

REGIONAL DISTRICT OF NANAIMO

BOARD MEETING
TUESDAY, JULY 28, 2009

A D D E N D U M

PAGES

COMMUNICATIONS/CORRESPONDENCE

- 3-6 **David Nee Nee**, re Development Permit with Variance Application No. 60921 – Whitaker – 5361 Island Highway West – Area ‘H’.
- 7-14 **Michele Lacey**, re Development Permit with Variance Application No. 60921 – Whitaker – 5361 Island Highway West – Area ‘H’.
- 15 **Keren Brenton**, re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.
- 16-22 **Brian Dane and Lynne Palaia**, re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.
- 23 **Kenneth and Bonnie Henson**, re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.
- 24-25 **Rosamond Moore**, re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.
- 26 **Bud Emrich**, re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.
- 27 **Sandra Petrie**, re re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.
- 28-29 **Lou and Sjoukje Lemmann**, re re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.
- 30-31 **Brian and Vicky Field**, re re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.
- 32 **Allen Penner and Katie Lock**, re re Development Permit with Variance Application No. 60926 – Ivens – 3951 Bovanis Road – Area ‘H’.

ADMINISTRATOR’S REPORTS

- 33-35 **Infrastructure Planning Grant – Joint Regional Waste-to-Energy Viability Study.**
(All Directors – One Vote)

- 36-43 Bylaws No. 1124.08 and 889.52 – Inclusion of 899 McFeely Drive into the Surfside Sewer Local Service Area – Area G. (All Directors – One Vote)
- 44-49 Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement – Fern Road Consulting on behalf of C & D Springford – 1884 and 1950 Northwest Bay Road – Areas ‘E’ and ‘G’. (Electoral Area Directors except EA ‘B’ – One Vote)

David M. Nee Nee
5366 West Island Hwy. Qualicum Beach,
B.C. V9K 2E8

July 24, 2009

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, B.C. V9T 6n2

RDN			
CAO	<input checked="" type="checkbox"/>	GMF&IS	
GMDS	<input checked="" type="checkbox"/>	GMR&PS	
GMEP		GMTS	
JUL 28 2009			
SMPA			
CHAIR		BOARD	<input checked="" type="checkbox"/>

Attention: RDN Board of Directors - JULY 28TH, 2009 MEETING

Dear Sirs:

RE: Development Permit with Variance Application No. 60921
- Whitaker - 5361 Island Hwy. West, Qualicum Beach, B.C.

I am writing to you to register my objection to Variance Application No. 60921 - 5361 Island Hwy. West, Electoral Area H, Lot A, District Lot 16, Newcastle District, Plan 11435.

Before I give you my reasons for my objection to this requested variance I would like to describe to you the type of dwellings that presently exist in this particular waterfront area. Most of the dwellings are summer cottages or summer bungalow buildings. The ownership of these properties is that of senior citizens. The reason I make this statement regarding the age of the owners of these properties is because in the near future when this ownership passes these properties will be purchased by new individuals. Now what they are going to want to do is pull down these old buildings and erect new ones. If you allow this height variance sought by these new owners of 5361 Island Hwy. West then these new owners of other properties that are going to come up for sale are going to want to build higher than eight meters, no doubt the first applicant will be starting at 8.7 meters if you grant this variance application. My point is that if you approve this height variance there is no doubt in my mind that others will want the same height and who knows how much higher they will seek.

REASONS FOR OBJECTING TO THIS 8.7 METER VARIANCE APPLICATION

1. It exceeds the height maximum by .7 of a meter (approximately 27") plus the flood plain requirement of 3.8 meters as stated in the geotechnical report.
2. It restricts my view of the ocean. Now I am a believer that one who owns a piece of land, particularly this property in question, should be able to do whatever they want with it but at the same time they should be made to adhere to the existing Bylaws.
3. The Notice of Development Permit Variance Application notification time I find that the time given to register an objection was very short. I received the notification after checking my mailbox on the 20th of July, 2009. It had been posted from the Regional Board office on July 17th, 2009. When I read the notice it informed me that I had until July 28th at 4:30pm to register my objection and submit my submission.

You might say that is a reasonable time except for the following:

- (a) the most critical document regarding this Variance Application was the site plan, Attachment #2 which I am enclosing as Exhibit "A". On this site plan you could read everything except the important measurements. It is virtually impossible to read any dimensions. You cannot read any of the height measurements and I am sure that you will come to the same conclusion that I have when you view the Exhibit "A" which is that the site plan was of no use when trying to figure out why they require a variance and the location of the new construction
- (b) No where in this literature that I received from the Planning Department is this new construction referred to as a "two storey single dwelling unit". It is referred to as a "single dwelling unit" but not as a "two storey single dwelling unit". I find this a little bit deceiving.
- (c) On July 20th after receiving this Notification I phoned the Planning Department and had a conversation with Kristy Marks, a planner in the Planning Department who is in charge of this file. After having a lengthy conversation with her, she informed me that the Planning Department was recommending acceptance of this variance application. I said to her "how can you be recommending acceptance of this variance application when you have not received the objections yet?". She then informed me that the geotechnical report recommended that the floor height should be a minimum of 3.8 meters above the natural ground level in order to meet the Flood Plain Height requirements. She then said that was the reason that they were approving the .7 meter height variance application and that in cases like this variance application because of the flood plain requirement they usually recommend approval. I then said to her "What you are saying to me is that the 8.0 meter height restriction starts at the top of the foundation" and she replied "well yes and no". I stated to her that this new owner of the property knew full well that this piece of property was in a flood plain area and that it required a Development Permit. All of this information would have been disclosed under the *Real Estate Act* to the Purchaser. So to grant this variance application for the reason that it was in a flood plain I felt is not justified due to the fact that the owners knew or should have known the property had to comply with the existing development permit requirements, especially the flood plain height requirement.
- (d) One would think that if you buy a piece of property you would purchase it subject to a site survey, a geotechnical report and with that information you would then give it to your architect and design your building to meet the regulation height. And by the way this architect is a local person who knew full well that this property was on a flood plain and it required a geotechnical report as part of the development permit application. This owner has gone ahead and had a building designed and now they are trying to use the 8 meter height restriction measuring

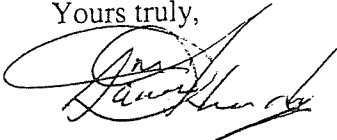
the height from the top of the foundation that was established by the geotechnical report. If it is allowable to measure the 8 meter height from the top of the foundation wall, what is to stop someone from pouring a 10 foot high foundation and then measuring the further 8 meters to meet the 8 meter height maximum? You would end up with an 11 meter high building - 3 meters above the 8 meter maximum height bylaw.

- (e) On page two of the memorandum it clearly states under Policy B1.5 - Evaluation that the applicants have provided the following justification for requested height variation. It states there are no anticipated view implications related to the requested height variance for adjacent properties. This is totally untrue.

In summary they are trying to exceed the height variance not by a few inches but approximately 27 inches plus measuring the 8.7 meters from the top of the foundation wall. This measurement of 8.7 meters does not include the 3.8 meters required to meet the flood plain requirement as stated in the geotechnical report. I trust you will agree with my position and vote against this Variance Application. This height increase is unacceptable and that the owners should adhere to the 8 meter established height maximum, even if they have to redesign a new building. They knew the height requirements before they designed the building.

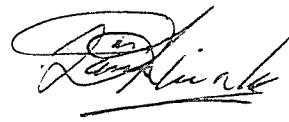
Thank you for your consideration of my submission.

Yours truly,

A handwritten signature in black ink, appearing to read "Dave Nee Nee", written over a circular stamp or seal.

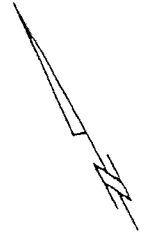
Dave Nee Nee
Enclosure

EXHIBIT "A"

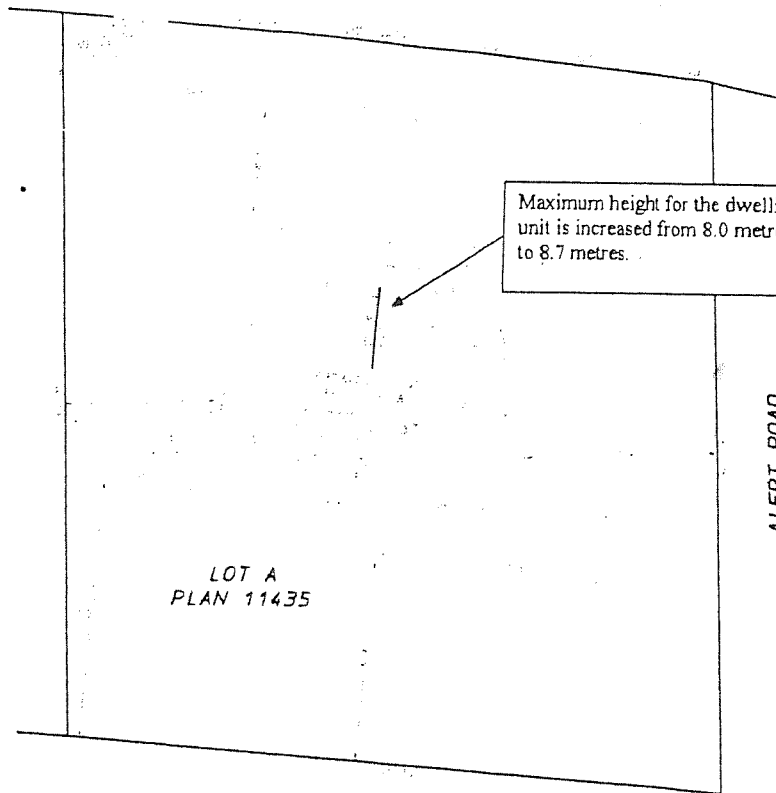


Attachment No. 2
Site Plan

PLAN OF LOT A, DISTRICT LOT 16,
NANOOSE DISTRICT, PLAN 11435.
SHOWING PROPOSED HOUSE LOCATION THEREON.
SCALE 1:300



STRAIT OF GEORGIA



HEIGHTS

LEGEND

SIMS ASSOCIATES

5360 West Island Highway
Qualicum Beach, BC
V9K 2E8

July 23, 2009

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

Attention: RDN Board Directors – July 28, 2009 Meeting

Dear Sir or Madam

Re: Development Permit with Variance Application No. 60921 – Whitaker

5361 Island Highway West, Qualicum Beach

I am writing to object to approval of Development Permit with Variance Application No. 60921.

I purchased 5360 Island Highway West in 1999. One reason for purchase was the significant ocean view (from the coastline to Texada and Lasqueti Islands and the coastal mainland) a local builder told me I would never lose, as the property at 5361 Island Highway West was in a flood hazard area and no house construction would be permitted.

Bylaw 500 height restriction of 8.0 metres has not been met. Prior to purchase, the Whitakers and their Deep Bay resident architect Rina Knoesen would have known the subject property was within a flood hazard area, and the maximum dwelling unit height is restricted to 8.0 metres by RDN bylaw.

Page 1 of 3

RDN			
CAO	✓	GMF&IS	
GMDS	✓	GMR&PS	
GMES		GMTS	
JUL 28 2009			
SMC			
CHAIR		BOARD	✓

Other local newly constructed oceanfront homes have met the 8.0 metre height restriction by employing a loft design versus a second floor, intentionally mitigating loss of ocean view. Consideration of neighbours was also demonstrated by constructing a detached garage.

Allowing a height variance will severely affect my property value and ocean view forever, whether or not the Whitakers continue to own the property.

There are view implications for five properties on the opposite side of the highway and all through traffic. No net benefit to the community will be achieved.

This proposal will effectively reduce the ocean view between Alert Road and Qualicum River to the view obtained through the beach access. The RDN is opening the door to future height variances for all oceanfront residences and subsequently to those properties on the opposite side of the highway.

