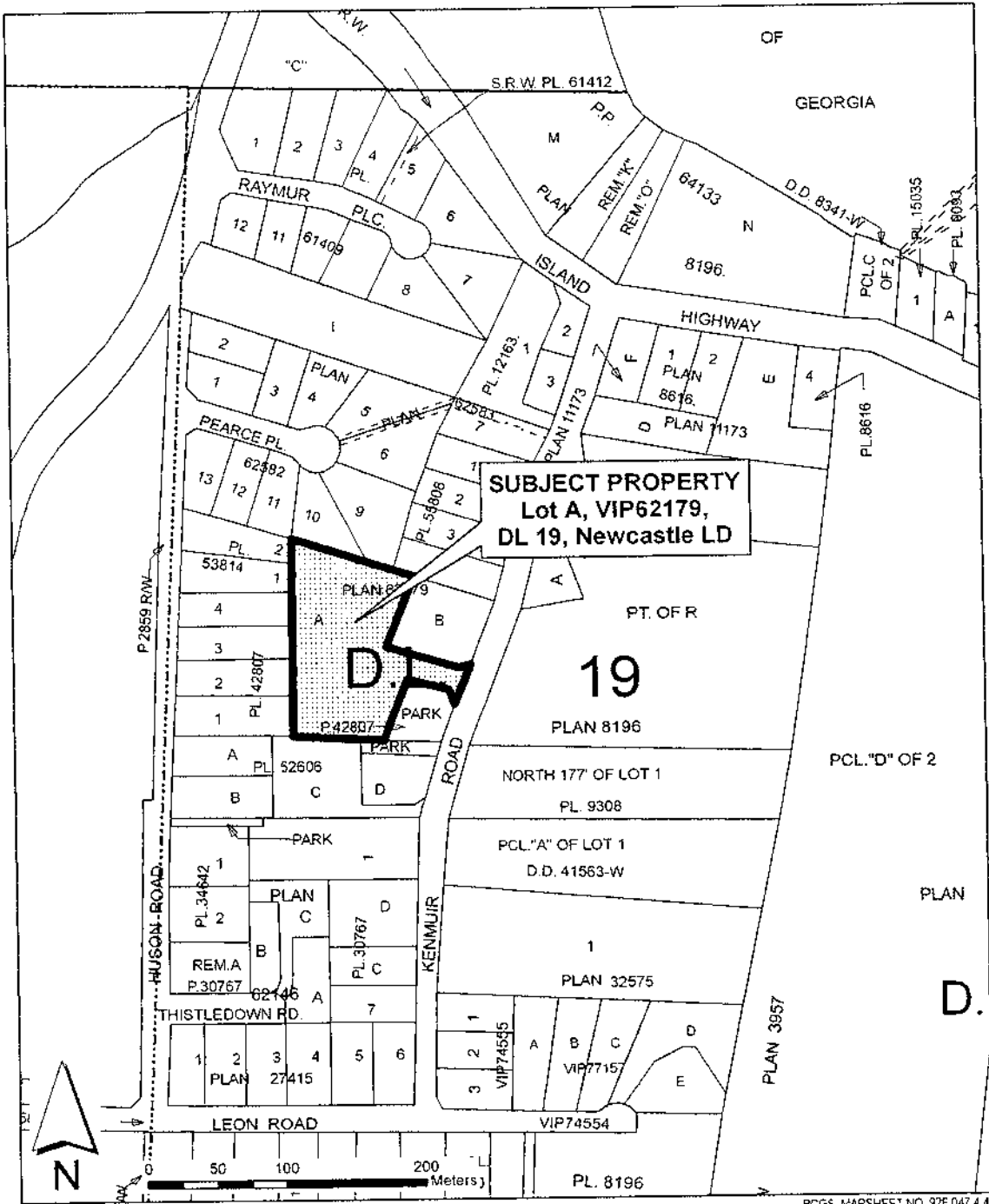
ALL DISTANCES ARE IN METRES
 ALL DIMENSIONS AND AREAS ARE
 SUBJECT TO FINAL SURVEY.

DATE: 2007/01/19
 REVISIONS: 2007/03/29-ADD COVENANTS

SIMS ASSOCIATES

LAND SURVEYING
 201 PETER BROS. RD.
 SUITE 100, R.F.D.
 BOX 155
 SUDBURY, ONTARIO
 CANADA N3H 2K4
 TEL: (705) 891-1111
 FAX: (705) 891-1111

Attachment No. 1
Location of Subject Property
Development Permit No. 60722





ADN	
CAO <i>CAW</i>	GMF&IS
GMDS	GMR&PS
GMES	GMTS
AUG 28 2007	
SMCA	
CHAIR	BOARD
<i>Supt. E.H.C.</i>	

MEMORANDUM

TO: Geoff Garbutt
Manager of Current Planning

DATE: August 23, 2007

FROM: Kristy Marks, Planner

FILE: 3060 30 60724

SUBJECT: Development Permit Application No. 60724 – Davenport
Lot 17, Block 1, District Lot 9, Newcastle District, Plan 15370
Electoral Area 'G' – Surfside Drive

PURPOSE

To consider an application for a Development Permit to permit the construction of a rubble rock seawall on a property located at 985 Surfside Drive.

BACKGROUND

This is an application to replace an existing wooden seawall with a rubble rock seawall on the above noted property. The subject property is developed with a single family dwelling on Surfside Drive in Electoral Area 'G' (see *Attachment No. 1 for location of the subject property*). This waterfront property is relatively flat and bounded by developed residential lots to the East and West.

Pursuant to "Regional District of Nanaimo Shaw Hill-Deep Bay Official Community Plan Bylaw No. 1007, 1996" the subject property is within the Environmentally Sensitive Areas, Hazard Lands, and Fish Habitat Protection Development Permit Areas. This application is exempt from the Fish Habitat Protection Development Permit Area as there is no stream within 30.0 metres of the development.

Property Information

Location:	985 Surfside Drive , Electoral Area 'G'
Legal:	Lot 17, Block 1, District Lot 9, Newcastle District, Plan 15370
Size of Property:	Approximately 0.11 ha

RDN Regulations

Zoning Designation:	Residential 2 (RS2M)	Dwelling Units/Parcel:	1
OCP/OCP Bylaw No:	Bylaw No. 1007, 1996	Parcel Coverage:	35%
OCP Designation:	Rural Residential	Site Area Requirements:	N/A
Zoning Setbacks:	8.0 metres horizontal distance from the natural boundary of the sea		
	8.0 metres setback from the road, 2.0 metres setback from side yards		
Floodplain Bylaw:	8.0 metres setback from the natural boundary of the sea		
	Flood construction level - 1.5 metres above the natural boundary of the sea		
Proposed Uses:	Shoreline protection device		

Variances Required

The application, as submitted, requires no variances to Regional District of Nanaimo bylaws.

ALTERNATIVES

1. To approve the Development Permit as requested subject to the conditions outlined in Schedules No. 1-3.
2. To deny the Development Permit as requested.

LAND USE AND DEVELOPMENT IMPLICATIONS

RDN Board Policy B1.9 for Marine Retaining Walls provides staff with guidelines for reviewing and evaluating applications for seawalls adjacent to the ocean for the purpose of erosion protection. This application proposes to replace an existing wooden seawall with a rubble rock seawall that is to be less than 1.0 metre in height and holding less than 1 m³ of soil. The proposed seawall would be located above the natural boundary replacing the wooden seawall shown on the survey prepared by Sims Associates, dated June 27th, 2007, attached as *Schedule No. 2*.

The applicant is required to obtain authorization from the Federal Department of Fisheries and Oceans (DFO) and to follow their Best Management Practices document. The Department of Fisheries and Oceans has not provided comment on the proposed development. The onus is exclusively on the applicant to ensure that the seawall and its installation does not cause harmful alteration, disruption or destruction of fish habitat pursuant to Section 35(1) of the *Fisheries Act*.

A geotechnical assessment, prepared by Ground Control Geotechnical Engineering Ltd. and dated June 29th, 2007, indicates that the proposed seawall is expected to have no apparent negative impacts to the natural environment or to adjacent properties (*Schedule No 3*). The design of the proposed seawall is outlined in *Schedule No. 3*. The geotechnical assessment outlines a re-vegetation plan including replanting a row of low growing cedars that will have to be temporarily removed during construction of the seawall. Once the shrubs are replanted a layer of bark mulch would be added between plantings in order to provide additional erosion protection. The applicants have stated in a letter that the cedar shrubs contribute significantly to erosion protection, soften the appearance of the seawall, and are of significant importance to their family.

As per board policy B1.9, staff recommends, that the applicant be required to register a Section 219 covenant that registers the geotechnical assessment and landscape plan prepared by Ground Control Geotechnical Engineering Ltd. on the title of the property. The covenant would also include a save harmless clause that releases the Regional District of Nanaimo from all losses and damages that may occur to these structures.

The applicant has completed the "Sustainable Community Builder Checklist", as per Board policy. There are no sustainability implications related to the application.

VOTING

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

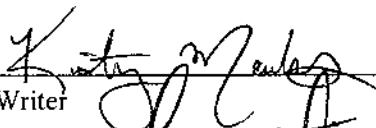
SUMMARY/CONCLUSIONS

This is an application for a Development Permit to permit the construction of a rubble rock seawall at Lot 17, Surfside Drive.

