

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, SEPTEMBER 8, 2009
6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-5 Minutes of the regular Electoral Area Planning Committee meeting held July 14, 2009.

BUSINESS ARISING FROM THE MINUTES

COMMUNICATIONS/CORRESPONDENCE

UNFINISHED BUSINESS

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 6-26 Development Permit Application No. 60927 - Cowen – 1435 Grieg Road - Electoral Area 'G'.
- 27-33 Development Permit Application No. 60919 - Fern Road Consulting Ltd. for Rothwell - 231, 235 & 241 Hilliers Road - Electoral Area 'G'.
- 34-45 Development Permit Application No. 60933 - Mardaga - 3790 Mallard Place - Electoral Area 'E'.

DEVELOPMENT PERMIT WITH VARIANCE APPLICATIONS

- 46-53 Development Permit with Variance Application No. 60932 & Request for Frontage Relaxation - Judge - 1712 Vowels Road - Electoral Area 'A'.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

54-71 Development Variance Permit Application No. 90904 – Martindale & Collinge -
3150 Farrar Road - Electoral Area 'A'.

OTHER

72-76 Request for Frontage Relaxation – Skelding - 6610 Doumont Road - Electoral
Area 'C'.

77-109 Temporary Use Permit Applications No. 0901 & 0902 – Earthbank Resource
Systems and Fern Road Consulting Ltd. for Fritzsche and Wenngatz – Corner of
Hodge's and Fritzsche Roads – Area 'G'.

110-116 Building Strata Conversion Application – Fern Road Consulting Ltd. for Medd –
1057 & 1065 Page Road – Electoral Area 'G'.

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, JULY 14, 2009, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director G. Holme	Chairperson
Director J. Burnett	Electoral Area A
Director M. Young	Electoral Area C
Director L. Biggemann	Electoral Area F
Director J. Stanhope	Electoral Area G
Alternate	
Director D. Heenan	Electoral Area H

Also in Attendance:

C. Mason	Chief Administrative Officer
M. Pearse	Senior Manager, Corporate Administration
P. Thompson	Manager, Long Range Planning
T. Osborne	General Manager, Recreation & Parks Services
N. Tonn	Recording Secretary

CALL TO ORDER

The Chairperson welcomed Alternate Director Heenan to the meeting.

DELEGATIONS

Chuck & Linda Addison, re Zoning & OCP Amendment Application No. 0604.

Mr. & Mrs. Addison provided a map showing the subject property and the previous designated land use prior to its change to resource zoning and requested that the Board consider site specific rezoning to allow 2 hectare parcels.

MINUTES

MOVED Director Burnett, SECONDED Director Biggemann, that the minutes of the Electoral Area Planning Committee meeting held June 9, 2009 be adopted.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0903 – Fern Road Consulting for Springford – 1884 & 1950 Northwest Bay Road – Electoral Area ‘E’ and ‘G’.

MOVED Director Stanhope, SECONDED Director Biggemann, that this item be referred back to staff.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60837 – Harford for Harford & Hale – 501/515 Kaplar Road – Electoral Area ‘G’.

The Manager of Long Range Planning noted that the wording in Item 2(b) of Schedule I should be changed to read as follows:

- “b. There shall be no removal of the existing native vegetation within 15.0 metres of the east lot line of the parent parcel unless a development permit has been issued to permit such removal”.

MOVED Director Stanhope, SECONDED Director Biggemann, that the request from Dan Harford on behalf of D. Harford, E. Harford, B. Hale and T. Hale, for the building strata conversion as shown on the Proposed Strata Plan of Lot 9, District Lots 65 and 66, Newcastle District, Plan 1803, be approved subject to the conditions being met as set out in Schedules No. 1 and 2 of the corresponding staff report.

CARRIED

MOVED Director Stanhope, SECONDED Director Biggemann, that Development Permit Application No. 60837, submitted by Dan Harford on behalf of D. Harford, E. Harford, B. Hale and T. Hale, in conjunction with the proposed building strata conversion application and designated within the Farm Land Protection and the Environmentally Sensitive Features Development Permit Areas be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

CARRIED

DEVELOPMENT PERMIT WITH VARIANCE APPLICATIONS

Development Permit with Variance Application No. 60921 – Whitaker – 5361 Island Highway West – Electoral Area ‘H’.

MOVED Director Heenan, SECONDED Director Burnett, that Development Permit with Variance Application No. 60921, to construct a dwelling unit and attached garage with a maximum height of 8.7 metres within the Hazard Lands and Environmentally Sensitive Features 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 A, District Lot 16, Newcastle District, Plan 11435 be approved subject to the conditions outlined in Schedules No. 1 to 4 and the notification requirements of the *Local Government Act*.

CARRIED

Development Permit with Variance Application No. 60925 – Wells – 1720 Wilkinson Road – Electoral Area ‘A’.

MOVED Director Burnett, SECONDED Director Young, that Development Permit with Variance Application No. 60925, to construct a dwelling unit and attached garage with a minimum setback from the front lot line of 5.0 metres within the Streams, Nesting Trees & Nanaimo River Floodplain Development Permit Area, pursuant to “Regional District of Nanaimo Electoral Area ‘A’ Official Community Plan Bylaw No. 1240, 2001”, for the property legally described as Lot A, District Lot 4, Section 3, Nanaimo District, Plan 7320 be approved subject to the conditions outlined in Schedules No. 1 to 4 and the notification requirements of the *Local Government Act*.

CARRIED

Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Electoral Area ‘H’.

MOVED Director Heenan, SECONDED Director Stanhope, that Development Permit with Variance Application No. 60926, for the construction of a second storey addition to an existing single dwelling unit on the subject property legally described as Lot 6, District Lots 85 and 22, Newcastle District, Plan 23173, be approved subject to the conditions outlined in Schedules No. 1 to 4 and the notification requirements of the *Local Government Act*.

CARRIED

OTHER

Request for Frontage Relaxation – Henning for Diedrichsen, Laird, Corranini – 2915 & 2945 Amrik Road – Electoral Area ‘C’.

MOVED Director Young, SECONDED Director Burnett, that the request to relax the minimum 10% frontage requirement for proposed Lot 3, submitted by Brian Henning, BCLS on behalf of W. Diedrichsen, L. Laird, W. Corraini & G. Corraini, in conjunction with the proposed lot line adjustment subdivision for the properties legally described as Lot B, Sections 10 and 11, Ranges 4 and 5, Plan VIP77295; Lot A, Section 11, Range 5, Plan VIP8595; and Lot 2, Section 11, Range 4 and 5, Plan VIP80268, Except That Part in Plan VIP85953, all of Mountain District, be approved.

CARRIED

Request for Regional Growth Strategy Amendment to Support Zoning & OCP Amendment Application No. 0604 – Addison – 2610 Myles Lake Road – Electoral Area ‘C’.

MOVED Director Young, SECONDED Director Biggemann, that it be recommended to the Sustainability Select Committee and the Board that the Electoral Area Planning Committee supports consideration of this application for a site specific amendment to the Regional Growth Strategy.

CARRIED

Amendment Bylaw No. 1469.01 – Provides for a Housekeeping Amendment to the Floodplain Management Bylaw.

MOVED Director Burnett, SECONDED Director Young, that “Regional District of Nanaimo Floodplain Amendment Bylaw No. 1469.01, 2009” be given three readings.

CARRIED

MOVED Director Burnett, SECONDED Director Young, that “Regional District of Nanaimo Floodplain Amendment Bylaw No. 1469.01, 2009” be adopted.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:50 PM

CHAIRPERSON



KDN REPORT	
CAO APPROVAL <i>QW</i>	
EAP	
COW	<i>1 Sept 8 '09</i>
<i>SEP 8 2009</i>	
RHD	
BOARD	

MEMORANDUM

TO: Paul Thompson
Acting Manager of Current Planning

DATE: August 17, 2009

FROM: Angela Buick
Planning Technician

FILE: 3060 30 60927

SUBJECT: Strata Lot 2, District Lot 129, Nanoose District Strata Plan VIS6121 Together With an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V - Folio No: 769010138.020
1435 Grieg Road - Electoral Area 'G'

PURPOSE

To consider an application for a Development Permit to allow the construction of two dwelling units on a property located on Lot 2, 1435 at Grieg Road, in Electoral Area 'G'.

BACKGROUND

The subject property, legally described as Strata Lot 2, District Lot 129, Nanoose District Strata Plan VIS6121 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as shown on Form V, is located on Greig Road in Electoral Area 'G' (*See Attachment No. 1 for location of subject property*). The property is currently a vacant lot. The property is a relatively flat parcel located within the Englishman River floodplain and is bordered by Greig Road to the south, developed residential parcels to the east, west and north.

The subject property is designated within the Hazard Lands, Fish Habitat Protection, and Farmland Protection Development Permit Areas (DPA) pursuant to "Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008". The application meets the exemption provisions of the Fish Habitat Protection, and Farmland Protection Development Permit Areas.

The parcel is approximately 2.02 ha in size and is currently zoned Rural 1 (RU1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicants are requesting approval to construct two identical 1616 m² dwelling units within the Hazard Lands DPA.

ALTERNATIVES

1. To approve Development Permit No. 60927 subject to the conditions outlined in Schedules No. 1 - 4.
2. To deny the requested Development Permit.

SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicants have completed the “Sustainable Community Builder Checklist”. This proposal represents the redevelopment of an existing residential parcel. The applicants have provided a Geotechnical assessment of floodplain issues in order to ensure that the property is safe and suitable for residential use.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Electoral Area Planning Committee (EAPC) may recall that Amendment Bylaw No. 500.346, which has been tabled at 3rd reading, included the subject property being rezoned to permit a maximum of one dwelling unit per parcel. As this amendment bylaw has not been adopted, two dwellings are permitted on parcels of 2.0 hectares or more.

The Board should note that the construction of two dwellings is made possible in this particular case as a result of recommendations from the OCP having not yet been implemented.

LAND USE AND DEVELOPMENT IMPLICATIONS

As outlined above, the applicants are requesting approval to develop a residential property located on Grieg Road. The location of the proposed dwelling units, are outlined on *Schedule No. 2* and building elevations for the proposed development are outlined on *Schedule No. 3*.

In keeping with the Hazard Lands DPA, the applicants have submitted a Geotechnical Report prepared by Lewkowich Engineering Associates Ltd. dated June 17th 2009 which addresses the proposed development (*Schedule No. 4 and addendum thereof*) recommendations contained in the Report are followed, the property was found to be safe and suitable for the proposed development and no detrimental impacts on the environment or adjoining properties are anticipated. The minimum floor heights for the dwelling unit will be located above the 200-year design flood level. Any fill, excavation and surface disturbance will impact the environment, hydraulic and hydrology conditions. In keeping with the OCP guidelines, these impacts will be minimized provided the applicants follow the recommended fill materials to be used and develop the site according to the Best Management Practices (BMP's) and Sustainable Development Measures (SDM's) and all other recommendations outlined in the Geotechnical Report and Addendum as submitted.

As per Board policy, staff recommends that the applicant be required to register a Section 219 covenant that registers the Geotechnical Report prepared by Lewkowich Engineering Associates Ltd., and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of erosion and/or flood damage.

Given that the applicants have submitted a Geotechnical Report which states that the site is safe and suitable for the intended purpose, in staff's assessment, the guidelines of the Hazard Lands DPA have been addressed.

VOTING

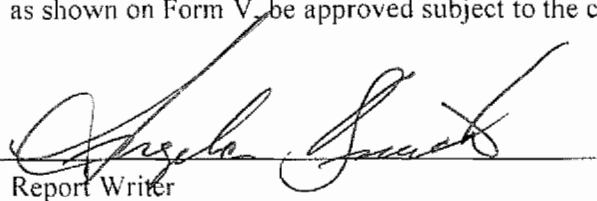
Electoral Area Directors – one vote, except Electoral Area 'B'.

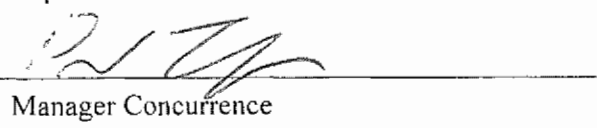
SUMMARY/CONCLUSIONS

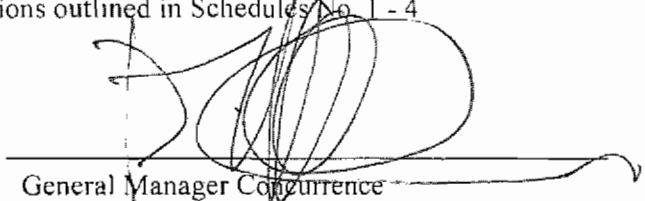
This is an application for a Development Permit to allow the construction of two dwelling units on Grieg Road in Electoral Area 'G'. Given that the applicants have submitted a Geotechnical Evaluation of the floodplain hazard consistent with the guidelines of the Hazard Lands DPA. Staff recommends that the requested Development Permit be approved subject to the terms outlined in Schedules No. 1 - 4 of this report.

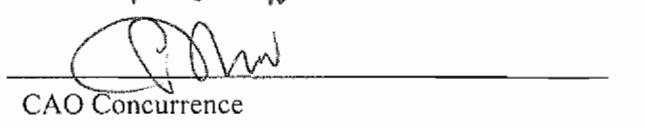
RECOMMENDATION

That Development Permit Application No. 60927, to permit the construction of two dwelling units and on the property legally described as Strata Lot 2, District Lot 129, Nanoose District Strata Plan VIS6121 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as shown on Form V, be approved subject to the conditions outlined in Schedules No. 1 - 4


Report Writer


Manager Concurrence


General Manager Concurrence


CAO Concurrence

Schedule No. 1
Terms of Development Permit No. 60927

The following sets out the terms and conditions of Development Permit No. 60927.

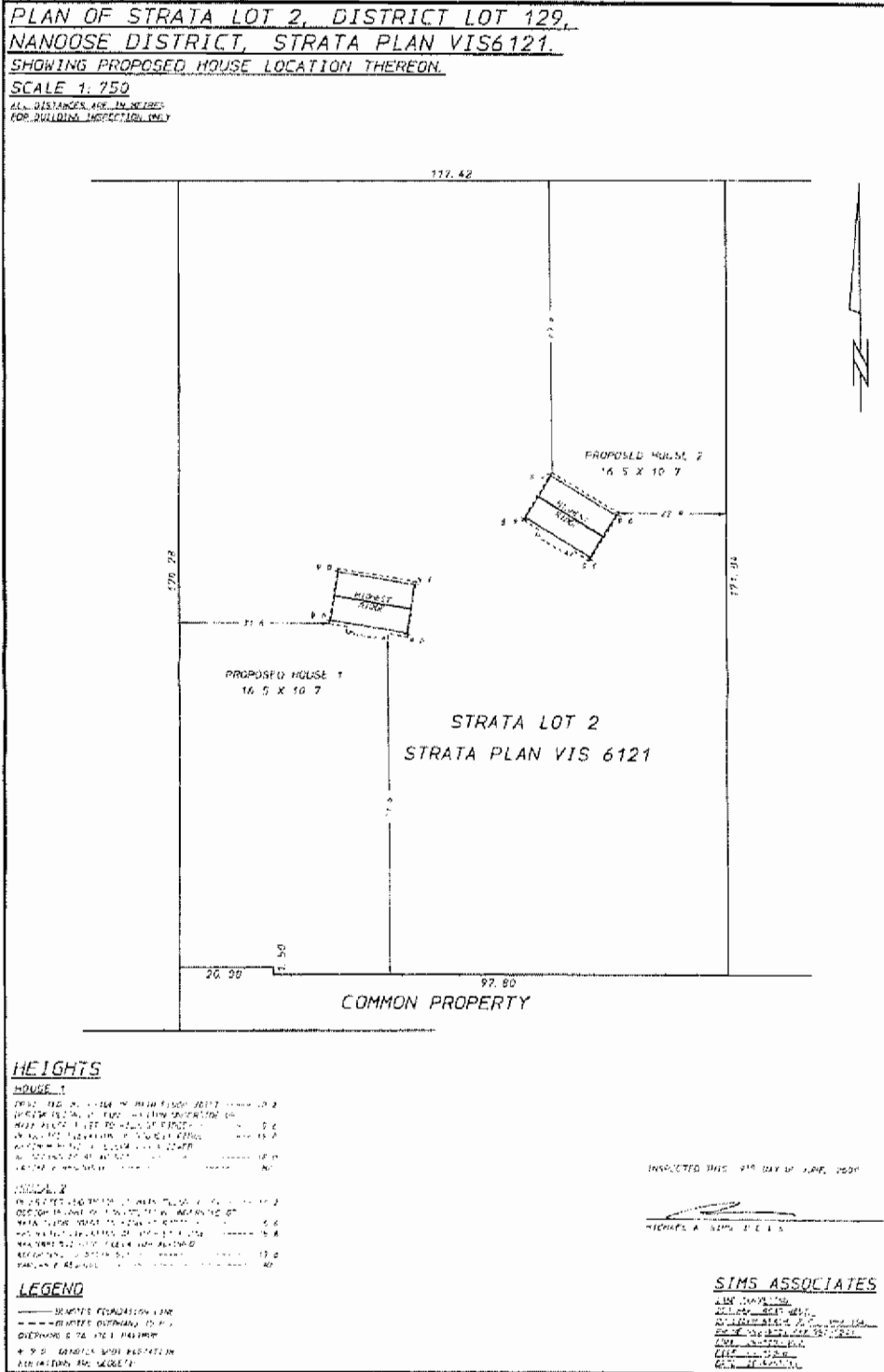
1. Site Development

- a. The two dwelling units shall be sited in accordance with the site plan prepared by Sims Associates dated June 9th 2009 attached as *Schedule No. 2*.
- b. The two dwelling units shall be developed in accordance with the building elevations prepared by Jorgensen Osmond Ltd dated May 5th, 2009 attached as *Schedule No. 3*.
- c. The two dwelling units shall be constructed in accordance with the recommendations of the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd. dated June 17th 2009, attached as *Schedule No. 4*.

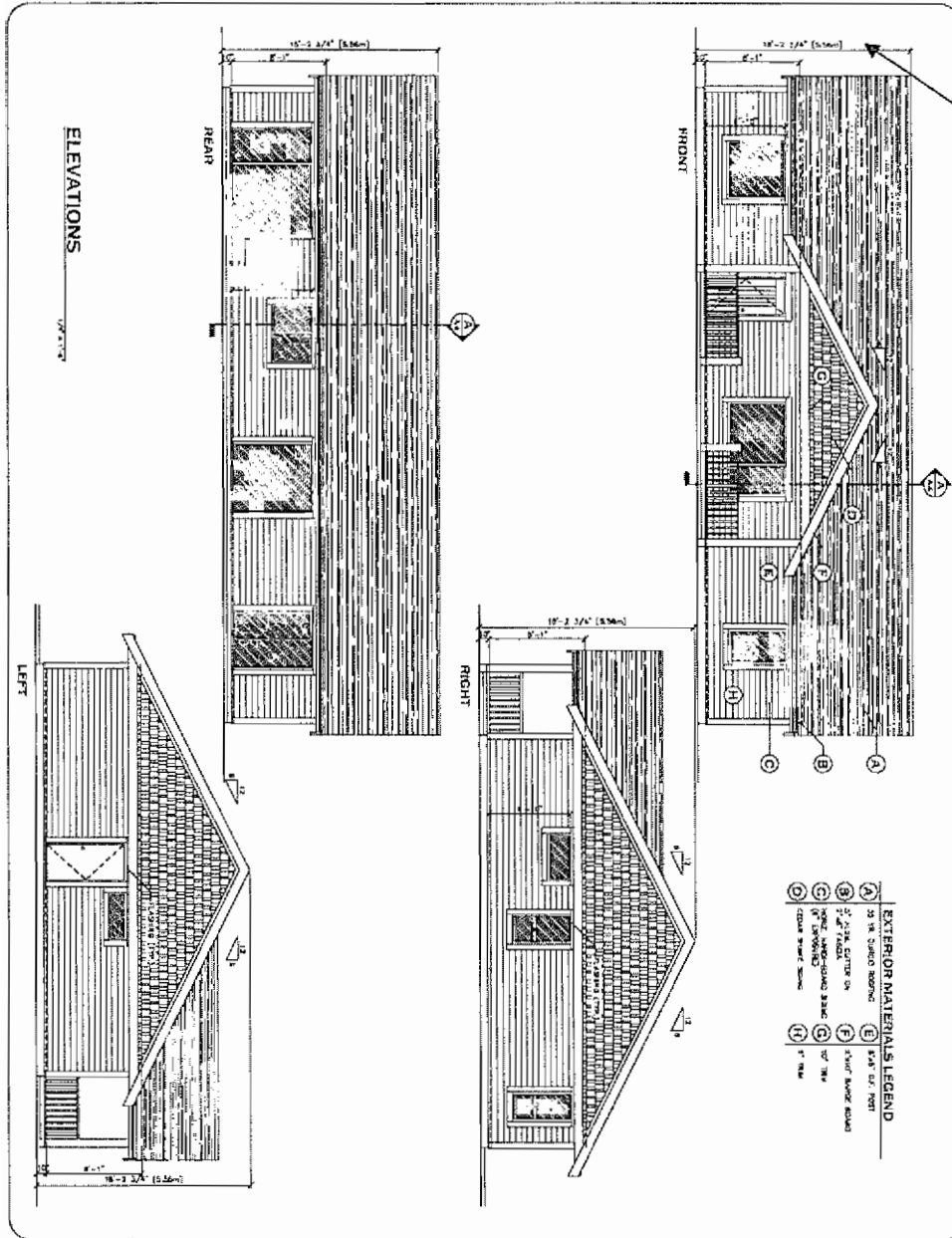
2. Restrictive Covenant

- a. Staff shall withhold the issuance of this permit until the applicant, at the applicant's expense, registers a section 219 covenant that registers the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd. dated June 19th 2009 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of erosion, landslide and/or flood damage.

Schedule No. 2
 Site Plan



Schedule No. 3
 Building Elevations



Building elevations for dwelling units No. 1 and No. 2: 5.56 metres

- EXTERIOR MATERIALS LEGEND
- A 2x 10 CEDAR SIDING
 - B 2x 10 CEDAR SIDING
 - C 1/2\"/>
 - D CEDAR SHAKE SIDING
 - E 3/4\"/>
 - F 1/2\"/>
 - G 1\"/>
 - H 1\"/>

1:1417 FORMAT - 1/2\"/>

JOSEPH J. JOHNSON
 Architect
 1111 14th Street NW
 Washington, DC 20005
 Phone: 202-331-1111
 Fax: 202-331-1112
 Email: jjohnson@johndesign.com

Cowan Residence

A3/A

Cowan Residence

NO.	DATE	DESCRIPTION
1	8/17/09	ISSUED FOR PERMIT / APPROVAL
2		REVISED FOR PERMIT
3		
4		

Schedule No. 4
Geotechnical Evaluation



Lewkowich Engineering Associates Ltd.

geotechnical • health, safety & environmental • materials testing

File: G7280.01

June 17, 2009

Mr. Jeff Cowen
P.O. Box 548,
Coombs, B.C.
V0R 1M0

Attention: Mr. Jeff Cowen

PROJECT: PROPOSED NEW RESIDENC DEVELOPMENT AT LOT 2, 1435 GREIG ROAD, PARKSVILLE, B.C.

LEGAL DESCRIPTION: STRATA LOT 2 DISTRICT LOT 129, NANOOSE DISTRICT, STRATA PLAN VIS6121, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V.

SUBJECT: GEOTECHNICAL EVALUATION

Dear Mr. Cowen:

1. INTRODUCTION

- a. As requested, Lewkowich Engineering Associates Ltd. (LEA) has conducted a geotechnical assessment for the subject site. The proposed development will include two single family residences on a five-acre rural lot, with a civic address of 1435 Greig Road, in Parksville, BC. The purpose of our work was to determine whether the proposed new residence sites are geotechnically safe and suitable for the intended purpose of supporting proposed residential structures.
- b. Our comments and conclusions are based on the expectation that proposed structures will be wood frame residential houses designed and constructed according to requirements of the 2006 B.C. Building Code.
- c. Comments and recommendations presented here also referenced "Official Community Plan Bylaw No. 843: A Bylaw to Regulate Construction in Floodplain Area" of Regional District of Nanaimo; "Develop with Care: Environmental Guideline for Urban and Rural Land Development in British Columbia" and "Best Management Practices for watershed protection". Our evaluations have also taken into account those natural hazards which may

Client: Mr. Jeff Cowen
File: G7280.01
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 2 of 13



affect the safe use of the land, which include potential for loss of life and property, impact to natural environment, and its ecosystems and biological diversity.

- d. Specifically, our evaluations have taken into account those natural hazards, which may affect the safe development of the land. This report is intended to meet the following stated objectives:
 - i. Acknowledge that the Region District of Nanaimo, its Approving Officer and Building Inspectors may rely on the report when making a decision on applications for the development of the land;
 - ii. Determine whether the land is geotechnically safe and suitable for the intended purpose of siting of residential structures, with a probability of a geotechnical failure resulting in property damage of less than 10 percent (10%) in 50 years and with the exception of a 'design' seismic event where a probability of a geotechnical failure of less than 2 percent in 50 years is considered safe;
 - iii. Identify any geotechnical deficiency for the design of buildings, proposed service lines, drainage, access and road works (the "works and services") or construction standards intended for the development;
 - iv. Prescribe the geotechnical works and any changes in the standards of the design of the development which are required to ensure the land, buildings, and Works and Services are developed safely for the use intended and which maintain the safety of the land, buildings, and any Works and Services as a condition of approval of the development;
 - v. Provide sustainable develop recommendations to protect life, property and natural environment, its ecosystems, and biological diversity from hazard conditions
- e. We examined the Official Community Plan (OCP) to determine whether the proposed development lies within any Environmentally Sensitive Area (ESA), Natural Hazard Area

Lewkowich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: G7280.01
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 3 of 13



(NHA) or Development Permit Area (DPA). We note that this site is identified as:

- A flood prone land within the floodplain of Englishman River and
- Located within Development Permit Area of
 - hazard lands,
 - fish habitat protection area, and
 - Farm land.
- OCP land use as 'Rural Residential 2',
- Not within designated sensitive ecosystem area.

2. SITE DESCRIPTION

- a. LEA carried out a site reconnaissance and subsurface investigation on June 5, 2008. This 5-acre land parcel is on the north side of Greig Road with the Englishman River about 112m to the west. The property bounds on the east and west by existing rural single family residences, on the south and north by vacant lands. A natural pond was observed about 30 to 35m to the north.
- b. The topography of the property was flat and level. The site was dry and no surface water was observed at the time of site visit. The property was vegetated with long grass, brush, saplings, and scattered trees.
- c. There was a new residential building on the east neighbouring property.

3. SOIL CONDITION

- a. One pre-dug test pit was observed within the building envelope of proposed house 2. The

Client: Mr. Jeff Cowen
File: G7280.01
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 5 of 13



year flood elevations (geodetic) at the site are indicated to be 9.5 m and 10.0 m, respectively.

- b. The proposed two residences are on the northern portion of the property. Based on the recent survey data provided by Sims Associates of Qualicum Beach, ground surface elevations at the proposed house locations are around 8.7 to 9 m – with some local minor variations.
- c. The current ground surface elevation is 0.8 to 1.3m below the 100-year and 200-year flood elevations respectively. Therefore, it is expected that there would be inundation of water onto the site in the event of a 100-year flood.
- d. The following general criteria need be satisfied for siting habitable residences within the Englishman River floodplain:
 - The minimum underside of floor elevation should be higher than the 1 in 200 year flood level plus at least 0.6m.
 - The minimum building setback should be 30 m (horizontal) from the natural boundary of the river or water body.
- e. A building with a crawlspace of less than 1.2m in height is considered suitable. This height of crawlspace should be limited to prevent building floating under a 200-year flood. We recommend a minimum floor underside elevation of 10.6m – 1 in 200 year flood level 10.0m plus 0.6m of freeboard for wave surge protection.
- f. The ground surface in local natural depression could be 1.5m below 200-flood level. A potential flood hazard to life exists in the depressed area. Marked posts are recommended to delineate the depression to protect life during flood season.
- g. The subject lot is approximately 112 m from the natural boundary of Englishman River and 30m from the natural pond, both measurements are safely outside of the 30 m horizontal setback described above.

Lewkowich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: G7280.01
Project: 1435 Craig Road, Parksville, B.C.
June 17, 2009
Page 6 of 13



4.3. Sustainable Development Consideration

- a. It is recommended to preserve the existing vegetation on this site where no construction activity is planned or will occur. Development space should be limited to minimize the encroachment into the Development Permit Area.
- b. Construction should be conducted during dry periods and the lot grading should be completed and provided with vegetation cover or erosion control before the winter flood season.
- c. Fill, excavation and surface disturbance will impact the environmental, hydraulic and hydrology conditions. Fill will reduce the storage volume of the floodplain, reduce infiltration rate, cover natural vegetation and change the surface and groundwater flow conditions. The volume and area of fill should be limited and the materials used should have a relatively high infiltration rate. The fill includes structural fill for building and road support, and fill for lot grading and landscaping.
- d. There will be exposed loose soil and stockpiles during the period of construction. Therefore, we recommend that erosion and sediment control measures should be undertaken before, during and after construction.
- e. Property owners are individually responsible for surface drainage within their property, and are liable for damages that occur due to uncontrolled runoff emanating from their property. Damages include soil movement from their properties into the natural water body, river or neighbouring properties.
- f. Under the current site condition, the following Best Management Practices (BMPs) are recommended for this site:
 - i. Construct a construction access road surfaced with crushed rock so that tracking soil off site will be avoided.

Lewkowich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: G7280.01
Project: 1435 Greg Road, Parksville, B.C.
June 17, 2009
Page 7 of 13



- ii. A silt fence should be installed before earthworks commences. This silt fence should be placed around the entire construction site to prevent sediments moving out of the disturbed area.
- iii. Remove unwanted, excavated soil from the site in a timely manner.
- iv. Keep all exposed areas and stockpiles covered with 6 or 8 mil poly to prevent erosion and migration of fine solids.
- v. Clean up any soil in the entrance area or on construction equipment in a timely manner.
- g. Additional erosion control measures shall be implemented on an as-required basis.
- h. Routine inspection and maintenance of the sustainable development measures (SDMs) will be the responsibility of the contractor and the property owner. The contractor or owner should designate an on-site person to be responsible for day-to-day management of the SDMs. At a minimum, inspect all BMP's weekly, before and after rainfall events, to ensure proper function and provide the name of the designated site person, including 24-hour contact information, to the local municipal authority prior to the commencement of any activity on-site.
- i. The silt fence should be removed only after landscaping vegetation has been fully established.
- j. Long term sediment control measures shall be the responsibility of the contractor. Similarly, the owner of the property shall be responsible for sediment control if the vegetation cover is damaged or is negligently maintained.
- k. Property owners should restore and maintain the property area in a vegetated condition in a timely manner as a control against erosion, protect environment and protect surface.

Lewkovich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: C17280.01
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 8 of 13



infiltration ability. The vegetated mat may consist of grass or other types of ground cover that provide a dense root system. If the ground cover is disrupted late in the fall season, or during the typically wet winter season, lack of germination may result in inadequate protection from surface erosion. In this event, sloping areas should be protected with erosion control measures determined to be adequate by an experienced professional.

- l. A detailed erosion and sediment control plan can be provided at the request of the client.
- m. Storm water runoff from roof and other impermeable surface should be directed away from the building to a suitable location.
- n. If the utilization of in-ground discharge of storm water is desired at this site, the infiltration facility such as rock pit should be located at least 6m away from building foundation. A storm water dissipation system can be provided by LEA with request.

4.4. Foundation Support

- a. The naturally deposited gravel, sand and cobbles encountered in the test pits are considered competent bearing.
- b. Spread footings (strips or individual pads) are considered suitable for this project. Footings constructed on compacted structural fill may be designed using a maximum allowable bearing pressure of 120kPa. This value assumes a minimum 0.6m depth of confinement or ground cover. These allowable bearing values may be increased by 1/3 in the case of short duration loads, such as those induced by seismic forces or wind. Exterior footings should be provided with a minimum 0.6m depth of ground cover for frost protection purposes and resistance to uplift forces.
- c. Provided foundations are designed and constructed as recommended here, the expected foundation settlements should be within the normal, tolerable ranges for the anticipated structure, being: 20mm to 25mm total and 10mm to 15mm differential between columns.

Lewkowich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: G728001
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 9 of 13



- d. If the site grades require a concrete floor slab to be founded on a subgrade of structural fill then the floor slab should be placed on a minimum 150mm of free draining, 20mm minus sand and gravel, compacted as recommended above. Sub-slab areas loosened by construction traffic or utility line construction should be made good before concrete placement. Floor slab areas founded such that either portions of the slab or the underlying sand/gravel base are below surrounding grade should be protected with a perimeter drainage tile system constructed at foundation level. This system should be provided with positive drainage, and be protected with a minimum 150mm of drainage gravel.

4.5. Removal Of Unsuitable Materials

- a. Prior to construction, all unsuitable materials should be removed to provide a suitable base of support. Unsuitable materials include any non-mineral material such as vegetation, topsoil, peat, or other materials containing organic matter, as well as any soft, loose, or disturbed soils.
- b. Unsuitable materials also include any existing fills. We recommend that the Geotechnical Engineer should first approve the exposed subgrade in fill areas, to confirm the removal of all unsuitable materials.
- c. At this site, the fill and organic rich top soil should be removed under building and road support area.
- d. A smooth bucket mounted on the excavator is the preferred method of excavation of the soils overlying the bearing soils. Any bearing soils that have been softened, loosened, or otherwise disturbed during the course of construction should be removed, or (if non-cohesive) compacted following our recommendations for structural fill.

4.6. Structural Fill

- a. The use of structural fill is required at the subject site to raise areas that will support

Lewkowich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: G7280-01
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 10 of 13



buildings or pavement. It is recommended that the Geotechnical Engineer should first approve the exposed subgrade in proposed fill areas, to confirm the removal of all unsuitable materials and to determine if compaction and what type of compaction of subgrade is needed.

