

REGIONAL DISTRICT OF NANAIMO

ELECTORAL AREA PLANNING COMMITTEE

TUESDAY, JUNE 12, 2012

6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-4 Minutes of the regular Electoral Area Planning Committee meeting held Tuesday, May 8, 2012.

BUSINESS ARISING FROM THE MINUTES

COMMUNICATIONS/CORRESPONDENCE

UNFINISHED BUSINESS

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 5-10 Development Permit Application No. PL2012-061 – Robert & Norma Pain – 925 Mistaken Place, Area 'G'.

DEVELOPMENT PERMIT WITH VARIANCE APPLICATIONS

- 11-22 Development Permit with Variance Application No. PL2012-028 – Ken Tanguay – 594 Wain Road, Area 'G'.

- 23-29 Development Permit with Variance Application No. PL2012-049 – McIntosh – 891 Fisherman Circle, Area 'G'.

OTHER

- 30-37 Request to Accept Cash in Lieu of Park Dedication – Ryvers & Son Home (Builders) Inc., 6620 Island Highway West and Adjacent Property to the North, Area 'H'.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, MAY 8, 2012 AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director G. Holme	Chairperson
Director A. McPherson	Electoral Area A
Director M. Young	Electoral Area C
Director J. Fell	Electoral Area F
Director J. Stanhope	Electoral Area G
Director W. Veenhof	Electoral Area H

Also in Attendance:

M. Pearse	Sr. Mgr., Corporate Administration
P. Thorkelsson	Gen. Mgr., Development Services
J. Holm	Mgr., Current Planning
N. Hewitt	Recording Secretary

MINUTES

MOVED Director Veenhof, SECONDED Director Fell, that the minutes of the regular Electoral Area Planning Committee meeting held Tuesday, April 10, 2012 be adopted.

CARRIED

PLANNING

DEVELOPMENT PERMIT WITH VARIANCE APPLICATIONS

Development Permit Application No. PL2010-007 – Beaulac – 121 Kinkade Road, Area ‘G’.

MOVED Director Stanhope, SECONDED Director Young, that Development Permit Application No. PL2010-007, to permit the construction of an accessory building, be approved subject to the conditions outlined in Schedules 1 and 2.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. PL2012-025 – Daniel Parker and June Parker – 1430 Reef Road, Area ‘E’.

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

CARRIED

MOVED Director McPherson, SECONDED Director Stanhope, that Development Variance Permit Application No. PL2012-025 to reduce the minimum required setback for a proposed deck from the Other Lot Line be approved subject to the conditions outlined in Schedule 1.

CARRIED

ADJOURNMENT

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

CARRIED

Time: 6:45 PM

CHAIRPERSON



RDN REPORT	
X CAO APE	
EAP	
COW	
JUN 01 2012	
RHD	
BOARD	

MEMORANDUM

TO: Jeremy Holm
Manager of Current Planning

DATE: May 29, 2012

FROM: Kim Farris
Planner

FILE: PL2012-061

SUBJECT: Development Permit Application No. PL2012-061 – Robert & Norma Pain
Lot 14, District Lot 1, Nanoose District, Plan 30958 – 925 Mistaken Place
Electoral Area ‘G’

PURPOSE

To consider an application for a Development Permit to allow the construction of an addition to an existing dwelling unit on the subject property.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Robert and Norma Pain to permit an addition to an existing dwelling unit. The subject property is approximately 0.3 ha in area and is zoned Residential 1 (RS-1) pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (see *Attachment 1* for subject property map).

The subject property contains a dwelling unit, detached garage and shed, and is bordered by residential zoned properties. The property is located within the San Paniel community and is within the Englishman River and Strait of Georgia Floodplains.

The proposed development is subject to the Hazard Lands Development Permit Area (DPA) in accordance with the “Regional District of Nanaimo Electoral Area ‘G’ Official Community Plan Bylaw No. 1540, 2008”.

Proposed Development

The applicant is proposing to construct a sunroom onto the west side of the existing residential dwelling (see *Schedules 2 and 3* for site plan and elevation drawings). The proposed sunroom will be approximately 14.6 m² in floor area which is less than 25 percent floor area of the existing dwelling unit. The entire property is located within the Englishman River and Strait of Georgia Floodplains based on the 1 in 200 year flood event. The finished floor elevation of the proposed addition is 3.025 m Geodetic (above sea level) which is 1.075 m below the Strait of Georgia 200 year flood level of 4.1 m. However, the proposed addition meets the General Flood Construction Level Exemptions as stated in Section 16(b) of the “Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006”: An addition to a building or structure, at the original non-conforming floor elevation, that would increase the size of the building or structure by less than 25 percent of the floor area that existed in February 11, 1992.

ALTERNATIVES

1. To approve the Development Permit Application No. PL2012-061 subject to the conditions outlined in *Schedules 1 to 3*.
2. To deny the Development Permit Application No. PL2012-061.

LAND USE IMPLICATIONS

Development Implications

The applicant submitted a Geotechnical report prepared by Lewkowich Engineering Associates Ltd. dated May 16, 2012, to satisfy the Hazard Lands DPA guidelines. The report states that in the event of a 200 year flood, the entire property would be inundated with floodwater. Further, the report states that it would not be practical to raise the existing dwelling unit to the safe flood level therefore the proposed addition will match the existing flood construction level. The engineer concludes that the property is safe and suitable for the proposed development under normal circumstances, and provided the recommendations in the report are followed flooding issues would not have a detrimental impact on adjacent properties.

To address the DPA guidelines, staff recommends the applicant be required to register a Section 219 restrictive covenant on the property title that registers the Geotechnical report prepared by Lewkowich Engineering Associates Ltd., and includes a save harmless clause that releases the Regional District of Nanaimo from all loses and damages as a result of the potential hazards. Compliance with the Geotechnical Report and the requirement to register a Section 219 restrictive covenant are included as conditions of approval outlined in *Schedule 1*.