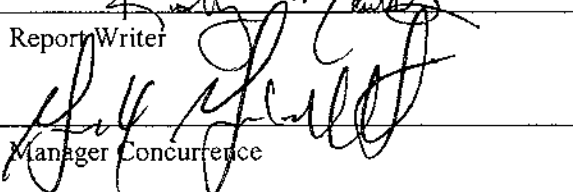
In staff's assessment, this structure has met the Regional District of Nanaimo's requirements including a geotechnical assessment for the seawall including a re-vegetation plan and a survey prepared by a British Columbia Land Surveyor. Authorization from the Department of Fisheries and Oceans, has not yet been granted to the proposed development and the onus is exclusively on the applicant to acquire authorization prior to site development. Given the conformity with the Development Permit Policies, staff recommends that this application be approved subject to the conditions outlined on Schedules No. 1-3.

RECOMMENDATION

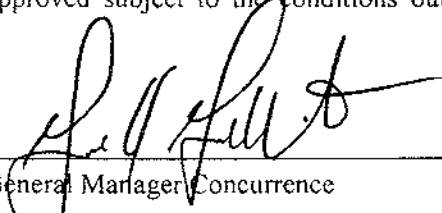
That Development Permit Application No. 60724, to permit the replacement of an existing wooden seawall with a rubble rock seawall on the property legally described as Lot 17, Block 1, District Lot 9, Newcastle District, Plan 15370 on Surfside Drive, be approved subject to the conditions outlined in Schedules No. 1-3.



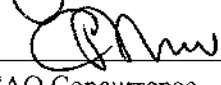
Report Writer



Manager Concurrence



A General Manager Concurrence



CAO Concurrence

Schedule No. 1
Terms of Approval
Development Variance Permit No. 60724
Lot 17, Block 1, District Lot 9, Newcastle District, Plan 15370 – 985 Surfside Drive

Conditions of Approval:

1. The seawall is to be located exclusively above the present natural boundary of the marine foreshore (as per Sims Associates, May 10th 2007 survey on Schedule 2) and is to be constructed less than 1.0 metre in height (as per the design in *Schedule No. 3*).
2. The seawall is to be constructed in accordance with the Geotechnical Assessment prepared by Lewkowich Geotechnical Engineering Ltd. dated June 29th, 2007 attached as *Schedule No. 3*.
3. 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 assessment prepared by Ground Control Geotechnical Engineering Ltd., dated June 29th, 2007 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages.
4. The construction of the proposed seawall will require written authorization from the Department of Fisheries prior to the issuance of this Development Permit. Site construction shall follow the Department of Fisheries and Oceans Best Management Practices for shoreline protection.
5. The property shall be landscaped in accordance with the re-vegetation plan outlined in the geotechnical assessment prepared by Ground Control Geotechnical Engineering Ltd., and outlined in *Schedule No. 3*.

Schedule No. 3
Geotechnical Assessment and Design including Seawall Design and Landscape Plan
Development Variance Permit No. 60724
Lot 17, Block 1, District Lot 9, Newcastle District, Plan 15370 – 985 Surfside Drive

GROUND CONTROL 
GEOTECHNICAL ENGINEERING LTD.
2781 Lans Road, Nanooete Bay, BC
Phone/Fax: (250) 468-1759

File: BDP-001
June 29, 2007

Mr. Bob Davenport
985 Surfside Drive
Qualicum Beach, B.C.
V9K 2B6

SUBJECT: GEOTECHNICAL ASSESSMENT AND DESIGN
PROJECT: EROSION PROTECTION ENHANCEMENTS
LOCATION: 985 SURFSIDE DRIVE, QUALICUM BEACH, B.C.

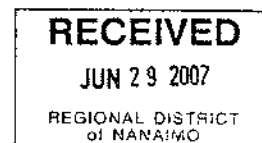
Dear Mr. Davenport:

1. Introduction

- a. As requested, Ground Control Geotechnical Engineering Ltd. (Ground Control) has carried out a geotechnical assessment of the above project. This report provides a summary of our findings and recommendations, and includes prepared design drawings for a erosion protection measures.
- b. We understand that storms this past winter have resulted in significant erosion of the foreshore area at this site, and that you wish to install a small seawall composed of rubble rock boulders along the existing natural boundary to limit potential additional erosion of the ~0.6 metre high foreshore bank. In addition, an existing short wooden seawall located a few feet above/behind the natural boundary is rotten and deteriorating, and in need of replacement.

2. Location of the Seawall in Relation to the 'Natural Boundary'

- a. A survey plan prepared by Sims Associates and provided for our reference by the owner shows that the proposed location of the seawall is well above/behind the Natural Boundary shown on Plan 15370



Erosion protection, 985 Surfside Drive, Parksville, BC
File: BDP-061
June 29, 2007
Page 2 of 5

3. RDN Marine Seawall Policy

- a. For clarity, the following sections are arranged to follow the Regional District of Nanaimo (RDN) policy regarding Marine Retaining Walls (Policy B1.9), Procedures 2a to 2i.

4. Necessity of the Proposed Project

- a. Based on our observations on June 28, 2007, the existing foreshore bank has undergone recent erosion, as confirmed by the exposed soil and lack of vegetation on the bank face. The client indicated that an area up to 9 metres wide along the existing natural boundary was eroded away to a depth up to about 1.2m deep at this site. As confirmation, a review of air photos from prior to last winter's storm season confirms that a large area of accreted soil was formerly present on the foreshore, and is now gone. In addition, past photos of the site were provided for comparison to current conditions, further confirming the recent loss of a significant volume of soil along the foreshore. The Sims survey plan also confirms that the current natural boundary is well inside the past natural boundary (i.e. Natural Boundary shown on Plan 15370), further confirming that the property has lost land to erosion in the past.
- b. Based on the above information, it appears that the installation of erosion protection measures to protect the land is warranted.

5. Potential Impacts to Adjacent Properties With or Without the Seawall

- a. The new seawall will be a relatively low profile structure. Only the upper portion of the wall will extend above ground to protect the ~0.6 metre high foreshore bank, while the lower portion will be buried. Due to the small profile of the seawall and the fact that it will basically mimic the alignment existing foreshore bank, the construction of the seawall is not expected to have any significant adverse impacts to adjacent properties.
- b. If the new seawall is not constructed, continued erosion of the foreshore bank might occur. This loss of land on the subject property would likely adversely impact adjacent lands and neighbouring seawalls due to erosional 'flanking'.

Erosion protection, 985 Surfside Drive, Parksville, BC

File: BDP-001

June 29, 2007

Page 3 of 5

6. Environmental Impact Mitigation

- a. The area behind the proposed wall is vegetated with grass and shrubbery, while the beach area in front of the natural boundary is a gravelly beach with little apparent plant life.
- b. The proposed new seawall will be constructed of stacked boulders and is expected to effect little change to the natural environment compared to the current conditions. The new low sloping seawall will simply mimic the current soil bank at the same location. Consequently, the proposed seawall is expected have no apparent negative impacts to the natural environment and to adjacent sites. Provided appropriate environmental Best Management Practices (BMPs) are used during construction, no other mitigation methods are considered necessary.

7. Impacts to Public Access

- a. There will be no apparent impacts to public access, as the site configuration is not going to be significantly altered.

8. Negative Impacts of Wall Construction

- a. No negative impacts associated with wall construction have been identified in relation to this project, provided appropriate environmental BMP's are employed to protect the environment during construction.

9. Construction Details

- a. Please find attached four design drawings (Drawings 1 to 4) that provide recommendations for the construction of a rubble-rock structure to provide erosion protection of the existing foreshore bank. These drawings describe the construction details, materials, and methods to be used, and include cross-sectional drawings.

Erosion protection, 985 Surfside Drive, Parksville, BC
File: BDP-001
June 29, 2007
Page 4 of 5

10. Supervision and Inspection Requirements

- a. It is recommended that Ground Control be contacted after removal of the existing seawall and after excavation has been completed to the point where rock placement is about to commence, so we can make a site visit to confirm soil conditions.
- b. Two additional site visits during construction are recommended to observe placement of boulders, to confirm conformance to the design.

11. Certification of Safety

- a. If construction follows the requirements of the design drawings provided, the new seawall structure is considered to be safe and suitable for the intended use. In this context, 'safe' is defined as a probability of less than 10 percent in 50 years of a geotechnical failure or another substantial geotechnical hazard resulting in property damage, and 'intended use' is defined as protection for the existing soil bank along the shoreline from wave action.

12. Acknowledgements

- a. Ground Control Geotechnical Engineering Ltd. acknowledges that this report may be requested by Approving Officers and Building Inspectors as a precondition to the issuance of a development or building permit, and that the report or any conditions contained within the report may be included in a restrictive covenant under Section 58 of the Community Charter and filed against the title to the subject property. It is acknowledged that the Approving Officers and Building Officials may rely on this report when making these decisions.
- b. We acknowledge that this report has been prepared solely for, and at the expense of, the owner of the subject land.

Erosion protection, 985 Surfside Drive, Parksville, BC
File: BDP-001
June 29, 2007
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13. Maintenance

- a. Like any manmade structure exposed to a natural environment, some future maintenance may be required to ensure continued optimal performance of the seawall. Signs that maintenance might be required would include dislodgment of rock from the seawall, or scouring away of the beach soils supporting the front toe of the wall.

