#### REGIONAL DISTRICT OF NANAIMO

#### ELECTORAL AREA PLANNING COMMITTEE TUESDAY, JANUARY 12, 2010 6:30 PM

#### (RDN Board Chambers)

#### AGENDA

PAGES	
	CALL TO ORDER
	DELEGATIONS
	MINUTES
3-5	Minutes of the regular Electoral Area Planning Committee meeting held November 10, 2010.
	BUSINESS ARISING FROM THE MINUTES
	COMMUNICATIONS/CORRESPONDENCE
	UNFINISHED BUSINESS
	PLANNING]
	AMENDMENT APPLICATIONS
6-15	Bylaw No. 500,354 for Zoning Amendment Application No. PL2009-493 – Pacific Coast Waste Management – 4299 Biggs Road - Area 'C'.
16-33	Bylaws No. 1148.05 & 500.353 for OCP & Zoning Amendment Application No. PL2009-502 - Williamson & Associates - Virostko Road & Midora Road - Area 'C'.
	DEVELOPMENT PERMIT APPLICATIONS
34-39	Development Permit Application No. PL2009-012 - Thomas Hoyt, BCLS - 1949 Akenhead Road - Area 'A'.
40-45	Development Permit Application No. PL2009-848 - Wessex Enterprises Ltd Extension Road - Area 'C'.

	Electoral Area Planning Committee - Agenda January 12, 2010 Page 2
46-51	Development Permit Application No. PL2009-852 - Peter Mason, BCLS - 1055 Spider Lake Road - Area 'H'.
	DEVELOPMENT VARIANCE PERMIT APPLICATIONS
52-57	Development Variance Permit Application No. PL2009-805 – Fern Road Consulting Ltd. – 6360 Island Highway West – Area 'H'.
58-79	Development Variance Permit Application No. PL2009-807 - Fern Road Consulting Ltd 1969 Seahaven Road - Area 'E'.
80-88	Development Variance Permit Application No. PL2009-845 - Clark & Wick - 3415 Beldon Place - Area 'E'.
89-95	Development Variance Permit Application No. PL2009-850 – Structure Design & Management - Huntington Place - Area 'E'.
	OTHER
96-99	Request for Frontage Relaxation on Subdivision Application No. PL2009-832 - Thomas Hoyt, BCLS for Hemer - 2570 Tiesu Road - Area 'A'.
100-109	Consideration of Park Land Dedication and/or Cash-in-Lieu of Park Land on Subdivision Application No. PL2009-793 - Fern Road Consulting Ltd 6360 Island Highway West - Area 'H'.
	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, NOVEMBER 10, 2009, AT 6:30 PM IN THE RDN BOARD CHAMBERS

#### Present:

Director D. Bartram

Director J. Burnett

Director M. Young

Director G. Holme

Director L. Biggemann

Director J. Stanhope

Chairperson

Electoral Area A

Electoral Area E

Electoral Area F

Electoral Area G

#### Also in Attendance:

M. Pearse Senior Manager, Corporate Administration
P. Thorkelsson General Manager, Development Services
D. Lindsay Manager, Current Planning
L. Burgoyne Recording Secretary

#### **MINUTES**

MOVED Director Biggemann, SECONDED Director Stanhope, that the minutes of the Electoral Area Planning Committee meeting held October 13, 2009 be adopted.

**CARRIED** 

#### **PLANNING**

#### DEVELOPMENT PERMIT APPLICATIONS

Development Permit & Subdivision Application No. PL2009-818 - JE Anderson - 230 & 238 Kenmuir Road - Electoral Area 'H'.

MOVED Director Burnett, SECONDED Director Young, that Development Permit Application No. PL2009-818, in conjunction with a four lot subdivision, be approved subject to the conditions outlined in Schedules No. 1 and 2.

CARRIED

MOVED Director Burnett, SECONDED Director Young, that the request to relax the minimum 10% perimeter frontage requirement for Proposed Lots A and B be approved.

**CARRIED** 

#### DEVELOPMENT PERMIT WITH VARIANCE APPLICATIONS

Development Permit with Variance Application No. PL2009-783 - Springford - 587 Alberni Highway - Electoral Area 'G'.

MOVED Director Stanhope, SECONDED Director Holme, that staff be directed to complete the required notification.

CARRIED

MOVED Director Stanhope, SECONDED Director Holme, that the Development Permit with Variance Application No. PL2009-783 to permit the construction of an addition and retaining wall be approved subject to the conditions outlined in Schedules No. 1 - 5.

CARRIED

#### DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. PL2009-806 - C. A. Design - 2418 Andover Road - Electoral Area 'E'.

MOVED Director Holme, SECONDED Director Stanhope, that staff be directed to complete the required notification.

**CARRIED** 

MOVED Director Holme, SECONDED Director Stanhope, that Development Variance Permit Application No. PL2009-806, to vary the setback requirements from the sea, be approved subject to the conditions outlined in Schedules No. 1 - 4.

**CARRIED** 

Development Variance Permit Application No. PL2009-808 - Fern Road Consulting -Gainsberg Road - Electoral Area 'H'.

MOVED Director Holme, SECONDED Director Biggemann, that staff be directed to complete the required notification.

CARRIED

MOVED Director Holme, SECONDED Director Biggemann, that Development Variance Permit Application No. PL2009-808, to permit the conversion of an existing accessory building to a residential dwelling unit be approved.

CARRIED

#### OTHER

Subdivision Application No. PL2009-787 - Request for Cash-in-Lieu of Sidewalks - Cedar Village Estates - Cedar & Hemer Roads - Electoral Area 'A'.

MOVED Director Burnett, SECONDED Director Young, that the proposal for a contribution in lieu of sidewalks within the Cedar Village subdivision be approved and that the \$48,500 be directed toward further improvements to the Morden Colliery Trail system.

CARRIED

Development Variance Permit Application No. PL2009-826 - Structure Design & Management - 3404 Carmichael Road - Electoral Area 'E'.

MOVED Director Holme, SECONDED Director Stanhope, that staff be directed to complete the required notification.

CARRIED

MOVED Director Holme, SECONDED Director Stanhope, that the Development Variance Permit Application No. PL2009-826, to vary the maximum height requirements, be approved subject to the conditions outlined in Schedules No. 1 - 3.

CARRIED

Electoral Area Planning	g Committee Minutes November 10, 2009 Page 3
ADJOURNMENT	
MOVED Director Holme, SECONDED Director Young, that this meeting terminate.	CARRIED
TIME: 6:37 PM	
CHAIRPERSON	



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#### **MEMORANDUM**

TO:

Dale Lindsay

DATE:

December 29, 2009

Manager of Current Planning

FROM:

SUBJECT:

Kristy Marks

FILE:

PL2009-493

Planner

Zoning Amendment Application No. PL2009-493

Pacific Coast Waste Management

Lot A, Section 19, Range 1, Mountain District, Plan VIP76600 - 4299 Biggs Road

Electoral Area 'C'

#### **PURPOSE**

To consider an application to amend the Resource Management 2 (RM2) zone in order to permit a 'wood waste disposal facility' on the subject property.

#### BACKGROUND

The Regional District of Nanaimo has received an application from Pacific Coast Waste Management, on behalf of Lafarge Canada Inc. to amend the Resource Management 2 (RM2) zone to permit a 'wood waste disposal facility' on the subject property (see Attachment No. 1 for location of subject property).

The subject property is approximately 13.07 ha, and is located on the south side of Biggs Road. The site is accessed off Biggs Pit Road through the Hub City Paving sand and gravel pit site. The property is a previously mined sand and gravel pit which contains an asphalt plant, not currently in operation, a scale and storage building for Hub City Paving and a mobile home. The property is surrounded by Resource Management 1 (RM1) zoned parcels to the north, south and west and Rural 1 zoned parcels to the east. Benson Creek is located southeast of the property and is approximately 60 metres from the proposed site.

#### Submitted Proposal

The proposed 'wood waste disposal facility' would include the collection and recycling of organic wood waste generated primarily from land clearing and construction projects. The proposed facility would accept only clean material suitable for grinding into 'hog fuel'. Material brought to the site would be sorted and any potential contaminants would be redirected to the appropriate facility for recycling or disposal. Clean waste would be processed on-site into hog fuel and temporarily stored until being shipped off site to mills and other facilities.

The applicant previously operated a facility on Weigles Rd under a lease agreement which has recently expired. The former site is zoned Resource Management 6 (RM6) and is currently the only parcel regulated by Bylaw No. 500 that permits a 'wood waste disposal facility'.

In support of the application, the applicant has submitted a Licence Application Brief prepared by Lewkowich Engineering Associates Ltd. dated June 2009. This report outlines the site operating plan, stormwater management plan, and measures to mitigate potential impacts to neighbouring properties and the environment. The applicants are proposing to construct a 400 m<sup>2</sup> asphalt pad for the temporary storage of wood waste and to accommodate sorting and grinding equipment. Runoff from the asphalt pad is

proposed to be directed toward a series of 3 engineered retention ponds. At this time there are no new buildings proposed to be constructed on the site (see Attachment No. 2 for the Proposed Site Plan).

#### **ALTERNATIVES**

- 1. To give first and second reading to the application to amend the existing Resource Management 2 (RM2) zone to include 'wood waste disposal facility' as a permitted use on the subject property and complete the notification requirements as required in section 893 of the *Local Government Act*.
- 2. To deny the amendment application as submitted.

#### LAND USE/DEVELOPMENT IMPLICATIONS

As noted above, the proposed zoning amendment would permit the operation of a 'wood waste disposal facility' on the subject property. With respect to Stormwater management and groundwater protection the applicant has provided a report prepared by a professional engineer that recommends the construction of an asphalt pad and three lined retention ponds designed to allow potential leachate to settle out prior to runoff entering the groundwater system. Sampling the water in each of the ponds, monthly for the first six months and then on a biannual basis, will be a condition of the Waste Stream Management Licence (WSML).

With respect to potential impacts on adjacent properties, as outlined in the engineering report, there are no significant impacts related to dust and debris, odours, nuisance noise or debris on roadways anticipated.

As the subject property is currently zoned Resource Management 2 (RM2), Subdivision District 'V', (50 ha minimum parcel size) and as the parcel is approximately 13 ha in area, there is no potential for subdivision of the parcel. The 'wood waste disposal facility' use is proposed to be added to the RM2 zone for the subject property only and will not affect permitted uses on other RM2 zoned parcels.

If the zoning amendment application is approved, a separate RDN Waste Stream Management License (WSML) is also required in order to permit, and regulate, the 'wood waste disposal facility' on the subject property, in accordance with the "Regional District of Nanaimo Waste Stream Management Licensing Bylaw No. 1386, 2004".

#### Official Community Plan

The subject property is designated Resource pursuant to the "Regional District of Nanaimo East Wellington – Pleasant Valley Official Community Plan Bylaw No. 1055, 1997" (OCP). Permitted uses within the Resource designation include those activities involving natural resource harvesting or extraction, primary processing and passive recreational uses, including campground, however zoning amendment applications to include uses that are considered compatible with the resource designation may also be considered. Staff consider the proposed 'wood waste disposal facility' use to be compatible with the OCP's Resource designation.

#### PUBLIC CONSULTATION IMPLICATIONS

In keeping with the Board's public consultation framework and the provisions of the *Local Government Act*, initial referrals to agencies have been sent and a Public Information Meeting was held on December 7, 2009 at the East Wellington Fire Hall. Notification of the meeting was advertised in The Star newspaper and on the RDN website along with a direct mail out to all property owners within 200 metres of the subject property. Seven members of the general public attended the information meeting and provided comments with respect to the proposal (see Attachment No. 3 'Summary of the Minutes of the Public Information Meeting'.)

Key issues raised by the public included groundwater protection, traffic and noise. The applicants and applicant's engineers were able to address these concerns at the Public Information Meeting.

#### INTERGOVERNMENTAL IMPLICATIONS

Initial Referrals were sent to the following agencies:

Ministry of Transportation and Infrastructure – Ministry staff has indicated that they have no objections with respect to the zoning amendment application.

Vancouver Island Health Authority (VIHA) - The Health Inspector has indicated they have no concern with the proposed zoning amendment.

#### SUSTAINABILITY IMPLICATIONS

In keeping with the Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". The proposed use would reduce construction waste that may otherwise be directed to the landfill and allow for the recycling of clean wood waste into hog fuel to be used at local mills and other facilities.

#### **SUMMARY**

The purpose of Bylaw No. 500.354 is to amend the existing Resource Management 2 (RM2) zone in order to permit a 'wood waste disposal facility' on the subject property. A Public Information Meeting was held on December 7, 2009 and the minutes are attached (see Attachment No. 3).

Given that there are no anticipated impacts related to the requested zoning amendment and that the proposal is in compliance with the OCP, staff recommends support of the amendment application and recommends that the associated amendment bylaw be given 1<sup>st</sup> and 2<sup>nd</sup> reading.

A copy of the proposed amendment bylaw is attached to this report (see Attachment No. 4).

#### RECOMMENDATIONS

- 1. The the minutes of the Public Information Meeting held on December 7, 2009, be received.
- 2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.354, 2010" be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
- 3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.354, 2010" be delegated to Director Young order alternate.

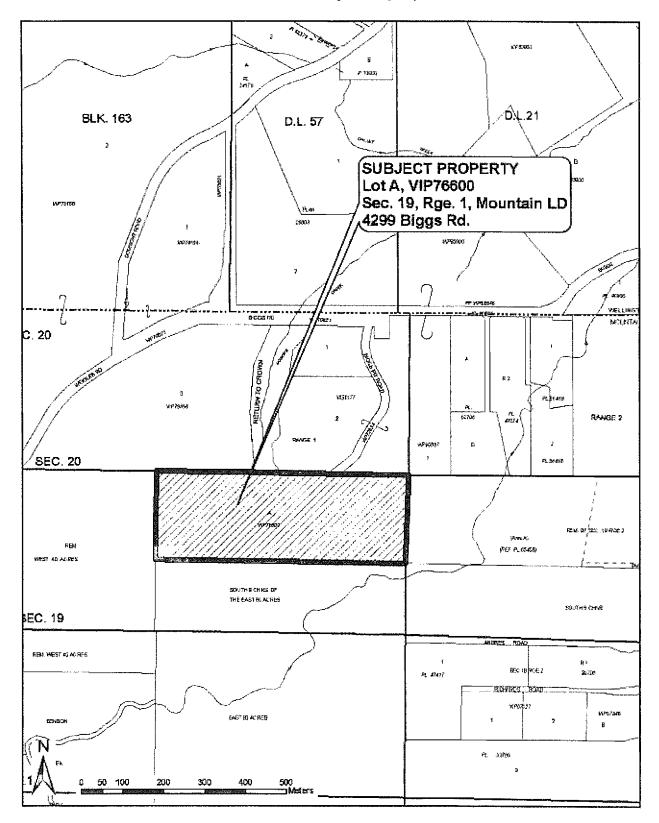
Report Writer

Manager Concurrence

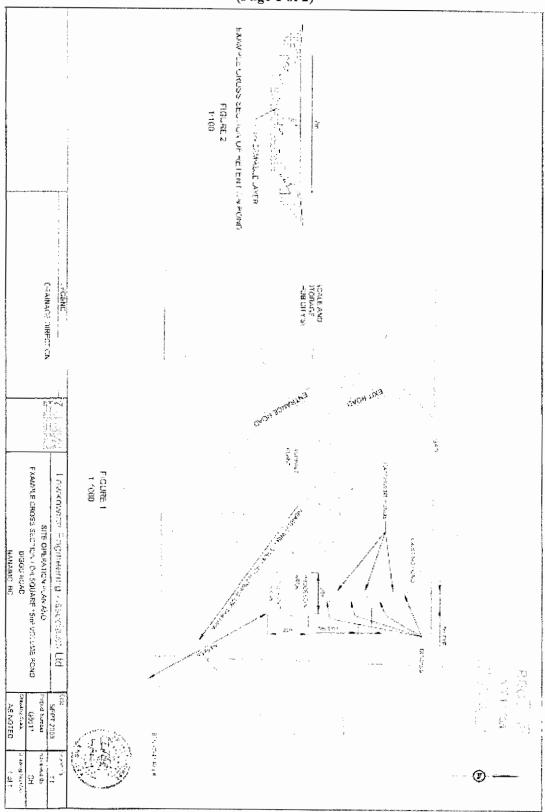
General Manager

CAO Concurrence

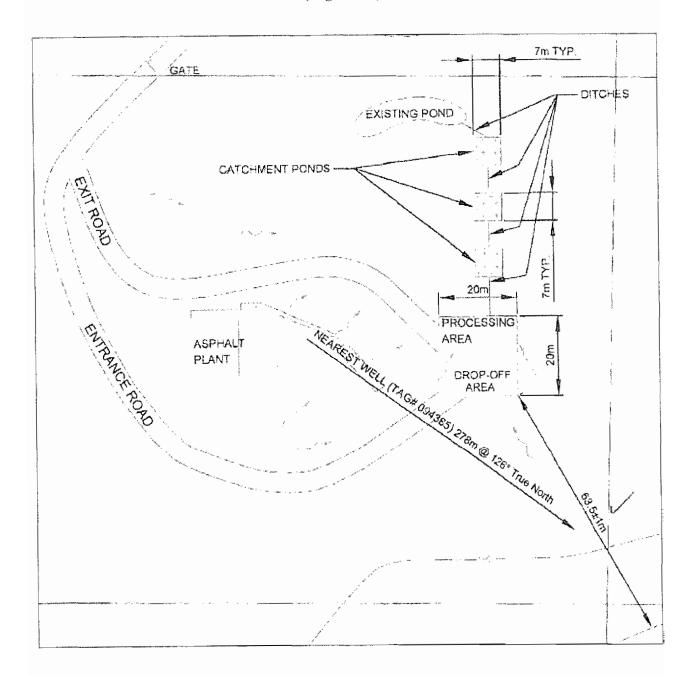
Attachment No. 1 Location of Subject Property



Attachment No. 2 Proposed Site Plan (Page 1 of 2)



Attachment No. 2 Proposed Site Plan – Detail (Page 2 of 2)



Page 8

## Attachment No. 3 Summary of the Minutes of the Public Information Meeting Held at East Wellington Fire Hall 2331 East Wellington Road, Nanaimo BC December 7, 2009 at 7:00 pm

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

There were seven members of the general public in attendance.

Present for the Regional District:

Chairperson Maureen Young, Director, Electoral Area 'C' Dale Lindsay, Manager of Current Planning Kristy Marks, Planner Sharon Horsburgh, Senior Zero Waste Coordinator

Present for the Applicant:

Rod Milner, Milner Trucking
Jessalyn Kovacs, Milner Trucking
Paul Johnson, Lewkowich Engineering Associates Ltd.
Chris Hudec, Lewkowich Engineering Associates Ltd.

Chairperson Young opened the meeting at 7:00 pm and outlined the agenda for the evening's meeting and introduced the head table and applicants. The Chair then stated the purpose of the Public Information Meeting and requested the Planner to provide background information concerning the zoning amendment process.

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

The Chairperson then invited Mr. Milner, agent on behalf of the applicant, to give a presentation of the proposed zoning amendment. Mr. Milner presented the proposed amendment application.

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

Doug Miller, 3697 Bell Road, asked what the total number of trucks per day to the site would be.

Rod Milner, Milner Trucking explained that there will be no increase in the number of trucks as they were previously operating a wood waste disposal facility on Weigles Road. There are usually 3-5 container trucks per day and about the same number of private vehicles and these numbers are typically less during the winter.

Wayne Clayton, 4265 Biggs Road asked about ground water protection and effluent control. He mentioned that he has concerns about his well and the low lying swampy area between the proposed site and his property.

Paul Johnson, Lewkowich Engineering explained that there isn't really a potential source for groundwater contamination. Tannic acid could be produced by decomposing wood if it was left to decompose on the ground however wood will only be stored onsite temporarily. Asphalt pad will be in place for the temporary storage and chipping of wood waste and runoff will be directed to a series of retention ponds where sediment will settle out before leaving the ponds. Water in the retention ponds will be tested monthly for the first 6 months and then every six months.

Wayne Clayton, 4265 Biggs Road asked if pressure treated wood will be stored on-site.

Rod Milner explained that they do accept pressure treated wood and that the primary customer is pulp mills who have very stringent rules on the materials that they accept. The mills do not accept creosote or other contaminants.

Wayne Clayton clarified that he was primarily concerned about preservatives such as ACQ or pressure treated wood and wondered whether these would be separated out.

Rod Milner explained that these products are generally accepted by the mills and are not considered contaminants.

Paul Johnson further explained that the swampy area located near Wayne's property would likely be a greater source of any potential contaminants from the decomposition of wood than the proposed wood waste disposal facility would be.

