

REGIONAL DISTRICT OF NANAIMO

ELECTORAL AREA PLANNING COMMITTEE

TUESDAY, FEBRUARY 10, 2009

6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-4 Minutes of the regular Electoral Area Planning Committee meeting held January 13, 2009.

BUSINESS ARISING FROM THE MINUTES

COMMUNICATIONS/CORRESPONDENCE

UNFINISHED BUSINESS

PLANNING

AMENDMENT APPLICATIONS

- 5-25 Zoning Amendment Application No. 0705 – Signal Road Pharmacy Ltd. & Walbern Ventures Inc. – Claudet & Prawn Roads – Area ‘E’.

DEVELOPMENT PERMIT APPLICATIONS

- 26-44 Development Permit Application No. 60846 – Reid – 4179 Island Highway West – Area ‘G’.

DEVELOPMENT PERMIT WITH VARIANCE APPLICATIONS

- 45-56 Development Permit with Variances Application No. 60901 – Brown/Reynolds – 1995 Walsh Road – Area ‘A’.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 57-62 Development Variance Permit Application No. 90817 – Dubyna – 2520/2528 East Wellington Road – Area ‘C’.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

ADJOURNMENT

IN CAMERA

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, JANUARY 13, 2009, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

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

Also in Attendance:

M. Pearse	Senior Manager, Corporate Administration
P. Thorkelsson	General Manager, Development Services
G. Garbutt	Manager of Current Planning
L. Burgoyne	Recording Secretary

CALL TO ORDER

MINUTES

MOVED Director Holme, SECONDED Director Burnett, that the minutes of the Electoral Area Planning Committee meeting held November 4, 2008 and the Special Electoral Area Planning Committee meeting held November 25, 2008 be adopted.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0802 – Morgan – 1170 Spider Lake Road – Area ‘H’.

MOVED Director Burnett, SECONDED Director Young, that Zoning Amendment Application No. ZA0802 as submitted on behalf of D. Morgan to rezone Lot 20, Block 360, Newcastle District, Plan 37698 from Subdivision District ‘B’ to Subdivision District ‘CC’ be approved to proceed to public hearing subject to the conditions included in Schedule No. 1.

CARRIED

MOVED Director Burnett, SECONDED Director Young, that “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.347, 2009” be given 1st and 2nd reading.

CARRIED

MOVED Director Burnett, SECONDED Director Young, that “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.347, 2009” proceed to public hearing.

CARRIED

MOVED Director Burnett, SECONDED Director Young, that the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.347, 2009" be delegated to Director Bartram or his alternate.

CARRIED

MOVED Director Burnett, SECONDED Director Young, that staff be directed to prepare required amendments to "Regional District of Nanaimo Building Inspection Extended Service Establishment Bylaw No. 787, 1989" to include the parent parcel within a Building Inspection Service Area.

CARRIED

MOVED Director Burnett, SECONDED Director Stanhope, that staff be directed to schedule an Electoral Area Directors Seminar to discuss the relationship between interface fire hazard and zoning.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60849 – Davis/Murray – 5363 Gainsberg Road – Area 'H'.

MOVED Director Holme, SECONDED Director Stanhope, that Development Permit Application No. 60849, to construct a dwelling unit and detached garage within the Hazard Lands Development Permit Area pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003", for the property legally described as Lot 3, District Lot 1, Newcastle District, Plan 20442 be approved subject to the conditions outlined in Schedules No. 1 to 4.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90823 – Ballard – 1751 Admiral Tryon Boulevard – Area 'G'.

MOVED Director Stanhope, SECONDED Director Holme, that Development Variance Permit Application No. 90823 submitted by Fern Road Consulting Ltd. for the property legally described as Lot 26, District Lot 28, Nanoose District, Plan VIP62528 be approved subject to Schedules No. 1 to 3 of the staff report and consideration of comments received as a result of notification of adjacent owners/occupants.

CARRIED

Development Variance Permit Application No. 90824 – World of Pentecost Church – 3606 Allsop Road – Area 'C'.

MOVED Director Young, SECONDED Director Burnett, that Development Variance Permit Application No. 90824, to vary the maximum height of a dwelling from 8.0 metres to 9.0 metres on the parcel legally described as Lot 7, Section 18, Range 3, Mountain District, Plan 34810 at 3606 Allsop Road, be approved subject to the conditions outlined in Schedules No. 1 to 4 and the consideration of comments received as a result of the notification of adjacent property owners/occupants.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:40 PM

CHAIRPERSON

RDN REPORT	
CAO APPROVAL	<input checked="" type="checkbox"/>
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BOARD	

MEMORANDUM

TO: Geoff Garbutt
Manager, Current Planning

DATE: January 30, 2009

FROM: Susan Cormie
Senior Planner

FILE: 3360 30 0705

SUBJECT: Zoning Amendment Application No. ZA0705 – Fern Road Consulting on behalf of Signal Road Pharmacy Ltd. (An Alberta Company) & Walbern Ventures Inc., Inc. No. A58712 Electoral Area 'E' – Claudet & Prawn Roads

PURPOSE

To consider an application to rezone property adjacent to Claudet and Prawn Roads in Electoral Area 'E' in order to facilitate the development of five-lot subdivision.

BACKGROUND

The Regional District has received a zoning amendment application for the properties legally described as Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, All of District Lot 84, Nanoose District and located adjacent to Claudet and Prawn Roads in Electoral Area 'E' (see Attachment No. 1 for location of subject properties). Lot 1, Plan 47545, which is 8.0 ha in size, is zoned Rural 5 and is situated within Subdivision District 'D' (2.0 ha minimum parcel size with or without community water and sewer services) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". Lot 2, Plan 47545 and Lot A, Plan VIP80224, both of which are 8.0 ha in size, are zoned Resource Management 3 and are situated within Subdivision District 'B' (RM3B) (8.0 ha minimum parcel size with or without community water and sewer services) pursuant to Bylaw No. 500, 1987.

The parent parcels are currently vacant. Surrounding uses include residentially zoned properties and a strip of common property registered under VIS4626 to the north; a resource management zoned parcel owned by Provincial Crown to the east; a resource management zoned parcel to the south; and Claudet Road and resource management / residentially zoned properties to the west.

Pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" (OCP), the subject properties are designated within the following development permit areas:

- The Watercourse Protection Development Permit Area for the protection of fish habitat and its riparian areas. As there are no watercourses on or within 30.0 metres of the parent parcels, this application would meet the exemption provisions of the development permit area and therefore, a development permit for watercourse protection is not required.
- The Sensitive Ecosystems Protection Development Permit Area, in this case, for the protection of an eagle nest tree and surrounding buffer area. As the applicant is proposing to covenant the eagle nesting tree and surrounding area, a development permit will not be required.

The parent parcels are within an RDN Building Services area.

Official Community Plan Policy No. 3.3 5

Pursuant to the "Regional District of Nanaimo Electoral Area Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" (OCP), the subject parcels are designated within the Rural Lands Designation. Policy No. 3.3.5 allows for the consideration of applications to rezone to a minimum permitted parcel size of 4.0 ha where the proposal meets this OCP policy.

Submitted Proposal:

The proposal, as submitted, includes 5 fee simple parcels varying in size from 2.94 ha to 8.39 ha with an average parcel size of 4.46 ha proposed to be serviced by individual on-site septic disposal systems and potable water wells. In addition, the applicant has offered to dedicate and construct a pedestrian hiking trail to be transferred to the Regional District for park land purposes, covenant a eagle nest tree and its buffer area, and covenant a large portion of the subject parcels for vegetation retention (*see Schedule No. 2 for proposed plan of subdivision*).

ALTERNATIVES

1. To approve the zoning amendment application to rezone the subject properties from Resource Management 3 Subdivision District 'B' (RM3B) and Rural 5 Subdivision District 'D' (RU5D) to Rural 10 (RU10) Subdivision District 'Z' (*no further subdivision*) for 1st and 2nd reading and proceed to Public Hearing subject to the conditions outlined in Schedule No. 1.
2. To not approve the zoning amendment application as submitted.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

In accordance with the related OCP policies, the applicant has provided a number of professional reports concerning the proposed development and the possible impacts on the environment and the hydrogeological regimes including potable water, septic disposal, and drainage. The reports include a number of recommendations to be carried out in the development of the properties and have been included in the proposed Development Agreement (*see Schedule No. 1 for Development Agreement*). As a result, the applicable OCP criteria set out in Policy No. 3.3. 5 will be able to be met. With respect to the criteria concerning one dwelling unit per parcel and no bare land strata or building strata development, these criteria will be addressed through the proposed RU10 zone and the Development Agreement.

INTERGOVERNMENTAL REFERRALS

Initial referrals were sent to the following agencies:

Ministry of Transportation & Infrastructure – Ministry staff has indicated that the Ministry has no objection to this application provided the new road meet the 50 km/h design standards, but this is not to be construed as approval of subdivision.

Vancouver Island Health Authority (VIHA) – The health inspector has indicated they had no concerns with this application at this time.

Local Fire Chief – No comments have been received at this time. However, as part of the formal referral process, the local fire official will be contacted concerning this proposed change.

In accordance with the requirements of the *Local Government Act*, if this application proceeds to public hearing, formal referrals will be forwarded to these agencies.

LAND USE / DEVELOPMENT IMPLICATIONS

Under the current zoning provisions, the three parent parcels have development potential for up to 12 dwelling units (includes the possible subdivision of Lot 1 which is within Subdivision District 'D' [*2.0 ha minimum parcel size*]). Under the provisions of the *Strata Property Act*, the applicant could construct and register the dwelling units on each parcel at Land Title Office as Building Strata developments, which would result in the creation of separate titles. The proposed amendment will result in a total of five dwelling units on five fee simple parcels with an average size of 4.46 ha. This represents a significant reduction in the overall residential density permitted under the current zoning and is in keeping with the related OCP policy. Building site areas have been established for each proposed parcel (*see Schedule No. 2 for building sites areas*).

The Rural Lands Designation as set out in the OCP provides for a minimum parcel size of 4.0 hectares. In order to achieve five fee simple parcels which will offer the best building site areas and provide for park land in a suitable location, it is proposed that a custom parcel averaging definition be included within the zone and that the averaging calculation be based on the size of the subject property prior to subdivision and the provision of the park land.

The applicant also provided a geotechnical appraisal of the subject properties which concludes that the site is considered to have a low risk of slope instability provided it is developed in accordance with good hillside practice taking cognizance of the recommendations of the report. It is recommended that in order to ensure the recommendations of this report are adhered to, the report be included in the Development Agreement as set out in *Schedule No. 1*. It is noted that further site specific geotechnical reports may be required through the building permit process.

ENVIRONMENTALLY SENSITIVE AREAS IMPLICATIONS

In accordance to the OCP policies, the applicant's agent submitted an environmental management plan. The report includes a number of recommendations including a 50-metre buffer area and fencing for the eagle nest tree located within the subject properties. The applicant, in order to meet the exemption provisions of the Sensitive Ecosystems Protection Development Permit Area, has offered to register a section 219 covenant for the protection of the eagle nest tree and its buffer. For the balance of the site, the applicant has offered to register a section 219 covenant restricting the removal of trees over an extensive portion of the subject properties (*see Schedule No. 1 for Conditions of Approval*). Concerning the Conclusions and Recommendations as set out in the biologist's report, it is recommended that these be secured by way of the development agreement. This will ensure that proper mitigation measures occur during the development stage of the properties.

PUBLIC CONSULTATION IMPLICATIONS

Public Information Meeting

A Public Information Meeting was held on October 1, 2008 at the Nanoose Place. Notification of the meeting was advertised in The News newspaper and on the RDN website, along with a direct mail out to all property owners within 200 metres of the subject property. Notices were also sent to the members of the Nanoose Bay Parks and Open Space Advisory Committee. 41 persons attended the information meeting and provided comments with respect to the proposal (*see Attachment No. 2 'Proceedings of the Public Information Meeting'*.)

Key issues raised by the public included concern that there will be no further subdivision of the lands, concern about the location of the proposed trail and that it will be for pedestrians only, concern for the location of the driveway to Proposed Lot 5, concern about the existing wells and possible draw down, concern about drainage along the Prawn Road and adjacent parcels, and concern about the need for tree retention and protection of wildlife.

In response to the concerns raised, the applicant has relocated the proposed trail and will place barriers to hinder motorized traffic on the trail and has offered a vegetation retention covenant over a large portion of the properties. The applicant's professional engineer has indicated that the drainage regime will not change significantly and this has been confirmed by the Ministry of Transportation and Infrastructure staff. While the proposed driveway to Lot No. 5 has not been moved, the applicant has included the vegetation retention covenant on the portion of the properties between the driveway and existing parcels to provide a buffer for the neighbours. With respect to no further subdivision, the proposed zoning amendment and Development Agreement will restrict no further subdivision other than the five fee simple parcels.

PARK LAND IMPLICATIONS

As part of the proposed development, the applicant is in concurrence to provide a pedestrian hiking trail from the cul-de-sac area of the proposed new road to the adjacent Crown Land (Lot 1, Plan 3986) and Davenham Road, which is currently undeveloped. The Parks and Open Space Plan for Nanoose Bay recognizes the need for a trail connector between Claudet Road neighbourhood and Stewart Road neighbourhood as integral component of the community trails strategy. Staff hiked the proposed trail and the un-built Davenham Road corridor and concluded that construction of the trail is achievable. In addition, with respect to the adjacent Crown Land for the purposes of establishing a trail connection between Davenham Road and the proposed park land, Crown Lands staff suggested that the RDN proceed with applying for a License of Occupation. Recreation and Parks Department staff will follow up with this application if the zoning amendment proceeds.

It is noted that, as the proposed transfer of land for park land purposes is not being considered pursuant to section 941 of the *Local Government Act*, the corresponding Board policy with respect to park land evaluation at the time of subdivision is not required.

SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". The proposed development will meet the applicable OCP policies which, while the proposal is not in conflict with the Regional Growth Strategy policies, the development is situated outside of Urban Containment Boundaries. The applicant has offered a pedestrian linkage for community use and a tree retention covenant over a significant portion of the subject properties. It is also noted that future buildings will be constructed to meet the green building code guidelines.

VOTING

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

SUMMARY

This report addresses a request to amend Bylaw No. 500, 1987 to allow rural residential uses and permit the subdivision of five new fee simple parcels located adjacent to Claudet and Prawn Roads in Electoral Area 'E'. A Public Information Meeting was held on October 1, 2008 and the Minutes are attached (*see Attachment No. 2*). At this meeting, residents raised a number of issues including location of proposed trail, possible drainage issues, protection of existing trees, and possible impacts on existing wells. The applicant amended the proposal in response to a number of the issues raised by the public including moving the proposed trail and offering a vegetation retention covenant. Issues involving proof of potable water and storm water management will be considered by the Regional Approving Officer through the subdivision process.