- b. Organically contaminated soils will not be acceptable for re-use as structural fill.
- c. Structural fill should be inorganic mineral soil. Free draining, well graded sand and gravel materials are preferable. Crushed rock (shot rock) is also suitable structural fill as long as the nominal size is controlled.
- d. In general, structural fills supporting building and pavement areas should consist of granular soil, free of organic materials, and having a nominal maximum 100mm particle size. Structural fills within building and pavement areas should be relatively free draining and well graded.
- e. Structural fills under foundations, slabs, and pavements should include the zone defined by a plane extending down and outward from the outer edge of the foundation at an angle of 45 degrees from the horizontal. Structural fill not confined by excavation walls will require additional recommendations dependant on the particular site conditions.
- f. Fills should be placed and compacted using vibratory compaction equipment in lift thicknesses appropriate for the size and type of compaction equipment used. A general guideline for maximum lift thicknesses is no more than 100mm for light hand equipment such as a 'jumping-jack', 150mm for a small roller, 300mm for a large roller or heavy (>500 kg) vibratory plate compactor, a backhoe mounted hoe-pac, or a large excavator mounted vibrating hoe-pac, as measured loose.
- g. Rock rubble can be used as structural fill under the paved area. It is important to ensure that the fill soils are near or just above their optimum moisture content condition especially when

Lewkowich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: G7280.01
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 11 of 13



sand and finer materials are present. The maximum rock size should be no more than 300mm. We favor a large, excavator mounted, vibrating hoe pac or a vibratory drum roller at least 10 tonnes mass. The maximum recommended lift thickness for such equipments is 300 mm, as measured loose.

- h. Structural fill should be compacted to a minimum of 97% of Modified Proctor maximum dry density at optimum moisture content (ASTM D1557) in foundation and floor slab areas, a minimum of 95% in paved roadway areas, and a minimum of 85% in landscape areas. More stringent requirements may be imposed by construction specifications of the local municipality.
- i. It should be emphasized that the long-term performance of buildings, slabs, and pavements is highly dependant on the correct placement and compaction of underlying structural fills. As such, it is recommended that structural fills be observed during placement and approved by the Geotechnical Engineer. This would include approval of the proposed fill materials and performing a suitable program of compaction testing during construction.

4.7. Foundation Drainage

- a. No unusual groundwater conditions have been identified that might require unusual permanent drainage provisions according to the test pits excavated. Conventional requirements of the B.C. Building Code pertaining to building drainage may be considered at this site.
- b. It is recommended that final lot grading direct the water at least 2m away from the building perimeter to a suitable discharge area.
- c. 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

Lewkowich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: G72801.01
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 12 of 13



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 (typically the municipal storm sewer).

- d. A 10mil plastic vapour barrier is recommended if the floor coverings could be adversely affected by moisture penetration.

4.8. Roadway and Paved Area

- a. The height and the location of the driveway should be designed that it does not restrict the passage of the flood waters, redirect water flows or decrease natural flood storage.
- b. If pavement is desired, the following pavement structure is recommended:
- c. The pavement structure shall consist of:
 - 1) 50mm of asphaltic concrete if pavement is desired, over
 - 2) 100mm of 19mm crushed gravel base aggregate over
 - 3) 250mm of 75mm minus sand and gravel subbase aggregate over
 - 4) Subgrade soil conditions to be approved by the geotechnical engineer
- d. All aggregate subbase and base course materials are to be approved by the Geotechnical Engineer prior to placement, and compacted to a minimum of 95% of Modified Proctor maximum dry density (ASTM D1557).

5. LIMITATIONS

The conclusions and recommendations submitted in this report are based upon the data obtained from a limited number of subsurface explorations, available survey data, and observed site conditions. The nature and extent of variations between these explorations

Lewkowich Engineering Associates Ltd.

Client: Mr. Jeff Cowen
File: G7280.01
Project: 1435 Greig Road, Parksville, B.C.
June 17, 2009
Page 13 of 13



may not become evident until construction or further investigation. If unanticipated conditions are discovered during construction, our office should be contacted immediately to allow reassessment of the recommendations provided.

6. CLOSURE

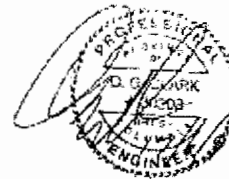
Lewkovich Engineering Associates Ltd. trusts that the information presented above meets your current requirements. If you have any questions, or require further information, please do not hesitate to contact the undersigned.

Respectfully Submitted,

Lewkovich Geotechnical Engineering Ltd.

Reviewed by:

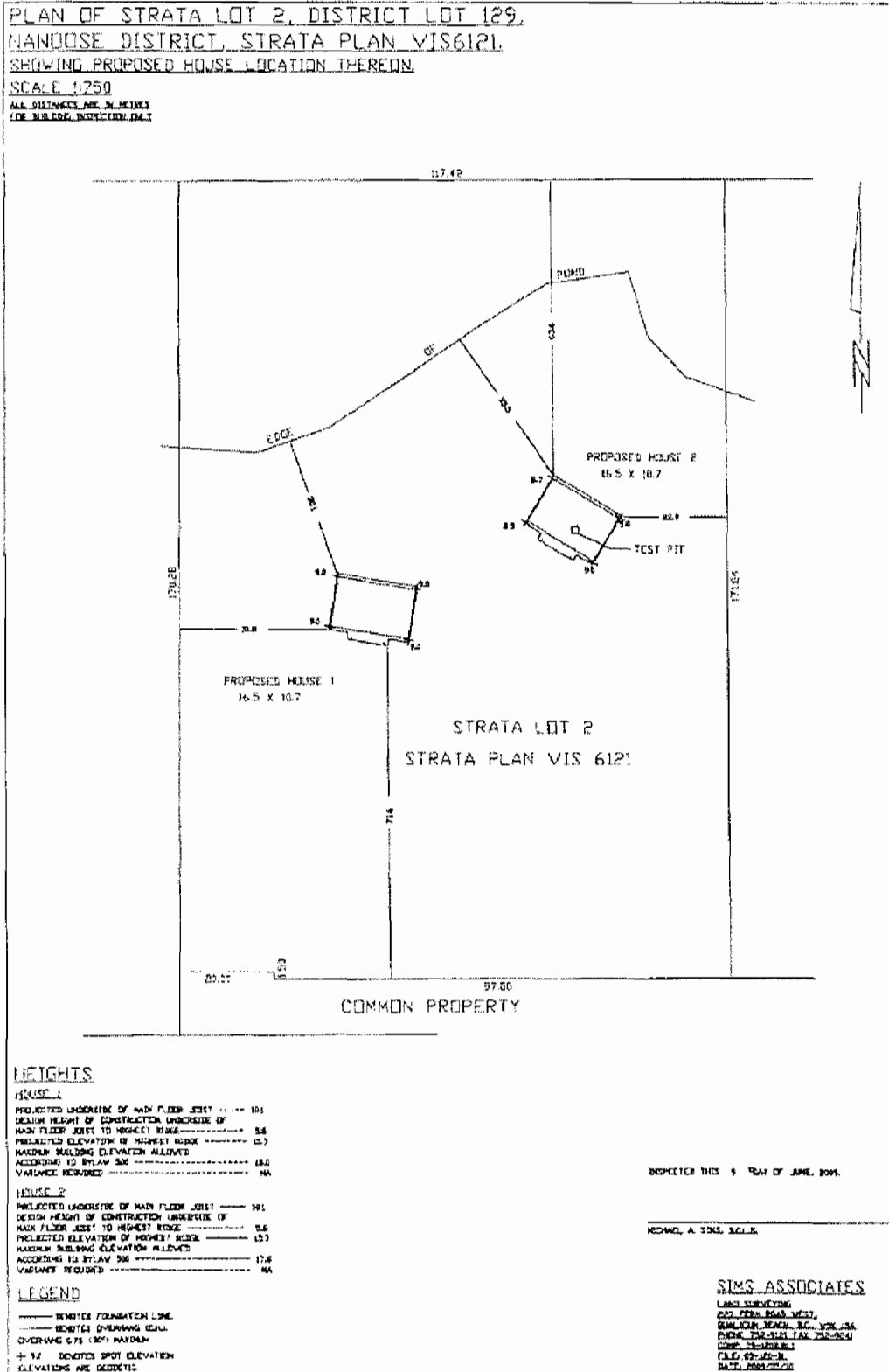
M. Ren 6/17/09



Matthew Ren, B.E., M.Sc.

Darron G. Clark, P. Eng.
Geotechnical Engineer

Lewkovich Engineering Associates Ltd.



**Addendum to Schedule 4
Geotechnical Report**



Lewkowich Engineering Associates Ltd.
geotechnical • health, safety & environmental • materials testing

File: G728002
August 17, 2009

Mr. Jeff Cowen
P.O. Box 548,
Goombs, B.C.
V0R 1M0

Attention: Mr. Jeff Cowen

**PROJECT: PROPOSED NEW RESIDENCE DEVELOPMENT AT LOT 2, 1435 GREIG ROAD, PARKSVILLE, B.C.
LEGAL DESCRIPTION: STRATA LOT 2 DISTRICT LOT 129, NANOOSE DISTRICT, STRATA PLAN VIS6121, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V.**

SUBJECT: ADDENDUM TO GEOTECHNICAL REPORT

Dear Mr. Cowen:

- a. This letter represents an addendum to the referenced report regarding to the minimum underside of floor elevation. Lewkowich Engineering Associates Ltd. (LEEA) re-assessed the subject site based on surrounding site condition, survey data, the 200-year flood elevations (10.0 m geodetic) and the client's request. It is LEEA's opinion that the minimum underside of floor elevation of 10.2m is sufficient for the subject site, even though an elevation of 10.6m could give a larger freeboard for wave surge protection.
- b. Lewkowich Engineering Associates Ltd. trusts that the information presented above meets your current requirements. If you have any questions, or require further information, please do not hesitate to contact the undersigned.

Respectfully Submitted,
Lewkowich Geotechnical Engineering Ltd.

M. Ren, 2/13/2009

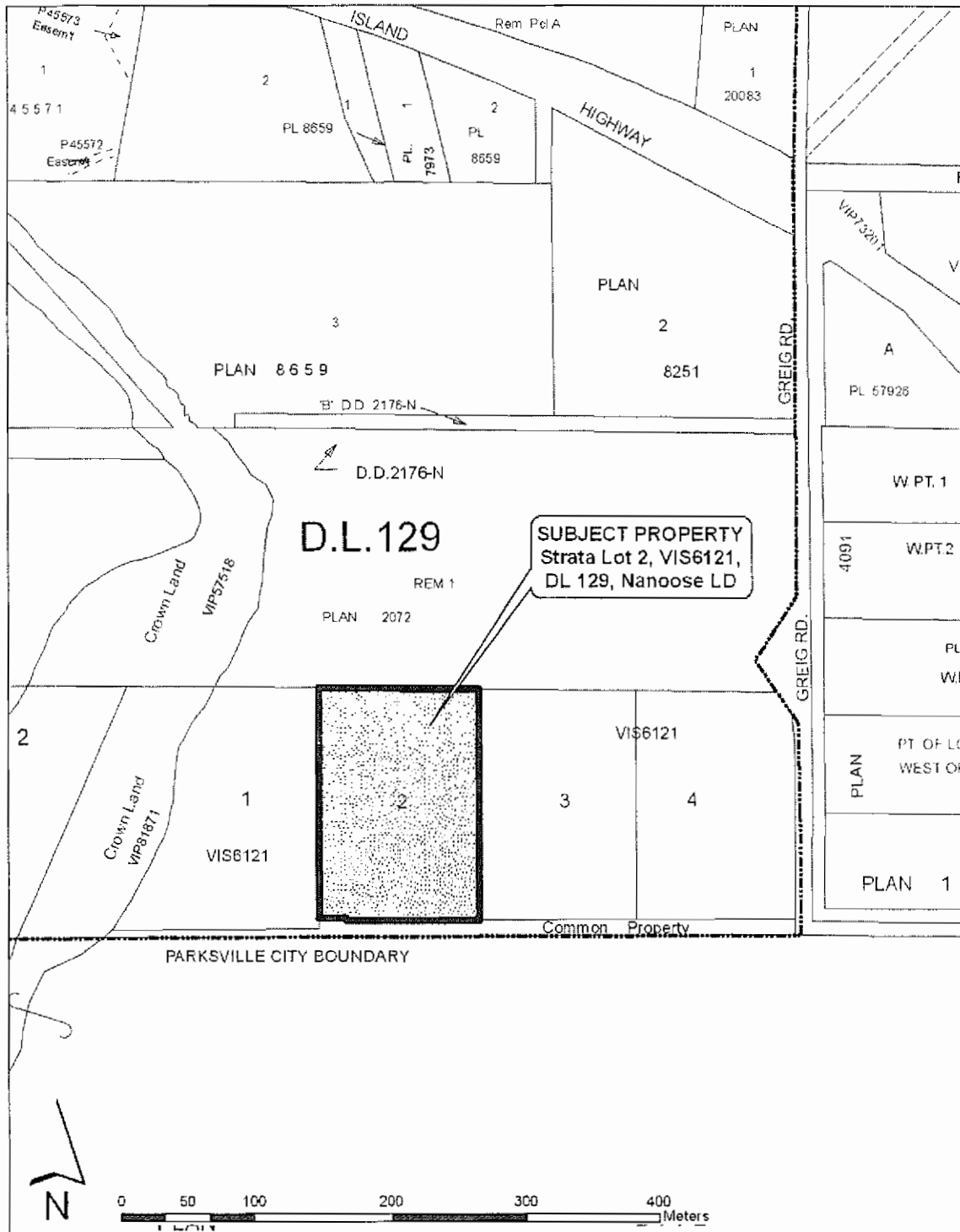
Mathew Ren, B.Sc., M.Sc.

Reviewed by:

A handwritten signature in black ink, appearing to read 'D. Clark', is written over a circular stamp. The stamp contains the text 'DARRON G. CLARK' and '2009/08/17'.

Darron G. Clark, P. Eng.
Geotechnical Engineer

Attachment No. 1 Location of Subject Property



BCGS MAPSHEET 92F 039 2 1



RDN REPORT	
CAO APPROVAL <i>[Signature]</i>	
EAP	✓ Sept. 8/09
COW	
ADD TO ROW	
RHD	
BOARD	

MEMORANDUM

TO: Paul Thompson
Acting Manager, Current Planning

DATE: August 24, 2009

FROM: Susan Cormie
Senior Planner

FILE: 3060 30 60919

SUBJECT: Development Permit Application No. 60919
Fern Road Consulting Ltd., BCLS on behalf of R Rothwell
Electoral Area 'G', 231, 235 and 241 Hilliers Road North, Folio No. 769.12238.000

PURPOSE

To consider an application for a development permit in conjunction with a six lot subdivision application in Electoral Area 'G'.

BACKGROUND

This is a development permit application in conjunction with a proposed subdivision involving the parcel legally described as Lot 1, District Lot 91 and 42, Newcastle District and of District Lot, 144 Nanoose District (Situated in Newcastle District), Plan 13306, Except Part in Plan VIP59597 and located at 231, 235 and 241 Hilliers Road North in Electoral Area 'G' (see Attachment No. 1 for location of parent parcel).

The parent parcel, which is 28.5 ha in size, is currently zoned Rural 1 (RU1) and is within Subdivision District 'D' (2.0 ha minimum parcel size with or without community water and community sewer services) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The parent parcel currently supports three dwelling units and accessory buildings.

Surrounding uses include rural zoned parcels that are situated within the Provincial Agricultural Land Reserve (ALR) with Hilliers Road fronting the northwest corner of the parent parcel. The parent parcel is also bordered on the west by the Memorial Avenue interchange to the Inland Island Highway.

The parent parcel is situated within the Provincial Agricultural Land Reserve.

Pursuant to the Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008, the parent parcel is designated within the following Development Permit Areas:

- a. The Fish Habitat Protection Development Permit Area (DPA) for the protection of riparian areas of watercourses, in this case, a wetland located within the parent parcel. The applicant has provided a report from a Qualified Environmental Professional which indicates that the wetland located within the parent parcel is not a RAR assessment watercourse. Therefore, this application meets the exemption provisions of this DPA.
- b. The Environmentally Sensitive Features Development Permit Area, in this case for the protection of the wetland located within the parent parcel. As above, this application meets the exemption provisions of this DPA.

- c. The Inland Island Highway Corridor Development Permit Area for the form and character of commercial, industrial, and intensive residential, and multi-residential uses. As this subdivision is for rural uses, the application is exempt from requiring an Inland Island Highway Corridor DPA.
- d. The Environmentally Sensitive Features Development Permit Area, in this case for the protection of the aquifer. As the exemption provisions of the DPA cannot be met, a development permit is required.

The applicant is proposing to create six parcels. The new parcels, which are proposed to be served with individual well water and septic disposal systems, will be all greater than 2.0 ha in size; therefore meeting the minimum parcel size requirement pursuant to Bylaw No. 500, 1987 (*see Attachment No. 1 for proposed subdivision layout*).

The parent parcel is within an RDN Building Services area.

ALTERNATIVES

1. To approve the Development Permit Application No. 60919 as submitted, subject to the conditions outlined in Schedules No. 1 and 2.
2. To deny the development permit as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Official Community Plan Implications

The Electoral Area Planning Committee (EAPC) may recall that Amendment Bylaw No. 500.346, which has been tabled at 3rd reading, included the subject property being rezoned to Subdivision District 'B' with a minimum parcel size of 8.0 ha. As this amendment bylaw has not been adopted, this application may be considered.

Development Permit Guidelines Implications

With respect to the development permit guidelines for protection of the aquifer, the applicant has submitted an Environmental Report which concludes that the proposed six lot subdivision is unlikely to negatively impact the underlying aquifer, or to jeopardize the groundwater quality or quantity for existing aquifer DPA residents given the large lot sizes assuming that the lots are developed for domestic purposes. It is noted that the Town of Qualicum Beach has the Berwick well field several hundred metres in a cross-gradient direction from the parent parcel and the report notes that 'if other RU1 land use activities such as agriculture, aquaculture, or silviculture were to occur, however, the total water use and subsequent risk of adverse impact to other Aquifer Permit Area users could potentially be higher.' It is noted that as the parent parcel is within the ALR, local government cannot restrict agricultural uses.

Agricultural Land Reserve Implications

The Provincial Agricultural Land Reserve Commission has approved the subdivision of the parent parcel as proposed.

Site Servicing Implications

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

Proof of potable water is subject to the approval of the Approving Officer.

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

Existing Buildings / Future Building Implications

The parent parcel supports three dwelling units. In order to meet the maximum residential density provisions of the Rural 1 zone, one of the dwelling units is required to be removed. The applicant's agent has indicated that the applicant will decommission one of the dwelling units and is included in the conditions of approval as set out in *Schedule No. 1* of this staff report.

Staff understands that a portion of the parent parcel has been filled with soils. At the time of building permit application, staff will evaluate the site and determine if a geotechnical report is required to ensure the building site is safe for construction.

SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist" under this subdivision proposal the lands are to remain in the Agricultural Land Reserve and as such are maintaining designated land for agriculture. Staff note that the proposal is not in keeping with the recommendations of OCP to protect and maintain the agricultural land base, retain rural designated parcels in the ALR at 8.0 ha minimum parcel size, and avoid rural sprawl. These recommendations from the OCP have yet to be implemented and evaluation of the proposal is based on current zoning regulation.

VOTING

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

SUMMARY

This is an application for a development permit for the property located at 231, 235, and 241 Hilliers Road North in Electoral Area 'G' in conjunction with the proposed six-lot subdivision of a parcel within is situated within the Provincial Agricultural Land Reserve.

The parent parcel is designated within the Environmentally Sensitive Features Development Permit Area specifically to protect of the aquifer. The applicant has submitted a Professional Engineer's Report which concludes that the proposed six-lot subdivision is very unlikely to negatively impact the underlying aquifer, or to jeopardize the groundwater quality or quantity for existing aquifer DPA residents given the large lot sizes assuming that the lots are developed for domestic purposes.

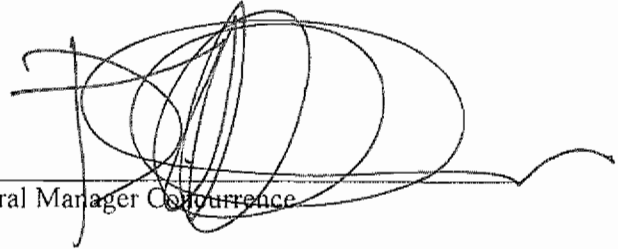
Given that the Provincial Agricultural Land Commission has approved the subdivision of the parent parcel and the applicable development permit guidelines for protection of the aquifer have been addressed, staff recommends Alternative No. 1, to approve the Development Permit subject to conditions outlined in Schedules No. 1 and 2.

RECOMMENDATION

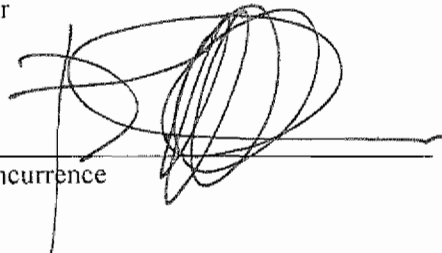
That Development Permit Application No. 60919 submitted by Fern Road Consulting Ltd, on behalf of R Rothwell, in conjunction with the subdivision on the parcel legally described as Lot 1 DL 91 and 42 Newcastle District and of DL 144 Nanoose District (Situated in Newcastle District) Plan 13306, Except Part in Plan VIP59597 and designated within the Environmentally Sensitive Features Development Permit Area for aquifer protection pursuant to the Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008, be approved, subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

H. Samano

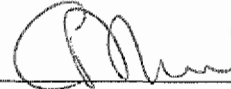
for Report Writer



General Manager Concurrence



for Manager Concurrence



CAO Concurrence

**Schedule No. 1
Development Permit No. 60919
Conditions of Approval**

Conditions of Approval

The following sets out the conditions of approval in conjunction with Development Permit No. 60919:

1. Aquifer Protection Report

The development of the subdivision of the proposed parcels shall be in accordance with the Preliminary Hydrogeological Impact Assessment Report; prepared by EBA Engineering Ltd. and dated March 26, 2009 (to be attached to and forming part of the Development Permit).

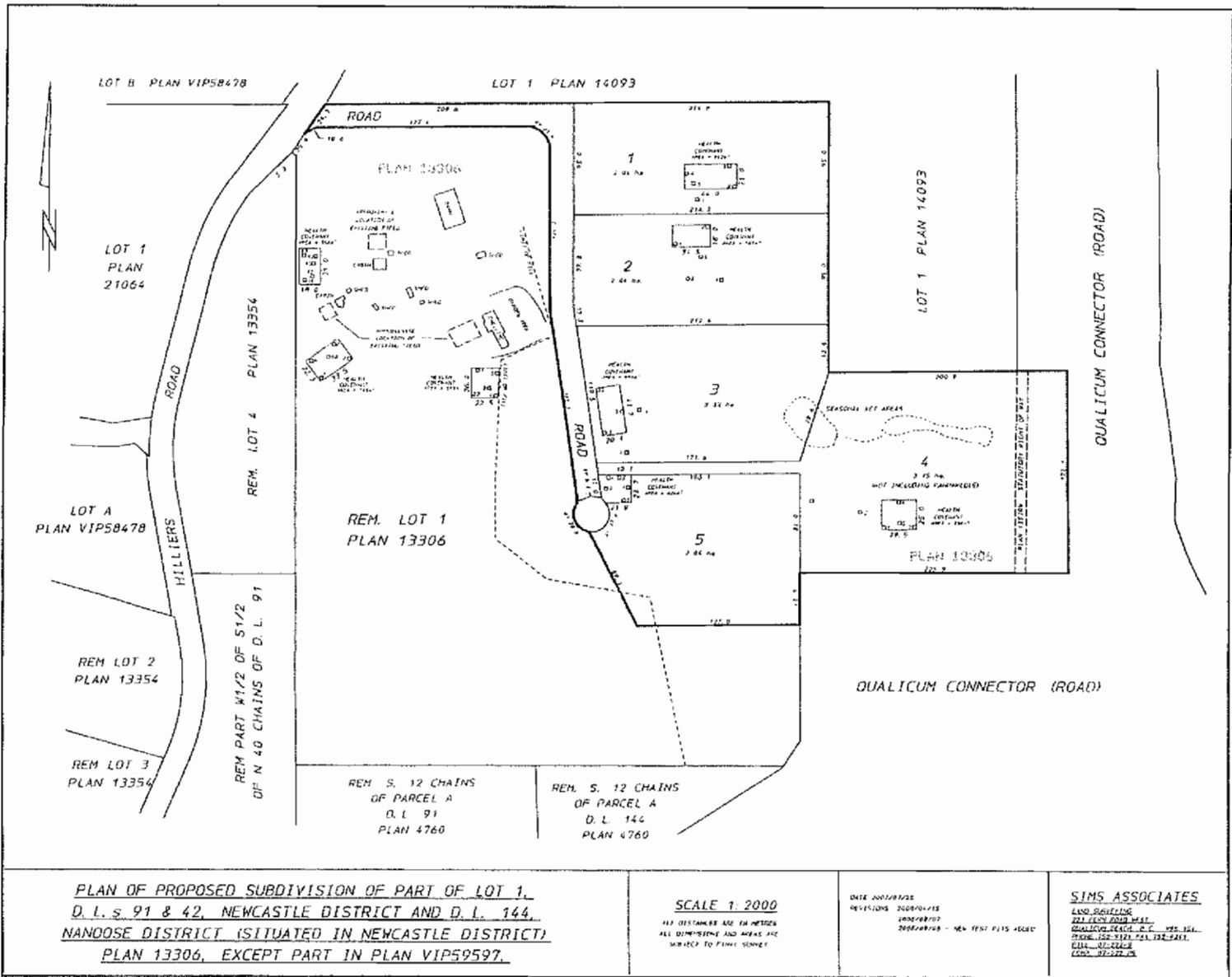
2. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2 (to be attached to and forming part of the Development Permit). In addition, the decommissioning of the existing dwelling units will occur prior to request for bylaw compliance and completion of the subdivision.

3. Existing Buildings

Applicant to apply for the required building permits at the RDN Building Services Department.

Schedule No. 2
 Development Permit No. 60919
 Proposed Plan of Subdivision



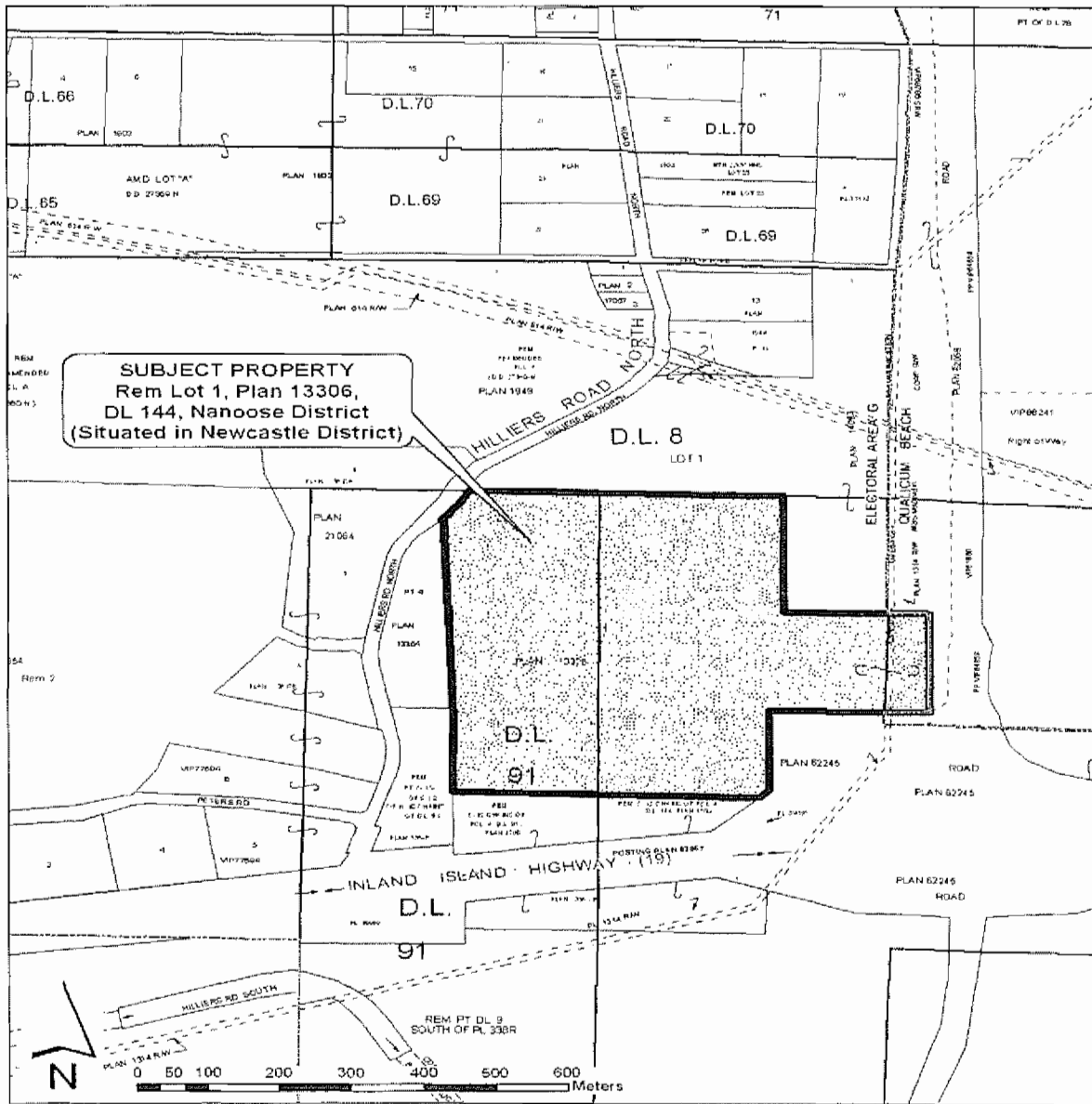
PLAN OF PROPOSED SUBDIVISION OF PART OF LOT 1,
 D. L. S. 91 & 42, NEWCASTLE DISTRICT AND D. L. 144,
 NANOOSE DISTRICT (SITUATED IN NEWCASTLE DISTRICT)
 PLAN 13306, EXCEPT PART IN PLAN 59597.

SCALE 1:2000
 ALL DIMENSIONS ARE IN METERS
 ALL DIMENSIONS AND AREAS ARE
 SUBJECT TO FIELD SURVEY

DATE AND TIME
 REVISIONS
 DRAWN BY
 CHECKED BY - NEW TEST FILE ASSET

SIMS ASSOCIATES
 LAND SURVEYING
 222 FLEMING STREET
 NANOOSE DISTRICT, B.C. V9S 1S1
 PHONE (250) 213-2211 FAX (250) 213-2211
 EMAIL: info@simss.com
 (COP) 07-022-05

Attachment No. 1
Development Permit No. 60919
Location of Subject Property





KUM REPUR		
CAO APPROVAL		OK
EAP	✓	Sept 8 '09
CCW		
3790 MALLARD PLACE		
RHD		
BOARD		

MEMORANDUM

TO: Paul Thorkelsson
General Manager of Development Services

DATE: August 26, 2009

FROM: Kristy Marks
Planner

FILE: 3060 30 60933

SUBJECT: Development Permit Application No. 60933 – Mardaga
Lot 22, District Lot 78, Nanoose District, Plan 28595
3790 Mallard Place - Electoral Area 'E', Folio No. 769.009894.560

PURPOSE

To consider an application for a Development Permit to allow the construction of a dwelling unit and accessory building on a property located at 3790 Mallard Place.

BACKGROUND

The subject property, legally described as Lot 22, District Lot 78, Nanoose District, Plan 28595, is located at 3790 Mallard Place in Electoral Area 'E' (see subject property map - Attachment No. 1). The subject property slopes to the east and contains a rocky vegetated outcrop and a steep coastal bluff. The parcel is bordered by developed residential parcels on three sides and by the sea to the east.

The subject property is designated within the Sensitive Ecosystems Protection for the protection of Coastal Bluffs, Watercourse Protection, and Farmland Protection Development Permit Areas (DPA) pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005". The property is exempt from the Watercourse Protection and Farmland Protection DPA as the property is not adjacent to ALR land and all land development will be located greater than 30.0 metres from a 'stream'. In order to satisfy the Sensitive Ecosystem Protection DPA guidelines, the applicants have submitted a Biophysical Assessment and General Environmental Management Plan and an Environmental Protection Plan and Vegetation Retention Objectives, both prepared by a Registered Professional Biologist.

The parcel is zoned Residential 1 (RS1), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The applicants are requesting approval to construct an approximately 608m² dwelling unit and accessory building. The parcel previously supported a residential dwelling unit and garage which were removed in 2006.

The applicants were issued Development Permit No. 60647 on November 28, 2006, for the proposed residential dwelling and accessory building however, as no construction has been started on the property, Development Permit No. 60647 has expired. In addition, Development Variance Permit No. 90806 was issued June 24, 2008 in order to decrease the minimum setback from the natural boundary of the sea from 15.0 metres to 9.6 metres for the proposed development.

ALTERNATIVES

1. To approve Development Permit No. 60933 subject to the conditions outlined on Schedules No. 1– 4.
2. To deny Development Permit No. 60933 as submitted.

LAND USE AND DEVELOPMENT IMPLICATIONS

As outlined above, the applicants are requesting approval to construct a dwelling unit and accessory building on a parcel at 3790 Mallard Place in Electoral Area ‘E’. The location of the proposed dwelling unit and accessory building are outlined on *Schedule No. 2* and building elevations for the proposed development are outlined on *Schedule No. 3*.