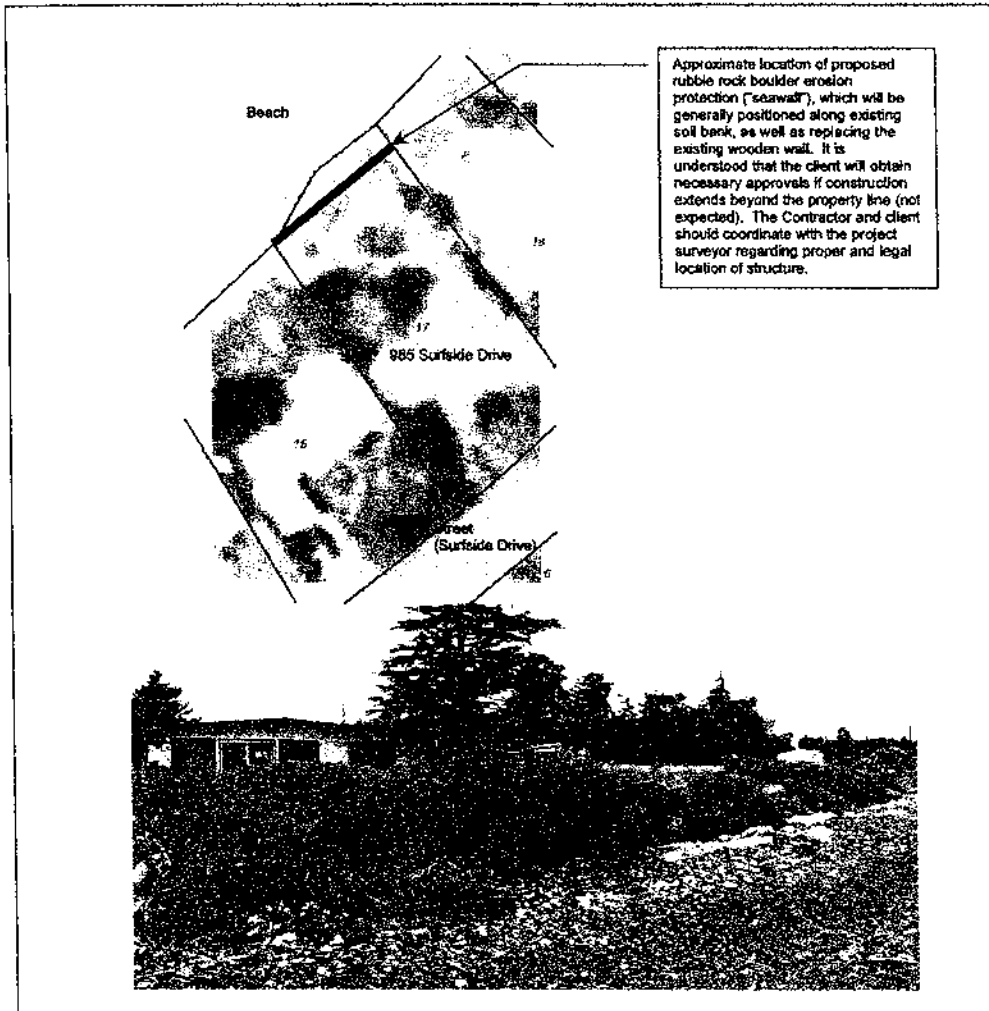
14. Closure

- a. Ground Control Geotechnical Engineering Ltd. appreciates the opportunity to be of service on this project. If you have any comments, questions, or additional requirements, please contact the undersigned at your convenience.

Respectfully Submitted,
Ground Control Geotechnical Engineering Ltd.



Richard McKinley, P. Eng.
Geotechnical Engineer



Approximate location of proposed rubble rock boulder erosion protection ("seawall"), which will be generally positioned along existing soil bank, as well as replacing the existing wooden wall. It is understood that the client will obtain necessary approvals if construction extends beyond the property line (not expected). The Contractor and client should coordinate with the project surveyor regarding proper and legal location of structure.

PROJECT OVERVIEW

Place rubble-rock boulders as erosion protection. The purpose of the boulders is to protect the existing low soil bank from erosion (existing conditions are shown above) and to replace the existing wooden wall. See Drawings 2 to 4 for details of construction.

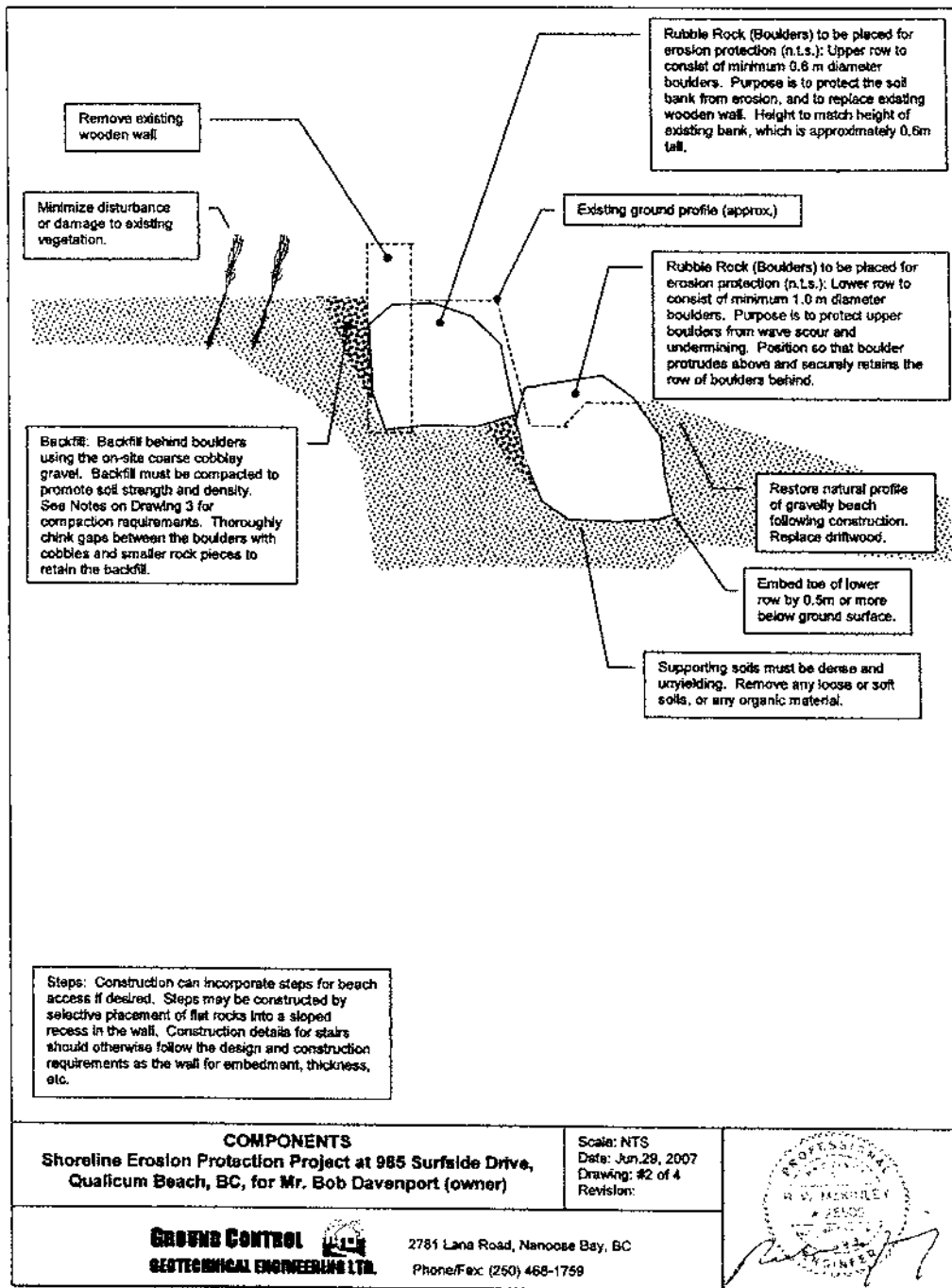
PROJECT OVERVIEW
 Shoreline Erosion Protection Project at 985 Surfside Drive, Quilicum Beach, BC, for Mr. Bob Davenport (owner)

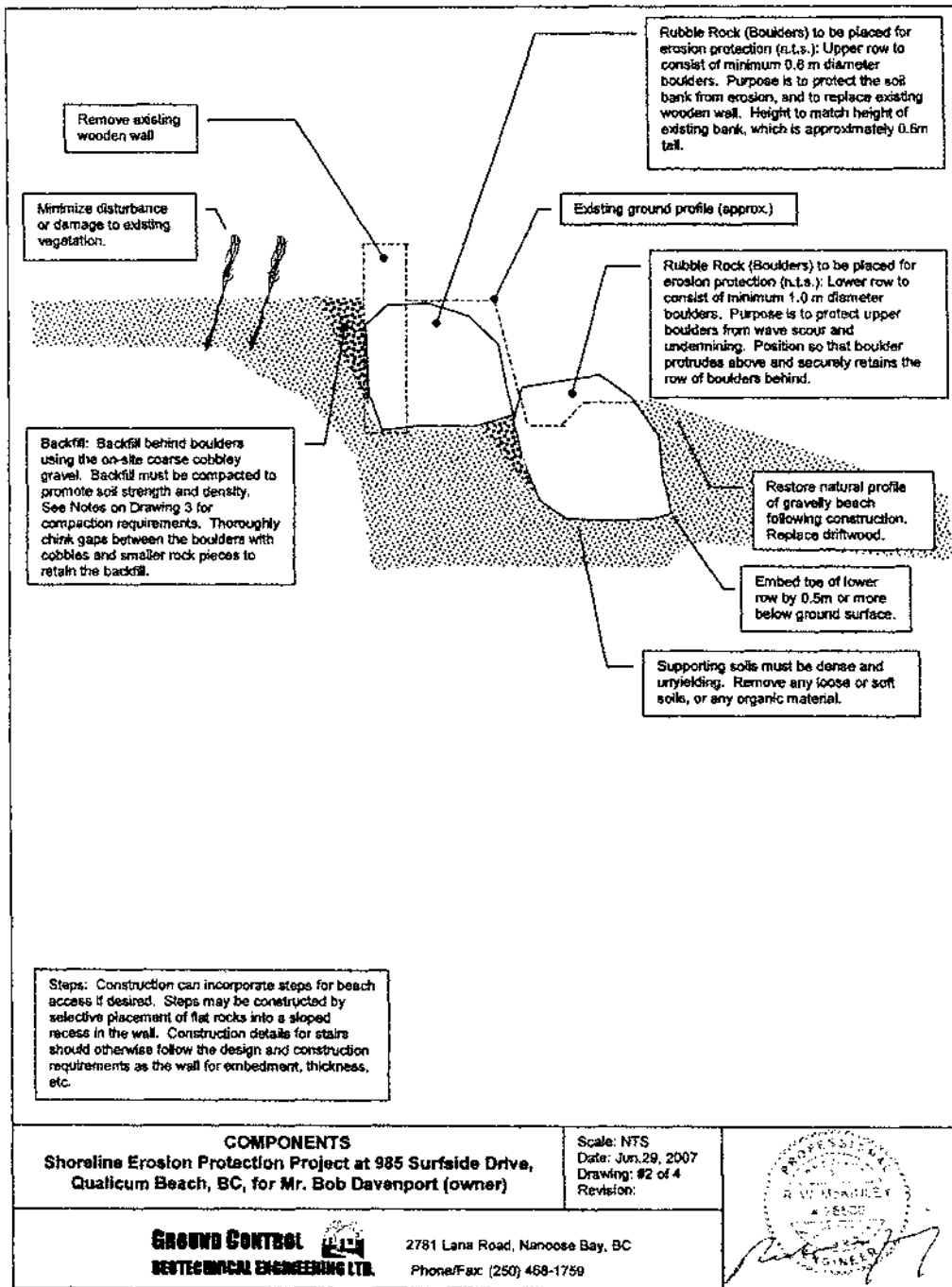
Scale: NTS
 Date: Jun. 29, 2007
 Drawing: #1 of 4
 Revision:



GROUND CONTROL 
 GEOTECHNICAL ENGINEERING LTD.

2781 Lana Road, Nanoose Bay, BC
 Phone/Fax: (250) 488-1759





ADDITIONAL DETAILED NOTES

Materials and Construction

1. Rocks to be sound, dense stone. Rocks to have angular surfaces and an approximately cubic or rectangular shape. Rounded shape rocks should not be used.
2. Rubble rock to consist of stone having dimensions of at least 0.6 metre (average of measurements in three directions) for the upper row and 1.0 metre (average of measurements in three directions) for the lower row. Larger rock should be used as much as practicable. Interstices or chinks between the rocks are to be filled using more finely graded boulders or cobbles.
3. Rock shall be placed individually (ie, not placed by end dumping) using an appropriately sized excavator. Rock having a platey or rod-like shape shall be placed such that the long axis slopes down into the slope.
4. The surface that the rocks are set on should slope back towards the cut face and not towards the outer face of the wall (i.e. so rocks tend to slide into the slope, not out of the slope).

Backfill



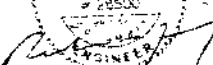
1. Backfill shall consist of coarse granular material. Cobblely gravel is expected to be available on-site from the excavation for the lower course of boulders, and this material is expected to be suitable for use as backfill.
2. Backfill placed to fill small hollows and narrow gaps should be rodded with a steel bar or similar to densify the backfill and fill all voids.
3. Motorized compaction equipment should be used where access allows, and anywhere substantial backfill is to be placed. Placed backfill in horizontal layers or "lifts" no thicker than 450 mm as measured loose, and thoroughly compacted using suitably sized compaction equipment capable of adequately compacting this thickness of material, such as a large (>1000 lb.) diesel plate compactor. Smaller compaction equipment will require the use of thinner lifts.

Limitations

1. The design goals for this project were determined by the owner and client, and were limited to providing erosion protection for the existing ~0.5m tall bank, with the awareness that future wave levels might exceed this height.
2. Ground Control Geotechnical cannot be held responsible for any performance issues resulting from the failure of others to construct the works following the requirements we have provided herein.

Supervision and Inspection Requirements

1. It is recommended that Ground Control be contacted after removal of the existing seawall and after excavation has been completed down to the base level for the boulders, so we can make a site visit to confirm soil conditions.
2. Additional site visits during construction are recommended to observe placement of boulders, to confirm conformance to the design.

<p>ADDITIONAL NOTES Shoreline Erosion Protection Project at 985 Surfside Drive, Qualicum Beach, BC, for Mr. Bob Davenport (owner)</p>	<p>Scale: NTS Date: Jun. 29, 2007 Drawing: #3 of 4 Revision:</p>	
<p>GROUND CONTROL  GEOTECHNICAL ENGINEERING LTD.</p> <p>2781 Lana Road, Nanoose Bay, BC Phone/Fax: (250) 488-1759</p>		



ADDITIONAL DETAILED NOTES (continued)

Safety

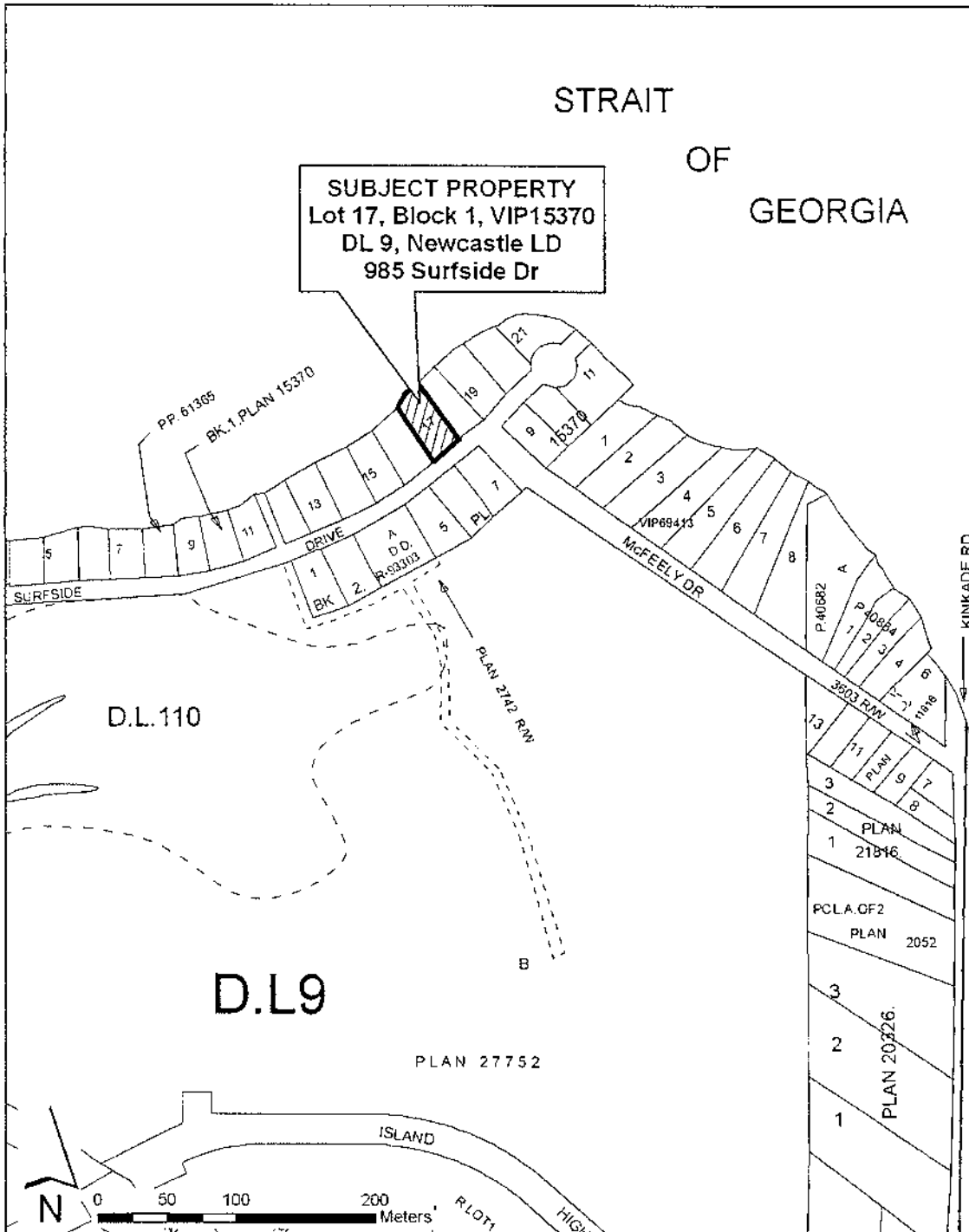
- 1 Fall protection (fence/railing) is not incorporated into the design provided. It is the landowner's responsibility to assess the need for these types of safety measures and install as necessary.
- 2 The contractor is responsible for all safety issues during construction, including keeping workers safe from potential collapse of unstable soil banks.