The proposed development will be restricted from any further subdivision beyond the proposed five lot subdivision. In addition, the required covenant will restrict a bare land strata subdivision. As there will only be one dwelling unit per parcel allowed, separating title by way of a building strata will not be possible. The proposed Rural 10 zone will include a calculation for parcel averaging based upon the size of the subject property prior to subdivision.

The subject properties, pursuant to the Nanoose Bay OCP Bylaw No. 1400, 2005, are designated within the Sensitive Ecosystems Development Permit Area, specifically for the protection of an eagle nest tree and surrounding buffer area. The applicant has provided an environmental assessment and as the applicant is proposing to secure the eagle nest tree and its 50.0 metre buffer area by covenant, the proposal will be able to meet the exemption provisions of these development permit guidelines; therefore a development permit is not required. This application will meet the exemption provisions from requiring a development permit pursuant to the Watercourse Protection Development Permit Area.

With respect to future building construction, the applicant's agent has also provided geotechnical appraisals prepared by a professional engineer, which concludes that the site is considered to have a low risk of slope instability provided it is developed in accordance with good hillside practice. It is noted that additional geotechnical evaluations may be required a time of building permit applications.

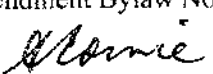
Ministry of Transportation & Infrastructure staff has indicated they have no objection to this application provided the new road meet the 50 kmh design standards, but this is not to be construed as approval of subdivision. The Vancouver Island Health Authority has indicated that it will support the proposed application. The requirement to provide proof of adequate septic disposal areas is considered by the Approving Officer at time of subdivision. The local Fire Chief has yet to respond, but will be contacted again as part of the formal referral process.

Given that the proposal is in keeping with the OCP policies, that the overall residential density will less than what is permitted under the current zoning, and the applicant is in concurrence to enter into a development agreement to secure a number of conditions including the dedication and construction of a park land for community trail and protection of an eagle nest tree, staff supports the amendment application as submitted subject to the conditions set out in Schedule No. 1, for 1st and 2nd reading and to proceed to public hearing.

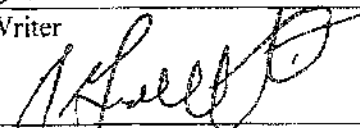
A copy of the proposed amendment bylaw is attached to this report (*see Attachment No. 3*).

RECOMMENDATIONS

1. That the minutes of the Public Information Meeting held on October 1, 2008 be received.
2. That Zoning Amendment Application No. ZA0705 as submitted by Sims Associates, BCLS, on behalf of Signal Road Pharmacy Ltd. (An Alberta Company) & Walbern Ventures Inc., Inc. No. A58712 to rezone Lot 1, District Lot 84, Nanoose District, Plan 47545 from Rural 5 Subdivision District 'D' (RU5D) and Lot 2, Plan 47545, and Lot A, Plan VIP80224, both of District Lot 84, Nanoose District, from Resource Management 3 Subdivision District B (RM3B) to Rural 10 (RU10) Subdivision District 'Z' (No Further Subdivision) be approved to proceed to public hearing subject to the conditions included in Schedule No. 1.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.348, 2009" be given 1st and 2nd reading.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.348, 2009" proceed to Public Hearing.
5. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.348, 2009" be delegated to Director Holme or his alternate.



Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:

Schedule No. 1
Conditions of Approval / Development Agreement
Zoning Amendment Application No. ZA0705
Development Agreement

The applicant is to provide the following documentation prior to the amendment application being considered for 4th reading:

DEVELOPMENT AGREEMENT

Applicant to prepare a section 219 covenant to secure the following conditions. This covenant is to be prepared and registered by the applicant to the satisfaction of the Regional District prior to consideration of 4th reading. Draft covenant document is to be forwarded to the RDN for review prior to registration at Land Title Office, Victoria, BC.

The applicant agrees that all requirements set out in this Development Agreement must be fulfilled prior to final approval of subdivision of any portion of the land.

Subdivision of the Lands

The subject parcels may only be subdivided in substantial compliance with the Proposed Subdivision of Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, District Lot 84, Nanoose District, prepared by Sims Associates and dated revision 2009/01/12 as shown on Schedule No. 2 and to be attached to the Development Agreement.

Park Land

The applicant will complete the following to the satisfaction of the Regional District of Nanaimo:

1. Transfer as a fee simple parcel or dedicate as park land, the land labeled as bike path as shown on the Proposed Subdivision of Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, District Lot 84, Nanoose District, prepared by Sims Associates and dated revision 2009/01/29 as shown on Schedule No. 2 and to be attached to the Development Agreement.
2. Design and construct a pedestrian trail in accordance with the Regional District of Nanaimo General Footpath Development Guidelines (to be attached to the Development Agreement).
3. Provide one (1) trailhead sign and trail markers as required in consultation with the RDN Recreation and Parks staff and to the satisfaction of the Regional District of Nanaimo.
4. Provide suitable barriers at the trailhead entrance to discourage motorized vehicles from utilizing the trail in consultation with the RDN Recreation and Parks staff and to the satisfaction of the Regional District of Nanaimo.

Environmental Management

1. The applicant's environmental consultant will provide written certification that the recommendations for mitigation and the conclusions and recommendations set out in the report entitled Biophysical Assessment and General Environmental Management Plan - Development Property, Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, DL 84, Nanoose District, prepared by EBA Engineering Consultants Ltd. and dated February 20, 2007 have been carried out in the development of the subject parcels to the satisfaction of the environmental consultant.
2. With respect to Recommendation No. 4 concerning the fenced buffer area for the eagle nest tree, this fence is to be constructed to the Ministry of Environment's Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia under the supervision of a Qualified Environmental Professional. With respect to signage, a sign to be installed indicating the presence of the eagle nest tree along with educational information.

Hydrogeological Management

The applicant's hydrogeological engineer with current BC certification will provide written certification that the conclusions and recommendations set out in the report titled Amended Preliminary Hydrogeological Assessment Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, DL 84, Nanoose District, prepared by EBA Engineering Consultants Ltd. and dated October 28, 2008 have been completed to the engineer's satisfaction.

Vegetation Retention

Vegetation will be retained for those areas of the subject parcels as shown on the Proposed Subdivision of Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, DL 84, Nanoose District, prepared by Sims Associates and dated revision 2009/01/29 as shown on Schedule No. 2 and to be attached to the Development Agreement. Submitted images will serve as the base line information for the vegetation retention. Removal of invasive plants or noxious weeds on a small scale within the vegetation retention area including but not limited to Scotch broom, Himalayan blackberry, morning glory, and purple loosestrife, is permitted provided the area is replanted. There shall be no removal of dangerous trees without prior consent of the RDN.

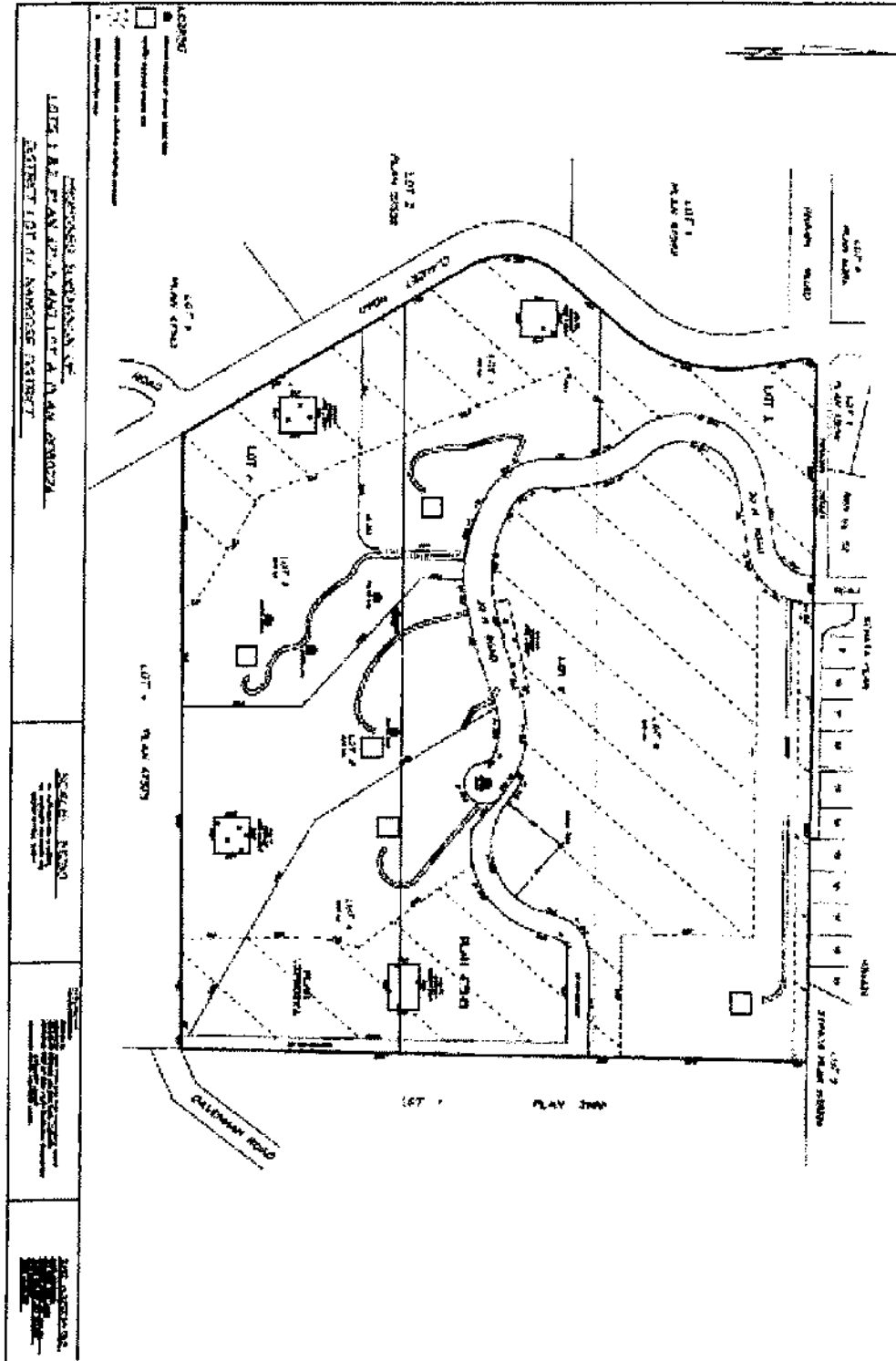
Eagle Nest Tree

The eagle nest tree and 50.0 metre buffer area as shown on the Proposed Subdivision of Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, DL 84, Nanoose District, prepared by Sims Associates and dated revision 2009/01/29 as shown on Schedule No. 2 and to be attached to the Development Agreement will be protected. There shall be a no disturbance / no removal of vegetation for the 50-metre radius buffer area.

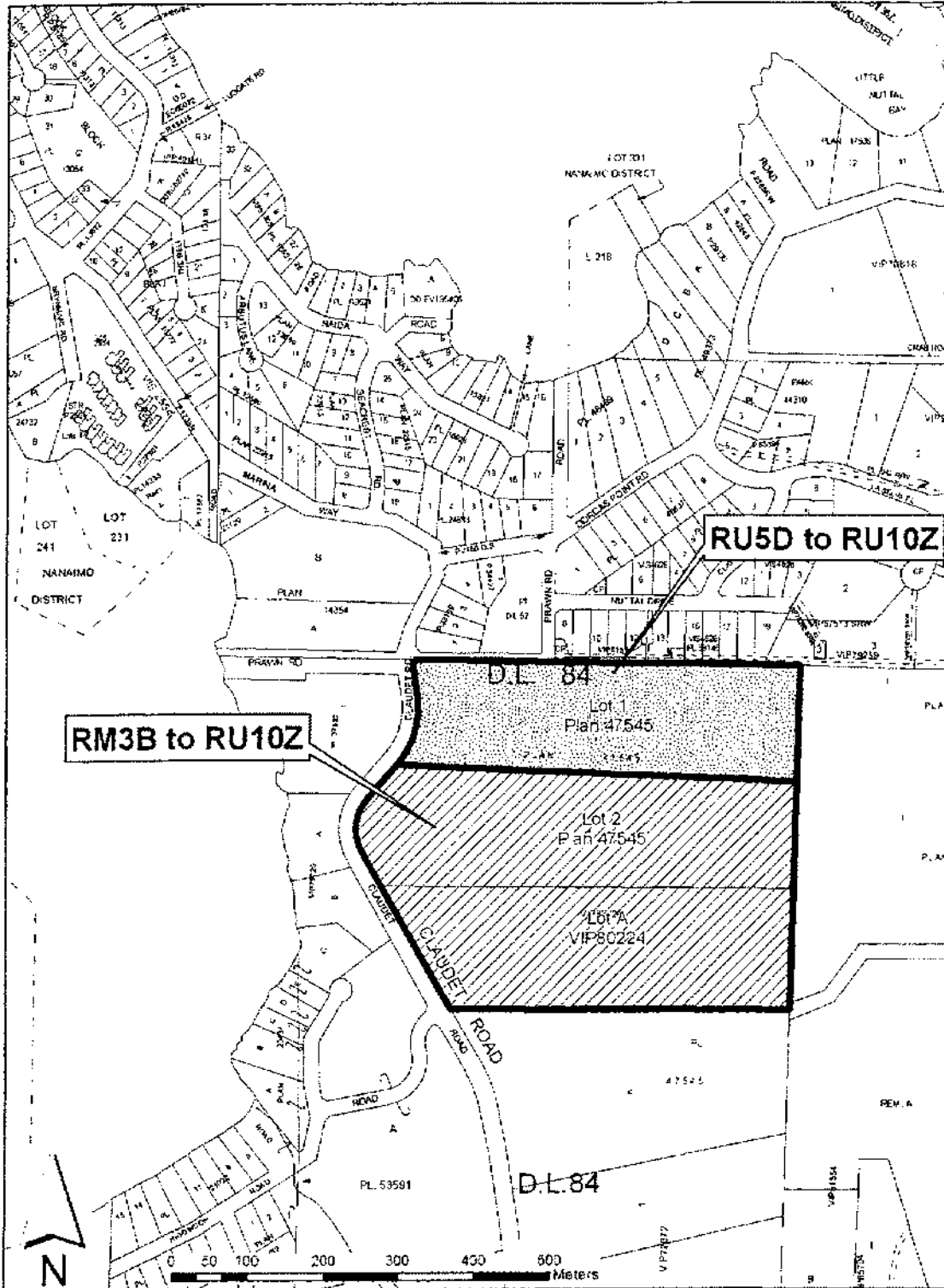
Geotechnical Report

The geotechnical report titled Geotechnical Appraisal – Development Property, Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, DL 84, Nanoose District, prepared by EBA Engineering Consultants Ltd. and dated October 29, 2008 for the proposed parcels as shown on the Proposed Subdivision of Lots 1 & 2, Plan 47545 and Lot A, Plan VIP80224, DL 84, Nanoose District, prepared by Sims Associates and dated revision 2009/01/29 as shown on Schedule No. 2 and to be attached to the Development Agreement shall be adhered to. Applicant's professional engineer with certification in BC shall provide certification that the development has been to the completed to the engineer's satisfaction.

