

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA SERVICES COMMITTEE
AGENDA

Tuesday, March 12, 2019

1:30 P.M.

Board Chambers

This meeting will be recorded

Pages

1. CALL TO ORDER
2. APPROVAL OF THE AGENDA
3. ADOPTION OF MINUTES
 - 3.1 Electoral Area Services Committee Meeting - February 19, 2019 4
That the minutes of the Electoral Area Services Committee meeting held February 19, 2019, be adopted.
4. DELEGATIONS
 - 4.1 Rick Dunn, re Power Restrictions on Spider Lake 7
5. CORRESPONDENCE
6. COMMITTEE MINUTES
That the following minutes be received for information:
 - 6.1 Electoral Area G Parks and Open Space Advisory Committee - February 27, 2019 14
 - 6.2 Electoral Area H Parks and Open Space Advisory Committee - February 25, 2019 17
 - 6.3 Electoral Area A Parks, Recreation and Culture Commission - February 20, 2019 19
 - 6.4 Nanoose Bay Parks and Open Space Advisory Committee - February 6, 2019 21
 - 6.5 Electoral Area B Parks and Open Space Advisory Committee - February 4, 2019 24

7. PLANNING

7.1 Development Variance Permit

- 7.1.1 Development Variance Permit Application No. PL2019-024 - 2254 Alberni Highway, Electoral Area F 27**

Delegations Wishing to Speak to Development Variance Permit Application No. PL2019-024 - 2254 Alberni Highway, Electoral Area F

1. That the Board approve Development Variance Permit No. PL2019-024 to reduce the minimum parking and other lot line setback requirements subject to the terms and conditions outlined in Attachments 2 and 3.

2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2019-024.

- 7.1.2 Development Variance Permit Application No. PL2018-215 - 2515 Island Highway East, Electoral Area E 34**

Delegations Wishing to Speak to Development Variance Permit Application No. PL2018-215 - 2515 Island Highway East, Electoral Area E

1. That the Board approve Development Variance Permit No. PL2018-215 to reduce the interior lot line setback from 2.0 metres to 0.15 metres subject to the terms and conditions outlined in Attachments 2 and 3.

2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2018-215.

7.2 Other

- 7.2.1 Revisions to Policy B1.21 Groundwater Assessment Requirements for Rezoning Un-serviced Lands and for Development Permits 43**

That the Board endorse the revised Policy B1.21 to improve clarity and streamline requirements for groundwater assessments for rezoning un-serviced lands and for development permits.

- 7.2.2 Bylaw Enforcement Overview 54**
Staff to provide presentation

That staff be directed to undertake a review of regulatory services and procedures, and report back to the Board with recommendations to address gaps that may exist in bylaw enforcement in the Electoral Areas as well as cost recovery mechanisms.

8. BUSINESS ARISING FROM DELEGATIONS

9. MOTIONS FOR WHICH NOTICE HAS BEEN GIVEN

9.1 Development Cost Charges for Regional District of Nanaimo Electoral Area Community Parks

Director Gourlay served notice of the following motion to the Corporate Officer on February 27, 2019:

That staff prepare a plan on Development Cost Charges for Regional District of Nanaimo Electoral Area Community Parks for review by the Electoral Area Services Committee.

10. NEW BUSINESS

10.1 Directors' Roundtable

11. ADJOURNMENT

**REGIONAL DISTRICT OF NANAIMO
MINUTES OF THE ELECTORAL AREA SERVICES COMMITTEE MEETING**

**Tuesday, February 19, 2019
1:30 P.M.
Board Chambers**

In Attendance:	Director B. Rogers	Chair
	Director K. Wilson	Electoral Area A
	Director V. Craig	Electoral Area B
	Director M. Young	Electoral Area C
	Alternate	
	Director J. Fell	Electoral Area F
	Director C. Gourlay	Electoral Area G
	Director S. McLean	Electoral Area H
Regrets:	Director L. Salter	Electoral Area F
Also in Attendance:	P. Carlyle	Chief Administrative Officer
	R. Alexander	Gen. Mgr. Regional & Community Utilities
	G. Garbutt	Gen. Mgr. Strategic & Community Development
	T. Osborne	Gen. Mgr. Recreation & Parks
	D. Wells	Gen. Mgr. Corporate Services
	D. Pearce	Director of Transportation & Emergency Services
	T. Armet	Mgr. Building & Bylaw Services
	P. Thompson	Mgr. Current Planning
	T. Mayea	Legislative Coordinator
	S. Commentucci	Recording Secretary

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting took place.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as presented.

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES

Electoral Area Services Committee Meeting - January 8, 2019

It was moved and seconded that the minutes of the Electoral Area Services Committee meeting held January 8, 2019, be adopted.

CARRIED UNANIMOUSLY

PLANNING

Development Variance Permit

Development Variance Permit Application No. PL2018-169 - 1437 Madrona Drive, Electoral Area E

It was moved and seconded that the Board approve Development Variance Permit No. PL2018-169 to reduce the setback from the top of slope of 30 percent or greater from 8.0 metres to 1.4 metres subject to the terms and conditions outlined in Attachments 2 to 4.

Opposed (1): Director Craig

CARRIED

It was moved and seconded that the Board direct staff to complete the required notification for Development Variance Permit No. PL2018-169.

Opposed (1): Director Craig

CARRIED

Other

Draft Policy B1.26 Land Use Applications for Cannabis Production

It was moved and seconded that the Board adopt Regional District of Nanaimo Policy B1.26 *Land Use Applications for Cannabis Production*.

Opposed (1): Director Young

CARRIED

BUILDING INSPECTION

Building Permit Activity - 2018

It was moved and seconded that the report Building Permit Activity – 2018 be received for information.

CARRIED UNANIMOUSLY

NEW BUSINESS

Directors' Roundtable

It was moved and seconded that staff be directed to include an analysis of cost recovery options and related penalties for bylaw infractions in the report being drafted by Building & Bylaw Services for the Board's consideration at a future meeting.

Opposed (1): Director Fell

CARRIED

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

TIME: 2:21 PM

CARRIED UNANIMOUSLY

CHAIR

Delegation: Rick Dunn, re Power Restrictions on Spider Lake

Summary: During late fall, winter and early spring many fishers take part in a fly fishery on Spider Lake. Weather conditions (strong winds) can be erratic and unpredictable. We are required by law to carry a number of safety items, none of which really help during strong wind events. We are always concerned about safety, but especially during these strong winds.

Action Requested: At this time we request this committee to hear our case to amend the current restriction to allow, from a safety point of view, electric motors on Spider Lake.

REGIONAL DISTRICT OF NANAIMO
MINUTES OF THE ELECTORAL AREA 'G' PARKS AND OPEN SPACE ADVISORY
COMMITTEE MEETING

Wednesday, February 27, 2019
1:00 P.M.
Oceanside Place

In Attendance:	Director C. Gourlay	Chair
	R. Alexander	Member at Large
	D. Round	Member at Large
	R. White	D69 Recreation Commission
Regrets:	B. Coath	Member at Large
	M. Foster	Member at Large
Also in Attendance:	R. Lussier	Parks Planner
	A. Harvey	Recording Secretary

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting took place.

INTRODUCTIONS AND ORIENTATION

Committee members gave an introduction of themselves to the other members.

R. Lussier provided a thorough orientation outlining the contents of the USB stick given to members, as well as procedures and policies that pertain to all POSAC's.

APPROVAL OF THE AGENDA

R. Alexander noted that the delegation S. Woods was not a representative of San-Pareil-Shorewood Owners and Residents Association (SSPORA) as listed on the agenda. He is here as a private resident of San-Pareil.

It was moved and seconded that the agenda be approved as amended.

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES

Electoral Area 'G' Parks and Open Space Advisory Committee Meeting - September 19, 2018

It was moved and seconded that the minutes of the Electoral Area 'G' Parks and Open Space Advisory Committee meeting held September 19, 2018 be adopted.

CARRIED UNANIMOUSLY

DELEGATIONS

S. Wood, San Pareil- Shorewood Resident, re: Maple Lane Park upgrades

S. Woods, as well as two other community members came to express their appreciation of the work in progress for Maple Lane Park. They understand that some work in planning has started and wanted to contribute to that process with input and offer their skills to any planning or development of the park. They understand some planning has started but wanted to be sure the entire community of San-Pareil-Shorewood was a part of the process and could provide input into the site design and proposed features. They stressed that they did not want to slow anything that was going ahead already.

REPORTS

Parks Update Report - July-September 2018

It was moved and seconded that the Parks Update Report - July - September 2018 be received as information.

CARRIED UNANIMOUSLY

Parks Update Report – October-December 2018

R. Lussier reviewed the projects for Electoral Area G and answered questions from the committee members.

It was moved and seconded that the Parks Update Report – October-December 2018 be received as information.

CARRIED UNANIMOUSLY

BUSINESS ARISING FROM DELEGATIONS

S. Woods, San-Pareil-Shorewood Resident

R. Alexander voiced his concerns that the Maple Lane Park upgrades that had funds allocated to start work on the park were no longer planned for 2019 and only planning and public consultation would be provided.

R. Lussier explained that the planning process for 2019 is to create a Master Plan for the park incorporating the community input as well as the input already provided by SSPORA. She noted that public consultation will start in the park in the Spring with a second Open House in the fall of 2019 to present a completed Master Plan.

Director Gourlay explained the process of budgeting and factors that can contribute to reallocating funds.

NEW BUSINESS

French Creek Lands

The Committee and staff discussed the anticipated development proposal.

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 3:05 PM

CHAIR

REGIONAL DISTRICT OF NANAIMO
MINUTES OF THE ELECTORAL AREA 'H' PARKS AND OPEN SPACE ADVISORY
COMMITTEE MEETING

Monday, February 25, 2019
1:00 P.M.
Lighthouse Community Centre

In Attendance:	Director S. McLean	Chair
	L. Bucke	D69 Recreation Commission
	L. Acosta	Member at Large
	C. Browne	Member at Large
	N. Robertson	Member at Large
Regrets:	J. Chesley	Member at Large
Also in Attendance:	E. McCulloch	RDN Park Planner

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nation on whose traditional territory the meeting took place.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as presented.

CARRIED UNANIMOUSLY

INTRODUCTIONS AND ORIENTATION

All members provided introductions. New members include L. Bucke, L. Acosta and C. Browne. New Chair, Director S. McLean, welcomed all.

E. McCulloch presented POSAC orientation material. The orientation package included: a USB stick with committee information, Recreation & Parks Orientation Chart, Maps, Mileage Claims, POSAC terms of reference and the Community Parks and Trails Strategic Plan.

ELECTION OF SECRETARY

L. Acosta volunteered to be secretary for the committee and C. Browne was appointed alternate secretary. With no other nominations, L. Acosta was acclaimed secretary.

ADOPTION OF MINUTES

Electoral Area H Parks and Open Space Advisory Committee Meeting - June 11, 2019

It was moved and seconded that the minutes of the Electoral Area H Parks and Open Space Advisory Committee meeting held June 11, 2019 be adopted.

CARRIED UNANIMOUSLY

REPORTS

Parks Update Report - July-September 2018

It was moved and seconded that the Parks Update Report - July - September 2018 be received as information.

CARRIED UNANIMOUSLY

Parks Update Report – October-December 2018

It was moved and seconded that the Parks Update Report – October-December 2018 be received as information.

CARRIED UNANIMOUSLY

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 2:30

CHAIR

**REGIONAL DISTRICT OF NANAIMO
MINUTES OF ELECTORAL AREA 'A' PARKS, RECREATION AND CULTURE COMMISSION
MEETING**

**Wednesday, February 20, 2019
1:00 P.M.
Cedar Heritage Centre**

In Attendance:	Director K. Wilson	Chair
	Commissioner L. Bury	Member at Large
	Commissioner J. Fiddick	Member at Large
	Commissioner L. Mann	Member at Large
	Commissioner B. White	Member at Large
Regrets:	Commissioner K. Wilson	Member at Large
	Commissioner M. Cawthorne	Member at Large
Also in Attendance:	H. King	Superintendent, Recreation Program Services
	K. Cramer	RDN Park Planner
	A. Harvey	Recording Secretary

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nation on whose traditional territory the meeting took place.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as presented.

CARRIED UNANIMOUSLY

INTRODUCTION AND ORIENTATION

The Committee members introduced themselves and K. Cramer gave a brief orientation and an overview of the USB stick contents given to the Commissioners.

ELECTION OF DEPUTY CHAIR

Commissioner White nominated Commissioner Fiddick to be Deputy Chair of the EA 'A' Parks, Recreation and Culture Commission. He accepted the nomination. With no other nominations Commissioner Fiddick was declared Deputy Chair.