At the south corner the largest and veteran Douglas Fir, estimated at >50 cm diameter at breast height and 150+ years old, has large sap deposits and common dangerous tree indicators: witches' broom, dead limbs >10 cm diameter, broken top, and numerous bird-made cavities extending from the base up the trunk. Two or three mature Douglas Fir along the highway boundary were wind thrown within recent years. Given the prevailing Qualicum winds, winter storms and sandy marine deposit soil conditions, there exists inevitable potential for foundation excavation to undermine tree root systems. This opens up the question of liability fringing on negligence, knowing full well the consequences on excavating so close to these ancient trees. Has this serious point been considered before recommendation of variance acceptance by the planning department?

The proposed variance is unnecessary. A one level house can be built. Is the proposed home a single family dwelling or a future bed and breakfast accommodation? **The proposed home square footage is five times greater than my single family dwelling and more than five times greater than cottages directly to the north.** Surely they can keep within RDN Policy B1.5 Part A 2. a) i to prevent obstruction of views.

There was no public notice posted on the subject property and notification of the variance proposal was made by mail delivered to my rural super mailbox July 17, 2009.

Had I been on holidays or not checked for mail I would be unaware of this variance proposal and the brief window for any objections may well have escaped my attention.

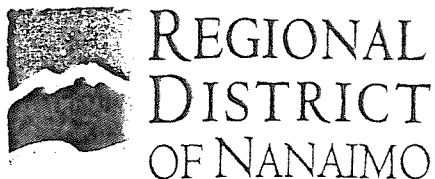
I feel the RDN's notification system is flawed: acceptance of the applicant's poor quality drawings and subsequent reproduction of lesser quality drawings for distribution to properties within 50 metres; of which some are absentee owners in Victoria and Chemainus, which precludes for them and I travel time to the RDN office to view original drawings; as well, the pdf drawings emailed to me were unreadable; and Area H Representative Dave Bartram is on holidays, returning late August and I cannot discuss this issue with him.

I attach as Exhibit One five pages received July 17, 2009 from the RDN Development Services.

Sincerely


Michele Lacey

Attachment: 1



REGIONAL
DISTRICT
OF NANAIMO

NOTICE OF DEVELOPMENT PERMIT WITH
VARIANCE APPLICATION NO. 60921

5361 Island Highway West

Electoral Area 'H'

DEVELOPMENT SERVICES

The Board of the Regional District of Nanaimo (RDN) at its regular meeting to be held **Tuesday, July 28, 2009** at 7:00 pm in the Board Chambers of the Regional District of Nanaimo Administration Offices, located at 6300 Hammond Bay Road, Nanaimo, BC, intends to consider the issuance of a Development Permit with Variance for the parcel located at **5361 Island Highway West** in Electoral Area 'H' and legally described as:

Lot A, District Lot 16, Newcastle District, Plan 11435
(see Attachment No. 1 for location of subject property)

If approved, this Development Permit with Variance will vary section 3.4.62, Maximum Number and Size of Buildings and Structures of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," by increasing the maximum height for a dwelling unit from 8.0 metres to 8.7 metres to permit the construction of a single dwelling unit, as shown on *Attachments No. 2 and 3*.

All persons who consider their interest in the property to be affected by the proposed variance will be afforded an opportunity to be heard in person, by a representative or by written submission. Written submissions received at the Regional District office by **4:30 pm, Tuesday July 28, 2009** will be circulated to RDN Board Directors prior to the meeting.

This Development Permit with Variance application may be inspected at the offices of the Regional District of Nanaimo, Monday to Friday (except statutory holidays) 8:30 am to 4:30 pm from the date of this notice to the date of the Board meeting.

If you require further details on this application, please contact the RDN Planning Department at:

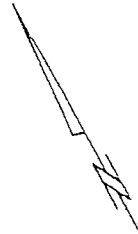
- ▶ Phone: (250) 390-6510 or (250) 954-3798 in District 69 or 1-877-607-4111 toll free in BC
- ▶ Fax: (250) 390-7511 ▶ email: planning@rdn.bc.ca ▶ web: www.rdn.bc.ca
- ▶ 6300 Hammond Bay Road ▶ Nanaimo BC ▶ V9T 6N2

Date of Notice: Wednesday July 15, 2009

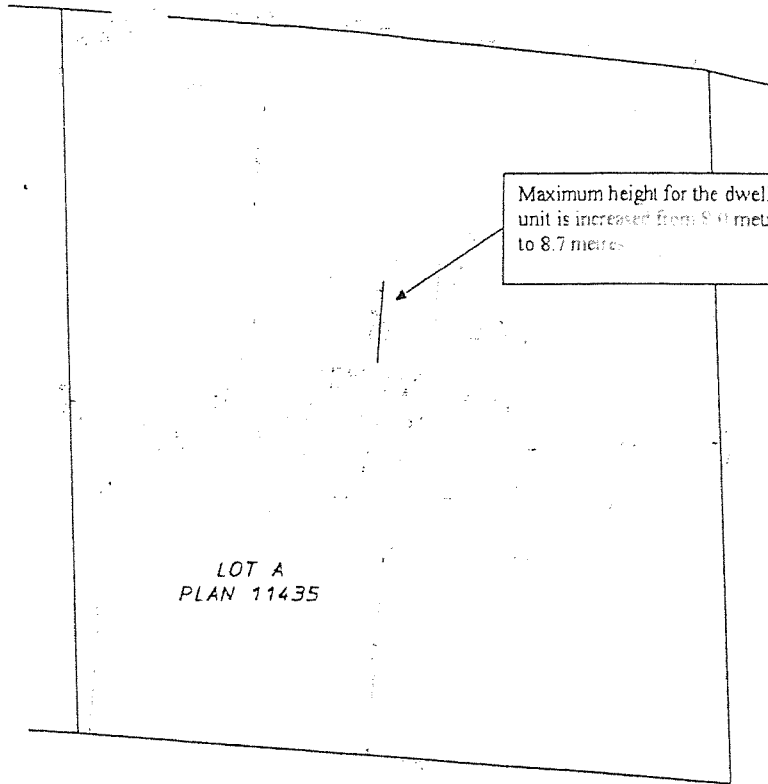
Page one of five
Exhibit One *mg*
Rec'd Jul 17/09

Attachment No. 2
Site Plan

PLAN OF LOT A, DISTRICT LOT 16,
NANOOSE DISTRICT, PLAN 11435,
SHOWING PROPOSED HOUSE LOCATION THEREON.
SCALE 1:300



STRAIT OF GEORGIA



HEIGHTS

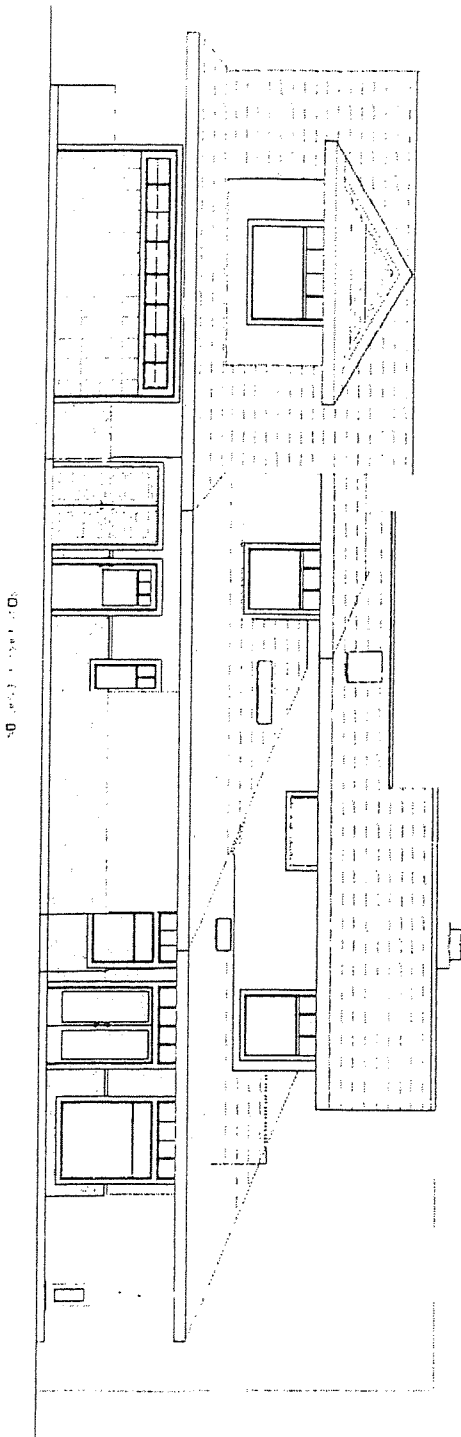
LEGEND

SIMS ASSOCIATES

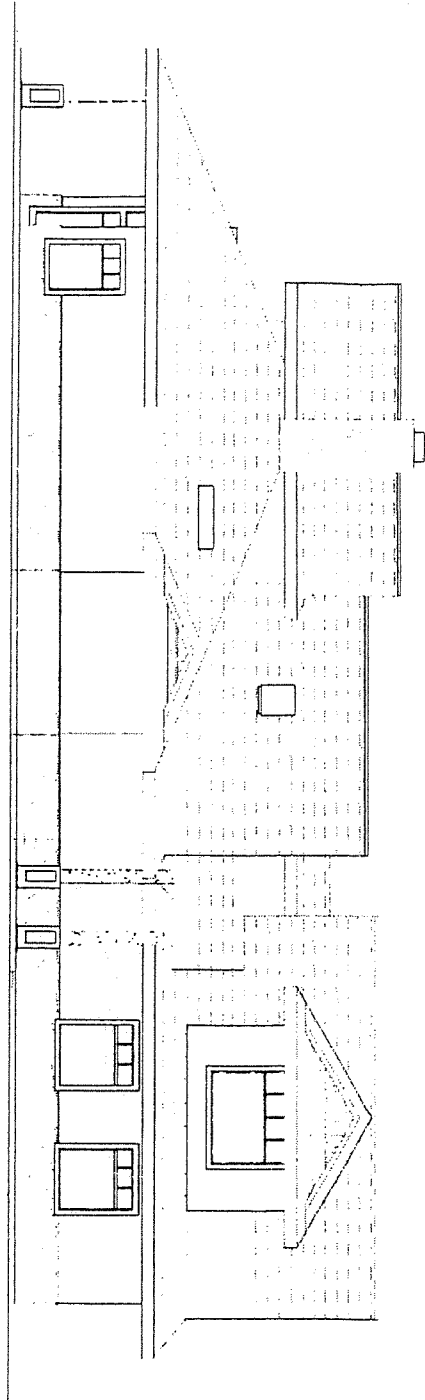
Attachment No. 3
 Building Elevations
 (Page 1 of 2)

WILLIAMS DESIGN & ARCHITECTURE
 1011 1/2 AVENUE
 SUITE 100
 WASHINGTON, DC 20004
 TEL: 202-462-1000
 FAX: 202-462-1001
 WWW: WWW.WILLIAMS-DA.COM