Schedule No. 2
Proposed Plan of Development
Zoning Amendment Application ZA0705
Proposed Plan of Subdivision



Attachment No. 1
Location of Subject Properties
Zoning Amendment Application No. ZA0705



BCGS MAPSHEET: 02F.030.2.3. 040.1.1

Attachment No. 2
Summary of the Minutes of the Public Information Meeting
Report of the Public Information Meeting
Held at Nanoose Place Multi Purpose 1
2924 Northwest Bay Road, Nanoose Bay, BC
October 1, 2008 at 7:00 pm
Summary of the Minutes on Proposed Zoning Amendment Application No. ZA0705

Note: this summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments of those in attendance at the Public Information Meeting.

There were 41 persons in attendance.

Present for the Regional District:

Chairperson George Holme, Director, Electoral Area 'E'
Susan Cormie, Senior Planner

Present for the Applicant:

Helen Sims, agent for applicant
Bernie Walsh, owner
Vaughn Roberts, applicant's professional engineer

Chairperson Holme opened the meeting at 7:02 pm and outlined the agenda for the evening's meeting. The Chair then stated the purpose of the Public Information Meeting and requested the Senior Planner to provide background information concerning the official community plan and zoning amendment process.

The Senior Planner gave a brief outline of the application process.

The Chairperson then invited Helen Sims, agent on behalf of the applicant, to give a presentation of the proposed zoning amendment. Ms. Sims introduced the owner and owner's engineer. Ms. Sims then presented the proposed amendment application including subdivision layout, a maximum density of one dwelling unit per parcel, and the proposed trail corridor.

Following the agent's presentation, the Chairperson invited questions and comments from the audience.

Paul Watson, 12574 Dorcas Point Road, asked about the access from prawn Road and not Claudet Road.

The applicant's agent explained that the Ministry of Transportation and Infrastructure wants access from Prawn Road only.

Jacqui, Clayton Crescent, brought up a number of points including the Ministry comments, assurance that there will be no further subdivision, and provision to extent the trail into Prawn Road.

The Senior Planner noted that staff will recommend that the zone limit further subdivision and a restrictive covenant be registered on title restricting further subdivision as well.

Bob Ormond, 2484 Nuttal Drive asked about the driveway on Proposed Lot 5 and how far it is from the existing houses?

The applicant's agent did not know the exact distance.

John Barnes, 2476 Nuttal Drive asked that the proposed trail be moved off of the boundary of the existing houses as there is a concern for privacy.

Dave Pope, 1790 Claudet Road asked if the developer would provide a covenant prohibiting further subdivision of the parcels and secondly, voiced a concern about the existing wells.

Patti Pope, 1790 Claudet Road, stated that the applicant's engineer was testing for the water and she referred to correspondence from the engineer about the monitoring of her well. Ms. Pope also stated that she is concerned with the new RDN well located on Northwest Bay Road and the possibility of their water supply being impacted by these wells.

Joyce Westmacott, 2490 Nuttal Drive expressed a concern about the wells and also about drainage and asked who is responsible for storm water management.

The applicant's engineer stated that the Ministry of Transportation and Infrastructure is responsible for storm water. The engineer stated that water now collects in proposed Lot 5 and the new road will catch this drainage and it will be directed into the local ditch system.

Russ Horsell, 1640 Dorcas point Road stated that he has a pond on his property and is concerned about the pond being drained due to the development.

The applicant's engineer stated that there is lots of ground water on the property; however he did not know how the pond system is currently being filled.

Mr. Horsell stated that it is mostly from surface water.

The applicant's engineer stated that most of the property will be left as is and drainage will not change very much.

The applicant's agent stated that there will a tree retention covenant placed on the parcels.

John Barnes, 2476 Nuttal Drive asked if the property can be logged.

The Senior Planner explained that the property could be logged except for the environmentally sensitive features areas, in this case, an eagle nest tree.

Jim Lettic, 2885 Ashcraft Road asked if the wells will be drilled and is there a park land dedication.

The applicant's agent explained that the wells will be drilled.

The Senior Planner explained that provision of park land is not a requirement of subdivision and that the applicant is offering a park land trail as an amenity.

Rick Picard, 2504 Nuttal Drive said that he is concerned about the location of the pathway to Prawn Road and the neighbouring house, removing trees, and suggested that the pathway be moved.

Bob Ormond, 2484 Nuttal Drive requested a bigger buffer area be established for the adjacent houses and suggested 50 metres.

The applicant's agent said that they would do their best to address this concern.

Bill, Nuttal Drive noted that there is a waterline located through the rears of the adjacent properties.

Kathleen Pope, 1798 Claudet Road asked if the services are going to be underground

The applicant's engineer commented that typically they are overhead.

Ms. Pope asked if there are existing septic fields.

The applicant's agent explained that some of the fields are existing.

John Barnes, 2476 Nuttal Drive asked about the walkway along Prawn Road

Terry, 1568 Dorcas Point Road asked about covenants

Jim Lettic, 2885 Ashcraft Road commented about the park land trail being built and compared it a beach accesses not being accessible.

Bob Norman, no address given, asked why is the house on proposed Lot 5 in the corner.

The applicant's agent explained that this is a location for views.

Christine Balance, 2465 Nuttal Road asked when will the parcel be developed and the housing built.

The applicant commented that that depends on the marketplace.

John Barnes, 2476 Nuttal Drive asked the location within the road right-of-way for pavement.

The applicant's engineer commented that it is normally 8.0 metres from the centerline which would place it about 6.0 metres from the property line.

Bob, Prawn Road asked if the ditch is considered a watercourse

The applicant's engineer stated that it is ground water that sits there

John Barnes, 2476 Nuttal Drive asked about the Prawn Road construction and will the road be raised due to the bogginess.

The applicant's engineer stated that they do not build on bogs and will try to build to the current level. The applicant's engineer further stated that while they will try to match the existing topography, it cannot be guaranteed.

Jim Lettic, 2885 Ashcraft Road asked about a previous proposal that seemed to follow the sustainability guidelines.

The Senior Planner explained that the original proposal did not meet the objectives of the OCP.

L. Smith, no address given, asked if the proposed driveway can be moved farther up the road.

The applicant's agent stated that this can be looked at.

The Chairperson asked a 1st time if there were any other questions or comments.

The Chairperson asked a 2nd time if there were any other questions or comments.

The Chairperson asked a final time if there were any other questions or comments.

Being none, the Chairperson thanked those in attendance and announced that the public information meeting was closed.

The meeting concluded at 7:45 pm.

Susan Cormie, Recording Secretary

Correspondence Received as Part of the Public Information Meeting held on October 1, 2008

October 1, 2008

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, British Columbia
V9T 6N2

Attn: Planning Department

Thank you for sending notification of the Public Information Meeting scheduled for October 1, 2008 concerning the zoning amendment application #ZA0705. Unfortunately we will not be able to attend.

It is our understanding that the three parcels in question are listed as rural properties. Certainly their current condition is rural and full of wildlife which adds to the overall attraction to this basically unspoiled portion of Claudet road. Lot 2 is zoned as "Sensitive Ecosystem Protection" as is lot 4 which is to the south and adjacent to lot 3 the southern most lot is question. I would assume that any property falling under a "sensitive ecosystem protection" would not be available for development: residential or any other kind. Lots 2 and 4 have mapped eagle nesting locations and any development in and around lots 2 and 4 would surely have a detrimental effect on these nesting locations. The lands in question are home to other wildlife, most notably deer, rabbit and a variety of birds.


Everything written in the 'Nanoose Bay Official Community Plan' regarding DPA IV (sensitive ecosystem protection) points to a desire NOT to develop these areas. No permits are required if you are maintaining or preventing changes to the existing environment. Why grant access to an area where development will not only change the existing ecosystem but change the landscape as well creating potential erosional issues in years to come. The slope of the land is severe and with the proposed location for residences, development (access) on these slopes is inevitable. If the development plan is approved, the residence locations should all be on top of the hill thereby minimizing slope degradation and vegetation destruction.

One of the reasons for moving into this particular area, is the abundance of wild life and the lack of visible residences. The proposed development, which we oppose, would place two residences adjacent to and very visible from Claudet road. While traffic impact would be minimal based on the proposed access, the visual, wildlife and native vegetation impact would be significant. Also, the proposed 6m strip of parkland is nothing more than lip service to "protecting" the natural environment. An area of this size cannot and will not serve as "parkland", but merely act as a buffer to generate some additional privacy to the residence of this development should the plan be approved.

Please advise by email how we can gain access to the comments generated at the PIM meeting to be held this evening. Our email addresses are:

nedfrey@shaw.ca
laurafrey@shaw.ca

Regards,



Edward and Laura Frey

kathy pope

From: <a.bays@flare-solutions.com>
To: <kathypope@telus.net>
Sent: Tuesday, September 30, 2008 7:45 AM
Subject: Claudet Rd Proposed Subdivision - Public Information Meeting Oct 1st

Cathy,

These are the questions I think we should try to have answered:

1. Water supply: Will each proposed lot have a dedicated well or will there be a community well or connection to RDN water pipeline ?
2. Sewer: Will each proposed lot have a dedicated septic system and disposal field - where will fields be located ?
3. Access road: Is this a paved road ? Is 20m the standard width for a 5 lot subdivision ?
4. Proposed Lot 5: What is the area of proposed Lot 5 ? What restrictions are in place to prevent future subdivision of this lot ?

Regards,
Alan Bays (P.Geoph)

Tel. +1 403 932 4597
Mob. +1 403 615 0370
Fax. +1 403 932 6156

9/30/2008

kathy pope

From: "Lee Ringham" <lringham@eba.ca>
To: "kathy pope" <kathypope@telus.net>
Sent: Thursday, August 30, 2007 4:09 PM
Subject: RE: We'l testing on Claudet Road

Hi Kathy:

We started the pumping test on Tuesday, about 12:30 pm. It is too bad that we could not get things worked out before we started, but the drillers and I played too much telephone tag prior to start up and I had little time to contact you.

We would have liked to monitor your well and the neighbours' also, but we need signed consent forms and waivers, as well as sampling ports/tubes in domestic wells so our equipment does not get wrapped up in existing pipes, cables or pumps. Given the timetable we were under, we simply ran out of time.

Our on-site guys have told me that the water level has stabilized roughly 40 feet lower than the original water level, indicating good flow through the fractures into the well. So far there are no issues with water quality.

Regards
Lee

**Lee Ringham, M.Sc., P.Geo.,
Senior Hydrogeologist**

EBA Engineering Consultants Ltd.
#1 4376 Boban Drive
Nanaimo, British Columbia
Canada V9T 6A7
phone: (250) 756-2256 (ext. 222) fax: (250) 756-2686
www.eba.ca

CREATING AND DELIVERING BETTER SOLUTIONS

9/27/2008

**Attachment No. 3
Proposed Bylaw Amendment Bylaw No. 500.348, 2009**

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 500.348

**A Bylaw to Amend Regional District of Nanaimo
Land Use and Subdivision Bylaw No. 500, 1987**

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

A. Schedule 'A' of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", is hereby amended as follows:

1. PART 3 LAND USE REGULATIONS, Section 3.1 Zones is hereby amended by adding the following zoning classifications and corresponding short title equivalents:

Rural 10 RU10

2. PART 3, LAND USE REGULATIONS, Section 3.4 Regulations for Each Zone is hereby amended by adding Section 3.4.810, Rural 10 (RU10).

as shown on Schedule No. 1' which is attached to and forms part of this Bylaw.

3. PART 3 LAND USE REGULATIONS, Schedule '3A', ZONING MAPS is hereby amended by rezoning from Rural 5 (RU5) to Rural 10 (RU10) the lands legally described as:

Lot 1, District Lot 84, Nanoose District, Plan 47545

as shown in heavy outline on Schedule No. '2' which is attached to and forms part of this Bylaw.

4. PART 3 LAND USE REGULATIONS, Schedule '3A', ZONING MAPS is hereby amended by rezoning from Resource Management 3 (RM3) to Rural 10 (RU10) the lands legally described as:

**Lot 2, District Lot 84, Nanoose District, Plan 47545 and
Lot A District Lot 84 Nanoose District Plan VIP80224**

as shown in heavy outline on Schedule No. '2' which is attached to and forms part of this Bylaw.

5. PART 4 SUBDIVISION REGULATIONS, Schedule '4A', SUBDIVISION DISTRICTS MAPS is hereby amended by changing the Subdivision District 'B' to 'Z' for the lands legally described as:

**Lot 1, District Lot 84, Nanoose District, Plan 47545
Lot 2, District Lot 84, Nanoose District, Plan 47545, and
Lot A District Lot 84 Nanoose District Plan VIP80224**

as shown in heavy outline on Schedule No. '3' which is attached to and forms part of this Bylaw.

B. This Bylaw may be cited as "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.348, 2009".

Introduced and read two times this

Public Hearing held pursuant to Section 890 of the *Local Government Act* this

Read a third time this

Adopted this

Chairperson

Sr. Mgr., Corporate Administration

Schedule '1' (1 of 2) to accompany "Regional District of
Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw
No. 500.348, 2009"

Chairperson

Sr. Mgr., Corporate Administration

Section 3.4.810

R U R A L 1 0

R U 1 0

3.4.810.1 Permitted Uses, Density, and Park Amenity

Permitted Uses

- a) Residential Use
- b) Home Based Business Use

Density and Park Land Amenity

For the parcels legally described as Lot 1, District Lot 84, Nanoose District, Plan 47545, Lot 2, District Lot 84, Nanoose District, Plan 47545, and Lot A, District Lot 84 Nanoose District Plan VIP80224, the following applies:

- a) The maximum number of parcels that may be created by subdivision within the area as shown outlined on Schedule No. 2 of the Rural 10 zone shall be a maximum of 5 fee simple parcels.
 - b) The park land amenity is the transfer of lands for community park and is a trail corridor 10 metres to 15 metres in width connecting the proposed cul-de-sac road to the south east corner of Lot A District Lot 84 Nanoose District Plan VIP80224.
-

3.4.810.2 Maximum Number and Size of Buildings and Structures

Accessory buildings	Combined floor area 400 m ²
Dwelling units/parcel	1
Height of buildings	9.0 m
Parcel coverage	10%

3.4.810.3 Minimum Setback Requirements

For all buildings and structures

All lot lines 8.0 metres

Except where any part of the parcel is adjacent to or contains a watercourse then the regulations of section 3.3.8 shall apply.