Environmental Protection

- 1 The contractor is responsible for carrying out the work in accordance with applicable federal, provincial, and local government regulations. These include, but may not be limited to, the *Fisheries Act*, the *Water Act*, and the *Riparian Areas Regulation*. Although compliance with environmental regulations is not part of Ground Control's scope of work for this project, and is the contractor's responsibility, common 'Best Management Practices' (BMPs) used for working in a shore environment are listed below for the contractor's benefit. For additional information, a suggested reference document is *Best Management Practices for Lakeshore Stabilization*, available on line at <http://www.gov.bc.ca/wrd/documents/bmp/bswstsbosmarch2004.pdf>. Consult Section 7.3.4.2 for a discussion of operational best practices related to building shoreside stabilization works.
- 2 Limit disturbed areas and stripping of vegetation and soils to preserve vegetation, particularly on steep slopes, and stabilize denuded soils as soon as possible. Clear areas only as they are needed. Re-vegetate promptly once work has been completed. Do not clear vegetation from sites when the weather is likely to be rainy, as this will leave bare soils vulnerable to erosion. The area of disturbance by construction activities shall be within the development permit area. Prior to any construction, temporary fencing (snow or 'hi-vis' fence) or a prominent visual barrier shall be installed to delineate where heavy machinery and land alteration is not permitted. The barrier should be removed once all development activity has been completed.
- 3 Any construction machinery shall be in good working order and no fuels, lubricants or construction wastes are permitted to enter any watercourse. Machine work shall be done from the upland where possible. Refueling of machinery should be conducted more than 25 m from the ocean, lake or any watercourses. When heavy machinery is being used a spill kit shall be on-site to prevent the introduction of any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program shall be contacted.
- 4 Any concrete poured on-site shall be fully contained in forms and is prohibited from entering the watercourse. Ensure proper containment and disposal of concrete wash water.
- 5 Manage surface flows to control sheet, rill, and gully erosion. Cover stockpiles, bare slopes and exposed surfaces with temporary coverings (plastic sheets) or mulch (including leaves or straw), to provide erosion control from raindrop erosion. Avoid the collection, conveyance, and concentration of surface water. Instead, encourage surface water to seep into the soil.
- 6 Maintain snags, logs, and large pieces of woody debris. Logs and other woody debris provide additional erosion protection, provide habitat for many species, and recycle nutrients back into the soil.

<p style="text-align: center;">ADDITIONAL NOTES CONTINUED Shoreline Erosion Protection Project at 985 Surfside Drive, Qualicum Beach, BC, for Mr. Bob Davenport (owner)</p>	<p>Scale: NTS Date: Jun.28, 2007 Drawing: #4 of 4 Revision:</p>	
<p>GROUND CONTROL  GEOTECHNICAL ENGINEERING LTD.</p>		<p>2781 Lana Road, Nanose Bay, BC Phone/Fax: (250) 468-1759</p>

Attachment No. 1
Location of Subject Property
Development Variance Permit No. 60724
Lot 17, Block 1, District Lot 9, Newcastle District, Plan 15370 – 985 Surfside Drive



BCGS MAPSHEET NO. 92F.038.4.1



RDN	
CAO	GMF&IS
GMDS	GMR&FS
GMES	GMTS
AUG 28 2007	
SMCA	
CHAIR	BOARD
Sept 11 AP	

MEMORANDUM

TO: Geoff Garbutt
 Manager of Current Planning

DATE: August 21, 2007

FROM: Odete Pinho, Planner

FILE: 3090 30 90626

SUBJECT: Development Variance Permit Application No. 90626 – Albers
 Lot C, District Lot 1 & 181, Nanoose District, Plan 10875
 Electoral Area 'G' – 941 Shorewood Drive

PURPOSE

To consider an application for a Development Variance Permit to permit the removal and replacement of a seawall.

BACKGROUND

This is an application to permit the removal of a concrete seawall and re-construction of a stacked rock seawall on a property located south of Parksville. The subject property is developed with a residence, and is located on 941 Shorewood Drive in Electoral Area 'G' (see *Attachment No. 1 for location of the subject property*). This waterfront property currently has a poured concrete seawall and beach access stairs. The structure is failing and is proposed to be replaced with a 1.5 metre tall stacked rock seawall. As the proposed seawall is over 1.0 metre in height, it is considered a structure subject to the setbacks of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are requesting a variance to the setback requirements of the zoning bylaw.

Property Information

Location: 941 Shorewood Drive, Electoral Area 'G'
Legal: Lot C, District Lot 1 & 181, Nanoose District, Plan 10875
Size of Property: Approximately 0.1 ha
Title Check: Affecting Lot D, Plan 10875 – no building within 23 metre of high water mark

RDN Regulations

Zoning Designation:	Residential 1 (RS1N)	Dwelling Units/Parcel:	1
OCP/OCP Bylaw No:	Bylaw No. 814, 1990	Parcel Coverage:	35%
OCP Designation:	Suburban Residential	Site Area Requirements:	N/A
Zoning Setbacks:	8.0 metres horizontal distance inland from the natural boundary of the sea 8.0 metres setback from the front yard/road, 2.0 metre setback from side yards		
Floodplain Bylaw:	8.0 metres setback from the natural boundary of the sea		
Proposed Uses:	Flood construction level - 1.5 metres above the natural boundary of the sea Shoreline protection device – stacked rock seawall approx. 1.5 metres elevation		

ALTERNATIVES

1. To approve Development Variance Permit No. 90626, to permit the proposed residence and seawall, subject to the conditions outlined on Schedules No. 1, 2, 3 and 4.
2. To deny the requested permit.

ZONING IMPLICATIONS & PROPOSED VARIANCES

1. The proposed seawall contravenes the rear yard (waterfront) setback requirements of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are proposing to vary **Section 3.3.9(a)** of Bylaw 500 as follows:
 - The minimum setback from the natural boundary of the sea is proposed to be relaxed from 8.0 metres horizontal distance to 0 metres from the natural boundary, as shown on the survey submitted by the applicant.
2. The proposed seawall contravenes the side lot line setback requirements of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are proposing to vary **Section 3.4.61** of Bylaw 500 as follows:
 - The minimum setback from the interior side lot lines is proposed to be relaxed from 2.0 metres to 0 metres from the property boundary, as shown on the survey submitted by the applicant.
3. The proposed seawall contravenes the setback requirements of the "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006". The applicants are proposing to vary **Section 13.d** of Bylaw 1469 as follows:
 - The minimum setback of a structure from the natural boundary of the sea is proposed to be relaxed from 8.0 metres from to the natural boundary of the sea, to 0 metres from the natural boundary.

LAND USE AND DEVELOPMENT IMPLICATIONS

RDN Board Policy B1.9 for Marine Retaining Walls provides staff with guidelines for reviewing and evaluating applications for shoreline protection seawalls. This application proposes a stacked rock seawall that is to be approximately 1.5 metres in height and to retain more than 1.0 metre of earth, which is considered a 'structure' subject to building permits. The proposal includes measures compliant with the board policy including: a design that has been prepared by a professional engineer and a landscape plan with vegetation within the retaining wall structure and above the wall (*as outlined in Schedule 4*). The proposed wall does have a 16 m² portion that is to be located below the present natural boundary on Crown land. The Ministry of Environment has granted their approval for this encroachment in a letter dated May 25th, 2007.

The applicant is required to acquire authorization from the Federal Department of Fisheries and Oceans (DFO) and to follow their Best Management Practices for seawalls document. The Department of Fisheries and Oceans has commented on this proposed development and has no objections. The onus is exclusively on the applicant to ensure that the seawall and its demolition/installation does not cause harmful alteration, disruption or destruction of fish habitat pursuant to Section 35(1) of the *Fisheries Act*.

A geotechnical report, prepared by Ground Control Geotechnical Engineering Ltd. dated January 25th, 2007, indicates that the proposed seawall is considered to be of low risk to having detrimental impact to the local environment and adjoining properties. The design of the proposed seawall is outlined in *Schedule No. 3*.

As per board policy B1.9, staff recommends, that the applicant be required to register a Section 219 covenant that registers the Geotechnical Report prepared by Ground Control Geotechnical Engineering Ltd. on the title of the property. The covenant would also include a save harmless clause that releases the Regional District of Nanaimo from all losses and damages that may result from, or occur to, this structure. The proposed seawall also integrates a landscape plan prepared by The Landscape Consultants, and is outlined in *Schedule No. 4*.

The applicant has received an archaeological assessment from I.R. Wilson Consultants Ltd., in a letter report dated January 15th, 2007. The assessment indicates that the development site is not a known archaeological site. Should evidence of cultural deposits be found on the site during removal and installation of the new seawall, the onus is on the applicant to ensure compliance with the *Heritage Conservation Act*. The applicant has 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, 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 seawall at 941 Shorewood Drive, south of Parksville.

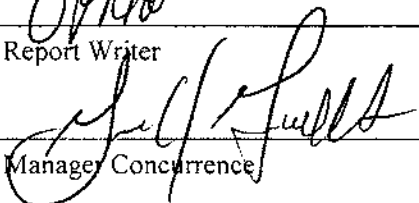
In staff's assessment, this structure has met the Regional District of Nanaimo's requirements including: a geotechnical engineering report/plan for the seawall; survey by a British Columbia Land Surveyor and landscape plan for site revegetation. Authorization from the Department of Fisheries and Oceans and the Ministry of Environment, have been granted to the proposed development and the onus is on the applicant to acquire final authorizations prior to on-site works. Staff recommends that this application be approved subject to the conditions outlined on Schedules No. 1, 2, 3 and 4.

RECOMMENDATION

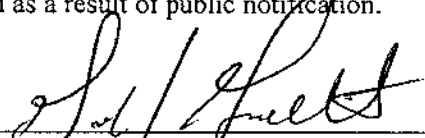
That Development Variance Permit Application No. 90626, to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006", for the property legally described as Lot C, District Lot 1 & 181, Nanoose District, Plan 10875, be approved subject to the conditions outlined in Schedules No. 1, 2, 3, and 4 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 Approval
Development Permit No. 90626
Lot C, District 1 & 181, Nanoose District, Plan 10875 - 941 Shorewood Drive**

Bylaw No. 500, 1987 – Requested Variances:

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

1. **Section 3.3.9(a) – Rear yard setback** is hereby varied by reducing the setback for the proposed seawall, located on Lot C, District Lot 1 & 181, Nanoose District, Plan 10875 from 8.0 metres to 0 metres from the present natural boundary of the sea, as shown on *Schedule No. 2*. This variance applies only to the seawall.
2. **Section 3.4.61 – Side yard setback** is hereby varied by reducing the setback for the proposed residence, located on Lot C, District Lot 1 & 181, Nanoose District, Plan 10875 from 2.0 metres to 0 metres from the side yards, as shown on *Schedule No. 2*. This variance applies only to the seawall.