SECTION OF
 NORTH ELEVATION



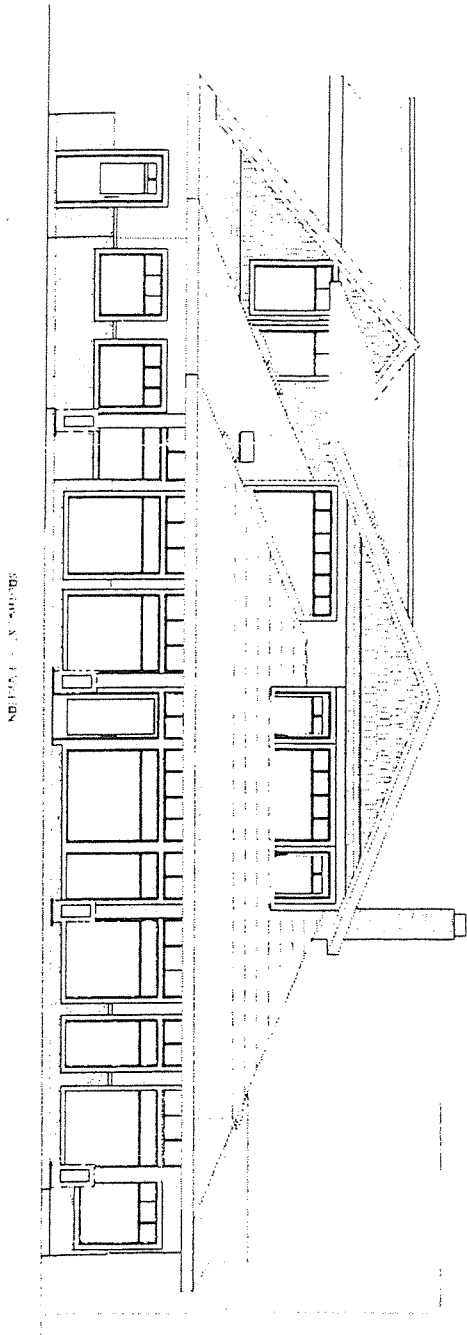
SECTION OF
 SOUTH ELEVATION



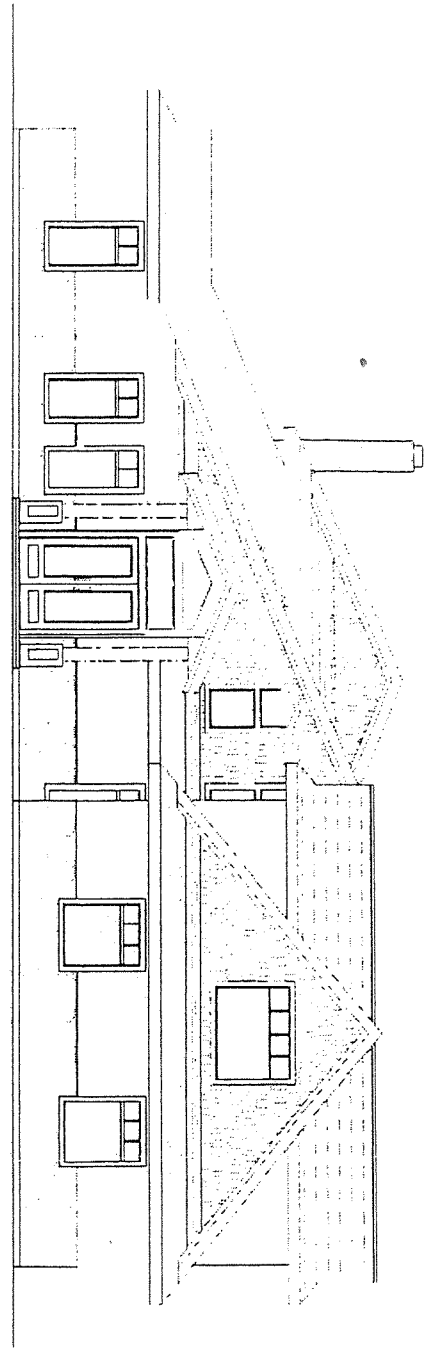
Page four of five
 Exhibit One MJ

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

SECTION 1 - ELEVATION
 SECTION 2 - ELEVATION



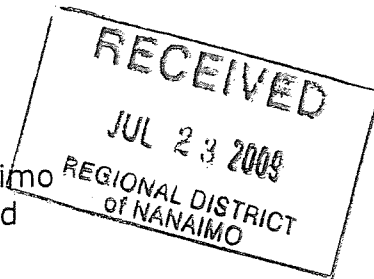
SECTION 2 - ELEVATION



Page five of five
 Exhibit One M

3956 Bovanis Road
RR1, Site 115, C24
Bowser, B.C.
V0R 1G0

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



July 20, 2009

Attention: Development Services

**VARIANCE APPLICATION NO.60926 – 3951 BOVANIS ROAD,
ELECTORAL AREA 'H'**

We are in receipt of your letter dated July 15, 2009 regarding the above subject.

Please note that we oppose the above variance application for the following reasons:

1. The proximity and orientation of the dwelling will unduly compromise the privacy of the adjacent landowner at 3957 Bovanis Road and the addition of a second story will further aggravate that situation. The property in question is very large with only a very small portion of it dedicated to a home. There appears to be ample room to expand the existing dwelling without adding a second story and adversely affecting the adjacent property owner.
2. The addition of a second story to the existing home will not comply with the "Schedule of Restrictive Covenants Referred to in the Bovanis Enterprises Ltd. Prospectus Covering Lots 1-21 Inclusive, District Lots 85 & 22, Newcastle District Plan 23173" registered against the title of properties in this subdivision. This restrictive covenant (copy enclosed) was originally prepared and agreed upon by the homeowners to ensure that dwellings on waterfront lots (Lots 1-10 inclusive) did not obstruct possible views of the properties on the non-waterfront side of the development. Article #6 of the Restrictive Covenants states that:

"No more than one detached single family dwelling, not to exceed, excluding chimneys, 20 (twenty) feet in height on lots 1-10 inclusive, not more than 30 (thirty) feet in height, excluding chimneys, on lots 11-21 inclusive ..."

The subject property at 3951 Bovanis Road is Lot 6 on the attached covenant document. The covenant did not expire with time as indicated by Article #12 that states:

"This Schedule of Restrictions shall be binding until the First day of January A.D. 1990, at which time the said Schedule of Restrictions shall without any act of acts on the part of the Grantor or Grantee to be deemed to have been extended for successive periods of ten (10) years, unless prior to the said date, or prior to the expiration of any extended period, as the case may be, by a majority vote of the registered owners of the lands within the building estate covered by this Schedule of Restrictions it is agreed to vary the said Schedule of Restrictions in whole or in part."

Therefore, the current successive period for the restrictive covenants would be in effect until January 1, 2010 based upon this criteria.

With this in mind, a recent poll of the residents in the neighbourhood available at this time, indicated support of the existing covenant and a copy of the polling document is attached for your information. Considering this strong support of the Restrictive Covenants, we are of the opinion that the RDN should support the intent of this document and the wishes of the neighbourhood.

Yours truly,

 *Lynne C. Palaia*

Brian Dane/Lynne Palaia
3956 Bovanis Road

Attach.

SCHEDULE OF RESTRICTIVE COVENANTS REFERRED TO IN THE BOWANIS ENTERPRISES LTD.
PROSPECTUS COVERING LOTS 1-21 INCLUSIVE, DISTRICT LOTS 85 & 22, NEWCASTLE
DISTRICT PLAN 23173

1. There shall not be erected, constructed, or made on the lands any residence, building, fences or other improvements, addition or alteration thereof, unless and until the proposal to erect such building, or make such improvements, addition or alteration, and proper plans, elevations and specifications thereof setting forth all materials to be used, with details as to their quantities and qualities, shall have been first submitted to, and approved in writing by, the Grantor who shall have the right and power to approve or reject the same.
2. No longer than a period of twelve months from the date of commencement shall elapse for the construction of the exterior of any building on the land herein before described before being completed in a proper and substantial manner and to the satisfaction of the Grantor.
3. No livestock or poultry shall be maintained on the said Lots saving and excepting ordinary domestic animals connected with the occupation of said premises by a family.
4. No building or part thereof on the lands shall be used as a boarding house, rooming house, hotel, beer parlour, resort, store, restaurant shop or place of trade or business and no trade or business of any kind shall be carried on on the said lands, provided however, that (subject to the other restrictions of this Schedule) this restriction shall not prevent physicians, lawyers, writers, artists, or other professional men or women from having their offices or studios on the premises, nor prevent the erection or use of any building or part of any building, or the use of the premises or any part thereof, for a school for children, provided such erection and use shall first have received the sanction and approval of the Grantor.
5. The Grantee will not erect, expose or maintain or permit to be erected, exposed or maintained upon the said lands any placard, or advertising sign other than the usual doorplate of any professional man or woman save and except those incidental to any place of business, worship, congregation or otherwise as may be determined pursuant to restrictive covenant 4 (four) hereof.
6. No more than one detached single family dwelling, not to exceed, excluding chimneys, 20 (twenty) feet in height on lots 1-10 inclusive, nor more than 30 (thirty) feet in height, including chimneys, on lots 11-21 inclusive-- a private garage for not more than two cars with tool shed attached and a neat and permanent building for boat storage shall be erected on any one parcel or lot save and except pursuant to restrictive covenant 4 (four) hereof.
7. The Grantee shall not erect on the said lands any dwelling, house or other building closer than 30 (thirty) feet from the front or rear lot lines or 7 (seven) feet from the side lot lines.
8. No water from any stream, culvert, ditch, pond or collection of water shall be diverted, dammed or drained, nor shall any culvert, ditch, stream or water flow be altered or interfered with without the consent in writing of the Grantor.
9. No residence may be erected or moved on to any lot which does not equal or exceed the value of the lot on which it is placed. A trailer or mobile home may be used as a permanent residence provided it is placed on a permanent foundation and that it meets the preceding stipulations as to value and as to the installation of sanitary facilities to the Department of Health regulations.

excepting ordinary domestic ~~business~~ ~~connected~~ with the occupation of said premises by a family.

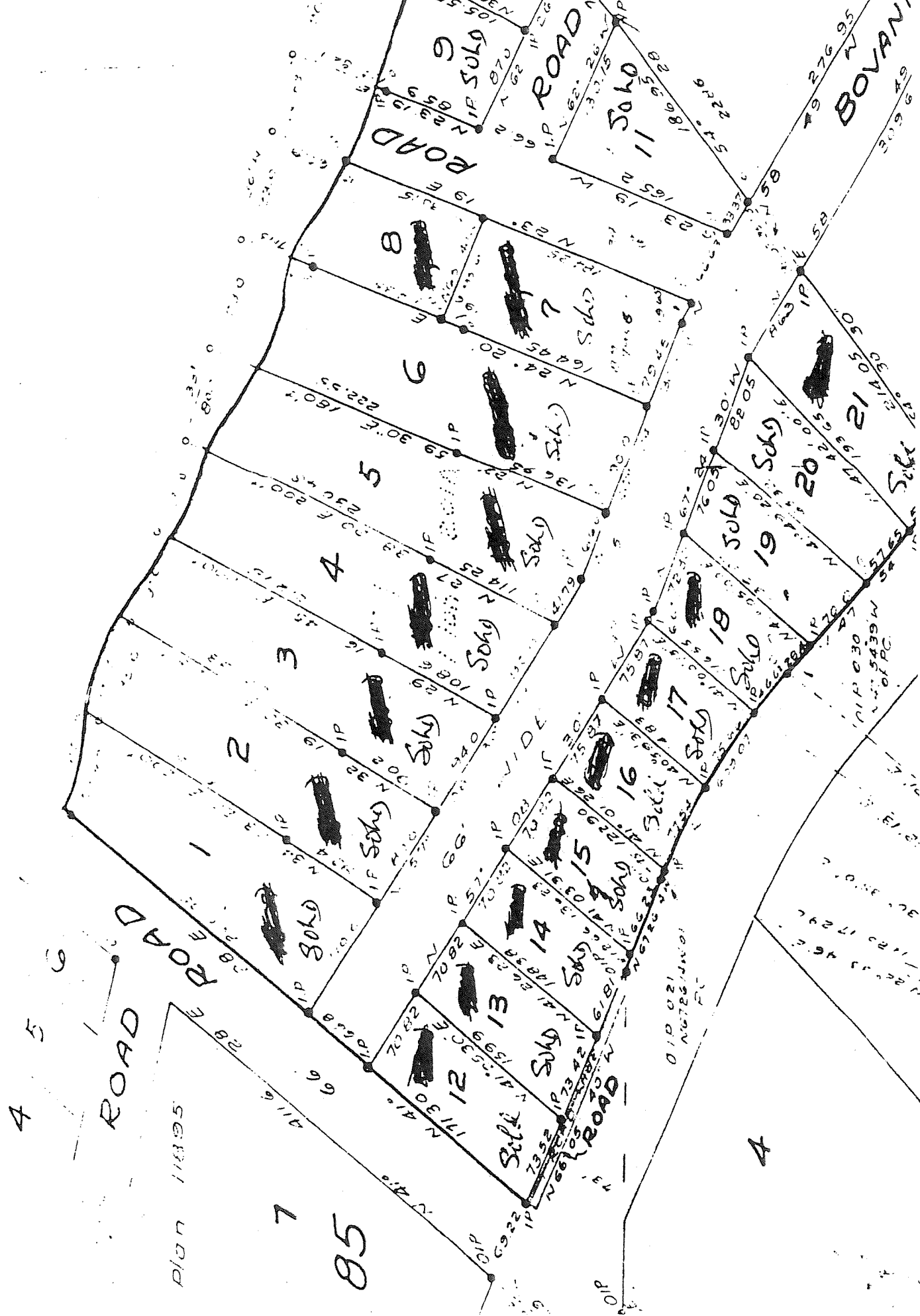
4. No building or part thereof on the lands shall be used as a boarding house, rooming house, hotel, beer parlour, resort, store, restaurant, shop or place of trade or business and no trade or business of any kind shall be carried on on the said lands, provided however, that (subject to the other restrictions of this Schedule) this restriction shall not prevent physicians, lawyers, writers, artists, or other professional men or women from having their offices or studios on the premises, nor prevent the erection or use of any building or part of any building, or the use of the premises or any part thereof, for a school for children, provided such erection and use shall first have received the sanction and approval of the Grantor.
5. The Grantee will not erect, expose or maintain or permit to be erected, exposed or maintained upon the said lands any placard, or advertising sign other than the usual doorplate of any professional man or woman save and except those incidental to any place of business, worship, congregation or otherwise as may be determined pursuant to restrictive covenant 4 (four) hereof.
6. No more than one detached single family dwelling, not to exceed, excluding chimneys, 20 (twenty) feet in height on lots 1-10 inclusive, nor more than 30 (thirty) feet in height, excluding chimneys, on lots 11-21 inclusive-- a private garage for not more than two cars with tool shed attached and a neat and permanent building for boat storage shall be erected on any one parcel or lot save and except pursuant to restrictive covenant 4 (four) hereof.
7. The Grantee shall not erect on the said lands any dwelling, house or other building closer than 30 (thirty) feet from the front or rear lot lines or 7 (seven) feet from the side lot lines.
8. No water from any stream, culvert, ditch, pond or collection of water shall be diverted, dammed or drained, nor shall any culvert, ditch, stream or water flow be altered or interfered with without the consent in writing of the Grantor.
9. No residence may be erected or moved on to any lot which does not equal or exceed the value of the lot on which it is placed. A trailer or mobile home may be used as a permanent residence provided it is placed on a permanent foundation and that it meets the preceding stipulations as to value and as to the installation of sanitary facilities to the Department of Health regulations.
10. The Grantee shall not erect or construct a privy or pit toilet on the said lands.
11. No commercial vehicle of over 4 (four) tons gross weight shall be regularly parked on any lot.