The proposed addition to the dwelling unit will meet the minimum setbacks as set out in the submitted site plan dated March 21, 2012.

Sustainability Implications

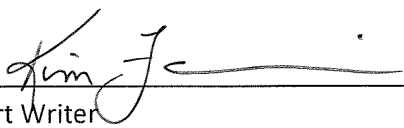
In keeping with Regional District of Nanaimo Board policy, staff have reviewed the proposed development with respect to the "Regional District of Nanaimo Sustainable Development Checklist" and note that the proposed sunroom will not have a detrimental impact on the natural environment.

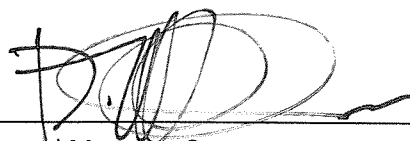
SUMMARY/CONCLUSION


This is an application for a Development Permit to permit the construction of an addition (a sunroom) to an existing dwelling unit within the Hazard Lands Development Permit Area. In staff's assessment, this proposal is consistent with the applicable Development Permit Area guidelines, and staff recommend that the Board approve the Development Permit.

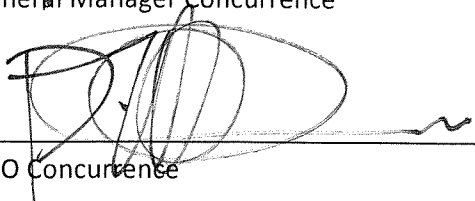
RECOMMENDATION

That Development Permit Application No. PL2012-061 to permit the construction of an addition (a sunroom) to the existing dwelling unit be approved subject to the conditions outlined in *Schedules 1 to 3*.


Report Writer


General Manager Concurrence


Manager Concurrence


D/ CAO Concurrence

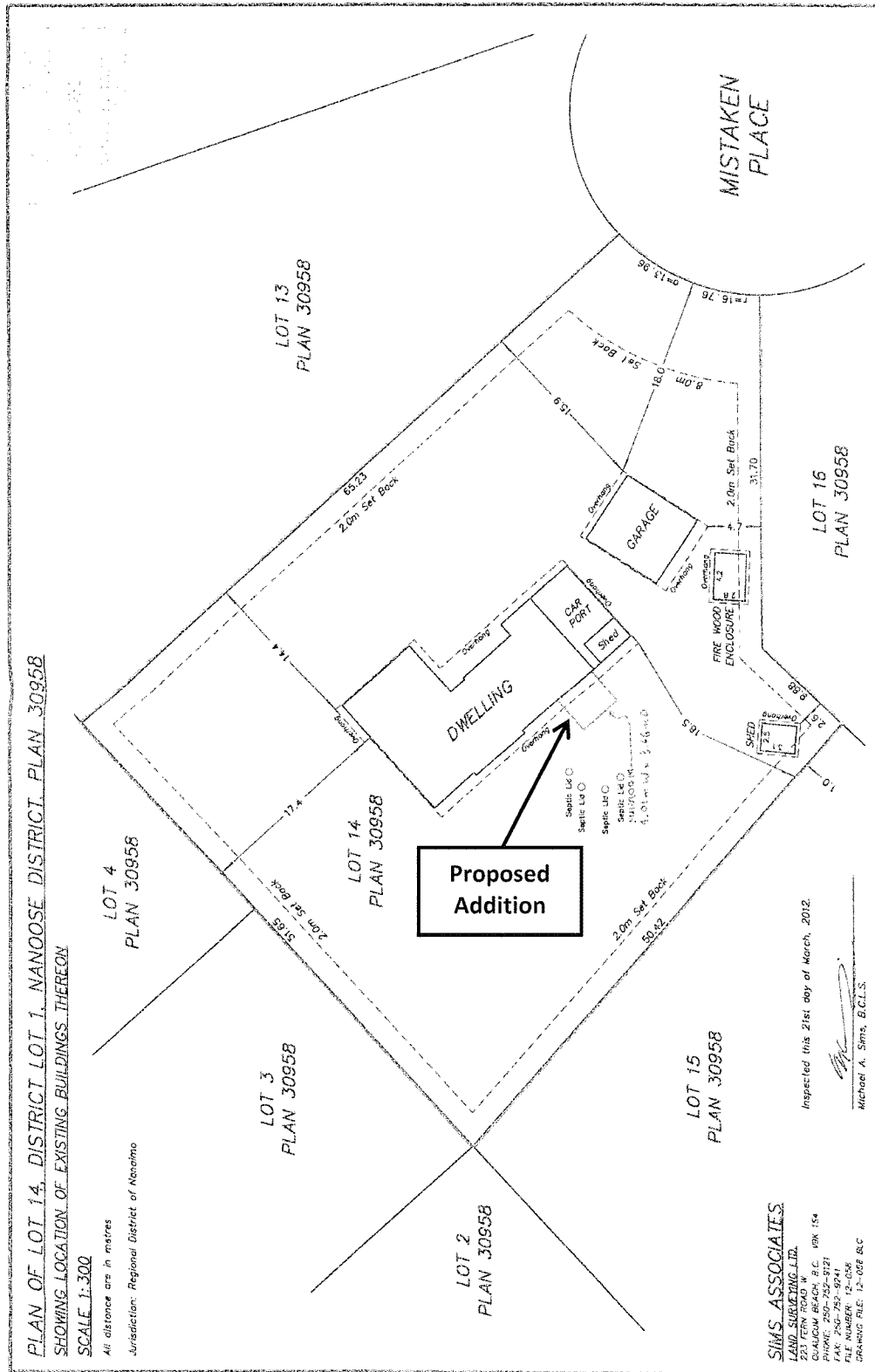
Schedule 1
Conditions of Development Permit

The following sets out the terms and conditions of Development Permit No. PL2012-061:

Conditions of Approval

1. The Lands shall be developed in accordance with the Geotechnical report prepared by Lewkowich Engineering Associates Ltd. dated May 16, 2012.
2. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 covenant that registers the Geotechnical report prepared by Lewkowich Engineering Associates Ltd. dated May 16, 2012, and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of the potential hazard.