The applicants have submitted a Biophysical Assessment and General Environmental Management Plan prepared by EBA Engineering Consultants Ltd (EBA) dated July 31, 2006 and an Environmental Protection Plan and Vegetation Retention Objectives Report prepared by EBA dated October 2006. In addition, the applicants have provided an updated letter from EBA dated August 17, 2009 confirming that the observations and recommendations made in the 2006 reports remain applicable to the property.

The purpose of the reports is to minimize potential environmental impacts to sensitive habitats or species and to make recommendations regarding vegetation retention and replacement, as well as environmental monitoring during and post construction. The replanting plan is outlined on *Schedule No. 4*. The replanting (landscaping) requirements have been secured through a deposit in the amount of \$6,500. The deposit will be held until the replanting requirements have been met to the satisfaction of the RDN.

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

Given that the applicants have provided a Biophysical Assessment and Environmental Protection Plan, in staff’s assessment, the proposed development meets the requirements of the Environmentally Sensitive Features Development Permit Area.

SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board Policy No. B1.14, the applicants have completed the “Sustainable Community Builder Checklist”. This proposal represents the development of an existing residential parcel. The applicants are proposing to retain the existing vegetation and to replant portions of the subject property as per the Environmental Protection Plan.

VOTING

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

SUMMARY/CONCLUSIONS

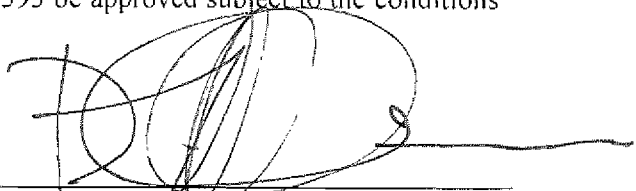
This is an application for a Development Permit to allow the construction of a dwelling unit and accessory building on a property located at 3790 Mallard Place in Electoral Area 'E'. Given that the applicants have submitted a Biophysical Assessment and Environmental Protection Plan and Vegetation Retention Objectives Report, the guidelines of the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" Environmentally Sensitive Features DPA have been met.

RECOMMENDATION

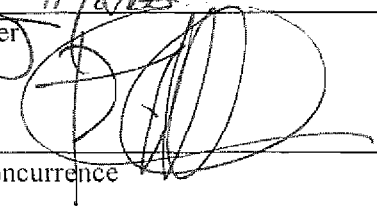
That Development Permit Application No. 60933, to construct a dwelling unit and accessory building within the Environmentally Sensitive Features Development Permit Area pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005", for the property legally described as Lot 22, District Lot 78, Nanoose District, Plan 28595 be approved subject to the conditions outlined in Schedules No. 1 - 4.




Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

Schedule No. 1
Terms of Development Permit No. 60933

The following sets out the terms and conditions of Development Permit No. 60933.

1. The dwelling unit and accessory building shall be sited in accordance with site survey prepared by Sims Associates dated February 22, 2008 attached as *Schedule No. 2*.
2. The dwelling unit and accessory building shall be constructed in accordance with the elevation drawings prepared by Yeatts Architecture Inc. attached as *Schedule No. 3*.
3. The dwelling unit and accessory building shall be constructed in accordance with all recommendations contained in the Biophysical Assessment and General Environmental Management Plan dated July 31, 2006, and the Environmental Protection Plan and Vegetation Retention Objectives Report dated October 2006, both prepared by EBA Engineering Consultants Ltd.
4. An Environmental Monitor shall be on-site during the construction and post-construction works in accordance with the Environmental Protection Plan and Vegetation Retention Objectives Report dated October 2006 prepared by EBA Engineering Consultants Ltd.
5. The Replanting Plan shall be completed in accordance with Schedule No. 3 and the recommendations specified by the Professional Biologist on pages 8 through 10 inclusive of the Environmental Protection Plan and Vegetation Retention Objectives Report dated October 2006 prepared by EBA Engineering Consultants Ltd.
6. The landscape security deposit in the amount of \$6,500 to be held by the RDN pending the completion of the required landscaping to the satisfaction of the Regional District of Nanaimo.
7. Staff shall withhold the issuance of this Permit until the applicants, at the applicant's expense, registers a section 219 covenant with a priority agreement that registers the Biophysical Assessment and Environmental Management Report dated July 31, 2006, and the Environmental Protection Plan and Vegetation Retention Objectives Reports dated October 2006, both prepared by EBA Engineering Consultants Ltd.
8. The applicant shall obtain a building permit from the RDN Building Inspection Department for the dwelling unit and accessory building prior to the commencement of any work on the site.

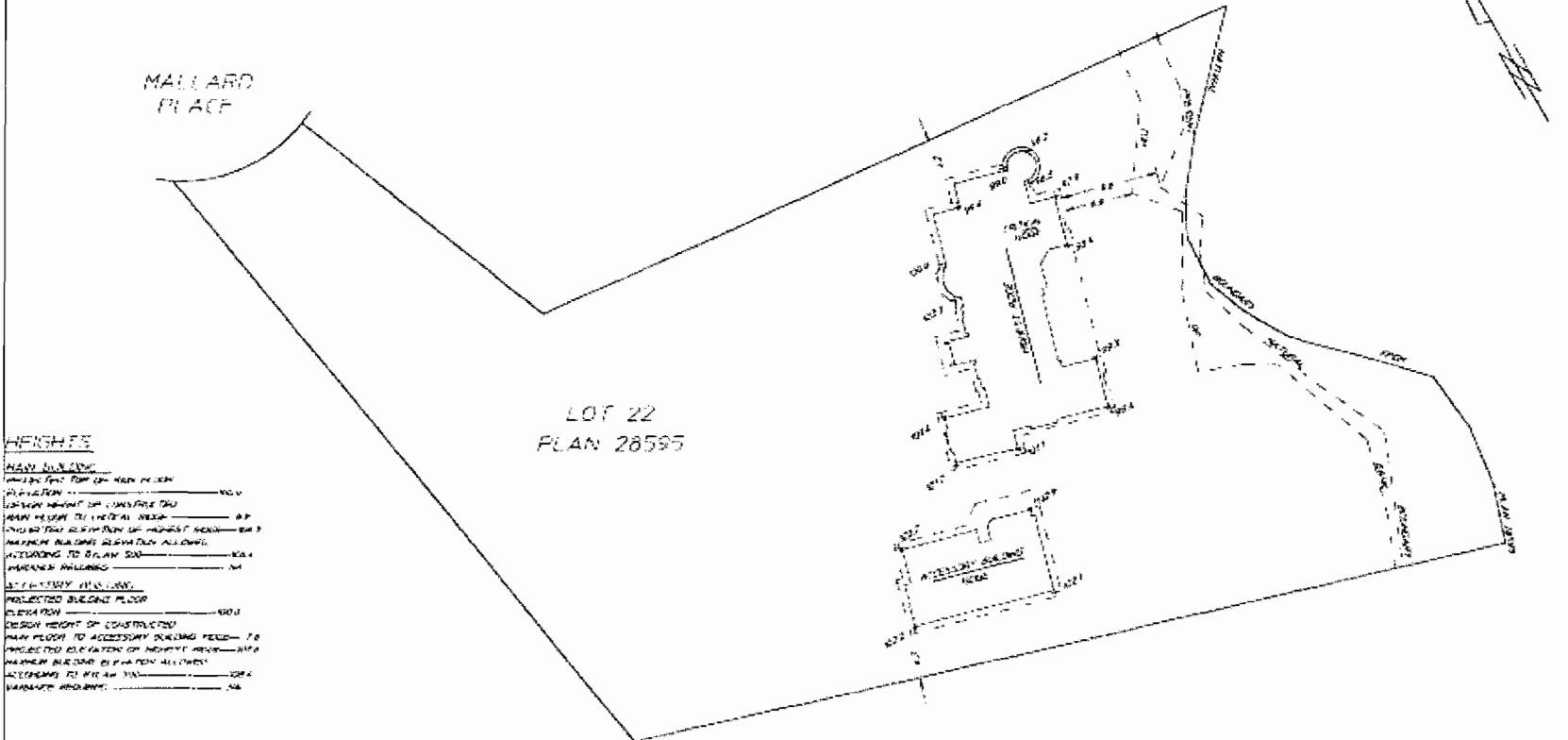
Schedule No. 2
 Site Plan

PLAN OF LOT 22, DISTRICT LOT 79, NANOCSE DISTRICT, PLAN 28595.

SHOWING PROPOSED HOUSE LOCATION THEREON

SCALE: 1/4" = 1'-0"

ALL DIMENSIONS ARE IN METERS
FOR PLANNING AND DESIGN ONLY



HEIGHTS

<u>MAXIMUM HEIGHT</u>	
PROPOSED TOP OF MAIN FLOOR	NOV
ELEVATION	NOV
DESIGN HEIGHT OF CONSTRUCTED	
MAIN FLOOR TO FINISHED GRADE	AP
MAXIMUM HEIGHT OF ROOF	NOV
MAXIMUM BUILDING HEIGHT ALLOWED	NOV
ACCORDING TO PLAN 500	
MAXIMUM HEIGHT	NO
<u>MINIMUM HEIGHT</u>	
PROPOSED SECOND FLOOR	
ELEVATION	NOV
DESIGN HEIGHT OF CONSTRUCTED	
MAIN FLOOR TO ACCESSORY BUILDING FLOOR	7.0
PROPOSED ELEVATION OF ROOF	NOV
MAXIMUM BUILDING HEIGHT ALLOWED	NOV
ACCORDING TO PLAN 500	
MINIMUM HEIGHT	NO

LEGEND

- 0.90 METERS PROJECTION LINE
 - 0.90 METERS OVERHANG WITH OVERHANG TO 1.0 METERS MAXIMUM
 - + 0.90 METERS SPOT ELEVATION
- ELEVATIONS ARE BASED ON ASSUMED DATUM

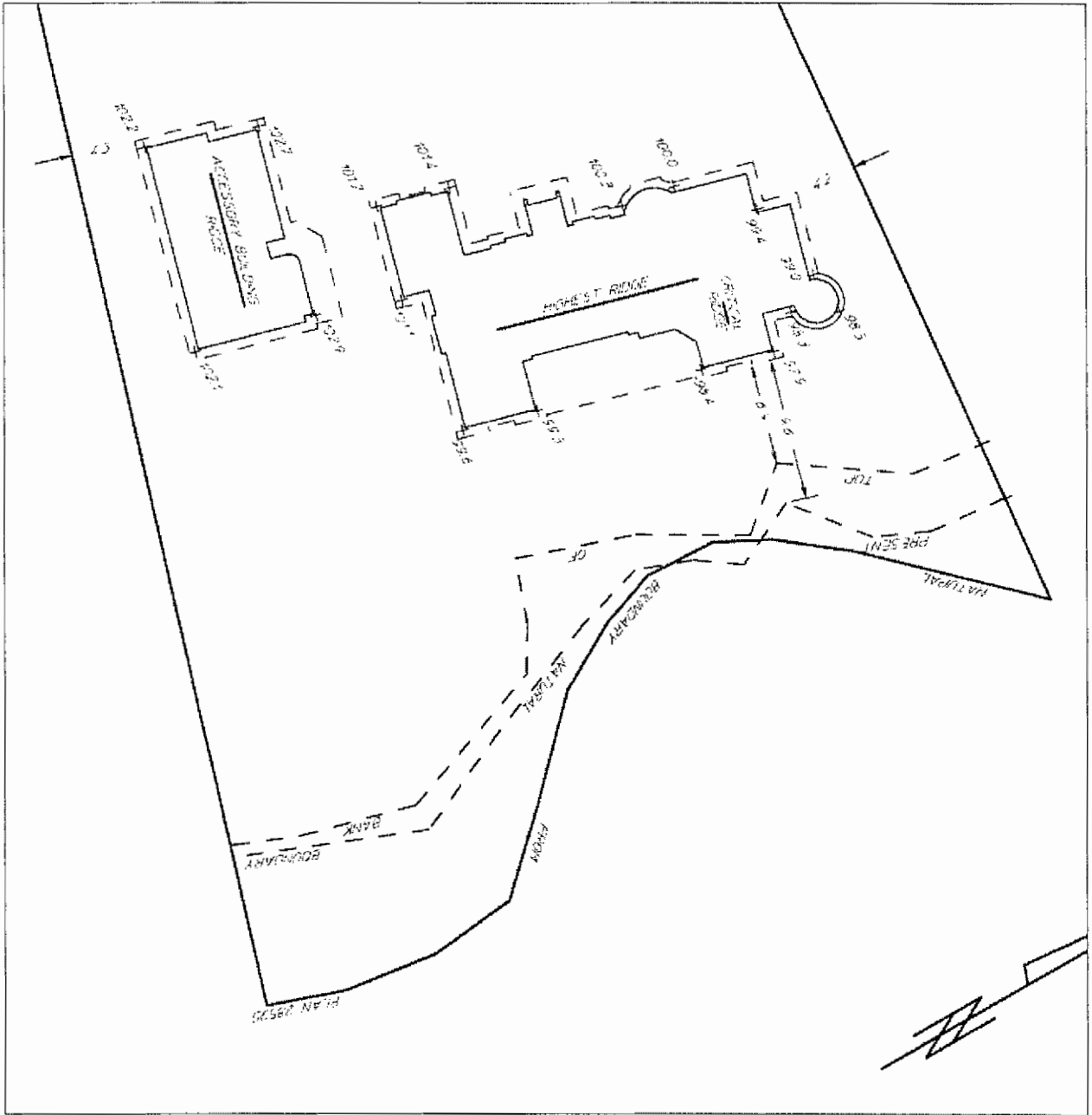
PROPOSED FOR ZONING MAP OF FEBRUARY, 2008

PREPARED BY SIMS ASSOCIATES

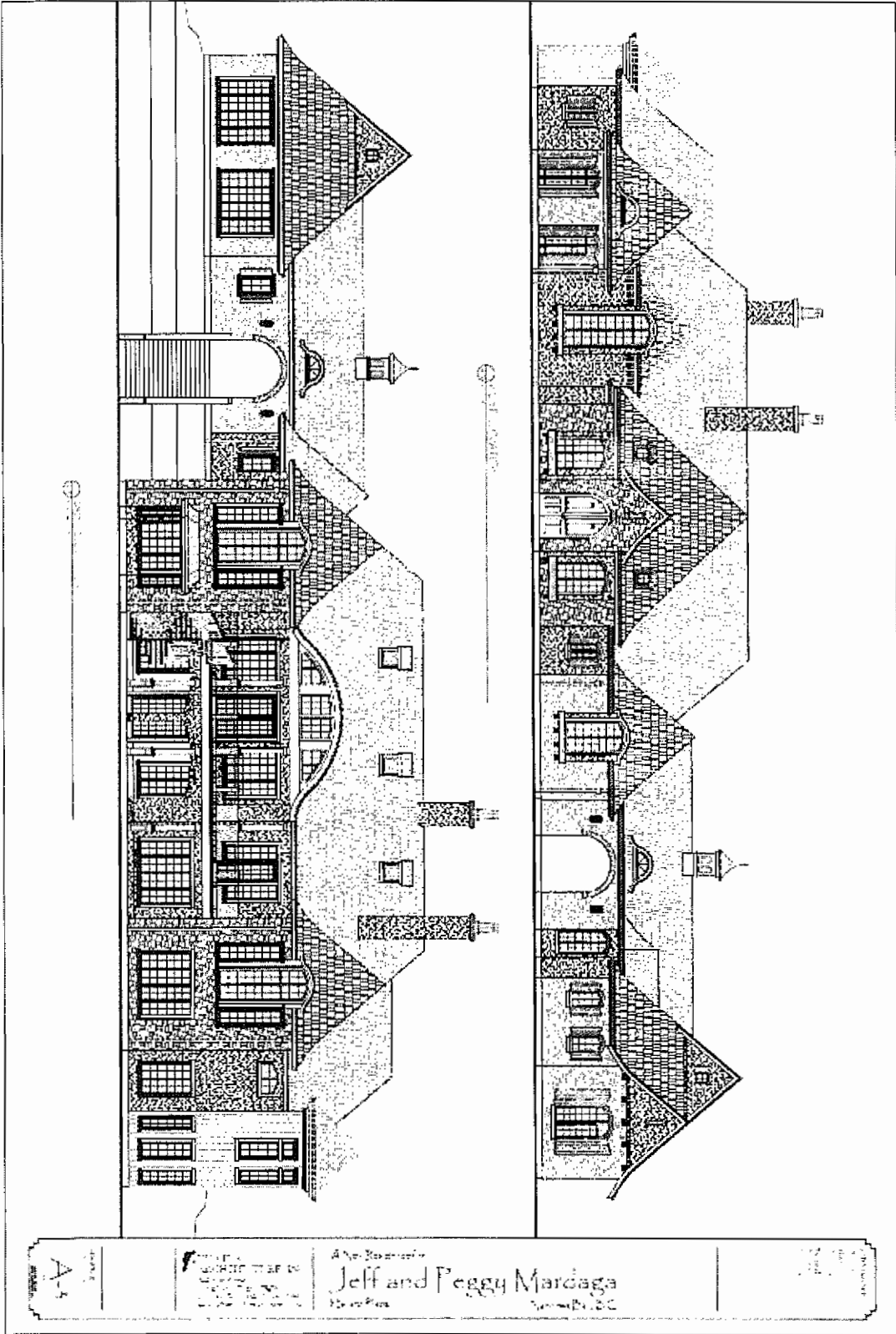
SIMS ASSOCIATES

215 LAND SUBDIVISION
 275 FERRY STREET
 VANCOUVER, BRITISH COLUMBIA
 CANADA V6V 1Y1
 TEL: 604-681-1111
 FAX: 604-681-1112
 WWW.SIMSASSOCIATES.COM

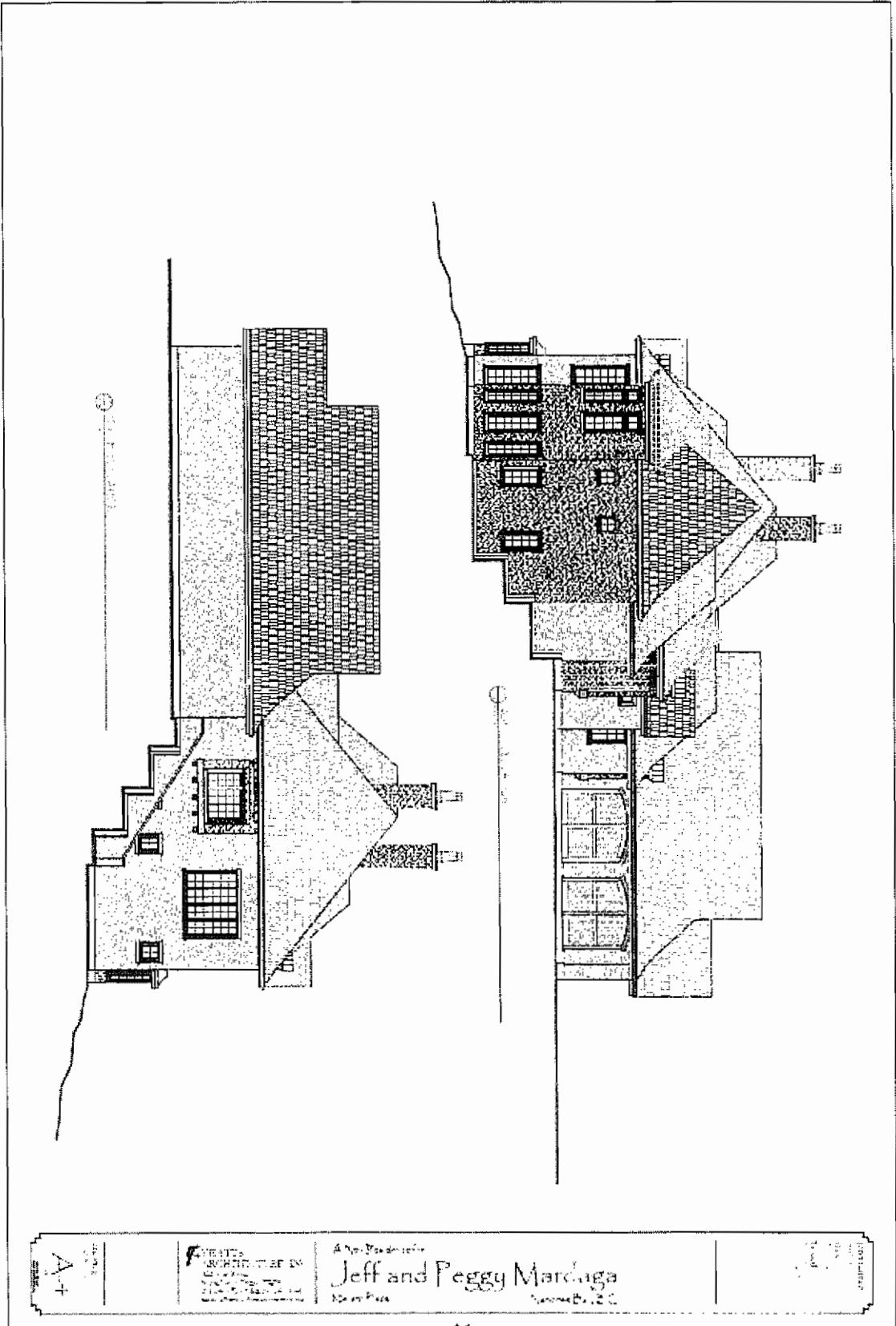
Schedule No. 2 Site Plan - Detail



Schedule No. 3
Building Elevations – Dwelling Unit
(Page 1 of 2)



Schedule No. 3
Building Elevations – Dwelling Unit
(Page 2 of 2)



**Schedule No. 4
Replanting Plan
(Page 1 of 3)**

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

* Species observed on the Property

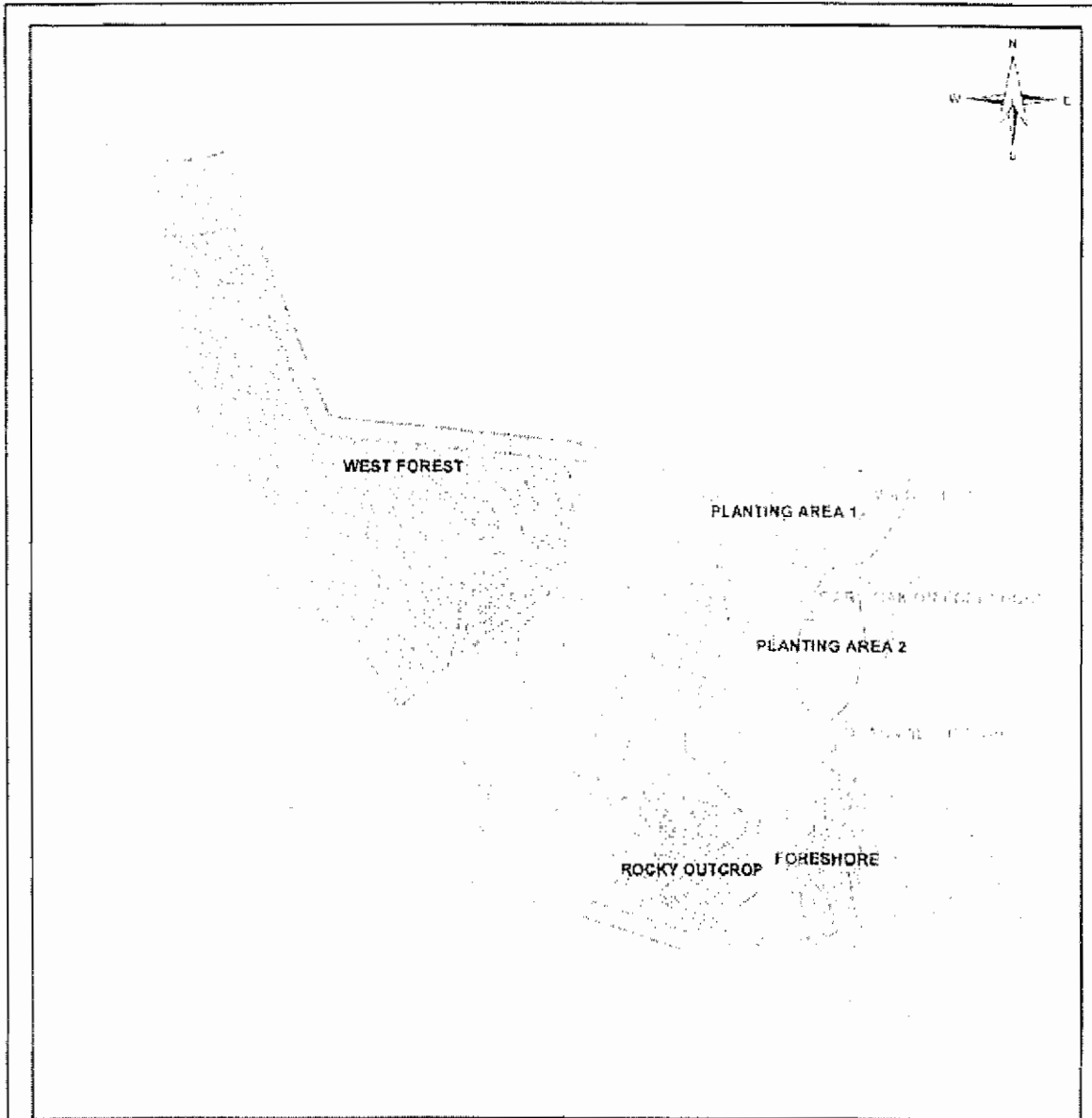
A diverse mix of plants should be chosen according to the above list. Other native species may be appropriate provided they are suitable for rocky coastal sites. Advice from a landscape architect or nursery personnel with experience in native plants should be obtained.

**Schedule No. 4
Replanting Plan
(Page 2 of 3)**

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

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

**Schedule No. 4
Replanting Plan
(Page 3 of 3)**



LEGEND

- Important Trees
- Vegetation Retention Areas
- Replanting Areas
- Topography and House Footprint

SCALE
1:500

**7500 MALLARD WAGE,
VANOCSE BC**
**Vegetation Retention and
Replanting Areas**

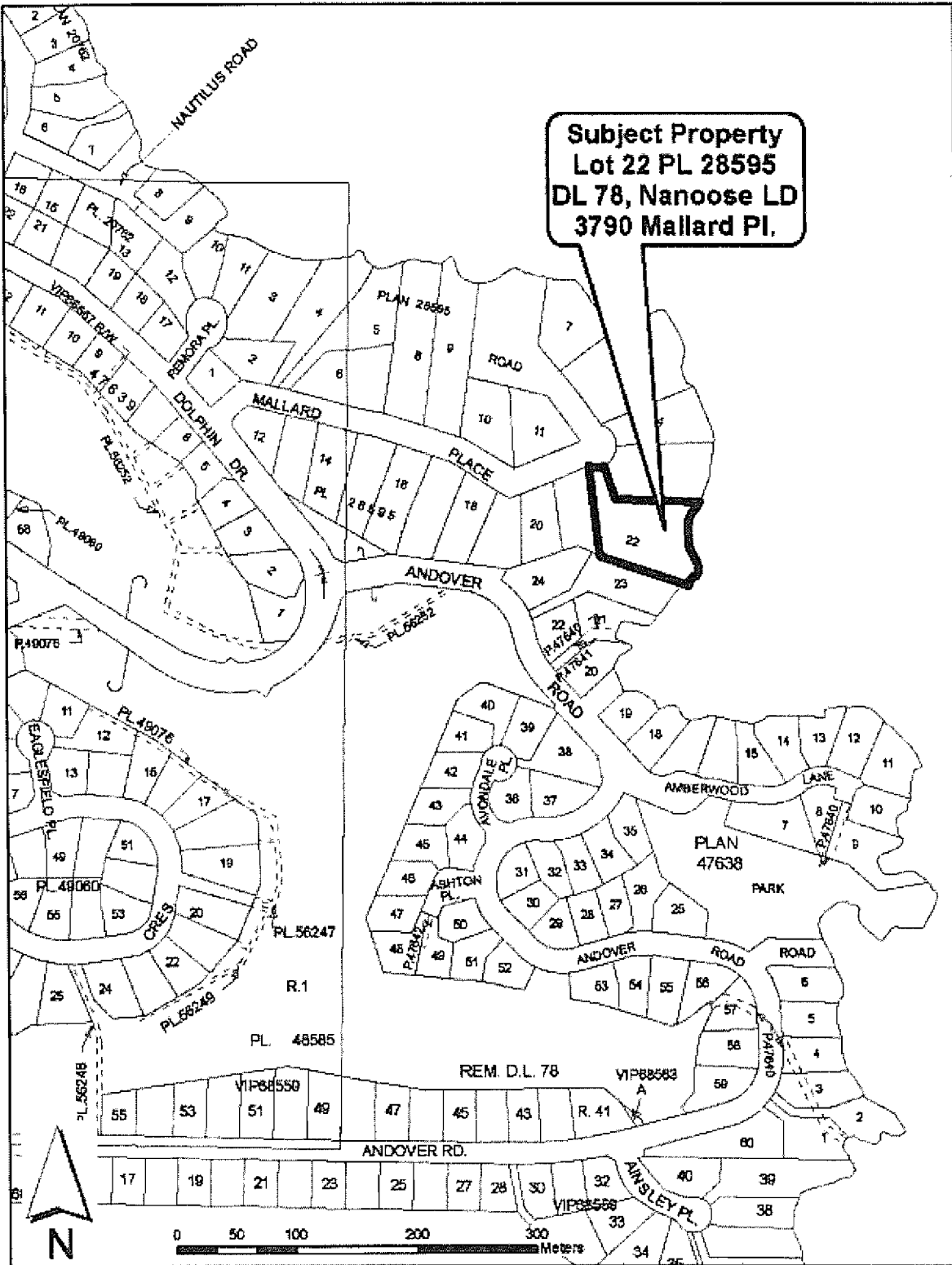
PROJ. DATA: UTM ZONE 18N DATUM: WGS 1984
Scale: 1:500
E 0 W
100m

DATE: 08/26/09
EBA 8047: partial Terrestrial
PROJECT NO: 60933-001 PLAN: 1077 0
CLIENT: CBE
PREPARED: 08/26/09

EBA Environmental
Consultants Ltd.

Figure 1

Attachment No. 1
Location of Subject Property





RDR REPORT	
CAO APPROVAL	
EAP	✓ Sept 8 2009
COW	
AUG 23 2009	
RHD	
BOARD	

MEMORANDUM

TO: Paul Thompson
Acting Manager, Current Planning

DATE: August 21, 2009

FROM: Susan Cormie
Senior Planner

FILE: 3360 30 60932
Folio: 768.04424.100

SUBJECT: Development Permit with Variance Application No. 60932 & Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement Electoral Area 'A' – 1712 Vowels Road

PURPOSE

To consider a Development Permit with Variance and a request to relax the minimum 10% frontage requirement for a section 946 parcel in conjunction with a two lot subdivision application on a parcel located in Electoral Area 'A'.

BACKGROUND

The parent parcel, which is approximately 3.5 ha in size and legally described as Lot 3, Section 1, Range 7, Cranberry District, Plan 725 Except Part in Plans VIP69195 and VIP69231, is located at 1712 Vowels Road in Electoral Area 'A' (*see Attachment No. 1 for location of subject property*).

The parent parcel is zoned Rural 4 (RU4) and is within Subdivision District 'D' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The parent parcel is also located in the Provincial Agricultural Land Reserve (ALR).

The applicant is proposing to subdivide the subject property into two parcels, a section 946 parcel with a parcel size of 0.57 ha and the remainder parcel at 2.5 ha (*see Schedule No. 2 for proposed subdivision layout*). The proposed remainder will meet the minimum parcel size provisions of Bylaw No. 500, 1987, the section 946 parcel (Lot A) will not meet the Bylaw's minimum 1.0 ha parcel size requirement. Notwithstanding the zoning, pursuant to Section 946 of the *Local Government Act*, where a property is located in the ALR, a section 946 parcel may be less than 1.0 ha where it has been approved by the medical health officer. Given approval by Vancouver Island Health Authority, the section 946 parcel will meet the minimum parcel size requirements pursuant to the *Local Government Act*.

The parent parcel is designated within the Fish Habitat Protection Development Permit Area pursuant to the Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001, in this case, for the protection of a small pond and its riparian area which is located within the parent parcel. The applicant has submitted a report prepared by a Qualified Environmental Professional (QEP) who has determined a 30.0 metre riparian area for Haslam Creek. As a result, this subdivision application is subject to the issuance of a Fish Habitat Protection Development Permit.

Surrounding land uses include Haslam Creek to the north; a Public 1 zoned parcel to the east, Vowels Road and rural zoned parcels to the south; and a rural zoned parcel situated within the Provincial Agricultural Land Reserve (ALR) to the west.

A single dwelling unit and a number of agricultural buildings are located on the parent property. The parcels are proposed to be served by individual private wells and septic disposal systems. The parent parcel located outside of an RDN Building Services Area.

Requested Bylaw No. 500, 1987 Variances

The following variances to Bylaw No. 500, 1987 are proposed as part of this subdivision application process:

- The relaxation of the minimum setback requirement from the west interior side lot line from 30.0 metres to 2.07 metres in order to recognize the existing barn used for housing livestock or for storing manure, as shown on Schedule No. 2, and
- The relaxation of the minimum setback requirement from the east interior side lot line (lot line adjacent to the proposed panhandle) from 8.0 metres to 7.76 metres in order to accommodate the location of the existing dwelling unit, as shown on Schedule No. 2.

Requested Relaxation of the 10% Minimum Perimeter Frontage Requirement

The Proposed Remainder of Parcel C will not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act* (see Schedule No. 2 for proposed subdivision). The requested relaxation to the minimum 10% perimeter frontage requirement is as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
Section 946 parcel	80.6 m	6.0 m	0.07 %

Pursuant to section 944 of the *Local Government Act*, approval of the Regional Board of Directors is required for the frontage relaxation request.