ADOPTION OF MINUTES

Electoral Area 'A' Parks, Recreation and Culture Commission Meeting - September 19, 2018

It was moved and seconded that the minutes of the Electoral Area 'A' Parks, Recreation and Culture Commission meeting held September 19, 2018 be adopted.

CARRIED UNANIMOUSLY

GRANT SUB-COMMITTEE (3 members)

Commissioners Bury, Mann and White volunteered to sit on the EA A Grants-in-Aid Sub-Committee. With no other nominations, all three were appointed to the sub-committee.

REPORTS

Parks Update Report - July-September 2018

It was moved and seconded that the Parks Update Report - July - September 2018 be received as information.

CARRIED UNANIMOUSLY

Parks Update Report – October-December 2018

K. Cramer gave an update of the projects for the area and answered questions from the Commission members.

It was moved and seconded that the Parks Update Report – October-December 2018 be received as information.

CARRIED UNANIMOUSLY

NEW BUSINESS

BC Recreation & Parks Association Symposium - May 1-3, 2019

Staff gave Commissioners information about the 2019 BC Recreation and Parks Association Symposium and asked for interest in attending. Commissioner White and Commissioner Mann said they were interested in attending. An email to the members not in attendance will be sent and 2 attendees will be determined.

Driftwood Road Beach Access

Commissioner Fiddick revisited the topic of providing a small parking area at the newly completed Driftwood Road Beach Access. Some Commissioners had not yet been to the site and would like to see it prior to discussing further.

COMMISSIONER ROUNDTABLE

Commissioners provided community updates to the Committee.

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 2:05PM

CHAIR

REGIONAL DISTRICT OF NANAIMO
MINUTES OF THE NANOOSE BAY PARKS AND OPEN SPACE ADVISORY COMMITTEE
MEETING

Wednesday, February 6, 2019
1:00 P.M.
Nanoose Place

In Attendance:	Director B. Rogers	Chair
	M. Caskey	Member at Large
	D. Mitchell	Member at Large
	V. Swan	Member at Large
	H. Dahn	Member at Large
	J. Ringwald	Member at Large
	L. Krofta	D69 Recreation Commission

Also in Attendance:	K. Cramer	RDN Parks Planner
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CALL TO ORDER

The Chair called the meeting to order, welcomed the public and acknowledged the Coast Salish Nations on whose traditional grounds the meeting took place.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as presented.

CARRIED UNANIMOUSLY

INTRODUCTIONS AND ORIENTATION

Two new POSAC committee members, Heinz Dahn and Joseph Ringwald were welcomed and given a brief orientation to the role of the Parks and Open Space Advisory Committee.

ELECTION OF SECRETARY

V. Swan agreed to take on the duties of Secretary for 2019.

ADOPTION OF MINUTES

Nanoose Bay Parks and Open Space Advisory Committee Meeting - October 3, 2018

It was moved and seconded that the minutes of the Nanoose Bay Parks and Open Space Advisory Committee meeting held October 3, 2018, be adopted.

CARRIED UNANIMOUSLY

REPORTS

Parks Update Report - July-September 2018

It was moved and seconded that the Parks Update Report - July - September 2018 be received as information.

CARRIED UNANIMOUSLY

Parks Update Report – October-December 2018

Staff provided an update on Area E park projects:

A request for consultant services will be issued for stakeholder consultations and preliminary site planning at Jack Bagley Community Park.

Nanoose Bay Elementary School children have been invited to create painted tiles that reflect Moorecroft Regional Park's history and ecology, for installation at the park.

The Stone Lake Drive Community Park Natural Play Space Project focus group was productive. Two park concepts are being developed and will be presented at a Community Open House.

Beach access signs will be considered at some sites identified in the Beach Access Inventory.

It was moved and seconded that the Parks Update Report – October-December 2018 be received as information.

CARRIED UNANIMOUSLY

Area E – Parks and Open Spaces Advisory Committee Beach Access Inventory

It was moved and seconded that the 2017 Area E Beach Access Inventory be considered in the annual review of the 5-year Community Parks work plan for Nanoose Bay.

CARRIED UNANIMOUSLY

D69 Recreation Commission Update - L. Krofta

L. Krofta provided a verbal report.

Youth and community grants have been reviewed and successful applicants have been determined. An update on the status of the Rec. Services Master Plan was provided.

Director Rogers informed the Committee that funding for an indoor and outdoor sport and recreation complex reserve fund was removed from the 2019 annual budget per recent Board motion.

NEW BUSINESS

Proposed Bare Land Strata Subdivision, Lot A, District Lots 7, 11 and 78, Nanoose District, Plan EPP81840

Committee members discussed the site and park land dedication opportunities following the site visit held January 31, 2019. Walking pathways within the subdivision plan were discussed and encouraged for the benefit of strata residents.

It was moved and seconded that a proposal for cash-in-lieu be provided by the applicant.

CARRIED UNANIMOUSLY

Park Use Permits

J. Ringwald brought forward discussion on issuance of Park Use Permits in certain parks (e.g. weddings at Beachcomber Regional Park) noting concern around impacts on park neighbours.

It was moved and seconded that Park Use Permits be reviewed with respect to impact on nearby residents and permit holders retaining security patrols.

CARRIED UNANIMOUSLY

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 3:10pm

CHAIR

REGIONAL DISTRICT OF NANAIMO
MINUTES OF THE ELECTORAL AREA 'B' PARKS AND OPEN SPACE ADVISORY
COMMITTEE MEETING

Monday, February 4, 2019
10:30 A.M.
Gabriola Arts Centre

In Attendance:	Director V. Craig	Chair
	D. Kilbourn	Member, Gabriola Recreation Society
	K. Clifford	Member at Large
	T. Gambrill	Member at Large
	C. McMahon	Member at Large
	T. Wojcik	Member at Large
Regrets:	R. Brockley	Member at Large
Also in Attendance:	E. McCulloch	RDN Parks Planner

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting took place.

COMMITTEE INTRODUCTIONS AND ORIENTATION

Committee members introduced themselves and E. McCulloch provided a brief orientation regarding the Committee Terms of Reference and the role of Community Parks on Gabriola Island.

ELECTION OF SECRETARY

D. Kilbourn was nominated to be Secretary. He accepted and with no other nominations was acclaimed as Secretary.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as amended to add:

Invited Presentation - K. Langereis, Island Trust Local Trust Area Trustee

Late Delegation - G. Manson, re: Application for EA B Parks and Open Space Advisory Committee

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES

Electoral Area B Parks and Open Space Advisory Committee Meeting - September 17, 2018

It was moved and seconded that the minutes of the Electoral Area B Parks and Open Space Advisory Committee meeting held September 17, 2018, be adopted.

CARRIED UNANIMOUSLY

INVITED PRESENTATIONS

K. Langereis, Islands Trust Gabriola Island Local Trust Area Trustee

Islands Trust Gabriola Island Local Trust Area Trustee, Kees Langereis provided a verbal update on LTC activities related to parks including the Regional Conservation Plan (2018-2027); recent approval to undertake a project to create a new Ecological Protection Zone; preliminary discussions regarding the Islands Trust Strategic Plan; and a review of the Islands Trust Policy Statement.

DELEGATIONS

J. Henigman, re: Spring Beach Rd Water Access Closure - Stair Replacement Request

J. Henigman and others provided a verbal presentation requesting that the wooden stairs located at the Spring Beach Road water access be repaired as soon as possible as this water access provides the local residents much valued access to the beach for both recreational and emergency evacuation purposes. The stairs were damaged during the winter storms in December 2018. Four additional letters and a petition were submitted in support of the stair repair request.

G. Manson, re: Application for Area B Parks and Open Space Advisory Committee

Snuneymuxw First Nation representative, G. Manson provided a verbal presentation regarding her request to become a member of the Electoral Area B Parks and Open Space Advisory Committee.

CORRESPONDENCE

It was moved and seconded that the following correspondence be received for information:

L. Milman, Re Spring Beach Stairs

CARRIED UNANIMOUSLY

REPORTS

Parks Update Report - July-September 2018

It was moved and seconded that the Parks Update Report - July - September 2018 be received as information.

CARRIED UNANIMOUSLY

Parks Update Report – October-December 2018

It was moved and seconded that the Parks Update Report – October-December 2018 be received as information.

CARRIED UNANIMOUSLY

BUSINESS ARISING FROM DELEGATIONS

J. Henigman, re: Spring Beach Rd Water Access Closure - Stair Replacement Request

Staff will continue working on this issue through the operations plan.

G. Manson, re: Application for Area B Parks and Open Space Advisory Committee

The Committee discussed their support of having a representative from the Snuneymuxw First Nation on the Electoral Area B Parks and Open Space Advisory Committee. RDN staff are currently looking into this matter.

NEW BUSINESS

Proposal for a Public Area B Park Map at Huxley Community Park - D. Kilbourn

Staff will continue working on this issue through the operations plan.

POSAC Meeting Times

The Committee discussed the meeting times for 2019 and expressed concern that scheduling meetings during the day might limit the opportunity for committee and community members to attend. Committee members requested that the RDN consider alternating meeting times between 6:00pm and 10:30am throughout the year.

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 12:00 PM

CHAIR

TO: Electoral Area Services Committee **DATE:** March 12, 2019
FROM: Nick Redpath
Planner **FILE:** PL2019-024
SUBJECT: Development Variance Permit Application No. PL2019-024
2254 Alberni Highway – Electoral Area F
Lots 7 and 8, Block 1, Salvation Army Lots, Nanoose District, Plan 1939

RECOMMENDATIONS

1. That the Board approve Development Variance Permit No. PL2019-024 to reduce the minimum parking and other lot line setback requirements subject to the terms and conditions outlined in Attachments 2 and 3.
2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2019-024.

SUMMARY

The applicant proposes to vary the minimum parking and other lot line setback requirements to bring an existing building proposed for retail use into compliance with the existing zoning regulations. As an acceptable land use justification was demonstrated to support the variance, and no negative impacts are anticipated as a result of the proposed variance, it is recommended that the Board approve the development variance permit pending the outcome of public notification and subject to the terms and conditions outlined in Attachment 2.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Fern Road Consulting Ltd. on behalf of Kim Young to vary the minimum parking and other lot line setback requirements to bring the southwest building on the property into compliance. The applicant previously submitted a separate application for a licence to permit the sale of non-medical cannabis out of an existing building on the property. As part of the Non-Medical Cannabis Retail Store (NMCRS) Licence Application, a site review identified that the property did not meet the minimum parking requirements for a commercial zone and the existing building on the southwest portion of the property where the change of use is proposed did not meet the setback requirements of the west property line. The site review also identified that the southwest building also straddles the property line that separates Lots 7 and 8. To bring the southwest building into compliance, the applicant was instructed to apply for a variance to address the minimum parking and setback requirements on the property and to undertake a lot consolidation to address the existing building straddling the property line. The building located on the north portion of the property does not require a variance as it predates zoning regulations in the area.

The subject properties are each approximately 0.07 hectares in area and zoned Commercial 2 (C-2), pursuant to “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”. The properties are located to the south of Alberni Highway and bordered by Terry Road to the east, a commercially zoned property to the west and a laneway to the south (see Attachment 1 – Subject Property Map).

It is important to note that should the Directors approve the requested variances to parking and siting, the building will be available for any retail commercial use. Consideration of future Cannabis Retail License will be subject to the applicable process and separate consideration by the Board.

The properties contain a residential building on the southwest portion and a commercial building on the north portion that are both serviced by the same on-site well and sewage system.

Proposed Development and Variance

The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”:

- **Section 2.17 – Parking** to reduce the minimum parking requirements for all uses in a C zone from 1 per 20 m² Floor Area to 1 per 39 m² Floor Area, effectively reducing the minimum parking requirements for this property from 12 spaces to 6 spaces (see Attachment 3 – Proposed Site Plan and Variances).
- **Section 4.3 – Minimum Setback from All Other Lot Lines** to reduce the minimum side yard setback requirement of the west property line from 2.0 metres to 1.1 metres for an existing building.

Land Use Implications

The applicant proposes to vary the minimum parking and other lot line requirements of Bylaw 1285 to bring the southwest building into compliance as part of an ongoing NMCRS Licence Application. The two existing buildings on the property were constructed prior to zoning being implemented in the area and currently hold legal non-conforming status as defined by the *Local Government Act*. The applicant intends to change the use of the southwest building from residential to commercial in order to open a proposed non-medical cannabis retail store. Once a building changes use, it loses its legal non-conforming status and must comply with all existing land use regulations. The variance application does not include the existing commercial building on the north portion of the property as it is not changing use and will continue to maintain its legal-non-conforming status. To address the proposed change of use to the southwest building and bring it into compliance, the applicant has submitted an application to vary the minimum parking and other lot line setback requirements.