Wayne Clayton asked for clarification of where the existing pond is on the site.

Rod Milner pointed out the location of the existing and proposed ponds on the aerial photo.

Wayne Clayton stated that he is much less concerned with the proposal than he was when he arrived at the meeting.

Colin Servis, 4271 Biggs Road agreed that he too is only mildly concerned about the proposal.

Doug Miller, 3697 Bell Road also agreed that he is less concerned about the proposal based on what he has heard at the meeting.

Karen Miller, 3697 Bell Road asked if there is a charge for the service such as a tipping fee when wood is brought to the site.

Rod Milner explained that a tipping fee is charged similar to the RDN landfill.

Karen Miller, asked what the hours of operation would be and if Andres Road would be extended to allow access to the site.

Rod Milner explained that chipping of wood would take place for approximately 2-3 days once a month and that the site would be open for drop off Monday to Friday. He also explained that all access to the site would be from Biggs Road.

Colin Servis asked how many pieces of equipment would be operating on the site.

Rod explained that an excavator would be brought on-site periodically for sorting, in addition to a grinder, processor and chipper in order to process and load wood to be hauled away.

Kathy Clark, 3696 Bell Road asked how noisy the operation would be.

Rod Milner explained that the chipper is not as noisy as screening or crushing gravel.

Jessalyn Kovacs, Milner Trucking explained that at the chipper can't be heard from the road at their Jackson Road site in Duke Point.

Kathy Clark asked for clarification on whether the wood waste is ground and then hauled off-site.

Rod Milner confirmed that the chipped wood waste is typically shipped to Crofton or Port Alberni for processing.

The Chair then invited further comments and questions from the audience.

There being none, the Chair thanked those in attendance and closed the public information meeting.

The meeting concluded at 7:22 pm.

Kristy Marks Recording Secretary

#### Attachment No. 4

#### REGIONAL DISTRICT OF NANAIMO

#### **BYLAW NO. 500.354**

#### A BYLAW TO AMEND THE "REGIONAL DISTRICT OF NANAIMO LAND USE AND SUBDIVISION BYLAW NO. 500, 1987"

WHEREAS the Board of the Regional District of Nanaimo wishes to amend "Regional District of Nanaimo LAND USE AND SUBDIVISION BYLAW NO. 500, 1987.

THEREFORE IT BE RESOLVED that the Board of the Regional District of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

- 1. This Bylaw may be cited as the "Regional District of Nanaimo LAND USE AND SUBDIVISION BYLAW AMENDMENT BYLAW 500.354, 2010".
- 2. The "Regional District of Nanaimo LAND USE AND SUBDIVISION BYLAW NO. 500, 1987", is hereby amended as follows:
  - (1) Subsection 3.4.72 'Permitted Uses and Minimum Site Area' is hereby amended by adding the following after i) Silviculture:
    - j) Wood Waste Disposal Facility for the parcel legally described as Lot A, Section 19, Range 1, Mountain District, Plan VIP76600.

Passed First Reading:			
Passed Second Reading:			
Public Hearing Held:			
Passed Third Reading:			
Adopted:			
Chairperson	Sr. Mgr., Corpor	Sr. Mgr., Corporate Administration	

File: PL2009-493



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#### **MEMORANDUM**

TO: Dale Lindsay

Manager, Current Planning

DATE:

December 22, 2009

FROM:

Susan Cormie Senior Planner

Susan Cormie

FILE:

PL2009-502 &

PL2009-797

SUBJECT:

OCP & Zoning Amendment Applications No. PL2009-502

Williamson & Associates

Lot 4 Section 13 Range 2 Cranberry District Plan VIP69191

Virostko Road and Midora Road

Electoral Area 'C'

#### **PURPOSE**

To consider Official Community Plan (OCP) and zoning amendment applications for the subject property in conjunction with a 15 lot bare land strata subdivision proposal.

#### BACKGROUND

The Regional District of Nanaimo has received OCP and zoning amendment applications in conjunction with a 15 lot bare land strata subdivision proposal from Williamson & Associates, BCLS, on behalf of 524020 BC Ltd. (Windmill Estates) (see Attachment No. 1 for location of subject property).

The subject property, which is 4.01 ha in size, is split zoned Rural 1 Subdivision District 'D' (RU1D) (3.88 ha) (2.0 ha minimum parcel size with or without community services) and Residential 2 Subdivision District 'M' (RS2M) (0.131 ha) (2000 m² with community water service connections) as per the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The subject property is currently vacant. Surrounding land uses include Resource Management zoned property to the north, Virostko Road and residential zoned parcels to the east, Midora Road and residential zoned parcels to the south, and a CD19 residential zoned parcel to the west. The subject property is split into three areas with two smaller areas located across Midora Road and separated by two existing parcels.

The parent parcel is within an RDN Building Services area.

#### Official Community Plan

The subject property is designated within the Extension Village Land Use Designation as per the Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999. Under Goal 2 - Create Complete Communities, policies include that development is to be provided with community water and community sewer services. As the applicant is proposing to develop the subject property with community water served by the local water provider and a strata owned and operated community sewer system, an amendment to the OCP is required in order to clarify that community sewer includes a system owned and operated by a strata corporation.

#### Submitted Proposal:

The proposal, as submitted, includes 15 bare land strata lots varying in size from 1710 m<sup>2</sup> to 3537 m<sup>2</sup> with an average parcel size of 2330 m<sup>2</sup> and proposed to be serviced by community water service from the local water provider and individual on-site septic disposal systems with a community sewage disposal field. In addition, the proposal includes the possible future dedication of 2695 m<sup>2</sup> of park land which would connect to an existing park land corridor. The proposal also includes a public walkway with public access over the strata road for the purposes of providing pedestrian access to the existing park land from Midora Road (see Attachment No. 2 for proposed plan of subdivision).

It is noted that at the time of previous development of the subject property, park land was dedicated and no additional park land is required as per section 941 of the *Local Government Act*. In addition, a development covenant was registered on title which requires that the public access be given to connect Midora Road with the existing park land and that this trail corridor be constructed.

As part of the application information process, the applicant has submitted along with the proposed plan of subdivision, a subdivision assessment report concerning on-site septic disposal, a geotechnical hazard assessment including updated correspondence, a Stage 1 Preliminary Site Investigation for waste management, and correspondence from a professional engineer concerning servicing of the site.

#### **ALTERNATIVES**

- 1. To approve the amendment applications to amend the OCP by clarifying the term of community sewer to include strata owned and operated systems and by rezoning a portion of the subject property from Rural 1 Subdivision 'D' (RU1D) to Residential 2 Subdivision District 'M' (RS2M) for 1<sup>st</sup> and 2<sup>nd</sup> reading and proceed to Public Hearing subject to the conditions outlined in Schedule No. 1.
- 2. To not approve the amendment applications as submitted.

#### OFFICIAL COMMUNITY PLAN / GROWTH STRATEGY IMPLICATIONS

As outlined above, for this development to proceed, an amendment to the OCP is required to clarify that community sewer would include that such a system could be owned and operated by either a public body or private individuals, companies or strata corporations. The Regional Growth Strategy Plan (RGS) designates this property within an Urban Containment Boundary where growth is encouraged to develop complete communities with the provision of both community water and community sewer services. The RGS refers to community sewer service as a communal method of wastewater management, which would include both public and privately owned systems. As a result, this proposed amendment to the OCP will be consistent with the Regional Growth Strategy Plan in that the definition of community sewer will include all owners or operators, whether publically or privately owned.

The majority of the Village area is developed into smaller parcels with community water service only. The proposed amendment to the OCP would potentially impact three other parcels in the Village area in that these parcels, if developed, would have the option of developing with strata owned community sewer systems. It is noted that these other parcels have rural zoning and therefore a zoning amendment process would be required as part of any future proposed development. While community sewer service owned and operated by a public utility is not expected in the Extension Village area any time in the near future, staff recommends that section 219 covenant be registered on title which would require future owners to connect to community sewer once available. This has been included in the Conditions of Approval as set out in *Schedule No. 1* of this staff report.

Concerning the OCP policy for storm water management meeting pre-development flows, this is a Ministry of Transportation and Infrastructure responsibility and is the standard used by the Ministry. The applicant's agent has indicated these post-development flows will not exceed pre-development flows.

Concerning the OCP policy for public access over strata access road, the subdivision plan indicates this is the case, which is also in keeping with the development covenant registered on title.

#### DEVELOPMENT IMPLICATIONS

With respect to geotechnical assessment, the applicant has provided a report prepared by a professional engineer which concludes that there are some geotechnical concerns over a portion of the site consisting of a bluff 4 to 5 metres in height with a slope up to 50 degrees. As a result, the report recommends an increased building setback. The applicant's BCLS has confirmed that, despite the additional setbacks, buildable site areas are available for all the proposed strata lots.

With respect to coal mining related activities, the applicant's engineer concluded that there was no coal mining activity on the subject property. Concerning the existing coal pile located on the adjacent parcel, the applicant's engineer has provided a report establishing a building setback from the coal pile which will impact the location of future buildings on proposed Lots 7 and 8; however, despite this setback requirement, there are adequate buildable site areas available for these proposed parcels.

As per Board policy, staff also recommends that the applicant be required to register the Geotechnical Reports and correspondence on title of the parent parcel as a section 219 covenant and include a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of erosion, slippage and/or landslide (see Schedule No. 1 – Conditions of Approval). It is noted that further site specific geotechnical reports may be required through the building permit process.

With respect to site development, the applicant's professional engineer has provided a subdivision assessment as to the construction of the proposed septic disposal system along with confirmation that the road and drainage systems will be built to Ministry of Transportation and Infrastructure standards. These engineering requirements will be secured through the subdivision review process.

#### PUBLIC CONSULTATION

#### Public Information Meeting

In keeping with the Board's public consultation framework, a Public Information Meeting was held on November 18, 2009 at the Extension Community Hall. Notification of the meeting was advertised in The Bulletin newspaper, on the RDN website, and a sign was posted on the subject property along with a direct mail out to all property owners within 200 metres of the subject property. Fourteen people attended the information meeting and provided comments with respect to the proposal (see Attachment No. 3 'Proceedings of the Public Information Meeting').

Key issues raised by the public included drainage of the site, the existing split parcel, the existing strip of park land located adjacent to the northwest of the subject property, and the need for access to lands beyond.

In response to the concerns raised, the applicant's agent and/or staff's comments are as follows:

Concerning streams, the applicant's agent has confirmed there are no streams on or within 30.0 metres of the subject property and that storm water management of the site will be a requirement of subdivision.

- Concerning the split parcel, the applicant's agent is in concurrence to provide a section 219 covenant restricting building on the smaller area of the split parcel.
- Concerning the existing strip of park land, staff notes this park land was dedicated previously and
  is not part of this development, but will be reviewed as part of the subdivision review process.
- Concerning access to lands beyond, staff notes the Regional Approving Officer, as part of his
  review of the associated subdivision application, will determine the need for access to lands
  beyond.

#### PARK LAND IMPLICATIONS

As the requirement for park land dedication was given under a previous application, additional park land is not required. As noted above, the conceptual subdivision plan submitted in support of this application shows additional park, the applicant has offered an area for possible future park land (see Schedule No. 2 showing area of possible future park land). This proposal will be evaluated as part of the subdivision review process.

Concerning the trail construction, construction of the trail is secured under the current development covenant and will be completed as part of the subdivision review process. The applicant is in concurrence to construct the trail to the RDN trail standard.

#### SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". The proposed development is situated within a Village area in Urban Containment Boundaries where development is encouraged. As part of the subdivision, park land and pedestrian linkages will be provided, thus providing some open space and future connection to the Trans Canada Trail Corridor.

#### SUMMARY

The applicant is proposing to amend the OCP and Zoning Bylaws in order to permit a 15 lot bare land strata subdivision serviced by community water and a communal sewer on the subject property. A Public Information Meeting was held on November 19, 2009 and the Minutes are attached (see Attachment No. 3).

Given that the OCP amendment is in concurrence with the Growth Strategy Plan and that applicant is in concurrence to enter into covenants including the requirement for future connection to community sewers and a save harmless covenant, staff supports the amendment applications, as submitted, subject to the conditions set out in Schedule No. 1, for 1<sup>st</sup> and 2<sup>nd</sup> reading and to proceed to public hearing.

Copies of the proposed amendment bylaws are attached to this report (see Attachments No. 4 & 5).

#### RECOMMENDATIONS

- 1. That the minutes of the Public Information Meeting held on November 19, 2009 be received;
- 2. That "Regional District of Nanaimo Arrowsmith Benson Cranberry Bright Official Community Plan Amendment Bylaw No. 1148.05, 2010" be given 1<sup>st</sup> and 2<sup>nd</sup> reading;
- 3. That Application No. PL2009-502 to rezone the subject property from Rural 1 Subdivision 'D' (RU1D) to Residential 2 Subdivision District 'M' (RS2M) be approved subject to the conditions included in Schedule No. 1;

4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.353, 2010" be given 1<sup>st</sup> and 2<sup>nd</sup> reading; and

5. That the Public Hearing on "Regional District of Nanaimo Arrowsmith Benson – Cranberry Bright Official Community Plan Amendment Bylaw No. 1148.05, 2010" and "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.353, 2010" be delegated to Director Young or her alternate.

Aldrice

Report Writer

General Manager Consumence

Manager Concurrence

CAO Concurrence

## Schedule No. 1 Conditions of Approval OCP/Zoning Amendment Application No. PL2009-502 & PL2009-797

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

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

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

#### **Future Community Sewer**

The applicant, at the applicant's expense, is to prepare and register a section 219 covenant requiring that if a community sewer operated by a public utility becomes available the owner at their expense will disconnect the private septic service and connect to the community sewer service.

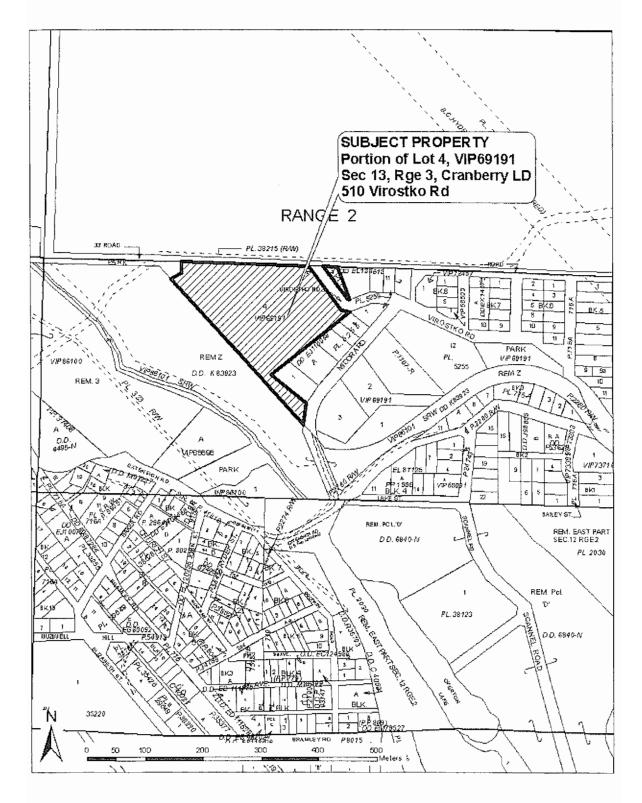
#### Proposed Strata Lot 1

The applicant, at the applicant's expense, is to prepare and register a section 219 covenant restricting that, the portion of Strata Lot 1, as shown on the plan of subdivision as 776 m<sup>2</sup> in size from locating any buildings or structures.

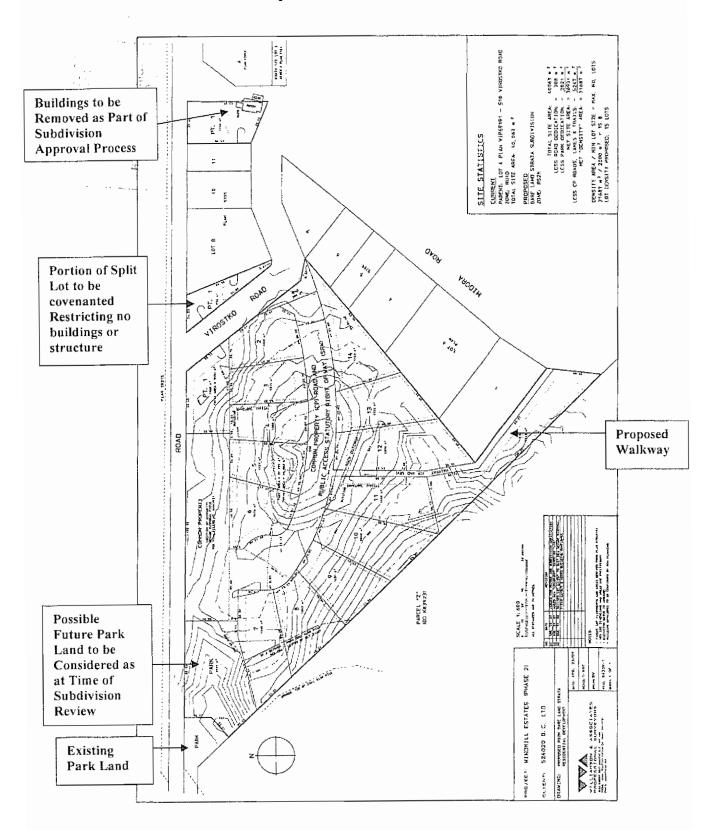
#### Geotechnical Report

The applicant, at the applicant's expense, is to prepare and register a section 219 covenant that registers the geotechnical reports and correspondence entitled Geotechnical Hazard Assessment: Windmill Estates, Extension, BC and dated May 5, 1998 prepared by EBA Engineering; Review of Previous Geotechnical Report — Windmill Estates Phase 2, Remainder of Parcel C, Section 13, Range 2, Cranberry District in Nanaimo, BC, correspondence entitled Geotechnical Setback from Coal Slag Pile — Windmill Estates Phase 2 Remainder of Parcel C, Section 13, Range 2, Cranberry District in Nanaimo, BC and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of erosion, slippage and/or landslide. This document is to be registered concurrently with the plan of subdivision at Land Title Office, Victoria. Applicant's solicitor is to submit a legal letter undertaking to register this document concurrently with the plan of subdivision.

Attachment No. 1 Location of Subject Property OCP/Zoning Amendment Applications No. PL2009-502 & 797



Attachment No. 2 OCP/Zoning Amendment Application PL2009-502 & 797 Proposed Plan of Subdivision



# Attachment No. 3 Summary of the Minutes of the Public Information Meeting Report of the Public Information Meeting Held at Extension Community Hall 2150 Ryder Street, Extension November 19, 2009 at 7:00 pm Summary of the Minutes on Proposed Amendment Application Nos. PL2009-50 2 & 797

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

There were 14 persons in attendance.

Present for the Regional District:
Chairperson Maureen Young, Director, Electoral Area 'C'
Susan Cormie, Senior Planner

Present for the Applicant:

Present for the Applicant: Brock Williamson, agent for applicant Ian Boers, owner

Chairperson Young opened the meeting at 7:00 pm and outlined the agenda for the evening's meeting. The Chairperson then stated the purpose of the Public Information Meeting and requested the Senior Planner to provide background information concerning the official community plan and zoning amendment process.

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

The Chairperson then invited Brock Williamson, agent on behalf of the applicant, to give a presentation of the proposed zoning amendment. Mr. Williamson introduced the owner then presented the proposed amendment application including the subdivision layout, a maximum density of one dwelling unit per parcel, the proposed park land area, and trail corridor.

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

Robin Arsenault, 2018 Midora Road, noted that there is a place in Nanoose that is similar in terms of septic disposal.

The owner explained that there will be a gray water system for individual parcels with a treatment plant.

The applicant's agent explained that each house will have its own treatment plant and the field will be owned and operated by the strata. The agent noted that the effluent is practically clear by the time it gets to the field. The agent also noted that the system has been designed to municipal standards and in the future, lots will be able to connect to community sewers. In addition, the agent explained that there will be no 'monster' houses as size is being restricted through the septic disposal system.

Arlene Boutin, 2055 Midora Road, asked about the Geotechnical Report.

The applicant's agent said that he could provide a copy.

Arlene Boutin, 2055 Midora Road, asked if there will be a culvert place under the proposed walkway.

The owner noted that the walkway will provide access for children going to school and will be designed to include storm water.

Arlene Boutin, 2055 Midora Road, explained that all the water runs to the lower part and she is concerned about water runoff onto her parcel.

The owner noted her concern.

Gary Britt, John Street asked when the septic field will be constructed.

The applicant's agent explained that the whole field will be built as part of the subdivision approval process and when a lot is sold the new owner will give a deposit for the treatment plant.