Schedule 'I' (2 of 2) to accompany "Regional District of Nanaimo
Land Use and Subdivision Bylaw Amendment Bylaw No.
500.348, 2009"

Chairperson

Sr. Mgr., Corporate Administration

3.4.810.4 Minimum Parcel Size

Minimum parcel size 4.0 ha

Despite the minimum parcel size, for the parcels legally described as Lot 1, District Lot 84, Nanoose District, Plan 47545, Lot 2, District Lot 84, Nanoose District, Plan 47545, and Lot A, District Lot 84 Nanoose District Plan VIP80224, the following applies:

a maximum of 3 fee simple parcels may be parcel averaged based on the total size of the parent parcel divided by the number of fee simple parcels created provided that the total number of fee simple parcels does not exceed 5 and the smallest parcel is not less than 2.94 ha in size.

3.4.810.5 Other Regulations

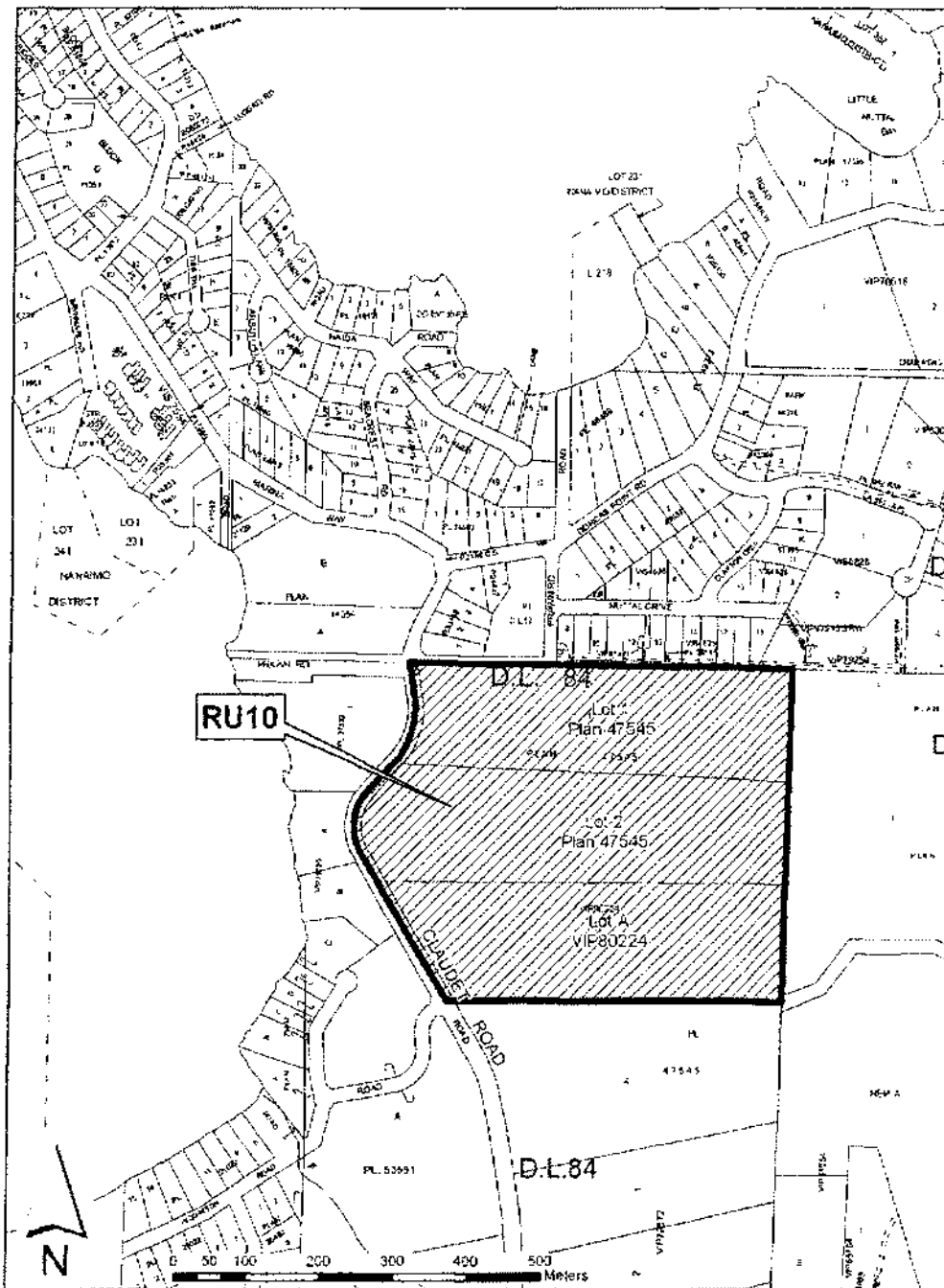
For the purpose of this zone:

- a) Home Based Business Use -- a home based business use shall be restricted to an office home based business only provided it is fully contained within a single dwelling unit and all other applicable regulations set out in section 3.3.12 apply to this zone.
- b) Despite section 3.3.5), the keeping of animals shall be restricted pets and household animals.

Schedule '2' to accompany "Regional District of Nanaimo
Land Use and Subdivision Bylaw Amendment Bylaw No.
500.348, 2009"

Chairperson

Sr. Mgr., Corporate Administration

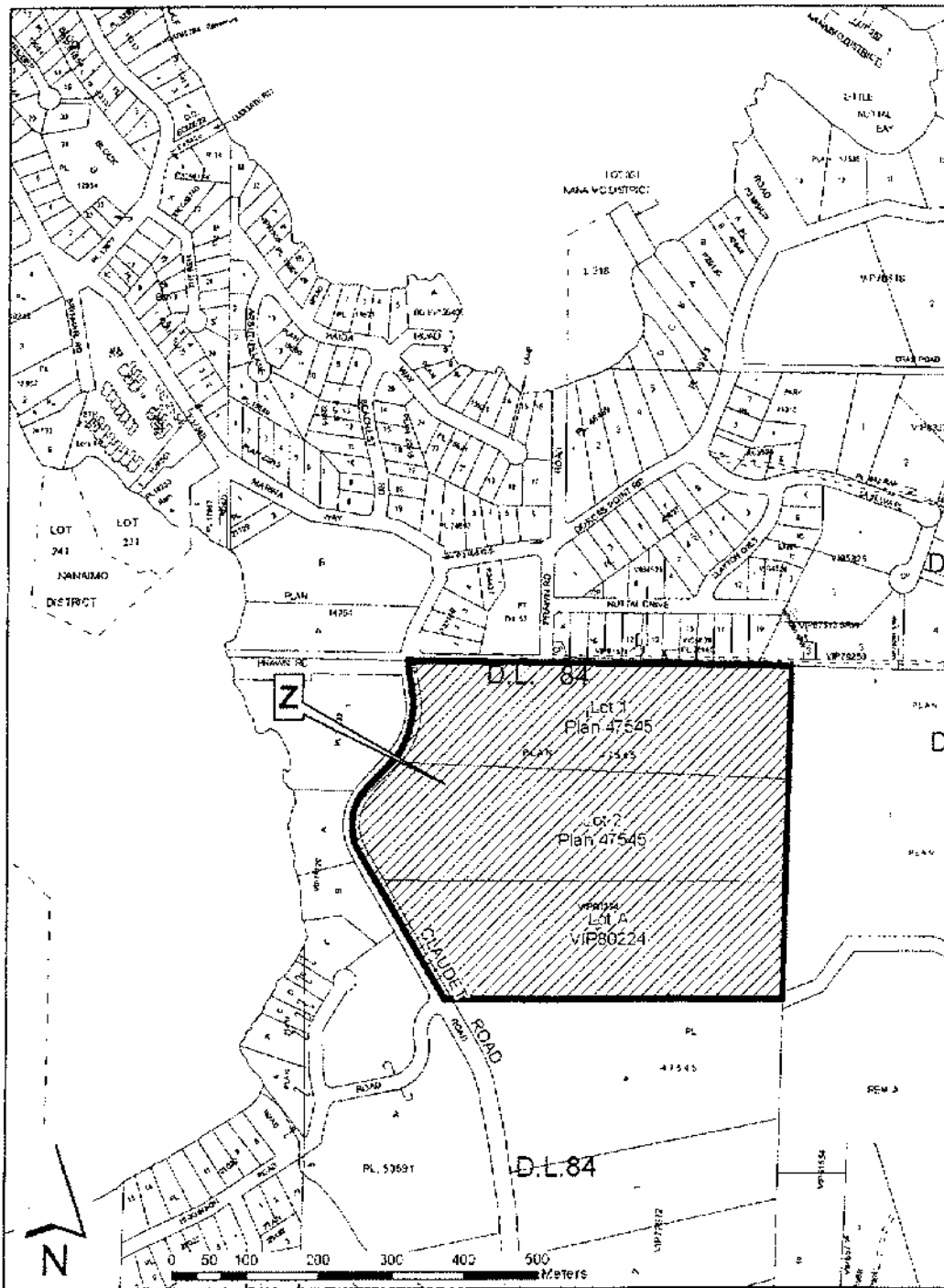


EGGS MAP SHEET 52P 030 3.1 040.1.1

Schedule '3' to accompany "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.348, 2009"

Chairperson

Sr. Mgr., Corporate Administration





CAC APPROVAL C13	
EAP	✓ Feb 10 09
GOW	
FEB 17 2009	
RHD	
BOARD	

MEMORANDUM

TO: Geoff Garbutt
Manager, Current Planning

DATE: January 29, 2009

FROM: Lainya Rowett
Planner

FILE: 3060 30 60846

SUBJECT: Development Permit Application No. 60846 – Larry & Arleen Reid
Lot A, District Lot 73, Newcastle District, Plan 14420
Electoral Area 'G' – 4179 Island Hwy West

PURPOSE

To consider a request for the issuance of a Development Permit in conjunction with a proposed subdivision to permit the development of two residential lots within a Hazard Lands Development Permit Area on a property located at 4179 Island Highway West.

BACKGROUND

The applicant proposes to subdivide the subject property (Lot A, District Lot 73, Newcastle District, Plan 14420) into two residential lots, and to retain a portion of an existing dwelling, garage and an in-ground swimming pool within proposed Lot 1 as shown in *Schedule No. 2*. The proposed lots would accommodate future construction of single dwelling units within the Hazard Lands Development Permit Area (DPA), and therefore require a Development Permit. The property (1.5 ha) is also designated within the Fish Habitat Protection and Farmland Protection Development Permit Areas, pursuant to the "Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008" (see *Attachment No. 1 for Subject Property Map*). However, the proposed development is exempt from these DPAs because the applicant has declared the absence of any water features on or adjacent to the property, and the property does not abut the Agricultural Land Reserve.

ALTERNATIVES

1. To approve the request for Development Permit No. 60846 subject to the conditions outlined in Schedules No. 1 to 3.
2. To deny the request for a Development Permit.

LAND USE & DEVELOPMENT IMPLICATIONS

The subject property is zoned Residential 2 (RS2). The applicant proposes to subdivide the property into two residential lots (0.7 ha and 0.9 ha in area), and to retain a portion of the existing dwelling and garage, and an in-ground swimming pool within proposed Lot 1. The existing garage is located 0.7 metre from the west property line (see *Schedule No. 2*), abutting Hobbs Road (an unconstructed road). This existing setback does not meet the required front lot line setback of 8.0 metres, but new buildings will be constructed in accordance with the RS2 zoning requirements. The applicant will be required to verify that all other setbacks are met for buildings and structures retained within the subdivision.

The Ministry of Transportation, Highways and Infrastructure has also confirmed that it does not have any concerns with the setback to the existing garage (0.7 m), which is less than their minimum highways setback of 4.5 metres. Both of the proposed lots will have access from Hobbs Road.

The proposed lots are located within the Hazard Lands Development Permit Area. A geotechnical hazards assessment of the property was conducted by Ground Control Geotechnical Engineering Ltd. on August 22, 2008, and amended on January 29, 2009, to determine whether the land is geotechnically safe for the proposed residential use. The report concluded that the proposed development is safe for the intended use, and it recommended that foundations for all occupied or high-value structures be set back a minimum of 42 metres from the crest of the slope. It also encouraged retention of vegetation on the slope face to minimize surface erosion (*Schedule No. 3*).

The applicant has demonstrated adequate siting for residential building envelopes within the proposed lots outside of the 42-metres setback area. As a condition of this Development Permit the applicant would be required to register a Section 219 restrictive covenant against the subject property title, which includes the geotechnical hazards assessment prepared by Ground Control Geotechnical Engineering Ltd., and a "save harmless" clause releasing the Regional District of Nanaimo from all losses and damages as result of slope disturbances, failures, or erosion.

SUSTAINABILITY IMPLICATIONS

The proposed development would minimize encroachment or environmental impact of the residential use on the Hazard Lands Development Permit Area. Additionally, the applicant would be required to ensure that any future construction within the proposed lots meets the recommendations of the geotechnical hazards assessment report prepared by Ground Control Geotechnical Engineering Ltd, which would be registered on the title of each lot.

SUMMARY/CONCLUSIONS

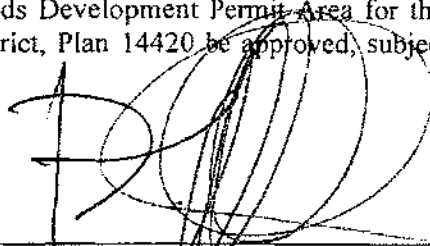
This is an application for a Development Permit to allow the creation of residential lots, and the retention of existing structures, within a Hazard Lands Development Permit Area. Given that the geotechnical recommendations will be conditional to this permit and the absence of negative impacts of the proposed development on the subject or neighboring properties, staff recommends approval of the Development Permit as submitted.

RECOMMENDATION

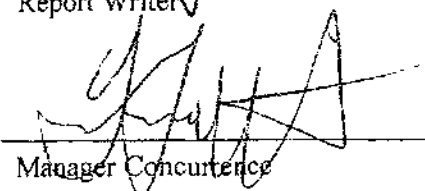
That Development Permit No. 60846 submitted by Helen Sims of Fern Road Consulting Ltd. for the development of two residential lots within the Hazard Lands Development Permit Area for the parcel legally described as Lot A, District Lot 73, Newcastle District, Plan 14420 be approved, subject to the conditions outlined in Schedule No. 1.



Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

Schedule No. 1
Development Permit No. 60846
Conditions of Approval

The following conditions are to be completed as part of Development Permit No. 60846:

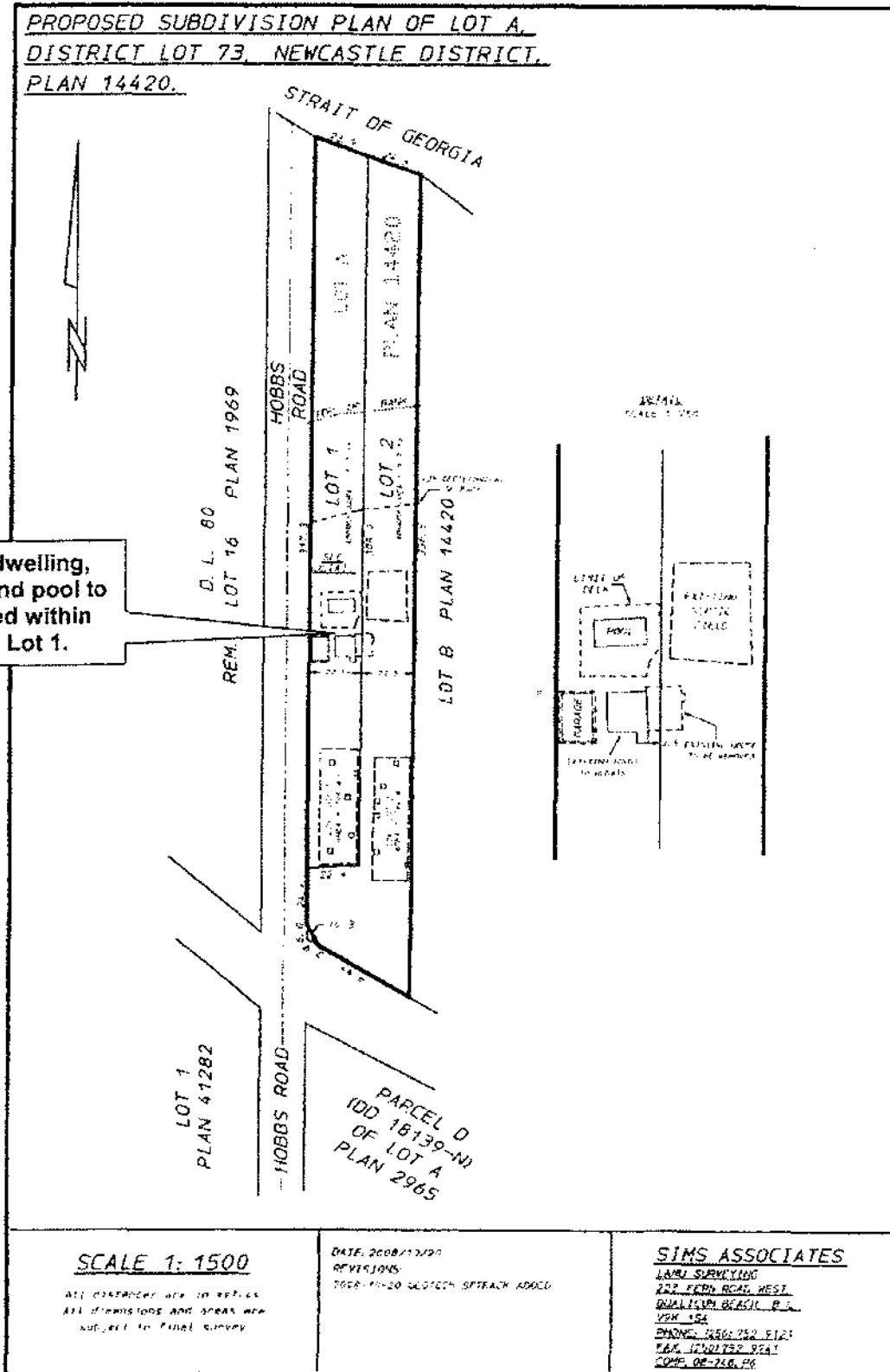
1. Geotechnical

The proposed lots must be developed in accordance with the recommendations of the Geotechnical Report prepared by Ground Control Geotechnical Engineering Ltd., dated January 29, 2009 (attached herein as Schedule No. 3).

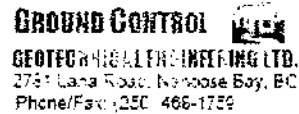
2. Restrictive Covenant

Staff shall withhold the issuance of this permit until the applicant, at the applicant's expense, registers a Section 219 restrictive covenant containing the Geotechnical Evaluation prepared by Ground Control Geotechnical Engineering Ltd. dated January 29, 2009, and includes a "save harmless" clause that releases the Regional District of Nanaimo from all losses and damages as result of slope disturbances, failures, or erosion.

Schedule No. 2
 Development Permit No. 60846
 Proposed Subdivision Plan / Site Survey for 4179 Island Hwy West



**Schedule No. 3
Development Permit No. 60846
Geotechnical Assessment for 4179 Island Highway West**



File: LAR-001
January 29, 2009

Larry and Arlene Reid
4904 Brenton Page Road
Ladysmith, BC
V9G 1J6

SUBJECT: GEOTECHNICAL HAZARDS ASSESSMENT (REVISED)
PROJECT: PROPOSED SUBDIVISION OF LAND
LOCATION: 4179 ISLAND HIGHWAY W., QUALICUM BEACH, B.C.
LEGAL DESC.: LOT A, DL73, VIP14420, NEWCASTLE DISTRICT

Dear Mr and Ms. Reid:

1. Introduction

- a. As requested, Ground Control Geotechnical Engineering Ltd. (Ground Control) has carried out a geotechnical hazards assessment of the above site. This report provides a summary of our findings and recommendations.
- b. This is a revised report. An earlier version of this report was issued on August 22, 2008, which we understand was submitted to the Regional District of Nanaimo (RDN) as part of your application for subdivision. Since that time the RDN has reviewed our report and made a written request for some geotechnical input on some additional items prior to Design Stage Acceptance, and the minor revisions to this report are intended to satisfy this request. This version of our report supercedes all previous versions.

2. Background

- a. Based on a subdivision plan provided for our use by Sims Associates (attached), the subject property will be subdivided into two single-family residential lots (designated as Lots 1 and 2). We understand that a geotechnical hazards assessment is required in support of your application for subdivision. This report is provided to fulfill that requirement.
- b. An existing house and garage are present on the property and will remain, although a portion of the house will be demolished such that the remaining portion is located entirely within Lot 1. Lot 2 will be a vacant lot available for development with a new house and out-buildings.

Geotechnical Hazards Assessment
File: LAR-001
January 29, 2009
Page 2 of 14

- c. We understand that any future structures to be constructed at this site will be standard low-rise single-family residential buildings of wood frame construction.
- d. We further understand that sewerage for the new vacant lots will be by septic disposal fields, and that water will be piped in from the local municipal water system.

3. Assessment Objectives

- a. Our assessment, as summarized within this report, is intended to meet the following objectives:
 - i. Determine whether the land is geotechnically safe and suitable for the intended purpose (subdivision to create two residential acreage lots), where 'safe' is defined as a probability of a geotechnical failure or another substantial geotechnical hazard resulting in property damage of less than 10 percent in 50 years;
 - ii. Identify any geotechnical deficiency that might impact the design and construction of the development, and prescribe the geotechnical works and any changes in the standards of the design and construction of the development that are required to ensure the land, buildings, and Works and Services are developed and maintained safely for the use intended; and
 - iii. Acknowledge that Approving Officers may rely on this Report when making a decision on applications for the subdivision or development of the land.

4. Assessment Methodology

- a. Topographic maps and 2005 aerial photographs for the site were reviewed to assess visible land features. A site reconnaissance was carried out on August 20, 2008. We walked the site accompanied by the clients/owners and observed site conditions and noted any apparent geotechnical hazards.
- b. Surficial soil conditions were observed within several shallow test pits that were recently dug in the south portion of the property by others to assess septic disposal conditions. Soil conditions within the steep slope areas along the north end of the property were readily observed within exposed soil cuts along a beach-access road running down the slope on the neighbouring property to the west.

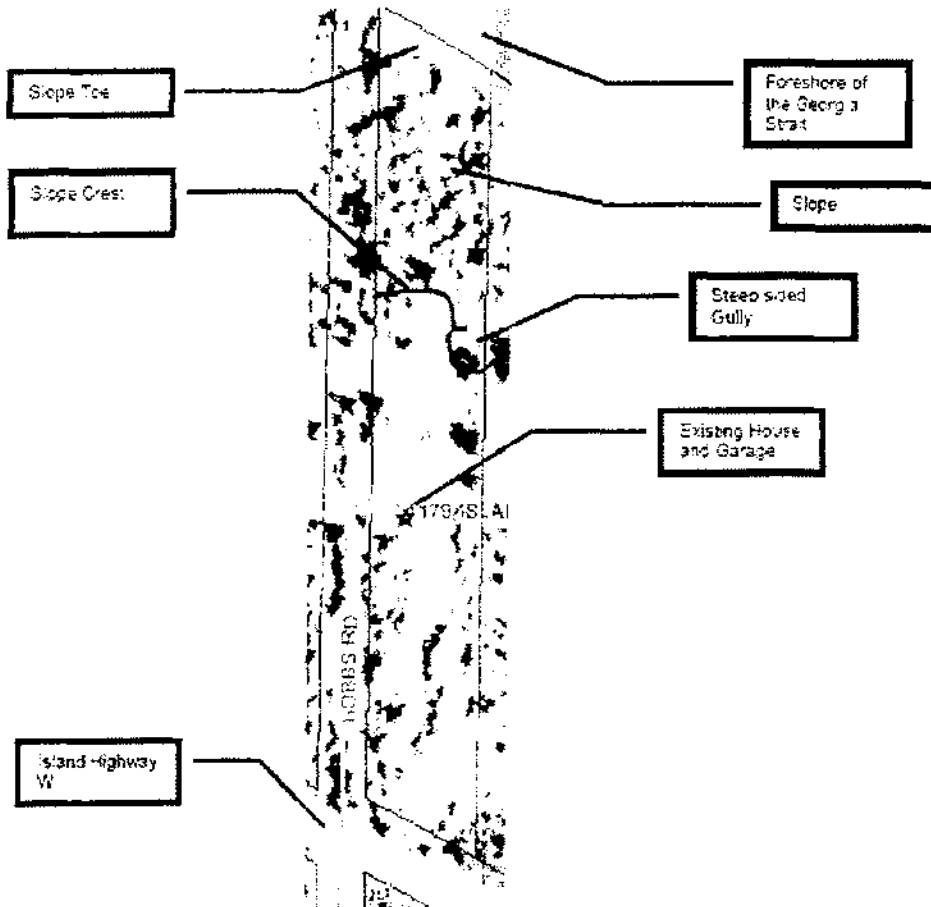
Geotechnical Hazards Assessment
File: LAR-001
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Page 3 of 14

- c. The steep slope areas were assessed by modeling the slope with slope stability software. Soil parameters were selected based on published typical values and by back-calculation from the existing slope configuration. The slope model was then used to predict slope behaviour during a 1 in 475 year seismic event.

5. Site Conditions

5.1. General

- a. The subject property is located north of the Island Highway and east of Hobbs Road within an existing neighborhood of residential acreages. The property has an area of about 1.6 hectares and has an existing residence and garage located within the central portion of the property.



GROUND CONTROL
GEOTECHNICAL ENGINEERING LTD.

Geotechnical Hazards Assessment
File: LAR-001
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- b. Except for the slopes along the north end of the property, the site is relatively flat. Areas to the south of the house are partially overgrown with small trees and brush, while areas north of the house are vegetated with grasses and a few mature trees.



Area south of the house, looking north with the house in the background



Area north of the house, looking south from crest of slope towards the house

Geotechnical Hazards Assessment
File: LAR-001
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- c. The north end of the site contains a large and relatively steep slope, sloping downwards to the foreshore of the Strait of Georgia. Topographic plans indicate the slope has a height of about 60 metres and an overall slope angle of about 36 degrees from horizontal. A very steep sided deep gully occupies the east side of the upper slope. The gully sides create a near vertical bare-soil escarpment along the east third of the upper slope, with the drop-off to the gully floor estimated to be about 20 metres. We did not enter the gully due to safety concerns and observations were restricted to observations from the crest. This gully appears to be an erosional feature resulting from long term historic surface runoff flowing over the crest of the slope at this location.

- d. The main slope is well vegetated with coniferous and deciduous trees (predominantly Douglas fir, maple, and alder) of varying ages, as well as typical local undergrowth. No areas of leaning trees that might indicate large-scale instability were observed. The slope appears to have been logged in the past, and only a few large mature trees remain. The neighbour to the west (Mr. Allen Dertell) reported to us that the existing slope face has been in its current configuration for at least 38 years and that the lack of large trees is a result of ongoing cutting to maintain views.



Slope, viewed from the crest and looking ENE

Geotechnical Hazards Assessment

File: LAR-001

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- e. The toe of the slope is adjacent to the foreshore of the Strait of Georgia. There were no observed indications of significant undercutting of the slope as a result of ocean waves.



Gravelly foreshore adjacent to toe of slope - North limit of the property

- f. No watercourses or water bodies were observed on the site, except for the previously mentioned gully. The gully is expected to have flows in it only during rain events. Since the installation of a shallow drainage pipe system (Big-O style drain pipes) on the property, the owner reports that surface runoff from the site's plateau no longer runs over the slope crest at the gully location. The drain system reportedly collects water in shallow piping runs along the east and west property lines and discharges the collected waters to the floor of the gully in an outfall pipe.

Geotechnical Hazards Assessment
File: LAR-001
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5.2. Soil Conditions

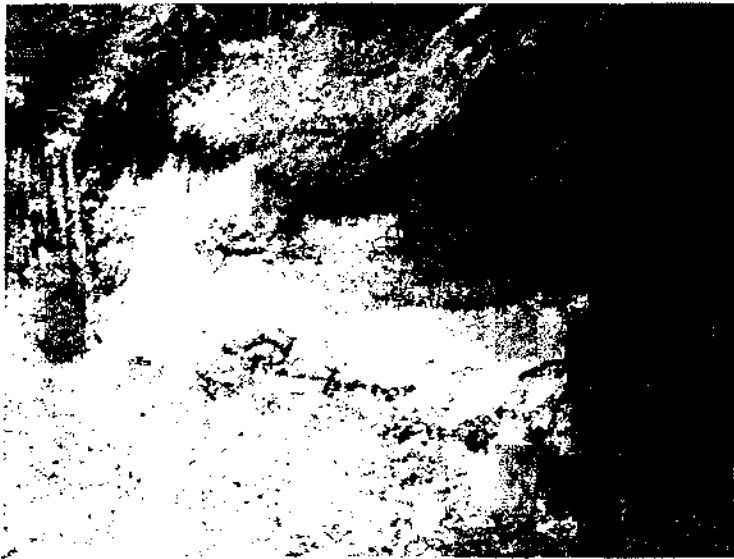
- a. Observations within the various test pits indicate that soils across the surface of the site consist of compact, orangey-brown poorly-graded sand with gravel (Unified Classification Group Symbol SP). These soils extend to a relatively shallow depth (less than a metre). These surficial soils are interpreted to be part of the Capilano Sediments soil unit, which are marine and fluvial deposits related to former, higher, sea and river levels.
- b. Underlying these surficial soils we observed dense, grey, silty sand with gravel (Unified Classification Group Symbol SM). These soils are interpreted to be part of the Vashon Drift soil unit, which are glacial deposits constituting the uppermost drift sheet of the region. These soils are locally commonly known a 'hard pan'. These glacial soils would have been deposited during the most recent period of glaciation, which ended about 14,000 years ago. These soils extend beyond the completion depth of the various test pits. On the slope face they were observed to extend down to about 1 m below the crest of the slope (vertical depth).