Parking Requirements

The minimum number of parking spaces required for a commercial zone is 1 per 20 m² Floor Area for all buildings on the property. The combined total floor area of both buildings is 234 m², requiring a minimum of 12 parking spaces for this property. Due to limited space on the property, the proposed site plan provided by Sims Associates Land Surveying Ltd. shows that a configuration of only 6 parking spaces is possible. In support of the variance request, the

applicant indicates that Terry Road adjacent to the east of the property provides additional parking spaces for nearby services and residences and that the combination of on-site and street parking should adequately accommodate the proposed use.

Setback Requirements

The bylaw setback requirement for other lot lines in this zone is 2.0 metres. The building on the southwest portion of the property is situated 1.1 metres from the west property line, requiring a variance of 0.9 metres. The building was constructed prior to zoning regulations and the applicant intends to bring the siting of the building into compliance prior to the change of use from residential to commercial to facilitate the ongoing application for a licence to sell non-medical cannabis out of this building.

“Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation” for evaluation of Development Variance Permit Applications requires that there is an adequate demonstration of an acceptable land use justification prior to the Board’s consideration. In this case, the applicant has provided an acceptable land use justification as the longstanding existing building does not conform to siting requirements and Policy B1.5 states that under this circumstance, a variance may be considered to legalize the structure as the variance is acceptable and the use of the building conforms to the current zoning regulations. In this case, the applicant indicates that adequate parking will be provided on the property and on Terry Road and the existing and proposed use conforms to the current permitted uses in the C-2 Zone.

The applicants have made reasonable efforts to address the guidelines in Policy B1.5 by providing sufficient rationale for the proposed variance.

The applicant will be required to consolidate Lots 7 and 8 and obtain all necessary permits prior to any construction or change of use on the property (see Attachment 2 – Terms and Conditions of Permit).

Environmental Implications

As part of the application, a letter from a Registered Onsite Wastewater Practitioner (ROWP) was provided noting that a recent inspection of the prescribed on-site sewage system identified no health hazards. The ROWP’s letter also noted that the proposed change in use of one of the buildings on the property from residential to commercial will not have any negative impacts on the existing system. The proposed variance is not anticipated to have any negative environmental impacts.

Intergovernmental Implications

The application was referred to the Coombs Volunteer Fire Department, Vancouver Island Health Authority (VIHA) and the Ministry of Transportation and Infrastructure (MOTI). The referral response from VIHA stated that since two buildings on the property share a well, a valid permit under the *Drinking Water Protection Act* (DWPA) is required. VIHA does not have records of an existing permit to operate under the DWPA and recommend a variance not be granted until such time that the proponent obtains this permit and is in compliance with the DWPA. As part of the conditions of the permit, the applicant will be required to obtain the necessary permit to operate under the DWPA prior to the issuance of the variance.

The referral response from MOTI stated that they have no concerns with the proposed variance to the required parking spaces and that the public is allowed to park along Terry Road.

The Coombs Volunteer Fire Department expressed no concerns with the proposed variance.

Public Consultation Implications

Pending the Electoral Area Services Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Application and Notification Procedures Bylaw No. 1776, 2018", property owners and tenants of parcels located within a 50.0 metre radius of the subject property 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.

ALTERNATIVES

1. To approve Development Variance Permit No. PL2019-024 subject to the conditions outlined in Attachments 2 and 3.
2. To deny Development Variance Permit No. PL2019-024.

FINANCIAL IMPLICATIONS

The proposed development has been reviewed and has no implications related to the Board 2018 – 2022 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

The proposed development has been reviewed and has no implications for the 2016 – 2020 Board Strategic Plan.



Nick Redpath
nredpath@rdn.bc.ca
February 25, 2019

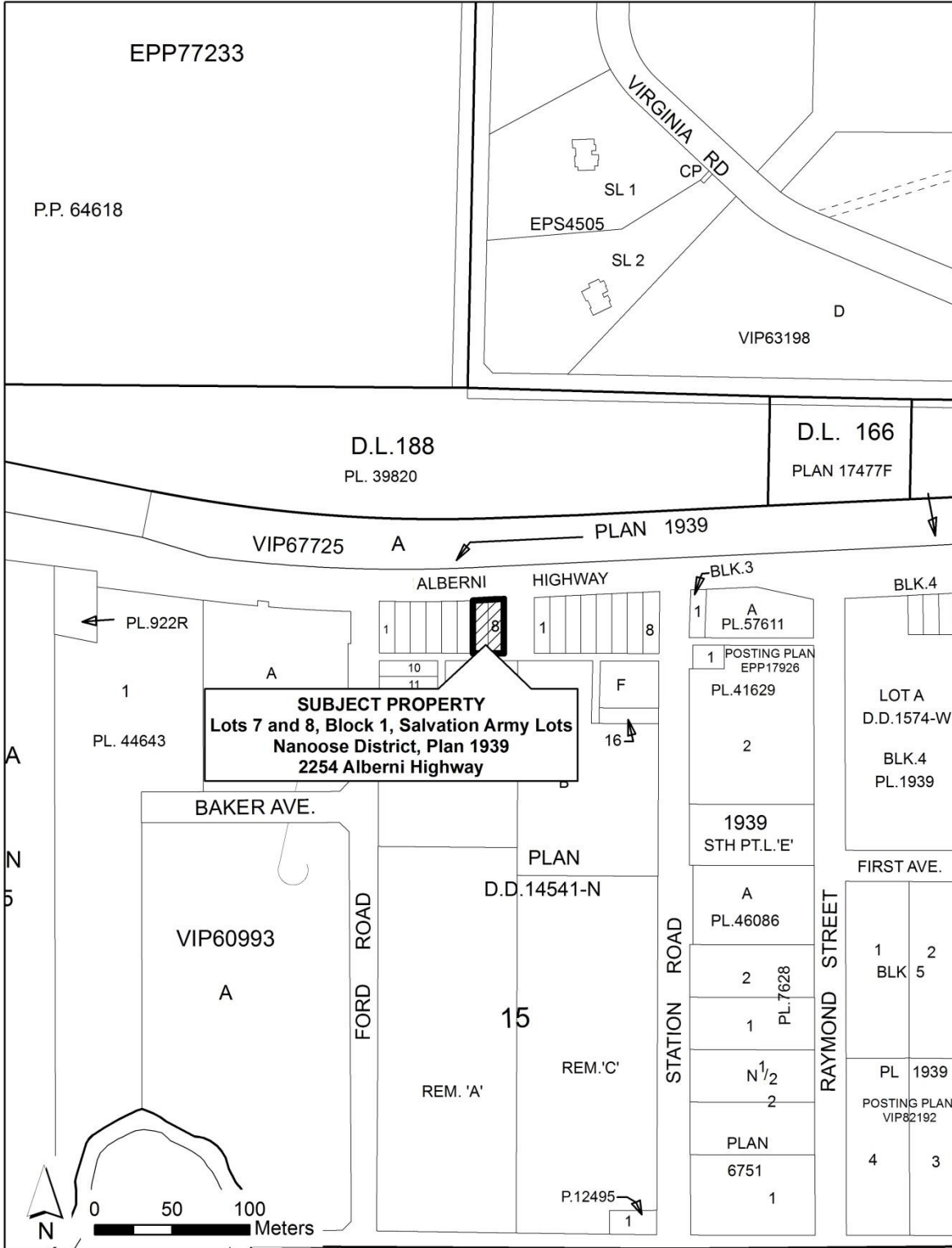
Reviewed by:

- P. Thompson, Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

Attachments

1. Subject Property Map
2. Terms and Conditions of Permit
3. Proposed Site Plan and Variances

**Attachment 1
 Subject Property Map**



Attachment 2 Terms and Conditions of Permit

The following sets out the terms and conditions of Development Variance Permit No. PL2019-024:

Bylaw No. 1285, 2002 Variances

With respect to the lands, “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002” is varied as follows:

- **Section 2.17 – Parking** to reduce the minimum parking requirements for all uses in a C zone from 1 per 20 m² Floor Area to 1 per 39 m² Floor Area, effectively reducing the minimum parking requirements for this property from 12 spaces to 6 spaces.
- **Section 4.3 – Minimum Setback from All Other Lot Lines** to reduce the minimum side yard setback requirement of the west property line from 2.0 metres to 1.1 metres for an existing building.

Conditions of Approval

1. The site is developed in accordance with the Site Plan prepared by Sims Associates Land Surveying Ltd. dated January 22, 2019 and attached as Attachment 3.
2. Prior to issuance of the Permit, the property owner shall consolidate Lots 7 and 8, Block 1, Salvation Army Lots, Nanoose District, Plan 1939.
3. The property owner shall obtain the necessary permits to operate under the *Drinking Water Protection Act*.
4. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

TO: Electoral Area Services Committee **DATE:** March 12, 2019
FROM: Sarah Martin
 Planning Technician **FILE:** PL2018-215
SUBJECT: **Development Variance Permit Application No. PL2018-215**
2515 Island Highway East – Electoral Area E
Lot 2, District Lot 79, Nanoose District, Plan 13504

RECOMMENDATIONS

1. That the Board approve Development Variance Permit No. PL2018-215 to reduce the interior lot line setback from 2.0 metres to 0.15 metres subject to the terms and conditions outlined in Attachments 2 and 3.
2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2018-215.

SUMMARY

The Regional District of Nanaimo is in receipt of an application for a variance to allow a recently constructed retaining wall that does not meet the exemption criteria, to be sited within the interior lot line setback. The applicant has provided a letter outlining the land use justification, a site survey, and an Engineers assessment in support of this application.

Given that “Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation” has been met and no negative impacts are anticipated as a result of the proposed variance, it is recommended that the Board approve the development variance permit pending the outcome of public notification and subject to the terms and conditions outlined in Attachment 2.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from JE Anderson & Associates on behalf of Marcy Sjostrom to permit two retaining walls that do not meet the definition of landscaping within the interior lot line setback. The subject property is approximately 0.174 hectares in area and is zoned Residential 1, Subdivision District ‘F’ (RS1, F), pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is located on Island Highway West, south of Northwest Bay Road in an area of mixed land uses surrounded by agricultural land (see Attachment 1 – Subject Property Map).

The property contains a dwelling unit (under construction), and two retaining walls. It is serviced by a well and on-site sewage disposal.

Proposed Development and Variance

The proposed development includes two retaining walls erected to support a ground floor patio on a steeply graded site. The walls range in height from 1.15 metres to 2.21 metres above natural grade. This variance is associated with building bylaw enforcement file PR2018-458. The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 3.4.61 – Minimum Setback Requirements** to reduce the minimum interior lot line setback from 2.0 metres to 0.15 metres for portions of the existing retaining walls that are over 1.0 metre in height.

Land Use Implications

The applicant has submitted a site survey, cross section drawings, a land use justification letter, and an Engineers assessment of the patio drainage. The subject property slopes steeply away from the road frontage, towards a pan handle lot to the rear. The property is being re-developed with a new dwelling unit, which has been issued occupancy (PR2017-725, January 30, 2019). As the property owner desired a walkout patio at the rear, retaining walls were constructed to support a concrete pad along the north (rear) and west building elevations. The western extent of the patio abuts the interior lot line on the west side. The dwelling unit is located to the west side of the parcel to take advantage of a view corridor overlooking the sea. As a result of this, and the desire for a walk out patio on a steep lot, one of the retaining walls supporting the patio is within the interior lot line setback. As built, the retaining wall is high enough in some areas to be considered a structure under the zoning bylaw. An additional retaining wall constructed along the rear (north) lot line has been amended so that it does not require a variance.

“Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation” for evaluation of Development Variance Permit Applications requires that there is an adequate demonstration of an acceptable land use justification prior to the Board’s consideration.

The applicant has provided the following justification for the requested variance:

- Due to the steep grade of the site, retaining walls are necessary to support the construction of a patio.

As the height of the retaining wall within the setback is less than or equal to 1.21 metres higher than 1.0 metre and is largely screened by an existing fence, it is not anticipated that the variance will result in any serious aesthetic impacts, though privacy of the neighbouring parcel could be a concern. It should be noted that the neighbouring dwelling unit’s eastern elevation overlooks the patio, as well as the presence of a second story deck. However, this dwelling unit is sited further back on the neighbouring parcel, putting it forward of the subject property. The applicant has not proposed to provide screening along the highest portion of the retaining wall, which is towards the front elevation of the dwelling unit. While the wall itself is screened by the existing fence, the side of the dwelling unit is not. Letters of support from neighbouring properties, while not required, have not been submitted in support of the variance request. Pending the outcome of the notification process, the applicant may need to address aesthetic impacts in support of the variance request.