Bylaw No. 1469, 2006 – Requested Variances:

With respect to the lands, “Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006”, the following variances are proposed:

3. **Section 13.d – Floodplain setback** is hereby varied by reducing the setback for the proposed seawall, located on Lot C, District Lot 1 & 181, Nanoose District, Plan 10875 from 8.0 metres to 0 metres from the present natural boundary of the sea, as shown on *Schedule No. 2*. This variance applies only to the seawall.

Conditions of Approval:

4. This Development Variance Permit allows the construction of a seawall developed in compliance with Schedules No. 1, 2, 3 and 4. The construction of the seawall is to be located on the marine foreshore as per Sims Associates, October 26th 2007 survey on *Schedule 2* and constructed is to be as per *Schedule No. 3*.
5. 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 Reports by Ground Control Geotechnical Engineering Ltd., dated January 25th, 2007 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages.
6. Site construction shall follow the Department of Fisheries and Oceans Best Management Practices for shoreline protection devices.
7. Applicant is to revegetate the area between the foreshore and the proposed dwelling unit as per the landscape plan prepared by The Landscape Consultants, and outlined in *Schedule No. 4*.

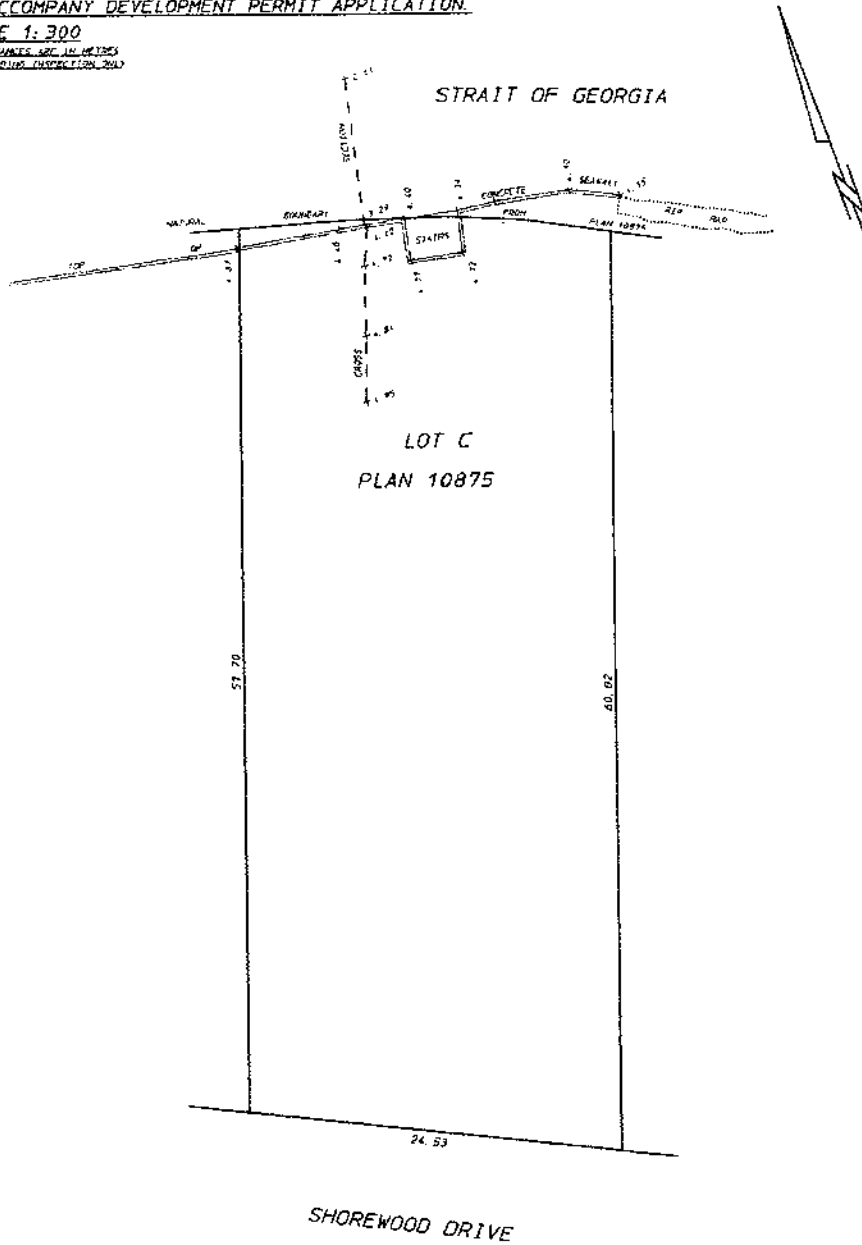
**Schedule No. 2
Siting of Seawall
Development Permit No. 90626
Lot C, District 1 & 181, Nanoose District, Plan 10875 - 941 Shorewood Drive**

PLAN OF LOT C, DISTRICT LOTS 1 AND 181,
NANOOSE DISTRICT, PLAN 10875.

TO ACCOMPANY DEVELOPMENT PERMIT APPLICATION.

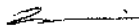
SCALE 1:300

ALL DISTANCES ARE IN METERS
FOR FULLER INFO, INSPECTOR, 2007



SHOREWOOD DRIVE

INSPECTED THIS DATE DAY OF OCTOBER 2006

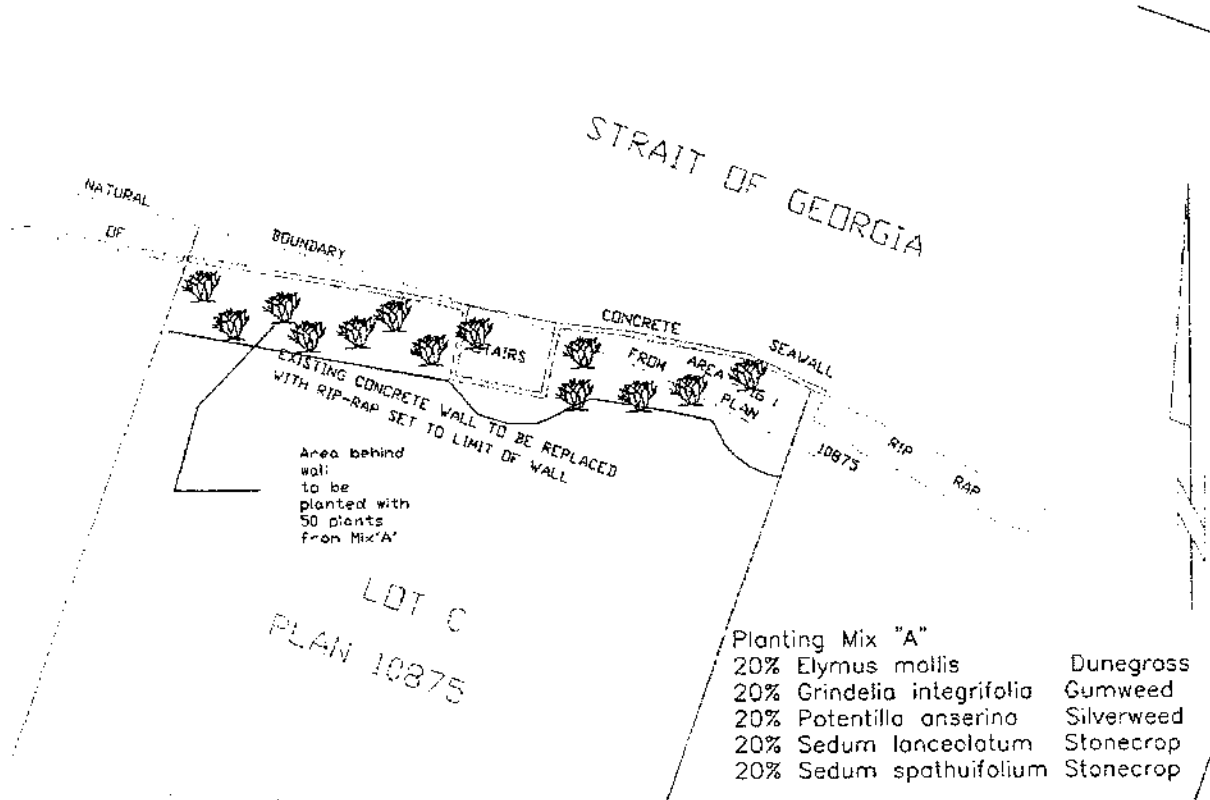

MICHAEL A. SIMS, R.P.L.S.