ALTERNATIVES

1. To approve Development Permit with Variance Application No. 60932, as submitted, subject to the conditions outlined in Schedules No. 1 and 2 and the notification requirements pursuant to the *Local Government Act* and to approve the request for relaxation of the minimum 10% perimeter frontage requirement for proposed section 946 parcel.
2. To deny the Development Permit with Variance as submitted and deny the request for relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS

Fish Habitat Protection Development Permit Area Implications

With respect to the protection of Haslam Creek, the applicant has provided a Riparian Area Assessment prepared by a Qualified Environmental Professional which has been accepted by the Ministry of Environment for the portion of Haslam Creek which is adjacent to the parent parcel. This report establishes a Stream Protection and Enhancement Area (SPEA) of 30.0 metres for the riparian area as measured from the high water mark/natural boundary. There is existing fencing that generally runs along the SPEA boundary and the report recommends that this fencing be retained. The report also provides a number of measures that are required when construction of future buildings begins. In addition, the Ministry of Environment requires that all *Riparian Areas Regulation* (RAR) reports include a schedule for environmental monitoring. In this case, there are a number of conditions required to be followed up prior to commencing any construction. It is recommended that the measures and environmental

monitoring outlined in the RPA report be included as part of the development permit. Provided all requirements are followed, a further development permit for future construction will not be required.

Agricultural Land Reserve Implications

The Provincial Agricultural Land Reserve Commission has approved the subdivision of the parent parcel as proposed. In keeping with the guidelines of the Land Reserve Commission not to extend roads into the ALR as well as the requirements of the *Land Title Act* to limit roads being extended into ALR lands. The Provincial guidelines and regulations support the requested frontage relaxation to serve the proposed section 946 parcel.

Ministry of Transportation and Infrastructure Implications

Ministry staff has indicated that the proposed frontage for the proposed section 946 parcel is acceptable to the Ministry. Despite the reduction in the frontage, a buildable site area will be available for the proposed parcel.

Site Servicing Implications

The applicant has applied for septic disposal approval to the Central Vancouver Island Health Authority. It is noted that the section 946 parcel must be approved by the Medical Health Officer. This approval will be included as part of the subdivision review process.

The applicant is proposing an individual well for each proposed parcel. Proof of potable water is subject to the approval of the Approving Officer.

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

Building Site Implications

The existing barn was reconstructed in the 1980's. In the rebuilding process, the applicant relocated the barn just to the north of the original building; therefore losing the building's non-conformity status in terms of siting. The barn has been in this location for approximately 20 years and is integral to the farming operation. Moving the barn to meet the required setback will have a negative impact on the farm operation as the other related farm uses and buildings are located in the same area of the property. This request for variance will meet the applicable criteria set out in Part A of the Development Variance Permit, Development Permit with Variance & Floodplain Exemption Application Evaluation Policy (Regional Board Policy No. B.1.5). It is noted that the other agricultural buildings are considered non-conforming in terms of siting.

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.

SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the “Sustainable Community Builder Checklist”. This proposal will allow for the continuation of the farm business and supports the local food industry.

VOTING

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

SUMMARY

This is a subdivision application that involves a Development Permit with Variance and a request to relax the minimum 10% frontage requirement of one of the proposed parcels in conjunction with a two lot subdivision involving a section 946 parcel for the property located at 1712 Vowels Road in Electoral Area ‘A’.

The parent parcel is situated within the Provincial Agricultural Land Reserve and the Land Commission has approved the subdivision. The subject property is within the Fish Habitat Protection Development Permit Area (DPA), in this case, for the purposes of ensuring protection of the riparian area adjacent to a Haslam Creek located to the north of the parent property. The applicant has provided a riparian assessment which establishes a 30.0 metre riparian area.

With respect to the proposed variances, the existing animal barn was reconstructed in the 1980’s, but its non-conformity status was lost as the applicant did not reconstruct the building in the same location as the previous barn. The barn has been in this location for approximately 20 years and is integral to the current farming operation.

With respect to the request to relax the minimum 10% perimeter frontage for proposed section 946 parcel, there will be sufficient area to support intended residential use. This request is also in keeping with the provincial direction to limit extending roads into ALR lands. The Ministry of Transportation and Infrastructure staff has indicated they have no objection to this request for the proposed minimum 10% perimeter frontage relaxation.

Given that the Provincial Agricultural Land Commission has approved the subdivision; the Ministry of Transportation and Infrastructure staff has no objection to the request for relaxation of the minimum 10% frontage requirement; the requested variances will continue to support the agricultural component of the parcel and allow the dwelling unit to remain in the same location, and as there is a buildable site area for the intended residential uses on the proposed section 946 parcel, staff recommends to approve Development Permit with Variance No. 60932 subject to notification requirements and to approve the relaxation of the minimum 10% perimeter frontage for the proposed section 946 parcel.

RECOMMENDATIONS

1. That Development Permit with Variance Application No. 60932, submitted by Pauline Judge, in conjunction with the subdivision on the parcel legally described as Lot 3, Section 1, Range 7, Cranberry District, Plan 725 Except Part in Plans VIP69195 and VIP69231, is located at 1712 Vowels Road and designated within the Fish habitat Development Permit Area pursuant to the Electoral Area 'A' OCP Bylaw No. 1240, 2001, be approved subject to the conditions outlined in Schedule No. 1 of the corresponding staff report and the notification requirements pursuant to the *Local Government Act* with respect to the proposed variances outlined in Schedule No. 1.
2. That the request for relaxation of the minimum 10% frontage requirement for proposed section 946 parcel in conjunction with the subdivision of the property be approved.

H. Sandus

Report Writer

[Signature]

General Manager Concurrence

for
[Signature]

Manager Concurrence

[Signature]

CAO Concurrence

COMMENTS:

Schedule No. 1
Development Permit with Variance No. 60932
Conditions of Approval / Requested Variances

Conditions of Development:

The following sets out the conditions of approval in conjunction with Development Permit with Variance No. 60932:

1. Subdivision

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

2. Riparian Assessment

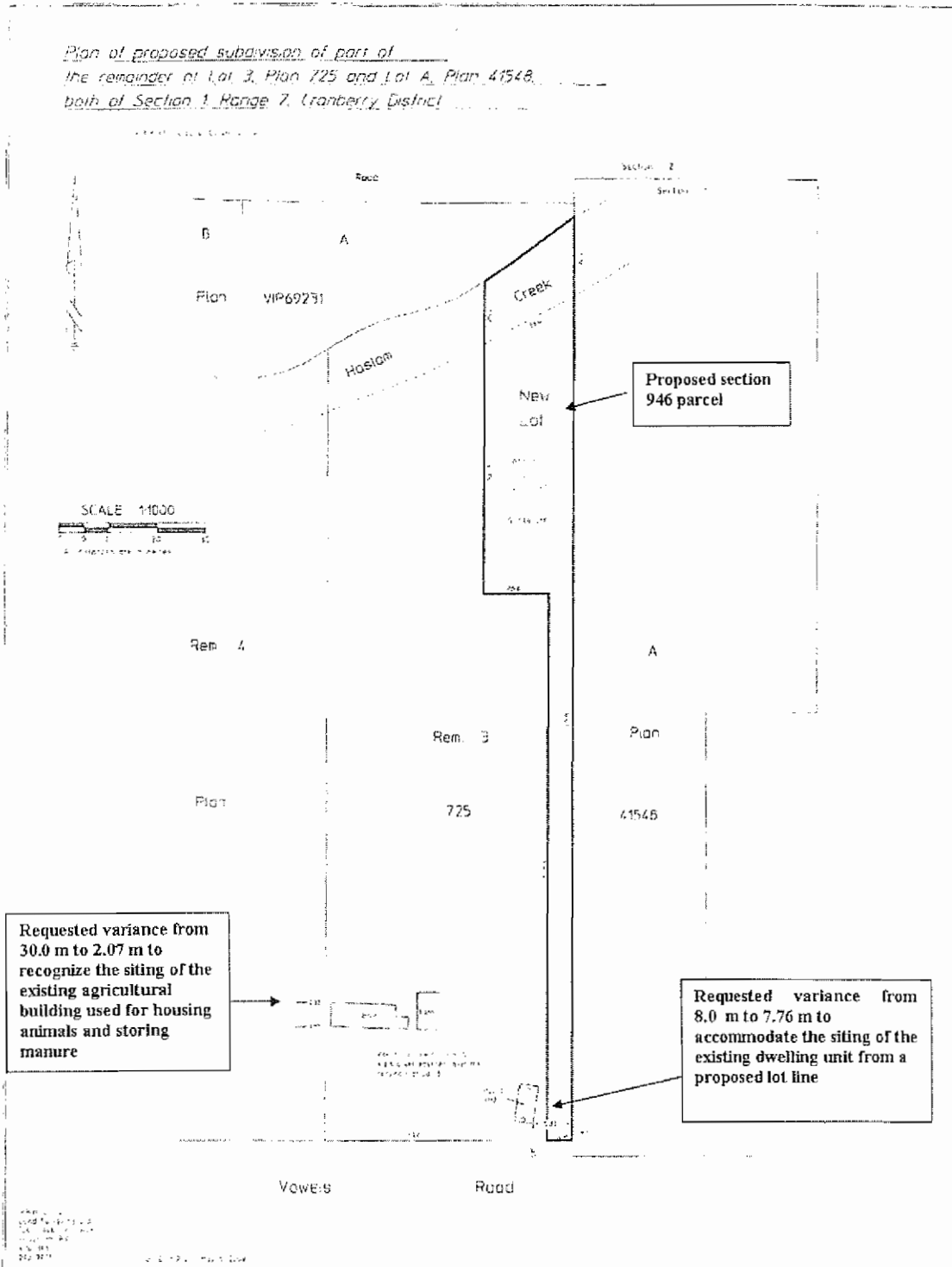
- a) The Riparian Area Assessment No. 1344 prepared by Kelly Schellenberg (Quamichan Consulting) and dated 2009-07-23 (to be attached to and forming part of the Development Permit as Schedule No. 3) applies to the two lot subdivision of the parent parcel. No construction, other than the surveying required for subdivision, shall occur within the riparian area. If any subdivision related works, including drainage works, are to occur in the SPEA or if there is any future development proposed to occur within the SPEA, a further riparian area assessment prepared by a Qualified Environmental Professional and registered with the Ministry of Environment will be required.
- b) With respect to future development or construction of the proposed parcels, the measures set out in Section 4 Measures to Protect and Maintain the SPEA shall be followed including protection of trees and sediment and erosion protection measures. Applicant's Qualified Environmental Professional (QEP) shall provide written confirmation to the Regional District that all measures were carried out to the QEP's satisfaction.
- c) The existing fence line shall be retained.
- d) With respect to future development or construction of the proposed parcels, the requirements set out in Section 5 Environmental Monitoring shall be followed including required site visits by the applicant's QEP as set out in this section. Applicant's Qualified Environmental Professional (QEP) shall provide written confirmation to the Regional District that all environmental monitoring as required in Section 5 was carried out to the QEP's satisfaction.

Requested Variances:

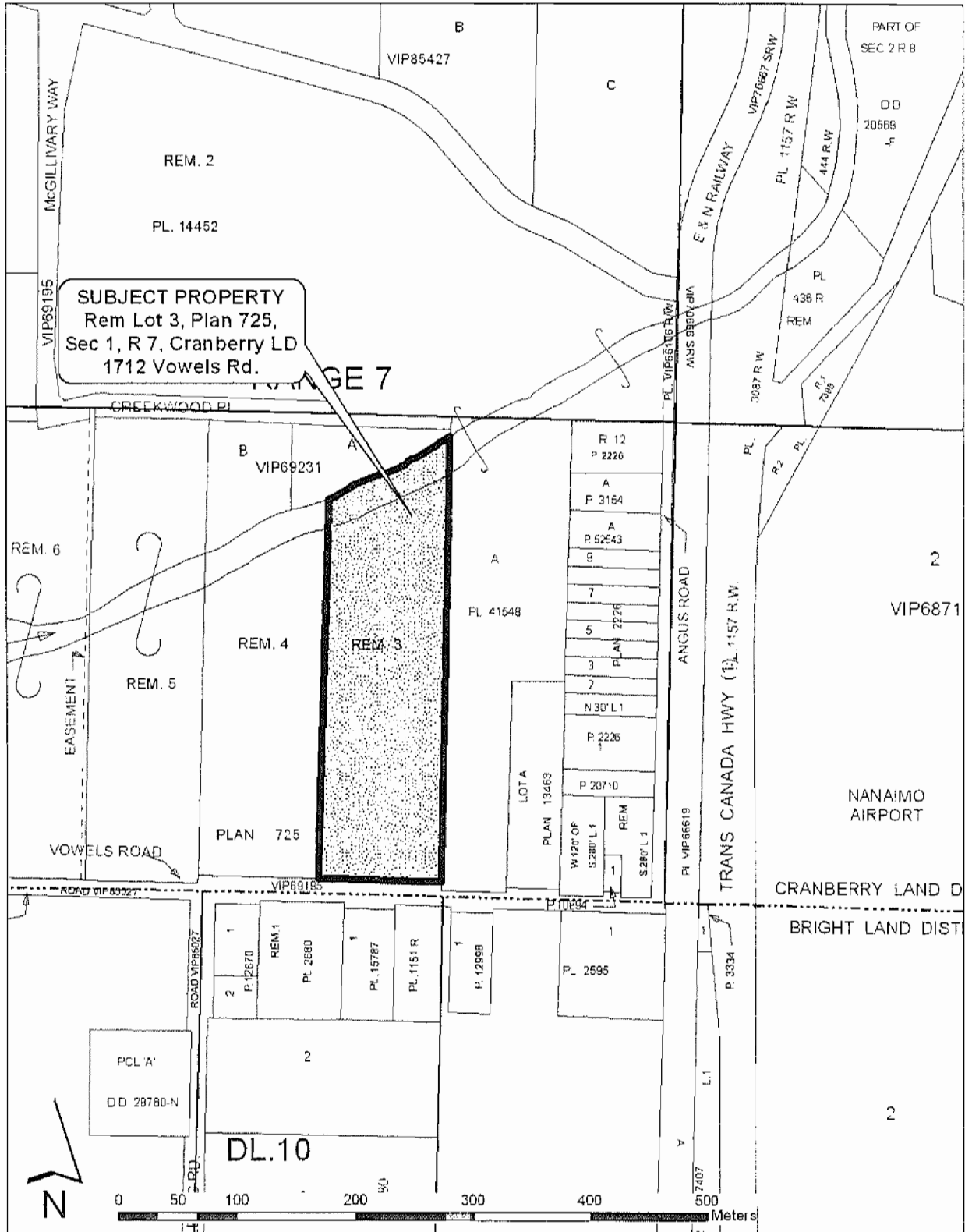
With respect to the lands, the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", is proposed to be varied as follows:

1. The requirements of **Section 3.4.84.1. - Minimum Setback Requirements** are proposed to be varied by relaxing the minimum setback requirement from the west interior side lot line from 30.0 metres to 2.07 metres to recognize the location of the existing barn building used for the housing livestock or for storing manure as shown on the proposed plan of subdivision (*see Schedule No. 2*).
2. The requirements of **Section 3.4.84.2. - Minimum Setback Requirements** are proposed to be varied by relaxing the minimum setback from the east interior side lot line (lot line adjacent to the proposed panhandle) from 8.0 metres to 7.76 metres in order to accommodate the location of the existing dwelling unit, as shown on *Schedule No. 2*.

Schedule No. 2
Development Permit with Variance No. 60932
Plan of Subdivision Showing Requested Variances
(as submitted by applicant / reduced for convenience)



Attachment No. 1
Location of Subject Property





DEVELOPMENT	
CDO APPROVAL	
CAT	✓ Sect 8 89
CSV	
AUG 26 2009	
RHD	
BOARD	

MEMORANDUM

TO: Paul Thorkelsson
General Manager of Development Services

DATE: August 26, 2009

FROM: Elaine Leung
Planner

FILE: 3090 30 90904

SUBJECT: Development Variance Permit Application No. 90904
3150 Farrar Road – Martindale/ Collinge
Lot A, Section 6, Range 5, Cedar District, Plan 36559 – Electoral Area 'A'
RDN Map Ref No. 92G.001.4.4, Folio No. 768.003492.420

PURPOSE

To consider an application for a Development Variance Permit to permit the conversion of an existing agriculture building to a single detached dwelling, as well as to legalize the siting of an existing equipment building on lands located at 3150 Farrar Road. The lands are legally described as Lot A, Section 6, Range 5, Cedar District, Plan 36559.

BACKGROUND

The subject property is 2.01 hectares in size and surrounded by residential lots on all sides, with Farrar Road to the south (see Attachment No. 1 for location of the subject property).

The subject property is zoned the Rural 4 Zone (RU4) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." It is located within the Fish Habitat Protection Development Permit Area (DPA) pursuant to "Regional District of Nanaimo Electoral 'A' Official Community Plan Bylaw No. 1240, 2001." The applicant has completed the Riparian Areas Regulation Property Declaration Form and noted there are no streams on or within 30 metres of the subject property. As such, the application is exempt from the requirements of the Fish Habitat Protection DPA.

The applicants wish to convert an existing agriculture building to a residential dwelling unit. The existing building was constructed in 1995 and declared as an 'agriculture' building (barn). Agriculture buildings are exempt from height restrictions in Regional District of Nanaimo Zoning Bylaw No. 500, 1987, and as a result, the barn was constructed to 9.4 metres in height. Zoning Bylaw No. 500, 1987 has a maximum dwelling unit height of 9.0 metres in the Rural 4 Zone (RU4), and as such, the applicants are requesting a variance to recognize the height of the existing building.

Planning staff note that the previous owners of the property were given approval for a variance in 1995 (see BOV 95-25) to reduce the side yard setback for buildings housing livestock from the required 30 metres to 21.3 metres.

The applicants also wish to legally recognize the siting of an existing equipment building. The building is located 5.35 metres to the eastern side yard. The RU4 zone in Zoning Bylaw No. 500, 1987 requires an

8.0 metre minimum setback from all lot lines for all buildings and structures. The applicants are not wishing to change the use of the building, and there is no construction being proposed. The equipment building existed at this location at the time the applicants purchased the subject property, and accordingly, the applicants wish to legalize its location.

Requested Variance Summary

The applicants request to vary Section 3.4.84 Maximum Dwelling Unit Height of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

1. To vary the maximum dwelling unit height from 9.0 metres to 9.4 metres

Maximum Dwelling Unit Height Restriction	Proposed Height	Requested Variance
9.0 metres	9.44 metres	0.44 metres

Additionally, the applicants request to vary Section 3.4.84 Minimum Lot line Setback of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

2. To vary the minimum side yard lot line setback from 8.0 metres to 5.35 metres.

Minimum Side Yard Setback	Proposed Setback	Requested Variance
8.0 metres	5.35 metres	2.65 metres

ALTERNATIVES

1. To approve Development Variance Permit No. 90904 subject to the conditions outlined in Schedules No. 1 - 3 and the notification requirements of the Local Government Act.
2. To deny the requested variance.

POLICY B1.5

Regional District of Nanaimo Development 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 variance:

- There are no implications for adjacent property owners with respect to the requested variance.
- The applicants have provided an engineering report ensuring the buildings is safe and suitable for the intended use.
- The exterior of the building is not changing, and would not adversely affect adjacent property neighbours.
- The use of the equipment building is not changing. No construction is being proposed.

LAND USE AND DEVELOPMENT IMPLICATIONS

As outlined above, the applicants are requesting approval to permit the conversion of an existing agriculture building (barn) to a dwelling unit, and legalize the siting of an existing equipment building. The applicants wish to vary the maximum permitted height from 9.0 metres to 9.44 metres to legalize the existing building as a residential building. The location of the proposed dwelling unit is outlined on the survey prepared by W.R. Hutchison attached as *Schedule No. 2*.

Staff note that the variance requested is reasonable, and there is no exterior work to be done. All of the proposed construction will be in the interior of the building. As such, the exterior of the building will remain unchanged. The applicants have noted that Herold Engineering Ltd. have stated that the existing building was constructed to residential and light industrial code standards, and engineered sound and safe.

The use of the existing equipment building will remain unchanged. There is no proposed construction or alterations for the building. The equipment building existed at this location at the time the applicants purchased the subject property. They are not wishing to change the building in any way, and simply wish to legalize the siting of the building.

In staff's assessment of this application, the applicants have provided justification for the requested variance. The requested variance is not expected to negatively impact adjacent property owners. Staff recommends approval of the request.

Staff note that the subject property is located within a building inspection area. Therefore, the proposed works will be required to proceed through the building permit process. Any subsequent construction will also be required to proceed through the building permit process.

Sustainability Implications

The applicants have completed the "Sustainable Community Builder Checklist" as per Board policy. They are demonstrating thoughtful re-use of a sound engineered building, by converting it to a residential dwelling unit.

Public Consultation Process

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

VOTING

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

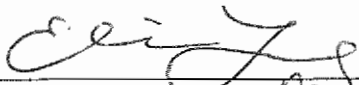
SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to permit the conversion of an existing agriculture building to a dwelling unit, as well as legalize the siting of an existing equipment building. The applicants wish to vary the maximum residential dwelling unit height from 9.0 metres to 9.44 metres to recognize the conversion of an existing agriculture building to a dwelling unit. There are no proposed construction changes or changes in use, for the equipment building. Staff recommends that the requested

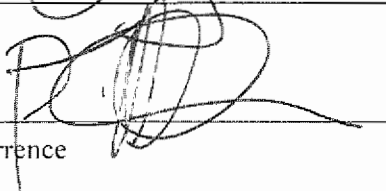
Development Variance Permit be approved subject to the terms outlined in Schedules No. 1 - 3 of this report, and subject to notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

That Development Variance Permit Application No. 90904, to permit the conversion of an existing agriculture building to a residential dwelling unit, and to legalize the siting of an existing equipment building, on the subject property legally described as Lot A, Section 6, Range 5, Cedar District, Plan 36559, Electoral Area 'A', be approved subject to the conditions outlined in Schedules No. 1 - 3 and the notification requirements of the *Local Government Act*.



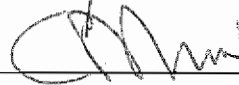
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

Schedule No. 1
Terms of Development Permit No. 90904

Bylaw No. 500, 1987 – Requested Variance

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

1. **Section 3.4.84, Maximum Dwelling Unit Height** is hereby varied by varying the maximum dwelling unit height from 9.0 metres to 9.44 metres to permit the conversion of an existing agriculture building to a residential dwelling unit, as shown on *Schedule No. 2*.
2. **Section 3.4.84 Minimum Lot Line Setback** is hereby varied by varying the minimum lot line setback from 8.0 metres to 5.35 metres to legalize the siting of an existing equipment building, as shown on *Schedule No. 2*.

Conditions of Approval

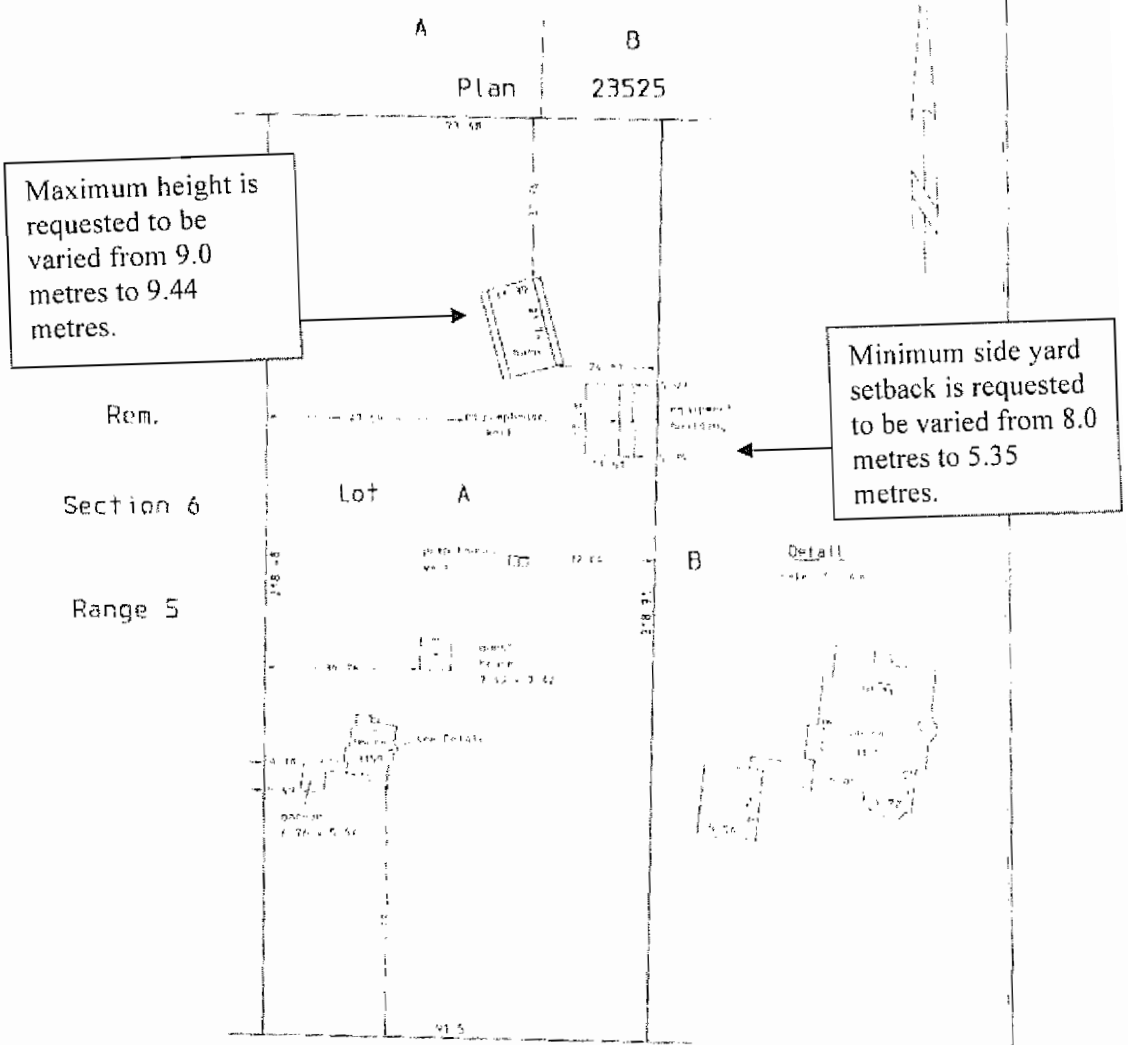
3. The dwelling unit and equipment building shall be sited in accordance with survey prepared by W.R. Hutchison dated July 9, 2009 attached as *Schedule No. 2*.
4. The dwelling unit elevations shall be developed in accordance with the Building Elevations submitted by the applicant attached as *Schedule No. 3*.
5. The applicant is required to provide confirmation of building setbacks by a British Columbia Land Surveyor at the final inspection of the dwelling unit.
6. The proposed construction is required to proceed through the building permit process. The applicant is required to apply and receive building permit(s) from the RDN for the proposed construction.

**Schedule No. 2
 Site Plan and Requested Variance**

B.C. Land Surveyor's Building Location Certificate on:
Lot A, Section 6, Range 5, Cedar
District, Plan 36559.

Scale: 1:5000
 All distances are in metres.

This document is a plan prepared for the purposes of the Building Act.
 It is subject to the provisions of the Building Act and the Building Regulations.
 It does not constitute a contract and is not to be relied upon for any purpose other than that for which it is prepared.
 It is not to be used as evidence of the facts described herein. This document is subject to the provisions of the Building Act and the Building Regulations.

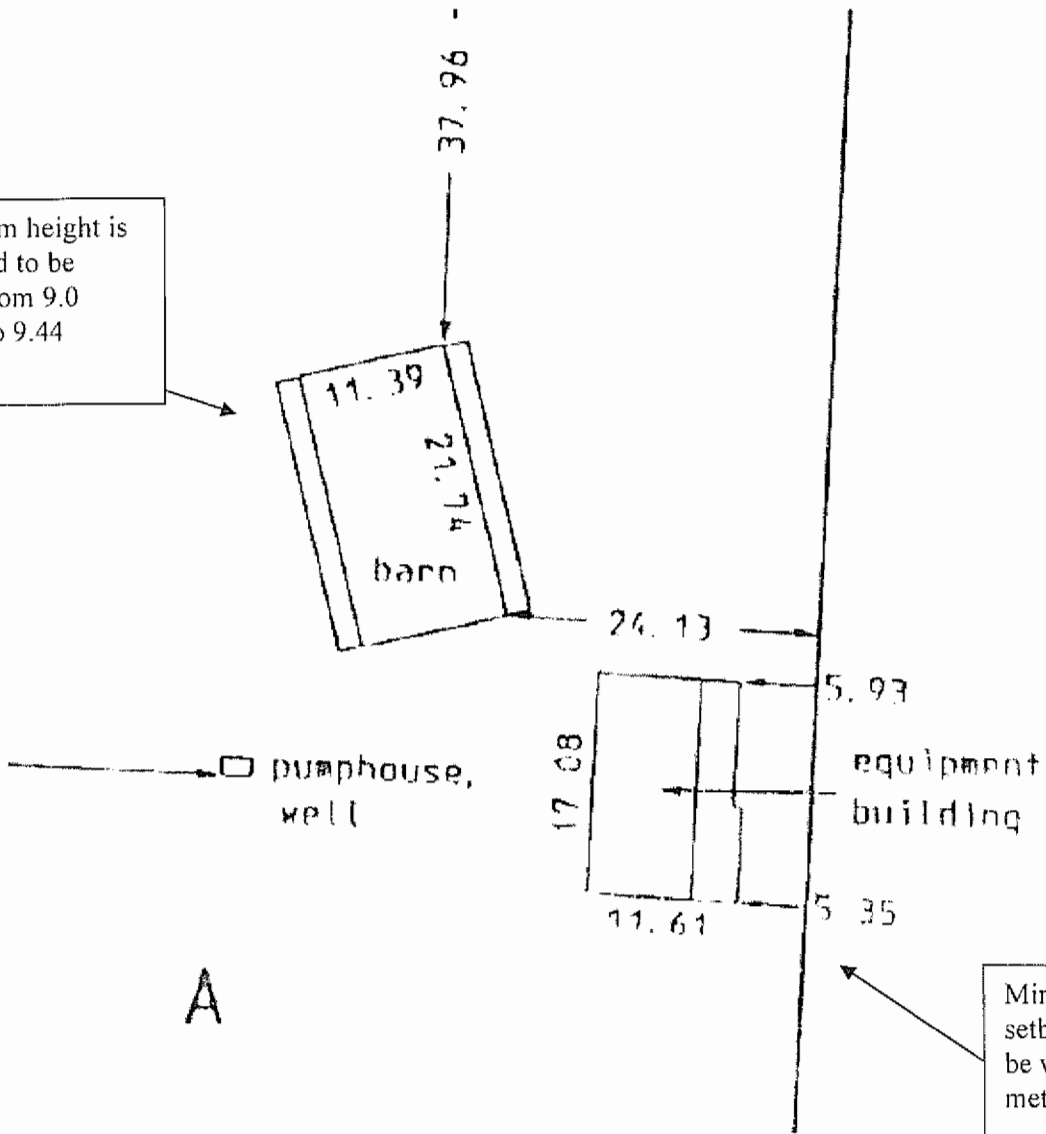


All rights reserved. No part of this copy, registered or otherwise, may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the copyright owner.
 W.R. Martindale
 Land Surveying Ltd.
 Box 259, 70 Karsten St.
 Victoria, B.C.
 V8W 1A9
 (250) 263-0977

This document is a plan prepared for the purposes of the Building Act and the Building Regulations. It is not to be used as evidence of the facts described herein. This document is subject to the provisions of the Building Act and the Building Regulations.
 W.R. Martindale
 B.C. Land Surveyor
 This document is not valid unless originally signed and sealed.

Detailed Site Plan

Maximum height is requested to be varied from 9.0 metres to 9.44 metres.



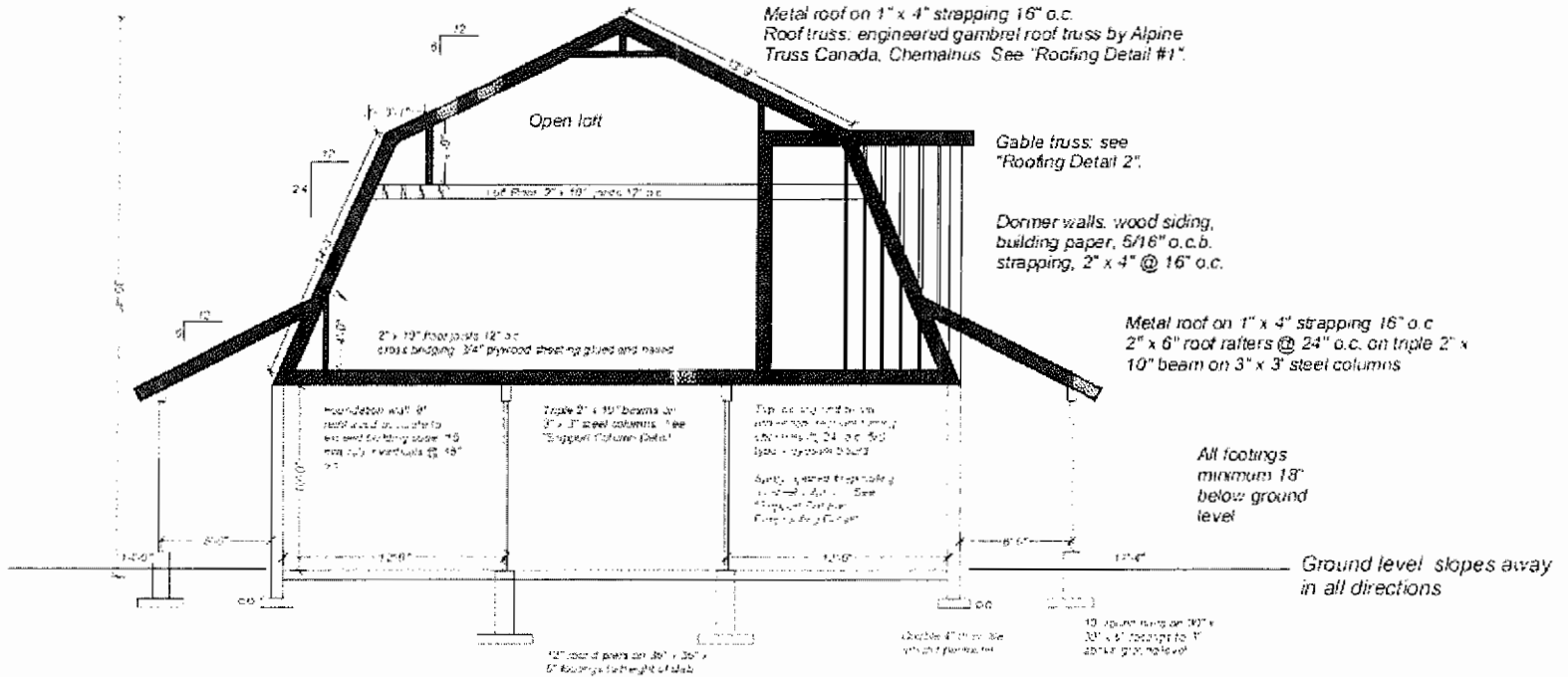
**Schedule No. 3
 Building Elevations
 (Proposed Dwelling)**

Martindale-Collinge Property - 3150 Farrar Road
 Barn Conversion to Residential Use

Profile Drawing

Plans to Scale 1/8" = 1'

Drawing by A. Martindale, October 21, 2008 emmended from plans submitted to the
 R.D.N. by M. Sampson, September 15, 1995.