Functional impacts of the variance could be of concern. As stormwater accumulation at the bottom of the slope appears to be an issue and the applicant has constructed an impervious surface up to 0.15 metres (6.0 inches) of the interior lot line, drainage onto neighbouring properties is a concern. As a condition of building permit, the property owner was required to secure an easement for storm drainage (CA7198227), which has been installed and passed inspection by Building Services (January 30, 2019). The applicant has submitted an assessment prepared by Lewkowich Engineering and Associates Ltd, dated February 28, 2019, that states that at this time, sheet flow is the predominant runoff mechanism, which has low erosion potential. It goes on to state that if erosion becomes an issue, a lip or small curb can be constructed to direct flow to a suitable discharge area. The patio is not connected to the storm drainage system installed for the dwelling unit. It is recommended that as a condition of permit that the retaining walls and patio be developed and maintained in accordance with the recommendations of this assessment (see Attachment 2 – Terms and Conditions of Permit).

Given that the variance will not result in negative functional implications for adjacent properties, the applicants have made a reasonable effort to address Policy B1.5 guidelines.

Intergovernmental Implications

There are no intergovernmental implications associated with this application.

Public Consultation Implications

Pending the Electoral Area Services Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Application and Notification Procedures Bylaw No. 1776, 2018", property owners and tenants of parcels located within a 50.0 metre radius of the subject property 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.

ALTERNATIVES

1. To approve Development Variance Permit No. PL2018-215 subject to the conditions outlined in Attachments 2 to 3.
2. To deny Development Variance Permit No. PL2018-215.

FINANCIAL IMPLICATIONS

The proposed development has been reviewed and has no implications related to the Board 2018 – 2022 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

The proposed development has been reviewed and has no implications for the 2016 – 2020 Board Strategic Plan.



Sarah Martin
smartin@rdn.bc.ca
February 28, 2019

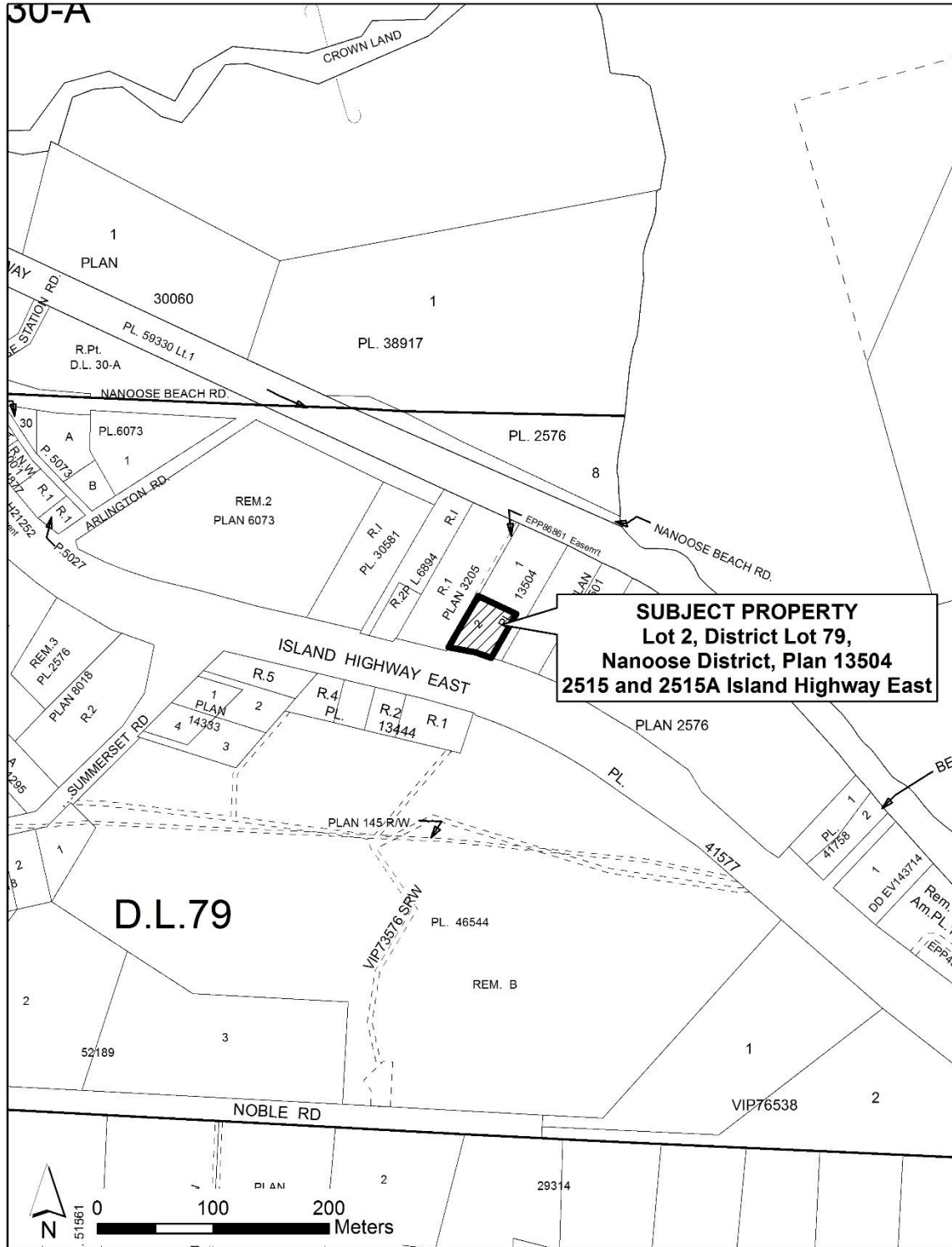
Reviewed by:

- P. Thompson, Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

Attachments

1. Subject Property Map
2. Terms and Conditions of Permit
3. Proposed Survey Plan and Variances

**Attachment 1
Subject Property Map**



Attachment 2 Terms and Conditions of Permit

The following sets out the terms and conditions of Development Variance Permit No. PL2018-215:

Bylaw No. 500, 1987 Variance

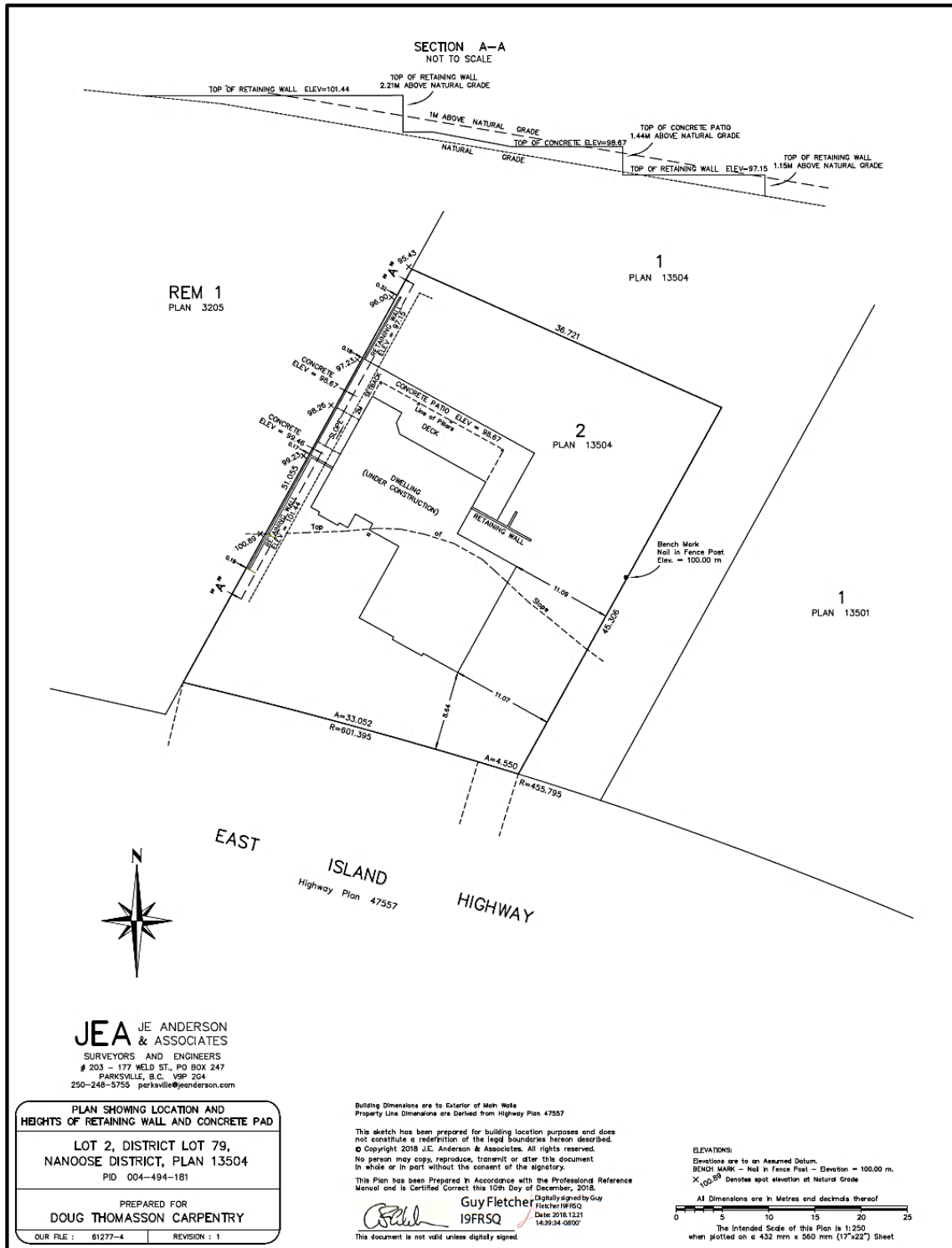
With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” is varied as follows:

1. Section 3.4.61 – Minimum Setback Requirements to reduce the minimum interior lot line setback from 2.0 metres to 0.15 metre for portions of the existing retaining wall that are over 1.0 metre in height.

Conditions of Approval

1. The site is developed in accordance with the Survey Plan prepared by JE Anderson & Associates, dated December 10, 2018 and attached as Attachment 3.
2. The retaining wall and patio are maintained in accordance with the recommendations of Lewkowich Engineering and Associates Ltd report dated February 28, 2019.
3. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

Attachment 3
Proposed Survey Plan and Variances
 (1 of 3)



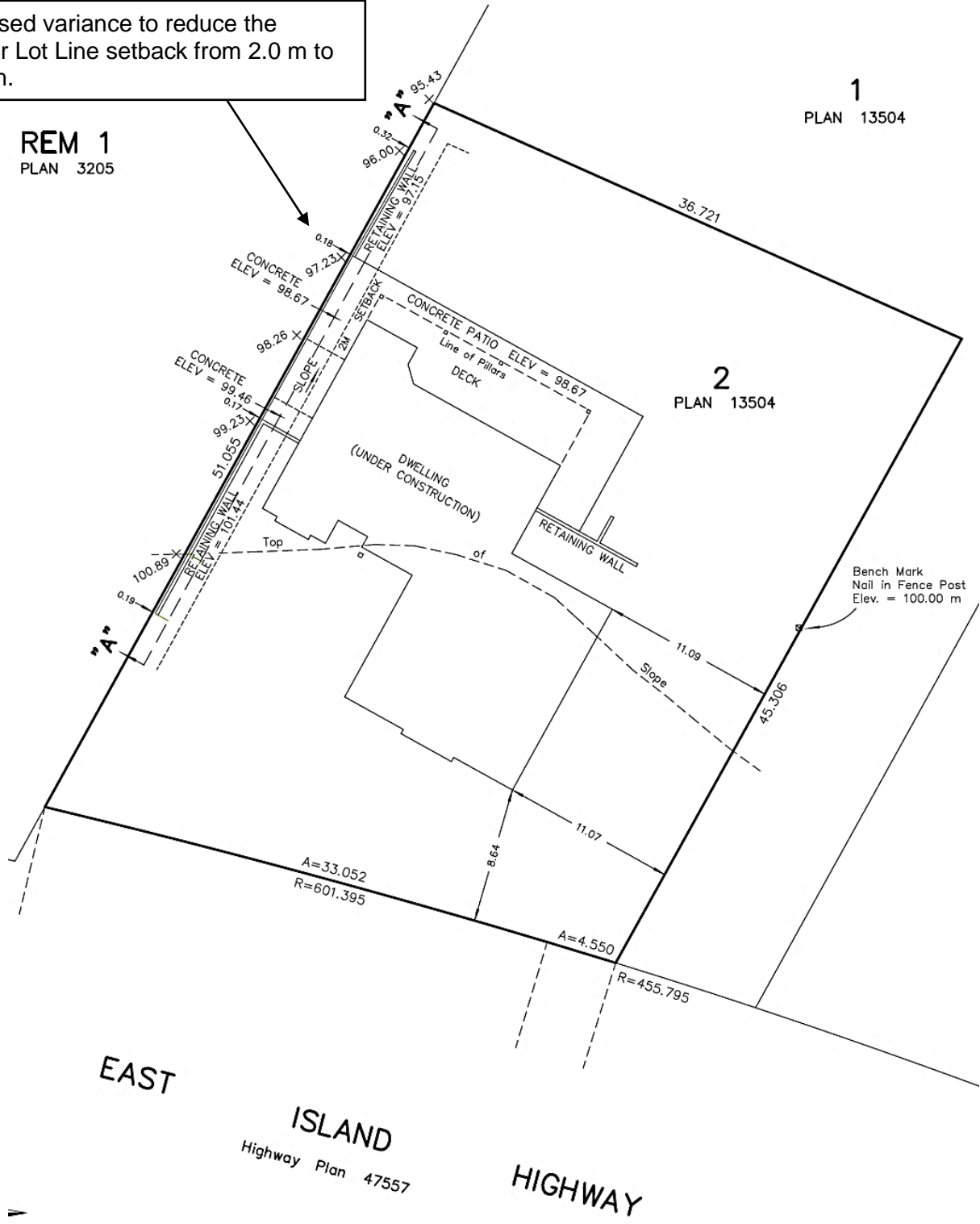
Attachment 3
Proposed Survey Plan and Variances
 (2 of 3)

Proposed variance to reduce the Interior Lot Line setback from 2.0 m to 0.15 m.