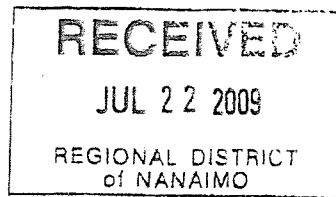
Page 1 of 2 PAGES

SCHEDULE OF RESTRICTIVE COVENANTS REFERRED TO IN THE BOWANIS ENTERPRISES LTD.
PROSPECTUS COVERING LOTS 1-21 INCLUSIVE, DISTRICT LOTS 85 & 22, NEWCASTLE
DISTRICT PLAN 23173

12. This Schedule of Restrictions shall be binding until the First day of January A.D. 1990 at which time the said Schedule of Restrictions shall without any act or acts on the part of the Grantor or Grantee be and be deemed to have been extended for successive periods of ten (10) years, unless prior to the said date, or prior to the expiration of any extended period, as the case may be, by majority vote of the registered owners of the lands within the building estate covered by this Schedule of Restrictions it is agreed to vary the said Schedule of Restrictions in whole or in part. ~~For the purpose of this clause a vote may be given either by written~~ direction or by vote cast in the usual way at a meeting called for the purpose of considering the matter in respect of which a vote is to be taken and of which not less than 30 (thirty) day's notice in writing has been given to each registered owner, specifying the nature of any variation intended to be voted upon. Any such notice shall be validly given if addressed to the registered owners affected and sent by prepaid registered post to the last address of each registered owner appearing on the Provincial Assessment Roll.

Page 2 of 2 pages





R.R.#1, Site 115,
C. 12, #30 Henson Rd.
Bowser, B.C.
V0R 1G0
Ph. 250-757-9406
Dated July 16, 2009

Regional District of Nanaimo
Development Services.

This letter gives our full and complete support for any and all changes, including a second storey addition to the dwelling at 3951 Bovanis Road in Electoral Area 'H' and legally described as Lot 6, District Lots 85 and 22, Newcastle District, Plan 23173.

Sincerely,

Kenneth and Bonnie Henson.

WK Henson Bonnie Henson

Burgoyne, Linda

From: Leung, Elaine
Sent: Thursday, July 23, 2009 10:36 AM
To: Burgoyne, Linda
Subject: FW: Variance Application #60926

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

From: Rosamond Moore [mailto:kaufenbucher@yahoo.com]
Sent: Tuesday, July 21, 2009 4:44 PM
To: email, planning
Subject: Variance Application #60926

Rosamond W. H. E. Moore
Lot 5; 3957 Bovanis Road
Bowser, BC
250-757-8719

July 21, 2009

Regional District of Nanaimo
e-mailed to: planning@rdn.bc.ca

Dear Sirs:

Re: Development Permit with Variance Application No. 60926; 3951 Bovanis Road Electoral Area 'H'

I would appreciate receiving confirmation by telephone of your receipt of this submission, to 250-757-8719. This is the residence where I am presently located, but there is no internet connection. An e-mail confirmation would also be appreciated.

I am in receipt of the Notice of the above Development Permit, dated July 15, 2009. I am the owner of the adjacent property, west of the subject property, that is: Lot 5 at 3957 Bovanis. The property has been in our family since 1977.

Both the applicant's property and mine are waterfront lots, with residences close to Bovanis Road. The applicant's house is close to our mutual boundary (1.5 metres setback), and set at an angle to the boundary, facing towards and my property.

I protest approval of the Development Permit and the consequent construction of a second storey addition to the existing residence, and I strongly take issue with the Applicant's statement that "There are no anticipated view implications related to the requested variance due to height for adjacent properties." (pg 2, June 30/09 memo to Geoff Garbutt). The submitted drawings do not show the elevation of the side of the proposed construction which faces my property.

In fact, the proposed second storey and gable end of the roof above it, at a height of 10.5 metres, and in immediate proximity to our shared property boundary, would have a major impact on my and my family's enjoyment of my property. The structure would loom above the deck, obscuring the Douglas Fir trees now visible behind the residence, on other properties. More significant, it would directly overlook the full east-west width of the deck on the water side of my house -- a deck which is now very private and one of the most enjoyable features of the house.

The patio of the subject property and the deck on my house are screened from each other by shrubbery. If this development is allowed to proceed, the privacy of my deck will be sacrificed.

A second issue is the existing "Schedule of Restrictive Covenants Referred to in the Bovanis Enterprises Ltd. Prospectus Covering Lots 1-21 inclusive, District Lots 85 & 22, Newcastle District Plan 23173", registered against

the title of properties in the subdivision. The Covenants remain in force and restrict the height of dwellings on the waterfront lots to 20 feet.

This height restriction has two benefits. Firstly, it helps ensure waterfront views for homes on the non-waterfront side of Bovanis Road. Secondly, it ensures a "level playing field" for all the waterfront properties respecting privacy. As all waterfront-lot construction is single-storey, privacy is conserved for all those homes because there are no second storeys to overlook adjacent properties' patios or decks.

These restrictive covenants were pointed out to us when we bought these properties and remain an important part of the characteristics of the properties and the neighbourhood.

This application affects the whole neighbourhood. If the covenants are ignored in this case, a precedent will have been set, creating perpetual uncertainty as to the form of future construction, and very likely straining relationships between neighbours.

In conclusion, I and my family request that the RDN deny the requested Development Permit with Variance No. 60926, on the basis of incomplete information supplied in the application and on the basis of the view and privacy implications, in favor of a less intrusive enlargement of the home in accordance with the Covenants.

A recent canvass of the neighbourhood indicated support of the existing Covenants.

My family and I have always enjoyed cordial relations with the applicant and her family, and none of the foregoing changes our appreciation of our neighbours and the value we place on friendships and consideration between and among neighbours.

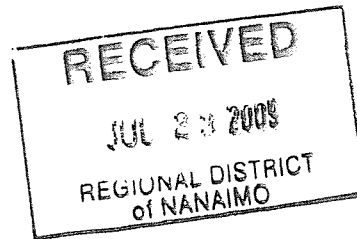
Thank you for considering the additional information I have provided and my request that a different solution be sought.

Yours truly,

Rosamond W. H. E. Moore

The new Internet Explorer® 8 - Faster, safer, easier. Optimized for Yahoo! Get it Now for Free! at <http://downloads.yahoo.com/ca/internetexplorer/>

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



NOTICE OF DEVELOPMENT PERMIT WITH VARIANCE APPLICATION #60926

I am a property owner at 3948 Bovanis Road, directly across the street from 3951 Bovanis Road that is the subject of the above variance application.

I am opposed to the proposed changes to the home at 3951 Bovanis Road for the following reasons:

1. The existing home is situated very close to the property line so that it looks directly at the adjacent property owner's home at 3957 Bovanis Road and a second story will eliminate all privacy for that neighbour.
2. The addition of a second story does not comply with the Schedule of Restrictive Covenants which are registered with the title of all properties in the development and limits the height of waterfront homes to a maximum of 20 feet.
3. The intent of the Covenants was to protect the views from the non-waterfront homes by limiting the height of homes on the waterside of the street.
4. The addition of a second story will directly affect the view from my home that is across the street and devalue my property as a result.
5. The property is very large and would easily accommodate an addition to the existing home without building a second story.
6. The addition of a second story would set an unwanted precedent for other potential changes to waterfront properties in the neighbourhood.

I understand that the Restrictive Covenant for this development is still valid and I support the conditions outlined in that document. I urge you to deny the variance application until such time as the neighbours are satisfied that the proposed changes to the property comply with the intent of the Covenant.

Yours truly,


Bud Emrich

RECEIVED

JUL 21 2009

Regional District of Nanaimo

Site 115 Comp. 14 R.R. 1

Bowser
B.C. VORIGO

July 21st. 2009.

To Whom it may concern,

I am in receipt of your letter of Wednesday, July 15th 2009 in regard to the notice of variance application No. 60926 for 3951 Bovaris Road in Electoral Area 'H'

I reside at 3960 Bovaris Road and feel that I will be adversely affected by the addition of a second storey to the building at 3951.

It was my understanding on purchasing my home that a restrictive covenant was in place confining buildings on the waterside of this block to one storey (20 feet) In allowing this variance it will set a precedent for other tall buildings to be constructed, thus altering the value of existing properties on the non-waterfront side of the street as well as those adjacent to the property in question.

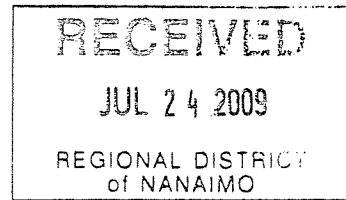
Due to the large size of the property at 3951 there is ample space to allow for a large one-storey building. I thus see no need to contravene the existing restrictive covenant.

I am, yours sincerely,

Sandra M. Petrie
Sandra M. Petrie

July 24, 2009

To
Regional District of Nanaimo
RDN Planning Dept.





Re: Development Permit with Variance Application
No. 60926

This letter serves as our notification in opposition to the development permit for a two-storey building and the variance application # 60926 for 3951 Bovaris Rd. for the following reasons.

When we purchased our property 3942 Bovaris Rd. we were assured by a document of Restrictive Covenant that there cannot be any homes built that are higher than one storey (20') to not obstruct the view from our side of the street. Since there was already a home on 3951 Bovaris Rd., we designed our house to take advantage of the remaining view. We hope that the Covenant will not be overturned by the District as it will devalue our property. We built a 2nd story deck over our garage at a substantial extra cost to our construction budget, which would be completely wasted and totally block our view to the water. With the size of the property at 3951 Bovaris Rd., I strongly ^{urge} to add a larger 1 story addition to the existing home as they have already a water view.