Brandon Britt, 500 Virostko Road, asked what are the plans for the split lot.

The applicant's agent explained that this split lot is the left over piece from old surveying in the area.

Monti Wilson, 2375 Godfrey Road asked if the subdivision will be hooked to community water.

The applicant's agent indicated yes it will be the case.

Malcolm MacDonald, water district representative, confirmed that the property is within the water district area.

The owner noted that previously it was partially within the water district.

Brandon Britt, 500 Virostko Road, asked if there will be a covenant restricting trailers.

The owner explained that all the lots will be constructed with houses.

Brandon Britt, 500 Virostko Road, asked if there will be adequate fire hydrants.

The owner explained that there will be sufficient fire hydrants.

Monti Wilson, 2375 Godfrey Road, asked about the OCP requirements.

The owner explained the OCP history and how the previous property was developed with private septic disposal.

The Senior Planner outlined the reason for the OCP amendment.

Glenda Moore, 2019 Midora Road, asked about the water running through the property and what will be done about it.

The owner explained that this is a drainage issue which will be dealt with through the subdivision process.

Mr. Moore, 2019 Midora Road, noted that there is a low area next to the property and water runs from a cliff behind the parcel.

The Senior Planner explained that storm water management is a responsibility of the Ministry of Transportation and Infrastructure and will be considered by the Ministry as part of the subdivision review.

File No. PL2009-502 & PL2009-797 December 22, 2009 Page 11

Monti Wilson, 2375 Godfrey Road, asked if the drainage water will be going into the creek.

The owner explained that the drainage is coming from the adjacent parcel and is not going into the creek.

The applicant's agent explained the drainage from the site, under the Ministry of Transportation and Infrastructure requirements, cannot be increased as a result of development.

Monti Wilson, 2375 Godfrey Road, asked if the drainage goes into Scannel Creek.

The Chairperson explained that the drainage does not enter Scannel Creek.

Wayne Hamilton, 2150 John Street, asked about the park land strip running along the back of property and he thought that the RDN did not want this strip now.

The Senior Planner noted that correspondence has been received by Island Timberlands noting the same concern and that this would be reviewed through the subdivision process.

Robin Arsenault, 2018 Midora Road, asked about the size of the park land.

The owner explained that it is a useable size.

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

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

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

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

The meeting concluded at 7:35 pm.

Susan Cormie, Recording Secretary

#### Correspondence Received as Part of the Public Information Meeting held on November 19, 2009

From: Henderson, Stephen [SHenderson@islandtimberlands.com]

Sent: November 16, 2009 3:48 PM

To: Bob. Wylie@gov.bc.ca; Cormie, Susan; Brock Williamson

Cc: Sakai, Denise; Urbanoski, Kraig; Orr, Randy

Subject: Virostko and Midora Roads - RDN - Electoral Area 'C' - (Extension)

Attachments: Virostko Road2.pdf; Virostko Road3 - Plan 2877.pdf; Virostko Road.pdf;

Virostko Road4.pdf

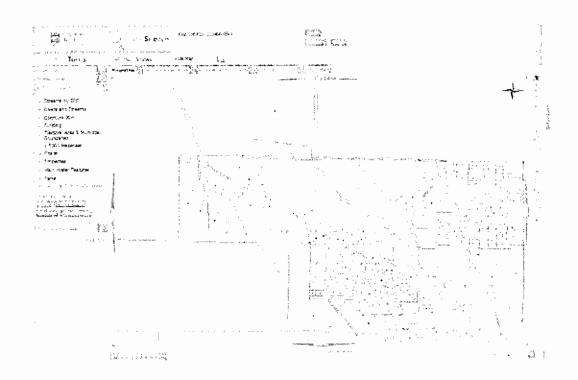
To: Bob Wylie (MOTI), Susan Cormie (RDN), Brock Williamson (surveyor),

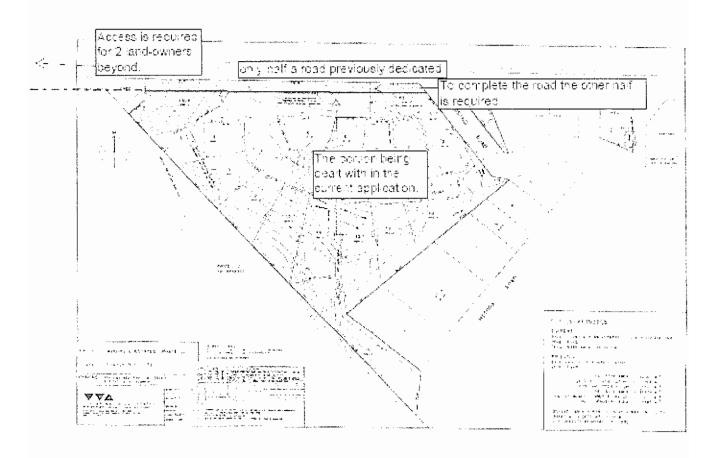
Island Timberlands has concerns with the proposed subdivision application referenced as Virostko and Midora Roads, RDN's Electoral Area 'C' (Extension). Please find 4 pdf files attached that express our concerns better than words can provide.

In brief: Island Timberlands property was previously subdivided and half a road was dedicated to facilitate access to lot 720 as shown on the file 'VirostkoRoad2.pdf'. We strongly believe the second half of the road needs to be dedicated within Windmill Estates Phase 2 – the plan is attached as 'Virostko Road4.pdf'. There are additional subdivision maps attached that provide further clarification of our concern. Please amend the Windmill Estates proposed plan of subdivision to reflect our concerns. We await your reply. Yours truly,

Stephen Henderson Sr. Land Manager Island Timberlands 250 755-3573

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File No.	PL2009-502 & PL2009-797	7
	December 22, 2009	)
	Page 14	1

#### Attachment No. 4 Proposed Amendment Bylaw No. 1148.05, 2010

#### BYLAW NO. 1148.05

### A BYLAW TO AMEND "REGIONAL DISTRICT OF NANAIMO ARROWSMITH BENSON – CRANBERRY BRIGHT OFFICIAL COMMUNITY PLAN BYLAW NO. 1148, 1999"

WHEREAS the Board of the Regional District of Nanaimo wishes to amend "Regional District of Nanaimo Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999":

THEREFORE IT BE RESOLVED that the Board of the Regional District of Nanaimo, in open meeting assembled ENACTS AS FOLLOWS:

- This Bylaw may be cited as "Regional District of Nanaimo ARROWSMITH BENSON CRANBERRY BRIGHT OFFICIAL COMMUNITY PLAN AMENDMENT BYLAW NO. 1148.05, 2010".
- 2. The "Regional District of Nanaimo ARROWSMITH BENSON CRANBERRY BRIGHT OFFICIAL COMMUNITY PLAN AMENDMENT BYLAW NO. 1148.05, 2010" is hereby amended as set out in Schedule 'A' to this Bylaw.

Chairperson	Sr. Mgr., Corporate Administration
Adopted:	
Passed Third Reading:	
Public Hearing Held:	
Passed Second Reading:	
Passed First Reading;	NIA- 10-10-10-10-10-10-10-10-10-10-10-10-10-1

	File No. PL2009-502 & PL2009-797  December 22, 2009  Page 15
	Schedule 'A' to accompany "Regional District of Nanaimo Arrowsmith Benson – Cranberry Bright Official Community Plan Amendment Bylaw No. 1148.05, 2010"
	Chairperson
	Sr. Mgr., Corporate Administration BYLAW NO. 1148.05
	Schedule 'A'
1.	"Regional District of Nanaimo ARROWSMITH BENSON - CRANBERRY BRIGHT OFFICIAL COMMUNITY PLAN BYLAW NO. 1148.1999" is hereby amended as follows:
	(1) Policy No. 2 d) ii) under GOAL 2 - CREATE COMPLETE COMMUNITIES is hereby amended by adding the following after community sewer:
	in that community sewer means a communal method of wastewater management owned and operated by the Regional District, a municipality, an improvement district, or a private strata corporation.

#### Attachment No. 5 Proposed Amendment Bylaw No. 500.353, 2010

#### REGIONAL DISTRICT OF NANAIMO BYLAW NO. 500.353

#### A BYLAW TO AMEND REGIONAL DISTRICT OF NANAIMO LAND USE AND SUBDIVISION BYLAW NO. 500, 1987

WHEREAS the Board of the Regional District of Nanaimo wishes to amend "Regional District of Nanaimo LAND USE AND SUBDIVISION BYLAW NO. 500, 1987":

THEREFORE IT BE RESOLVED that the Board of the Regional District of Nanaimo, in open meeting assembled ENACTS AS FOLLOWS:

- 1. This Bylaw may be cited as "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.353, 2010".
- 2. The "Regional District of Nanaimo LAND USE AND SUBDIVISION BYLAW NO. 500, 1987" Schedule 'A' is hereby amended as follows:
  - (1) PART 3 LAND USE REGULATIONS, Schedule '3A', ZONING MAPS is hereby amended by rezoning from Rural 1 (RU1) to Residential 2 (RS2) the land legally described as:

#### That Portion of Lot 4 Section 13 Range 2 Cranberry District Plan VIP69191

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

(2) PART 4 SUBDIVISION REGULATIONS, Schedule '4A', SUBDIVISION DISTRICTS MAPS is hereby amended by changing the Subdivision District 'D' to 'M' for the land legally described as:

#### That Portion of Lot 4 Section 13 Range 2 Cranberry District Plan VIP69191

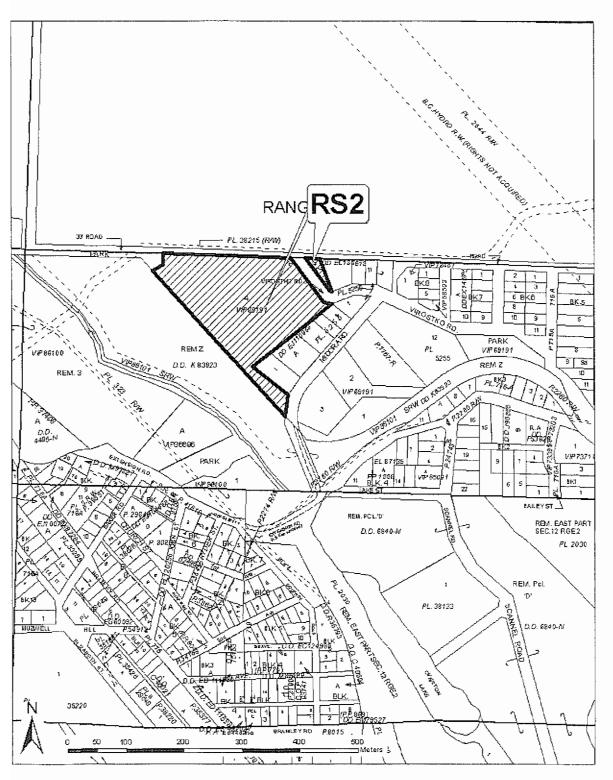
as shown in heavy outline on Schedule No. '2' which is attached to and forms part of this Bylaw.

Passed First Reading:	
Passed Second Reading:	
Public Hearing Held:	
Passed Third Reading:	
Adopted:	
Chairperson	Sr. Mgr., Corporate Administration

Schedule No. '1' to accompany "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.353, 2010"

Chairperson

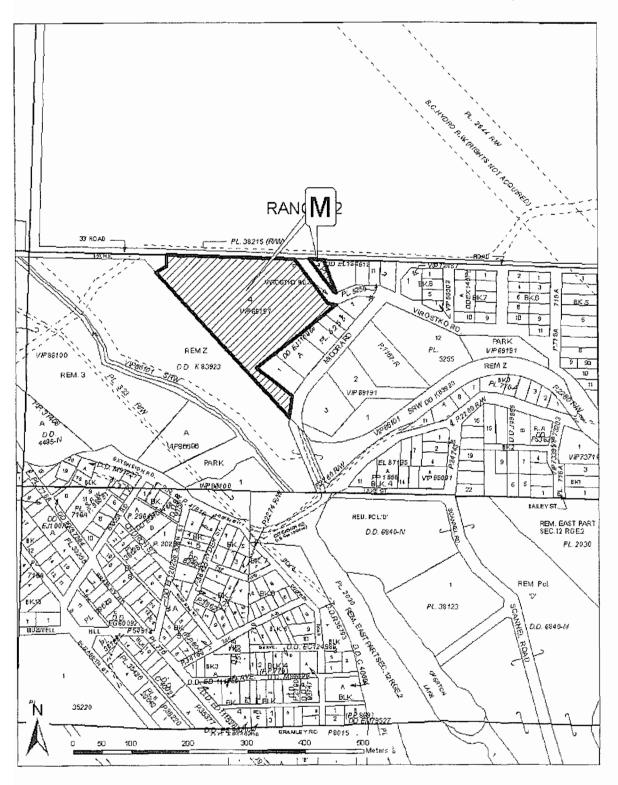
Sr. Mgr., Corporate Administration



Schedule No. '2' to accompany "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.353, 2010"

Chairperson

Sr. Mgr., Corporate Administration





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#### **MEMORANDUM**

TO:

Dale Lindsay

Manager, Current Planning

DATE:

December 22, 2009

FROM:

Susan Cormie Senior Planner FILE:

PL2009-012

SUBJECT:

Development Permit No. PL2009-012 - Thomas Hoyt, BCLS, on behalf of L. Dorset That Part of Section 13, Range 7, Cranberry District, Lying to The East of The Plan

1643 Except That Part in Plan 30391 - 1949 Akenhead Road

Electoral Area 'A'

#### **PURPOSE**

To consider an application for a Development Permit for the subject property in conjunction with a section 946 subdivision proposal.

#### BACKGROUND

The Regional District of Nanaimo has received a Development Permit application in conjunction with a section 946 subdivision proposal from Thomas Hoyt, BCLS on behalf of Linda Dorset (see Attachment No. 1 for location of subject property).

The subject property, which is 2.9 ha in size, is zoned Rural 4 and is situated within Subdivision District 'D' (RU4D) (2.0 ha minimum parcel size with or without community services) as per the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The subject property currently supports one single dwelling unit and accessory buildings. Surrounding land uses include King Road and a rurally zoned property in the Agricultural Land Reserve to the north, Akenhead Road and rurally zoned parcels to the east, and residentially zoned parcels to the south and west. A creek crosses the subject property in a north west to south east direction.

The subject property is designated within the following development permit areas as per the Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001:

- The Streams, Nesting Trees, & Nanaimo River Floodplain Development Permit Area No. 5 (DPA No. 5) for the protection of the natural environment and the protection of development from hazardous conditions, in this case for the Nanaimo River Floodplain, and
- The Fish Habitat Protection Development Permit Area No. 6 (DPA No. 6) for the protection of riparian areas, in this case, for a stream crossing the subject property.

#### Proposed Development

The applicant is proposing to create a section 946 parcel (subdivision for a family member) and a remainder parcel. The section 946 parcel is proposed to be 0.9 ha in size and the remainder parcel is proposed to be 2.0 ha in size (see Schedule No. 2 for Proposed Plan of Subdivision). It is noted that the size of the proposed section 946 parcel is less than the Bylaw No. 500, 1987 requirement of 1.0 ha.

The parcels are proposed to be served with individual potable water wells and individual private septic disposal systems.

As part of the application process, the applicant has submitted Geotechnical Hazard and Riparian Assessment Reports.

The subject property is not within a RDN Building Services area.

#### ALTERNATIVES

- 1. To approve Development Permit No. PL2009-012, as submitted, subject to the conditions outlined in Schedules No. 1 and 2.
- 2. To deny the Development Permit No. PL2009-012, as submitted and provide further direction to staff.

#### DEVELOPMENT IMPLICATIONS

#### Environmentally Sensitive Development Permit Area Implications

The submitted Riparian Assessment establishes a Streamside Protection and Enhancement Area (SPEA) of 30.0 metres for the stream crossing the subject property. As there is not expected to be any works within the SPEA at the time of subdivision or at the time of future construction of buildings, the Qualified Environmental Professional has not required any measures or monitoring as part of the assessment.

#### Natural Hazard Development Permit Area Implications

The applicant's Professional Engineer has determined that the site is considered safe and suitable for the intended uses provided the recommendations outlined in the report are followed. As per Board policy, staff also recommends that the applicant be required to register this Geotechnical Report on title of the parent parcel as a section 219 covenant and include a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of flooding, erosion and/or landslide. The registration of this covenant can be secured through the subdivision review process (see Schedule No. 1 for Conditions of Approval).

#### Site Servicing Implications

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

Proof of potable water is subject to the approval of the Regional 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 may impose conditions as required.

#### SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". As part of the Development Permit application process, the applicant has provided a Riparian Assessment for the protection of the riparian area.

#### **SECTION 946**

As per Bylaw No. 500, 1987, the minimum parcel size for a section 946 parcel is 1.0 ha with or without community services. Despite this regulation, the Regional Approving Officer, who is responsible for subdivision approvals, is of the opinion that RDN zoning/land use bylaw provisions that relate to section 946 requirements are not enforceable and as such has approved similar applications where the parcel size is less than 1.0 ha. Given this conflict, it is recommended that the Board direct staff to review the section 946 provisions for both Bylaw No. 500, 1987 and Bylaw 1285, 2002 (Electoral Area 'F') and report back to the EAPC.

#### **SUMMARY**

Prior to the development of this subject property, a Development Permit is required. The subject property is within the Streams, Nesting Trees, & Nanaimo River Floodplain Development Permit Area No. 5 for the protection of the natural environment and the protection of development from flooding and the Fish Habitat Protection Development Permit Area for the riparian area of the stream crossing the property. The applicant has provided a Geotechnical Hazard Assessment Report which concludes that, the proposed lot is considered safe and suitable for the intended uses provided the recommendations set out in the report are followed. A Riparian Assessment has also been completed which establishes a 30.0 metre Streamside Protection Enhancement Area (SPEA). No development is proposed within the SPEA.

As the application is consistent with the applicable Development Permit Guidelines, staff recommends approval of the Development Permit.

The Regional Approving Authority has indicated that in their opinion the Regional District Zoning Bylaws with respect to minimum lot area for section 946 subdivisions is not consistent with the provincial legislation and as such they are not prepared to enforce this aspect of the Bylaw. Given this position staff are recommending that the Board direct staff to review the section 946 requirements and report back to the EAPC.

#### RECOMMENDATIONS

1. That Development Permit Application No. PL2009-012, in conjunction with a section 946 subdivision application, be approved subject to the conditions outlined in Schedules No. 1 and 2.

 That staff be directed to review the section 946 provisions as per RDN Land Use and Subdivision Bylaw No. 500, 1987 and RDN Zoning and Subdivision Bylaw No. 1285, 2002 and report back to the Electoral Area Planning Committee.

Report Writer

Manager Concurrence

CAO Concurrence

General Manager Con-

## Schedule No. 1 Development Permit Application No. PL 2009-012 Conditions of Approval

The following sets out the conditions of approval with respect to Development Permit No. PL2009–012:

#### 1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2 (to be attached to and forming part of Development Permit No. PL2009-012).

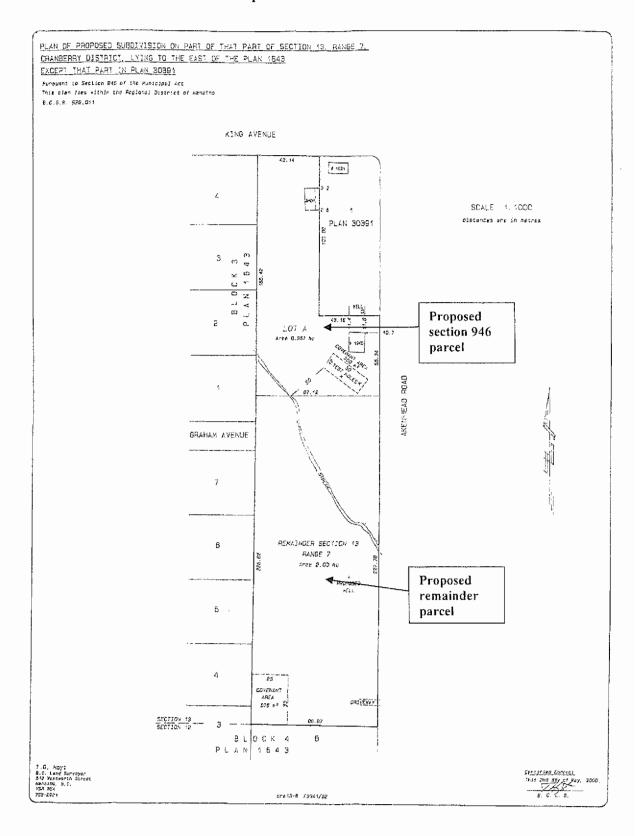
#### 2. Geotechnical Hazard Assessment

- a) The Floodplain Data and Conclusions and Recommendations sections, as set out in the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd. and dated November 30, 2009 (to be attached to and forming part of this Development Permit as Schedule No. 3), shall be followed as part of the subdivision of the land and future construction of buildings or structures.
- b) The applicant, at the applicant's expense, is to prepare and register a section 219 covenant that registers the geotechnical report entitled "Geotechnical Hazard Assessment" prepared by Lewkowich Engineering Associates Ltd. and dated November 30, 2009 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of geotechnical failure including flooding, erosion and/or landslide. This document is to be registered concurrently with the plan of subdivision at Land Title Office, Victoria. Applicant's solicitor is to submit a legal letter undertaking to register this document concurrently with the plan of subdivision.