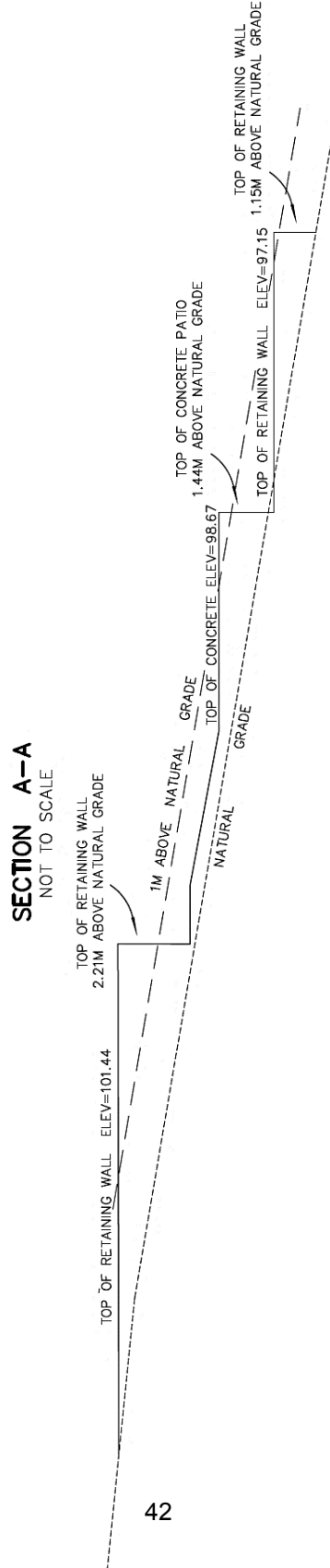
REM 1
 PLAN 3205

1
 PLAN 13504

2
 PLAN 13504



Attachment 3
Proposed Survey Plan and Variances
(3 of 3)



TO: Electoral Area Services Committee **MEETING:** March 12, 2019
FROM: Paul Thompson
 Manager, Current Planning **FILE:** Policy B1.21
SUBJECT: Revisions to Policy B1.21 Groundwater assessment requirements for rezoning un-serviced lands and for development permits

RECOMMENDATION

That the Board endorse the revised Policy B1.21 to improve clarity and streamline requirements for groundwater assessments for rezoning un-serviced lands and for development permits.

SUMMARY

Regional District of Nanaimo (RDN) Policy B1.21 pertains to groundwater assessment requirements for rezoning un-serviced lands. The current policy came into effect February 22, 2011. Since that time, there have been advancements from the Province in terms of updating the Water Sustainability Act and in terms of providing guidance on groundwater assessments. The current Policy has generated confusion among many applicants and would benefit from a revision to improve clarity.

BACKGROUND

The un-serviced areas of the RDN rely on groundwater as the primary water source to support development. Groundwater conditions vary across the region and site-specific assessments are required to determine if water needs for proposed parcels or uses can be met, while minimizing impact on existing groundwater users, hydraulically-connected streams and the long-term health of the aquifer.

The RDN's existing Policy B 1.21 requires an update to improve clarity and to incorporate new Provincial guidance and requirements under the Water Sustainability Act.

The groundwater assessment referenced in this Policy must be performed by a qualified professional with competency in hydrogeology. Generally, a desktop assessment reviewing all available relevant information is sufficient, unless the professional deems a pumping test is needed in order to satisfactorily provide an opinion on minimum year-round water supply and anticipated impacts or lack thereof.

The RDN's Drinking Water and Watershed Protection (DWWP) program works to improve data availability in our region, pertaining to water resources including groundwater and surface water, through monitoring and scientific study. The information available through the DWWP helps to expedite the assessment process as there is increased background data available to inform desktop reviews.

This policy revision has received the input of the RDN Drinking Water and Watershed Protection Technical Advisory Committee (sub-committee specifically tasked with this review met 3 times), Development Services staff (worked through 9 revisions), and three professional hydrogeologist reviewers.

Key revisions to the policy include:

- Re-ordering of items in the Policy to improve readability and clarity of sequence;
- Flow charts that show when in the zoning amendment process hydrogeological related information is required;
- A checklist based on Provincial guidance documents to outline what is expected to be reviewed in a hydrogeological (groundwater) assessment. This provides clarity for the applicant, the professional and for RDN staff reviewing the report;
- Checklist also applies to development permit applications that require hydrogeological assessments for added consistency;
- Links to information sources to support desktop assessments.

ALTERNATIVES

1. That the Board endorse the revised Policy B 1.21 to improve clarity and streamline requirements for groundwater assessments for rezoning un-serviced lands and for development permits.
2. That the Board provide alternate direction.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this policy update.

STRATEGIC PLAN IMPLICATIONS

This revised policy helps to achieve several strategic priorities:

We will ensure our processes are as easy to work with as possible.

We recognize the importance of water in supporting our economic and environmental health.

We will have a strong focus on protecting and enhancing our environment in all decisions.

We will include conservation of resources as a planning factor.



Paul Thompson
pthompson@rdn.bc.ca
February 21, 2019

Reviewed by:

- J. Pisani, Program Coordinator, Drinking Water and Watershed Protection
- G. Garbutt, General Manager, Strategic and Community Development
- P. Carlyle, Chief Administrative Officer

Attachments

1. Policy B 1.21 Hydrogeological assessment requirements for rezoning unserviced lands and development permits

REGIONAL DISTRICT OF NANAIMO

P O L I C Y

SUBJECT:	<i>Hydrogeological (groundwater) assessment requirements for rezoning un-serviced lands and for development permits</i> (Current Planning)	POLICY NO: B 1.21 CROSS REF.:
EFFECTIVE DATE:	February 22, 2011	APPROVED BY:
REVISION DATE:	March 26, 2019	PAGE: 1 of 8

PURPOSE

To identify and standardize the technical information required for rezoning applications to confirm that the potable water needs of a proposed parcel, parcels or use can be met, assess potential impacts on groundwater resources, existing groundwater users, and hydraulically-connected streams., and provide consistency in the review of development proposals.

To identify and standardize the technical information required through development permit area guidelines for hydrogeological assessments and provide consistency in the review of development approvals.

To uphold the policies and objectives in the Official Community Plans (OCP) with regards to water supply in rural areas, and to identify and minimize potential impacts of the proposed development on existing groundwater or surface water users and sensitive ecosystems.

POLICY

This policy outlines the approaches that will be taken when considering rezoning lands that are un-serviced (by community water), and when considering issuance of a development permit where a hydrogeological assessment is required, and outlines details the requirements for the following application types:

- A. Rezoning to facilitate subdivision.
- B. Rezoning to permit multi-family, commercial, institutional or industrial use.
- C. Development permit application where a hydrogeological assessment is required through the development permit area guidelines.

For both types of rezoning and for development permit applications, a preliminary hydrogeological assessment is required. In cases where a desktop review of available data and site visit provide a sufficient

level of confidence that the required water needs can be met without adverse impact, in the opinion of the qualified professional registered with Engineers and Geoscientists of BC (EGBC) with competency in hydrogeology, then a pumping test is not required. If the qualified professional deems it necessary to perform a pumping test to confirm water supply, a well must be drilled (if not already present) on the parcel and tested through the completion of a pumping test to proceed with the assessment.

This assessment is not intended to provide a guarantee that future property owners will have an adequate supply of potable water, but rather to provide a qualified opinion of the likelihood of obtaining an adequate supply of potable water without compromising water resource sustainability, existing water users and hydraulically-connected streams.

A. Rezoning to facilitate subdivision

Where a parcel is the subject of a rezoning application to reduce the minimum lot size in order to facilitate a subdivision, a **preliminary hydrogeological assessment** completed by a qualified professional (P. Eng or P. Geo. registered with Engineers and Geoscientists of BC (EGBC) with competency in hydrogeology) must be submitted as part of the rezoning application and must be received and reviewed by staff prior to proceeding to the Board for introduction of the associated amendment bylaw.

See flow chart for *rezoning to facilitate subdivision* below in **Figure 1**.

NOTE: If the application involves the rezoning of lands to permit subdivision of lands that are currently occupied by dwellings, each with their own well, and the rezoning will not result in additional dwelling unit or a change in water use, a preliminary hydrogeological assessment is not required provided the applicant proceeds with the well testing and associated final well report (outlined below) to the satisfaction of the Regional District.

Preliminary Hydrogeological Assessment Report Requirements

The preliminary hydrogeological assessment must confirm that in the opinion of the qualified professional:

- i. a minimum year-round potable water supply of
 - a. 3.5 m³ (3,500 litres) per day can be provided for each new residential parcel being proposed
 - b. Or, for non-residential uses, sufficient supply to support the proposed use can be provided on each new parcel being proposed
- ii. the proposed well(s) are not anticipated to have adverse impacts on groundwater resources, existing groundwater users, and hydraulically-connected streams.

Requirements for the preliminary hydrogeological assessment are outlined in full within a detailed checklist (**Appendix I: RDN Checklist for Hydrogeological Assessment Reports**). The report should address all the items listed in the checklist.

Prior to bylaw adoption, a covenant must be registered on title which will require that the new wells be constructed, tested, and a **final well report (Appendix II: Final Well Report Requirements)** submitted to the RDN prior to final approval of subdivision.

B. Rezoning to permit multi-family, commercial, institutional or industrial use

Where a lot is the subject of a rezoning application to permit multiple residential units, commercial, institutional or industrial use, a **preliminary hydrogeological assessment** completed by a qualified professional (P. Eng or P. Geo registered with Engineers and Geoscientists of BC (EGBC) with competency in hydrogeology) must be submitted as part of the rezoning application. The preliminary assessment report must be received and reviewed by staff prior to proceeding to the Board for introduction of the associated amendment bylaw.

See flow chart for *rezoning to allow a change in use* below in **Figure 2**.

Preliminary Hydrogeological Assessment Requirements

The preliminary assessment report must contain estimated flow requirements for the proposed use and confirm that in the opinion of the qualified professional:

- i. a minimum year-round potable water supply to support the proposed use can be provided on the parcel, and that,
- ii. the proposed well(s) are not anticipated to have adverse impacts on groundwater resources, existing groundwater users, and hydraulically-connected streams.

Requirements for the preliminary hydrogeological assessment are outlined in full within a detailed checklist (**Appendix I: RDN Checklist for Hydrogeological Assessment Reports**). The report should address all the items listed in the checklist.