Schedule 2 Site Plan



Schedule 3
Elevations

1 FRONT ELEV.
1:50

2 LEFT ELEV.
1:50

3 RIGHT ELEV.
1:50

Rev. # _____ Date: _____

0 02/21/12 Released For Approval

1 02/24/12 Moved storm door opening closer to house wall.

2 02/27/12 Added patio door and ordered engineering.

RECEIVED
APR 10 2012
REGISTRATION DISTRICT
VANCOUVER

Extrusion Color: White

Roof Glazing: Bronze (2412) Acrylic

Wall Glazing: Bronze (2412) Acrylic

Dealer / Rep: S.D.C. (Romanovski)

Tag: Bob & Norma Pain
925 Mistaken Place
Parksville, BC
V9P 1T4
(250) 248-2580

3347 Miller Ave.
Surrey, BC V3R 5V5
(604) 534-2810 / (250) 934-1552

DWG No.: **A2**

Date: 02/21/12

P.O.# / Agreement#: 3951

Drawn By: DDS

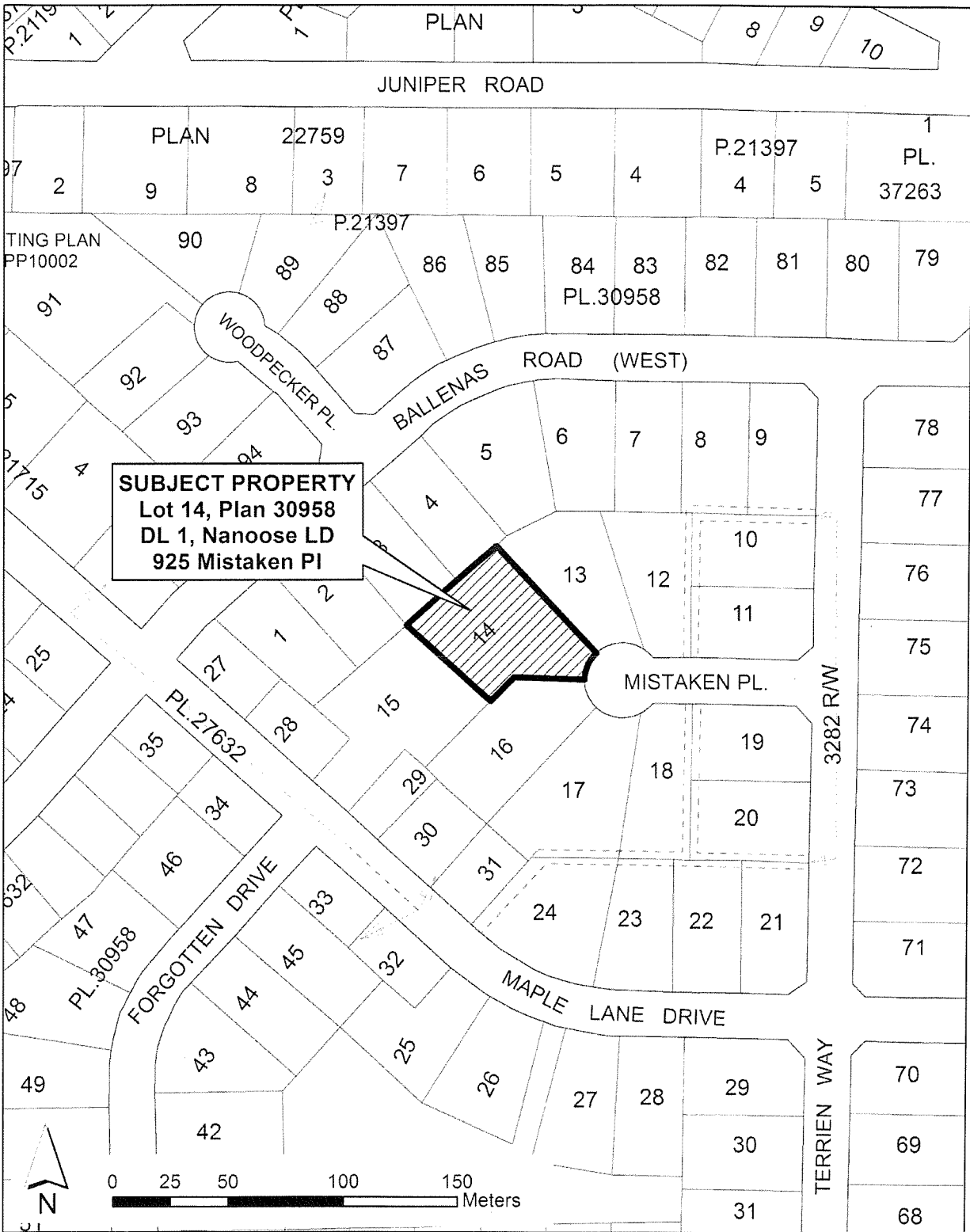
Scale: As Noted

Drawing Approval: _____ Date: _____

Sign: _____

Print: _____

**Attachment 1
Subject Property Map**





RDN REPORT	
CAO APPROVAL	<input checked="" type="checkbox"/>
EAP	<input checked="" type="checkbox"/>
COW	<input type="checkbox"/>
JUN 01 2012	
RHD	<input type="checkbox"/>
BOARD	<input type="checkbox"/>

MEMORANDUM

TO: Jeremy Holm
Manager of Current Planning

DATE: May 29, 2012

FROM: Kim Farris
Planner

FILE: PL2012-028

SUBJECT: Development Permit with Variance Application No. PL2012-028 – Ken Tanguay
Lot 3, District Lot 128, Nanoose District, Plan 20938 – 594 Wain Road
Electoral Area ‘G’

PURPOSE

To consider an application for a Development Permit with Variance to permit additions to an existing dwelling unit on the subject property.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Ken Tanguay on behalf of Tove Kilburn in order to permit two additions onto an existing dwelling unit. The subject property is approximately 0.6 of a hectare in area and is zoned Rural 1 (RU1) pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (see *Attachment 1* for subject property map).