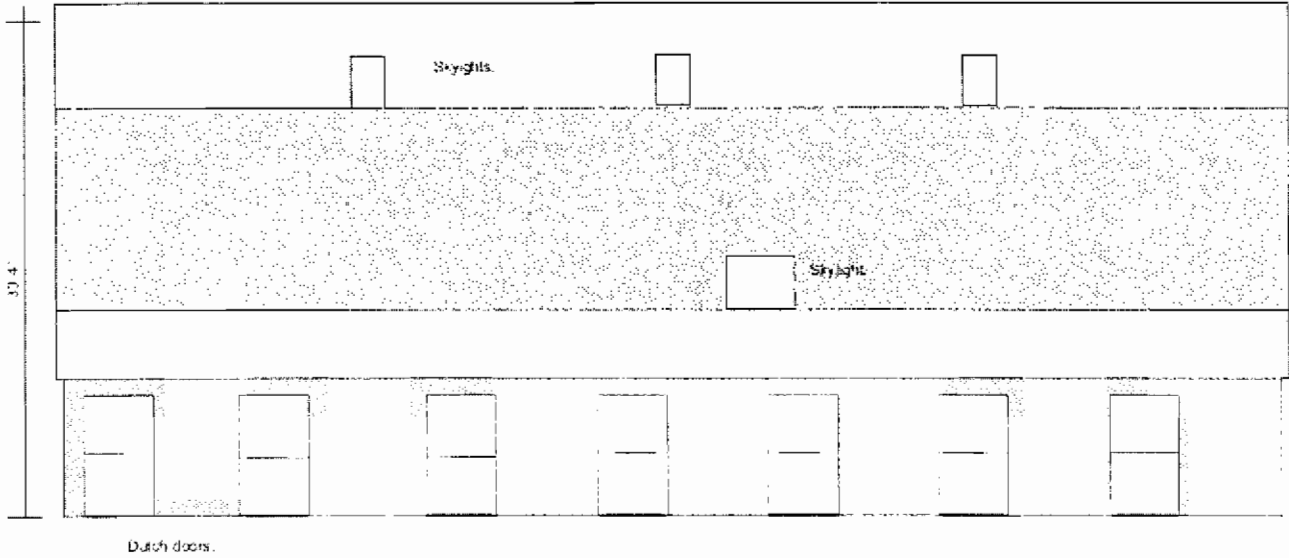


Schedule No. 3 Building Elevations Continued

Martindale-Collinge Property - 3150 Farrar Road
Barn Conversion to Residential Use

East Building Profile

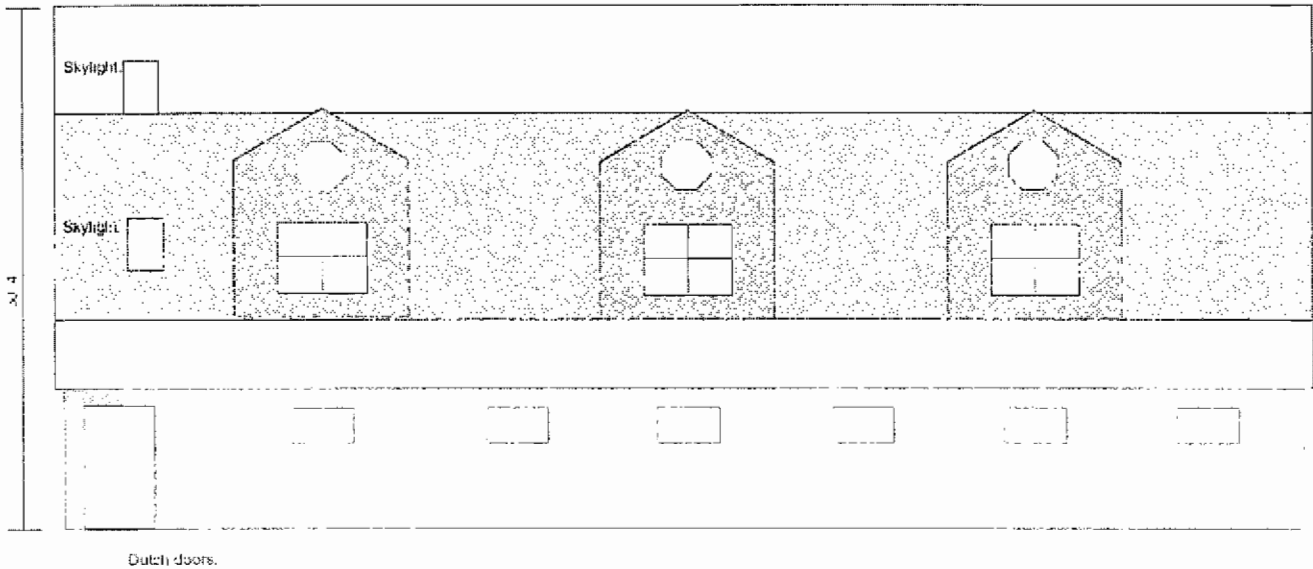
Plans to Scale
Drawing by A. Martindale, October 21, 2008.



Martindale-Collinge Property - 3150 Farrar Road
Barn Conversion to Residential Use

East Building Profile

Plans to Scale
Drawing by A. Martindale, October 21, 2008.



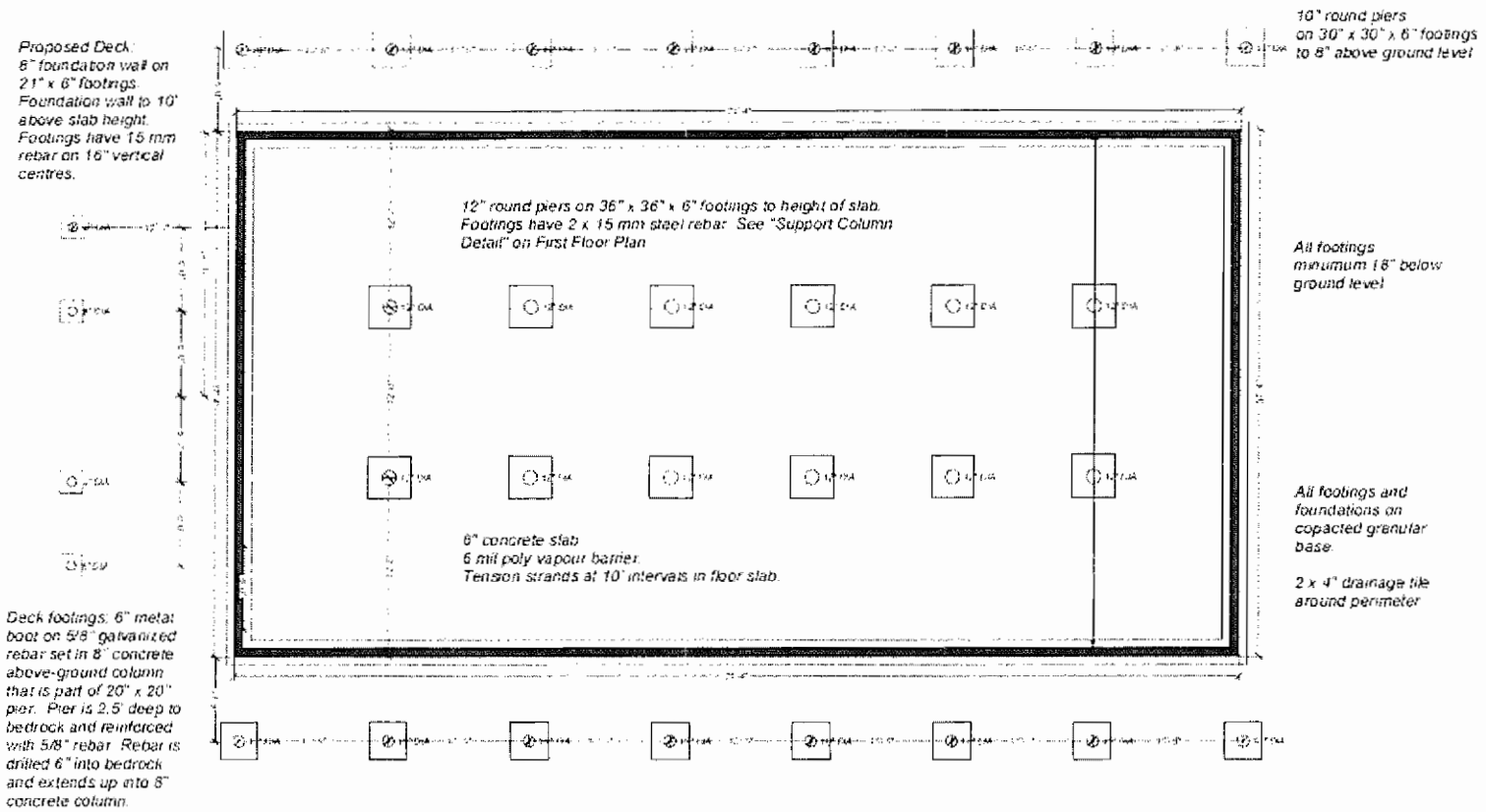
Building Elevations Continued

Martindale-Collinge Property - 3150 Farrar Road
 Barn Conversion to Residential Use.

Foundation Plan (see also: 1st Floor Plan, 2nd Floor Plan, 3rd Floor Plan, Building Profile, Building Elevation/Exterior View).

Plans to Scale: 1/3" = 1' - 0"

Drawings by A. Martindale amended from plans submitted to the R.D.N. by M. Sampson, September 15, 1995.



Building Elevations Continued

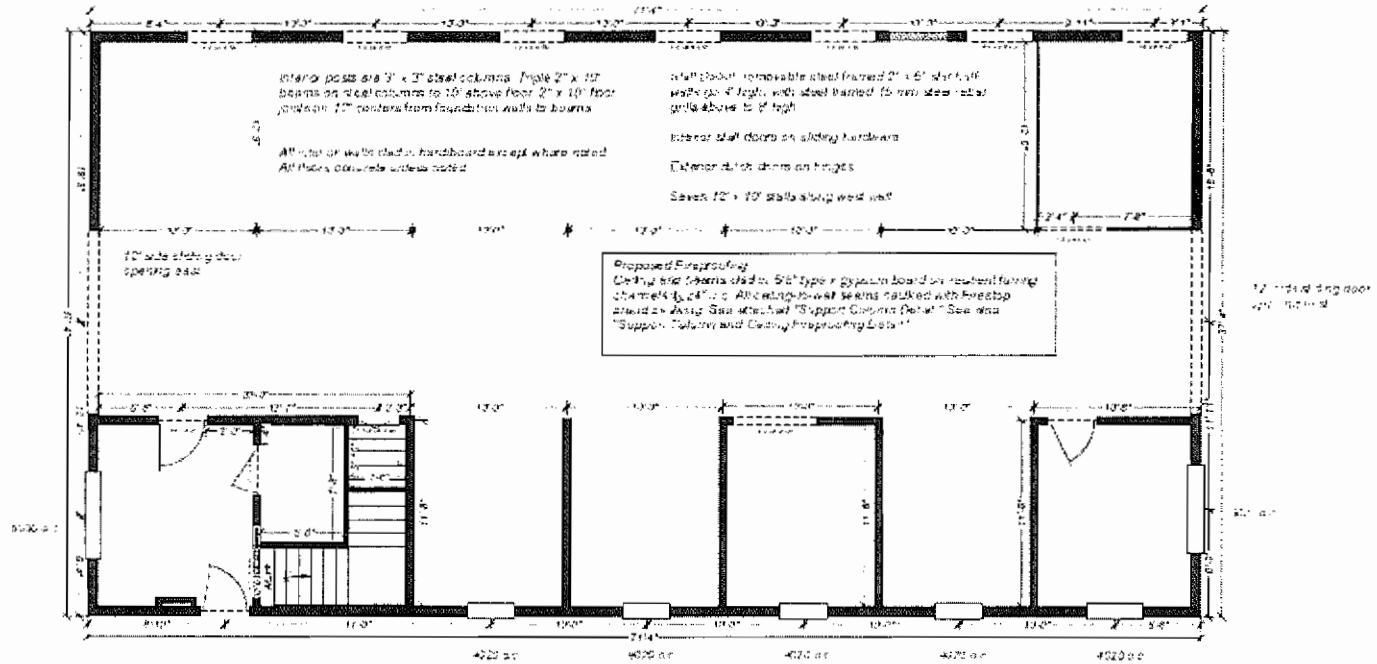
Martindale-Collinge Property - 3150 Farrar Road
 Barn Conversion to Residential Use.

1st Floor Plan (see also: Foundation Plan, 2nd Floor Plan, 3rd Floor Plan, Building Profile, Building Elevation/Exterior View)

See Attached Detail Views:
 - Support Column Detail
 - Support Column and Ceiling Fireproofing Detail

Plans to Scale: 1/32" = 1' - 0"

Drawings by A. Martindale, August 22, 2008 emmended from plans submitted to the R.D.N. by M. Sampson, September 15, 1995.



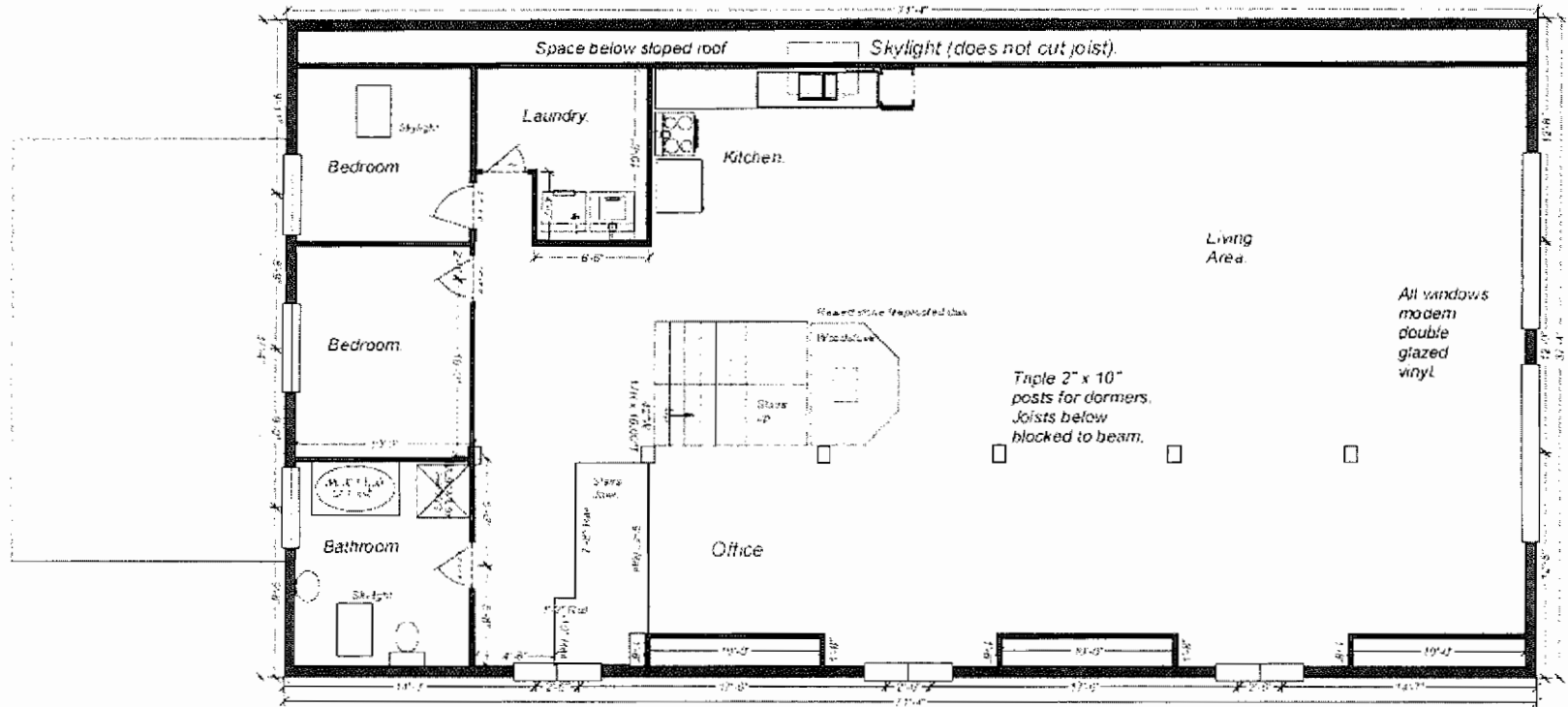
Building Elevations Continued

Martindale-Collinge Property - 3150 Farrar Road
Barn Conversion to Residential Use.

2nd Floor Plan (see also Foundation Plan, 1st Floor Plan, 3rd Floor Plan, Building Profile, Building Elevation/Exterior View).

Plans to Scale: 1/3" = 1' - 0"

Drawings by A. Martindale, August 22, 2008 emmended from plans submitted to
the R.D.N. by M. Sampson, September 15, 1995.



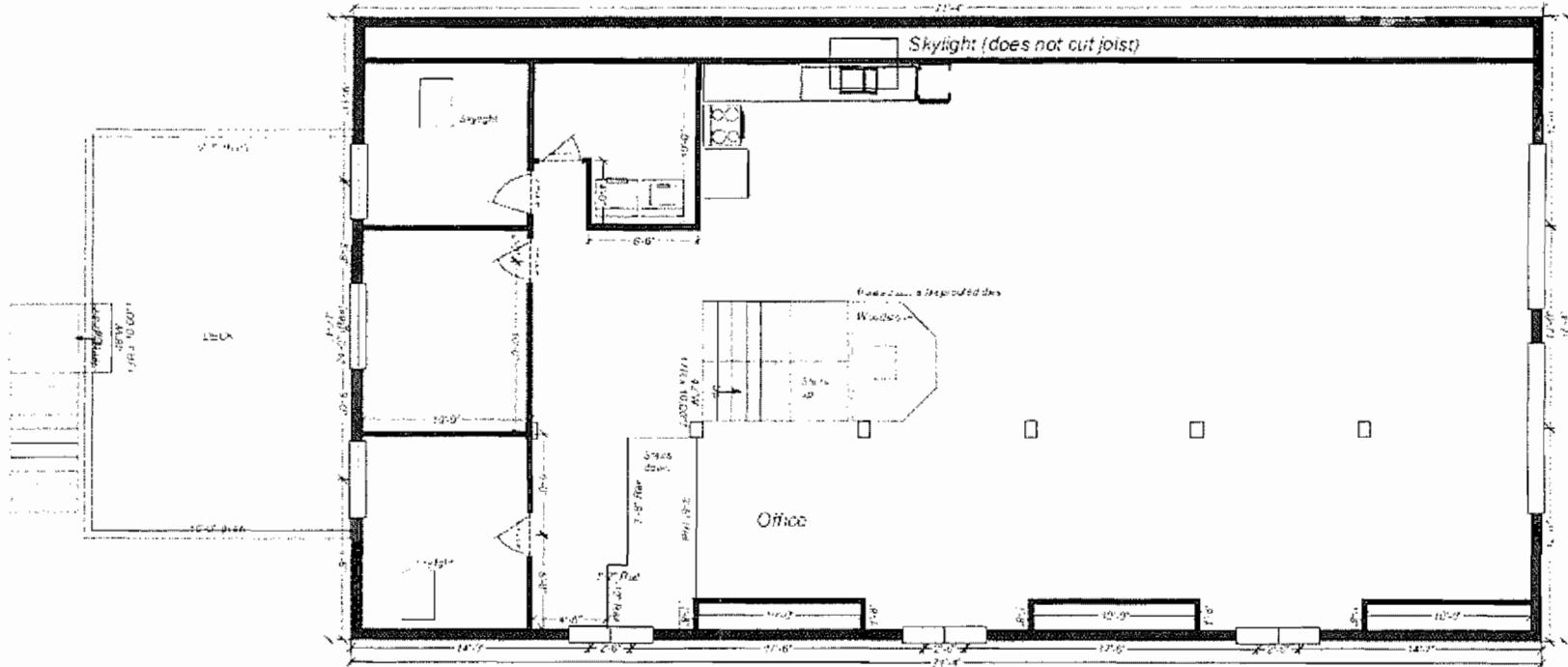
Building Elevations Continued

Martindale-Collinge Property - 3150 Farrar Road
Barn Conversion to Residential Use.

2nd Floor Plan (see also Foundation Plan, 1st Floor Plan, 3rd Floor Plan, Building Profile, Building Elevation/Exterior View).

Plans to Scale: 1/3" = 1'

Drawings by A. Martindale, August 22, 2008 emmended from plans submitted to the R.D.N. by M. Sampson, September 15, 1995.



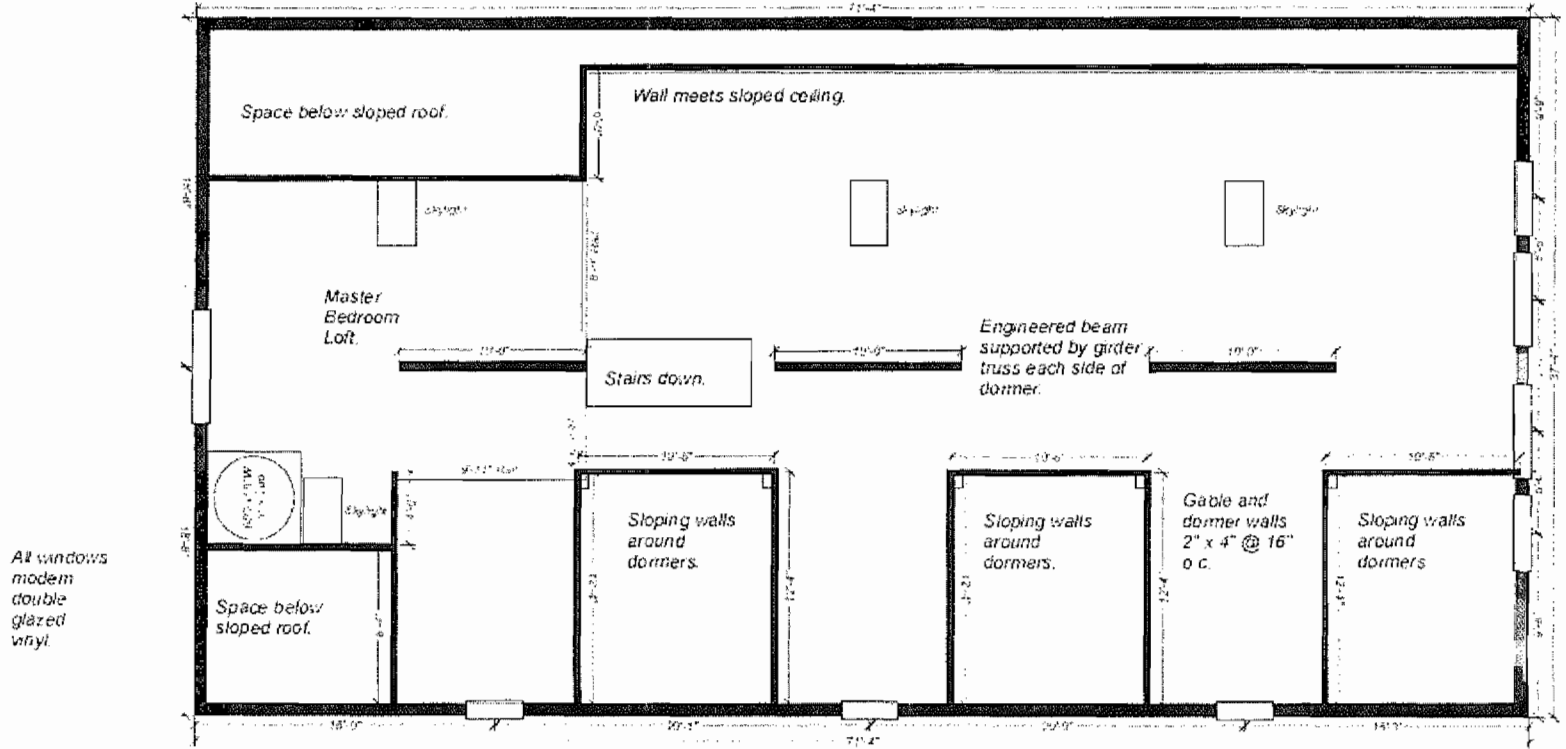
Building Elevations Continued

Martindale-Collinge Property - 3150 Farrar Road
 Barn Conversion to Residential Use

3rd Floor Plan (see also Foundation Plan, 1st Floor Plan, 2nd Floor Plan, Building Profile, Building Exterior View).

Plans to Scale: 1/3" = 1' ✓

Drawing by A. Martindale, August 22, 2008 emmended from plans submitted to
 the R.D.N. by M. Sampson, September 15, 1995.



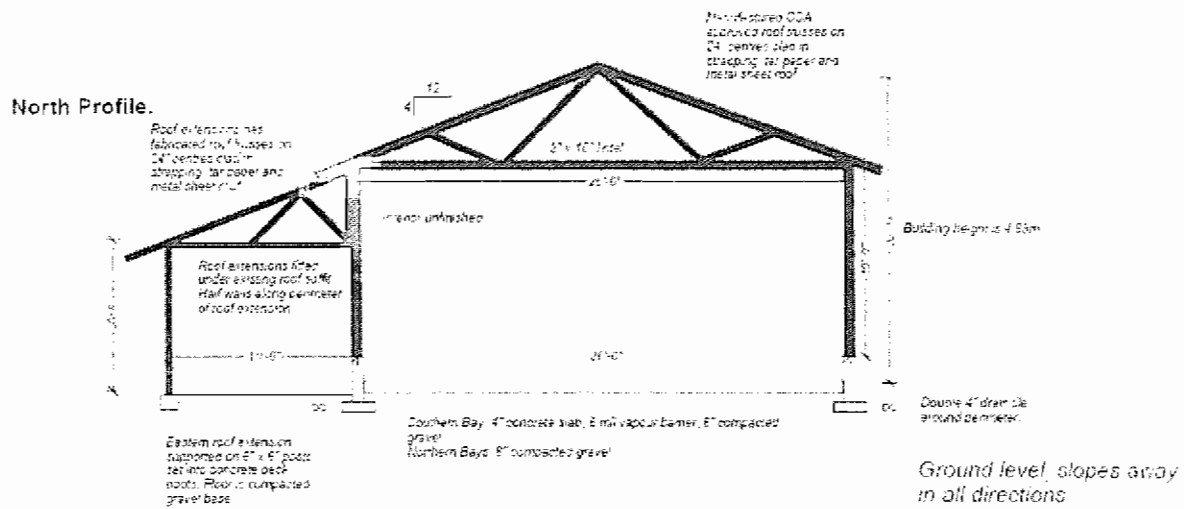
Building Elevations Continued (Equipment Building)

Martindale-Collinge Property - 3150 Farrar Road
 Development Variance Application

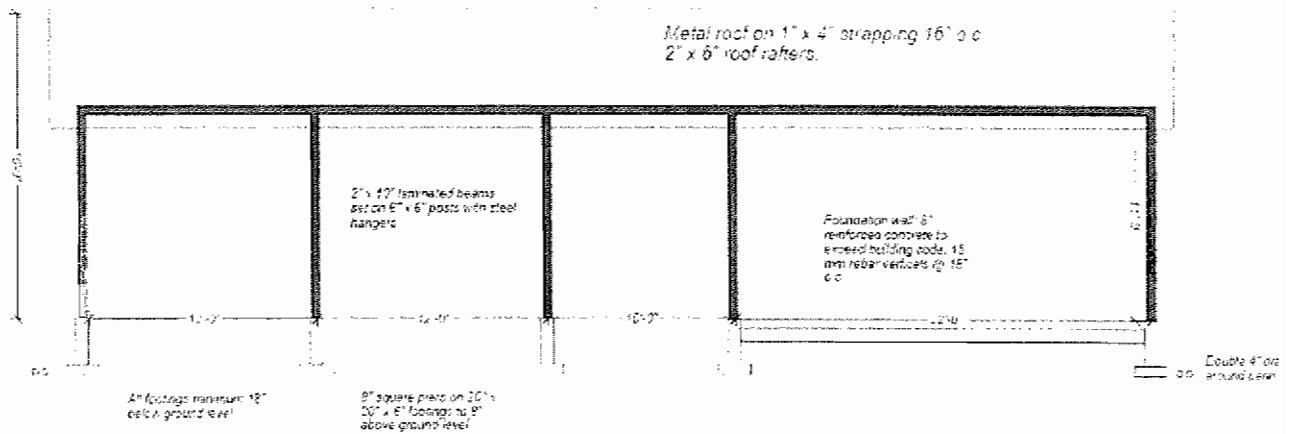
Equipment Building Profile Drawing

Plans to Scale 1/8" = 1'

Drawing by A. Martindale, August 23, 2009.



West Profile.



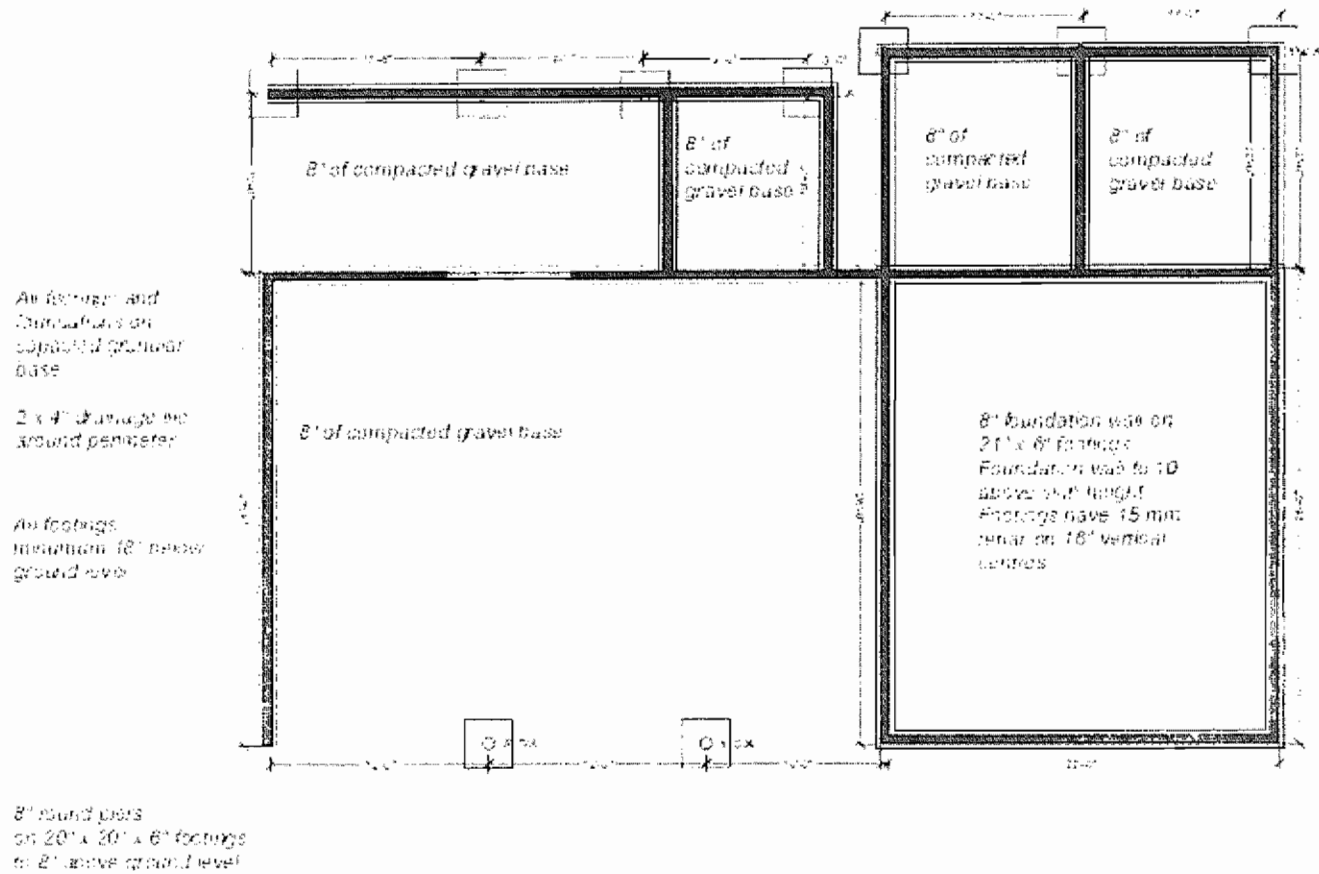
**Building Elevations Continued
 (Equipment Building)**

Martindale-Collinge Property - 3150 Farrar Road
 Development Variance Application.