Prior to bylaw adoption the applicant must receive and demonstrate to the RDN:

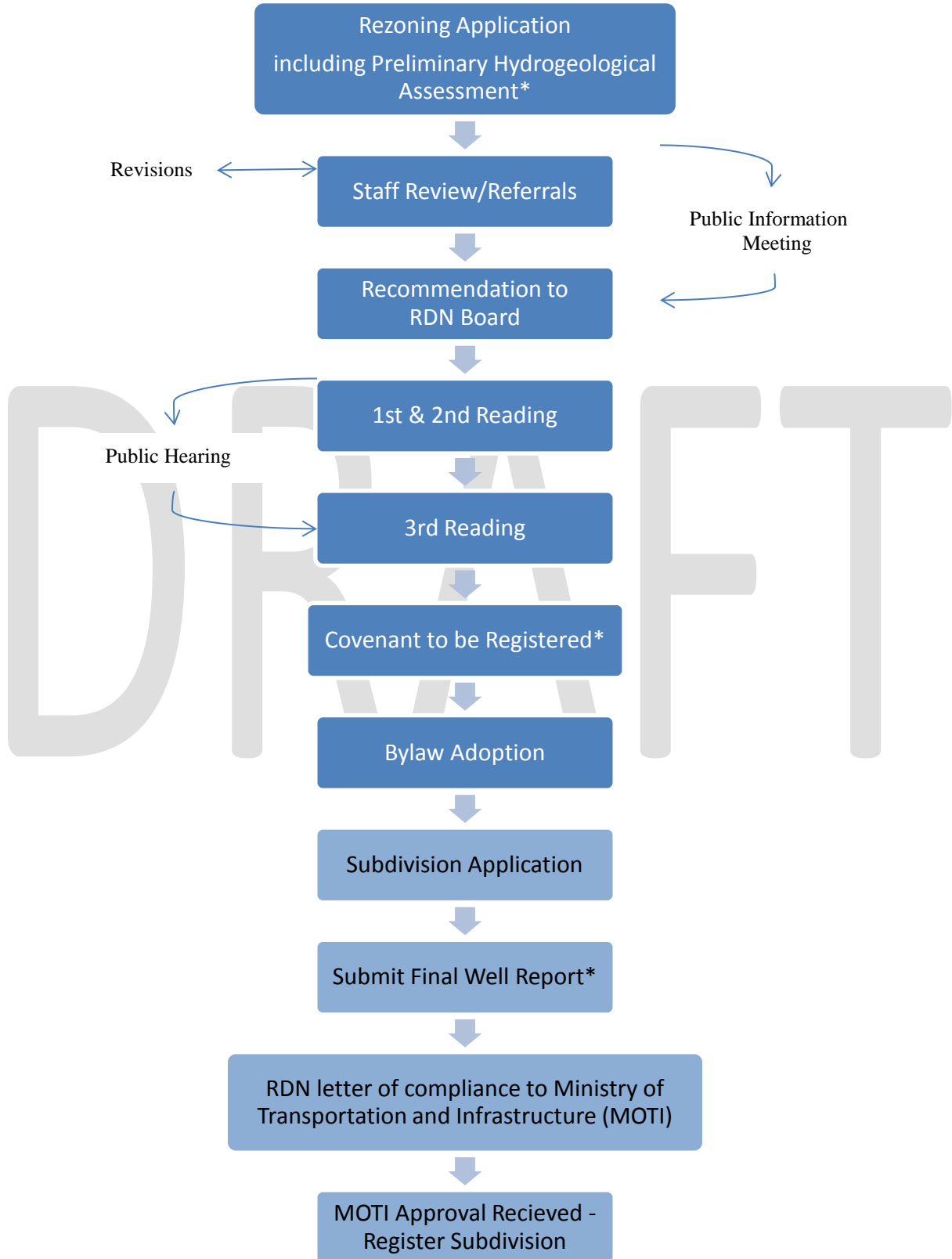
- An approved groundwater license from the Province. This is a requirement of all non-domestic groundwater uses.
- Source approval from the Vancouver Island Health Authority (Island Health), if required. This is required for all drinking water systems other than a single family home.

These documents fulfill much of what is required for a final well report (Appendix II). The applicant may be asked to provide supplementary information to the groundwater license and source approval as per **Appendix II: Final Well Report Requirements**, if necessary.

C. Development permit application where a hydrogeological assessment is required through the development permit area guidelines

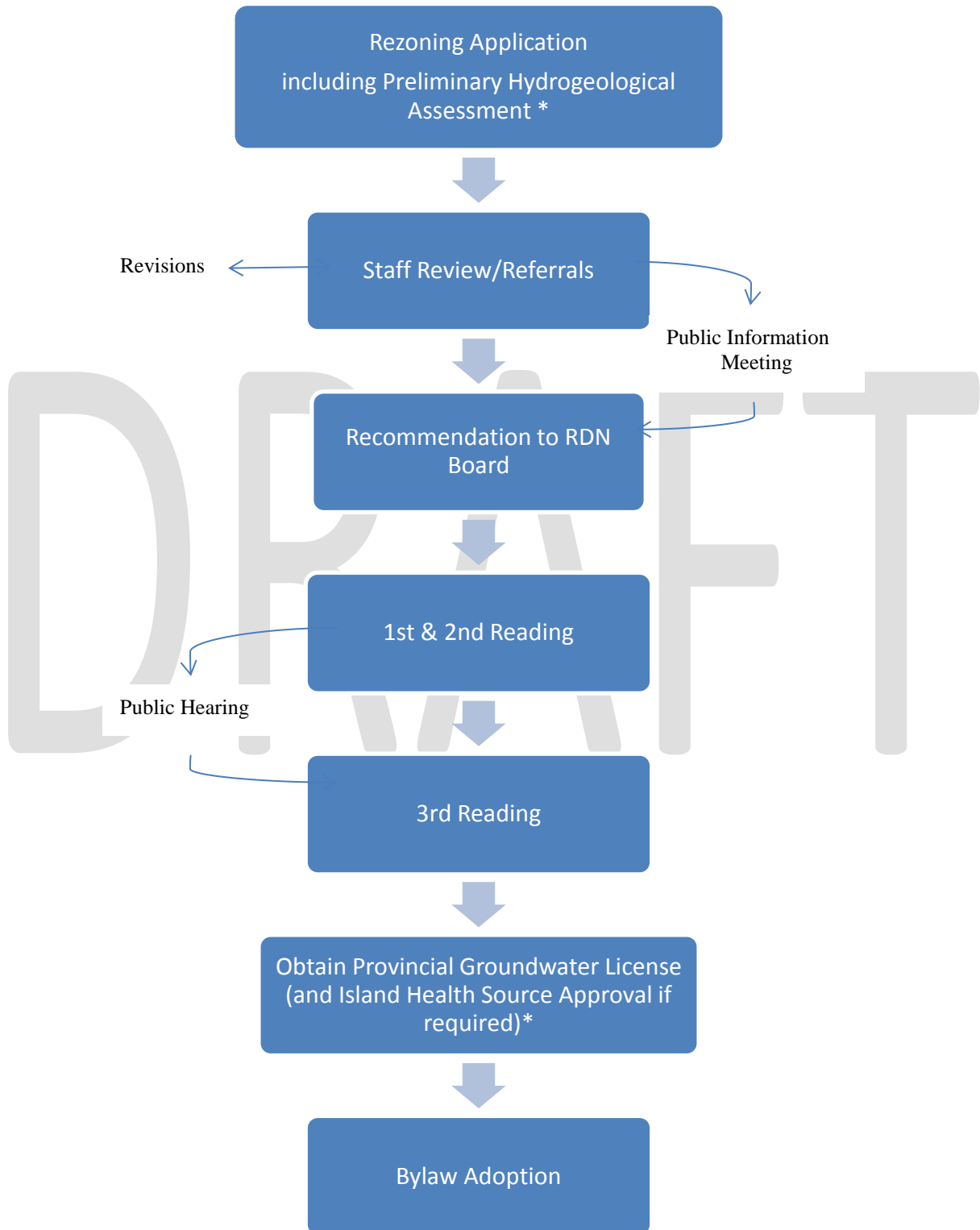
Where a hydrogeological assessment is required for a development permit application, the assessment must address the items listed in **Appendix I: RDN Checklist for Hydrogeological Assessment Reports** in addition to the relevant development permit guidelines.

Figure 1 – Flow Chart for A. Rezoning to Allow Subdivision



* Denotes key requirement of Board Policy B1.21

Figure 2- Flow Chart for B. Rezoning to Allow a Change in Use



* Denotes key requirement of Board Policy B1.21

Appendix I: RDN Checklist for Hydrogeological Assessment Reports

This checklist outlines the elements to be addressed in the preliminary professional hydrogeological assessment reports required for rezoning applications OR for professional hydrogeological assessment reports for development permit applications:

Component	Details / Sources
Site Description	<ul style="list-style-type: none"> <input type="checkbox"/> Description of the project, site and study area including a description of proposed land use and water use for the site. <input type="checkbox"/> Location map including: <ul style="list-style-type: none"> <input type="checkbox"/> topography <input type="checkbox"/> aquifer boundaries where mapped <input type="checkbox"/> locations of current and proposed wells (production and monitoring) on the site and adjacent properties <input type="checkbox"/> location of existing licensed water users (groundwater and surface water) within at least 300 m radius of the property. <input type="checkbox"/> locations of watercourses and sensitive environmental features <input type="checkbox"/> surrounding land uses
Local Hydrogeology	<ul style="list-style-type: none"> <input type="checkbox"/> Description of local geology – bedrock and/or surficial (GSC /NRCAN). <input type="checkbox"/> Summary of data on neighbouring wells diverting groundwater (GWELLS or iMapBC). <input type="checkbox"/> Description of the aquifer including storativity, transmissivity, hydraulic conductivity (Provincial aquifer classification database, well records, ECOCAT, RDN Water Budget Study, other local reports). <input type="checkbox"/> Description of local groundwater regime and its seasonal variations (e.g. measured water level fluctuations from existing observation wells or other monitored wells nearby, if applicable.) <input type="checkbox"/> Hydrogeological maps and cross sections illustrating groundwater flow and surface water interaction, if available.
Hydrologic Setting	<ul style="list-style-type: none"> <input type="checkbox"/> Description of the local area’s climate and a summary of relevant available climate data. <input type="checkbox"/> Description of nearby lakes, streams, springs, wetlands in the area. <input type="checkbox"/> Description of surface water flux (i.e. streamflow data, lake level data) in correlation to precipitation data and groundwater level fluctuations.
Hydraulic Connectivity	<ul style="list-style-type: none"> <input type="checkbox"/> Description of known or potential hydraulic connections to surface water bodies and under what conditions might pumping be likely to impact the quantity of water in those surface water bodies.
Assessment of Adequacy of Supply [Only applies to Rezoning]	<ul style="list-style-type: none"> <input type="checkbox"/> For multi-family, commercial, institutional or industrial: provide demand estimates (flow requirements) for the proposed use. <input type="checkbox"/> Confirmation that a minimum year-round potable water supply of 3.5 m³ (3,500 litres) per day can be provided for each new parcel (A) or the proposed use (B). <input type="checkbox"/> Use publically available data and/or referenced literature values to support estimates.
Discretionary:	<ul style="list-style-type: none"> <input type="checkbox"/> <i>If deemed necessary by Professional, considering aquifer stress level and characteristics, provide pumping test results and interpretation. Must follow BC Pumping Test Guidelines and BC Water Sustainability Act and Regulations for time of year, duration, methodology etc.</i>
Assessment of Quality of Supply	<ul style="list-style-type: none"> <input type="checkbox"/> Describe known water quality concerns in the regional and local area. <input type="checkbox"/> Include well water test results if applicable; compare to Canadian Drinking Water Guidelines. <input type="checkbox"/> Recommendations for water treatment if applicable.
Assessment of Potential Impacts	<ul style="list-style-type: none"> <input type="checkbox"/> Confirm that the proposed well(s) and associated pumping will not adversely impact groundwater resources, existing groundwater users and hydraulically connected streams. <input type="checkbox"/> Use aquifer parameters obtained from pumping tests conducted on site or in the immediate area or from other referenced information, if available. <input type="checkbox"/> Address the risk of sea water intrusion, if applicable.