The subject property is bordered by a rural residential parcel to the south, an undeveloped road right-of-way to the north, Wain Road to the west, and the Englishman River to the east. An existing dwelling unit and detached workshop are located on the property. Vegetation between the dwelling unit and the top of bank of the Englishman River consists of landscaping, lawn, mature trees, and a patch of natural vegetation at the southeastern corner of the property.

Pursuant to the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” setbacks from all lot lines is 8.0 metres for Rural 1 zoning and the setback from the natural boundary of the Englishman River is 30.0 metres. The existing dwelling unit was constructed prior to zoning regulations and is therefore considered non-conforming as it is located 0.5 metres from the northern property line and approximately 10.0 metres from the natural boundary of the Englishman River.

The proposed development is subject to the following applicable development permit areas (DPA) as per “Regional District of Nanaimo Electoral Area ‘G’ Official Community Plan Bylaw No. 1540, 2008”:

- Environmentally Sensitive Features – Englishman River;
- Environmentally Sensitive Features - Sensitive Ecosystems;
- Fish Habitat Protection;
- Hazard Lands (Floodplain).

Proposed Development and Variances

The property owner is proposing to construct two additions (150.1 m² in combined floor area) onto the existing dwelling unit. The existing dwelling unit is a one-storey building with a carport and covered deck (see *Schedule 3*). The proposed renovations and additions include enclosing the carport and lean-to structure at the north end of the dwelling unit, and converting the attached workshop to livable space to the west of the carport (a bedroom). The proposed renovations and additions on the south side of

the dwelling unit will include enclosing the covered deck and extending the enclosed area to the south. The additions increase the footprint of the dwelling unit from the existing area of 117.3 m² to an area of 267.4 m².

As the proposed additions will increase the non-conformity of the dwelling unit, the applicant has requested the following variances: to reduce the minimum setback from All Lot Lines (northern property line) from 8.0 metres to 0.5 metres; to reduce the minimum setback from All Lot Lines (southern property line) from 8.0 metres to 7.7 metres; and to reduce the setback from the natural boundary of the Englishman River from 30.0 metres to 10.0 metres. In support of the application, the applicant has provided letters from five surrounding properties in support of the proposed additions and renovations.

Riparian Areas Regulation

Section 4 of the *Riparian Areas Regulation* (RAR) states that a local government may approve or allow development to proceed if the local government is notified by the Ministry of Environment that Fisheries and Oceans Canada and the Ministry have been notified of the development proposal, and are provided with a copy of an assessment report, prepared by a Qualified Environmental Professional who has carried out an assessment that meets the requirements as stated in Section 4(2)(b) of the RAR. In particular, the assessment report provides the professional opinion of the Qualified Environmental Professional (QEP) that if the development is implemented as proposed there will be no harmful alteration, disruption or destruction (HADD) of natural features, functions and conditions that support fish life processes in the riparian assessment area (Section 4(2)(b)(iii)(A)).

ALTERNATIVES

1. To approve the Development Permit with Variance Application No. PL2012-028 subject to the conditions outlined in *Schedules 1 to 5*.
2. To deny the Development Permit with Variance Application No. PL2012-028.

LAND USE IMPLICATIONS

Development Implications

The applicant has submitted a Riparian Areas Regulation (RAR) Assessment report prepared by Toth and Associates Environmental Services dated May 11, 2012 of which the Regional District of Nanaimo received notification. The report establishes a 30.0 metres SPEA setback from the top of bank of the Englishman River. The location of the existing dwelling unit and proposed additions is almost entirely within the 30 metre SPEA setback.

Although the proposed construction is within the SPEA, the QEP states that the proposed house addition will not represent a HADD of fish habitat, as the potential effect on productive capacity between the existing conditions versus post development conditions would be negligible. Therefore, as the development is not considered a HADD and all applicable agencies have been notified the local government may approve or allow the development to proceed (as per Section 4(2) of the *Riparian Area Regulations*).

To maintain the integrity of the SPEA along the top of the bank of the Englishman River, the RAR report recommends registration of a Section 219 covenant to protect and enhance native vegetation within the area identified in the report (see *Schedule 4*). In addition, the report recommends allowing the rear yard area within approximately 5 to 10 metres of the top of bank to revert to semi-natural conditions, with some annual vegetation management intended to reduce fuel load and potential fire interface hazard, and removing invasive plant species.

In addition to the RAR Assessment report, the QEP provided a Development Permit Area Guidelines report dated April 27, 2012, which identifies how the development will meet the Environmentally Sensitive Features – Englishman River, Sensitive Ecosystems, and Fish Habitat Protection DPA guidelines. The report includes recommendations to demarcate the sensitive vegetation area. The Section 219 covenant discussed above for the protection of native vegetation will also include these recommendations to remove invasive species; replant native plant, and other recommendations. The covenant registration is noted as a condition of approval in *Schedule 1*.