Foundation Plan (see also: Floor Plan, Building Profile).

Plans to Scale: 1/8" = 1'

Drawings by A. Martindale, August 23, 2009.



**Building Elevations Continued
 (Equipment Building)**

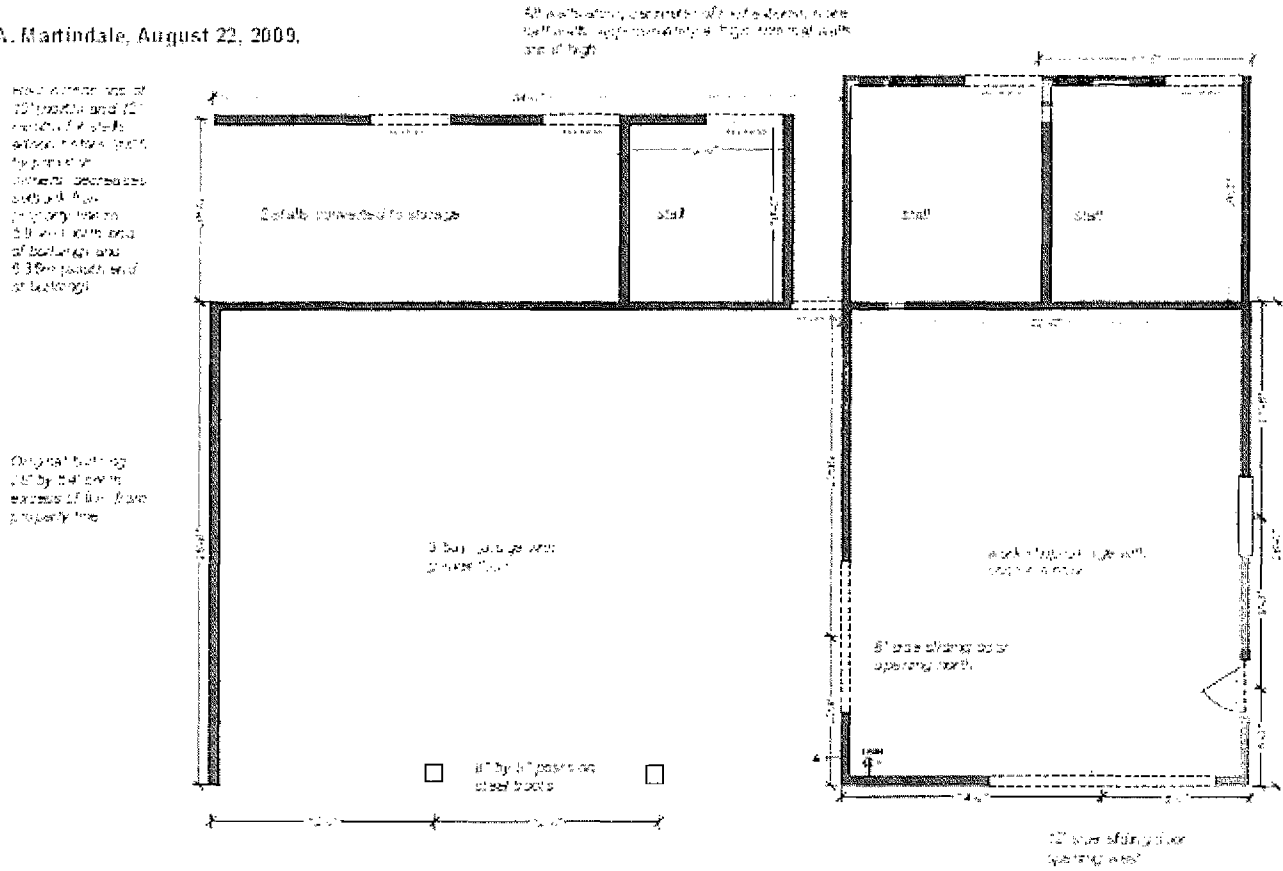
Martindale-Collinge Property - 3150 Farrar Road
 Development Variance Application

Plan Drawing of Equipment Building

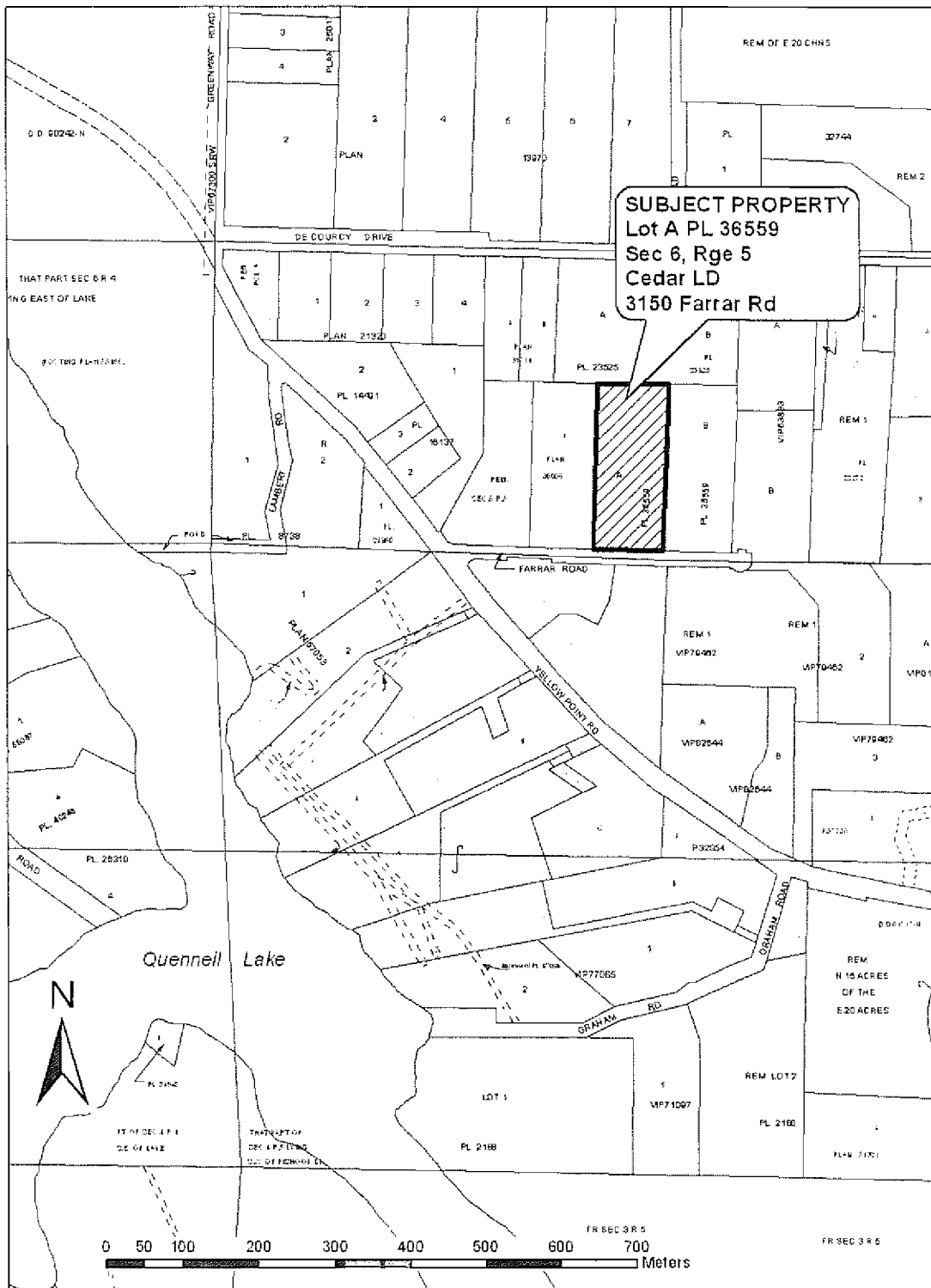
1st Floor Plan (see also: Foundation Plan, Building Profile).

Plans to Scale: 1/8" = 1'

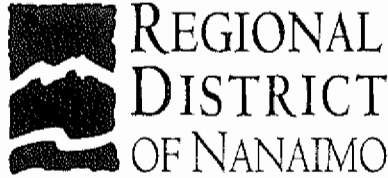
Drawings by A. Martindale, August 22, 2009.



Attachment No. 1
Location of Subject Property



BCGS MAPSHEET 92G 001 44



RUN REQUEST		
CAO APPROVAL		
EAP	✓	Sept. 8 / 09
COW		
AUG 21 2009		
RHD		
BOARD		

MEMORANDUM

TO: Paul Thompson
Acting Manager, Current Planning

DATE: August 21, 2009

FROM: Susan Cormie
Senior Planner

FILE: 3320 30 27368
Folio: 768.08124.000

SUBJECT: J & P Skelding
Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement
6610 Doumont Road - Electoral Area 'C'

PURPOSE

To consider a request to relax the minimum 10% frontage requirement for one of the proposed lots in conjunction with a two lot subdivision application on a parcel located in Doumont Road area of Electoral Area 'C'.

BACKGROUND

The parent parcel, which is 3.07 ha in size and legally described as That Part of Lot 1, District Lot 35, Wellington District, Plan 3225, Lying Northerly of a Line Drawn Parallel to and Perpendicularly Distant 2.645 Chains Northerly From the Southerly Boundary of Said Lot, is located at 6610 Doumont Road in Electoral Area 'C' (see Attachment No. 1 for location of subject property).

The parent parcel 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 applicant is proposing to subdivide the subject property into two parcels dividing along Doumont Road with proposed Lot A to be 3.83 ha in size and proposed lot b to be 0.96 ha in size (see Schedule No. 2 for proposed subdivision layout). Pursuant to Bylaw No. 500, 1987, where a parcel is physically separated by a highway which was dedicated prior to the adoption of the Bylaw, provided the requirements of the authorizes having jurisdiction are met to respect to the provision of water, method of sewage disposal, and access, minimum parcel sizes do not apply. Therefore, the minimum parcel sizes requirements do not apply to this application.

The parent parcel is also located in the Provincial Agricultural Land Reserve (ALR). The parent parcel is designated within the Fish Habitat Protection Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001", in this case, for the protection of Brannen Lake, its riparian area which is located adjacent to the parent parcel. The applicant has submitted a report prepared by a Qualified Environmental Professional (QEP) and it has been determined that the subdivision application will meet the exemption provisions of the development permit guidelines.

Surrounding land uses include rural zoned parcels situated within the Provincial Agricultural Land Reserve (ALR), Doumont Road crosses the parent parcel, and Brannen Lake to the east of the parent parcel.

The parent parcel supports a single dwelling unit, an agricultural building and accessory buildings. The parcels are proposed to be served by individual private wells and septic disposal systems. The parent parcel is within an RDN Building Services Area.

Requested Relaxation of the 10% Minimum Perimeter Frontage Requirement

The Proposed Lot A will not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act* (see Schedule No. 2 for proposed subdivision). The requested relaxation to the minimum 10% perimeter frontage requirement is as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
Lot A	156.6 m	107.3 m	6.9 %

Pursuant to section 944 of the *Local Government Act*, approval of the Regional Board of Directors is required for the frontage relaxation request.

ALTERNATIVES

1. To approve the request for relaxation of the minimum 10% perimeter frontage requirement for proposed Lot A.
2. To deny the request for relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS***Agricultural Land Reserve Implications***

The Provincial Agricultural Land Reserve Commission has approved the subdivision of the parent parcel as proposed. In keeping with the guidelines of the Land Reserve Commission not to extend roads into the ALR as well as the requirements of the *Land Title Act* to limit roads being extended into ALR lands, there is a limited amount of road dedication to provide access to the proposed new parcel. The Provincial guidelines and regulations support the requested frontage relaxation to serve proposed Lot A.

Ministry of Transportation and Infrastructure Implications

Ministry staff has indicated that the proposed frontage for Lot A is acceptable to the Ministry. Despite the reduction in the frontage, the parcel currently supports a residential use.

Site Servicing Implications

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

The applicant is proposing an individual well for each proposed parcel. Proof of potable water is subject to the approval of the Approving Officer.

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

Building Site Implications

A portion of the stairs, attached to the existing dwelling unit, do not meet the minimum setback requirement. As the siting of these stairs is unlawful, the encroaching portion will need to be removed prior to final approval of subdivision. The applicant is in concurrence with removing a portion of the stairs to meet the bylaw provisions. This can be secured through the subdivision review process as a condition of subdivision approval. The barn, which does not meet Bylaw No. 500, 1987 minimum setback requirements, was constructed prior to RDN land use bylaws and therefore is considered to have non conforming status in terms of siting.

SUSTAINABILITY IMPLICATIONS

This application originally predated the Regional District of Nanaimo Board policy, with regard to the "Sustainable Community Builder Checklist".

VOTING

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

SUMMARY

This is a subdivision application that involves a request to relax the minimum 10% frontage requirement of one of the proposed parcels in conjunction with a two lot subdivision for the property located at 6610 Doumont Road in Electoral Area 'C'.

The parent parcel is situated within the Provincial Agricultural Land Reserve and the Land Commission has approved the subdivision. The subject property is within the Fish Habitat Protection Development Permit Area (DPA), in this case, for the purposes of ensuring protection of the portion of Brannen Lake which is adjacent to the parent parcel, but will meet the exemption provisions of the Development Permit Area.

With respect to the request to relax the minimum 10% perimeter frontage for proposed Lot A, the proposed parcel currently supports the intended residential use. This request is also in keeping with the provincial direction to limit extending roads into ALR lands. The Ministry of Transportation and Infrastructure staff has indicated they have no objection to this request for the proposed minimum 10% perimeter frontage relaxation.

Given that the Provincial Agricultural Land Commission has approved the subdivision; the Ministry of Transportation and Infrastructure staff has no objection to the request for relaxation of the minimum 10% frontage requirement; that the applicant is in concurrence to remove a portion of the outside stairs to meet bylaw compliance, and as proposed Lot A supports the intended residential use, staff recommends to approve the relaxation of the minimum 10% perimeter frontage for the proposed Lot A.

RECOMMENDATION

That the request for relaxation of the minimum 10% frontage requirement in conjunction with the two lot subdivision of the property legally described as That Part of Lot 1, District Lot 35, Wellington District, Plan 3225, Lying Northerly of a Line Drawn Parallel to and Perpendicularly Distant 2.645 Chains Northerly From the Southerly Boundary of Said Lot, be approved.

H. Sandhu
 for Report Writer

[Signature]
 Manager Concurrence

[Signature]
 General Manager Concurrence

[Signature]
 CAO Concurrence

SKETCH PLAN OF PROPOSED SUBDIVISION



The intended print size of this plan is 432mm in width by 280mm in height, B size, when plotted at a scale of 1:2500.

Dimensions are in metres and are derived from Plans 3225, MPE7624 and MPE6044

This sketch does not constitute a redefinition of the legal boundaries hereof described and is not to be used in any matter which would assume same.

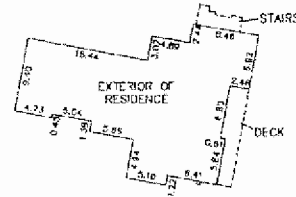
This sketch plan has been prepared in accordance with the Manual of Standard Practice.

Subject to charges, legal relations, and interests shown on: Title No. E015B859 (P.L.D. 006-259-638)



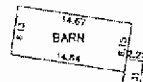
HOUSE DETAIL

1:500



BARN DETAIL

1:500



**JOHN SKELDING
PAM GEDDES SKELDING**

THAT PART OF LOT 1, DISTRICT LOT 35,
WELLINGTON DISTRICT, PLAN 3225,
LYING NORTHERLY OF A LINE DRAWN
PARALLEL TO AND PERPENDICULARLY
DISTANT 2.645 CHAINS NORTHERLY
FROM THE SOUTHERLY BOUNDARY
OF SAID LOT

P.L.D. 006-259-638

ADDRESS : 6510 DUMONT ROAD

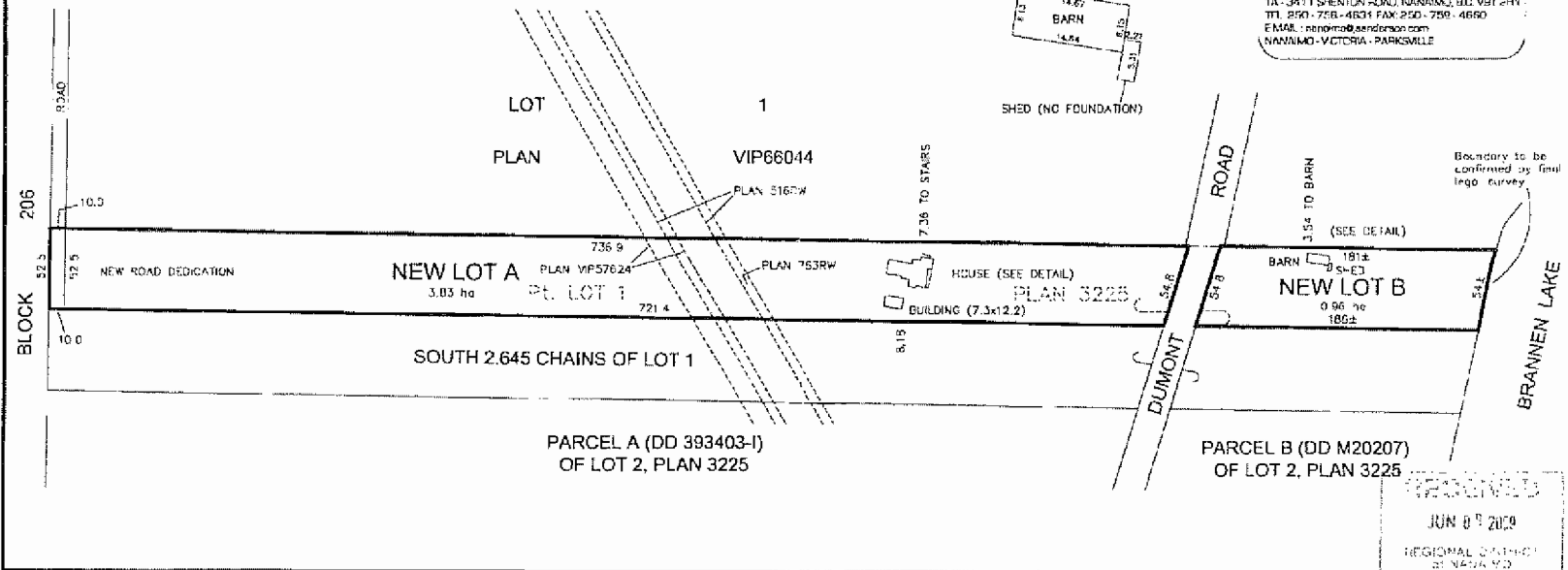
PROJECT SURVEYOR : D.W. HOLME

DRAWN BY : DW- DATE : JUNE 7/09

JR FILE : 86787 REVISION : 1

JEA J.E. ANDERSON & ASSOCIATES
SURVEYORS - ENGINEERS

1A-3411 SHERIDAN ROAD, NANAIMO, B.C. V9T 2H1
TEL: 250-758-4634 FAX: 250-759-4650
E-MAIL: nenaimo@anderson.com
NANAIMO - VICTORIA - PARKSVILLE

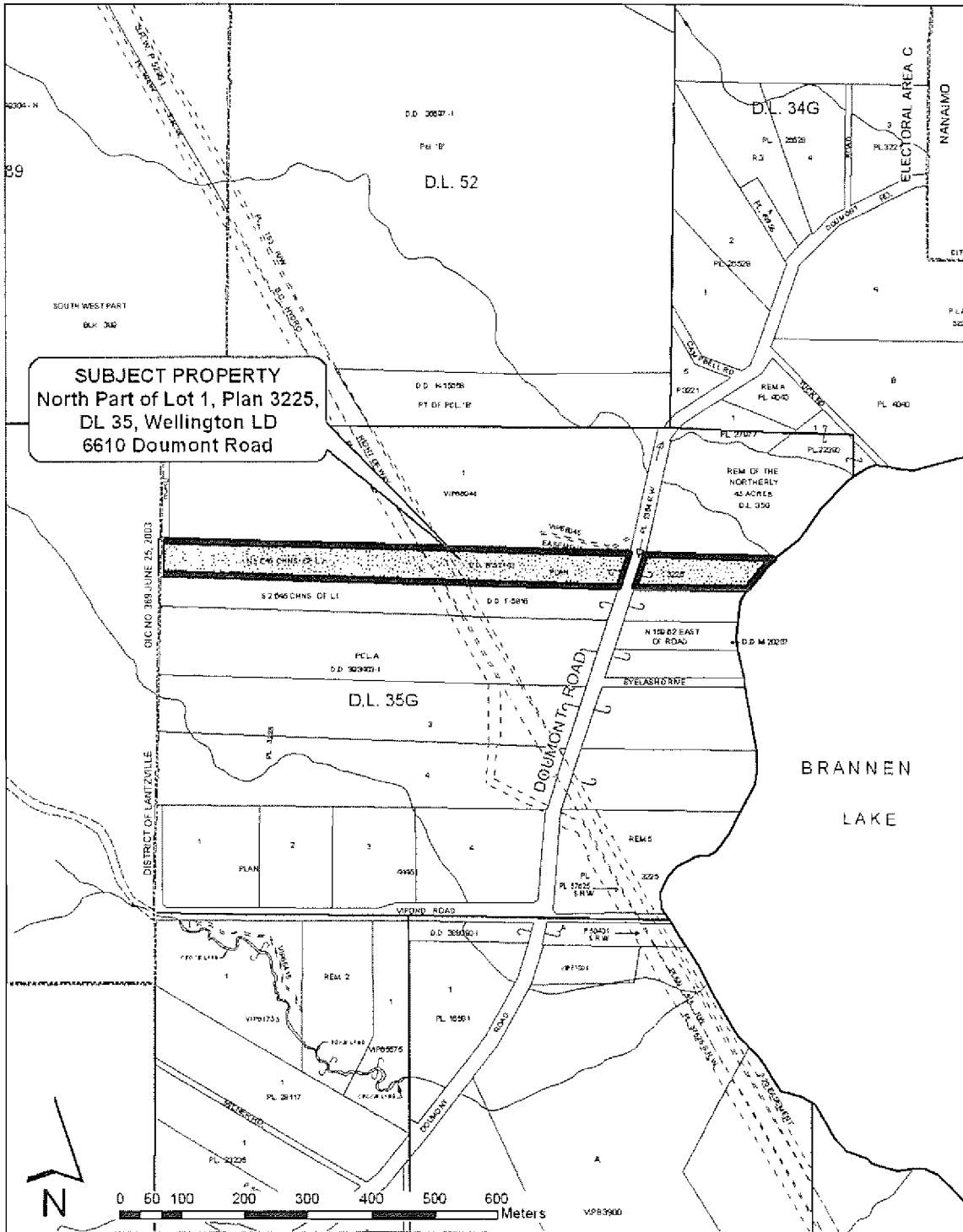


RECEIVED
JUN 09 2009
REGIONAL DISTRICT OF NANAIMO

(as submitted by applicant / reduced for convenience)

Schedule No. 1
Plan of Proposed Subdivision

Attachment No. 1 Location of Subject Property



BOGS MAPSHEET 92F 038 2 4



KUN REPORT	
CAO APPROVAL <i>(initials)</i>	
E-AP	<i>✓</i> <i>Sept 8 09</i>
COW	
ADD 80 000	
RHD	
BOARD	

MEMORANDUM

TO: Paul Thompson
Acting Manager, Current Planning

DATE: August 10, 2009

FROM: Lainya Rowett
Planner

FILE: PL20090000228 /
PL20090000595

SUBJECT: Temporary Use Permit Application No. 3360 50 0901 and No. 3360 50 0902
Earthbank Resources Systems & Fern Road Consulting
DL19, Nanoose District, Except That Part in Plan 13475; and,
Lot C, District Lot 26, Nanoose District, Plan VIP80909
Electoral Area 'G' – Wenngatz & Fritzsche c/o Fern Road Consulting Ltd.

PURPOSE

To consider two temporary use permit applications involving two properties near the intersection of Fritzsche and Hodge's Roads in Electoral Area 'G' in order to permit a commercial composting facility with accessory retail sales.

BACKGROUND

The Regional District has received two temporary use permit applications, including one for each of the subject properties legally described as *District Lot 19, Nanoose District, Except that Part in Plan 13475* (Wenngatz property), and *Lot C, District Lot 26, Nanoose District, Plan VIP80909* (Fritzsche property), which are located at the intersection of Hodge's Road and Fritzsche Road in Electoral Area 'G' (see *Attachment No. 1* for location of subject properties).

The properties are 38 ha and 24 ha, respectively, in area, and are both zoned "Rural 1" pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The existing operation has been active to some extent for several years on Lot C (Fritzsche property), but has maintained a presence on both properties since 2003. The current zoning (RU1) permits a number of uses including "agriculture," but the existing/proposed commercial composting facility is not consistent with the definition of agriculture or the permitted uses in the current zoning. Therefore, the use is not permitted. The applicants have applied for a temporary use permit for each of the subject properties to allow the commercial composting facility and accessory retail sales to continue to operate in its current location.

An existing farm operation (Hof Waldeck Farm) is also located on Lot C (Fritzsche property). The majority of District Lot 19 (Wenngatz property) is vacant except for the Earthbank operation, which is located primarily under the hydro power lines. The property to the north (District Lot 83) was a poplar farm, but is now vacant. Further to the north is the Morningstar Golf Course and residential subdivision over one kilometre away from the composting site. Other surrounding land uses include agriculturally zoned properties (RU1) and rural residences to the north, west, east, and south. Little Qualicum Cheese Works dairy/cheese operation and retail sales is located to the east; French Creek is located further west; and a vacant forestry/resource zoned parcel (FR-1) is located to the south, which borders the Inland Island Highway.

The subject properties are located within the Agricultural Land Reserve (ALR) and are designated as "Rural Lands" in the "Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008" (OCP). The OCP also designates the subject properties within the following development permit areas:

1. *The Fish Habitat Protection Development Permit Area* for the protection of fish habitat and its riparian areas. There are no watercourses within 30 metres of the proposed development activities, therefore, this application meets the exemption provisions and does not require a development permit for fish habitat protection.
2. *The Environmentally Sensitive Features Development Permit Area* for Watercourse Protection (within District Lot 19) and Aquifer Protection. There are no watercourses within 15 metres of the proposed development activities, so a development permit for watercourse protection is not required. Additionally, the applicants have addressed the aquifer protection guidelines by providing a detailed hydrogeological impact assessment of the composting operation, prepared by a professional engineer (EBA Consultants). The assessment examined the characteristics of the underlying soils and aquifer, and it concluded that the existing/proposed composting operation would not negatively impact the aquifer or surrounding drinking wells as long as Earthbank continues to maintain its existing leachate management system; and,
3. *The Farmland Protection Development Permit Area*. The proposed development activities are located on properties within the ALR; therefore, this application meets the exemption provisions and does not require a development permit for farmland protection.

ALTERNATIVES

1. That the temporary use permit applications as submitted to permit the existing commercial composting operation and accessory retail sales on the subject properties proceed to the Board for consideration of issuance.
2. That the requested temporary use permit applications as submitted be denied.

LAND USE / DEVELOPMENT IMPLICATIONS

The proposed temporary use permit applications would permit an existing composting operation and accessory retail sales to continue within a portion of the two subject properties on approximately 8 hectares or 13% of the total area of the subject properties (see *Schedule No. 2* for Site Plans). The Earthbank operation has not been expanded in size since 2002 and the applicants have confirmed that they have no present plans for expansion. The proposed TUPs would only permit the use as it currently exists.

The Electoral Area 'G' Official Community Plan, Section 5.1.26 allows for the consideration of temporary use permit applications for commercial composting on "Rural Lands," in accordance with the TUP guidelines in Sections 8.3 and 8.7 of the OCP. Section 5.1.27 further indicates that the "preferred option" is to consider such a use through a TUP application prior to considering it for a rezoning, which is why the applicants have submitted the TUP applications. The proposed TUP applications reinforce the Regional Growth Strategy Goal No. 6, to maintain and encourage a vibrant and sustainable economy, by demonstrating that the development activities would provide appropriate commercial agricultural development outside of the Urban Containment Boundary and meet the following OCP guidelines:

- the B.C. Provincial Agricultural Land Commission has approved the Earthbank commercial composting operation as a non-farm use within the ALR;

- the composting site is located beyond 400 metres from the Urban Containment Boundary;
- adequate environmental (groundwater) monitoring and assessment has been conducted, and will be required to be maintained through a Waste Stream Management License with the RDN;
- the existing operation supplies irrigation and compost material to adjacent farms; therefore, reinforcing compatibility with surrounding land uses; and,
- the applicants have prepared a Stormwater and Leachate Management Plan, an Odor Management System, and a Traffic Operating Plan (*Schedule No. 3*).

The Ministry of Transportation has reviewed the proposed TUP applications and confirmed that the applicants will be required to apply for an access permit to Hodge's Road.

The proposed TUP applications, if approved, would allow the commercial composting use for a two-year period on the subject properties. However, a separate RDN Waste Stream Management License (WSML) is also required in order to permit, and regulate, the composting operation on the subject properties, in accordance with the "Regional District of Nanaimo Waste Stream Management Licensing Bylaw No. 1386, 2004" as outlined in the *Conditions of Permit (Schedule No. 1)*. Copies of the draft temporary use permits are attached as *Schedule No. 4* and *Schedule No. 5*.

PUBLIC CONSULTATION IMPLICATIONS

Public Notification

Notices of a Public Information Meeting concerning the proposed TUP applications were mailed to the property owners/occupants located within 500 metres of the subject properties, in accordance with the "Regional District of Nanaimo Development Approval Procedures and Notification Bylaw No. 1432, 2005." In addition, two Development Proposal signs were posted on the subject properties, and advertisements of the public notice were published in the local newspapers and on the Regional District of Nanaimo web site.

Public Information Meeting

A Public Information Meeting was held on July 6, 2009 at Oceanside Place in Parksville. Approximately 40 people attended the information meeting and provided comments with respect to the proposed applications (see *Attachment No. 2 Proceedings of the Earthbank TUPs Public Information Meeting*). The key issues identified by the public included concerns about odor produced by the operation; truck traffic accessing the site; and the potential for groundwater contamination.

Public Notice of Board Resolution

In accordance with Section 921 (5) of the *Local Government Act* public notice is required prior to Board consideration of the proposed TUP applications.

Odor Management

In response to the concerns raised regarding odor management, the applicants have advised that the fish waste is delivered to the site three to four times a week during daytime hours in specialized commercial trucks with sealed containers, as noted in the applicants' *Detailed Operating Plan (Schedule No. 3)*. Ventilation openings on these containers are now being closed when passing through the residential neighborhoods and the golf course near the composting site. The containers are then rinsed on site.

The fish waste is dumped into containment berms and mixed with wood waste within two hours. The mixed piles are then capped with a bio-filter (mature compost) and left untouched for a period of time before being handled in secondary and tertiary phases of the composting process.

The applicants have adjusted the timing of turning these piles (primary blocks) to extend the curing time from a few months to up to two years. The turning is also conducted between November and March when cool and damp conditions minimize or eliminate odor impacts. The piles are also packed down to minimize off-gassing. The primary blocks are then left untouched from April till the end of October.

The applicants have also adjusted their process to turn the piles in smaller segments rather than turning large amounts of material at once.

Traffic Management

The public also expressed concerns about the routing of truck traffic in their neighborhood, which travels to and from the subject properties, as well as the speed of the trucks driving along Hodge's Road. Concerns were expressed that the proposed TUP applications, if approved, may increase the scale of the existing operation and result in increased truck traffic. They also asked if an alternate truck route or site access could be considered.

The applicants confirmed that they have no plans to expand, and the truck traffic for their operation would not increase. The frequency of truck deliveries is outlined in their *Detailed Operating Plan (Schedule No. 3)*. They indicated that they have spoken with the Ministry of Transportation and Infrastructure about the possibility of posting speed limit signs along Hodge's Road.

The applicants confirmed that the trucks are instructed to access the composting site via the Island Highway, Wright Road, Lowry's Road, and Hodge's Road. Alternate access was explored by the applicants in 2003; however, it would require an easement through adjacent lands, which property owners were not willing to agree upon.

Groundwater Integrity

The public expressed concerns about the potential for groundwater contamination from the composting operation.

The applicants' Engineer (EBA) conducted a Hydrogeological Impact Assessment dated June 17, 2009 which concluded that the subject site has a low risk of groundwater contamination based on: the characteristics of the underlying soils, which include a continuous clay layer, the methods of leachate management, and well monitoring being conducted by the Earthbank operation. The applicants have also provided a Storm and Leachate Management System Plan within their *Detailed Operating Plan* which describes how surface leachate and stormwater will be directed to and contained within man-made collection ponds on the subject properties (*Schedule No. 3*).

In addition, regular monitoring and quarterly reporting of the wells and water quality would be required as part of a separate Waste Stream Management License (WSML) that would be required by the RDN, in addition to the temporary use permits, for the commercial composting operation.

SUSTAINABILITY IMPLICATIONS

The applicants have completed the "Sustainable Community Builder Checklist" and indicated the following sustainability benefits result from the composting operation:

- the organic nature of the composting operation protects and enhances the natural environment by eliminating the use of chemicals as fertilizers;
- meets the certification requirements of the Province for organic matter recycling for Class A compost;
- supports the RDN's zero waste goals by using composting as an innovative means to reduce and divert waste from regional landfills;
- supplies local farms and other private and public agencies with natural compost material for food production, landscaping, etc.;
- reinforces OCP and Regional Growth Strategy policies to protect rural lifestyles and support sustainable farming practices on rural lands within the RDN;
- uses natural processes (leachate management ponds) to contain stormwater runoff, protect the groundwater from contamination, and provide irrigation to adjacent farms, as well as on-site fire protection, if needed;
- recycles wood waste from land clearing thereby minimizing the carbon footprint that would otherwise result from burning wood waste to produce energy;
- uses pre-existing roads, creates local employment, and diversifies the local economy; and,
- the operation removes invasive species from the immediate composting area..