Conclusions and Recommendations	<input type="checkbox"/> Provide recommendations; monitoring and/or management approaches to mitigate aquifer impacts. <input type="checkbox"/> Consider innovative options– i.e. rainwater harvesting, stormwater infiltration, efficient landscaping etc.
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APPENDIX II: Final Well Report Requirements

The intent of the final well report for **A. Rezoning to facilitate subdivision** is to confirm, once the well(s) is/are installed, that there is a well for each proposed parcel that can provide adequate water and meets current Groundwater Protection regulations. The report must be completed, dated, signed and sealed by a qualified professional and include/confirm the following:

- the date when the well was drilled along with a copy of the driller’s log (if available);
- the well identification number as indicated on the plate secured to the well;
- photographs of the well identity tag, ‘stick up’, and general location of the well;
- that a pumping test has been completed by a registered well driller, registered pump installer or person working under the direct supervision of the well driller, pump installer or professional with competency in hydrogeology, in accordance with the protocols outlined in the [BC Guide to Conducting Well Pumping Tests](#).
- the pumping test is required to have been run for the greater of 12 hours or until the water level stabilizes at the pumping rate of at least 2.5 litres/minute with a well recovery period monitored for the greater of 6 hours or until the water level recovers to a minimum of 90% of its pre-pumping water level. This pumping test must be conducted only during the months of July through October (lowest water table). [Note: if a pumping test was completed on a new well that will service the re-zoned parcel as part of the Preliminary Hydrogeological Assessment it is considered valid for the final well report within 3 years.]
- test results (i.e. chemical analyses from a certified laboratory) of the well water quality as analyzed against the Guidelines for Canadian Drinking Water Quality. The analysis should have been completed within 6 months of the date of the report. The report must also identify where parameters do not meet the Guidelines for Canadian Drinking Water Quality and the qualified professional shall provide recommendations for appropriate mitigation / treatment to achieve a potable quality;
- confirmation that the well meets the current minimum well standards as outlined in the Groundwater Protection Regulation under the *BC Water Sustainability Act*, in particular:
 - is at minimum 30m from potential sources of contamination, including but not limited to: agricultural buildings, septic fields, animal pens/runs, refuse and compost piles, areas of fertilizer/herbicide use or storage, above or below ground storage tanks, and parking areas;
 - is outside of a floodplain, or if within a floodplain measures taken/required to protect the well;
 - is accessible for maintenance;
 - has a secure and watertight cap;

- the well head is at minimum 300mm above the adjacent finished grade, above the 200 year flood level and the ground around the well head is sloped away from the well casing.
- a surface seal is installed to prevent surface contaminants from entering the well from outside the casing.

Appendix III: Information Sources for Hydrogeological Assessments – **current to February 2019**

Provincial Resources

[Links Page – Groundwater Science and Data](#)

[GWELLS - Groundwater Wells Search](#)

[BC Water Resources Atlas](#)

[ECO CAT - Ecological Reports Catalogue](#)

[Guide To Using BC Aquifer Classification Maps](#)

[Guide To Conducting Well Pumping Tests](#)

[Determining Likelihood Of Hydraulic Connection](#)

[Modelling Tools For Estimating Effects Of Groundwater Pumping On Surface Waters](#)

[BC Observation Well Network Interactive Map](#)

[Environmental Reporting - Trends in Groundwater Levels in BC](#)

[Real-time Water Data Reporting](#)

Regional Resources

[RDN Phase 1 Water Budget Study](#)

[RDN GIS ... Select: Water Map](#)

[DWWP Reports Inventory](#) ...includes State of our Aquifers Reports

[RDN Well Protection Upgrade Rebate](#)

TO: Electoral Area Services Committee **MEETING:** March 12, 2019
FROM: Tom Armet
 Manager, Building & Bylaw Services **FILE:**
SUBJECT: Bylaw Enforcement Overview

RECOMMENDATION

That staff be directed to undertake a review of regulatory services and procedures, and report back to the Board with recommendations to address gaps that may exist in bylaw enforcement in the Electoral Areas as well as cost recovery mechanisms.

SUMMARY

The role of bylaw enforcement is to identify, investigate, mediate and resolve bylaw violations and provide enforcement services to all departments and Electoral Areas within the Regional District of Nanaimo (RDN). The RDN also provides bylaw enforcement to the District of Lantzville by way of service agreement.

RDN Bylaw Officers respond to a wide array of complaints under 26 regulatory categories ranging from routine issues to lengthy and complex investigations and court preparation. The department caseload has steadily increased over the past several years. In 2018, there were 559 cases opened, which is consistent with the past three years and a 75% increase over 2014.

Changes in the composition of communities over time mean that bylaws and enforcement practices need to evolve as well to respond to changing community expectations and conflicts that arise between the different types of land uses and property standards. A brief overview of common regulatory bylaws is provided to illustrate the applicability of bylaws to the Electoral Areas, many of which were enacted the mid-1990s, reflecting community values and standards of the time.

In addition to common complaint types in areas without specific services, complaints in relation to matters outside the RDN's jurisdiction such as cannabis production, traffic, illegal dumping on crown lands and nuisance property abatement are on the rise. These type of complaints generally require some follow-up investigation to determine if the RDN has authority to act or participate in multi-agency approaches.

BACKGROUND

In 1992, the RDN hired two permanent full time bylaw officers to enforce its zoning bylaw and provide operational support to other departments. During the mid-1990s several services were established to regulate noise, property maintenance, outdoor burning and animal control. These regulatory bylaws were developed to reflect community standards of the day and for the most part, have remained unchanged in the past 25 years despite substantial population growth and

changing demographics and community standards. The volume of complaints, community expectations and complexity of investigations has increased significantly over time. The number of permanent full-time bylaw officers has not changed however, a full-time administrative support position was added in 2015 to augment the service delivery, manage files, complaints and information requests. In the latter part of 2018, a temporary bylaw officer was hired to provide capacity to meet the increased workload and service expectations including staff coverage, responding to complaints on the weekend through adjusted service hours.

The following table represents bylaw enforcement cases, including dog control cases for the past five years. A breakdown of the types of cases by Electoral Area is included in this report as attachment #1.

Electoral Area	2014	2015	2016	2017	2018
A	67	89	106	101	83
B	21	45	44	37	31
C	38	91	67	64	61
E	39	65	68	79	88
F	34	78	65	66	74
G	47	93	63	84	95
H	22	68	58	47	61
Lantzville	28	38	30	41	61
Other	23	15	3	4	5
Total	319	582	504	523	559
Dog Control	330	345	497	430	480
Grand Total	649	927	1001	953	1039

At its regular meeting held on February 26, 2019, the Board passed the following motion:

That staff be directed to include an analysis of cost recovery options and related penalties for bylaw infractions in the report being drafted by Building & Bylaw Services for the Board's consideration at a future meeting.

Staff undertook a preliminary review of cost recovery options and confirmed there are mechanisms available to the RDN, which are briefly discussed further in this report.

Overview of Common Regulatory Bylaws:

Animal Control

Animal control in the RDN is specific to the control and licensing of dogs in the Electoral Areas. As this function requires specialized training, equipment and facilities, the RDN contracts the regulatory enforcement to a private company, Coastal Animal Control Services (CACS). Animal control officers employed by CACS are appointed by the RDN Board as Bylaw Enforcement Officers for the purpose of enforcing RDN animal control bylaws.

There are three separate animal control services covering the seven electoral areas as follows:

Electoral Areas A, B, and C and Lantzville – full dog control bylaw however, the enforcement service level is limited to dangerous dog control and pick up of confined stray dogs for up to 18 hours per week. Historically, these Electoral Areas opted for a reduced service level to maintain a lower tax requisition for the service.

Electoral Areas E, G, and H – full dog control and licensing of dogs for up to 30 hours per week.
Electoral Area F – dangerous dog control for up to three hours per week.

Building Regulations

The RDN Building Bylaw provides authority to enforce the BC Building Code in all Electoral Areas. Prior to the expansion of the service in 2010, construction in Areas F, H and some portions of Areas A and C had no regulatory oversight. The current RDN Building Bylaw contains provisions to support the uniqueness of the Electoral Areas such as conditional occupancy for owner-builders, farm building exemptions and the use of site cut timber for residential construction. Bylaw officers conduct follow-up enforcement on non-compliant buildings.

Burning Regulations

Outdoor burning regulations are inconsistent throughout the RDN. The three outdoor burning bylaws are incongruous with Electoral Area boundaries, instead they are specific to three fire protection local service areas; French Creek, Parksville (local) and Extension. These bylaws prohibit clearing and construction waste fires, and limit garden refuse fires between April and October.

Typically, fire department personnel respond in the first instance to burning complaints within service areas and if necessary, refer any follow-up action such as official warnings or ticketing to bylaw enforcement staff. Open burning in all areas outside the three fire protection local service areas falls under the jurisdiction of the Province to enforce the provincial Open Burning Smoke Control Regulation (OBSCR).

Fireworks

Although the RDN does not regulate the sale or discharge of fireworks in the Electoral Areas, it is worth noting that the RDN receives numerous complaints about fireworks, particularly leading up to Halloween and other holidays. It should also be noted that the four RDN member municipalities regulate the sale and discharge of fireworks within their municipal boundaries.

The provincial *Fireworks Act* applies to “School District 68” (encompassing Electoral Areas A, B and C). The sale and discharge of fireworks in those areas is regulated at certain times however, enforcement of the regulations falls under the jurisdiction of the RCMP.

Noise Control

Six separate noise control bylaws apply to Electoral Areas A, B, C, Lantzville (former Area D bylaw), E and G. There are no noise control regulations in Areas F and H. Each noise bylaw has slight variations in prohibitions, specific to the area.

Parks Regulations

Parks regulations apply to all RDN regional and community parks as well as other properties within the parks land inventory. Many of the park regulations are dealt with by RDN Parks staff or contract operators. From time to time, issues requiring more complex investigational steps are referred to bylaw enforcement for follow-up action.

Property Maintenance/Nuisance Properties

The Unsightly Premises Bylaw applies to all electoral areas except Area F. Property maintenance and nuisance property complaints can be extremely challenging for staff to deal with and tend to have significant impacts on nearby properties and residents.

Zoning Regulations

Investigations related to the two RDN zoning bylaws represent approximately 25% of annual case load in six electoral areas. Zoning matters in Electoral Area B fall under the jurisdiction of the Islands Trust. The RDN enforces the District of Lantzville zoning bylaw under contract to the municipality.

Gaps in Regulatory Services:

Changes in the composition of communities over time mean that bylaws and enforcement practices need to evolve, as well to respond to conflicts that arise between the different types of land uses and community expectations. As previously noted, many of the RDNs regulatory bylaws were enacted in the mid-1990s, reflecting community values and standards of the time. For example, the RDN is not able to act on complaints received from residents of Electoral Areas where services such as nuisance properties, outdoor burning, dog control or noise have not been established.

The following table provides a “snapshot” of the common complaint types and the applicability of regulatory bylaws in the Electoral Areas:

Complaint Types	Area A	Area B	Area C	Area E	Area F	Area G	Area H
Animal Control	Partial dog control	Partial dog control	Partial dog control	Full dog control	Limited dog control	Full dog control	Full dog control
Building	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Burning	No	Gabriola Fire ID	Extension FP area only	No	No	Parksville & Fr. Creek FP areas	No
Fireworks	No	No	No	No	No	No	No
Noise	Yes	Yes	Yes	Yes	No	Yes	No
Property Maintenance	Yes	Yes	Yes	Yes	No	Yes	Yes
Zoning	Bylaw 500	Islands Trust	Bylaw 500	Bylaw 500	Bylaw 1285	Bylaw 500	Bylaw 500

In addition to common complaint types in areas without specific services, staff has noted an increase in “out of jurisdiction” complaints related to issues such as cannabis production, traffic, illegal dumping on crown lands, environmental contamination, habitat destruction, wildlife and

hunting/poaching and nuisance property abatement. These type of complaints generally require some follow-up investigation to determine if the RDN has authority to act or participate in a multi-agency approach.

Cost Recovery Options:

The RDN currently utilizes existing legislation to recover some of the costs associated to bylaw enforcement action. This includes ticketing, use of collections agencies and court awarded judgements in the RDNs favor. Cost recovery by these means is relatively small in comparison to the overall cost expended in most cases.

In response to the Board's direction, staff consulted with the RDN solicitor regarding options for cost recovery, particularly in relation to nuisance property abatement and confirmed there are mechanisms available to the RDN. The *Local Government Act* provides regional districts the authority to adopt bylaws to prevent, abate and prohibit a wide range of nuisances, as well as to recover costs of abating nuisances from the person(s) causing or allowing the nuisance. Cost recovery must have some realistic relationship to the cost the RDN actually incurs in providing a service. For instance, municipalities have the ability to charge owners of nuisance properties for the cost of police and fire response, staff time and public works. As the RDN does not pay for policing costs and largely relies on volunteer fire departments, these services do not "cost" the RDN anything (not directly), so they cannot be the subject of cost recovery. The RDN could charge for costs actually incurred such as third party contractor charges, staff time, vehicle and fuel costs that are directly related to a nuisance abatement.

Given the wide range of options available to local government, staff will undertake an analysis of bylaw enforcement cost recovery options and related penalties for bylaw infractions for the Board's consideration at a later date.