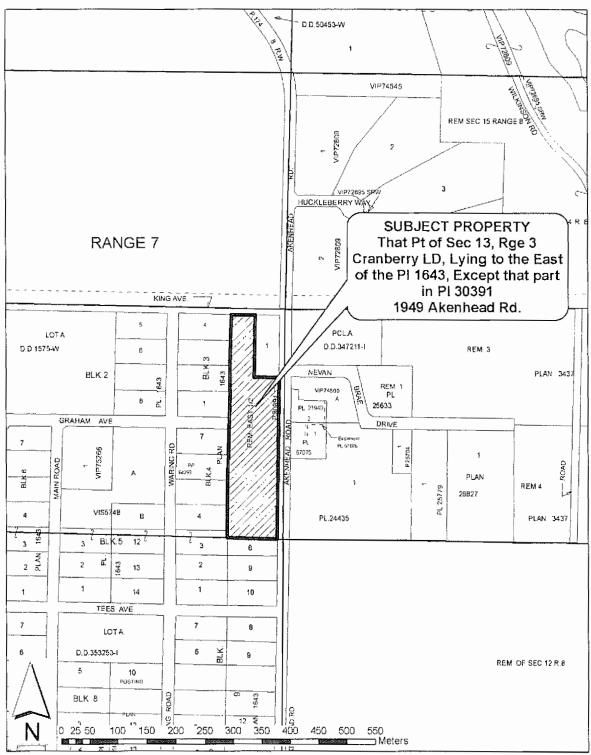
#### 3. Riparian Assessment

The Riparian Area Assessment No. 1446 prepared by David Clough and dated Oct 26, 2009 (to be attached to and forming part of the Development Permit as Schedule No. 4) 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 or wells 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.

## Schedule No. 2 Development Permit No. PL2009-012 Proposed Plan of Subdivision



## Attachment No. 1 Location of Subject Property





	CROSS EDITION (NOTE)
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## **MEMORANDUM**

TO:

Dale Lindsay

DATE:

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December 22, 2009

Manager, Current Planning

FROM:

Susan Cormie Senior Planner FILE:

PL2009-848

SUBJECT:

Development Permit Application No. PL2009-848 - Wessex Enterprises Ltd.

Lot 3, Section 13, Ranges 1 and 2, Cranberry District, Plan VIP86100, except Part

in Plan VIP86696 - Extension Road

Electoral Area 'C'

#### **PURPOSE**

To consider an application for a Development Permit for the subject property in conjunction with a proposed six lot subdivision.

#### **BACKGROUND**

The Regional District of Nanaimo has received a Development Permit application in conjunction with a six lot subdivision proposal from Wessex Enterprises Ltd. (see Attachment No. 1 for location of subject property).

The subject property, which is 7.47 ha in size, is zoned Extension Rural Residential Comprehensive Development Zone 19 (CD19) as per the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". Under the CD19 zone, a maximum of 9 parcels may be created provided no parcel is less than 0.50 ha in size and a minimum parcel averaging of 2.0 ha is maintained. The associated six lot subdivision is Phase 2 of the overall development. Following the creation of these parcels, no further subdivision will be permitted under the existing zoning.

The subject property is currently vacant. Surrounding land uses include a rural zoned parcel to the north, park land, Scannel Creek and CD19 zoned property to the northeast; Extension Road and rural and residential zoned parcels to the south and southwest.

Through the rezoning of the subject property, a number of subdivision related items were secured by covenant. These items, which included park land dedication, public assess by statutory right-of-way, and an option to purchase agreement, were provided when the applicant created the first phase of subdivision. Relaxations of the minimum 10% perimeter frontage requirement for proposed Lot 5 and proposed Lot 6 were also previously granted.

The subject property is designated within the Watercourse Protection and Fish Habitat Protection Development Permit Areas for the protection of Scannel Creek and its riparian area pursuant to the "Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999" (OCP).

#### Proposed Development

The applicant is proposing to create six parcels to be served with community water service connections and individual private septic disposal systems (see Schedule No. 2 for Proposed Plan of Subdivision).

As part of the application process, the applicant has submitted a Riparian Assessment Report.

The subject property is within a RDN Building Services area.

#### ALTERNATIVES

- 1. To approve Development Permit No. PL2009–848, as submitted, subject to the conditions outlined in Schedules No. 1 and 2.
- 2. To deny the Development Permit No. PL2009-848 as submitted and provide further direction to staff.

#### DEVELOPMENT IMPLICATIONS

The submitted Riparian Assessment establishes a Streamside Protection and Enhancement Area (SPEA) of 15.3 metres for Scannel Creek, 10.0 metres for the two side channels and the one stream. As no works are expected within the SPEA during subdivision, the Qualified Environmental Professional (QEP) has not required any measures to protect and maintain the SPEA or environmental monitoring. However, the QEP has established measures and monitoring that are to be completed prior to the development of the future parcels. These requirements are included in the Conditions of Development as set out in *Schedule No. 1*.

#### Site Servicing Implications

Community water service will be provided by the local community water authority.

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

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.

#### SUMMARY

Prior to the development of this subject property, a Development Permit is required. The subject property is within the Watercourse Protection and Fish Habitat Development Permit Areas for protection of Scannel Creek and its riparian areas. The applicant has provided a Riparian Assessment which establishes a Streamside Protection and Enhancement Area (SPEA) of 15.3 metres for Scannel Creek, 10.0 metres for the two side channels and the one stream.

As the application is consistent with the applicable Development Permit Guidelines, staff recommends approval of the Development Permit.

## RECOMMENDATION

Comie

That Development Permit Application No. PL2009–848, in conjunction with a six lot subdivision application, be approved subject to the conditions outlined in Schedules No. 1 and 27

Report Writer

General Manager Concurrence

Manager Conou

CAO Concurrence

## Schedule No. 1 Conditions of Approval Development Permit Application No. PL2009-848

The following sets out the conditions of approval:

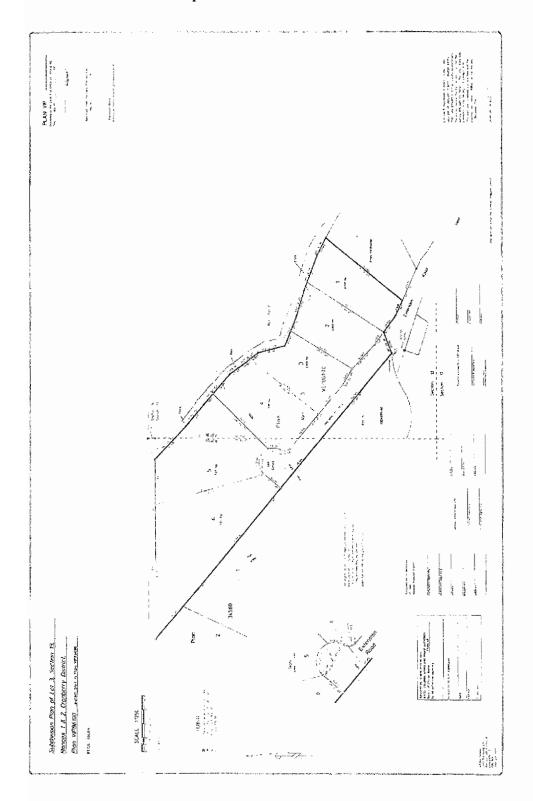
#### 1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2.

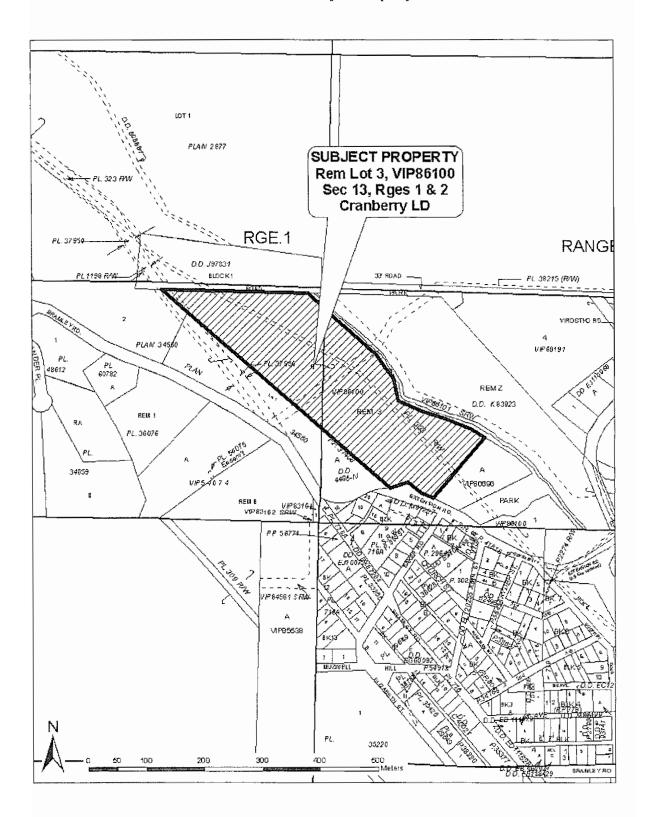
#### 2. Riparian Assessment

- a) The Riparian Area Assessment No. 1385 prepared by Shelee Hamilton and dated December 3, 2009 (to be attached to and forming part of the Development Permit as Schedule No. 3) applies to the six lot subdivision of the subject property. No construction, other than the surveying required for subdivision, shall occur within the SPEA. If any subdivision related works, including drainage works or wells are to occur in the SPEA, a further assessment will be required.
- b) Prior to any future development on any portion of the proposed parcels, the measures set out in Section 4 Measures to Protect and Maintain the SPEA and the monitoring set out in Section 5 Environmental Monitoring of the Riparian Assessment must be followed.

Schedule No. 2
Development Permit Application No. PL2009-848
Proposed Plan of Subdivision



## Attachment No. 1 Location of Subject Property





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## **MEMORANDUM**

TO: Dale Lindsay

DATE:

December 23, 2009

Manager, Current Planning

FROM:

Susan Cormie Senior Planner FILE:

PL2009-852

SUBJECT: I

Development Permit Application No. PL 2009-852 - Peter Mason

Lot 15, Block 360, Newcastle District, Plan 36512, Except That Part in Plan VIP76033

1055 Spider Lake Road Electoral Area 'H'

#### **PURPOSE**

To consider an application for a Development Permit in conjunction with a two lot subdivision proposal.

#### BACKGROUND

The Regional District has received a development permit application in conjunction with a two lot subdivision proposal from Peter Mason, BCLS, on behalf of Wm and E Lyons.

The subject property, which is 4.09 ha in size, is zoned Rural 1 (RU1) and is situated within Subdivision District 'D' (RU1D) (2.0 ha minimum parcel size with or without community services) as per the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. I for location of subject property). There is a section 219 covenant registered on title which includes restricting the number of dwelling units permitted on new parcels to one.

The parent parcel currently contains two single dwelling units and accessory buildings and is surrounded by rural zoned parcels and borders the Provincial Agricultural Land Reserve to the south.

The parent parcel is not within a RDN Building Services area.

As per "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003", the subject property is designated within the Environmentally Sensitive Features Development Permit Areas for the following:

- the protection of the aquifer and
- the protection of lakes, wetlands, and ponds and their riparian areas, in this case a wetland located within the subject property:

## Proposed Development

The applicant is proposing to create two new parcels, both greater than the minimum 2.0 ha parcel size (see Schedule No. 2 for Proposed Plan of Subdivision). The parcels are proposed to be served with individual potable water wells and individual private septic disposal systems.

#### **ALTERNATIVES**

- To approve Permit Application No. PL 2009–852, 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

## Environmentally Sensitive Development Permit Area Implications

The applicants' Professional Engineer reports in the Aquifer Protection Assessment that the subject property is located on the boundary between two aquifers. The assessment report concludes that the site is considered suitable for the proposed 2-lot subdivision and is believed to represent a low impact risk with regard to aquifer contamination or depletion of aquifer resources. The report recommends that storage or use of chemicals beyond household levels should not be undertaken and uses such as repairs shops, fuel storage tanks should be not undertaken without further study of the aquifers. This assessment has been included within the Conditions of Approval (see Schedule No. 1 – Conditions of Approval).

With respect to the watercourse protection, the applicant is in concurrence to register a section 219 covenant prohibiting disturbance of the wetland and a 15.0 metre setback from the natural boundary including no removal of vegetation, alteration of land, or the placement of any buildings or structures. The requirement to register this document can be secured though the subdivision approval process (see Schedule No. 1).

## Site Servicing

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 may impose conditions as required.

#### SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". As part of the Development Permit application process, the applicant is in concurrence to register a section 219 covenant for the protection of the existing wetland located within the subject property.

#### **SUMMARY**

Prior to the development of the subject property a Development Permit is required. The subject property is within the Environmentally Sensitive Features Development Permit Area pursuant to the Electoral Area 'H' OCP. The applicant has provided an aquifer assessment report which concludes that the subdivision will not negatively impact the aquifer. Concerning the protection of the wetland, the applicant is in concurrence to register a section 219 covenant restricting removal of vegetation, disturbance or soil or placements of structures within 15.0 metres of the natural boundary of the wetland.

As the application is consistent with the applicable development permit guidelines staff recommends approval of the development permit.

## RECOMMENDATION

That	Development	Permit	Application	No.	PL2009-852,	in	conjunction	with a	a two	lot	subdivision,	be
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Report Writer

Manager Concurrence

General Manago

CAO Concurrence

# Schedule No. 1 Development Permit Application No. PL 2009-852 Conditions of Approval

The following sets out the conditions of approval with respect to Development Permit No. PL2009-852:

#### 1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2.

#### 2. Section 219 Covenant - Projection of Wetland

The applicant, at the applicant's expense, shall prepare and register a section 219 covenant restricting the following:

- a) No buildings or structures, including signs, decks, patios, wells, septic disposal fields, outdoor storage, driveways, fences or other site improvements shall be located within 15.0 metres of the natural boundary of the wetland.
- b) No removal of the existing trees and all other vegetation other than invasive plants such as Himalayan blackberries, Scotch broom, morning glory, and purple loosestrife provided they are replaced with native species to enhance the buffer area.

Applicant to submit draft covenant to Regional District for review prior to registration at Land Title Office. This covenant is to be reviewed and accepted by the Regional District prior to being registered on title concurrently with the plan of subdivision at Land Title Office. Applicant's solicitor to submit letter undertaking to register this covenant.

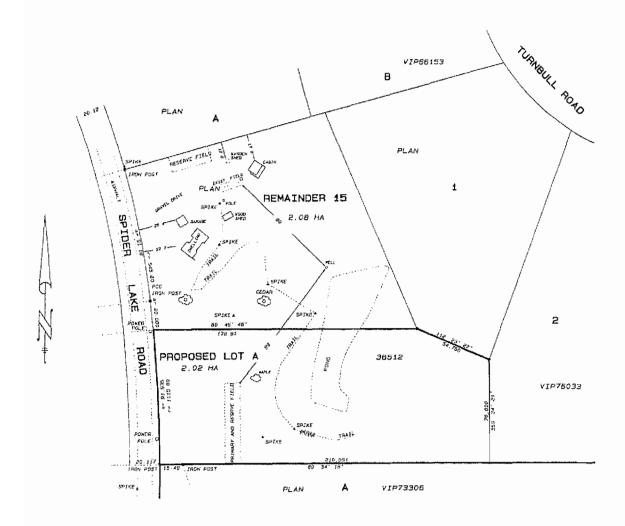
#### 3. Aquifer Assessment

The recommendations set out in section 6.4 of the aquifer assessment entitled "Aquifer Protection Assessment Proposed Subdivision of Land 1055 Spider Lake Road, Qualicum Beach, BC Lot 15, Block 360, Newcastle Land District, Plan 36512 Except Plan VIP76033" prepared by Ground Control Geotechnical Engineering Ltd. and dated November 2, 2009 (to be attached to and forming part of this development permit as Schedule No. 3) shall be followed.

## Schedule No. 2 Development Permit No. PL 2009-852 Proposed Plan of Subdivision

PROPOSED SUBDIVISON PLAN OF PART OF LOT 15, BLOCK 360, NEWCASTLE DISTRICT, PLAN 36512 EXCEPT PLAN VIP76033

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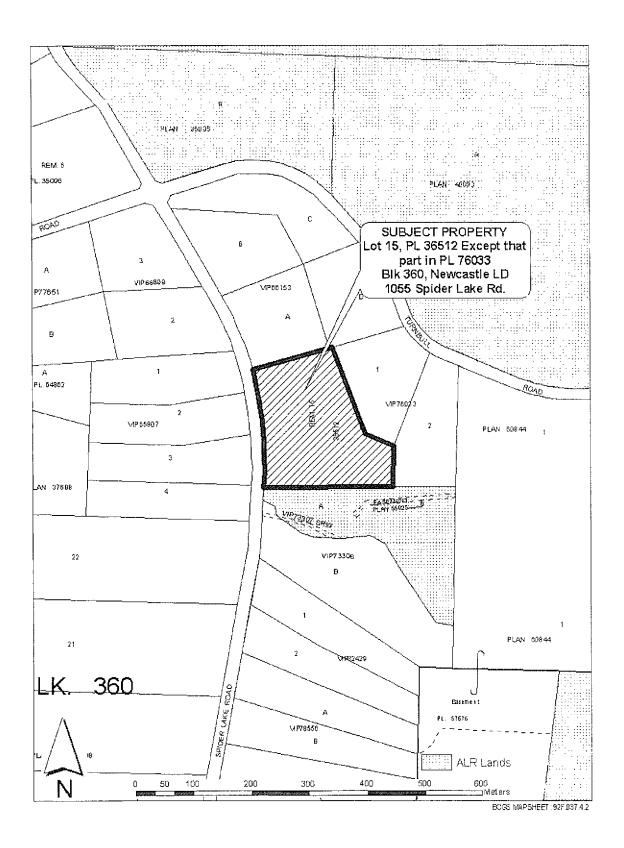
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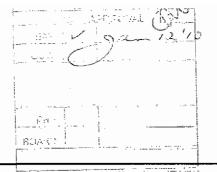
PREPARED BY PETER T MASON D.C L 5 PLAN PREPARED NOVEMERS 5, 2005

PETER T. MISON B.C.L.S

## Attachment No. 1 Location of Subject Property







## **MEMORANDUM**

TO: Dale Lindsay

DATE:

December 21, 2009

Manager of Current Planning

FROM: Elaine Leung

Planner

**FILE:** PL2009-805

SUBJECT: Development Variance Permit Application No. PL2009-805 – Fern Road Consulting

Those Parts of District Lot 22, Newcastle District, Shown Outlined in Red on Plan 531R and Lying to the West of the Island Highway, Also Shown on Said Plan 531R Except Part in Plans VIP68956, VIP79905 and VIP82408 – 6360 Island Hwy West

Electoral Area 'H'

#### **PURPOSE**

To consider an application for a Development Variance Permit to legalize the siting of two existing accessory buildings (a 'shop' and 'shed') on a residential lot, by varying the minimum interior side lot line.

#### BACKGROUND

The Regional District of Nanaimo has received a Development Variance Permit application from Fern Road Consulting on behalf of Rodney Allan. The subject property is surrounded by the E&N Railway, the Island Highway, Linx Road and an unconstructed road right-of-way (see Attachment No. 1 for location of subject property). The site is zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

In conjunction with a proposed subdivision the applicant is requesting a variance in order to legalize the siting of two existing accessory buildings. The Board is also considering the issue of parkland dedication with respect to this proposed subdivision (PL2009-793 on this evenings Agenda).

#### Proposed Variance

The applicant proposes to legalize the location of two existing accessory buildings on proposed Lot B, by varying Section 3.4.62 Minimum Interior Side Lot Line Setback Requirement of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

- 1. For the building labeled as 'shop' (Schedule No. 2) to vary the interior side lot line setback from 2.0 metres to 1.6 metres
- 2. For the building labeled as 'shed' (Schedule No. 2) to vary the interior side lot line setback from 2.0 metres to 0.3 metres.