Glacial silty sand of the Vashon Drift, comprising the upper portions of the slope.

Geotechnical Hazards Assessment
File: LAR-001
January 29, 2009
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- c. Beyond the 11m depth on the slope face we observed dense, brown, poorly graded sand (Unified Classification Group Symbol SM) having a relatively uniform medium-grained sizing and a horizontal bedding pattern. These deposits are interpreted to be part of the Quadra Sediments soil unit, which are fluvial-plain deposits laid down during a major non-glacial interval between the Dashwood and Vashon glaciations. On the slope face the Quadra Sediments were observed to extend down to about 8m above the toe of the slope (vertical height).



Poorly-graded sands of the Quadra Sediments comprise the middle of the slope.

- d. In the bottom 8m of the slope face we observed dense, grey, silty sand with gravel deposits that were very similar to those at the top of the slope. These deposits are interpreted to be part of the Dashwood Drift soil unit, which are glacial deposits placed by ice flowing down the Georgia Depression during a period of glaciation that ended about 40,000 years ago.
- e. Topsoil was encountered at the surface in most areas but appears to be only a thin veneer.

Geotechnical Hazards Assessment
File: LAR-001
January 29, 2009
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5.3. Groundwater Conditions

- a. Groundwater was not observed in the open test pits on site, and no significant seepage was observed from the slope face.
- b. Both the Vashon and Dashwood Drift layers are expected to be relatively impermeable to groundwater and will act as horizontal aquatards. The Quadra sands sandwiched between these drift layers and the Capilano sediments at the sites surface will be more permeable. Consequently groundwater (if present) will tend to 'perch' on the upper surfaces of the drift units. At the subject site it appears that infiltrating surface waters (i.e. from rainfall) penetrate vertically only a short distance into the ground before being impeded by the upper surface of the Vashon Drift.
- c. Consequently, groundwater at the site is expected to be concentrated near the surface. This groundwater will flow in a near-horizontal direction along the top of the impervious Vashon Drift until discharging onto the face of the slope, just below the slope crest. This natural groundwater drainage pattern has been improved upon by the owner-installed drainage pipe system (discussed above), which now collects these waters and more rapidly drains them to a discharge part-way down the slope within the base of the slope-gully.

6. Conclusions & Recommendations

6.1. General

- a. From a geotechnical perspective and under the conditions outlined within this report the proposed development is considered safe and suitable for the intended use, provided the recommendations in this report are followed. The following sections discuss specific geotechnical hazard issues.

6.2. Slope Issues – Safety of Structures

- a. The primary geotechnical hazard at this site is the large, steep located along the north end of the property. Our analysis indicates that areas within 42 metres of the crest of the slope are at risk during a 1 in 475 year seismic event.

Geotechnical Hazards Assessment
File: LAR-001
January 29, 2009
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- b. Consequently, we recommend that foundations for all occupied or high-value structures be kept back a minimum of 42 metres from the slope crest. The existing house and garage on the site already meet the above criteria
- c. For the purposes of this report, the crest location can be determined as the location where the transition from flat plateau to slope reaches a steepness of 3H:1V (3 horizontal to one vertical).

6.3. Slope Issues – Controlling Erosion and Retrogression

- a. Controlling erosion of the slope soils can reduce the potential for future slope retrogression. Encouraging a continued thick vegetative cover on the slope face will resist surface erosion by the growth of a strong root matrix. Clearing of undergrowth and/or exposure of the underlying soils on the slope face should be avoided. Selective cutting or topping of trees should be acceptable provided the tree stumps and roots remain in place. The cutting of trees in danger of toppling is actually beneficial, to prevent the root ball from being ripped up.
- b. Flows of surface water down the slope face can cause erosion and we recommend that they be reduced or eliminated wherever possible. For example, we recommend that storm-water from building roofs and site drains not be discharged onto the slope face. We recommend that stormwater and drains be piped (tight-lined) to a suitable discharge location beyond the toe of the slope.

6.4. Watercourses and Flooding Issues

- a. The site does not appear to be impacted by floodplain areas or watercourses. The site is well above flood levels of the adjacent ocean. There are no apparent watercourses on the site itself.

Geotechnical Hazards Assessment
File: LAR-001
January 29, 2009
Page 11 of 14

6.5. Foundation Support Conditions

- a. The site should be suitable for the support of foundations for residential structures on standard spread/strip footings meeting the requirements of the BC Building Code. The native mineral soils below have a relatively high bearing capacity, well in excess of that normally required for support of residential foundation loads. Foundations should be founded on dense, undisturbed, native, mineral soil.

6.6. Seismic Issues

- a. No compressible or liquefiable soils have been identified at this site, nor are any expected below the investigation depth. No unusual seismic design requirements have been identified for this site.

6.7. Permanent Drainage

- a. No unusual groundwater conditions have been identified that might require unusual permanent drainage provisions for buildings. As such, conventional requirements of the B.C. Building Code pertaining to building drainage are considered suitable at this site.
- b. Building drainage requirements as outlined by the B.C. Building Code typically include damp-proofing of foundation walls, installation of a standard footing-level perimeter drainage pipe system, drain rock burial of the perforated piping, roof drainage connected to a separate drainage system constructed from solid piping, and a provision for gravity drainage of all collected waters to a suitable discharge point down-slope and away from the building.
- c. Lot surfaces should be graded to direct surface water well away from buildings.

6.8. Service Trenches - In General

- a. No indications of shallow bedrock were observed at the site. Standard construction practices are expected to be suitable for trenching installation of underground services. Contractors performing any excavation work must, of course, be aware of and abide by applicable Occupational Health and Safety requirements (e.g. maintain safe sideslope conditions).

Geotechnical Hazards Assessment

File: LAR-001

January 29, 2009

Page 12 of 14

6.9. Service Installations on the Slope Face

- a. The slope at the north end of the site is relatively steep and it will be difficult to access with excavation equipment. Also, it will be desirable to avoid unnecessary disturbance of the slope's vegetation and soil that would result from trenching operations.
- b. Consequently, it is recommended that the drainage piping required on the slope face (discussed above) be installed above-ground. This would typically be accomplished by laying flexible, non-perforated, Big-O type pipe overland. Big-O type pipe is recommended over rigid pipe for ease of placement and because the ribbed construction slows water velocities in the pipe. We recommend that the pipe be anchored to the slope at suitable intervals. This is typically accomplished by staking with metal rods driven well into competent soil on the slope face, and attached to the pipe with a suitable clamping system. Other methods can be successful and the above discussion is not intended to limit the contractor's options or ingenuity.

6.10. Maintenance

- a. All man-made works are subject to deterioration over time and eventually require maintenance or replacement. Any works recommended in this report should, of course, be maintained in proper functioning condition at all times. Present and future property owners must accept responsibility for maintenance, repair, and replacement, as well as for any undesirable occurrences resulting from a failure to maintain functionality of the site works.

6.11. Impacts to Adjoining Properties

- a. Based on our understanding of the project and site conditions, and under the conditions outlined in this report, we do not anticipate that the proposed development (subdivision of the land and new home construction) will have any appreciable adverse effects on adjacent properties.

Geotechnical Hazards Assessment
File: LAR-001
January 29, 2009
Page 13 of 14

7. 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 this report, or any conditions contained in this report, may be included in a restrictive covenant 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 a decision on application for the subdivision or development of the land.
- b. We acknowledge that this report has been prepared solely for, and at the expense of, the owners of the subject land.

8. Limitations

- a. The conclusions and recommendations submitted in this report are based upon the data obtained from surface observations of the site. It is impossible to have complete knowledge of underground conditions at all locations and depths. Although not expected, should undiscovered conditions exist that become apparent later (e.g. during excavation for construction) our office should be contacted immediately to allow reassessment of the recommendations provided.
- b. The current scope of investigation was selected to provide an assessment of obvious geotechnical hazards. If stakeholders in these matters desire a greater degree of certainty, additional detailed investigations can be carried out.

Geotechnical Hazards Assessment
File: LAR-001
January 29, 2009
Page 14 of 14

9. Closure

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

Respectfully Submitted,
Ground Control Geotechnical Engineering Ltd.



Richard McKinley, P. Eng.
Geotechnical Engineer



CAO APPROVAL	
EAP	✓ Feb 16 '07
CCW	
RHD	
BOARD	

MEMORANDUM

TO: Geoff Garbutt
Manager of Current Planning

DATE: January 29, 2009

FROM: Kristy Marks
Planner

FILE: 3060 30 60901

SUBJECT: Development Permit with Variances Application No. 60901 – Brown/Reynolds
Lot 3, Section 16, Range 8, Cranberry District, Plan 25384
Electoral Area 'A', Folio No. 768.003125.060

PURPOSE

To consider an application for a Development Permit with Variances to recognize the siting of an existing garage on a property located at 1995 Walsh Road.

BACKGROUND

The subject property, legally described as Lot 3, Section 16, Range 8, Cranberry District, Plan 25384, is located on Walsh Road adjacent to Plum Creek Marsh which surrounds York Lake in Electoral Area 'A' (See Attachment No. 1 for location of subject property). The subject property slopes toward the southwest and currently contains a dwelling unit and an approximately 58m² detached garage. The parcel is bordered by Walsh Road to the northeast, developed residential parcels to the northwest and southeast, and Plum Creek Marsh to the southwest.

The subject property is designated within the Streams, Nesting Trees, & Nanaimo River Floodplain for the protection of lakes, wetlands, and ponds and the Fish Habitat Protection Development Permit Areas (DPA) pursuant to "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001". This application is exempt from the Fish Habitat Protection Development Permit guidelines as the existing garage was constructed prior to the adoption of the provincial *Riparian Areas Regulation*.

The property is approximately 0.17 hectares in size and is currently zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The subject property is located within a Regional District of Nanaimo Building Inspection Area. Bylaw Enforcement became aware of the existing garage during a staff site visit to the area and a Stop Work Order was placed on the property on April 26, 2007. On June 24, 2007 the RDN Board approved a motion to have a Bylaw Contravention Notice pursuant to Section 57 of the Community Charter registered on the title of the subject property. The applicant submitted a building permit application on August 20, 2008 and applied for a Development Permit with Variances on January 6, 2009.

Requested Variances Summary

With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is requested to be varied as follows:

1. **Section 3.4.62 - Minimum Setback Requirements** is requested to be varied by reducing the minimum setback requirement from the interior side lot line from 2.0 metres to 1.3 metres to

legalize the siting of an existing garage in the location shown on Schedule No. 2 and generally constructed as shown on Schedule No. 3.

2. **Section 3.3.8 (a) – Watercourses** is requested to be varied by reducing the minimum setback requirement from the natural boundary from 15.0 metres horizontal distance to 5.7 metres horizontal distance to legalize the siting of an existing shop as shown in the location on Schedule No. 2 and generally constructed as shown on Schedule No. 3.

With respect to the lands, “Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991” is requested to be varied as follows:

3. **Setback Requirements** is requested to be varied by reducing the minimum setback requirement from the natural boundary of any other lake, marsh or pond from 15.0 metres to 5.7 metres to legalize the siting of an existing garage as shown in the location on Schedule No. 2 and generally constructed as shown on Schedule No. 3.

As the applicant has requested a variance from Floodplain Management Bylaw No. 843, the Building Department has indicated that a Geotechnical Report will be required prior to the issuance of a building permit in order to ensure that the property is safe and suitable for the intended use. The existing garage is exempt from the Flood Construction Level requirements of the Floodplain Management Bylaw No. 843.

ALTERNATIVES

1. To approve Development Permit with Variances application No. 60901 subject to the conditions outlined in Schedules No. 1-4 and the notification requirements of the *Local Government Act*.
2. To deny the Development Permit with Variances application as submitted.

POLICY B1.5

Regional District of Nanaimo Development Variance Permit Application Policy B1.5 Evaluation provides staff with guidelines for reviewing and evaluating Development Variance Permit applications. The policy requires that the potential impacts of the variance are warranted by the need for the variance.

The applicants have provided the following justifications for the requested setback variances:

- There is limited space on the subject property to construct an accessory building without a variance due to the location of the existing dwelling and wetland;
- The applicant has submitted a Watercourse Assessment prepared by Streamline Environmental Consulting Ltd. in order to ensure protection of the riparian area adjacent to the wetland;
- They do not anticipate any view or privacy impacts related to the requested variances.

LAND USE AND DEVELOPMENT IMPLICATIONS

As outlined above, the applicant is requesting the above noted variances in order to legalize the siting of an existing garage on a residential property located at 1995 Walsh Road. The location of the existing garage is outlined on *Schedule No. 2* and building elevations are outlined on *Schedule No. 3*.

In keeping with the Streams, Nesting Trees, & Nanaimo River Floodplain DPA the applicant has submitted a Watercourse Assessment of Plum Creek Marsh prepared by Streamline Environmental

Consulting Ltd dated December 1, 2008 which includes recommendations for the protection of the wetland (*Schedule No. 4*). This report recommends that an existing fence be repaired and relocated to prevent encroachment into the riparian area.

Given that the riparian area immediately behind the shop is densely vegetated with wetland vegetation, willows and alder, staff do not anticipate that the requested variances will impede the views of or have privacy impacts on adjacent property owners.

SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". This proposal represents development on an existing residential parcel. The applicant has provided a Watercourse Assessment and is proposing to retain existing vegetation adjacent to the wetland and to repair existing fencing in order to reduce potential impacts to the wetland.

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 variances, prior to the Board's consideration of the application.


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

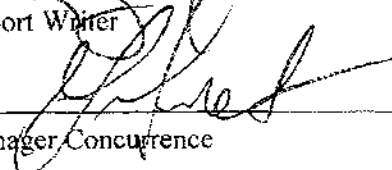
SUMMARY/CONCLUSIONS

This is an application for a Development Permit with Variances to legalize the siting of an existing garage at 1995 Walsh Road in Electoral Area 'A'. In staff's assessment, this proposal is consistent with the guidelines of the Streams, Nesting Trees, & Nanaimo River Floodplain DPA. Given the restrictive building envelope due the location of the existing dwelling unit and adjacent wetland and that there are no anticipated impacts related to the requested variances, staff recommends that the requested Development Permit with Variances be approved subject to the terms outlined in Schedules No. 1-4 of this report, and the notification requirements of the *Local Government Act*.

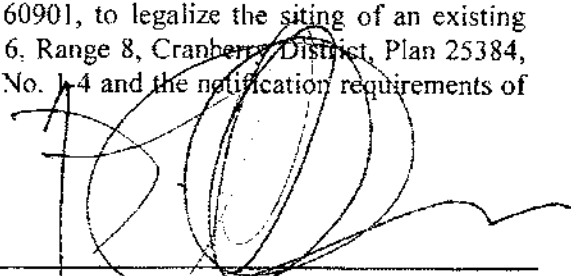
RECOMMENDATION


That Development Permit with Variances application No. 60901, to legalize the siting of an existing garage on the property legally described as Lot 3, Section 16, Range 8, Cranberry District, Plan 25384, be approved subject to the conditions outlined in Schedules No. 1-4 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 with Variances No. 60901

The following sets out the terms and conditions of Development Permit with Variances No. 60901.