The Role of Elected Officials in the Enforcement Process:

In 2016, the B.C. Ombudsperson Office published its *"Bylaw Enforcement Best Practices Guide for Local Governments"*. The guide is designed to provide information and tools to promote fairness in the administration of local government bylaw enforcement.¹

The guide recognizes the challenges faced by elected officials to remain a step removed from the day-to-day enforcement process when they are often the main point of contact for members of the public who have complaints or who have been the subject of enforcement. In those situations it is appropriate to seek assurance that bylaw enforcement staff have fairly responded to a concern. However, it is important to be aware that maintaining separation between elected officials and front-line enforcement staff is essential to an administratively fair bylaw enforcement system. (see attachment #2 – excerpt from the guide).

ALTERNATIVES

1. Direct staff to undertake a review of regular bylaws and procedures to address gaps that may exist in bylaw enforcement services in the electoral areas.
2. Provide alternate direction to staff.

¹ <https://bcombudsperson.ca/documents/bylaw-enforcement-best-practices-guide-local-governments>

FINANCIAL IMPLICATIONS

The cost of bylaw enforcement in the Regional District of Nanaimo is apportioned and charged to the specific service areas in which the costs relate (i.e. noise, animal control, planning). Changes in service levels may have an impact on the tax requisition for the service. Should the Board endorse the staff recommendation, the financial implications of service level adjustments will be included in a future report for the Board's consideration.

STRATEGIC PLAN IMPLICATIONS

Reporting on bylaw enforcement activity and service gaps in the RDN enhances regional governance by providing Area Directors with information on key community issues and trends within each Electoral Area and the region overall.



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March 4, 2019

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Attachments

1. Case breakdown by Electoral Area
2. Excerpt: *Bylaw Enforcement Best Practices Guide for Local Government*

Electoral Area A					
FILE TYPE	2014	2015	2016	2017	2018
Animal Control	3	6	5	3	1
Building Regulations	1	2	3	0	2
Burning	0	0	2	0	1
Development Permit	0	0	0	5	10
Dwelling Check	0	0	0	3	1
Fireworks	0	1	5	0	0
Illegal Dumping	2	2	4	19	7
Information	0	0	0	0	2
Land Use	28	30	28	27	22
Noise	23	18	25	18	11
Nuisance	1	0	1	0	1
Other	2	20	25	17	11
Parks	0	0	0	2	3
Signs	0	0	0	0	2
Traffic	0	0	0	0	0
Unightly	7	10	8	7	9
Grand Total	67	89	106	101	83

Electoral Area B					
FILE TYPE	2014	2015	2016	2017	2018
Animal Control	2	4	1	0	1
Building Regulations	1	1	0	1	0
Burning	0	0	0	1	0
Development Permit	0	0	0	0	0
Dwelling Check	0	0	0	6	0
Fireworks	0	0	0	0	0
Illegal Dumping	0	0	3	1	0
Information	0	0	0	0	1
Land Use	1	3	1	0	0
Noise	13	12	13	14	15
Nuisance	0	0	1	0	4
Other	1	21	21	3	2
Parks	0	0	1	2	3
Signs	0	0	0	0	0
Traffic	0	0	0	0	0
Unightly	3	4	3	9	5
Grand Total	21	45	44	37	31

Electoral Area C					
FILE TYPE	2014	2015	2016	2017	2018
Animal Control	1	4	4	2	4
Building Regulations	4	3	0	1	0
Burning	0	3	1	0	0
Development Permit	0	0	0	9	4
Dwelling Check	0	0	0	0	2
Fireworks	0	0	0	1	0
Illegal Dumping	2	40	16	24	16
Information	0	2	0	0	1
Land Use	12	8	13	12	12
Noise	5	3	6	2	8
Nuisance	1	0	0	0	1
Other	4	17	15	10	5
Parks	1	1	3	0	1
Signs	0	0	0	0	0
Traffic	0	0	0	0	0
Unightly	8	10	9	3	7
Grand Total	38	91	67	64	61

Electoral Area E					
FILE TYPE	2014	2015	2016	2017	2018
Animal Control	3	2	2	2	3
Building Regulations	1	3	2	0	0
Burning	0	2	2	1	3
Development Permit	0	0	0	8	10
Dwelling Check	0	0	2	0	1
Fireworks	0	0	1	0	0
Illegal Dumping	0	8	4	11	16
Information	0	1	0	1	1
Land Use	11	18	14	26	28
Noise	5	10	6	6	4
Nuisance	0	0	2	0	0
Other	3	17	20	12	11
Parks	2	1	2	4	5
Signs	7	0	4	6	2
Traffic	0	0	0	0	0
Unightly	7	3	7	2	4
Grand Total	39	65	68	79	88

Electoral Area F					
FILE TYPE	2014	2015	2016	2017	2018
Animal Control	4	7	4	2	1
Building Regulations	4	4	0	2	1
Burning	1	0	1	1	1
Development Permit	0	0	0	5	11
Dwelling Check	0	0	1	7	3
Fireworks	0	0	0	0	0
Illegal Dumping	1	15	11	16	10
Information	0	0	0	0	0
Land Use	15	22	18	21	25
Noise	2	3	1	0	0
Nuisance	1	0	0	1	2
Other	5	25	29	10	14
Parks	0	0	0	0	4
Signs	0	0	0	1	2
Traffic	0	0	0	0	0
Unightly	1	2	0	0	0
Grand Total	34	78	65	66	74

Electoral Area G					
FILE TYPE	2014	2015	2016	2017	2018
Animal Control	6	6	10	4	4
Building Regulations	0	1	1	1	1
Burning	1	7	7	4	1
Development Permit	0	0	3	5	12
Dwelling Check	0	0	1	2	2
Fireworks	0	1	0	1	0
Illegal Dumping	3	7	3	11	13
Information	0	1	0	0	1
Land Use	20	19	11	21	22
Noise	9	17	2	4	7
Nuisance	1	0	0	1	2
Other	0	20	20	17	14
Parks	0	0	0	0	1
Signs	2	2	0	2	0
Traffic	0	0	0	0	0
Unightly	5	12	5	11	15
Grand Total	47	93	63	84	95

Electoral Area H					
FILE TYPE	2014	2015	2016	2017	2018
Animal Control	1	4	3	1	3
Building Regulations	0	3	0	0	2
Burning	0	3	0	2	1
Development Permit	0	0	0	5	7
Dwelling Check	0	0	2	6	4
Fireworks	0	0	0	0	0
Illegal Dumping	2	11	10	13	7
Information	0	0	0	0	1
Land Use	12	8	11	13	21
Noise	0	3	0	0	0
Nuisance	1	1	0	1	0
Other	4	27	25	3	10
Parks	0	0	1	1	0
Signs	0	1	1	0	0
Traffic	0	0	0	0	0
Unightly	2	7	5	2	5
Grand Total	22	68	58	47	61

Lantzville					
FILE TYPE	2014	2015	2016	2017	2018
Animal Control	0	1	0	1	2
Building Regulations	1	3	1	0	1
Burning	2	0	0	1	0
Development Permit	0	0	0	0	3
Dwelling Check	0	0	0	0	0
Fireworks	0	0	0	0	0
Illegal Dumping	0	9	5	8	10
Information	0	0	0	0	1
Land Use	11	8	4	14	9
Noise	11	6	4	4	10
Nuisance	0	0	0	1	0
Other	1	8	7	6	8
Parks	0	0	0	0	0
Signs	0	0	6	0	1
Traffic	1	0	2	5	13
Unightly	1	3	1	1	3
Grand Total	28	38	30	41	61

found that the resident deliberately set himself up to challenge the city and that he had baited staff with his extreme and self-interested interpretations of city bylaws.²¹

This case shows that as long as actions are authorized and appropriate, it is not unreasonable for local governments to persist with enforcement even in the face of refusal or hostility from a resident.

In another case, a resident alleged in court that bylaw enforcement officers were excessively persistent, as well as “arrogant, hostile, and inappropriate” when inspecting her secondary suite. The court noted that this behaviour, for which there was no evidence, was likely a consequence of the defendant’s refusal to grant the bylaw officers access to the suite as they were legally entitled to have. This refusal, the court noted, provided a justifiable reason for the city’s persistence in enforcement.²²

These cases demonstrate the importance of distinguishing between enforcement actions that are necessary and reasonable (but a resident may vehemently disagree with) and those that are clearly beyond the authority of local government enforcement staff. Persisting in multiple attempts to enforce is not unreasonable if such action is both authorized and necessary.

Individuals who contact our office with a complaint rarely assert that a bylaw enforcement officer abused his or her power. More frequently, individuals complain that they were treated poorly by local government staff. Individuals may be angry, frustrated or rude when dealing with local government staff. Fairness is not just about the process followed in making decisions – it also involves communicating about the process and resulting decisions in an appropriate and respectful way.

Treating people well in an enforcement context can help resolve conflicts, encourage voluntary compliance and shape positive public perceptions of a local government. Written standards of conduct are a useful tool to outline the professionalism that local governments expect of their bylaw enforcement staff. For example, one local government’s website describes professional conduct expectations for bylaw enforcement staff, emphasizing accountability, impartiality, integrity, protection, respectfulness and service.²³ Such standards can also prevent bylaw enforcement officers from inadvertently acting outside the scope of their authority.

Best Practice: Standards of Conduct

Council and senior local government officials establish and make public standards of conduct for bylaw enforcement staff.

The Role of Council in the Enforcement Process

When we spoke with bylaw enforcement staff, managers and chief administrative officers as we were developing this guide, we heard concerns about council members becoming personally involved in bylaw enforcement investigations on behalf of residents, and directing bylaw enforcement staff to take a specific course of action.

As discussed in previous sections, council establishes overall priorities for enforcement, enacts bylaws, and adopts bylaw enforcement policies and standards of conduct for bylaw enforcement staff. Council may also provide direction on

²¹ *Prince George (City) v. Reimer*, 2010 BCSC 118.

²² *Burnaby (City) v. Oh*, [2010] B.C.J. No. 2857.

²³ Town of Creston, “Bylaw Compliance” <<http://www.creston.ca/2169/Bylaw-Compliance>>.

specific types of bylaw enforcement issues. For example, council may direct its enforcement staff to prioritize enforcement of certain bylaws, or to issue warnings rather than tickets for specific categories of violations.

Within this framework, everyday enforcement decisions are delegated to staff. Defining and maintaining separation between council and front-line enforcement staff is essential to an administratively fair bylaw enforcement system. It is important for council members to be aware of how their own actions can affect the fairness of an enforcement process. This means that while council sets policy and provides general direction on enforcement priorities, its individual members should not become directly involved in enforcement action by directing enforcement against specific residents, groups or businesses, or by directing that enforcement action not occur in a particular circumstance. Rather, individual enforcement decisions should be made by delegated bylaw enforcement staff or contractors.²⁴

It can be difficult for council members to remain a step removed from the day-to-day enforcement process when they are a main point of contact for members of the public who have complaints or who have been the subject of enforcement. It is understandable that council members want to be responsive to the concerns of those who elected them. In such situations, it is certainly appropriate for a member of council to seek assurance that bylaw enforcement staff have fairly responded to a person's concerns.

However, even if motivated by good intentions, council members should not advocate either publicly or privately for a particular result in a specific case. Doing so can create the appearance of bias, particularly if council later hears an appeal on the same matter after bylaw enforcement action is taken. Moreover, any action by a council member that is motivated by favouritism or personal animosity toward an individual may be perceived as an improper use of discretion.²⁵ Each member of council should strive to remain uninvolved in a specific bylaw enforcement decision unless and until the matter is put on the agenda for the entire council to consider.

Best Practices: The Role of Council

Council and senior local government officials develop a written policy to clearly define the separate roles of bylaw enforcement staff, council as a whole and individual members of council.

Local government policy clearly articulates that council members are not to be involved in day-to-day bylaw enforcement decisions.

²⁴ The City of Toronto Ombudsman has investigated concerns about elected local government officials interfering with the work of local government staff. In one investigation, the Ombudsman found that the Mayor's office was improperly directing security staff at city hall and was not following its own policy: Office of the Ombudsman, *Ombudsman Report: An Investigation into Toronto City Hall Security*, April 2015 <<http://ombudstoronto.ca/ombudsman-report-investigation-toronto-city-hall-security>>. In another investigation, the Ombudsman found that the Mayor's office directly influenced the public appointment process that resulted in inadequate vetting: Office of the Ombudsman, *An Investigation into the Administration of the Public Appointments Policy*, 25 September 2012 <<http://ombudstoronto.ca/sites/default/files/Final%20Report%20September%2025%20Post.pdf>>.

²⁵ Office of the Ombudsperson, *Code of Administrative Justice 2003*, Public Report No. 42, British Columbia Legislative Assembly, March 2003, 15 <<https://www.bcombudsperson.ca/sites/default/files/Public%20Report%20No%20-%2042%20Code%20of%20Administrative%20Justice.pdf>>.