#### **ALTERNATIVES**

- 1. To approve the Development Variance Permit No. PL2009-805 as requested.
- 2. To deny the Development Variance Permit No. PL2009-805.

#### LAND USE AND DEVELOPMENT IMPLICATIONS

The location of the proposed dwelling unit is outlined on Schedule No. 2. The use of the accessory buildings will remain unchanged.

#### Sustainability

The applicant has completed the "Sustainable Community Builder Checklist" as per Board policy. There are no substantive sustainability implications resulting from this application, however the proposal will permit the continued use of existing structures.

#### 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.

#### SUMMARY/CONCLUSIONS

This application is in conjunction with an associated proposed subdivision of the subject site. This is an application for a Development Variance Permit to legalize the location of two existing accessory buildings, by reducing the minimum interior side lot line setbacks from 2.0 metres to 1.6 metres, and 0.3 metres, respectively.

#### RECOMMENDATION

That:

1. Staff be directed to complete the required notification and;

2. The Development Variance Permit No. PL2009-805 to legalize the location of two existing accessory buildings, be approved.

Report Writer

Manager Concurrence

CAO Concurrence

General Manager Anteurrence

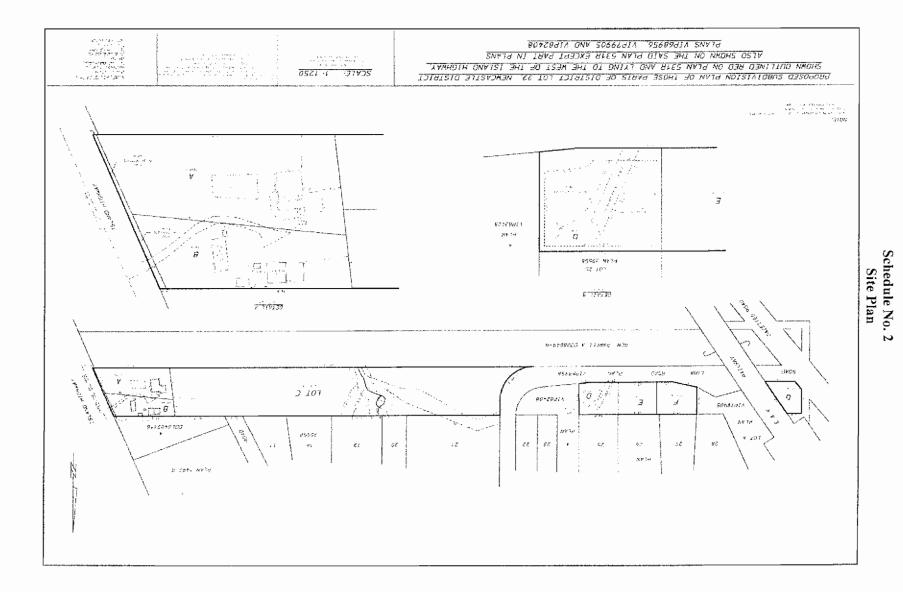
## Schedule No. 1 Terms of Development Permit No. PL2009-805

The following sets out the terms of Development Permit No. PL2009-805:

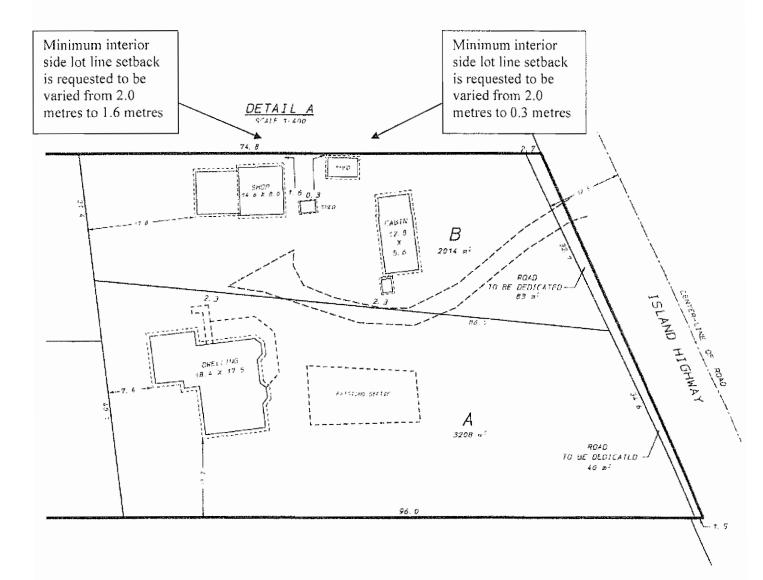
Bylaw No. 500, 1987 - Requested Variance

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

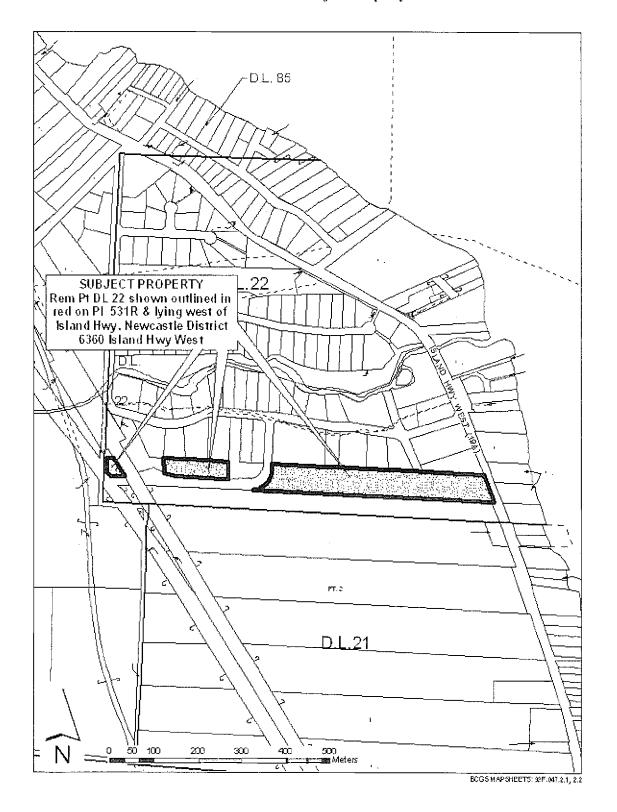
- 1. Section 3.4.62 Minimum Interior Side Lot Line Setback is hereby varied by reducing the minimum setback interior lot line setback from 2.0 to 1.6 metres for the building labeled as 'shop' on proposed Lot B, as shown on Schedule No. 2.
- 2. Section 3.4.62 Minimum Interior Side Lot Line Setback hereby varied by reducing the minimum setback interior lot line setback from 2.0 metres to 0.3 metres for the building labeled as 'shed' on proposed Lot B, as shown on *Schedule No. 2*.



## **Detailed Site Plan**



Attachment No. 1 Location of Subject Property





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## **MEMORANDUM**

TO: Dale Lindsay

DATE:

December 23, 2009

Manager of Current Planning

FROM: Kristy Marks

Planner

FILE:

PL2009-807

SUBJECT:

Development Variance Permit Application No. PL2009-807 – Pettersen Lot 1, District Lot 72, Nanoose District, Plan 9546 - 1969 Seahaven Road

Electoral Area 'E'

#### **PURPOSE**

To consider an application for a Development Variance Permit to vary the building height and the setback from the sea in order to allow the construction of dwelling unit on the subject property.

#### BACKGROUND

The Regional District of Nanaimo has received an application from Fern Road Consulting Ltd. on behalf of Ryan and Diane Pettersen to permit the construction of a dwelling unit. The subject property is approximately 1000 m<sup>2</sup> in area and is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is bound by developed residential lots to the east and west, Seahaven Road to the south and the Strait of Georgia to the north.

#### Proposed Variance

The applicant is requesting a height variance from 8.0 metres to 8.5 metres and a setback variance from the natural boundary of the sea from 15.0 metres to 9.8 metres in order to construct a new dwelling unit.

#### ALTERNATIVES

- 1. To approve the Development Variance Permit No PL2009-807 subject to the conditions outlined in Schedules No. 1 4.
- 2. To deny the Development Variance Permit PL2009-807.

#### DEVELOPMENT IMPLICATIONS

The applicant is proposing to construct a dwelling unit with variances to height and setbacks from the sea on the subject property. The location of the proposed dwelling is shown on *Schedule No. 2* and building elevations are shown on *Schedule No. 3*.

The applicant has provided a Geotechnical Hazards Assessment prepared by Ground Control Geotechnical Engineering Ltd. dated December 7, 2009, attached as *Schedule No. 4*. This assessment states that the property is considered safe for the intended use and that the property can be considered appropriately 'protected by erosion works'. The report recommends a minimum flood elevation of 4.1 metres GSC (Geodetic Survey of Canada) or 1.7 metres above the natural boundary. The applicant is requesting a height variance for the proposed dwelling unit from 8.0 metres to 8.5 in order to permit the construction of a two storey dwelling unit above the recommended flood construction elevation.

The required setback from the sea for this property is 15.0 metres horizontal distance from the natural boundary. The applicant is requesting a variance to the setback from the natural boundary of the sea from 15.0 metres to 9.8 metres for the proposed dwelling unit.

The "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006" permits structures to be located up to 8.0 metres from the natural boundary of the sea where the sea frontage is protected from erosion by a natural bedrock formation or works designed by a professional engineer. As noted above, the Geotechnical Hazards Assessment states that the proposed building setback of 9.8 metres from the seawall is considered to be a geotechnically safe and suitable separation of the building from the ocean.

The applicant has provided the following justification for the requested height and setback variances:

- The applicant is requesting the height variance in order to meet the minimum flood construction elevation required in the Floodplain Bylaw and recommended in the Geotechnical Hazards Assessment;
- There are no anticipated view or aesthetic impacts related to the requested variances as the proposed dwelling unit is in generally the same location as the existing dwelling and is in line with the adjacent dwellings;
- The applicant has provided a Geotechnical Hazards Assessment stating that the location of proposed dwelling in relation to the sea wall/natural boundary is considered safe;
- Given the location of the existing septic system, between the proposed building site and existing garage, it is difficult to locate the proposed dwelling unit more than 15.0 metres from the sea.

As this is a coastal property located in Northwest Bay, an area which contains known archaeological sites, the property owners have contacted the Provincial Archaeology Branch and I.R. Wilson Consultants Ltd. with respect to a site impact assessment.

#### Sustainability Implications

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". This proposal represents the redevelopment of an existing residential parcel.

#### 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.

#### SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to allow the construction of a dwelling unit with height and setback variances on the subject property.

The applicant has submitted a site plan, building elevations, and a Geotechnical Hazards Assessment in support of the application. In staff's assessment, there are no anticipated impacts related to the requested variances.

## RECOMMENDATION

#### That:

- 1. Staff be directed to complete the required notification, and
- 2. The Development Variance Permit application No. PL2009-807 to permit the construction of a dwelling unit with height and setbacks variances be approved subject to the conditions outlined in Schedules No. 1-4.

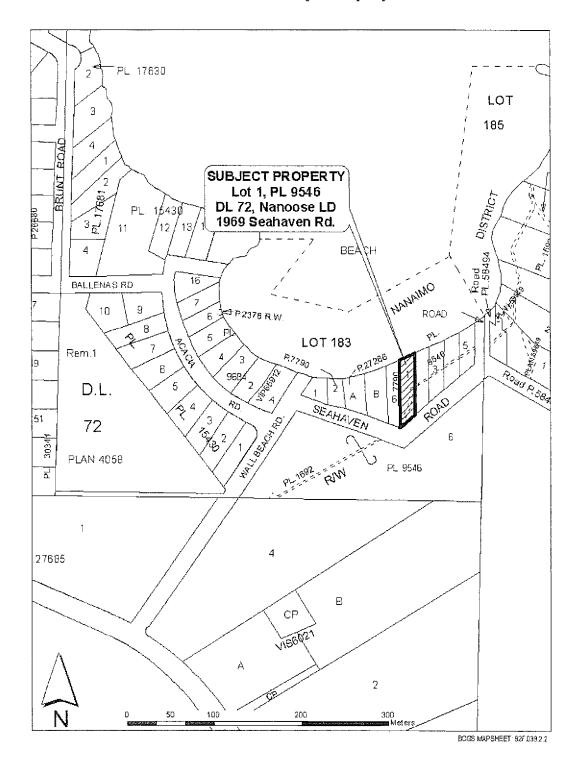
Report Writer

Manager Concurrence

General Manager Consurrence

CAO Concurrence

## Attachment No. 1 Location of Subject Property



## Schedule No. 1 Terms of Development Variance Permit No. PL2009-807

### Bylaw No. 500, 1987 - Variance

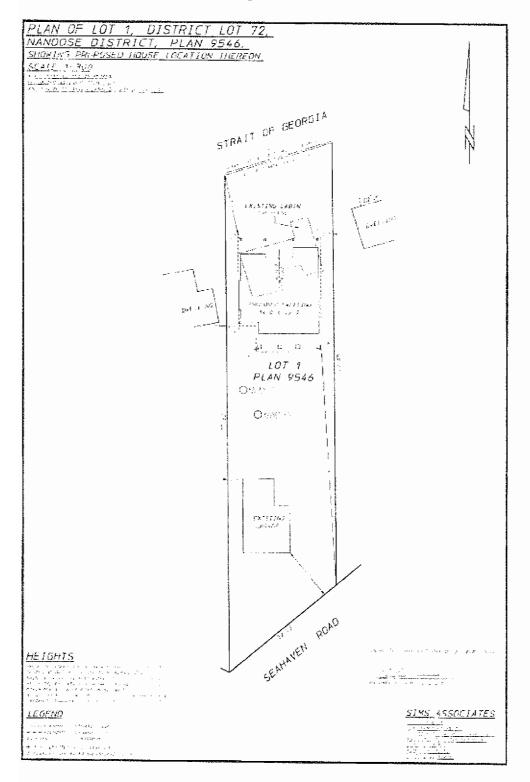
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is varied as follows:

- 1. Section 3.3.8 Setbacks Sea is hereby varied by reducing the minimum setback from the natural boundary of the sea from 15.0 meters to 9.8 metres horizontal distance for a dwelling unit on Lot 1, District Lot 72, Nanoose District, Plan 9546 as shown on Schedule No 2.
- 2. Section 3.4.61 Maximum Number and Size of Buildings is hereby varied by increasing the maximum height from 8.0 metres to 8.5 metres for a dwelling unit on located on Lot 1, District Lot 72, Nanoose District, Plan 9546 as shown on Schedule No. 2.

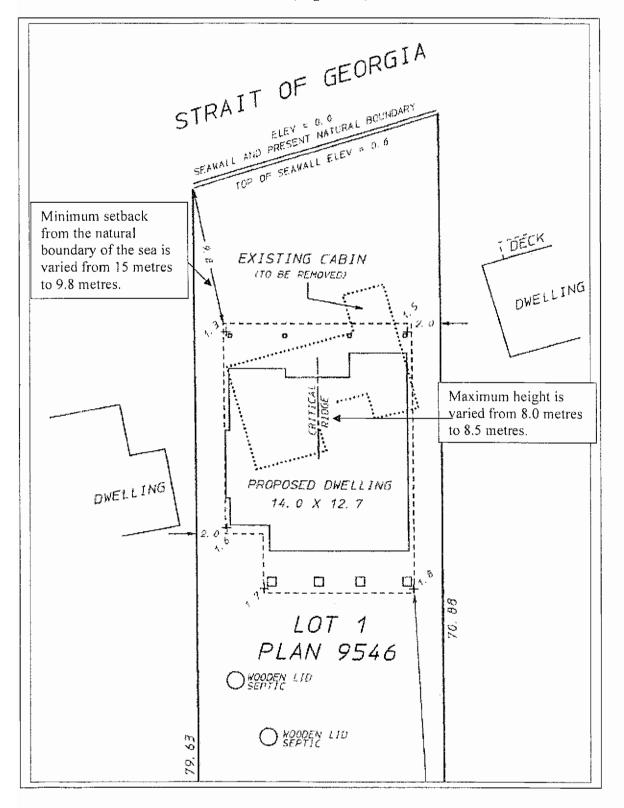
#### Conditions of Approval:

- 1. The dwelling unit shall be sited in accordance with the site plan prepared by Sims Associates dated October 13, 2009 attached as *Schedule No. 2*.
- 2. The dwelling unit shall be constructed in accordance with the elevation drawings prepared by C.A. Design dated April 4, 2007, attached as *Schedule No. 3*.
- 3. The dwelling unit shall be constructed in accordance with the Geotechnical Hazards Assessment prepared by Ground Control Geotechnical Engineering Ltd. dated December 7, 2009 attached as *Schedule No. 4*.
- 4. The applicant shall provide confirmation of building height and setbacks by a British Columbia Land Surveyor at the framing stage of construction.

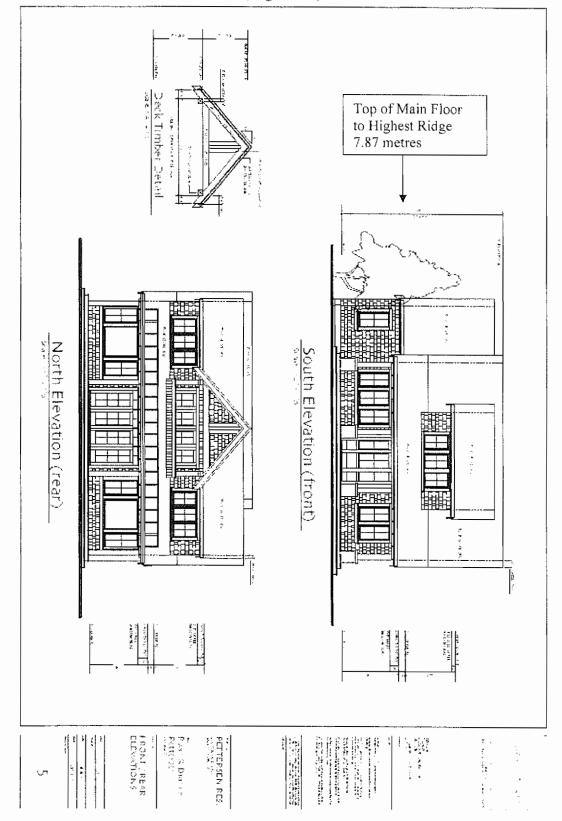
## Schedule No. 2 Site Plan (Page 1 of 2)



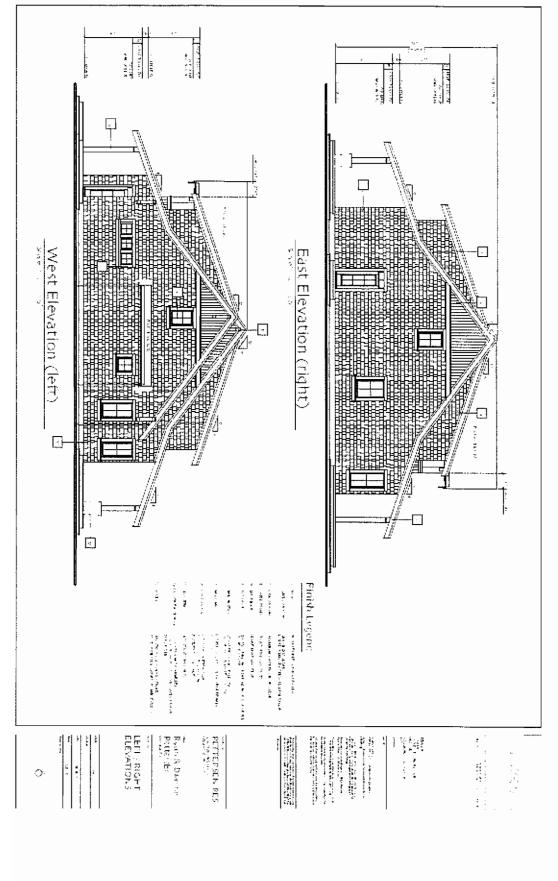
Schedule No. 2 Site Plan - Detail (Page 2 of 2)



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



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



## Schedule No. 4 Geotechnical Report

GROUND CONTROL HELD GEOTECHNICAL ENGINEERIKÖLTÜ. 2781 Lana Road, Nanoose Bay, BC Phone/Fax (250) 468-1759

File: RDP-001 November 17, 2009

Ryan and Dianne Pettersen 2118 Nicklaus Drive Víctoria, BC V9B 6T2

SUBJECT:

GEOTECHNICAL HAZARDS ASSESSMENT

PROJECT:

PROPOSED NEW SINGLE-FAMILY RESIDENCE

LOCATION: 1969 SEAHAVEN ROAD, NANOOSE BAY, B.C.