The applicant also provided a the Geotechnical Hazards Assessment report prepared by Lewkowich Engineering Associates Ltd. dated April 27, 2012, as the subject property is located within the Hazard Lands DPA for flood prone lands. The report concluded that the minimum finished floor elevation must be 12.7 metres Geodetic in order to be above the 200 year flood level of the Englishman River. As per the referenced survey plan prepared by Sims Associates, the finished slab elevation of the new construction will be 13.3 metres (0.6 metres above the 200 year flood) to match the elevation of the existing dwelling.

The Engineer's report states that the proposed additions are sufficiently distanced from the river bank in terms of slope the site is considered safe and suitable for the intended use and that the proposed development will not negatively impact the subject property or adjoining properties provided the recommendations in the Geotechnical Hazards Assessment report are followed.

While the report states that the development is considered safe, staff recommends that the applicant register a Section 219 covenant on the property title that includes the Geotechnical Hazards Assessment report prepared by Lewkowich Engineering Associates Ltd. and a save harmless clause that releases the Regional District of Nanaimo from all losses and damages to life and property as a result of potential geotechnical and flood hazards. This covenant registration is noted as a condition of approval in *Schedule 1*.

Sustainability Implications

In keeping with Regional District of Nanaimo Board policy, staff have reviewed the proposed development with respect to the "Regional District of Nanaimo Sustainable Development Checklist" note that the reuse of the existing structure will minimize the disturbance to the surrounding natural environment.

Inter-governmental Implications

The Ministry of Transportation and Infrastructure has confirmed it has no initial concerns with the proposed variance to reduce the minimum highways setback from the adjacent undeveloped road from 4.5 metres to 0.5 metres.

As a condition of approval, the applicant will be required to obtain a permit from the Ministry of Transportation and Infrastructure to reduce the setback from the highway right-of-way from 4.5 metres to 0.5 metres.

While the Riparian Area Regulation (RAR) requirements necessary for the Board to consider approval of the development permit have been met as previously discussed in this report, the Ministry of Environment has provided the Qualified Environmental Professional (QEP) with a number of recommendations for the QEP to consider. The Ministry's recommendations are directly related to the RAR rather than the Development Permit Guidelines.

Public Consultation Process

As part of the required public notification process, pursuant to the *Local Government Act*, property owners and tenants located within a 50.0 metre radius, will receive a direct notice of the proposal, and will have an opportunity to comment on the proposed variance, prior to the Board's consideration of the application.

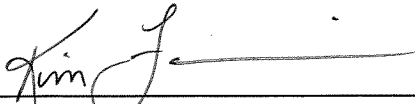
SUMMARY/CONCLUSIONS

This is an application for a Development Permit with Variance to permit additions onto the existing dwelling unit within the development permit areas for Environmentally Sensitive Features – Englishman River and Sensitive Ecosystems; Fish Habitat Protection; and Hazard Lands. In addition, the applicant is requesting to reduce the minimum setback from All Lot Lines (northern property line) from 8.0 metres to 0.5 metres; to reduce the minimum setback from All Lot Lines (southern property line) from 8.0 metres to 7.7 metres; and to reduce the setback from the natural boundary of the Englishman River from 30.0 metres to 10.0 metres in order to accommodate the proposed additions onto the existing non-conforming dwelling unit. The applicant has provided a Riparian Areas Regulation Assessment report, Development Permit Area Guidelines report, and Geotechnical Hazards Assessment report in support of the application.

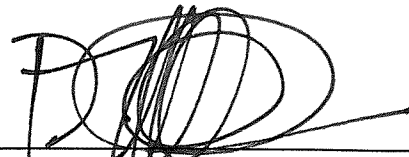
As the application is consistent with the Development Permit Area guidelines, staff recommend that the Board approve the Development Permit with Variance pending the outcome of the public consultation.

RECOMMENDATIONS

1. That Staff be directed to complete the required notification.
2. That Development Permit with Variance Application No. PL2012-028 to permit additions to the existing dwelling unit be approved subject to the conditions outlined in *Schedules 1 to 5*.



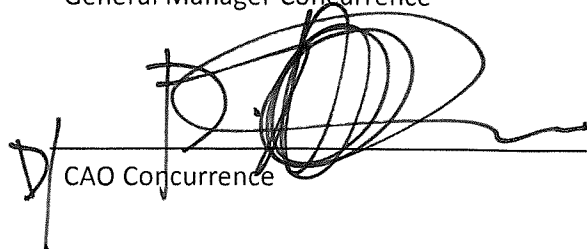
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

Schedule 1 Conditions of Development Permit

The following sets out the terms and conditions of Development Permit with Variance No. PL2012-028:

Bylaw No. 500, 1987 – Variances

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

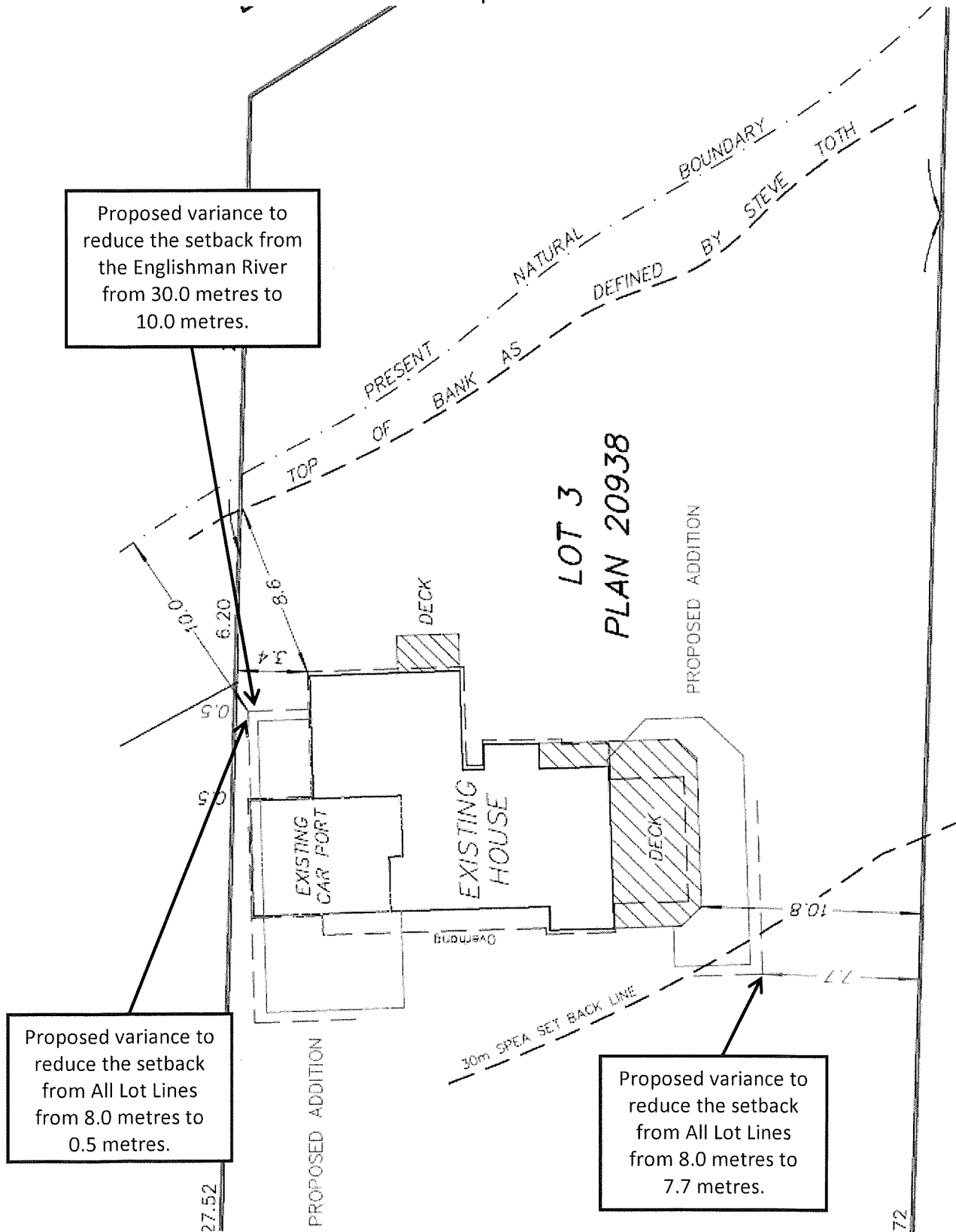
1. **Section 3.3.8 b) ii) – Setbacks** – Watercourses, excluding the sea to reduce the horizontal distance from the natural boundary of the Englishman River from 30.0 metres to 10.0 metres, as shown on *Schedule 3*.
2. **Section 3.4.81 – Minimum Setback Requirements** to reduce the setback from All Lot Lines (south property line) for the dwelling unit from 8.0 metres to 7.7 metres, as shown on *Schedule 3*.
3. **Section 3.4.81 – Minimum Setback Requirements** to reduce the setback from All Lot Lines (north property line) for the dwelling unit from 8.0 metres to 0.5 metres, as shown on *Schedule 3*.