SUMMARY

The proposed temporary use permit applications involve two properties located near the intersection of Hodge's Road and Fritzsche Road in Electoral Area 'G.' The applicants propose a TUP for each of the subject properties to allow an existing commercial composting operation and accessory retail sales to remain in its current location.

Given that the proposal is in keeping with the OCP and RGS policies, staff supports the proposed TUP applications as submitted, subject to the *Conditions of Permit* set out in *Schedule No. 1* and subject to comments received as a result of the notification requirements pursuant to the *Local Government Act*.

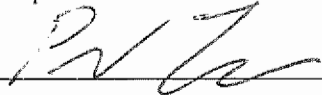
The proposed TUP applications would address the land use non-conformity; however, a separate Waste Stream Management License (WSML) would also be required by the RDN to allow, and regulate, the commercial composting operation on the subject properties, in accordance with the "Regional District of Nanaimo Waste Stream Management Licensing Bylaw No. 1386, 2004" as outlined in the *Conditions of Permit (Schedule No. 1)*.

RECOMMENDATIONS

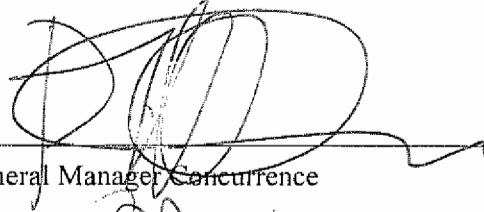
1. That the notes from the Public Information Meeting held on July 6, 2009 be received.
2. That Temporary Use Permit Applications No. 3360 50 0901 and No. 3360 50 0902, submitted by Earthbank Resources Systems Ltd. and Fern Road Consulting Ltd. on behalf of Irene Wengatz and Volkhard Fritzsche, for the properties legally described as DL 19, Nanoose District, Except That Part in Plan 13475; and Lot C, District Lot 26, Nanoose District, Plan VIP80909, to permit a commercial composting operation and accessory retail sales be approved, subject to the *Conditions of Permit* outlined in *Schedule No. 1*, and subject to comments received as a result of the notification requirements pursuant to the *Local Government Act*.



Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

Schedule No. 1
Conditions of Permit
Temporary Use Permit Applications No. 3360 50 0901 & No. 3360 50 0902

The following conditions are to be completed as part of the Temporary Use Permit Applications No. 3360 50 0901 and No. 3360 50 0902:

1. Proposed Development

The proposed commercial composting operation and accessory retail sales be sited only within the locations identified on the surveyed site plans prepared by Sims Associates Land Surveying and dated June 19, 2009, attached herein as *Schedule No. 2*.

2. Proposed Use and Site Operations

The proposed commercial composting operation and accessory retail sales be operated and maintained in accordance with the *Detailed Operating Plan* submitted by the applicants and attached herein as *Schedule No. 3*.

3. Transportation - Site Access

The applicants provide the RDN with a copy of an approved highways access permit from the Ministry of Transportation and Infrastructure.

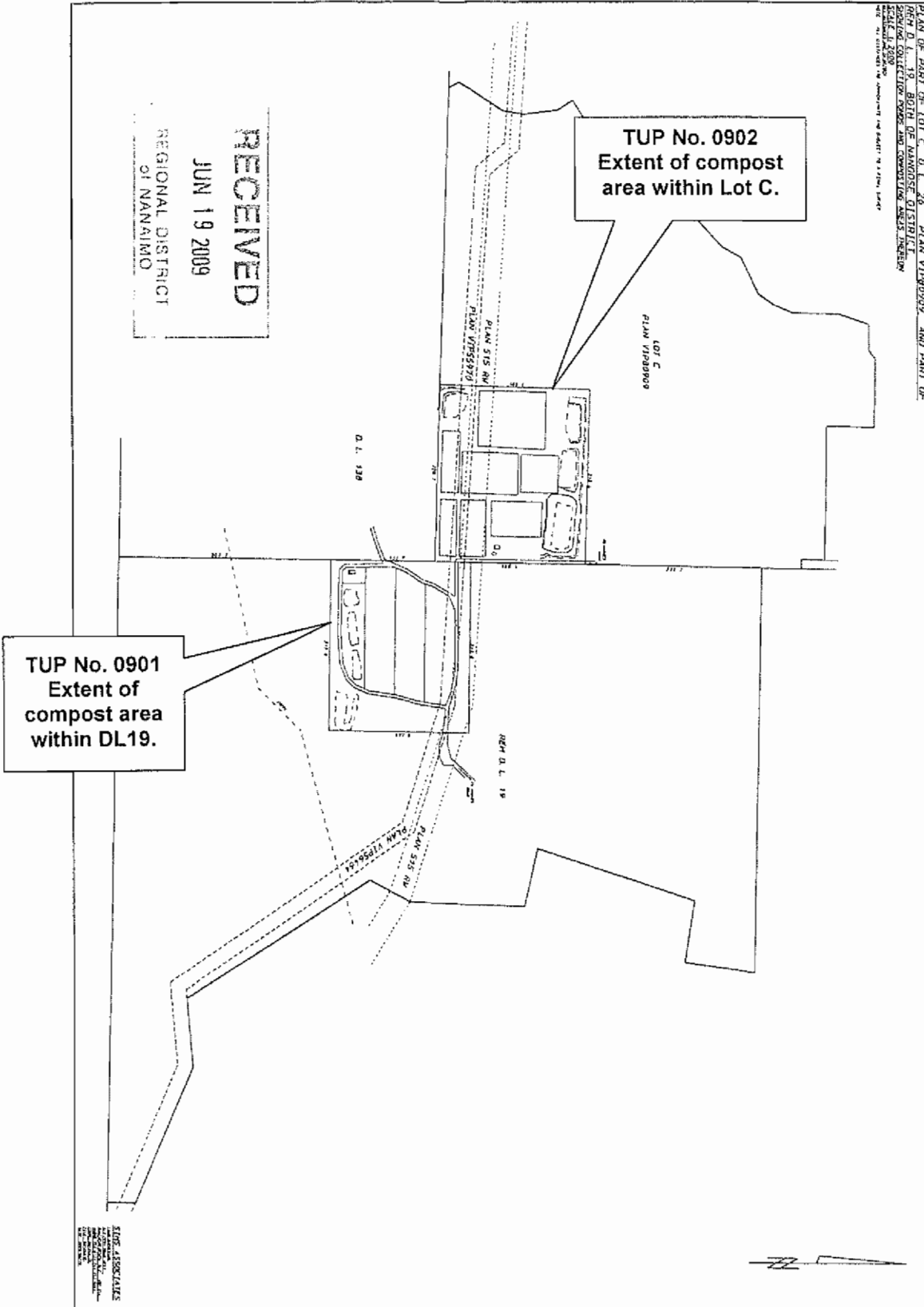
4. Hydrogeological Management

The composting operation and groundwater quality be monitored on an ongoing basis in accordance with the conclusions and recommendations made in the "Hydrogeological Impact Assessment – 1424 Hodge's Road, Parksville, BC" report prepared by EBA Engineering Consultants Ltd. and dated June 17, 2009.

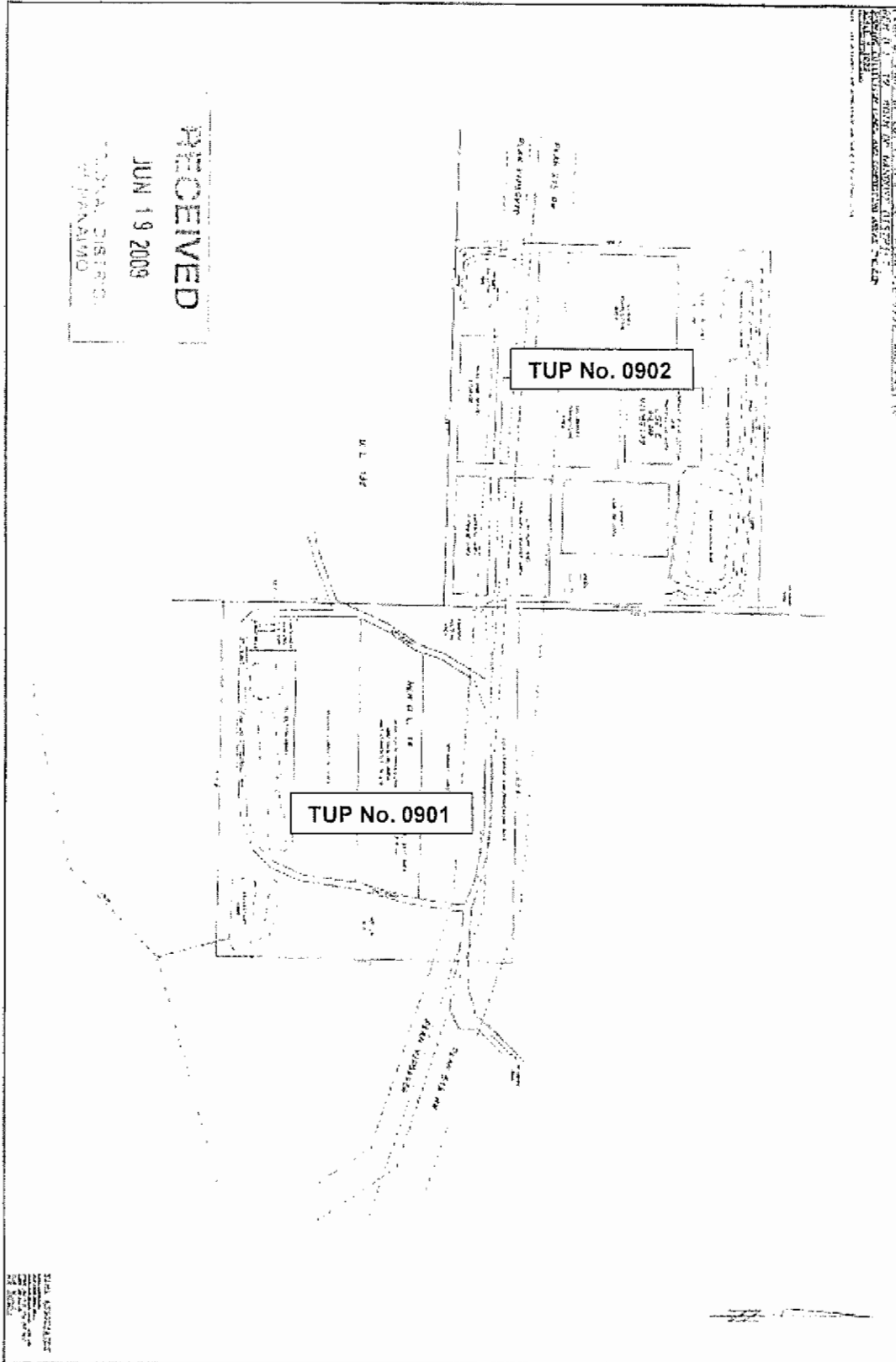
5. Waste Stream Management License (WSML)

The applicants obtain a Waste Stream Management License (WSML) to regulate the commercial composting operation, in accordance with the "Regional District of Nanaimo Waste Stream Management Licensing Bylaw No. 1386, 2004."

Schedule No. 2
Site Plan for TUP Applications No. 3360 50 0901 & No. 3360 50 0902 (Page 1 of 2)



Schedule No. 2
Detailed Site Plan for TUP Application No. 3360 50 0901 & No. 3360 50 0902 (Page 2 of 2)



Schedule No. 3
TUP Applications No. 3360 50 0901 & No. 3360 50 0902
Detailed Operating Plan

DEC 11 2008

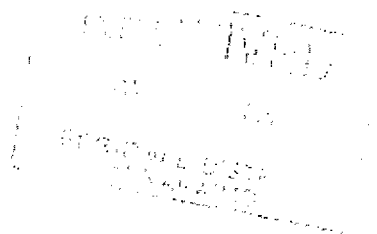
DETAILED OPERATING PLAN

Description of Composting Operations

Earthbank is exclusively a fish composting operation utilizing fish waste mainly from the salmon farming industry and incorporating it with bulking material from land clearing debris, sawmill waste, and some yard waste. The production of compost is exclusively a biological process, which is fundamentally different than the production of commercial fertilizer manufactured with inert materials (elements and compounds).

The general steps of the operation are as follows:

- 1) Fish waste is transported to the site by specialized commercial trucks, one or two containers at a time. It is transported during daytime hours only and is immediately dumped into containment berms, processed into the wood waste and capped with an odour free material that acts as a biofilter. This process takes 1-2 hours. The containers are rinsed with water from the site.
On average, fish waste is delivered 3 to 4 times a week. Sunday, holidays, and off hours deliveries are rare and occur only during emergencies.
- 2) Wood waste is transported by a variety of different sized commercial trucks. The trucks dump material where it is chipped and ground into small sized pieces and stored prior to being mixed with fish waste. Wood waste is obtained from a variety of sources that can vary significantly in availability. However, over any given year, the average number of trucks is approximately 10 per week, or 2 per day. There are many days when there are no trucks and some days when there is 1 an hour.
- 3) After a period of time the product is transported to windrows where it is left to cure. It is turned with rubber tired loaders and excavators at intervals during the curing. The curing process takes up to two years.
- 4) The product is sold during normal business hours and mainly from mid March to October. Customers come to the site with both large sized commercial trucks and small pick-up sized trucks that are loaded with compost from the stockpile. Earthbank also provides its own delivery service and commercial sized trucks leave the site with product to be delivered to customers. Commercial trucks delivering product has been approximately 250 – 300 loads per year with about 75% of that volume occurring between March and June.



Storm and Leachate Management System Design

The underlying soil conditions, a nearby seasonal farm drainage ditch and the active biological process of the composting operation demonstrate the need for a controlled environment for the collection of the effluent generated in the composting process. These effluents are directed utilizing the natural slope and contained in a constructed primary and secondary leachate collection pond over the winter months until the dry season sets in. A large 'final leachate and stormwater collection pond' has been constructed that will be utilized as an irrigation pond by the farm operation during the growing season. (see Site Plan)

All surface leachate and stormwater will be directed to the primary and secondary leachate containment ponds. Overflow from the primary and secondary ponds will in turn be directed into the final larger irrigation pond. All excess stormwater not contained in the primary and secondary ponds will be directed into the final irrigation pond. (see Site Plan)

All containment leachate and stormwater collected over the wet winter months will be utilized for recycling back into the composting process and to irrigate the adjacent farm fields which are part of the overall property. The recycling portion for composting purposes will utilize a relatively small portion of the effluent. However, the irrigation requirements of the farm fields are considerable and will easily be able to utilize all of the excess effluent.

The recycling of these collected fluids significantly controls or may even eliminate the possibility of conduction of the leachate along the glacial till interface. In addition to the control of this leachate, monitoring of the adjacent soils will be undertaken to ascertain if the measures described are effective and if the normal storm events can be controlled within the confines of the active composting area and the adjacent collection and treatment areas. A hydrologist has been hired to oversee sufficient monitoring through the installment of shallow and deep wells to determine the impact on nearby groundwater. The objective is to know well in advance that there may be unacceptable movement into the groundwater so that remedial action can be taken if necessary to prevent the movement of leachate off site. (see EBA, Sheiley Bayne, Report)

The effluent collection ponds will be tested near the end of each rainy season for nutrients, etc. that are found in fish compost leachate to determine the highest concentrations in these fluids. Previous observations and test results from the Wenngatz site clearly indicate that the highest levels of ammonia (for example), occur as the flow of leachate slows down in the early spring.

The overall effect of the recommendation proposed below will be to monitor the present leachate flows and to determine if there is any movement of leachate outside the active composting area and containment ponds. If so, the monitoring will determine if the soils are sufficient to handle leachate within the upper levels and provide a measure of remediation within the soil layers. In addition, as part of the overall plan, measurements of ground water and the nearby farm drainage ditch composition [Mineral and biological content] will be undertaken as a benchmark prior to the longer term evaluation. The level of remediation required will be entirely dependent on the level and toxicity of the effluent entering the soils and/or farm ditch, if any.

Monitoring

Collection of surface/groundwater samples will be taken from all monitoring wells as well as the nearby farm drainage ditch at the entrance to the composting area and at the exit of the composting area. This will provide a background count of the ambient water quality, but also further information of any changes in the quality over time. Concentrations of Ammonia, Nitrates, Lignins and Tannins have been determined for the monitoring wells. Testing for the farm drainage ditch also includes TSS and BOD as well as the above.

The above sampling procedures will be ongoing and testing will occur on a regular basis based on the recommendations of our hydrologist. If at some future point it is determined that groundwater contamination is beginning to occur, then it will be necessary to alter the facility to a more active method of leachate treatment including the possibility of lining the containment ponds.

Environmental Impact Assessment

Introduction

Earthbank's composting facility has been developed as a hybrid system that combines the passive static pile system with the open windrow system. The primary reason for the development of this system is the need for stringent odour management and secondarily to limit leaching by limiting surface area exposure in the earlier stages of composting. Details of our operation are outlined in the main body of this report. The two main areas of impact from an environmental perspective are odour and leachate. There is no issue of noise at this facility as the distance from residences is sufficient as to completely eliminate any concern about noise.

Odour Impact Assessment

The issue regarding odour at Earthbank has a long history which includes experience gained at Earthbank's composting facility near Courtenay that operated from 1991 to 2007 and Earthbank's Parksville facility that has been in operation since 1996. Fish waste by its very nature is an extraordinarily challenging feedstock to manage from an odour perspective. Over the years as a result of practical experience and feedback (some rather negative) from neighbouring residences at both sites, we have developed a system that is very successful. We have a track record in recent years where we have been able to operate for long periods without receiving odour complaints.

Please see our Odour Management Plan for details about how impact from odour is controlled and managed at our site. With the exception of complaints at the end of September, 2008 and an event specific complaint in November, 2008, there has been little, or no odour impact from our facility in recent years due to the stringent odour management practised at this facility. It should be noted however, that Earthbank is still making available large amounts of fish compost that may not be completely cured to Hof Waldeck Farm. This compost is spread over large tracks of farm fields and may generate some odour from time to time. This is not part of our operation and is on the account of Hof Waldeck Farm. The farm owners take the position that it is within their rights to apply the compost with some odour associated with it, if the case should so be. They are protected by legislation regarding farm odours.

As of this time (end of November, 2008), there have only been the two above mentioned recent complaints this fall over the last 5 years. We have been occasionally falsely accused, i.e. decaying herring roe on the beach at French Creek and now with the addition of Little Qualicum Cheese Works as our new neighbours, their odours were initially blamed on Earthbank. Further, when Hof Waldeck Farm has spread manure and fish compost on their farm, we have also been blamed even though we are not involved in the farm operation. The other local odour generator, the French Creek Sewage Plant has been in the mix as well.

We are usually the first to notice if we are responsible for off-site odour and always make it a priority to adjust accordingly as soon as possible. However, accurate feedback from an impacted neighbourhood is always welcome and can be very helpful.

Leachate Control and Management

We are fully aware that compost facility leachate is the prime concern of the provincial Ministry of Environment regarding preventing environmental impacts. We have had past experience working with a qualified professional to develop a plan for leachate control and management that both minimizes the generation of leachate and the potential for impacts from any leachate that is generated. Further, our practical experience in these matters is extensive dating back to our original composting site established near Courtenay in 1982.

In consideration of effective leachate control and management, our selected site at Hof Waldeck Farm has the following desirable characteristics:

- It is on high ground so that concerns about flooding and/or run-off are minimized. The highest ground in this area is approximately in the middle of our compost site.
(see contour map)
- It is a gently sloping site in a favourable direction that allows us to drain and collect the runoff and leachate without the need for pumps. (see contour map)
- The site is in a local microclimate that has significantly less rainfall than surrounding areas, or most of Vancouver Island for that matter. The Parksville area where our site is located receives between 30 and 35 inches a year of rainfall a year.
- The underlying clay and hardpan is relatively impermeable allowing us to use this material as a 'liner' in our leachate collection system. Further, this impermeable subsoil provides a natural barrier to the movement of leachate into deeper levels.
- There is no sensitive fish habitat nearby. The nearest surface water is a small farm ditch that runs for 3 to 4 months a year.
- The size of the site is more than adequate for use to create leachate storage within the property boundaries of the composting area. The large adjacent farm fields will be irrigated with all surplus effluent and stormwater contained in the collection ponds.
- The site is well away from residential areas most of which are on piped water. There are a small number of rural properties with well water, however they are about 700 meters, or more, away from our site. However, as noted in our Stormwater and Leachate Management System and Design, groundwater monitoring will be put into place under the direction of a qualified professional.

Leachate control will be accomplished in the following ways:

- Containment ponds are constructed on site that have sufficient capacity to contain leachate from winter rainfall.
- The slope of the land utilized which also reflects the general direction of the impervious subsoil is utilized for containment and passive collection of effluents.(see contour map)
- Leachate will be treated through soil filtration, wood waste absorption and reuse as irrigation during the typically dry summer months associated with this area.
- Primary blocks are turned into much larger secondary blocks in the early winter months in order to decrease surface area and exposure to rainfall.
- Dry sawdust is routinely applied to drain off areas of primary and secondary blocks in order to soak up excess leachate. This process is repeated several times in the winter and spring period when there is some flow from the blocks.
- Bulking material ratios to fish waste are sufficiently high that there is no run-off from the blocks except during and after major rainfall events.
- Fish waste is never directly exposed to rainfall in its earlier stages of composting when leachate potential is at its highest. This has more to do with odour management than leachate control but it does serve both purposes.

Conclusion

On the basis of the above, we believe that there is and will be minimal impact on the ambient ground water quality in the surrounding area. Further, if there is a release to surface waters, the B.C. aquatic quality criteria will be met. There will normally be no discharge from the facility and any discharge that does occur will be on our property and used for irrigation and recycling purposes only. Since the water quality at the property boundary will not be impaired, we will not be applying for a discharge authorization under the Waste Management Act.

Traffic Report

Inflow Truck Traffic

The facility is generally in operation 5 or 6 days a week year round. Fish waste and wood waste comes into the site on an intermittent basis depending on availability. The vast majority of loads are received from Monday to Friday during normal business hours. There is some activity on Saturdays in receiving fish waste and on rare occasions in receiving wood waste. Sundays, holidays, and night time hours deliveries are no longer permitted except in emergencies. This is a rare occurrence. For example, we have had one fish waste delivery on an early Sunday morning in the last two years.

The average number of loads of fish waste over the last two years has been in the range of 3 to 4 deliveries per week. Wood waste loads are highly variable and depend on availability at any given time. However, there are three main sources of wood waste that is brought to the Earthbank facility.

1. Clean sawdust which averages 1 to 2 loads per week
2. Hogfuel (mainly ground bark and occasionally ground land clearing debris) which averages 3 loads a week.
3. Land clearing debris which to date averages 12 loads a week. However, this is highly variable and can change from no loads for 'days on end' to a stretch of perhaps three or four days in which there is an average of 8 loads a day arriving on site. This is entirely dependent on the size of the land clearing job, or jobs at any given time.

There are occasional loads of chipped brush waste that are brought to our facility, however the vast majority of chipped brush waste (mainly from roadsides) is taken to Hof Waldeck Farm. We do not know the number of trucks involved except that it is relatively high and certainly outnumbers the land clearing deliveries that come to the Earthbank site.

Also, there have been many erroneous assumptions by some of the concerned neighbours over the years that have unfairly blamed Earthbank for truck traffic that was in fact being generated by the other properties in the area. In some instances the number of trucks involved was significant especially where thousand of yards of fill was being transported onto these properties.

Outflow Truck Traffic

We are generally open for retail sales from about mid-March to the end of October. We are closed to the public for the rest of the year. The vast majority of vehicles associated with our retail sales are either pick up trucks or cars. An approximate number could be calculated and provided if requested. However, the number would be comparable, or more likely, less than other commercial operations in the area, whether it be Morningstar Golf Course, Little Qualicum Cheeseworks, or Hof Waldeck Farm.

Larger vehicles that transport wholesale bulk quantities from our site include mainly tandem axle trucks and trailers, or tridem 'walking floor' tractor and trailer units. Compost pickups by these larger units total approximately 250 per year and likely would never exceed 350 per year. Based on last years sales, that would average fewer than 5 trucks a week. However, it is variable as compost sales are seasonal with most of the sales occurring in the spring.

It is fair to say that Earthbank usually generates more large truck traffic over the course of a year than the other commercial enterprises. The one exception could be whenever the next logging operation resumes on the forestry land immediately adjacent to the Earthbank site. It is my understanding that the truck traffic during these periods in the past has been very significant.

Truck Traffic Summary – daily average per 5 day week

Fish Waste	.8
Sawdust	.4
Hogfuel	.6
LCD	2.4
Compost	.9
Misc.	.2
Total	5.3 trucks per 'week day' on average

Earthbank Resources Systems, Ltd
TUP Application (DL 19) and Lot C
November 2007

a week, or 2 a day. There are many days when there are no trucks and some days when there is 1 an hour.

3) After a period of time the product contained in what is known as the primary block is transported to windrows where it is left to cure. It is turned with rubber tired loaders and excavators at intervals during the curing. The curing process takes up to two years.

4) The product is sold during normal business hours and mainly from mid March to October. Customers come to the site with both large sized commercial trucks and small pick up sized trucks that are loaded with compost from the stockpile. Earthbank also provides its own delivery service and commercial sized trucks leave the site with product to be delivered to customers. Commercial trucks delivering product has been approximately 250 – 300 loads per year with about 75% of that volume occurring between March and June.

The fish compost produced by Earthbank is a Class A compost that is used by gardeners, landscapers, organic farmers, golf courses, nurseries, greenhouses, government agencies, local parks, and by private residential property owners. A complete list of customers is provided as an attachment to this application.

Proposal

Earthbank is requesting rezoning on 4 hectares of DL 19 Remainder (owned by Irene Wenngatz) and Lot C, DL 26 (Fritzsche's property) for the operation of its commercial composting facility. Plans have been submitted showing the layout on the Fritzsche property and the layout on the Wenngatz property. The composting operation is situated on a gravel ridge that is underlain with hardpan that spans both properties.

Access to the site is via an existing road easement from Hodges Road. This existing easement travels through the south ½ of DL 83 and then through DL 19 Remainder to the location of the composting operation. This same road easement continues past DL 19 Remainder to properties to the southwest. This shared road easement has been successfully used by a variety of users. Alternately, Earthbank has access to the site via a field access driveway on the Fritzsche property.

The site is in compliance with regulations of the Waste Management Act and the Organic Matter Recycling Regulation. The compost product has been certified by the Organic Materials Review Institute and by the Solvita Process of Rodale Organic Gardening.

There is an active Storm and Leachate Management system that includes Groundwater monitoring for both properties. On the Wenngatz property there are six wells near the leachate collection ponds and active compost area. There are 5 wells on the outside perimeter near the property boundary. There is one deep monitoring well. With the exception of the deep well, the monitoring wells were installed by Earthbank. Groundwater monitoring has recently been established on the Fritzsche property and is covered by the Hydrological Impact Assessment

Earthbank Resources Systems, Ltd
TUP Application (DL 19) and LAC
November 2007

dated June 17, 2009 prepared by EBA. This has been recently submitted to the RDN.

This site is within one farming community and close to other farming communities. Virtually all residences are over 1 kilometer away with the exception of a handful of rural and farming residences. Prior odour issues have been addressed and current odour management practices will be maintained. The prevailing winds blow away from the residences. There is an active odour management plan that has been developed over the past eight years of operation.

A more detailed description of the Leachate Management and Odour Management plans has been previously submitted.

Supporting Regulations

The current zoning and OCP designations of Rural suggest that no further encroachment of dense urban neighbourhoods will occur. Historically, this area has been resource based (farming and forestry) and will continue to be resource based.

The Regional Growth Strategy Goal 3 serves to identify the importance of protecting and strengthening the region's rural economy and lifestyle. This proposal for a commercial composting operation on this site satisfies this Goal 3. The French Creek OCP also reinforces this RGS Goal 3 and includes its own descriptions regarding protecting the rural integrity. The French Creek OCP Section 7.3 Agriculture of Section 7.0 Creating and Sustaining a Vibrant Economy, supports broad based agricultural activities including the processing, production and distribution of products produced on ALR lands.

The recently adopted State of Sustainability Report of the Regional District of Nanaimo describes Sustainable Farming Practices and Farms Reporting Sale of Organic Products as key indicators of a Sustainable Region. According to the Report,

"Sustainable Farming Practices are enhanced by protecting the environment and building healthy soils through natural solutions. Healthy soils help to reduce the amount of chemical exposure to the ecosystem, employees, and consumers. Increasing natural solutions, including using animal wastes to fertilize, helps improve sustainable farming practices."

Farms Reporting Sale of Organic Products is used as an indicator since the sustainability of the region is dependent on the number and proportion of farms reporting the sale of organic crops. The State of Sustainability Report states,

"Farms that reduce or eliminate the use of chemicals when producing crops or raising livestock are essential to a healthy region. In addition, organic crops add value to the produce and may increase the economic profitability of the farm. The RDN supports agricultural production that is environmentally friendly and contributes to the local economy. Therefore, one sustainability goal is to increase the number of farms in the region that produce organic crops."

Earthbank Resources Systems, Ltd
TUP Application (DL 19) and Lot C
November 2007

Another key indicator of a sustainable region, as reported in the State of Sustainability Report, is the Amount of Waste to Landfills, Amount of Waste Diverted and Amount of Waste Recycled (this is one indicator). As described in the Report,

"The amount of waste diverted from a landfill to composting or recycling indicates the region's efforts to minimize the amount of waste entering the landfill. Waste composting programs can return valuable nutrients and fibre to our soils and reduce the need for chemical fertilizers. To be truly sustainable, a community should process its waste within its own boundaries."

The RDN's Zero Waste Plan, for which it recently won a Sustainability Award, has a goal of reducing the amount of waste sent to the landfill.

Earthbank's fish compost exactly satisfies the RDN goals to improve the sustainability of the RDN. The processing, producing and distributing this organic composting product will improve Sustainable Farming Practices, will allow the number of Farms Reporting Sale of Organic Products to increase, and will contribute significantly to the diversion of waste from the landfill.

Surrounding Uses

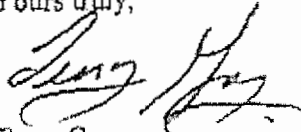
Immediately north is a large land holding within the ALR that has not been farmed and is used as a woodlot. (DL 83 REM). To the north of DL 83 are Morningstar Golf course and a residential subdivision both over 1 km away from the composting site.

To the east is a large land holding within the ALR. It is currently owned by and operated as Little Qualicum Cheese Works where there is a dairy operation, a cheese making operation, and retail sales of cheese products.

To the south is a vacant property owned by Church Road Industrial that borders the Inland Island Highway further to the south.

To the west and north is the remainder of Hof Waldeck Farm which is approximately 110 ha and operates as a dairy, sheep and beef farm. Also, to the west (southerly portion) is Crown land which is utilized as a woodlot. This property also borders the Inland Island Highway further to the south.

Yours truly,



Terry Gay
Earthbank Resource Systems Ltd.

**Schedule No. 4
TUP Application No. 3360 50 0901
Draft Permit**



**REGIONAL
DISTRICT
OF NANAIMO**

**Development Services Department
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2
250-390-6510 (Nanaimo) 250-954-3798 (District 69)
1-877-607-4111 (within BC)
Fax: 250-390-7511**

TEMPORARY USE PERMIT NO. 0901

To: Earthbank Resources Systems Ltd. on behalf of Irene Wennigatz (the "Permittee").