Sincerely


Lou Lehmann

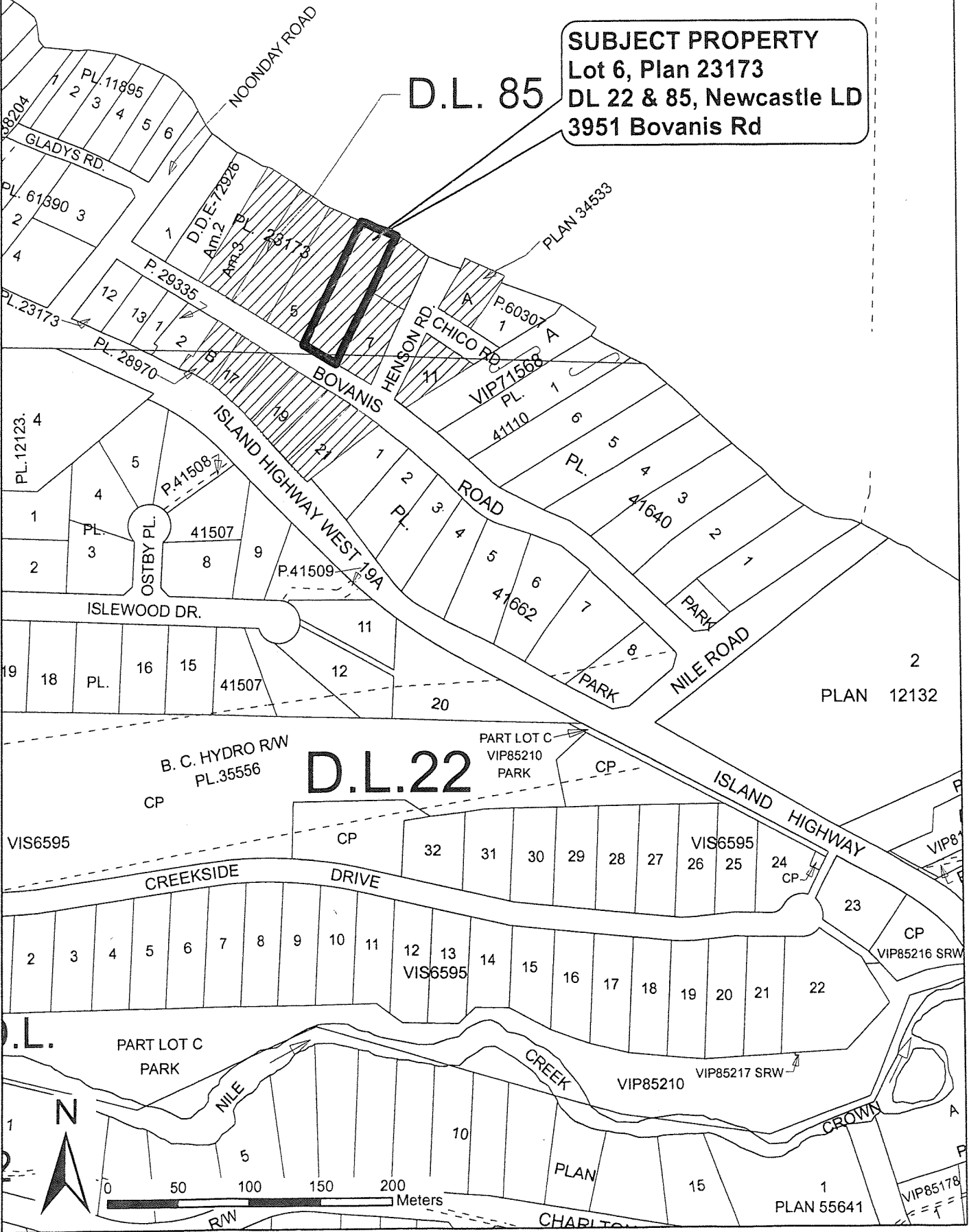

Sjoukje Lehmann

3942 Bovaris Rd
5115 C33 RR1
Bowser BC
VOR 1G0

SUBJECT PROPERTY
 Lot 6, Plan 23173
 DL 22 & 85, Newcastle LD
 3951 Bovanis Rd

D.L. 85

D.L. 22



July 27, 2009

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

Attention: Board of Directors

Reference: Variance Application #60926, 3951 Bovanis Road, Bowser, BC

Dear Board Members,

Thank you to the Board Members in allowing us this correspondence.

This note is to confirm that we agree and are in favor of the proposed building plan as submitted by the property owner for the above referenced property.

We are under the understanding that a petition and letters have been submitted with concerns about the height of the proposed structure and referring to an “out of date” covenant. We are empathetic with the feelings of these neighbors and it is unfortunate and we are sorry that they feel this way.

The covenant that these people are referring to was established in 1971, some 38 years ago. There are numerous properties within this covenant area that, both at present and in past, have overtly chosen to ignore the covenant and quite blatantly do not comply with the terms as such.

We have attempted on two specific occasions to communicate with the grantor/manager of the covenant, with regards to covenant non-compliance. Subsequently, after significant research we have confidently concluded that there is no grantor/manager in existence, nor has there been for many years. With this fact understood it has been determined that due to the numerous property owners whom do not comply with the covenant terms, in conjunction with the fact that there is no grantor/manager to correspond with or due process of decisions, than it is clearly concluded that the covenant is unenforceable, null and void. Compounding this conclusion further is that

there are some terms as written in the covenant of which are illegal and do not meet current laws, therefore making the covenant in itself illegal.

Aside from the fact that the covenant is no longer, but due most specifically to the fact that many existing property owners do not presently comply with covenant terms, than it would be unconscionable and directly prejudiced to even consider to enforce any term of the covenant on to anyone now. Creating a double standard of “**selective enforcement**” is simply not an option and is not legal.

Coincidentally, the “supposed covenant” is a private civil matter and as a property tax payer it is my belief that both the taxpayers and the RDN Board of Directors have no interest in managing nor deliberating private third party agreements.

Incidentally, of the nine residents who signed the petition three and most probably four of these residences received favorable variance approval by the RDN Board with respect to over-height limits and setback issues during construction of their homes. As well, and quite ironically, many of these nine residents have also not complied with the covenant terms.

As for these people that would like to assure themselves an unrestricted water view than there are currently two waterfront properties on our general road, and many more within close proximity of which are for sale and available for purchase right now.

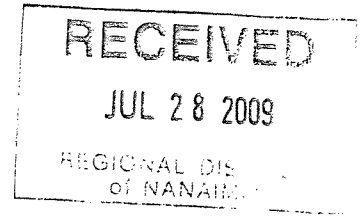
In conclusion and due to the above noted reasons we respectfully and politely request that the Board Members please approve the building proposal as submitted by Mrs. Ivens.

We would anticipate that upon conclusion of a newly remodeled and esthetically superior home that it will be to the direct benefit of each and every property owner within the immediate area.

Sincere Regards,

Brian & Vicky Field
3967 Bovanis Road
Bowser, BC

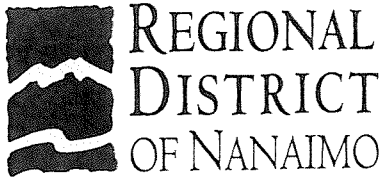
July 28, 2009



To whom it may concern,

We, Allen Penner and Katie Lock, the owners of 3952 Bovanis Rd in Bowser strongly oppose the Variance Application No. 60926 for 3951 Bovanis Rd. As the newest owners on the non-waterfront side, we support the terms of the Restrictive Covenant. Allowing the variance to pass would set an unwanted precedent for the rest of the waterfront properties that could highly obstruct our view and devalue our property. Having purchased this house on May 15, 2009 with the Restrictive Covenant in place we believed we were securing our view of the ocean and added value of our home for many years to come. If further information is needed we can be reached at 778-424-3359 or by email at allen@bcdominos.com . Thank you for your time and allowing our strong opinion for maintaining the Restrictive Covenant to be heard.

Allen Penner
Katie Lock



RDN REPORT	
CAO APPROVAL	✓
EAP	
COW	
JUL 24 2009	
RHD	
BOARD	✓ July 28

MEMORANDUM

TO: Carol Mason
Chief Administrative Officer

DATE: July 24, 2009

FROM: Dennis Trudeau
General Manager of Transportation and Solid Waste Services

FILE: 5365-22

SUBJECT: Infrastructure Planning Grant – Joint Regional Waste-to-Energy Viability Study

PURPOSE

To obtain Board approval for an Infrastructure Planning Grant to complete a joint regional waste-to-energy viability study.

BACKGROUND

In 2004 the Board approved the Regional District of Nanaimo (RDN) Solid Waste Management Plan (SWMP). The SWMP addresses both waste diversion and residual management and serves to guide solid waste management related activities and policy development in the RDN. The Ministry of Environment approved the SWMP in 2005.

One of the projects identified in the SWMP is a review of new and emerging residual waste management technologies that could further reduce the RDN's reliance on landfilling. In 2004 staff from the RDN and the Cowichan Valley Regional District (CVRD) completed a preliminary review of new and emerging technologies that may be applicable to Vancouver Island regional districts. The study, received by the Board in May 2004, recommended that the RDN continue to monitor the development of technologies that have shown technical merit as well as municipal activities in Canada related to residual waste management.

In 2008, staff had consultants complete a second, more detailed review to determine if additional waste treatment in the form of thermal processing would be feasible for recovering energy from the residual waste stream (waste-to-energy). This would occur only after recycling and composting have been fully implemented and would serve to further reduce the amount of waste going to landfill, moving the RDN and CVRD towards the goal of zero waste. Conventional and advanced treatment technologies were reviewed, as well as refuse derived fuel.

The study found that economics are not in an acceptable range at this time. For the RDN the best case thermal scenario resulted in costs that would be 80% above current landfill disposal costs. For the CVRD, which has very high disposal costs and no landfill, the costs of thermal treatment were competitive with long haul disposal (waste export). However, the residual waste quantities of the CVRD by themselves are likely insufficient for a thermal process without bringing in waste from other regions.

Consequently the report recommends that the RDN should consider continued use of the Regional Landfill while monitoring developments in waste-to-energy from a cost and technology perspective. Once the economics are cost-effective, waste-to-energy could extend the lifespan of the landfill from

2027 to 2046. The report also recommends that the CVRD should consider out-of-region waste-to-energy providers that offer economies of scale that cannot be achieved within the region or both regions combined.

The Capital Regional District (CRD), CVRD and the RDN have been meeting periodically to discuss matters of common concern. At a recent meeting the CRD expressed interest in partnering on a study to determine if the solid waste from all three regional districts would be sufficient to make the economics viable for a waste-to-energy facility located in southern Vancouver Island. Staff have had a draft scope developed by AECOM for the study.

The intent of the study will be to identify the order of magnitude costs of waste-to-energy plants for a facility that would serve the three regions and compare them to current disposal costs. This information would be analysed to determine what would be necessary to financially make the new technologies a viable option. In addition, the greenhouse gas impacts of the various disposal options would be identified and compared.

The total cost of the initial draft of the study is \$97,908, which would be shared by the three participating regional districts. Staff are planning to meet with the consultant and staff from the CVRD and CRD to discuss the scope further to reduce the overall cost to approximately \$60,000. The cost for each participant would be \$20,000.

The Ministry of Community and Rural Development makes grants available to local governments to help develop comprehensive plans for community infrastructure projects. The applications must be approved by the Board before they will be considered by the Ministry. Grants usually cover 100% of the first \$5,000 in study costs plus 50% of the next \$10,000 to a maximum grant of \$10,000. Staff are proposing that the three regional districts apply for infrastructure planning grants of \$10,000 each to assist in defraying the cost of the joint study. If the study grant is approved, staff expect that the project could be completed in the spring of 2010.

ALTERNATIVES

1. Approve submission of the Infrastructure Planning (Study) Grant application.
2. Do not approve submission of the Infrastructure Planning (Study) Grant application.