Conditions of Approval

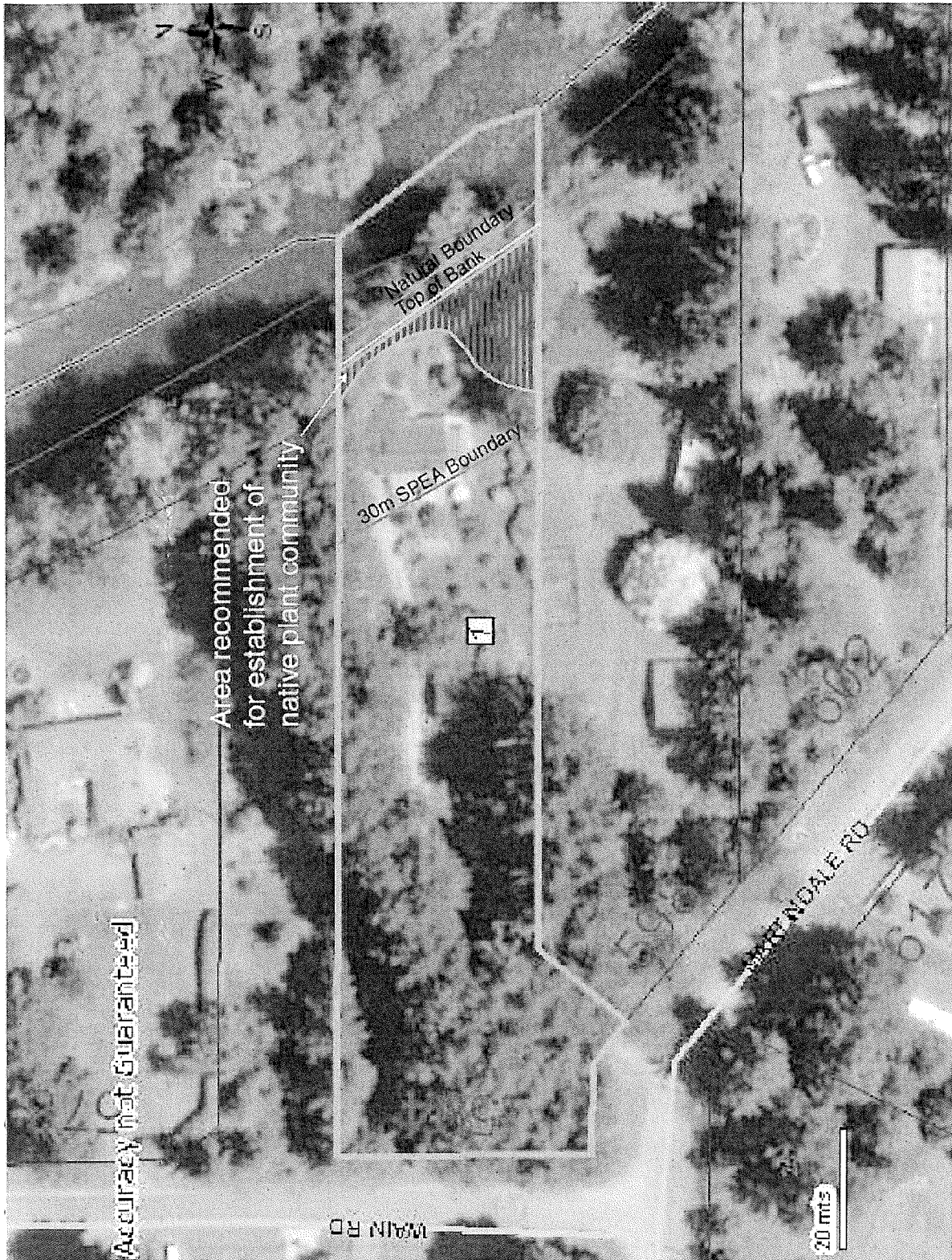
1. The additions to the dwelling unit shall be sited in accordance with the site plan attached as *Schedule 2*.
2. The additions to the dwelling unit shall be constructed generally in compliance with the elevation drawings prepared by Structure Design & Management dated May 8, 2012 attached as *Schedule 5*.
3. The applicant must obtain a permit from the Ministry of Transportation and Infrastructure to reduce the setback requirement for the dwelling unit road right-of-way from 4.5 metres to 0.5 metres.
4. The subject property shall be developed in accordance with the Riparian Areas Regulation Assessment Report prepared by Toth and Associates Environmental Services dated May 11, 2012.
5. The subject property shall be developed in accordance with the Development Permit Area Guidelines report prepared by Toth and Associates Environmental Services, dated April 27, 2012.
6. The subject property shall be developed in accordance with the Geotechnical Hazards Assessment report prepared by Lewkowich Engineering Associates Ltd. dated April 27, 2012.
7. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 covenant to protect native vegetation in accordance with the recommendations of the QEP contained in the Riparian Assessment Report prepared by Toth and Associates Environmental Services dated May 11, 2012, and the DPA guidelines report and as shown on *Schedule 4*.

8. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 covenant that registers the Geotechnical Hazards Assessment report prepared by Lewkowich Engineering Associates Ltd. dated April 27, 2012, on the subject property title, and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages to life and property as a result of potential geotechnical and flood hazards.
9. Prior to submission of a Building Permit application, a landscaping and security deposit is required equal to the total estimated costs of all materials and labour as determined by Landscape Architect or other qualified person to the satisfaction of the RDN for completion of mitigation measures required within the SPEA as per item 5 above.