Mailing Address: c/o Helen MacPhail Sims, Fern Road Consulting Ltd.
P.O. Box 405
221 Fern Road West
Qualicum Beach, B.C.
V9K 1S9

- 1. Except as varied or supplemented by this Permit, the Temporary Use Permit is issued subject to compliance with all applicable Bylaws and Provincial and Federal Statutes and Regulations.
- 2. This Temporary Use Permit applies only to those lands within the Regional District of Nanaimo described below, and all buildings, structures and other development thereon:

Legal Description: District Lot 19, Nannose District, Except Part in Plan 13475 (the "Lands")

Civic Address: Electoral Area "G" P.I.D. 009-355-651

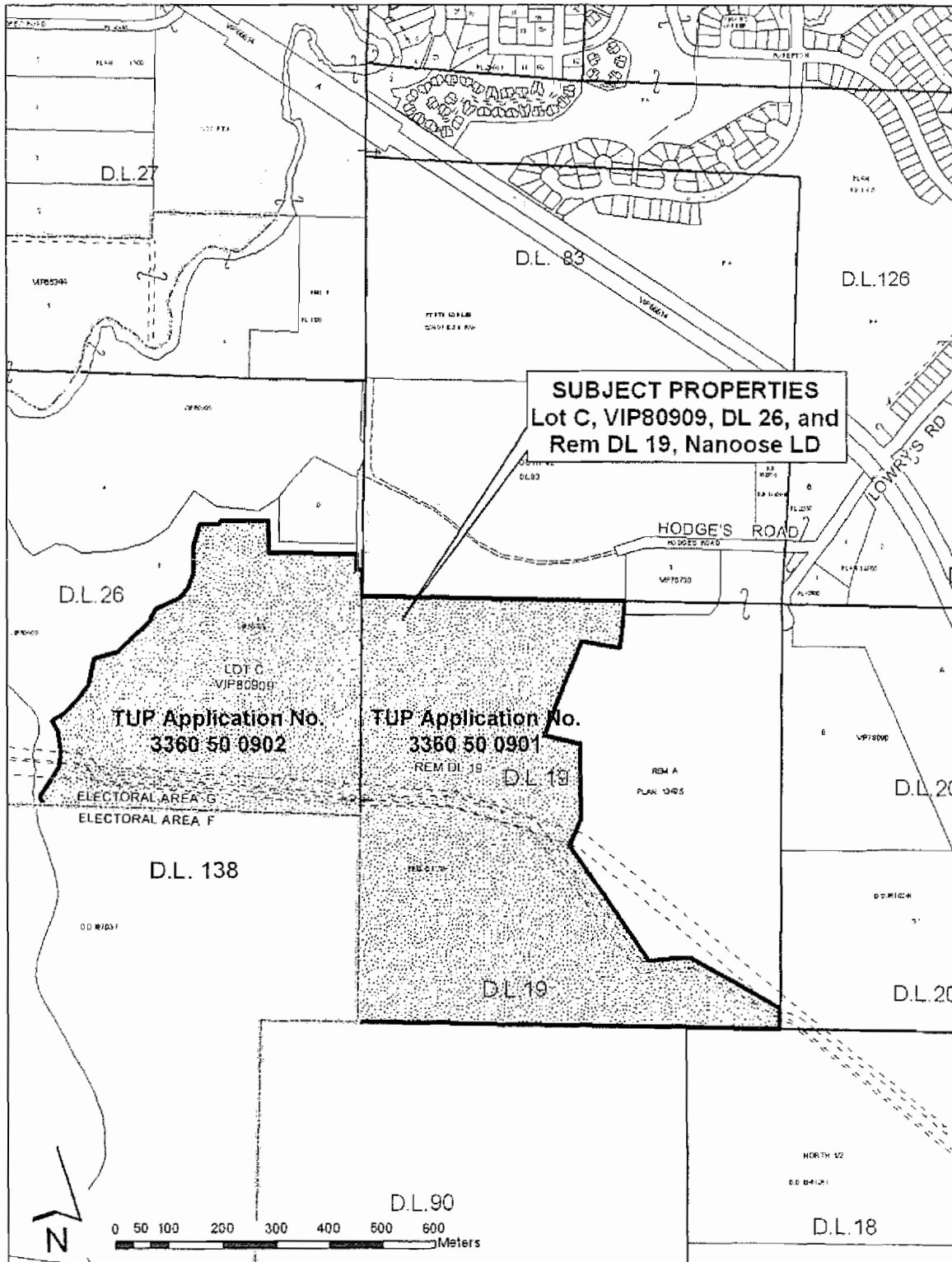
- 3. The Lands shall be developed strictly in accordance with the following terms and conditions and provisions of the Permit and any plans and specifications attached hereto which shall form a part thereof.
- 4. The Permittee as a condition of issuance of this Permit agrees to comply with the requirements and conditions of Schedules No. 1, No. 2, and No. 3 which are attached to and form part of this Permit
- 5. Where the Permittee fails to comply with the requirements as specified in Section 4 of this Permit, the Regional District of Nanaimo is hereby authorized to enact bylaw enforcement and enter on the Lands and carry out the demolition, removal, or restoration of the Lands, at the expense of the Permittee, in accordance with Section 921 (10) of the *Local Government Act*
- 6. This Permit shall lapse on the following date: , 2009.
- 7. This Permit prevails over the provisions of the Bylaw in the event of conflict
- 8. Notice of this Permit shall be filed in the Land Title Office at Victoria under Section 927(1) of the *Local Government Act*, and upon such filing, the terms of this Permit or any amendment hereto shall be binding upon all persons who acquire an interest in the Lands affected by this Permit.
- 12. This Permit is not a building permit.

Authorizing Resolution to issue passed by the Board this day of , 2009.
Issued this day of , 2009

Chairperson

General Manager, Corporate Services

Attachment No. 1
Location of Subject Properties
TUP Applications No. 3360 50 0901 & No. 3360 50 0902



Attachment No. 2
Proceedings of the Earthbank TUPs Public Information Meeting
Held at Oceanside Place
830 Island Highway West, Parksville, B.C.
Monday, July 6, 2009 at 6:30 pm

Summary of the Notes on Proposed Temporary Use Permit Applications for the properties legally described as: District Lot 19, Nanoose District, Except that Part in Plan 13475; and, Lot C, District Lot 26, Nanoose District, Plan VIP80909.

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

There were approximately 50 persons in attendance.

Present for the Regional District of Nanaimo:

Director Joe Stanhope, Electoral Area 'G' (the **Chair**)
Lainya Rowett, Planner handling the TUP applications
Sharon Horsburgh, Senior Zero Waste Coordinator, Water & Wastewater Services
Elaine Leung, Planner

Present for the Applicant:

Helen MacPhail Sims, Fern Road Consulting Ltd. and Sims Associates Land Surveying
Terry Gay, Earthbank Resources Systems Ltd.
Jessica Reid, Earthbank Resources Systems Ltd.
Shelley Bayne, Senior Hydrogeologist, EBA Engineering Consultants Ltd.

The **Chair** opened the meeting at 6:35 pm and outlined the agenda for the evening's meeting for two separate temporary use permit applications, and introduced the head table and RDN staff in attendance. The **Chair** then stated the purpose of the public information meeting and requested the Planner, **Lainya Rowett**, provide background information concerning the temporary use permit applications. **Lainya Rowett** gave a brief outline of the application proposals and background, applicable regulations, and the supporting documents provided by the applicant.

The **Chair** invited the applicants to give a presentation of the proposed TUP applications concerning the Earthbank composting operation. **Helen Sims** introduced the applicants at the head table.

Jessica Reid, Earthbank presented a powerpoint slideshow of Earthbank's operation and gave an overview of the proposal.

- explained container that fish waste arrives to the site in
- on average 3 trucks per week
- Photos illustrating deposit of fish waste into pit
- Wood waste ground on site and mixed with fish waste in a pit

- Mixture is capped with mature compost (bio-filter) to contain odor
- After several months the primary blocks are turned and aerated. This is done over two years rather than one year, as previously done, to minimize odors.
- Secondary composting occurs within windrows
- Temperatures are monitored to ensure process kills pathogens
- After two years compost is screened to remove larger wood waste pieces
- Trucks driven in and loaded or U-bag (bags and ties supplied by Earthbank)
- Six person crew
- Small loaders used to put compost on trucks
- Most of operation is located under the hydro lines, an area that was not being actively farmed
- Pond used to manage leachate, and water from leachate pond is used for Fritzsche irrigation on farm fields
- Compost used by Fritzsche for hay fields

Shelley Bayne, EBA presented a summary of EBA's findings in the hydrogeological impact assessment report.

- explains patterns of runoff (to northeast) due to site grading, so that rainwater is collected and filtered through a series of ponds that are used by Earthbank or farms on adjacent properties for irrigation
- study looked at potential for contamination to aquifer and drinking water supply by leachate
- drilled a series of wells, closest to the ponds, including 2 wells at different depths > revealed sand; below is a dense silty material/clay encountered at approximately 25 feet; this forms a continuous layer that acts as a natural liner to inhibit percolation and protect the aquifer
- the protective clay layer goes to a depth of 80 feet before the aquifer is encountered, according to Fritzsche's well.
- Looked at BC Resources? Map at other wells in the area; drinking water wells not in 100 years flow pattern
- Hydrological flow properties studied revealed low conductivity potential to permeate aquifer with a 5 metres/year flow rate (very slow); low risk to aquifer
- Flow path goes to the northeast and rate is so slow there's no concern to nearby drinking wells or residents.
- Natural attenuation processes mean the potential for negative impacts on wells down grade is very low
- Water samples showed that high levels of contaminants were low (less than half the source levels) in wells down gradient from, and at comparative elevations to, the Earthbank site
- Under these conditions there is low risk to the receiving environment

Following the applicant's presentation, the **Chair** invited questions and comments from the audience.

Bruce Fowler, 1063 Robertson Blvd, expressed concerns about water quality in drawing from French Creek, and about truck traffic. He sits on the EPCOR citizens' advisory panel. He asked how many trucks will visit the subject site per day.

Jessica Reid (Earthbank) confirmed on average a total of five trucks a day.

Bruce Fowler asked if the truck traffic would increase if the Temporary Use Permit applications were approved.

Jessica Reid said “no.”

Bruce Fowler commented if traffic remains the same he did not have any concerns. He then asked if there would be monitoring of wells on the subject site.

Terry Gay (Earthbank) explained there has been and will continue to be monitoring of their wells, to be done by EBA as a third party testing agency. He also noted that the Regional District of Nanaimo will also have monitoring requirements that Earthbank will have to follow.

Sharon Horsburgh (RDN) concurred that the Waste Stream Management License (WSML) would require that Earthbank’s operating plan include quarterly reporting.

Bruce Fowler directing his question to Jessica Reid, “you indicated that you monitor the heat leaving the (composting) piles.” Is waste dumped onto liners of just bare ground?

Jessica Reid replied, “onto the ground.”

Bruce Fowler to the Chair: “Are you aware of any other applications that may be submitted for a similar use in the area?”

The **Chair** advised that he did not know of or expect another application for this type of use in this area.

Bruce Fowler asked about sources of wood waste and the potential for contaminants in wood waste sources used in composting process.

Terry Gay said there could not be contaminants because they need to meet OMRI regulations. He also explained that Earthbank only receives wood waste from sawmills and land clearing debris. It does not accept waste from demolition.

Terry Filipski, 1068 Robertson Blvd asked if EBA tested the ponds directly, or just lands around the ponds. He expressed concerns about acids in the ponds.

Shelley Bayne (EBA) confirmed they did not test the ponds directly, but they used historic data regarding the ponds from Terry Gay. She explained that the acids are natural.

Terry Filipski asked where are the farmers’ fields with respect to the ponds.

Shelley Bayne explained that EBA is not concerned about the location of the ponds with respect to farmers’ fields because the concentrated organic source on the fields is higher than the very diluted source in the ponds. The pond levels are comparable to natural ground water levels.

Jessica Reid explained the leachate naturally decays by the time it gets to the pond.

Terry Filipski commented that he noticed the size of the trucks coming to the site have been bigger in the past year.

Terry Gay said they did have more trucks in the Spring, but no increase in the total number of trucks over the course of the year.

Terry Filipski asked what the time delay is between dumping the fish waste before it is mixed with the wood waste.

Jessica Reid said the fish and wood waste is mixed within a few hours.

Volkhard Fritzsche explained the difficulty of water percolation on his fields, which includes a portion of the Earthbank site. He said he has been receiving wood waste on his property since 1973. He said he needs organic matter and a source of irrigation for his fields. He also explained that the only way for water to escape the property is by evaporation because it doesn't percolate into the ground. He explained that his well is located a fair distance away from his property (0.5 km), and that even the Morningstar Golf Course struggled to find water well sources in the area when it developed.

Kris Sorenson, 1230 Hodge's Rd expressed concerns about truck traffic generated by Earthbank's operation.

Helen Sims explained that she spoke with the Ministry of Transportation, Highways and Infrastructure regarding posting speed limit signs along Hodge's Road. She asked for a maximum speed limit of 30 km/hr but MOTI said the lowest speed permitted is 50 km/hr.

Terry Gay said most of the trucks that come to the Earthbank site are regulars and know not to speed, but some new trucks may speed from time to time. He indicated he would remind the truckers to observe the speed limits.

Birte Sorenson, 1230 Hodge's Rd said she is still concerned about the dust that is generated by the truck traffic.

Kris Sorenson asked if Earthbank could pave the full length of Hodge's Rd.

Helen Sims said that a large portion of this road was established under a Section 42 and is not dedicated as "road." The MOTI only has control over the dedicated portion in order to maintain that part of the road with a paved surface. Also, paving the remaining road would be costly in excess of \$100,000, so there is the question of who would pay for that.

Krishan Chand, 1480 Hodge's Rd said he is a certified organic farmer and he is required to do testing. He indicated there is nothing wrong with his well water.

Barrie Myers, 1215 Turnberry PI expressed his concerns about odor problems on a regular basis from Earthbank's operation. He asked what the public should expect when the composting piles are turned after two years.

Jessica Reid said the turning is periodic.

Terry Gay explained that Earthbank tries to time the pile turning with favorable prevailing winds that blow away from the residential areas. This has been learned through trial and error. The process has been extended from four months to two years, and is done in stages. He described how the piles used to be very high when turned and this would generate odour for two or three days. Now, with more land area, they turn the piles in small segments and over a longer period of time. They also pack down the piles as they are turned to minimize off-gassing, particularly at times of temperature changes such as in the evening. They can't guarantee there will never be odor.

Jessica Reid added that Earthbank has an Odor Protocol with people in the community who advise Earthbank if they smell odor.

Barrie Myers asked if Earthbank would try to do the turning in the winter months only.

Terry Gay said yes, and admitted that last Fall after complaints were made about odor Earthbank made adjustments to their process. However, he said they don't want to go beyond two years time for processing.

The **Chair** advised that he had received complaints from French Creek Harbour. He said he gets calls usually in the morning or evening, and said if Earthbank could consider the outdoors season in its operations that would help.

Jessica Reid agreed it is important the Earthbank get this feedback.

Krishan Chand commented that he lives nearby and has only smelled it twice.

Jessica Reid asked the audience if it was safe to say that the odor problems have improved over the past few years. Some members of the audience agreed.

Lynn Luke, 1110 Robertson Blvd asked the applicant if someone calls and says they can smell the odor, what Earthbank could do.

Terry Gay said they could immediately pack down the pile that is causing the odor.

Bruce Fowler asked if Robertson Blvd is suitable for, or intended for, commercial trucks. He said he's noticed a dip in the road pavement.

The **Chair** said this is the MOTI's jurisdiction.

Terry Gay mentioned that the area used to be all agricultural lands before a portion was excluded for residential development, so there would have been other trucks/farm vehicles on the road before.

Bruce Fowler asked if the trucks could be re-routed to travel on Wembley Road instead of Robertson Blvd.

Terry Gay said he didn't know the trucks were travelling on Robertson Blvd, and indicated that they are not supposed to use this road.

Jerry Joseph, 571 Lowry's Rd said there is more traffic than the applicants described.

Jessica Reid explained this traffic did not result from the Earthbank operation.

Volkhard Fritzsche explained when the Inland Island Hwy was built there was Alder chipping (wood waste) that was claimed for, and transported to, his farm.

Marie Chand, 1480 Hodge's Rd said she has delivery of products to her farm, and asked audience who eats fish. She made the point that people who eat fish should know that this creates waste and the waste has to be used somewhere.

This prompted discussion among the audience.

The **Chair** commented that the comments should be directed to the applicant and limited to the proposed TUP applications, not to discuss the philosophies of local farming or sustainability in general.

Jerry Joseph asked the applicant to confirm the site area of the Earthbank operation.

Jessica Reid confirmed approximately 20 acres in total.

Krishan Chand commented that if the population wants locally produced foods then there needs to be the infrastructure and trucks to accommodate this use for operations like Earthbank and other local large farms such as Qualicum Cheeseworks (also along Hodge's Road).

Barrie Myers summarized the primary concern of the people is odor not traffic or local sustainability.

Jessica Reid explained how they are linked to other local farms, and said the refreshments for the meeting were provided by other local farms.

Volkhard Fritzsche discussed how his farm operation had to deal with manure waste from his cows by dumping the waste into a pond on his farm. After 26 years of depositing this waste he said that testing revealed that the waste had only permeated 6 cm of the underlying clay layer. There was very little permeability.

Jerry Joseph asked if Earthbank had looked into alternate access to the site.

Helen Sims said they had looked at other options.

Terry Gay explained that Earthbank had met with Henry Rempel in 2003 to discuss the possibility of acquiring an easement over his land for an alternate route, but Mr. Rempel did not agree and they could not secure the easement.

Kris Sorenson asked when they could get a speed limit sign to be posted along the driveway access off Hodge's Road into the Earthbank site (via South ½ of District Lot 83).

Helen Sims indicated that she asked MOTI regarding speed signs and they indicated they may have contractors in the area in the near future that could post speed limit signs.

Birte Sorenson asked about the possibility of installing speed bumps on the road.

The **Chair** explained that he is on the Regional Transportation Committee, and that they won't do speed bumps on MOTI roads. He also indicated that the Committee has asked for a speed sign to be placed on Lowry's Road.

The **Chair** asked if there was any further questions or comments.

Being none, the **Chairperson** thanked those in attendance and announced that the Public Information Meeting was closed.

The meeting was concluded at 7:45 pm.

Correspondence Received as Part of the Public Information Meeting held on July 6, 2009

Rowett, Lainya

From: Caroline McDonald [cmcdassociates@shaw.ca]
Sent: July 5, 2009 10:31 PM
To: Rowett, Lainya; fishcompost@shaw.ca
Subject: Re Public information Meeting & Temporary Use Permit

Packer & McDonald
1186 Rosemount Close,
Parksville, BC V9P 2W3

Re: Public Information Meeting & Temporary Use Permit

Earthbank

As we will be unable to attend the meeting we wish to make our views known.

We live directly across the Morningstar Golf Course from the farm. If there is any question of renewing the Temporary Use Permit, we wish to go on record as wholeheartedly supporting this operation at this time for these reasons:

- We should be encouraging and supporting viable local business in this area in every way possible
- This business supports this community by providing an environmentally safe and positive product
- With the entire world working to support environmentally safe and sustainable businesses, how foolish would we be to oppose this 100% positive business
- In the event of fire bark mulch catches fire and causes it to spread close to the homes that it surrounds whereas fish compost does not
- The product produced (fish compost) adds nutrients to the soil as opposed to commonly used bark mulch which leaches nutrients from the soil
- As we approach a time where we may all be wise to grow some of our own produce the fish compost supports stronger and healthier plants
- This operation was here first – before most residents who may complain and who knew it was here before they bought or built – or they reasonably should have known
- If people complain of the smell which wafts over on occasion, most likely they are really smelling the sewage treatment plant which is disgusting
- The owners of this business support this community and are good community citizens
- We can use the taxes that Earthbank pays in this area
- The business employs six local people
- The business supports four local successful food producing farms and many local residences at a time when Canadians are being encouraged to buy local
- We should *all* be supporting and be proud of the Earthbank Farm and Little Qualicum Cheeseworks

On a personal note, give us the summer sounds of small aircraft, the security sounds of the Sunwest Helicopters, and the cows and frogs over sirens, horns and city traffic noise any day. And give us the occasional country smell of fish compost or cow manure over diesel fumes and that awful sewage treatment plant!

Wishing you a short meeting – it's a no brainer!!

06/07/2009



CAO APPROVAL		JP
EAP	✓	Sept. 8/09
CCW		
AUG 25 2009		
RHD		
BOARD		

MEMORANDUM

TO: Paul Thorkelsson
General Manager, Development Services

DATE: August 24, 2009

FROM: Susan Cormie,
Senior Planner

FILE: 3300 30

**SUBJECT: Building Strata Conversion Application
Fern Road Consulting Ltd., on behalf of Andrew John Medd
Folio: 769.11799.005, 1057 and 1065 Page Road, Electoral Area 'G'**

PURPOSE

To consider a request to approve a building strata conversion of a residential development pursuant to Section 242 of the *Strata Property Act* that will result in the creation of two residential building strata lots and further to consider a request for a development permit in conjunction with the proposed building strata conversion proposal.

BACKGROUND

This is an application for a building strata conversion for the parcel legally described as Lot D, District Lot 78, Newcastle District, Plan VIP54784 and located at 1057 and 1065 Page Road within Electoral Area 'G' (see Attachment No. 1 for location of subject property).

The property, which is 2.0 ha in size, is zoned Rural 1 (RU1) and is located within Subdivision District 'D' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. 1 for location of subject property). Under the Rural 1 zone, two dwelling units are permitted if the parcel is greater than 2.0 ha in size. In this case, the parent parcel can support two dwelling units.

Surrounding parcels are zoned Rural with Page Road to the west. The subject property is also adjacent land situated in the Agricultural Land Reserve (ALR) to the northwest across Page Road.

Encumbrances registered on title include BC Hydro & Power Authority and Terasen Gas (Vancouver Island) statutory rights-of-way which cross the parent parcel in an east to west direction.

The parent parcel is designated within the following applicable Development Permit Areas pursuant to Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008:

- The Farm Land Protection Development Permit Area for the purposes of protecting adjacent lands in the Agricultural Land Reserve (ALR); in this case the ALR land located to the northwest of the parent parcel.
- The Environmentally Sensitive Features Development Permit Area, in this case for the protection of the aquifer.

As the exemptions requirements of these development permit areas can be met, a development permit is not required as part of the building strata conversion application.

Proposed Development

The applicants are proposing to create two building strata lots over the two existing single dwelling units (see Schedule No. 2 for proposed building strata subdivision). As part of the application process, the applicant has provided a completed building strata conversion application; proposed building strata plan; Professional Engineer's Reports for each dwelling unit; and a completed Site Profile.

The building strata units are proposed to be served with potable water wells and individual private septic disposal systems. The subject property is situated within a RDN Building Services area.

Strata Property Act

Section 242 of the *Strata Property Act* provides for the conversion of previously occupied buildings into strata lots subject to the approval of the approving authority, in this case, the Regional Board. The Regional Board is to ensure that an adequate supply of rental units remains available and that units being converted meet the minimum standard of construction. The *Strata Property Act* specifies that the Regional Board must consider the following criteria in its decision:

1. the priority of rental accommodation over privately owned housing in the area;
2. any proposals for the relocation of persons occupying a residential building;
3. the life expectancy of the building; and
4. projected major increases in maintenance costs due to the conditions of the building.

The Board is also required to ensure that the buildings substantially comply with applicable bylaws and the building code.

In addition to the above-required criteria, the Board may also consider "any other matters that, in its opinion, are relevant." Consideration of these other matters enables the request to be refused at the Board's discretion. In order to evaluate an application, the Board approved the Strata Conversion Policy and Guidelines Policy (No. B1.7), which establishes criteria to assist an applicant in the preparation of an application and to assist the Regional District in its review and evaluation of an application.

ALTERNATIVES

1. To approve the request for the strata conversion as shown on the plan submitted by the applicant subject to conditions set out in Schedules No. 1 and 2.
2. To not approve the request for a building strata conversion.

DEVELOPMENT IMPLICATIONS

Official Community Plan Implications

The Rural Residential 3 land use designation is silent on building strata conversions. The Electoral Area Planning Committee (EAPC) may recall that Amendment Bylaw No. 500.346, which has been tabled at 3rd reading, included the subject property being rezoned to permit a maximum of one dwelling unit per parcel, which would then prohibit a building strata conversion. As this amendment bylaw has not been adopted, this application may be considered.

The Board should note however, that conversion is made possible in this particular case as a result of recommendations from the OCP having not yet been implemented.

Strata Property Act

The request for approval of the proposed building strata conversion appears that it will generally meet the minimum criteria that the Board must consider in approving a building strata conversion. The applicant's Professional Engineer has stated that the buildings, which were built in 2005 and 2007, are in substantial compliance with current National Building Code of Canada.

With respect to the priority of rental accommodation over privately owned housing in the area, the neighbourhood where the subject property is located is characterized by owner-occupied single dwellings situated on rural and rural residential parcels. As a result, the priority of rental accommodation is not considered to be significant.

With respect to the life expectancy of the building, the applicant has submitted a Professional Engineer's Reports certifying a minimum of a 25 to 50 year life expectancy of the building.

With respect to any projected major increases in maintenance costs due to the condition of the building, the applicant's Engineer has certified that no major maintenance costs are expected for a number of years.

Building Strata Conversion Policy Guidelines

The applicant has provided a Professional Engineer's Report certifying that the septic disposal systems conform with the requirements of the current Standard Practice manual of the BC Ministry of Health.

With respect to potable water, the applicant's Professional Engineer has certified that the water wells are in good working order and meet the RDN bylaw requirements in terms of quantity (3.5 m³ per day year round) and quality as based on the Canadian Drinking Water Standard. Based on the information submitted by the applicant, this strata conversion application meets the requirements of the RDN Building Strata Conversion Policy Guidelines.

Ministry of Transportation & Infrastructure

Ministry of Transportation and Infrastructure staff has reviewed the proposed strata plan and has no concerns with respect to existing access.

VOTING

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

SUMMARY

The applicant is requesting a building strata conversion of the existing single dwelling units. The application, as submitted, appears that it will meet the minimum requirements for the approval of a building strata conversion as set out in the *Strata Property Act*. The applicant's Professional Engineer has provided certification that the septic disposal and potable water systems meet the current standards.

Ministry of Transportation and Infrastructure staff has indicated that they have no concerns with the proposal. Staff confirms that both the guidelines set out in the corresponding Board policy and the technical provisions for stratification pursuant to the *Strata Property Act* will be able to be met. As a result, staff recommends Alternative No. 1 to approve the request for building strata conversion as set out in Schedules No. 1 and 2.

RECOMMENDATION

That the request from Fern Road Consulting Ltd., on behalf of Andrew John Medd for the building strata conversion as shown on the Proposed Strata Plan of as Lot D, District Lot 78, Newcastle District, Plan VIP54784, be approved subject to the conditions being met as set out in Schedules No. 1 and 2 of the corresponding staff report.

H. Sanders
Report Writer
for

[Signature]
Manager Concurrence
for

[Signature]
General Manager Concurrence

[Signature]
CAO Concurrence

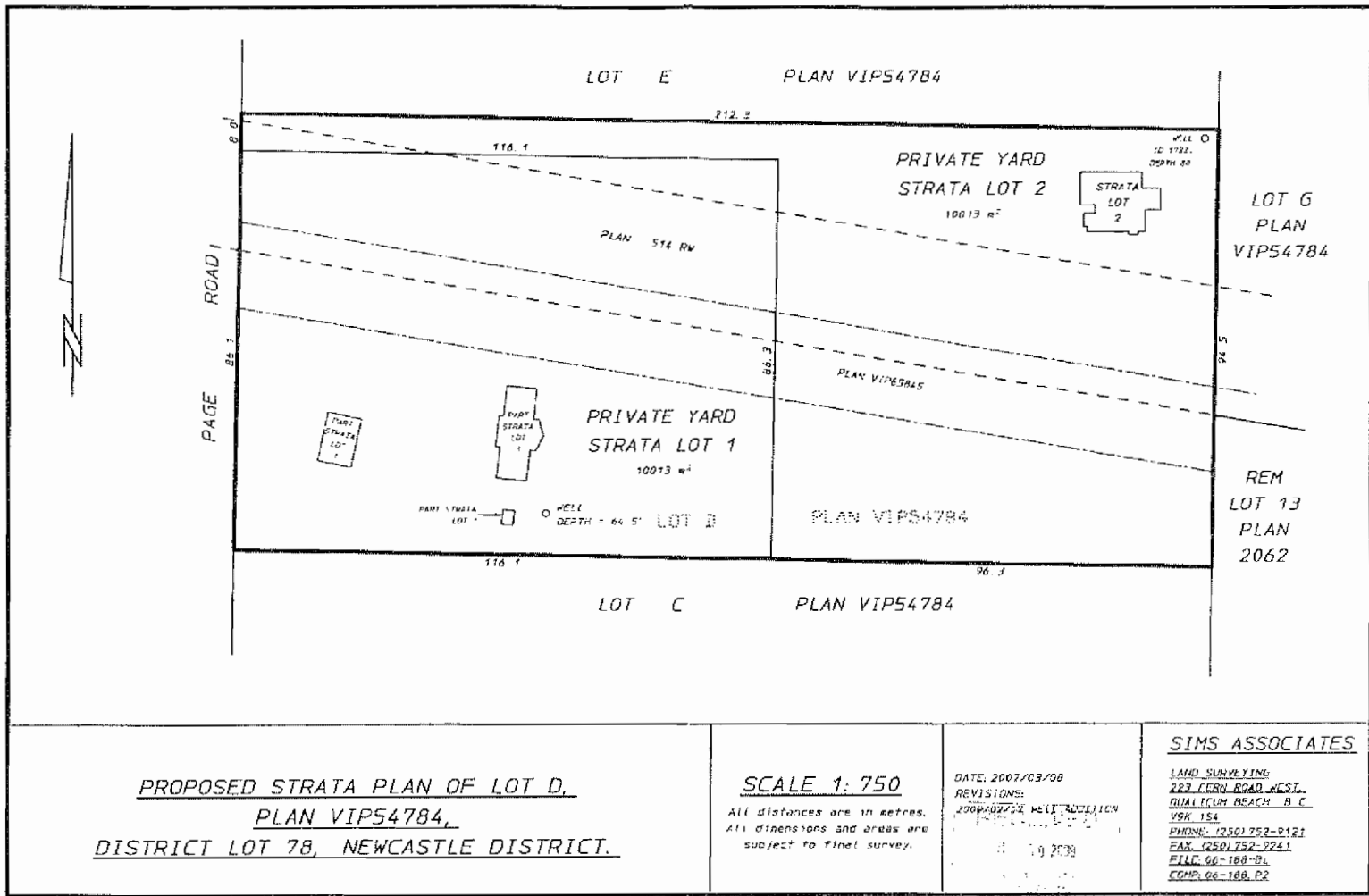
**Schedule No. 1
Conditions of Proposed Building Strata Conversion
1057 and 1065 Page Road - Lot D, District Lot 78, Newcastle District, Plan VIP54784**

Proposed Building Strata Conversion:

The following conditions are to be completed by the applicant to the satisfaction of the Regional District of Nanaimo:

1. The building strata conversion shall be in substantial compliance with Schedule No. 2.

Schedule No. 2
 Proposed Plan of Building Strata Plan
 1057 and 1065 Page Road - Lot D, District Lot 78, Newcastle District, Plan VIP54784



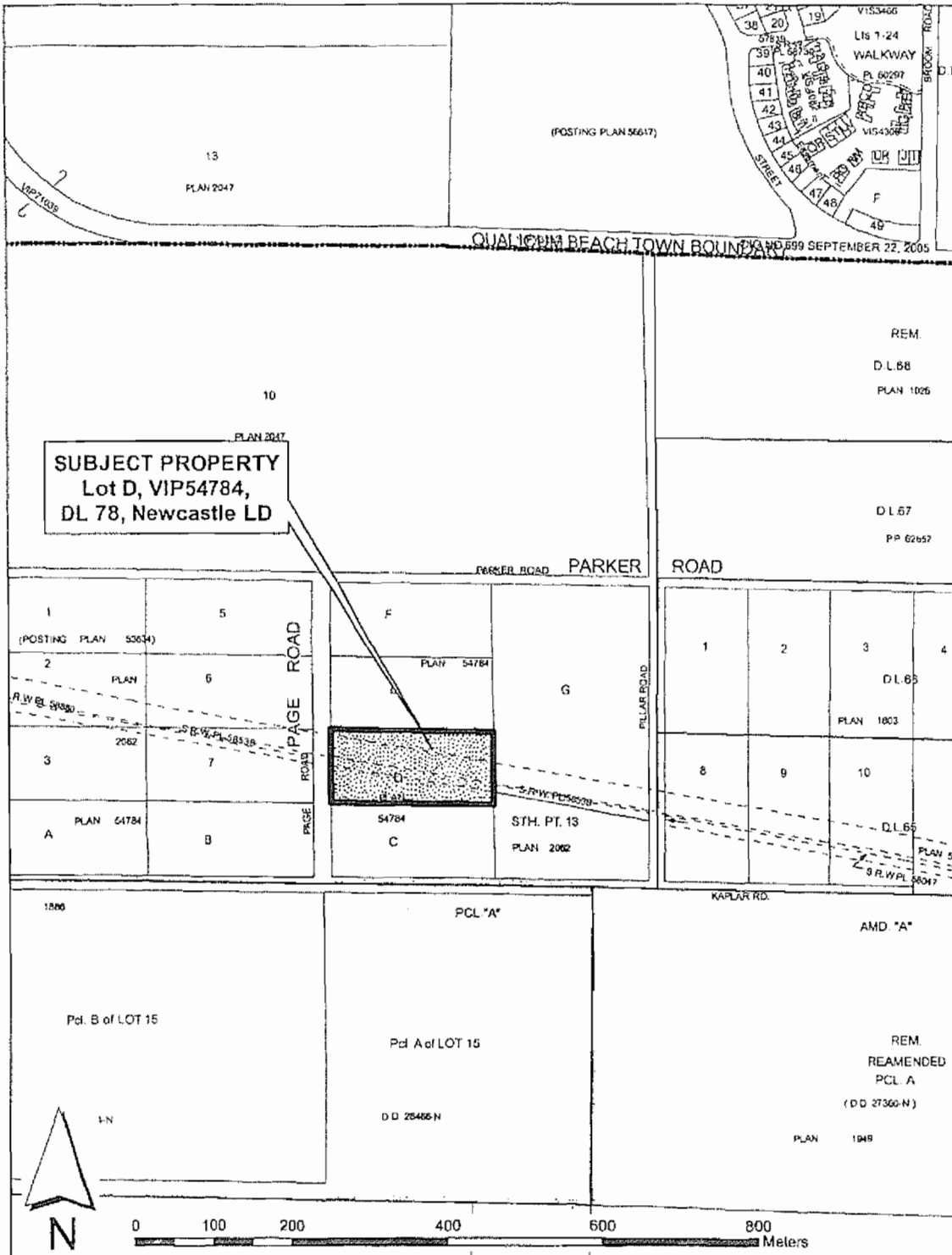
PROPOSED STRATA PLAN OF LOT D,
PLAN VIP54784,
DISTRICT LOT 78, NEWCASTLE DISTRICT.

SCALE 1: 750
 All distances are in metres.
 All dimensions and areas are
 subject to final survey.

DATE: 2007/03/08
 REVISIONS:
 2009/02/24 WEST ADDITION
 2009/02/24 WEST ADDITION

SIMS ASSOCIATES
 LAND SURVEYING
 222 FERN ROAD WEST,
 QUALIFUM BEACH B.C.
 V9K 1S4
 PHONE: (250) 752-9121
 FAX: (250) 752-9241
 E-MAIL: 66-188-DL
 COMP: 66-188-D2

Attachment No. 1
Location of Subject Property
1057 and 1065 Page Road - Lot D, District Lot 78, Newcastle District, Plan VIP54784



BCGS MAPSHEET NO. 92F.038.2.3