FINANCIAL IMPLICATIONS

The RDN cost for the \$60,000 study would be \$10,000. Staff would include the cost of the study in the 2010 Solid Waste budget.

SUSTAINABILITY IMPLICATIONS

New waste treatment technologies that recover energy from waste after recycling and composting have been fully implemented and have the potential to not only save valuable landfill space but to also reduce greenhouse gas emissions.

SUMMARY/CONCLUSIONS

The Solid Waste Management Plan provides for a review of new and emerging residual waste management technologies that could further reduce the RDN's reliance on landfilling. Previous studies have been completed that have looked at the viability of these new technologies. The most recent study, which included only solid waste from the CVRD and the RDN, found that economics are not in an acceptable range at this time.

The Capital Regional District (CRD), CVRD and the RDN have been meeting periodically to discuss matters of common concern. At a recent meeting the CRD expressed interest in partnering on a study to determine if the solid waste from all three regional districts would be sufficient to make the economics viable for a waste-to-energy facility located in southern Vancouver Island. Staff has had a draft scope developed by AECOM for the study.

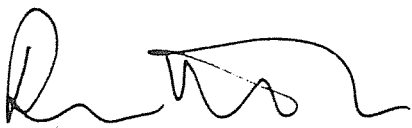
The intent of the study will be to identify order of magnitude costs of waste-to-energy plants for a facility that would serve the three regions and compare them to current disposal costs. In addition, the Greenhouse Gas impacts of the various disposal options would be identified and compared.

The total cost of the initial draft of the study is \$97,908, which would be shared by the three participating regional districts. Staff is planning to meet with the consultant and staff from the CVRD and CRD to discuss the scope further to reduce the overall cost to approximately \$60,000. The cost for each participant would be \$20,000.

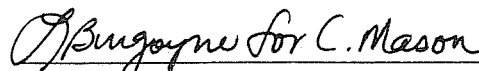
The Ministry of Community and Rural Development makes grants available to local governments to help develop comprehensive plans for community infrastructure projects. The applications must be approved by the Board before they will be considered by the Ministry. Grants usually cover 100% of the first \$5,000 in study costs plus 50% of the next \$10,000 to a maximum grant of \$10,000. Staff are recommending that the RDN apply for an infrastructure planning grant of \$10,000 to assist in defraying the cost of the joint study. Both the CVRD and the CRD will submit separate grant applications for the joint project. If a study grant is approved staff expects that the project could be completed in the spring of 2010.

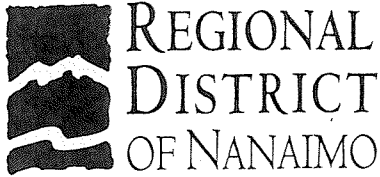
RECOMMENDATION

That staff be directed to make application to the Ministry of Community and Rural Development for an infrastructure planning grant of \$10,000 to complete a joint regional waste-to-energy viability study.



Report Writer


Chief Administrative Officer



CAO APPROVAL (17)	
EAP	
COW	
JUL 14 2009	
RHD	
BOARD	✓ Jul 28 '09
DATE:	

MEMORANDUM

TO: Mike Donnelly
Manager of Utilities

FROM: Deb Churko, ASCT
Engineering Technologist

SUBJECT: Inclusion of Lot 6, DL 9, Newcastle District, Plan 11816 into the Surfside Sewer Local Service Area, Electoral Area 'G' (899 McFeely Drive)

FILE: 5500-20-SR-01

DATE: July 13, 2009

PURPOSE

To consider a request to include Lot 6, Newcastle District, Plan 11816 (899 McFeely Drive), into the Surfside Sewer Local Service Area for the purpose of sewer connection (see location plan in Figure 1).

BACKGROUND

The subject property is located at the corner of McFeely Drive and Kinkade Road west of Qualicum Beach. The property was developed in the late 1950s and consists of 4 small cabins. The cabins have been discharging domestic sewage to four separate on-site septic tanks and disposal fields for over 45 years. The property owners have petitioned the RDN to be included in the Surfside Sewer Local Service Area. The owners wish to connect to the RDN community sewer system instead of investing in repairs to the aging septic disposal systems.

The subject property is located outside of the Urban Containment Boundary where services are not normally provided (as per the *Regional Growth Strategy*). However, the subject property is located immediately adjacent to the Surfside Sewer Local Service Area boundary, and community sewer collection mains are available on McFeely Drive and Kinkade Road. A nearby property on Surfside Drive was included in the Surfside Sewer Local Service Area through a similar boundary amendment in 2006.

Surfside Sewer Local Service Area Bylaw No. 1124 (1998) as well as Northern Community Sewer Local Service Area Bylaw No. 889 (1993) require amendment in order to include this property in the sewer service area.

The RDN Board of Directors was presented with the results of the proposed Surfside Sanitary Sewer Service Expansion in February 2009. While the community-wide sewer servicing initiative was not successful (less than 50% of property owners returned signed petitions), the discussion in the report indicated that those properties located adjacent to existing sewer mains should now be permitted to proceed with individual connection requests.

ALTERNATIVES

1. Accept the application and include the subject property into the Surfside Sewer Local Service Area.
2. Do not accept the application. Under this option, the owners would continue with existing on-site septic field disposal.

FINANCIAL IMPLICATIONS

If the application is approved for inclusion into the Surfside Sewer Local Service Area, there are no financial implications to the RDN. All costs associated with connection to the existing community sewer system would be at the expense of the applicants. Two Capital Charges are payable: \$1,086 for *Surfside*

Sanitary Sewer Local Service Area Bylaw No. 1516 (sewer collection), and \$1,849 for *Northern Community Sewer Local Service Area Bylaw No. 1331* (for sewer treatment). One Latecomer Fee (\$324) is collected by the RDN on behalf of Pacific Beach Investments for connection to the existing McFeely Drive sanitary sewer main. One sewer connection will be provided to the subject property. If the application is not approved, there are no financial implications to the RDN.

SUSTAINABILITY IMPLICATIONS

The subject property is located on the ocean waterfront and adjacent to the Little Qualicum River floodplain, which are considered environmentally sensitive areas. Domestic sewage generated from each cabin currently discharges to four separate on-site septic tanks and septic disposal fields. By including the subject property into the Surfside Sewer Local Service Area, domestic sewage would be collected by the community sewer system, and treated at the French Creek Pollution Control Centre.

In the past, the Vancouver Island Health Authority (VIHA) Public Health Inspector has provided documentation to the RDN to accompany an application for sewer servicing in a rural area. Under the new Sewage Regulation, this documentation is no longer provided. However, VIHA supports the connection of waterfront properties to community sewers wherever possible. Gravity sewer collection mains are present along McFeely Drive and Kinkade Road thereby making connection to the local service area possible.

DEVELOPMENT IMPLICATIONS

The subject property is located in a "Rural Residential" Area outside of the Urban Containment Boundary as described in the *Regional Growth Strategy Bylaw No. 1309 (2003)*. The Regional Growth Strategy supports the provision of community sewer and water services to land outside the Urban Containment Boundary as long as they do not support additional development, consistent with official community plans. Policy 7B of the *Electoral Area G Official Community Plan Bylaw No. 1540 (2008)* indicates that the RDN would provide community sewer services outside of the Urban Containment Boundary in order to address environmental or health issues, as long as a higher level of development on the land is not supported, and the full cost is paid by the landowners.

The subject property is located in a dense development on the waterfront and adjacent to the Little Qualicum River floodplain, which are considered environmentally sensitive areas. Connecting this property to the community sewer system would mitigate the possible impacts of septic disposal systems on the foreshore environment and the inter-tidal zone.

INTERDEPARTMENTAL IMPLICATIONS

The subject property is zoned Commercial CM5-D pursuant to *Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987*. The "D" Subdivision District indicates a minimum parcel size of 2 hectares (20,000 m²). The subject property is 1870m² in size (0.46 acres), therefore, even with the provision of community sewer, subdivision of the property would not be possible under the current zoning.

The status of the subject property under *RDN Bylaw No. 500* is "legal, non-conforming" because of the number of dwelling units on the property in excess of the current zoning restrictions. However these units were constructed on the property long before the zoning regulations were put in place. The provision of sewer servicing outside of the Urban Containment Boundary is not intended to allow uses of the property beyond what is currently supported in *RDN Bylaw No. 500*. In this regard, a covenant will be registered on the Land Title indicating that any future redevelopment of the property would be subject to the zoning regulations in place at that time. The legal fees to prepare and register the restrictive covenant will be paid for by the property owners.

SUMMARY/CONCLUSIONS

Petitions have been received from the owners of Lot 6, Plan 11816 (899 McFeely Drive) to amend the boundaries of the Surfside Sewer and Northern Community Sewer Local Service Areas. The property is located in a "Rural Residential" Area outside of the Urban Containment Boundary as per the *Regional Growth Strategy*. However, both the *Regional Growth Strategy* and the *Electoral Area 'G' Official Community Plan* support the provision of community sewer services to land outside of the Urban Containment Boundary in order to address environmental or health issues, as long as they do not result in a higher level of development on the land and that the full cost is paid by the landowners.

The subject property is located in a dense residential development on the waterfront and adjacent to the Little Qualicum River floodplain, which are considered environmentally sensitive areas. Connecting this property to the community sewer system would mitigate the possible impacts of septic disposal systems on the foreshore environment and the inter-tidal zone.

The subject property is 1870m² in size (0.46 acres), therefore, even with the provision of community sewer, subdivision of this property would not be possible under the current zoning. A covenant will be registered on the Land Title indicating that any future redevelopment of the property would be subject to the zoning regulations in place at that time.

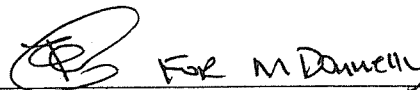
The subject property is located adjacent to the Surfside Sewer Local Service Area boundary, and community sewer collection mains are present along McFeely Drive and Kinkade Road thereby making connection to the local service area possible. All costs associated with connection to the existing community sewer system would be at the expense of the applicants.

RECOMMENDATIONS

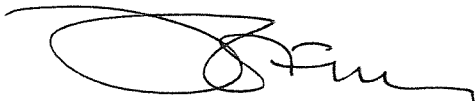
1. That "Surfside Sewer Local Service Area Boundary Amendment Bylaw No. 1124.08, 2009" be introduced and read three times.
2. That "Northern Community Sewer Service Area Boundary Amendment Bylaw No. 889.52, 2009" be introduced and read three times.