ALL SPOT ELEVATIONS
ARE BASED ON PROPOSED DATUM

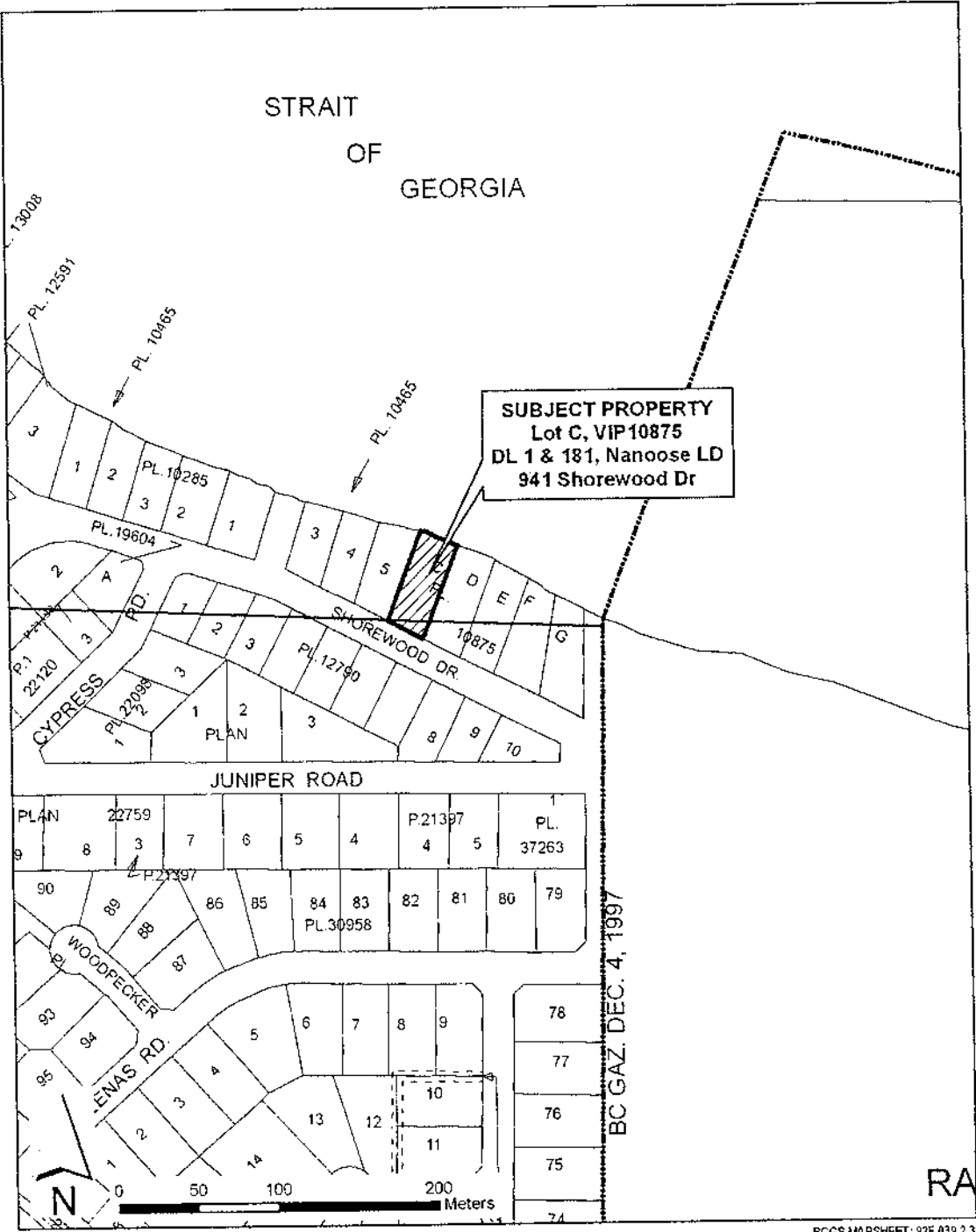
SIMS ASSOCIATES

LAND SURVEYING
217 BURN BAY WEST
QUANICOAN BEACH, B.C. V9K 1S6
PHONE: 251-5221 FAX: 251-5222
WWW: WWW.SIMS-BC.COM
FILE NO. 2006-02

Schedule No. 4
Landscape Plan
Development Permit No. 90626
Lot C, District 1 & 181, Nanoose District, Plan 10875 - 941 Shorewood Drive



Attachment No. 1
Location of Subject Property
Development Permit No. 90626
Lot C, District 1 & 181, Nanoose District, Plan 10875 - 941 Shorewood Drive





CAO	GMDS	GMES	SMCA	CHAIR
	GMRS	GMTS		BOARD
SEP 04 2007				
Sept EAPC				

MEMORANDUM

TO: Geoff Garbutt
Manager of Current Planning

DATE: August 29, 2007

FROM: Kristy Marks
Planner

FILE: 3090 30 90712

SUBJECT: Development Variance Permit Application No. 90712 – Eilers/Allen
Lot 5, District Lot 78, Nanoose District, Plan VIP78139
Electoral Area 'E', 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 3410 Carmichael Road in Electoral Area 'E' (*See attached subject property map*). The parcel is approximately 0.13 hectares in size and is zoned Residential 1 (RS1), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

The residential dwelling is constructed 0.6 metres (1.97 feet) over-height. The subject property is bordered by residential properties on all sides. Pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" the subject property is within the Sensitive Ecosystems, Form and Character, Farmland Protection, and Watercourse Protection Development Permit Areas. Development Permit No. 60658 was issued in January 23, 2007 for the proposed residential dwelling and at that time the applicant was not proposing any variances. The applicant has completed the "Sustainable Community Builder Checklist", as per Board policy and there are no implications related to this application.

Requested Variance Summary

Required Maximum Height	Constructed Height	Requested Variation
8.0 metres	8.6 metres	+0.6 metres

ALTERNATIVES

1. To approve Development Variance Permit No. 90712 subject to the conditions outlined in Schedules No. 1-3 and subject to the Board's consideration of comments received after public notification.
2. To deny the requested variation in height.

POLICY B1.5

An elevations survey submitted by the applicant and dated November 8, 2006 indicates that the maximum building elevation allowed is 17.6 m and the existing ridge elevation is 18.2 m, indicating a variation of +0.6 m (*as seen in attached Schedule No. 2*). The architectural elevations for the residential dwelling are attached as *Schedule No. 3*.

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 agent has provided the following justifications for the proposed height variance:

- The applicant had constructed the residence with the intention of building within the required height.
- There are no residents' views that are impacted by this over height structure.
- Excavation of the site and the removal of 12 feet of rock led to a miscalculation in the building height.
- The over height of 0.6 metres (1.97 feet) is minor in nature.

LAND USE AND DEVELOPMENT IMPLICATIONS

As the structure is 0.6 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 located in a building inspection area and the applicants have obtained the necessary building and development permits. The applicant has indicated that there was a miscommunication between his staff during framing and that ground elevations and maximum building heights were mistakenly exceeded. While this is an 'after the fact' variance, that is generally not supported, the minor nature of this request when combined with the lack of impacts make 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.

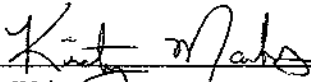
VOTING - Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

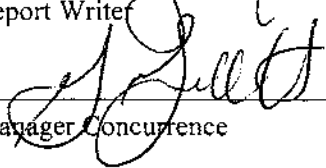
This application for a Development Variance Permit requests a 0.6 metre variation in the height of a single residential dwelling from a permitted maximum height of 8 metres to an existing height of 8.6 metres. Staff does not anticipate that the increased height will have a negative impact on the neighbouring properties views, or streetscape. Staff recommends that the requested Development Variance Permit be approved subject to the terms outlined in Schedule No. 1-3 of this report, and subject to notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION


That Development Variance Permit Application No. 90712, to permit the height of a single residential dwelling with a maximum height of 8.6 m on the subject property legally described as Lot 5, District Lot 78, Nanoose District, Plan VIP78139 on Carmichael Road, be approved subject to the conditions outlined in Schedules No. 1-3 and the notification requirements of the *Local Government Act*.



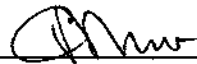
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

Schedule No. 1
Terms of Development Permit No. 90712

Bylaw No. 500, 1987 – Requested Variance

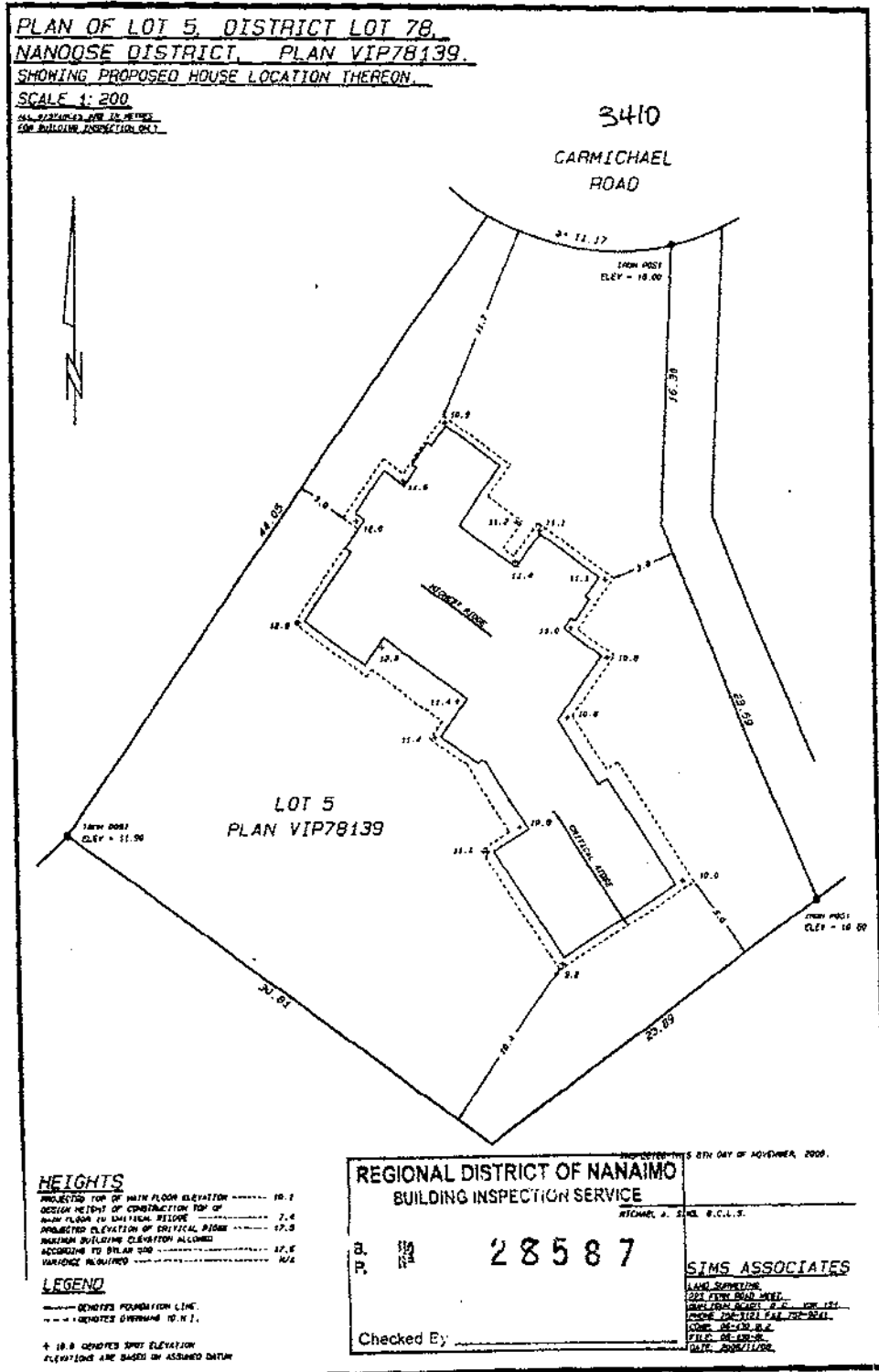
With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987,” the following variance is proposed:

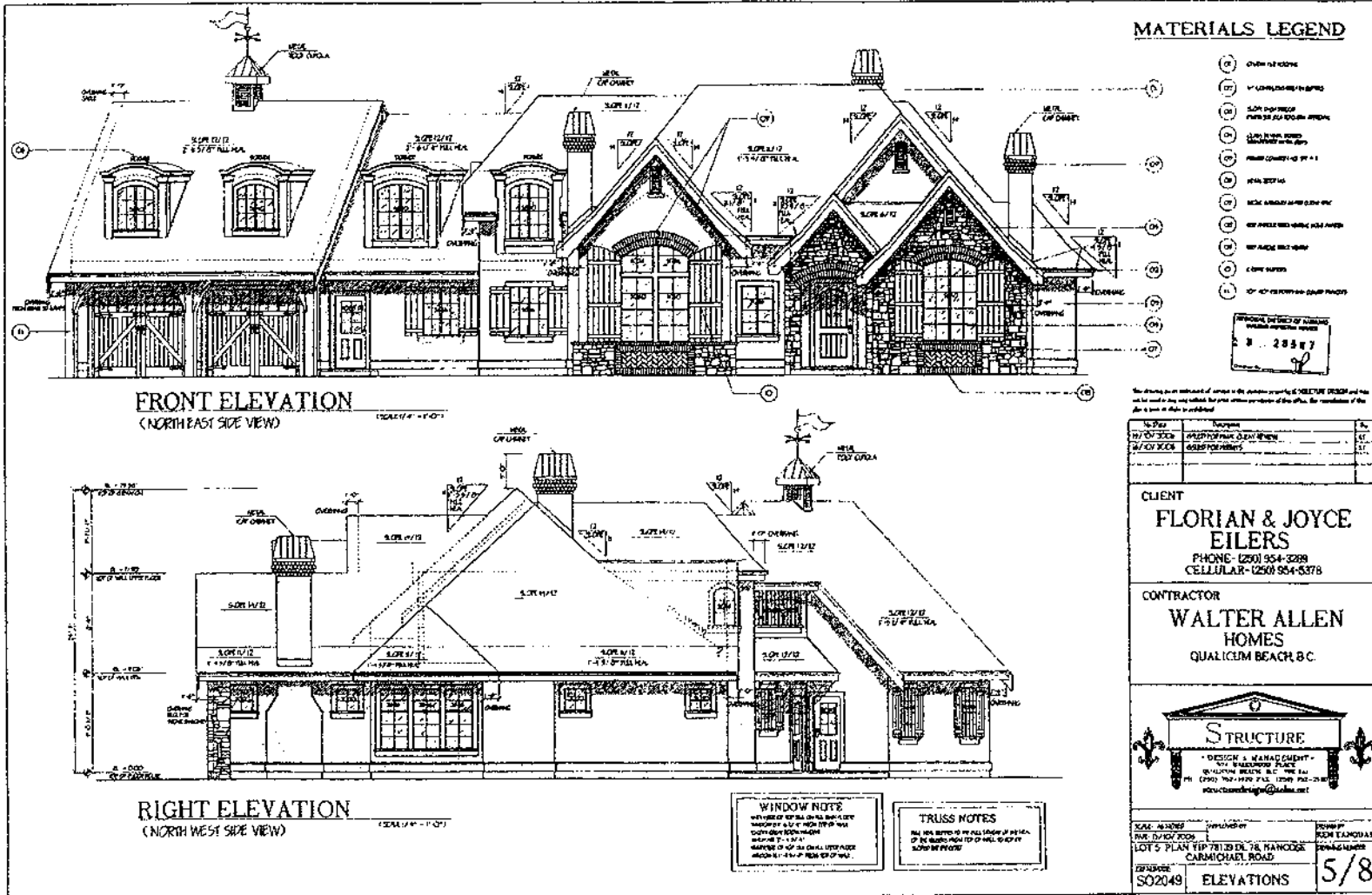
1. **Section 3.4.61, Dwelling Unit Height** of is hereby varied by increasing the maximum dwelling unit height for the residential dwelling, located on Lot 5, District Lot 78, Nanoose District, Plan VIP78139 from 8.0 metres to 8.6 metres as shown on *Schedule No. 2*. The variance applies only to the residential dwelling.

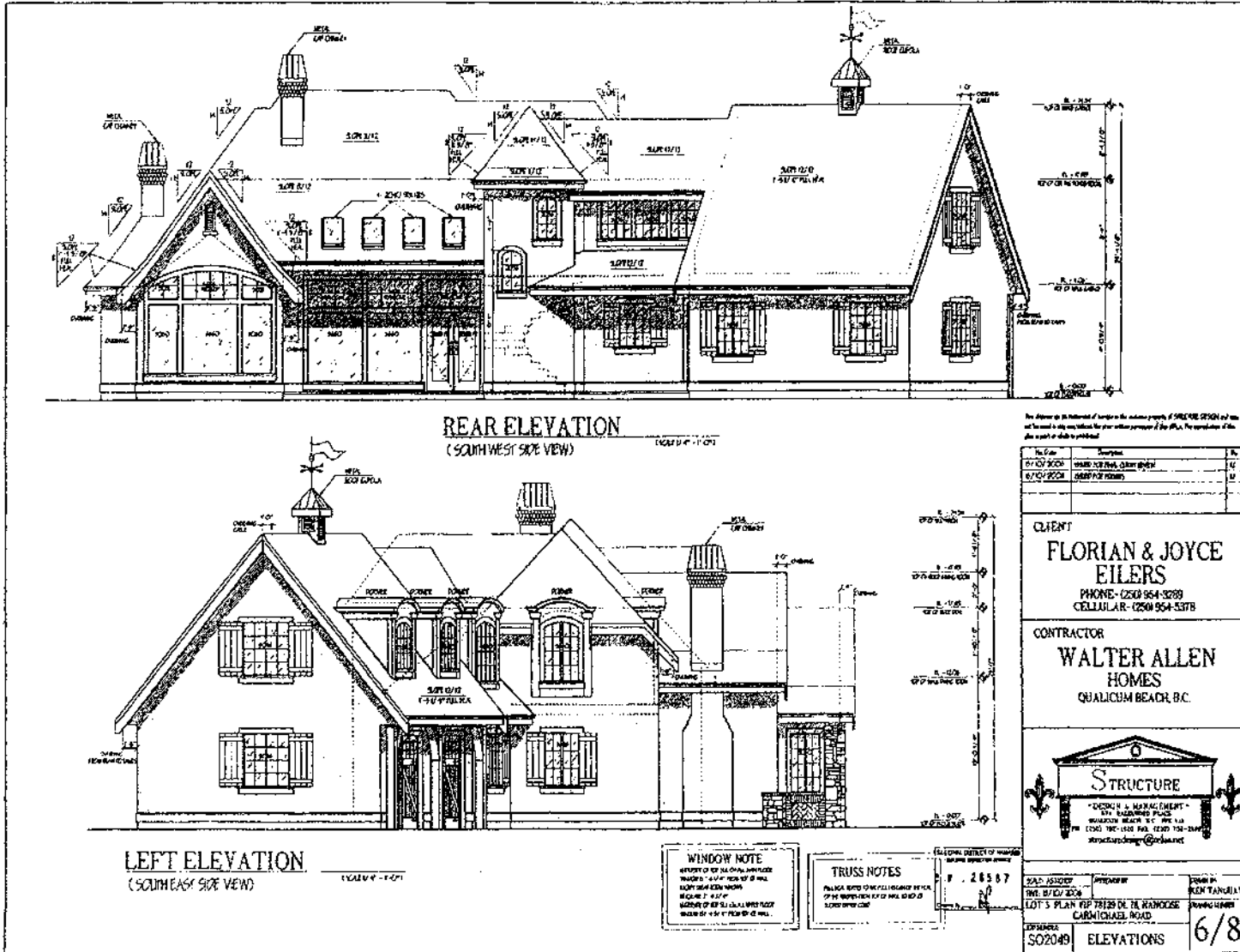
Conditions of Approval

2. The dwelling unit shall be sited in accordance with survey prepared by Sims Associates, dated November 8, 2007 attached as *Schedule No. 2*.
3. The dwelling unit shall be developed in accordance with the Building Elevations prepared by Walter Allen Homes dated October 13, 2007 attached as *Schedule No. 3*.

Schedule No. 2
 Survey Elevations







Attachment No. 1
Location of Subject Property