LEGAL DESC: LOT 1, DL 72, PLAN 9546, NANOOSE DISTRICT

Dear Mr. and Ms. Pettersen:

#### 1. Introduction

As requested, Ground Control Geotechnical Engineering Ltd. (Ground Control) has a. carried out a geotechnical hazards assessment of the above site. This report provides a summary of our findings and recommendations.

#### 2. Background

- We understand that the property is to be re-developed by demolition of the existing cabin a. and the construction of a new house. For the reader's reference, a site plan prepared by Sims Associates is attached, showing the site layout, ground elevations (to an assumed benchmark), and the proposed building location. We understand that the new structure will be a standard low-rise residential building (two storeys max.) using wood frame construction supported on a concrete foundation, and that the house will be of slab-ongrade construction with no below-grade spaces (i.e. there will be no crawlspace or basement).
- It is understood that a geotechnical hazards assessment is required in support of your b. application for a development and/or building permit. It appears that the principle issue relates to the proximity of the building to the adjacent Strait of Georgia (i.e. the ocean), and determining if the proposed building site is safe from ocean flooding hazards.

Geotechnical Hazards Assessment

File: RDP-001 Nov. 17, 2009 Page 2 of 13

#### 3. Assessment Objectives

- Our assessment, as summarized within this report, is intended to meet the following objectives:
  - Determine whether the land is geotechnically safe and suitable for the intended purpose (residential house), where 'safe' is defined as a probability of a geotechnical failure or another substantial geotechnical hazard resulting in property damage of less than 10 percent in 50 years;
  - ii. Determine if the proposed building setback of 9.8m from the existing seawall meets the general intention of the Regional District of Nanaimo Floodplain Management Bylaw No. 843, Section 3.2.2 iii, which allows setbacks as low as 8.0m where the sea frontage is protected from erosion by works designed by a professional engineer and maintained by the owner).
  - iii. Identify any geotechnical deficiency that might impact the design and construction of the development, and prescribe the geotechnical works and any changes in the standards of the design and construction of the development that are required to ensure the land, buildings, and Works and Services are developed and maintained safely for the use intended; and
  - iv. Acknowledge that Approving Officers may rely on this Report when making a decision on applications for the subdivision or development of the land.
- b. When assessing the safety of the site from flood related hazards, we have used one-in-200 year flood levels, as the one-in-200 year event is the prescribed flood event in BC.



68

Geotechnical Hazards Assessment

File: RDP-001 Nov. 17, 2009 Page 3 of 13

#### 4. Assessment Methodology

- Richard McKinley, P.Eng, of Ground Control visited the site on November 4, 2009 to observe general site conditions and to note apparent geotechnical hazards.
- b. BC Ministry of the Environment Flood Maps for the Strait of Georgia at the Englishman River (a location about 5km northwest of the site, Drawing 85-23) were referenced to determine expected 1-in-200 year ocean flood levels at the site.
- The elevation of maximum tides at the site was reviewed using data from the nearby Northwest Bay Tide Station.
- d. A past engineering report by Colin T. Maber, P. Eng. dated Feb. 22, 1999 was reviewed as a source of background information, but has not been relied on in the preparation of our report.
- The Sims Associates site plan (attached) was reviewed for information about the location of the proposed new house and spot elevations on the property.

#### 5. Site Conditions

#### 5.1. General

- a. The subject lot is rectangular in shape, bounded by Seahaven Road to the south, a concrete seawall along the foreshore of the Georgia Strait to the north, and neighbouring residential properties to the east and west. An older one-storey cabin currently occupies the north end of the property. The attached site plan prepared by Sims Associates shows the general layout of the property, as well as the location of the seawall, the existing buildings, and the proposed new building.
- b. The site is relatively flat and level with grass lawns and some mature trees.

GROUND CONTROL WEST GEOTEGRING LTD.

69

Geotechnical Hazards Assessment File: RDP-001 Nov. 17, 2009 Page 4 of 13



Existing cabin that is to be replaced (brown building on the left) and concrete seawall, looking west along the foreshore of the Georgia Strait. Note mature trees along the foreshore, indicating that this area was not eroding prior to seawall construction.



Existing cabin and seawell as seen from the foreshore, looking south. Cabins on the neighbouring properties are visible to either side.

c. The clients have owned the property since 1977 so were able to provide site history for the last 32 years. The existing cabin was reportedly built in the 1950's and the owners report no unusual ground movements or settlements to their knowledge.



70

Geotechnical Hazards Assessment

File: RDP-001 Nov. 17, 2009 Page 5 of 13

#### 5.2. Coastal Setting

a. The site is located within a cove within Northwest Bay on the north coast of Area E in the Regional District of Nanaimo (RDN) as shown by the red dot in the air-photo below. The cove is relatively well protected by Madronna Point to the northwest, and by Cottam Point and Mistaken island to the northeast.

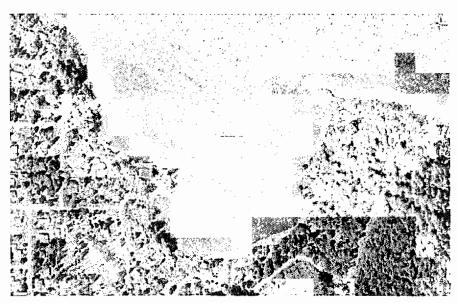


Site location (red dot). Site is within a protected cove within Northwest Bay



Geolechnical Hazards Assessment

File: RDP-001 Nov. 17, 2009 Page 6 of 13



Zeomed view of the cove. House location is shown by the red dot. Coastline at the cove mouth and to the north is bedrock.

b. As shown in the air-photos, the site is well protected from waves and ocean storms from most directions, with the exception of storms and waves from the north-northwest, which will hit the seawall roughly head-on.



View of cove looking NNW from the site, showing protective lands to either side. Note accretive beach spit to the right also visible in the air-photo above.

c. The owners report that the foreshore has been stable and relatively unchanging over their 32-year association with the property, reporting no significant incidences of erosion, and in fact some minor beneficial accretion of beach deposits over time. This matches our general expectation based on the relatively protected setting of the site.



Geotechnical Hazards Assessment File: RDP-001 Nov. 17, 2009 Page 7 of 13

#### 5.3. Flood Level Information and Wave Discussion

- a. The primary flooding hazard in relation to this site is the risk of flooding from the adjacent ocean as a result of a storm surge and/or wave run-up. British Columbia uses the 1 in 200-year flood to define flood risk areas and based on the available BC Ministry of Environment flood maps (see Section 4b) a prescribed flood elevation 4.1m GSC is considered applicable to this site.
- b. For comparison, the highest tides at this site are expected to be 2.1m GSC. This high tide is calculated to be about level with the base of the seawall, and matches the owners information that high tides can cover the bottom concrete step of the beach access. As such, the prescribed flood elevation has an allowance of two metres above high tide to account for a storm surge plus wave heights.
- c. Wave-heights-af-sea often do not predict wave height and action along a shoreline with a seawall, nor within a shallow cove such as is present at the site, so have not been calculated. Out at sea, the water particles go in a circular motion that causes the up and down movement of the surface that we see as waves, but when the waves approach the shore the rising bottom squeezes the up and down motion and the water is forced to move horizontally. The waves break, loosing height and become smaller, but gain horizontal momentum toward the shore. Where no seawall is present this momentum typically carries the waves up the beach as run-up flow with little height.
- d. However, at this site there is a vertical seawall, which will block the water's inland momentum and re-direct it vertically. Rather than running up sloping ground, the water hits the seawall and must move up the wall as a geyser-like splash. Waves that splash past the top of he seawall no longer travel as an ocean-wave, but are airborne and must collapse to the ground under the force of gravity, typically falling to the ground within a short distance behind the seawall. We understand from the owners that splash from the seawall has never been known to approach the existing building
- e. Whether or not there is a significant depth of water buildup (flooding) on the ground behind the seawall and around the proposed building depends on whether the water can drain away faster than it is swashing in. At this site there is nothing to contain water behind the seawall and it will drain immediately back to the ocean.



Geotechnical Hazards Assessment File: RDP-001

Nov. 17, 2009 Page 8 of 13

#### 5.4. Existing Seawall

- a. The concrete seawall was reportedly built in 1985 (24 years ago). The owners report that the seawall was not constructed due to loss of land, but to provide continuity with existing neighbouring seawalls. The seawall is reportedly steel reinforced with a minimum 2' wide gravity-wall footing. In 2006 a new concrete cap 18"was added to the seawall at the site, as well as seawalls owned by the neighbours, to match the height of a new seawall constructed a few properties farther along the beach. The owners report that wave splash during past winter storms has occasionally deposited shells and seaweed on the lawn close behind the seawall (typically at the location of the seawall steps), and the new cap was also intended to reduce this occurrence. The owners report no problems with the seawall during its 24-year life.
- b. The seawall has an exposed height of about 1.1m with about another 0.4m of face buried below the beach deposits. We observed the seawall and found it to be in excellent condition, with no evidence of significant cracking, tilting or undermining. The condition and appearance of the seawall is consistent with the owner's description of the construction. We did not attempt to excavate behind the seawall to confirm details of the gravity-wall footing as this would be a major undertaking and not considered warranted given the record of past performance of the seawall.
- The grassy lawn behind the seawall shows no signs of salt-water distress, confirming that significant wave splash is not a common event.

#### 5.5. Soil Conditions

- a. Based on our observations of soils exposed at the foreshore and in shallow hand-dug test pits, soils that will be encountered within the expected depth of house construction will consist of marine deposits; primarily compact to dense, poorly-graded sandy gravel and gravelly sand. Shallow bedrock is visible in the local area but not confirmed at this specific site.
- In general, these soil conditions are considered to be favourable for the project, as the gravel and sand deposits are expected to have good bearing capacity properties and be free draining.

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File: RDP-001 Nov. 17, 2009 Page 9 of 13

#### 5.6. Groundwater Conditions

a. Due to the relatively permeable nature of the local soils, groundwater is expected to be approximately coincident with the level of the adjacent ocean. The highest high tides at this site are 2.1m so there is a potential that groundwater will be encountered within excavations below elevation 2.1m GSC during periods of high tides. Excavations for the new building are not expected to reach this depth and consequently are not expected to be impacted by groundwater.

#### 6. Conclusions & Recommendations

#### 6.1. General

- a. From a geotechnical perspective the proposed development is considered 'safe' for the intended use, provided the recommendations in this report are followed.
- b. The principal geotechnical hazards associated with this site are flooding and wave related hazards associated with the adjacent ocean. The following sections discuss these issues.

#### 6.2. Flooding Issues

- a. To protect against building damage during flooding, the interior spaces and water-susceptible components of occupied or high value structures should be constructed with a minimum floor elevation of 4.1 metres GSC, based on the Ministry of the Environment prescribed one-in-two-hundred-year flood elevation. If a suitable GSC benchmark is not convenient to the site, the top of the seawall may be assumed to have an elevation of 3.0m GSC based on calculations we have made (based on timed tide level measurements relative to the top of the seawall and a conversion from chart datum). This would establish the minimum floor elevation at 1.1m above the top of the seawall.
- Portions of structures below the design flood elevation (e.g. foundations) should be constructed entirely of materials not susceptible to water damage, such as concrete.
- c. We recommend that the preferred method for raising the minimum floor level of the proposed building above 4.1m GSC will be to elevate the building on a suitably tall concrete foundation, with footings supported on the existing natural soils.

GROUND CONTROL (125)
GEOTECHNICAL ENGINEERING LTD.

File: RDP-001 Nov. 17, 2009 Page 10 of 13

- d. Concrete foundations should be supported on native soils and be embedded a minimum of 0.6 m below the finished ground surface for protection from frost. Based on this minimum embeddment, no special requirements are considered necessary to protect against soil scour from flood waters.
- As discussed earlier, we understand that the building will be a stab-on-grade structure with no below-grade areas such as crawlspaces or basements that might be susceptible to flooding.

#### 6.3. Set-back Distances from the Seawall

- a. In our opinion the existing seawall has been constructed using dimensions and construction details typical of a suitably engineered wall, it is functioning as intended and has done so for about 24 years, and it is well maintained and in excellent condition. The wall is a monolithic reinforced concrete structure, and it appears that failure of the seawall would only occur with extensive undermined of the footing. The seawall has been functioning for 24 years with no indications of any distress in this regard. From our observations at the site and the performance history, it is our opinion that the risk of the seawall being disabled is low. The risk to the actual building will be even less by a significant amount, as the new building will be another 9.8m inland behind the seawall.
- b. I our opinion the site can be considered to be appropriately 'protected by erosion works' per the RDN Floodplain Management Bylaw No. 843, Section 3.2.2 iii. As such, the proposed building setback of 9.8m from the seawall is considered to be in accordance with the intent of the bylaw, and is also considered to be a geotechnically safe and suitable separation of the building from ocean hazards (shoreline erosion, wave impacts, and sea-spray).
- c. As discussed earlier in this report, wave action has been slowly accreting land along the shore, and as such, erosion of the land is not expected to be an issue at this site. Additional special shore protection measures are not considered necessary as part of this development

GROUND CONTROL PLEE

File: RDP-001 Nov. 17, 2009 Page 11 of 13

d. In the event that the current pattern of shoreline deposition were to reverse itself and significant erosion of the shoreline begins to occur (which is possible, even though the likelihood is considered low), the proposed setback is considered suitable to provide a sufficient buffer of land to allow for the occurrence of erosion to be identified (i.e. likely as undermining or movement of the seawall) and corrective action to be taken well before the proposed building is endangered.

#### 6.4. Footing Design

- a. The soils present at the site are expected to be suitable for the support of standard residential foundations meeting the requirements of the BC Building Code.
- b. There may be some minor fills and disturbed soils associated with the existing cabin and its demolition, and these unsuitable soils should be removed from footing areas if encountered. Foundation loads should be supported only on undisturbed, natural mineral soils or engineered fill.

## 6.5. Permanent Drainage

- a. Site soils are free-draining and the building will be constructed above the expected groundwater level, so no unusual permanent drainage provisions will be required. As such, conventional requirements of the B.C. Building Code pertaining to building drainage are considered sultable at this site.
- b. Building drainage requirements as outlined by the B.C. Building Code typically include damp-proofing of foundation walls, installation of a standard footing-level perimeter drainage pipe system, drain rock burial of the perforated piping, roof drainage connected to a separate drainage system constructed from solid piping, and a provision for gravity drainage of all collected waters to a suitable discharge point down-slope and away from the building.

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77

File: RDP-001 Nov. 17, 2009 Page 12 of 13

- c. Based on information provided by the client, slab-on-grade construction is to be employed (i.e. no crawlspaces or basements) so there will be no below-grade interior spaces that might be susceptible to groundwater infiltration. Provided slabs-on-grade are at least 0.15m (6") above the surrounding ground level, it is considered acceptable to delete the requirements for footing level drains.
- d. Lot surfaces should be grading to direct surface water away from buildings

#### 7. Acknowledgements

- a. Ground Control Geotechnical Engineering Ltd, acknowledges that this report may be requested by Approving Officers and Building Inspectors as a precondition to the issuance of a building or development permit and that this report, or any conditions contained in this report, may be included in a restrictive covenant filed against the title to the subject property. It is acknowledged that the Approving Officers and Building Officials may rely on this report when making a decision on application for the subdivision or development of the land.
- b. We acknowledge that this report has been prepared solely for, and at the expense of, the client addressed on page 1.

#### 8. Limitations

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



78

File: RDP-001 Nov. 17, 2009 Page 13 of 13

c. Our recommendations apply to the specific proposed structure described. Other structures may have unique requirements and so our recommendations should not be considered applicable to other developments, even within the same property.

#### 9. Closure

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

Respectfully Submitted, Ground Control Geotechnical Engineering Ltd.

Richard McKinley, P. Eng. Geotechnical Engineer





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# **MEMORANDUM**

TO:

Dale Lindsay

DATE:

December 29, 2009

Manager of Current Planning

FROM:

Elaine Leung

Planner

FILE:

PL2009-845

SUBJECT:

Development Variance Permit Application No. PL2009-845 – K. Clark/K. Wick

Lot 11, District Lot 78, Nanoose District, Plan VIP80854 - 3415 Beldon Place

Electoral Area 'E'

#### **PURPOSE**

To consider an application for a Development Variance Permit to vary the maximum height in order to permit the construction of a single dwelling unit.

## BACKGROUND

The Regional District of Nanaimo has received a Development Variance Permit application from Ken Clark and Keith Wick. The subject property is 0.21 hectares in area and is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

A Variance was previously issued for this property at the Board's Meeting of January 23, 2007. However, as the applicant did not proceed with the project within two years of issuance, the permit expired. As such the applicants have re-applied for a new permit.

## Proposed Variance

The applicants are proposing to vary Section 3.4.61 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" by increasing the maximum dwelling unit height from 8.0 metres to 9.2 metres to permit the construction of a dwelling unit.

## ALTERNATIVES

- 1. To approve the Development Variance Permit No. PL2009-845 as requested.
- 2. To deny the Development Variance Permit No. PL2009-845.

## DEVELOPMENT IMPLICATIONS

## Land Use and Development Implications

The subject property is steeply sloping to the east and has previously been cleared and excavated in preparation for construction. The adjacent properties to the east are separated from the subject property by a narrow band of mature vegetation and are developed with single dwelling units. The adjacent properties to the east are slightly lower in elevation than the subject property. There is a large rocky outcropping that begins on the southern boundary of the subject property and steeply slopes upwards on to Lot 10 to the south.

The applicant indicates that the right side of the proposed single dwelling unit is located on bedrock and due to the close proximity of the bedrock to the utility services and the easement, blasting is very difficult. Therefore, the applicant does not wish to excavate below the current grade of the building site.

While excavating the property, the applicant indicates that an underground stream has been opened up that produces approximately three gallons of water per minute running out of the bedrock on the front right side of the proposed garage and exiting through the centre of the proposed basement at the rear. The applicant has had a Geotechnical Engineer investigate the drainage on site. In order to alleviate the drainage issues, the applicant is proposing to raise the excavated subgrade by 1.2 metres. The raising of the proposed single dwelling unit triggers the requirement for a variance. If constructed on the present excavated grade, the proposed single dwelling unit would be under the maximum dwelling unit height requirement and therefore, would not require a Development Variance Permit.

The applicant has indicated that should the Board approve the requested variance, no retaining walls 1.0 metre or more in height or that retain more than 1.0 metre of earth would be required within the minimum setback requirements.

In staff's assessment of this application, the applicant has demonstrated that the proposed variance is justified. In addition, the applicant has made efforts to reduce the height of the proposed single dwelling unit by reducing the roof pitch from a 7/12 to a 5/12.

## Sustainability

The applicant has completed the "Sustainable Community Builder Checklist" as per Board policy. The proposed development represents infilling of a residential lot, and construction will be done to current building code standards which reflect reduced environmental impact and energy efficient design elements.

## 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.

#### SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to permit the construction of a single dwelling unit, by relaxing the maximum height restriction from 8.0 metres to 9.2 metres. Staff note that this application was previously approved by the RDN Board in January 2007, however due to the permit lapsing, the applicants are re-applying. There are no proposed changes from the previously approved permit. Staff recommends approval of the Development Variance Permit as submitted.

## RECOMMENDATION

# That;

- 1. Staff be directed to complete the required notification and;
- 2. The Development Variance Permit No. PL2009-845 to vary the maximum height in order to permit the construction of a single dwelling unit be approved.

Report Writer

Manager Concurrence

General Manager Concurrence

CAO Concurrence

#### Schedule No. 1

# Terms of Development Permit with Variance No. PL2009-845

The following sets out the terms and conditions of Development Permit with Variance No. PL2009-845.

Bylaw No. 500, 1987 - Variance

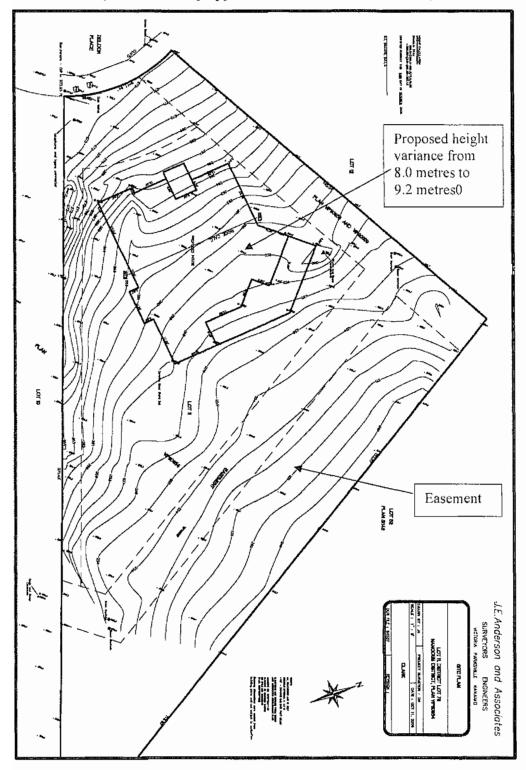
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", is requested to be varied as follows:

1. Section 3.4.61 – Maximum Dwelling Unit Height is requested to be varied by increasing the maximum height requirement from 8.0 metres to 9.2 metres, to permit the construction of a residential single dwelling unit (see Schedule No. 4 for Proposed Building Elevations).