Requested Variances

With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is requested to be varied as follows:

1. **Section 3.4.62 - Minimum Setback Requirements** is requested to be varied by reducing the minimum setback requirement from the interior side lot line from 2.0 metres to 1.3 metres to legalize the siting of an garage in the location shown on Schedule No. 2 and generally constructed as shown on Schedule No. 3.
2. **Section 3.3.8 (a) – Watercourses** is requested to be varied by reducing the minimum setback requirement from the natural boundary from 15.0 metres horizontal distance to 5.7 metres horizontal distance to legalize the siting of an existing shop as shown in the location on Schedule No. 2 and generally constructed as shown on Schedule No. 3.

With respect to the lands, "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" is requested to be varied as follows:

3. **Setback Requirements** is requested to be varied by reducing the minimum setback requirement from the Natural Boundary of any other lake, marsh or pond from 15 metres to 5.7 metres to legalize the siting of an existing garage as shown in the location on Schedule No. 2 and generally constructed as shown on Schedule No. 3.

Conditions of Approval

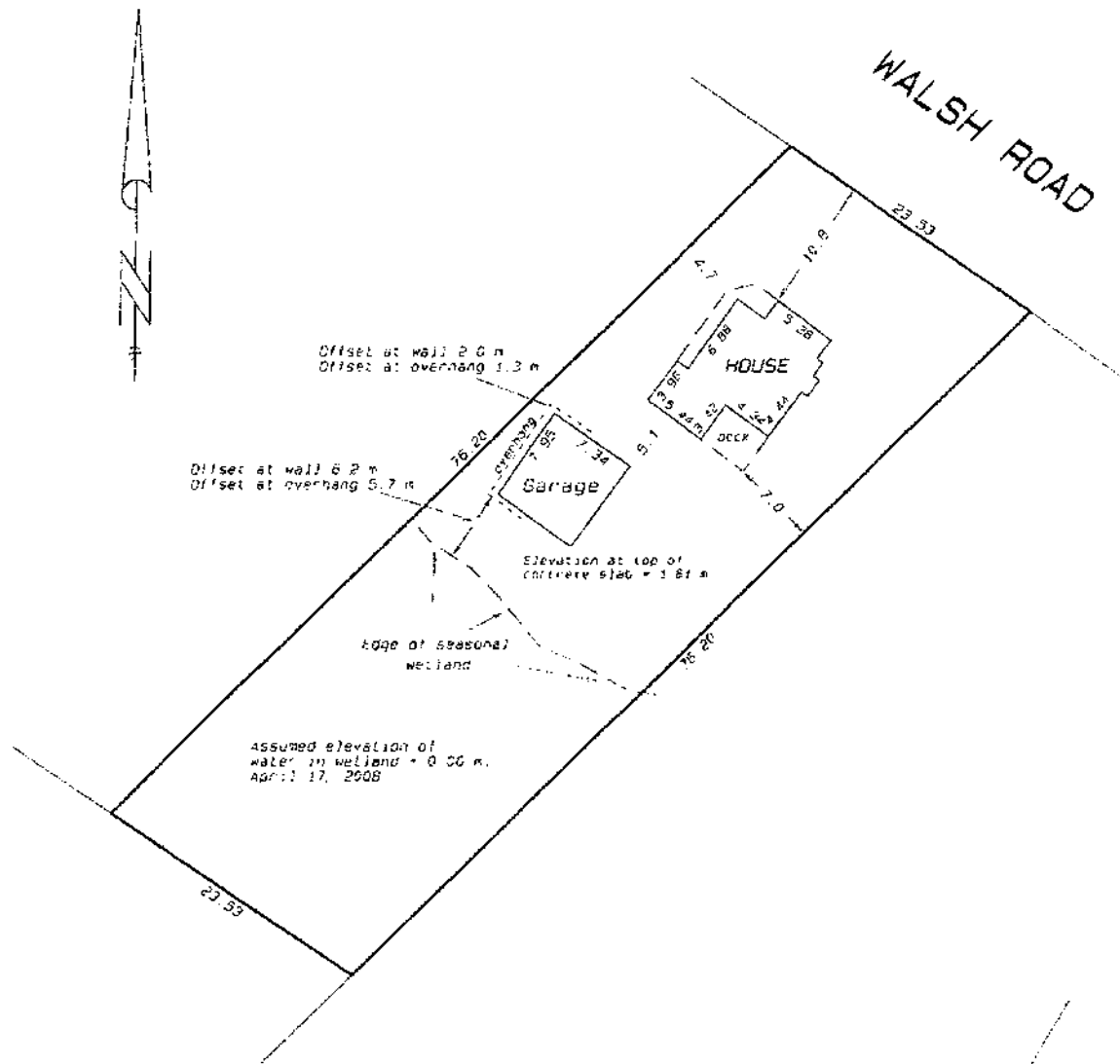
1. The garage shall be sited in accordance with the survey prepared by Charles O. Smythies Associates dated January 27, 2009, attached as *Schedule No. 2*.
2. The garage shall be developed in accordance with the building elevations prepared by Sea Swan Ent. dated June 9, 2007, attached as *Schedule No. 3*.
3. The subject property, including the existing garage, shall be developed in accordance with the Watercourse Assessment prepared by Streamline Environmental Consulting Ltd. dated December 1, 2008, attached as *Schedule No. 4*.

Schedule No. 2
Site Plan

**B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION
OF BUILDINGS ON LOT 3, PLAN 25384,
SECTION 16, RANGE 8, CRANBERRY DISTRICT.**

SCALE = 1:500

All distances are in metres
Elevation datum, in metres, is assumed.



Charles D. Smythies & Associates ©
B.C. Land Surveyors & Planners
Nanaimo, B.C.

Date: January 27, 2009.

File: B-CR-16-DEN

Certified Correct

George Thompson
B.C.L.S.
This document is not valid unless
originally signed and sealed

Schedule No. 3
 Building Elevations
 (Page 2 of 2)

RECEIVED
 JAN 07 2008
 REGIONAL DISTRICT
 of NANAIMO

FRONT ELEVATION

① Fibreglass Shingles ② Ice Guard ③ Insulated Overhead Door
 ④ Vinyl Siding ⑤ Ice Melt Pad Berge ⑥ Metal Flashing to Sill

REAR ELEVATION

RIGHT SIDE ELEVATION

LEFT ELEVATION

	Client: Kevin Brown 1275 Welch Road Cedar, BC	Drawing is the sole property of Best Best Est. and may not be reproduced or transmitted in any form or by any means (1300-766-1225)	Plans have been drawn by Best Best Est. It is the sole responsibility of the Builder / Contractor to verify all dimensions, materials, etc. and meet all municipal and National Building Codes.	SCALE: 1/8" = 1'-0" DRAWN BY: DBS PLAN # QBR-024	DATE: June 2001 PRICE:	1460-42
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**Schedule No. 4
Watercourse Assessment
(Page 1 of 2)**



Unit B - 8451 Portsmouth Road
Nanaimo, B.C. V9V 1A3
T (250) 390-2627
F (250) 390-3831
W www.streamline-env.com

December 1, 2008

File: 2392

Bill Reynolds
Dover Bay Construction
6447 Wedgewood Place
Nanaimo, BC V9V 1V4

Re: Watercourse Assessment – 1995 Walsh Road, Cedar.

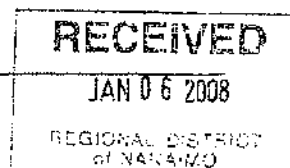
This letter summarizes the assessment I conducted at 1995 Walsh Road, Cedar. The assessment was needed to determine whether the wetland within the subject property was within 15 m of a previously constructed shop and, if so, whether any environmental measures are needed to prevent adverse impacts to the wetland and its riparian vegetation. I conducted the assessment on November 24, 2008 and the findings are summarized below.

Assessment Results

A mapped wetland surrounding York Lake, a known fish bearing watercourse, is present within the southern portion of the subject property (Figure 1). A site plan previously prepared for the subject property shows the wetland boundary to be roughly 6 m from the existing shop (Attachment 2).

I confirmed that the site plan accurately depicts the wetland boundary. The wetland boundary is easily distinguished by an abrupt drop in elevation and change from upland vegetation to wetland vegetation (primarily cattails). The soils within the wetland were saturated, as expected given the type of vegetation and time of year. As the site plan depicted the location of the wetland boundary accurately and as the location of the shop is well within 15 m of the boundary, I did not flag the wetland boundary for future reference.

Prior to the assessment, I spoke with Kristy Marks, (Planner, RDN) and it is my understanding that the shop was constructed without a development permit and prior to the Riparian Areas Regulation (RAR) coming into effect. It is also my understanding that since I have confirmed that the shop is within 15 m of the wetland boundary, the RDN will require a variance for the shop and will require environmental recommendations and any applicable mitigation measures from an appropriately qualified professional. Provided below are my recommendations to satisfy this requirement.



**Schedule No. 4
Watercourse Assessment
(Page 2 of 4)**

Watercourse Assessment – 1995 Walsh Road, Cedar

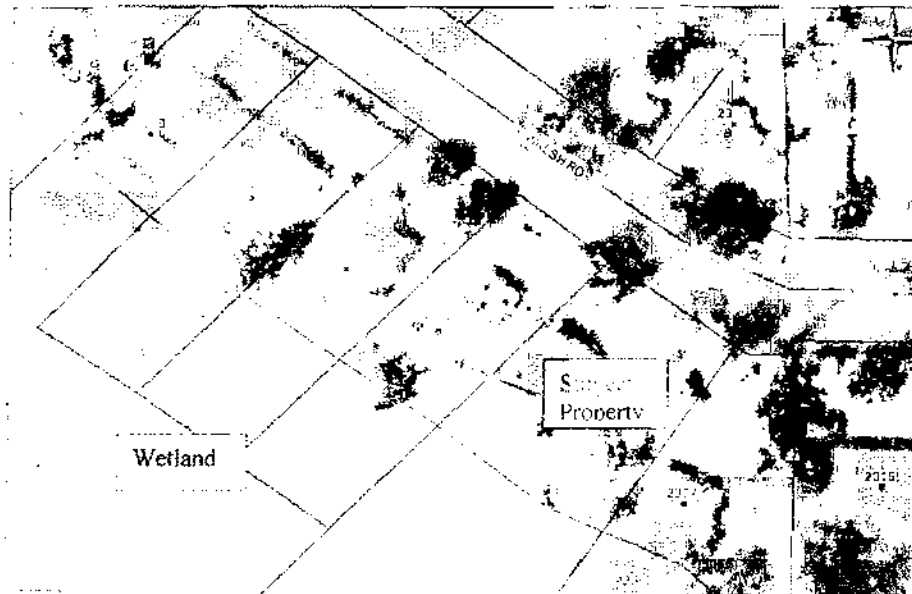


Figure 1. Property location (markups added to screen capture obtained from RDNMap)

Recommendations

As the shop was constructed several years ago, revegetation around the shop has occurred and there are no exposed soils or other erosion and sediment control concerns that can often be associated with recent earthworks. The area between the shop and the wetland is becoming densely vegetated with grasses and willow tree growth (Photo 1). As the shop is relatively close to the wetland, the following recommendations have been developed to minimize the permanent loss of riparian vegetation associated with the placement of the shop within the 15 m riparian area:

- Remove all miscellaneous debris piled along the back of the shop (Photo 1).
- Remove old/broken fencing etc. from behind the shop.
- Repair and relocate the chain link fence behind the shop, as shown below, such that the back side of shop becomes the furthest extent of the fenced yard.

By removing debris and relocating a portion of the fence, the above recommendations will prevent encroachment into the riparian area behind the shop and this will encourage ongoing riparian vegetation growth.

**Schedule No. 4
Watercourse Assessment
(Page 3 of 4)**

Watercourse Assessment - 1995 Walsh Road, Cedar

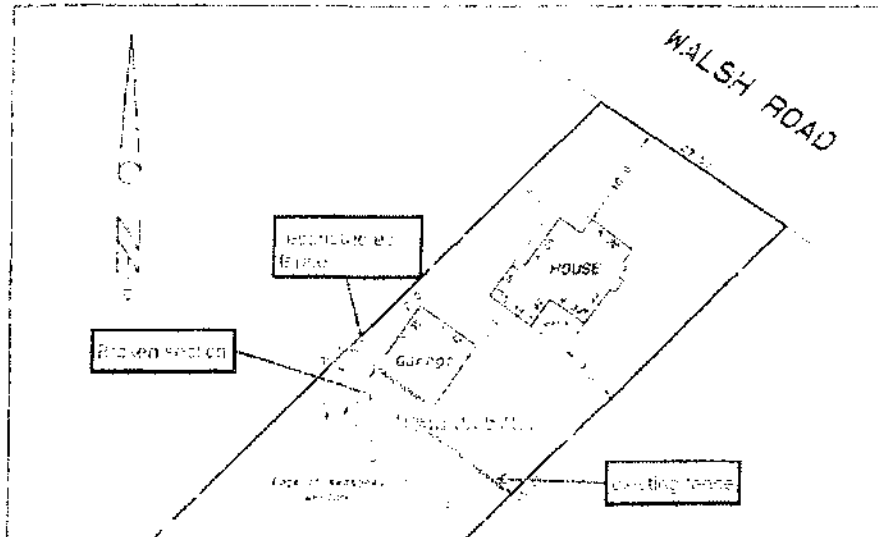


Figure 2. Recommended fence repair and relocation diagram (fence location shown is approximate).

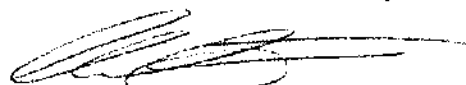
DISCLAIMER / STATEMENT OF LIMITATIONS

This report was prepared exclusively for Bill Reynolds by Streamline Environmental Consulting Ltd. The quality of information, conclusions and estimates contained herein is consistent with the level of effort expended and is based on: i) information available at the time of preparation; ii) data collected by Streamline Environmental Consulting Ltd. and/or supplied by outside sources; and iii) the assumptions, conditions and qualifications set forth in this report. This report is intended to be used by Bill Reynolds only. Any other use or reliance on this report by any third party is at that party's sole risk.

Thank you for retaining Streamline Environmental Consulting Ltd. to assist you with this project. Please do not hesitate to contact me if you have any questions.

Sincerely,

Streamline Environmental Consulting Ltd.