Report Writer



Manager Concurrence



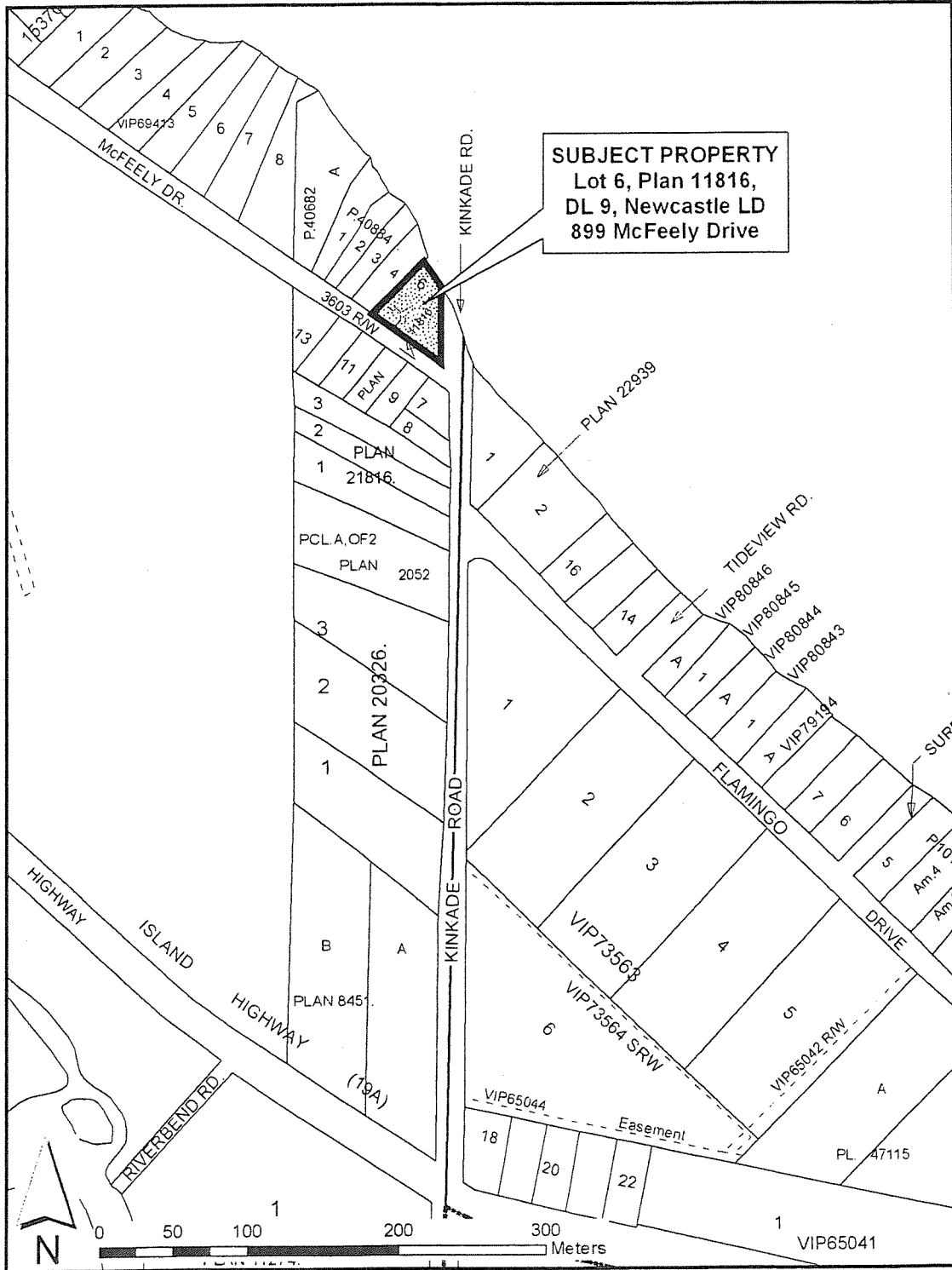
General Manager Concurrence



CAO Concurrence

COMMENTS:

Figure 1 – Location Plan



BCGS MAPSHEET NO. 92F.038.4.1

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 889.52

**A BYLAW TO AMEND THE BOUNDARIES
OF THE NORTHERN COMMUNITY
SEWER LOCAL SERVICE AREA**

WHEREAS the Board has enacted the "Regional District of Nanaimo Northern Community Sewer Local Service Conversion Bylaw No. 889, 1993", as amended, which establishes the Northern Community Sewer Local Service Area;

AND WHEREAS the Board wishes to amend Schedule 'C' to include the property legally described as follows:

Lot 6, District Lot 9, Newcastle Land District, Plan 11816;

AND WHEREAS the Board has obtained the consent of at least two thirds of the participants;

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

1. This bylaw may be cited as "Northern Community Sewer Service Area Boundary Amendment Bylaw No. 889.52, 2009".
2. Schedules 'C' and 'E' attached to and forming a part of Bylaw No. 889 are hereby deleted and replaced with Schedules 'C' and 'E' attached to and forming part of this bylaw.

Introduced and read three times this 28th day of July, 2009.

Adopted this ____ day of _____, 2009.

CHAIRPERSON

SR. MGR., CORPORATE ADMINISTRATION

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 1124.08

A BYLAW TO AMEND THE SURFSIDE
SEWER LOCAL SERVICE AREA
ESTABLISHMENT BYLAW NO. 1124

WHEREAS Surfside Sewer Local Service Area Establishment Bylaw No. 1124, 1998 establishes the Surfside Sewer Local Service Area;

AND WHEREAS the Board has been petitioned to expand the local service area;

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

1. The boundaries of the Surfside Sewer Local Service Area, established by Bylaw No. 1124, are hereby amended to include the property shown outlined on Schedule 'B' attached hereto and forming part of this bylaw.
2. Schedule 'A' of Bylaw No. 1124 is hereby repealed and replaced with Schedule 'A' attached hereto and forming part of this bylaw.
3. This bylaw may be cited for all purposes as the "Surfside Sewer Local Service Area Boundary Amendment Bylaw No. 1124.08, 2009".

Introduced and read three times this 28th day of July, 2009.

Adopted this ____ day of _____, 2009.

CHAIRPERSON

SR. MGR., CORPORATE ADMINISTRATION

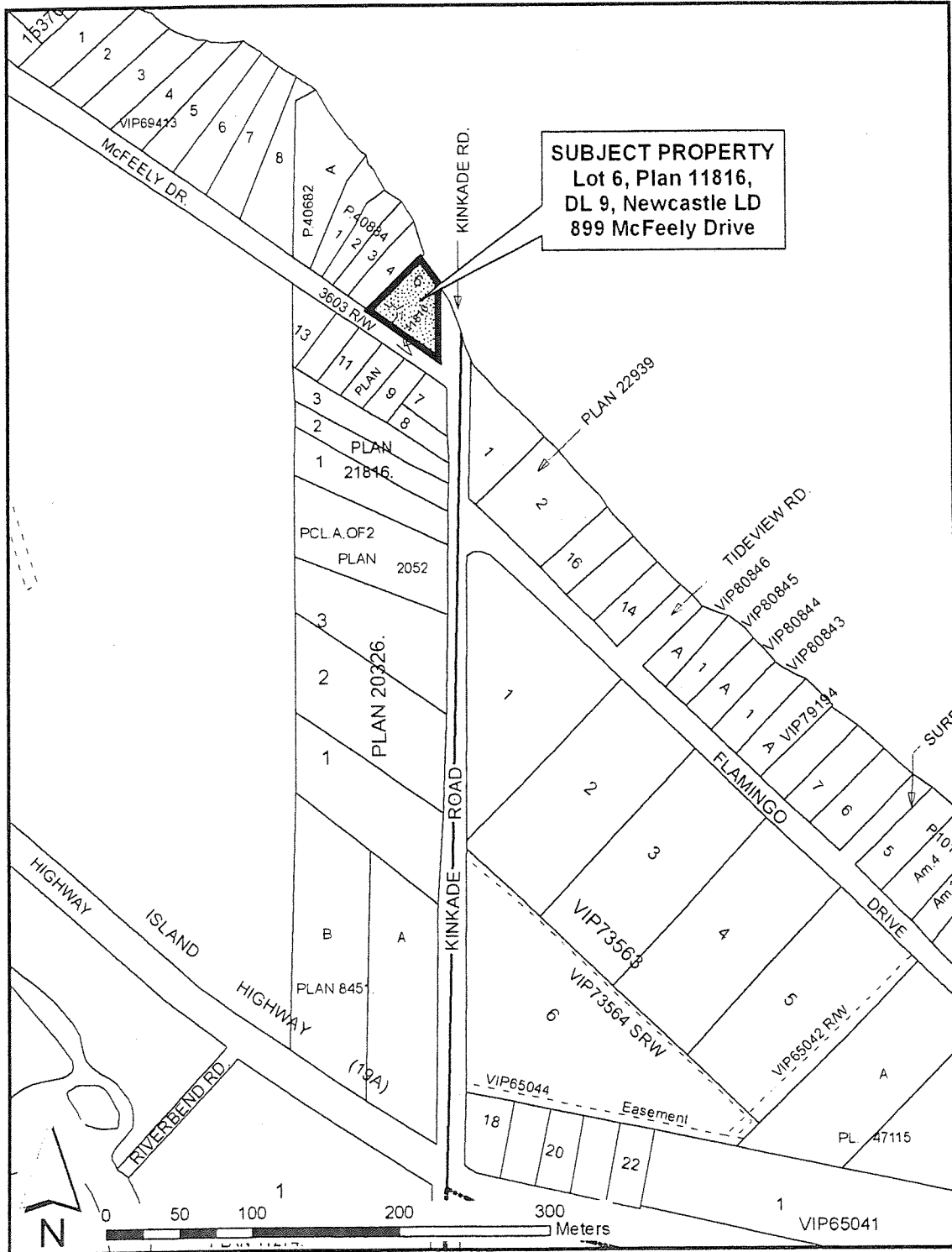
Schedule 'A' to accompany "Surfside Sewer Local Service Area
Boundary Amendment Bylaw No. 1124.08, 2009"

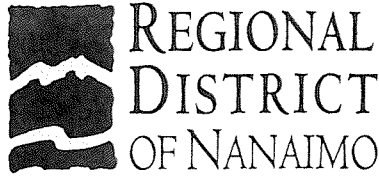
Chairperson

Sr. Mgr., Corporate Administration

Chairperson

Sr. Mgr., Corporate Administration





RDN REPORT	
CAO APPROVAL	
EAP	
COW	
JUL 27 2009	
RHD	
BOARD	

MEMORANDUM

TO: Paul Thompson
Acting Manager, Current Planning

DATE: July 27, 2009

FROM: Susan Cormie
Senior Planner

FILE: 3320 30 800420
PL20090000019

SUBJECT: Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement
Fern Road Consulting on behalf of C & D Springford
Folio No. 769.10610.000, 769.09843.000 and 769.09108.000
Electoral Areas 'E' & 'G' - 1884 and 1950 Northwest Bay Road

PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement in conjunction with a lot line adjustment subdivision proposal on property adjacent to Northwest Bay Road in Electoral Areas 'E' and 'G'.

BACKGROUND

This is a request to relax the minimum 10% perimeter frontage requirement as part of a lot line adjustment subdivision for the properties legally described as Lot 3, Block 564, Nanoose District, Plan VIP75276; District Lot 71, Nanoose District; and District Lot 10, Nanoose District, Except 1.92 Acres, Thereof, Included in the Right of Way of the Esquimalt and Nanaimo Railway Company as Registered Under No. 20049C and Except Parts in Plans 27685 and 28601 and located adjacent to Northwest Bay Road in Electoral Areas 'E' and 'G' (*see Attachment No. 2 for location of subject properties*).

Lot 3, Plan VIP75276, which is 13.7 ha in size and zoned Comprehensive Development 14 (CD14) with no further subdivision potential pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", is situated in Electoral Area 'G'. This parcel has no access to a public road and is currently accessed by way of easement through District Lot 71 and the Remainder of District Lot 10.

District Lot 71, which is 32.4 ha in size and zoned Resource Management 3 (RM3) Subdivision District 'B' (minimum parcel size 8.0 ha), is situated in Electoral Area 'E'. The majority of this parcel is situated within the Provincial Agricultural Land Reserve.

The Remainder of District Lot 10, which is 45.7 ha in size and zoned Rural 5 (RU5) Subdivision District 'D' (minimum parcel size 2.0 ha) pursuant to Bylaw No. 500, 1987, is situated in Electoral Area 'E'. This parcel is also situated within the Provincial Agricultural Land Reserve.

The Remainder of District Lot 10 currently supports two dwelling units along with farm and accessory buildings. DL 71 is pasture land and Lot 3 is forested. Surrounding uses include residentially zoned properties to the north; Northwest Bay Road and rurally zoned parcels to the east; the E&N Railway and resource management zoned parcels to the south including a parcel owned by the City of Parksville and Craig Creek, and a CD14 zoned parcel owned by The Natures Trust to the west.

Pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" (Nanoose Bay OCP), The Remainder of District Lot 10 and District Lot 71 are designated within the following development permit areas:

- The Watercourse Protection Development Permit Area for the protection of fish habitat and its riparian areas. As there are no watercourses on or within 30.0 metres of the parent parcels, this application would meet the exemption provisions of the development permit area and therefore, a development permit for watercourse protection is not required.
- The Farm Land Protection Development Permit Area, in this case, for the protection of lands in the ALR. As the applicant has applied for inclusion of all the property into the ALR, a development permit will not be required. If the inclusion application is turned down by the Land Commission, a development permit will be required.