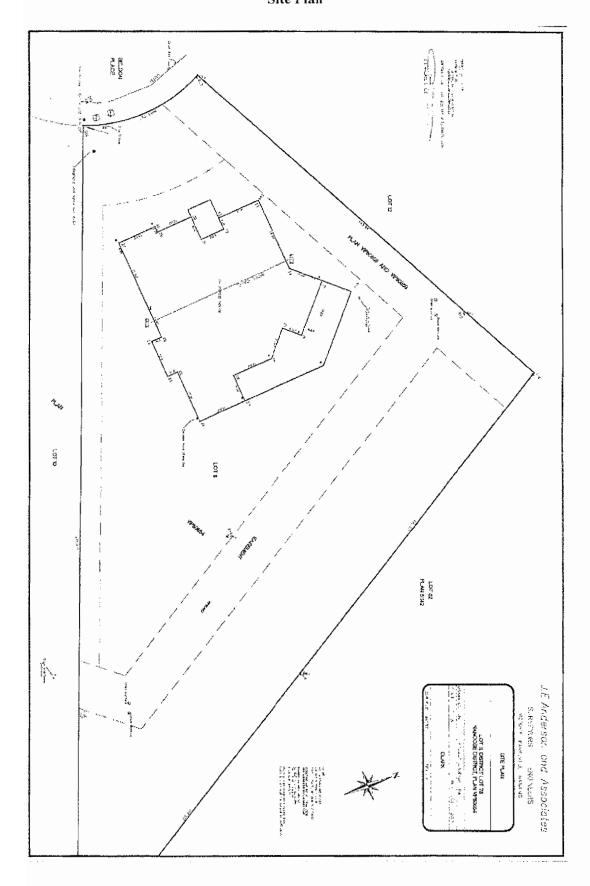
## Conditions of Approval

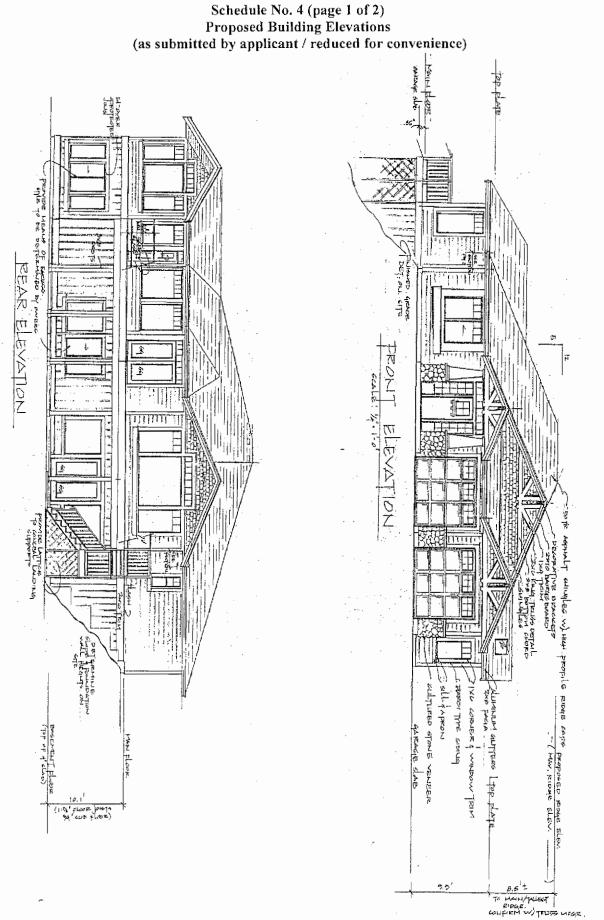
- 1. The proposed single dwelling unit shall be sited in accordance with the survey prepared by J.E Anderson, BCLS dated October 11, 2006 attached as *Schedule No. 2. & Schedule No. 3*.
- 2. The proposed single dwelling shall be developed in accordance with the building elevations submitted by the applicant attached as *Schedule No. 4*.
- 3. 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
Proposed Building Location
(as submitted by applicant / reduced for convenience)

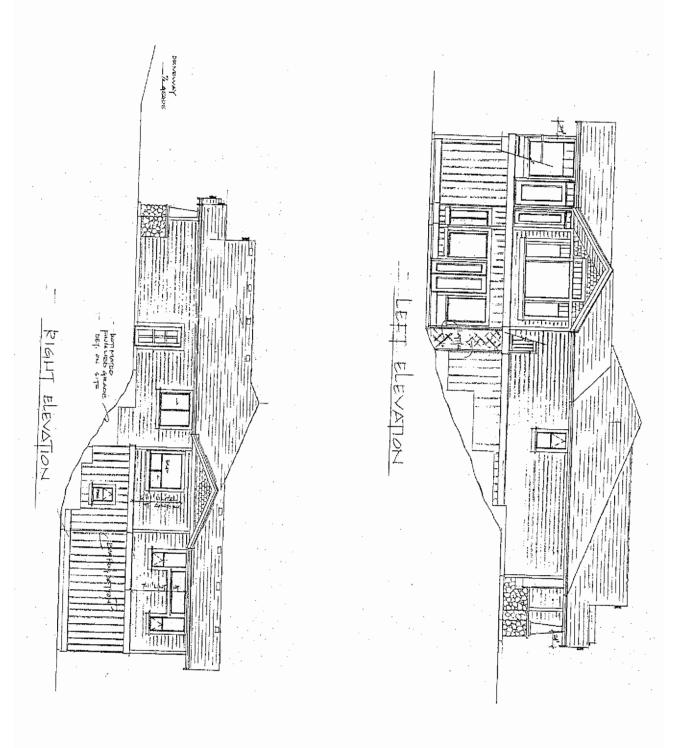


Schedule No. 3 Site Plan

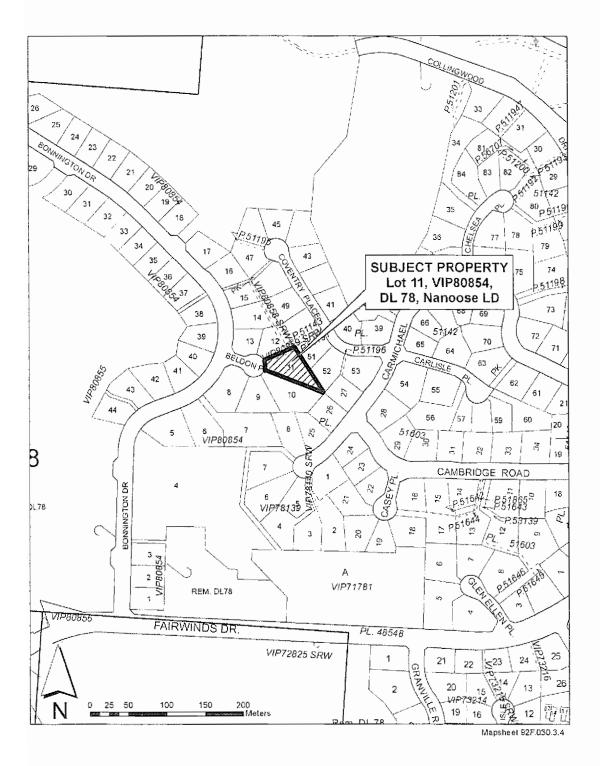




# Schedule No. 4 (page 2 of 2) Proposed Building Elevations (as submitted by applicant / reduced for convenience)



# Attachment No. 1 Location of Subject Property





# **MEMORANDUM**

TO:

Dale Lindsay

Manager of Current Planning

DATE:

December 23, 2009

FROM:

Elaine Leung

Planner

ung

FILE:

PL2009-850

SUBJECT:

Development Variance Permit Application No. PL2009-850

Structure Design & Management

Lot 13, District Lot 78, Nanoose District, Plan VIP51707 - Huntington Place

Electoral Area 'E'

#### PURPOSE

To consider an application for a Development Variance Permit to vary the maximum height in order to permit the construction of a dwelling unit.

## BACKGROUND

The Regional District of Nanaimo has received a Development Variance Permit application from Structure Design & Management on behalf of the Douglas and Shirley Vaux. The subject property is 0.33 hectares in area and surrounded by residential lots (see Attachment No. 1). The site is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

## Proposed Variance

The applicant is requesting to increase the maximum height pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", from 8.0 metres to 9.53 metres (see *Schedule No. 3* for Proposed Building Elevations). The applicant has requested a height variance in order to minimize blasting required for site grading.

#### **ALTERNATIVES**

- 1. To approve the Development Variance Permit Application No. PL2009-850 as submitted subject to the conditions outlined in Schedules No. 1 3 and the notification requirements of the *Local Government Act*.
- 2. To deny the Development Variance Permit application No. PL2009-850 as submitted.

## DEVELOPMENT IMPLICATIONS

This steep, rocky site slopes down from the adjacent road. In order to meet the height requirements of the zoning, a substantial amount of rock blasting and extraction must occur. To minimize the amount of rock extraction required the applicants have requested to increase the maximum height from 8.0 metres to 9.53 metres. The Building Department has confirmed that the height calculations submitted by the applicant are correct. In staff's assessment, the proposed variance is reasonable and will not negatively impact the subject property or adjacent properties.

#### SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". This proposed residence represents infilling of a residential lot. The applicant has indicated that they will be maintaining the property as close to the natural vegetative state as possible, and have identified green building elements that will be incorporated in the proposed dwelling such as rainwater collection cisterns for irrigation and water landscape features.

#### PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process, property owners located within a 50.0 metre radius, will receive notice of the proposal and will be provided an opportunity to comment on the proposed variance, prior to the Board's consideration of the permit.

#### **SUMMARY**

This is an application for a Development Variance Permit to permit the construction of a dwelling unit, by relaxing the maximum height restriction from 8.0 metres to 9.53 metres. As there are no negative impacts to the subject property and surrounding lots, and as the variance will allow for construction without the considerable site disturbance that would otherwise be required, staff recommends approval of the Development Variance Permit subject to the conditions outlined in Schedules No. 1 - 3.

#### RECOMMENDATION

That

1. Staff be directed to complete the required notification, and

2. The Development Variance Permit Application No. PL2009-850 by approved subject to the conditions outlines in Schedules No. 1 - 3.

Report Writer

8

Manager Concurrence

CAO Concurrence

General

## Schedule No. 1

## Terms of Development Variance Permit No. PL2009-850

The following sets out the terms and conditions of Development Variance Permit No. PL2009-850.

## Bylaw No. 500, 1987 - Variance

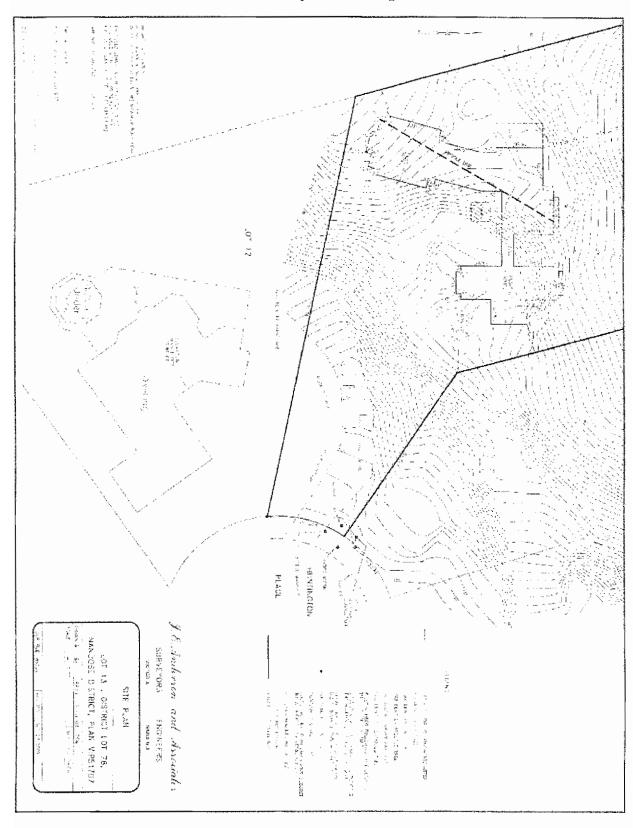
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", is requested to be varied as follows:

 Section 3.4.61 – Minimum Number and Size of Buildings and Structures is requested to be varied by increasing the maximum height requirement from 8.0 metres to 9.53 metres. (see Schedule No. 3 for Proposed Building Elevations).

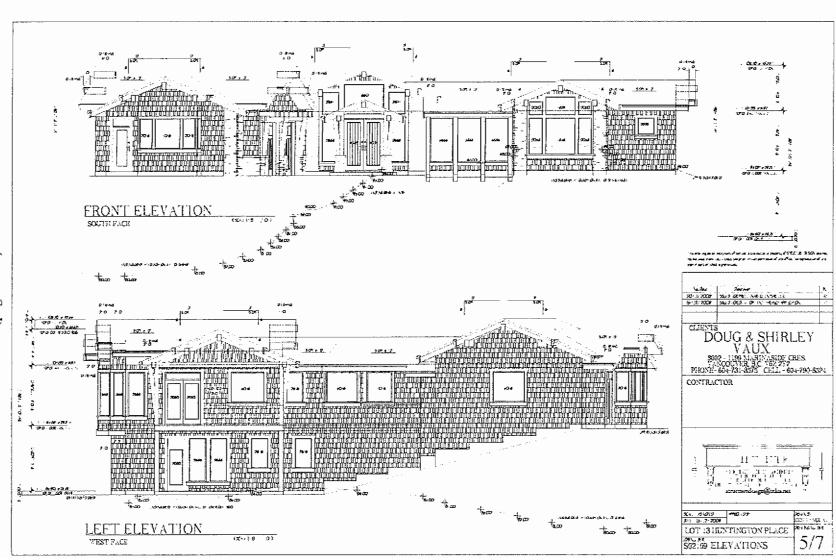
# Conditions of Approval

- 1. The proposed dwelling unit shall be sited in accordance with the survey prepared by J.E Anderson, BCLS dated December 17, 2009 attached as *Schedule No. 2*.
- 2. The proposed dwelling shall be developed in accordance with the building elevations submitted by the applicant attached as *Schedule No.3*.

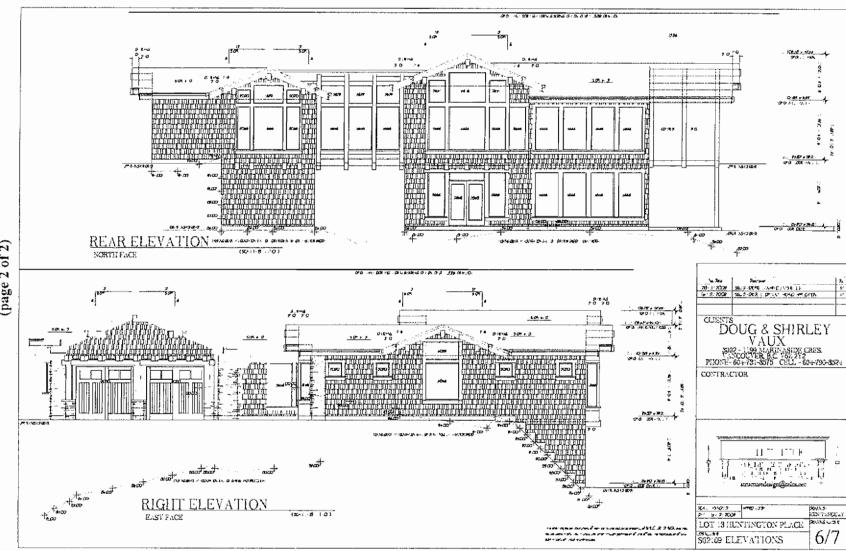
Schedule No. 2 Location of Proposed Dwelling Unit



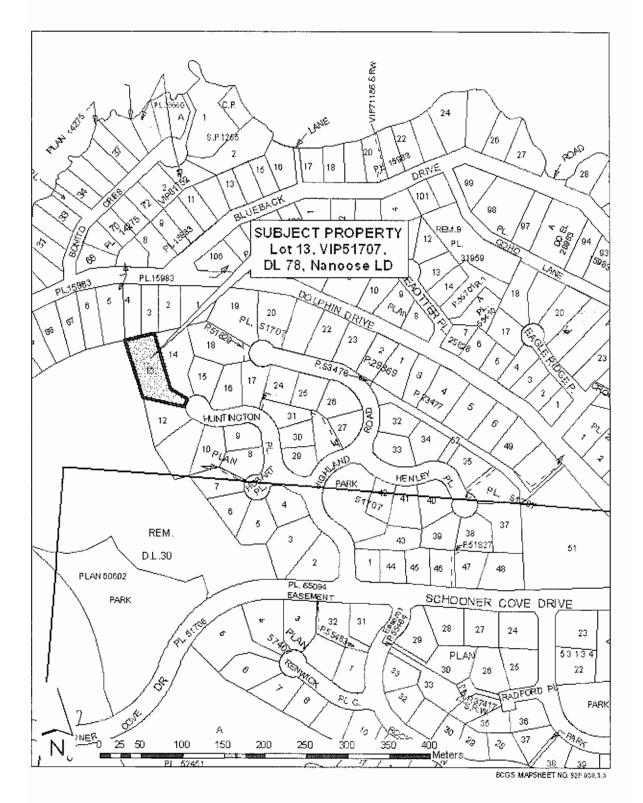
Schedule No. 3
Proposed Building Elevations
(page 1 of 2)



Schedule No. 3 Proposed Building Elevations (page 2 of 2)



# Attachment No. 1 Location of Subject Property





# **MEMORANDUM**

TO: Dale Lindsay

DATE:

December 22, 2009

Manager, Current Planning

FROM:

Susan Cormie Senior Planner FILE:

PL2009-832

SUBJECT:

Subdivision Application No. PL2009-832 - Thomas Hoyt

Lot 1, Section 11, Range 3, Cedar District, Plan 9785 Except Parcel A (DD 18799-W)

Thereof and Except Part in Plan VIP62708

2570 Tiesu Road Electoral Area 'A'

#### PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement for the subject property in conjunction with a two lot subdivision proposal.

## BACKGROUND

The Regional District of Nanaimo has received a request to relax the minimum 10% perimeter frontage requirement in conjunction with a two lot subdivision proposal from Thomas Hoyt, BCLS, on behalf of Fred Hemer (see Attachment No. 1 for location of subject property).

The parent parcel, which is 8.7 ha in size, is zoned Rural 4 and is situated within Subdivision District 'D' (RU1D) (2.0 ha minimum parcel size with or without community services) as per the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The parent parcel currently supports one single dwelling unit under construction and an accessory building. Surrounding land uses include Hemer Provincial Park to the north and west; Tiesu Road and rural zoned parcels including one in the Provincial Agricultural Land Reserve (ALR) to the south; and a rural zoned parcel situated in the ALR to the west.

## Proposed Development

The applicant is proposing to create two parcels, both greater than the minimum parcel size of 2.0 ha as per Bylaw No. 500, 1987 (see Schedule No. 1 for Proposed Plan of Subdivision). The parcels are proposed to be serviced by individual private wells and septic disposal systems. The parent parcel is within a RDN Building Services area.

## Minimum 10% Perimeter Frontage Requirement

Proposed Lot 2, as shown on the submitted plan of subdivision, does not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontage relaxation is as follows:

Proposed Lot No.	Required Frontage	Proposed Frontage	% of Perimeter
Lot 2	145.0 m	20.0 m	1.4 %

As this proposed parcel does not meet the minimum 10% parcel frontage requirement pursuant to section 944 of the *Local Government Act*, approval of the Regional District Board of Directors is required.

proposed Lot 2 be

## ALTERNATIVES

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

## DEVELOPMENT IMPLICATIONS

Despite the reduced frontage for proposed Lot 2, there is sufficient buildable site area available to support intended uses. In addition, the panhandle portion of the lot has been designed to accommodate a future road right-of-way in anticipation of further subdivision of this proposed lot.

With respect to access, Ministry of Transportation and Infrastructure staff has indicated that they have no issues with the proposed minimum frontage relaxation.

## 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 Regional 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.

#### SUSTAINABILITY IMPLICATIONS

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the "Sustainable Community Builder Checklist". Staff notes that while the proposal is in keeping with the policies of the OCP Bylaw No. 1240, 2001 to support subdivisions at a 2.0 ha minimum parcel size, the policy concerning limiting the number of dwellings to one per parcel has yet to be implemented and evaluation of the proposal is based on current zoning.