Adam Compton, B.Sc., R.P. Bio



Original signed &
sealed Dec 1/09

**Schedule No. 4
Watercourse Assessment
(Page 4 of 4)**

Watercourse Assessment – 1995 Walsh Road, Cedar

Attachment 1: Site Photographs

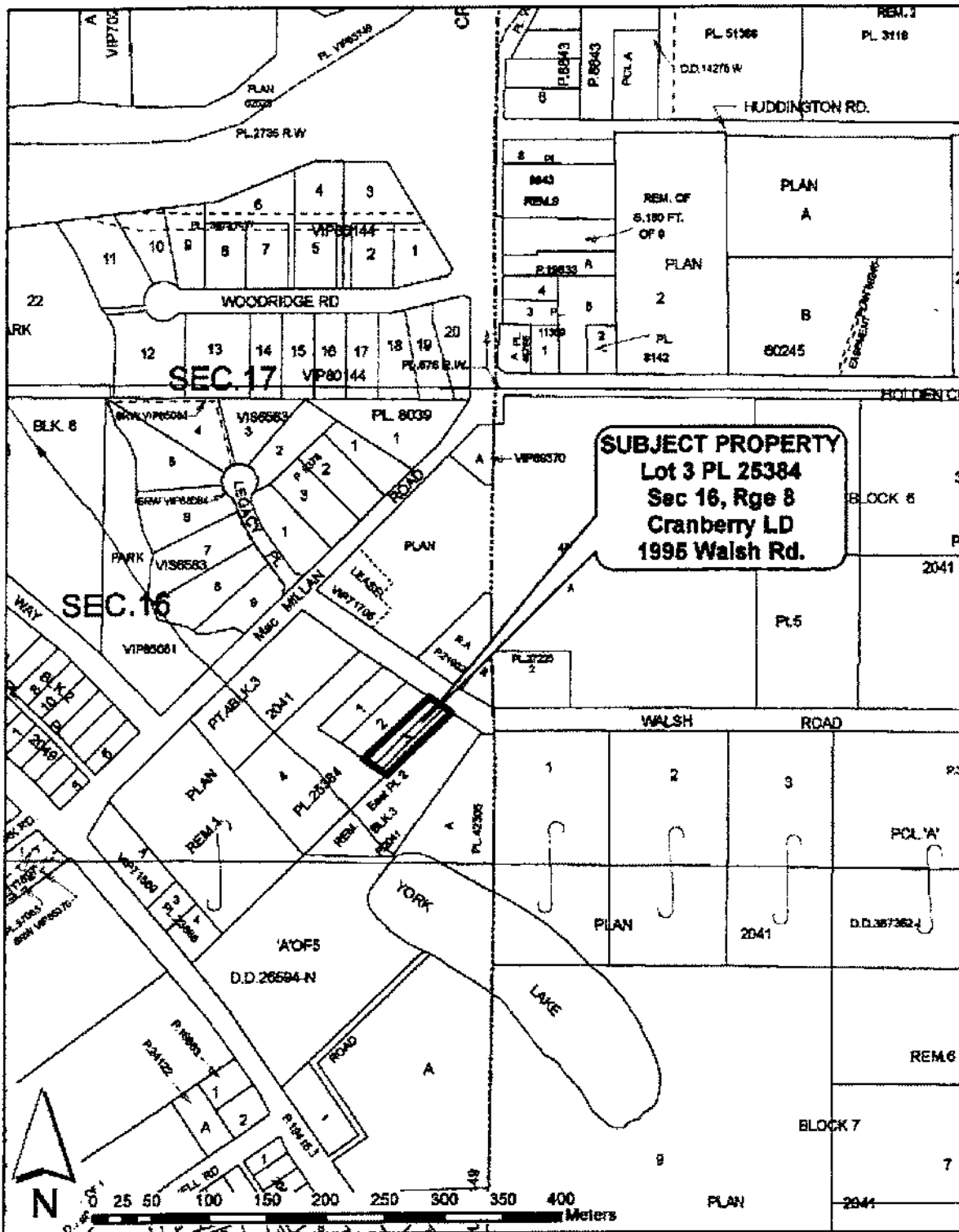


Photo 1. Looking northwest at miscellaneous debris piled along back of shop and broken chain link fencing.



Photo 2. Looking southwest at the shop and the adjacent wetland.

Attachment No. 1
Location of Subject Property





RDN REPORT	
CAG APPROVAL <i>OW</i>	
EAP	<input checked="" type="checkbox"/> Feb 10 '09
COV	
JAN 26 2009	
RDC	
BOARD	

MEMORANDUM

TO: Geoff Garbutt
Manager, Current Planning

DATE: January 26, 2009

FROM: Susan Cormie
Senior Planner

FILE: 3090 30 90817

SUBJECT: Development Variance Permit Application No. 90817
Applicant: JE Anderson & Associates, BCLS on behalf of R. Dubyna
Electoral Area 'C' – 2520 / 2528 East Wellington Road

PURPOSE

To consider a Development Variance Permit to legalize the siting of a building on a parcel located in the East Wellington area of Electoral Area 'C'.

BACKGROUND

The subject property, legally described as Parcel A (DD 9237N) of Section 13, Range 5, Mountain District Except That Part Thereof Lying East of the Government Road Registered Under 26411 and Except That Part Shown Outlined in Red on Plan 152 RW, is located at 2520 / 2528 East Wellington Road in Electoral Area 'C' (see Attachment No. 1 for Location of Subject Property).

The subject property, which is 9.8 ha in size, is zoned Rural 1 (RU1) and is within Subdivision District 'D' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The Electoral Area Planning Committee (EAPC) may recall that Development Permit No. 60802 was approved in 2008 in conjunction with a 2-lot subdivision proposal for this property. This development permit was issued for the protection of McGarrigle and McNeil Creeks as well as an unnamed tributary and their riparian areas, which cross the parcel.

At that time, a site inspection of the subject parcel was conducted and there was found to be additional buildings and land uses on the parent parcel that were not indicated on the submitted plan of subdivision. The staff report stated that the matter would be referred to bylaw enforcement to ensure that bylaw provisions for the existing buildings and land uses (Home Based Business regulations) were being met. The applicant has now applied for final approval of subdivision and through this process, it has been determined that an attached carport to one of the single dwelling units was sited unlawfully in that it does not meet current minimum setback requirements. In order to legalize the siting of this attached carport, the applicant has applied for a variance.

Surrounding land uses include a rurally zoned parcel to the north; Mountain View Elementary School to the northeast; East Wellington Road and parcels within the City of Nanaimo to the east and south with a portion being within the Provincial Agricultural Land Reserve (ALR); and a rural zoned parcel which is situated within the ALR to the west.

There are two dwelling units, a barn, accessory buildings, a home base business, and a large parking/storage area currently situated on the parent parcel. The parent parcel is within an RDN Building Services Area. BC Hydro and Power rights-of-way cross the parent parcel.

Proposed Variance

The applicant is requesting a variance to the minimum setback requirement for the south lot line from 8.0 metres to 2.3 metres in order to legalize the existing carport attached to the single dwelling unit. As the building is situated outside of the development permit area, the variance may be considered under a development variance permit (*see Schedule No. 1 for Proposed Variance*).

As part of the application process, the applicant submitted a plan showing the attached carport and proposed variance (*see Schedule No. 2 for portion of plan showing carport*). The applicant has completed the Sustainability Checklist as per Board policy.

ALTERNATIVES

1. To approve Development Variance Permit Application No. 90817 subject to the conditions outlined in Schedules No. 1 and 2.
2. To deny the Development Variance Permit as submitted.

DEVELOPMENT IMPLICATIONS

Building / Land Use Implications

With respect to the existing business on the parcel, it has been determined that this business is non-conforming and therefore is permitted to remain under the provisions of section 911 of the *Local Government Act*. In order to maintain the non-conforming status, there can be no changes to the business, including expanding the area. The applicant has provided a site plan showing the extent of this business.

With respect to the attached carport, this was constructed without a valid building permit. Without a relaxation of the minimum setback requirement, the applicant will be required to remove, at a minimum, the encroaching portion of the attached carport in order to comply with the bylaw provision concerning the setback from the south lot line.

In addition to the attached carport, there are also other buildings on the property, which while they do meet Bylaw No. 500, 1987 provisions, building permits were not applied for. As a result, it is recommended as a condition of development variance permit, the applicant be required to apply for and receive all necessary building permits.

Development Variance Permit Policy B1.5

Regional District of Nanaimo Development Variance Permit 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. In this case, despite the close proximity to the lot line, the location of the attached garage does not appear to negatively impact the neighbouring properties.

SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". There are no sustainability implications related to this application.

PUBLIC IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, adjacent and nearby property owners located within a 50.0 metre radius will receive a direct notice of the proposal and

will have an opportunity to comment on the proposed variance prior to the Board's consideration of the permit.

VOTING

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


SUMMARY

This is a request to vary a minimum setback requirement to legalize an existing attached carport for the property located at 2520 / 2528 East Wellington Road in Electoral Area 'C'. This bylaw infraction came to staff's attention through the subdivision application process. The home based business on the property was determined to be non-conforming, meaning that the business may continue under the provisions of section 911 of the *Local Government Act*. In addition to the attached carport, there are also other buildings on the property, which while they do meet Bylaw No. 500, 1987 provisions, building permits were not applied for and as a result, it is recommended that as a condition of development variance permit, the applicant be required to apply for and receive all necessary building permits (*see Schedule No. 1 for Conditions of Approval*).

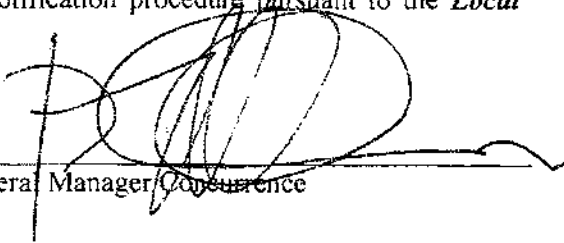
Given that the attached garage does not impact the environmental aspects of the property and does not have a negative impact on the adjacent parcel, staff recommends approval of the Development Variance Permit subject to the conditions outlined in *Schedule No. 1 and 2* of the staff report and the public notification procedure.

RECOMMENDATION

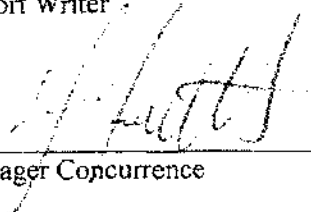
That Development Variance Permit Application No. 90817 submitted by JE Anderson, BCLS, on behalf of R. Dubyna, in conjunction with the parcel legally described as Parcel A (DD 9237N) of Section 13, Range 5, Mountain District With Exceptions be approved subject to the conditions outlined in Schedule No. 1 and 2 of the corresponding staff report and to the notification procedure pursuant to the *Local Government Act*.




Report Writer



General Manager/Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

Schedule No. 1
Development Variance Permit No. 90817
Conditions of Approval / Proposed Variance

Conditions of Approval

The following sets out the conditions of approval in conjunction with Development Permit No. 80817:

1. Building Permits

The applicant shall apply to the RDN Building Services Department for and obtain building permits for all buildings and structures that do not a current permit.

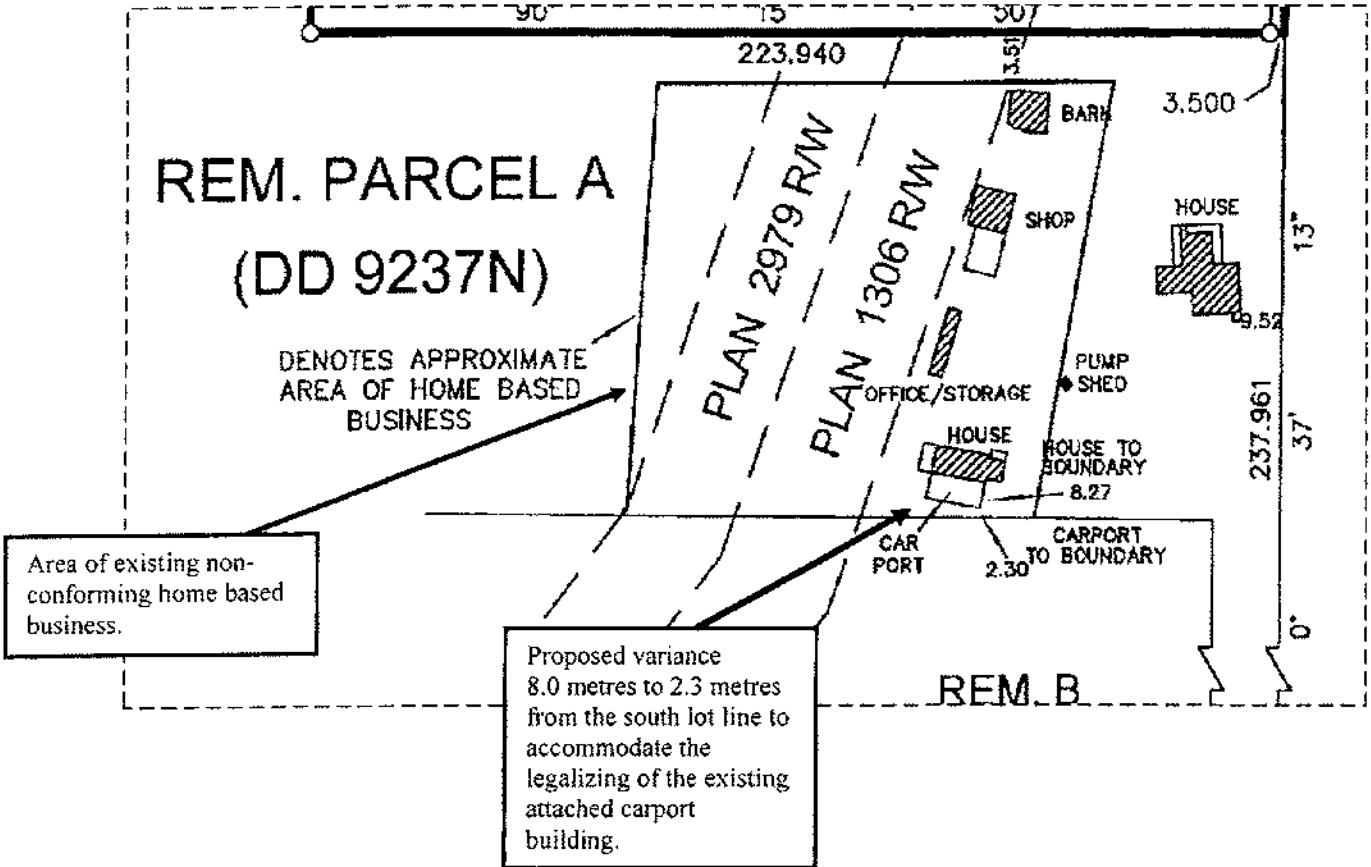
Variance

1. Proposed Variance

In order to allow the siting of the existing attached carport, the following variance is proposed:

Section 3.4.81 - Minimum Setback Requirements is proposed to be varied by relaxing the minimum setback requirement for the interior side lot line from 8.0 metres to 2.3 metres to accommodate the existing siting of a carport building as shown on Schedule No. 2.

Schedule No. 2
Development Variance Permit No. 90817
Portion of Site Plan Showing Proposed Variance / Extent of Existing Non-Conforming Business



Attachment No. 1
Development Variance Permit No. 90817
Location of Subject Property