Pursuant to "Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008" (Area 'G' OCP), Lot 3, Plan VIP75276 is designated within the following development permit areas:

- The Fish Habitat Protection Development Permit Area for the protection of fish habitat and its riparian areas. While Craig Creek borders the west lot line of this parcel, this application would meet the exemption provisions of the development permit area and therefore, a development permit for fish habitat protection is not required.
- The Farm Land Protection Development Permit Area, in this case, for the protection of lands in the ALR. As the applicant has applied for inclusion of all the property into the ALR, a development permit will not be required. As outlined above, if the inclusion application is turned down by the Land Commission, a development permit will be required.

The parcels are proposed to be served by individual potable wells and on-site septic disposal. The parent parcels are within an RDN Building Services area.

Submitted Proposal / Request for Frontage Relaxation:

The proposal, as submitted, is to adjust the existing lot lines to create a 5.1 ha parcel which would support a dwelling unit (proposed Lot A); a 38.2 ha parcel which would support the second dwelling unit (proposed Lot B), and a 48.1 ha parcel which is currently vacant (proposed Lot C) (*see Attachment No.1 for proposed plan of subdivision*).

Proposed Lot C, as shown on the plan of subdivision, will not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontage for this proposed parcel is 10.0 metres or 0.2%. As this proposed parcel will not meet the minimum 10% perimeter frontage requirement, approval from the Regional Board of Directors is required.

It is noted that proposed Lot C is split by electoral area boundaries and the parcel will be located in both Electoral Area 'E' and 'G'. Proposed Lots A and B are located entirely within Electoral Area 'E'.

ALTERNATIVES

1. To approve the request to relax the minimum 10% perimeter frontage requirement for proposed Lot C.
2. To deny the request for a relaxation of the minimum 10% perimeter frontage requirement.

DEVELOPMENT IMPLICATIONS

10% Minimum Frontage Requirement

Lot 3, Plan, VIP75276, which will be included as part of proposed Lot C currently has no access to a public road and this lot line adjustment will provide access. While the minimum 10% perimeter frontage requirement will not be able to be met, staff supports this relaxation as it is in keeping with the guidelines of the Agricultural Land 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.

Agricultural Land Reserve

The applicant has submitted an application for inclusion into the Agricultural Land Reserve (ALR) for the existing Lot 3 and portion of District Lot 71 which is not currently in the ALR. The Provincial Agricultural Land Reserve Commission has not yet considered the application.

Environmentally Sensitive Areas

Craig Creek borders the east side of proposed Lot C and is currently protected by way of a section 219 covenant.

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 through the subdivision review process.

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.

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 family farm business in that family members will be continuing to operate the business and thus supporting local food security.

VOTING

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

SUMMARY

This is a request to relax the minimum 10% perimeter frontage requirement for proposed Lot C pursuant to section 944 of the *Local Government Act* as part of a lot line adjustment subdivision proposal for three parent parcels on property located adjacent to Northwest Bay Road in Electoral Area 'E' and 'G'.

With respect to the minimum 10% perimeter frontage requirement for proposed Lot C, as roads are not encouraged to be extended into the ALR, staff supports this relaxation as it is in keeping with the guidelines of the Land Reserve Commission not to extend roads into the ALR as well as the requirements

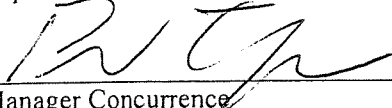
of the *Land Title Act* to limit roads being extended into ALR lands. The applicants have applied to the Provincial Agricultural Land Commission (ALC) to include the balance of the lands within the ALR.

RECOMMENDATION

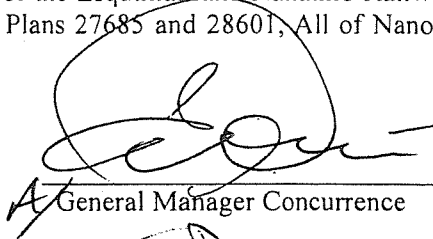
That the request to relax the minimum 10% frontage requirement for proposed Lot C, as submitted by Fern Road Consulting Ltd., on behalf of C Springford and D Springford in conjunction with the subdivision of Lot 3, Block 564, Plan VIP75276; DL 71; and District Lot 10, Nanoose District, Except 1.92 Acres, Thereof, Included in the Right of Way of the Esquimalt and Nanaimo Railway Company as Registered Under No. 20049C and Except Parts in Plans 27685 and 28601, All of Nanoose District, be approved.



Report Writer



Manager Concurrence

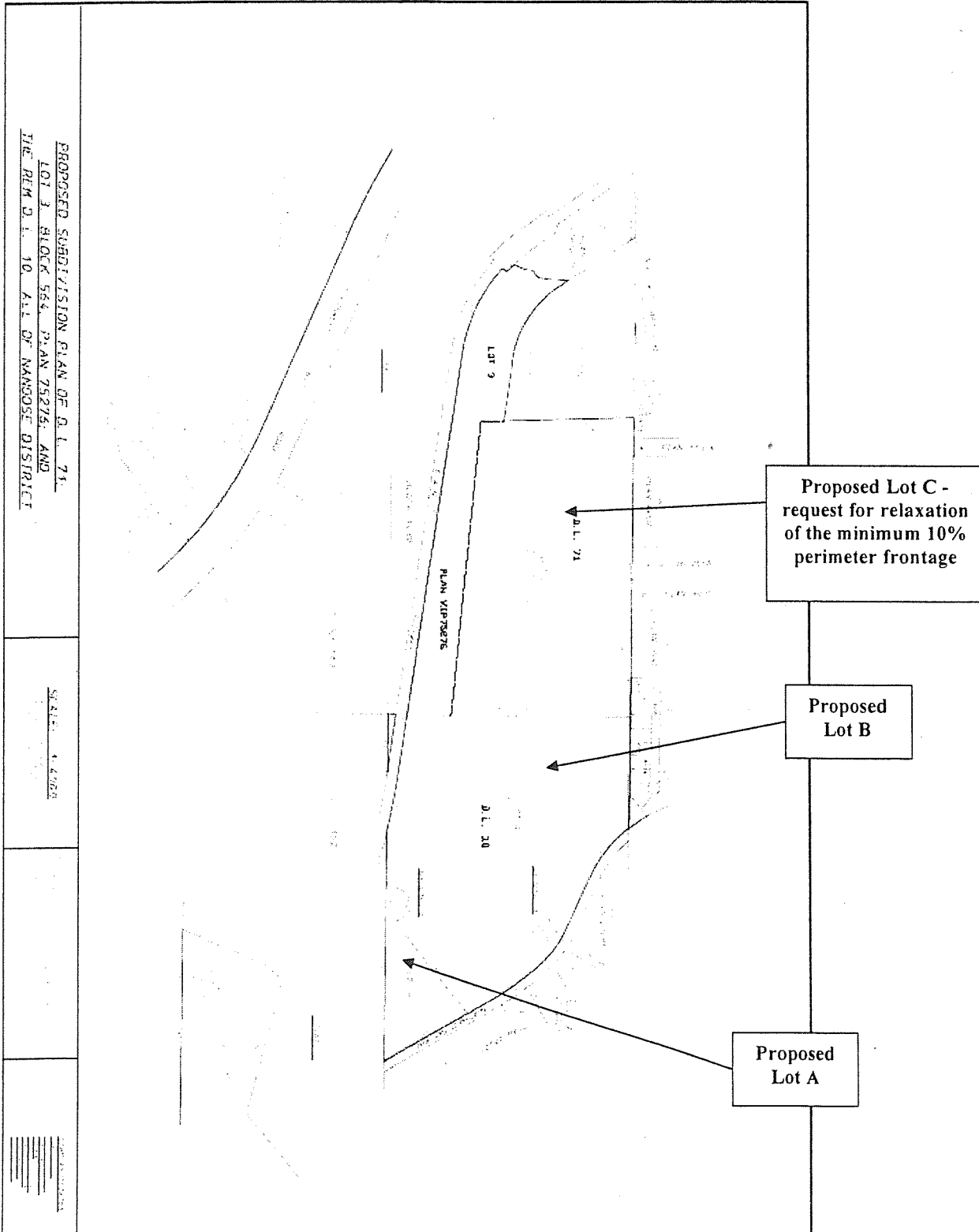


General Manager Concurrence

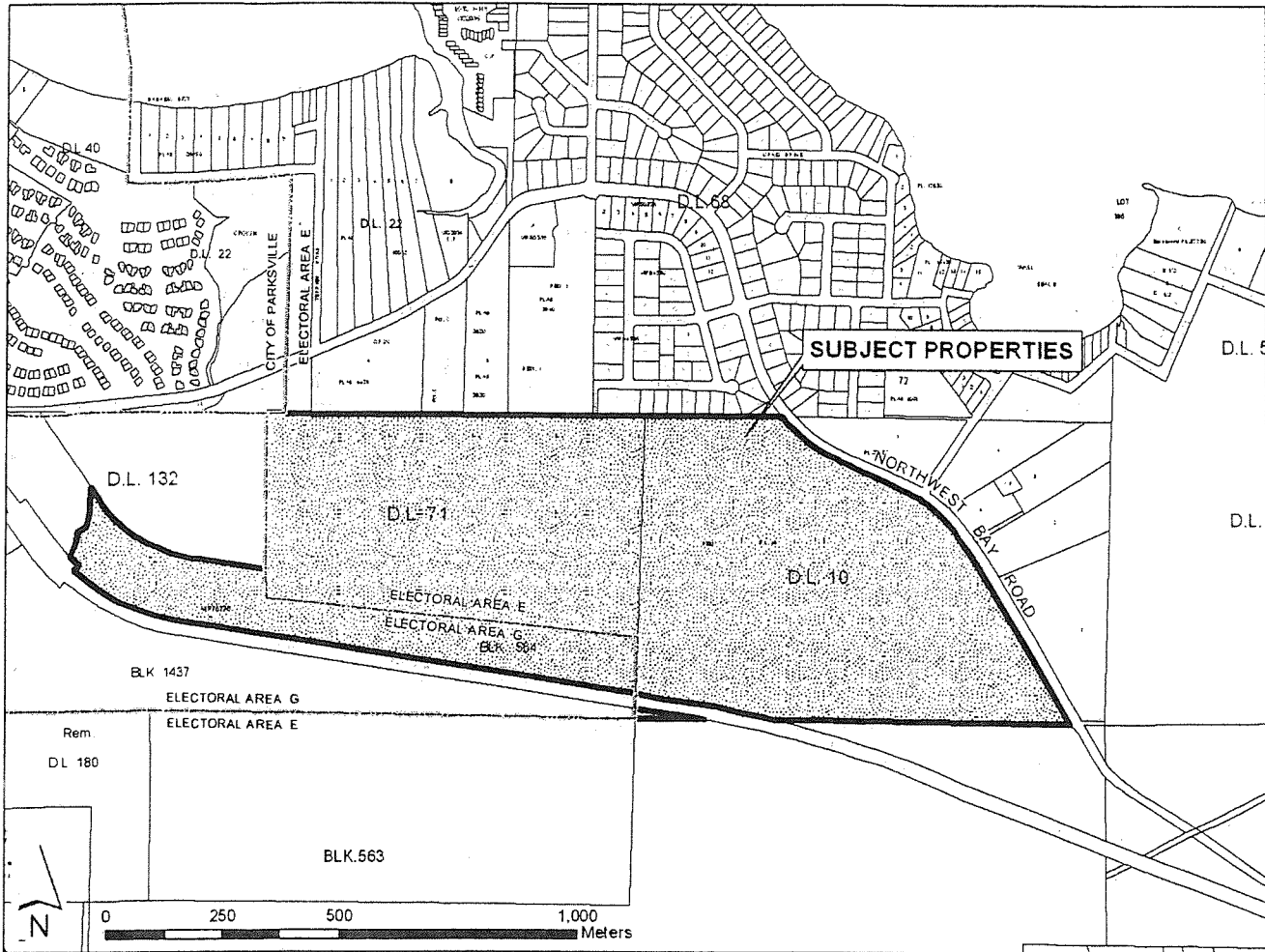


CAO Concurrence

Attachment No. 1
Proposed Plan of Subdivision



Attachment No. 2
Location of Subject Properties



BCOS MAPSHEET NO 92F 029 4 4