#### SUMMARY

Prior to the development of this subject property, the relaxation of the minimum 10% perimeter frontage requirement for proposed Lot 2 is required. Despite the reduced frontage, proposed Lot 2 will be capable of supporting the intended rural / residential uses permitted in the zoning provisions.

As the reduced frontage will not negatively impact the intended uses of the proposed parcel, staff recommends approval of the request to relax the minimum 10% perimeter frontage requirement.

RECOMMENDATION

Ausa Cormo

That the request to relax the minimum 10% perimeter frontage approved.

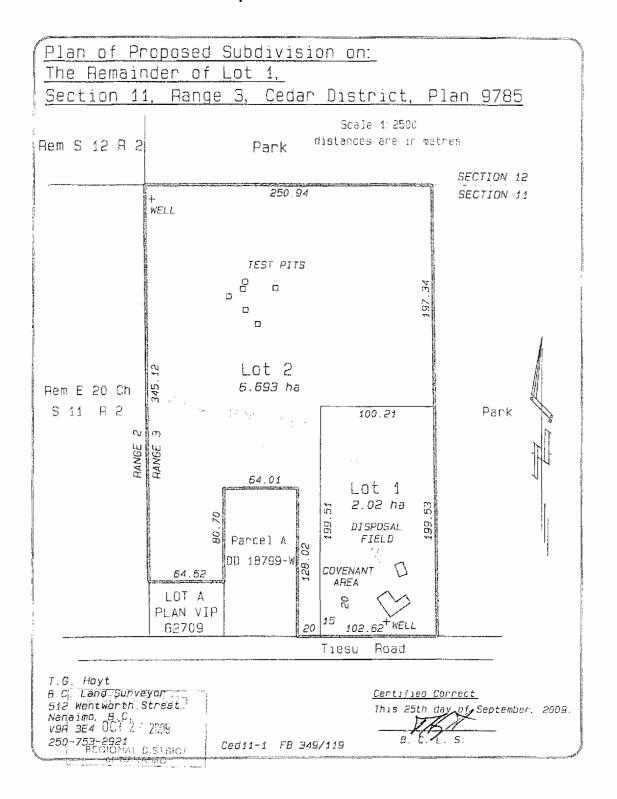
Report Writer

Manager Concurrence

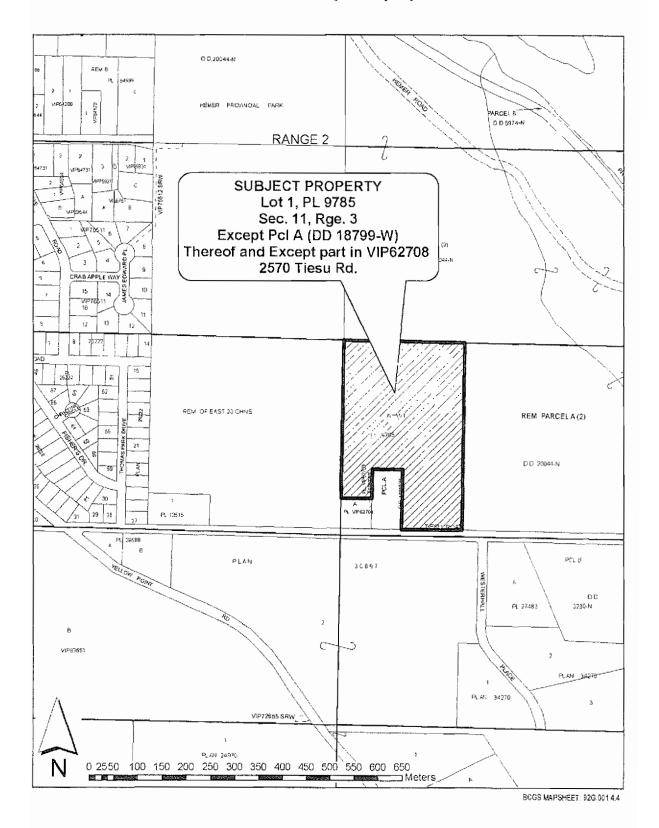
General Manager

CAO Concurrence

# Schedule No. 1 Subdivision Application No. PL2009-832 Proposed Plan of Subdivision



# Attachment No. 1 Location of Subject Property





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BOARD	

# MEMORANDUM

TO:

Dale Lindsay

DATE:

December 22, 2009

Manager, Current Planning

FROM:

Elaine Leung

Planner

FILE:

PL2009-793

SUBJECT:

Request for Acceptance of Park Land Dedication PL2009-793

Fern Road Consulting

Those Parts of District Lot 22, Newcastle District, Shown Outlined in Red on Plan 531R and Lying to the West of the Island Highway, Also Shown on Said Plan 531R Except Part in Plans VIP68956, VIP79905 and VIP82408 - 6360 Island Highway West

Electoral Area 'H'

## **PURPOSE**

To consider park land dedication in conjunction with the creation of a seven lot subdivision.

#### BACKGROUND

The Regional District of Nanaimo has received an application for a seven lot subdivision of the above noted properties, which is surrounded by the E&N Railway, the Island Highway and Linx Road (see Attachment No. 1 for location of subject property). The proposal is subject to the consideration of park land dedication or cash-in-lieu of park, or a combination of both.

The subject properties, which total 3.81 ha in size, are zoned Residential 2 (RS2) and are within Subdivision District 'M' (minimum 2000 m² with community water) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

#### PROPOSED DEVELOPMENT

## Park Land Requirements/Proposal

The applicant is proposing to subdivide seven lots varying in size from 1274 m<sup>2</sup> to 2.29 ha. Where an Official Community Plan (OCP) contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash or a combination of both. Pursuant to the *Local Government Act*, the maximum amount of park land that the Regional District may request from these properties is five percent of the total site area or approximately 1907 m<sup>2</sup>.

The applicant's original proposal for parkland involved dedication of a 1907 m<sup>2</sup> parcel in a riparian area, in the middle of proposed Lot C (see Schedule No. 1). Staff determined that this site was not suitable for park land, as there would be little potential for recreational development or access to other public areas. As a result of staff's comments the applicant amended the application to dedicate a portion of the property adjacent to the rail corridor as park. (see Attachment No. 2). Staff felt that this parcel was best suited to serve the community, as it could link to the rails and trails path system. As this represents 3.3% (1274 m<sup>2</sup> in area) the balance would be paid as cash-in-lieu.

The applicant has also submitted a third option of cash-in-lieu with no park dedication (see Schedule No. 3). Further to cash-in-lieu, the applicant has offered as part of this proposal, an additional separate \$5,000.00 to be used towards Area 'H' park improvements. Based on the 2009 Assessment of \$404,000.00, five percent cash-in-lieu would be approximately \$20,200.00, which would contribute towards the Electoral Area 'H' community parks fund. Staff note that the final figure will be based on a certified appraisal completed within 90 days of final approval of the subdivision.

#### **ALTERNATIVES**

- 1. To take park dedication in the preferred location identified by staff (see Schedule No. 2) with balance as cash-in-lieu.
- 2. To accept cash-in-lieu (\$20,200.00 based on current assessment) of park land.

#### FINANCIAL IMPLICATIONS

If the Board accepts Alternative 1 the RDN would accept the 1274  $m^2$  park indicated on Schedule 2 and a cash amount of \$6,868.00 (representing 1.7% cash-in-lieu). It is to be noted that the future value of the proposed park is likely to be significantly higher than its cash-in-lieu value.

If the Board accepts Alternative 2 the RDN would accept \$20,200.00 (representing 5% cash-in-lieu) for park dedication for the proposed subdivision, in addition the proponent has offered an additional \$5,000.00 towards Area 'H' park improvement under this alternative.

#### DEVELOPMENT IMPLICATIONS

#### Official Community Plan Implications

Where the Official Community Plan (OCP) contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cashin-lieu or a combination of both. The Electoral Area 'H' OCP contains park land related policies, which stipulate that park land is desirable where preferred criteria may be met such as waterfront access, environmentally sensitive areas, providing trail linkages, preserving viewpoints, or providing sites for passive outdoor recreation activities.

## PUBLIC CONSULTATION

## Area 'H' Parks and Open Space Advisory Committee

In accordance with Board Policy, the proposal for cash-in-lieu of park land was referred to the Electoral Area 'H' Parks and Open Space Advisory Committee (POSAC) for consideration. POSAC, at their meeting of December 9, 2009 considered the application and recommended that the Regional District not require park dedication and that cash-in-lieu of park be supported (Option 2).

## **Public Information Meeting**

A Public Information Meeting (PIM) was held on December 10, 2009. Twelve people attended this meeting (see *Attachment 2* for minutes of the meeting).

#### CONCLUSIONS

The proposed subdivision of the subject property triggers park dedication as outlined in the *Local Government Act*. The Board has the ability to require five percent park dedication, or cash-in-lieu of dedication or a combination of both.

Based on the application and the subject site, two primary options have been identified.

- 1. To take park dedication in the preferred location identified by staff (see Schedule No. 2) with balance as cash-in-lieu.
- 2. To accept cash-in-lieu (\$20,200.00 based on current assessment) of park land and an additional \$5,000.00 toward park improvements.

The Electoral Area 'H' OCP contains park land related policies, which stipulate that park land is desirable where preferred criteria may be met such as waterfront access, environmentally sensitive areas, providing trail linkages, preserving viewpoints, or providing sites for passive outdoor recreation activities. Staff recommends that the 1274 m<sup>2</sup> site adjacent to the existing railway best meets the objectives of the OCP, due to its access to the adjacent trail system.

POSAC has recommended that the Board select Option 2 and that cash-in-lieu of park dedication be obtained along with the applicant's offer of an additional \$5,000.00 toward park improvements.

## RECOMMENDATION

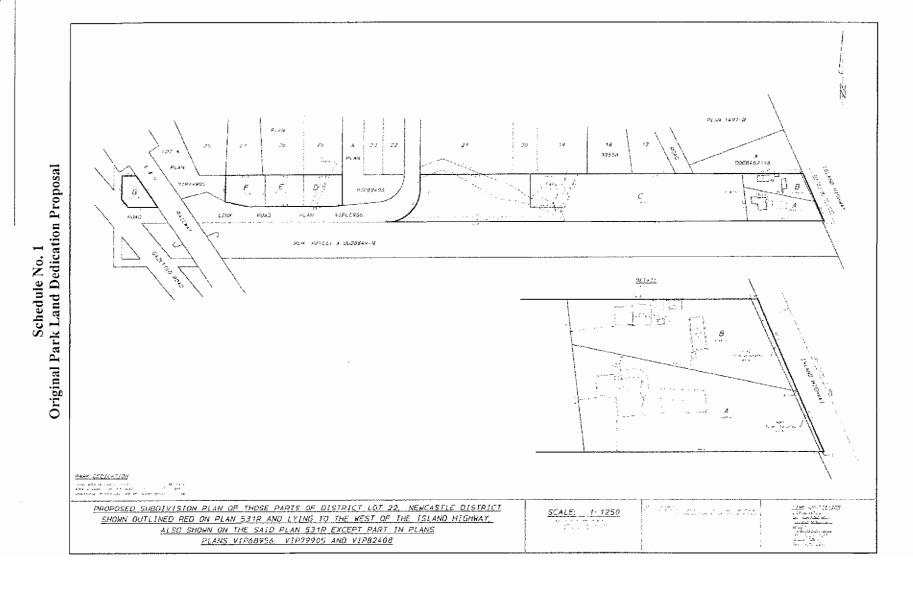
That park dedication as shown on Schedule No. 2 be obtained through subdivision and that the balance of the required five percent be provided as cash-in-lieu.

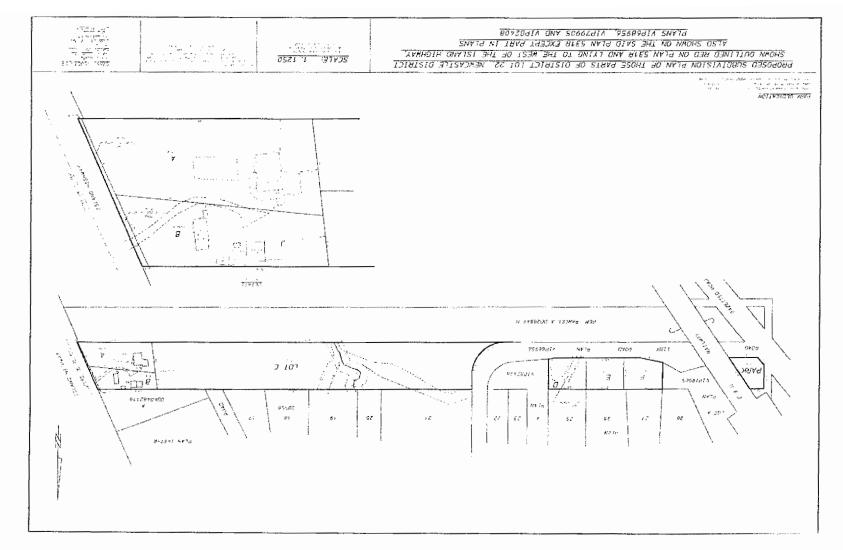
Report Writer

Manager Concurrence

General Manage Concurrence

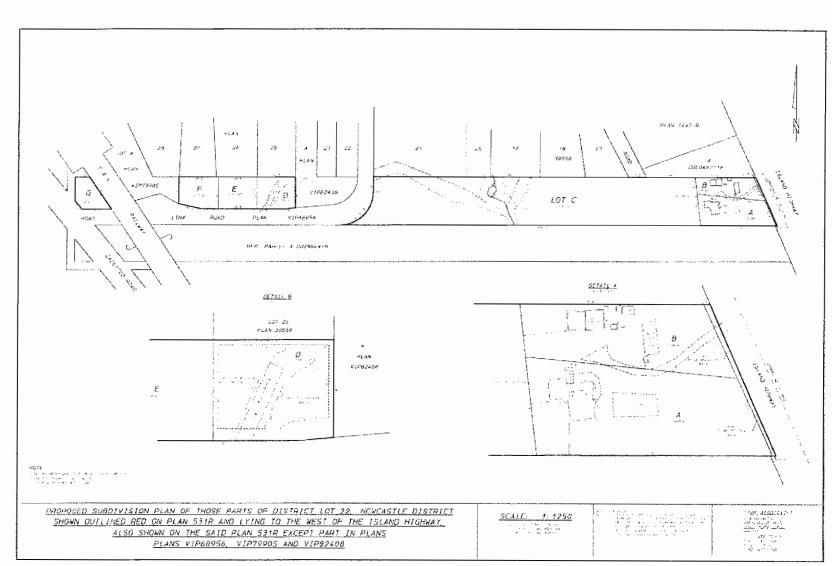
CAO Concurrence



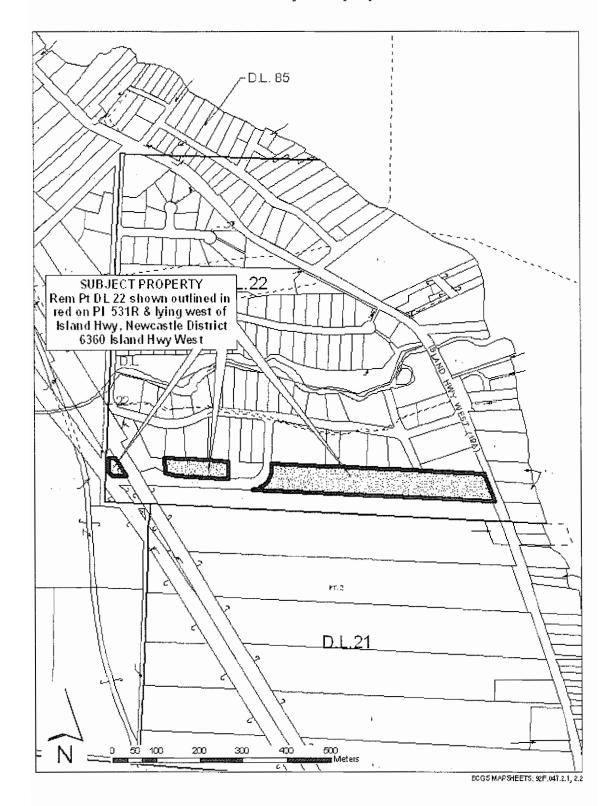


105

Schedule No. 3 Revised Park Land Dedication Proposal



Attachment No. 1 Location of Subject Property



Attachment No. 2
Minutes of a Public Information Meeting
Proceedings of the Public Information Meeting
Held at Lighthouse Community Hall
240 Lions Way

Wednesday, December 10, 2009 at 7:00 pm

Summary of the Notes on Proposed Temporary Use Permit Applications for the properties legally described as:

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 12 persons in attendance.

## Present for the Regional District of Nanaimo:

Director Dave Bartram, Electoral Area 'H' (the Chairperson) Susan Cormier, Senior Planner Elaine Leung, Planner

## Present for the Applicant:

Helen MacPhail Sims, Fern Road Consulting Ltd. and Sims Associates Land Surveying Mark Marley, owner of the subject property

The Chairperson opened the meeting at 7:00 pm and outlined the agenda for the evening's meeting for proposed park land dedication in conjunction with a subdivision application, introduced the head table and Regional District staff in attendance. The Chairperson then stated the purpose of the public information meeting and requested Elaine Leung, Planner provide background information concerning the application. Elaine Leung provided a brief outline of the application proposals and background, and applicable regulations.

John Wilks asked if there are other options for park, or any other options.

Susan Cormie responded that the Board can request other options.

The Chairperson invited the applicant to give a presentation. Helen Sims introduced the applicant at the head table.

Helen Sims: gave an overview of the proposal

## Option #1:

- This is Phase 1. Temporary S-R-O-W;
- The reason the riparian area was chosen was because they thought the riparian area should be protected.

## Option #2

- Offer of five percent cash-in-lieu of park land 1910 m<sup>2</sup>;
- Park staff said that they wished to take the second option with the balance as cash;

- POSAC prefers five percent cash;
- Assessment: \$400,000.00: approximately \$20,000.00;
- Mr. Marley has also offered with the cash, or Option #1, an additional \$5,000.00 for trail construction;
- MOTI did not require the existing road to be built, but a trail would be allowed.

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

**John Wilks:** We should have a park; at least we'll have green space. The option of \$20,000.00 cash doesn't seem like a lot of money. To the residents in the area, there is more benefit for a park, than cash.

**Helen Sims:** The five percent is based on the assessment and appraisal at the time.

Cathy Dagsedyel: Asked if the Regional District of Nanaimo (RDN) has money to spend on a park, and if there is money in the budget?

Chairperson: There is money next year, for the Henry Morgan Park.

**Dagmar Sedell:** Can this money go towards the park?

**Chairperson:** The money has to go towards the purchase of land. There are many parks in Area 'H' but it is hard to develop them all.

Catherine Ferguson: Concerned about drainage going towards proposed Lot A.

Mark Marley: The Ministry of Transportation and Infrastructure (MOTI) requires an engineer to look at drainage issues.

John Wilks: Where does the application go from here?

**Chairperson:** The information from this meeting goes to the RDN Board.

Dagmar Sedell: We should take a vote.

**Brenda Wilson:** I am not in favour of a park.

**John Wilks:** Don't like either park option, but I do want an option of a park.

Chairperson: POSAC preferred to accept cash-in-lieu of park land.

**Brenda Wilson:** Parents don't want to drive their kids to this park land (Lot G). It is the taxpayer's responsibility. It will become unused park land, there are many parcels of unused park land that we want to see used.

Chairperson: There is an opportunity to connect to the existing larger park (just to the north), but we need money, and a developer to do that. (pointing to the original proposal)

John Wilks: I like Rose Park the way it is: don't want to see it developed.

Request for Park Land Dedication PL2009-793 December 22, 2009 Page 10

**Chairperson:** The \$5,000.00 offered by the developer is beyond the requirements. We can us it for maintenance for trails.

**Dale Wilson:** We should take the money, and when beach property becomes available, we should buy it.

David Beatty: That Parcel ('G') is too small for a residential lot anyway.

**Helen Sims:** The zoning bylaw permits lots that are physically separated by a railway, highway, even when the parcel fails to meet the size requirements.

**Gord Lundine:** I support Dale's comments. There are lots of parks in the area that are not being used. We won't be able to support and afford something big, if we have so many little ones all around.

John Wilks: Land on the ocean is hard to get. Can we sell park lands?

Chairperson: Yes we can, but it involves everyone in Area 'H.'

Susan Cormie: It is a long public process.

The Chairperson asked if there were 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 7:30 pm

Elaine Leung Recording Secretary