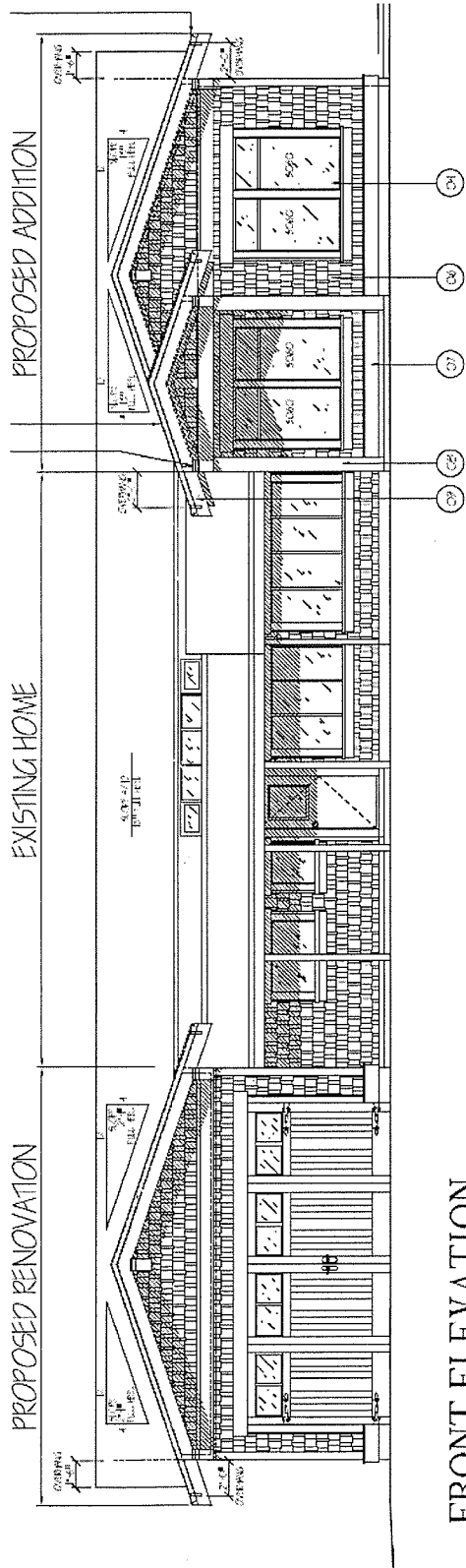
**Schedule 3
Proposed Variances**



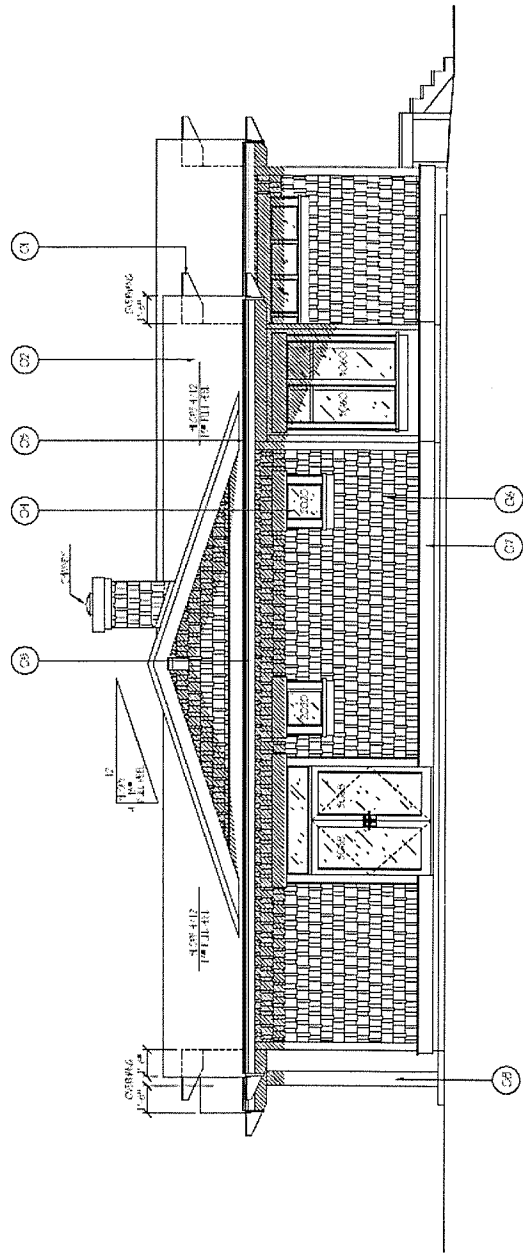
Schedule 4 Native Vegetation Covenant Area



Schedule 5
 Building Elevations (1 of 2)

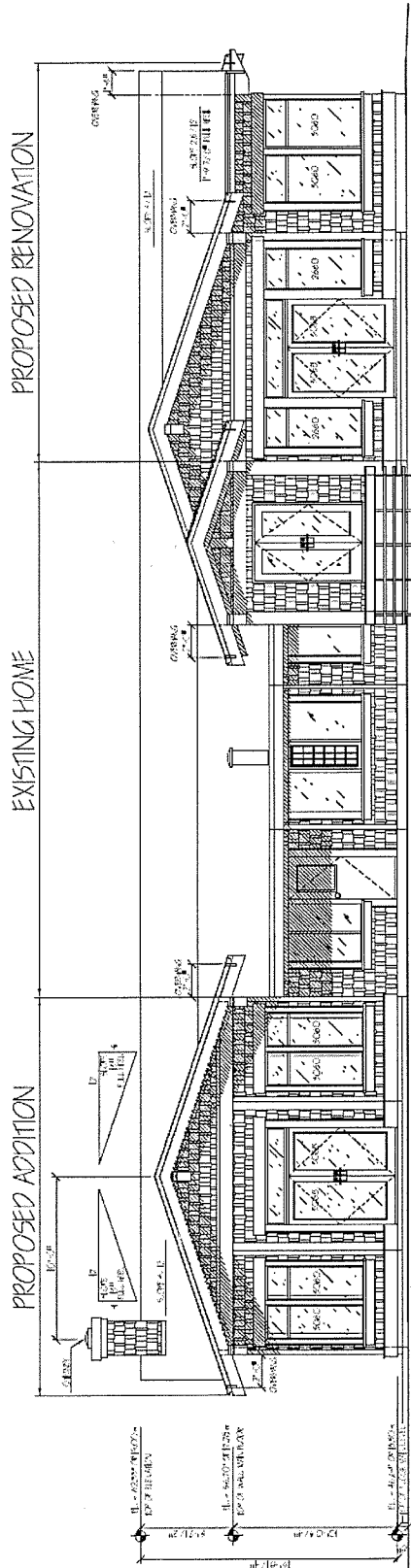


FRONT ELEVATION
 PROPOSED WITH ELEVATION OF ADZE
 SCALE: 1/8" = 1'-0"



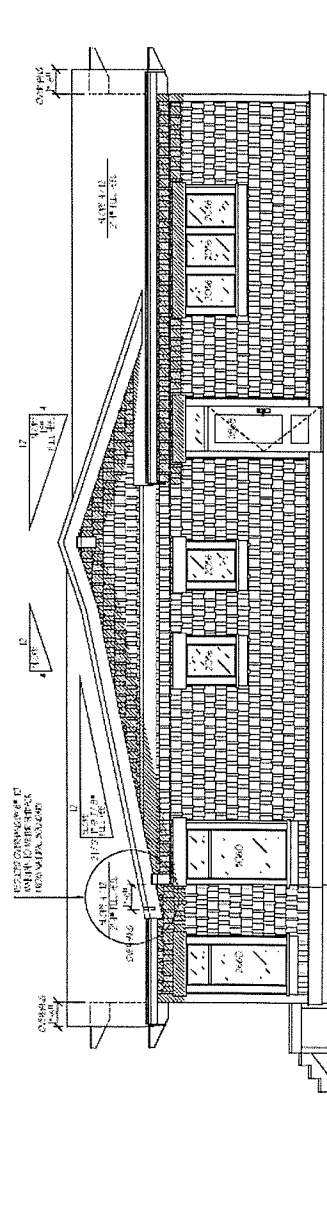
RIGHT ELEVATION
 PROPOSED WITH ELEVATION OF ADZE
 SCALE: 1/8" = 1'-0"

Schedule 5
 Building Elevations (2 of 2)



REAR ELEVATION
 RENOVATED NEAR ELEMENT OF HOUSE

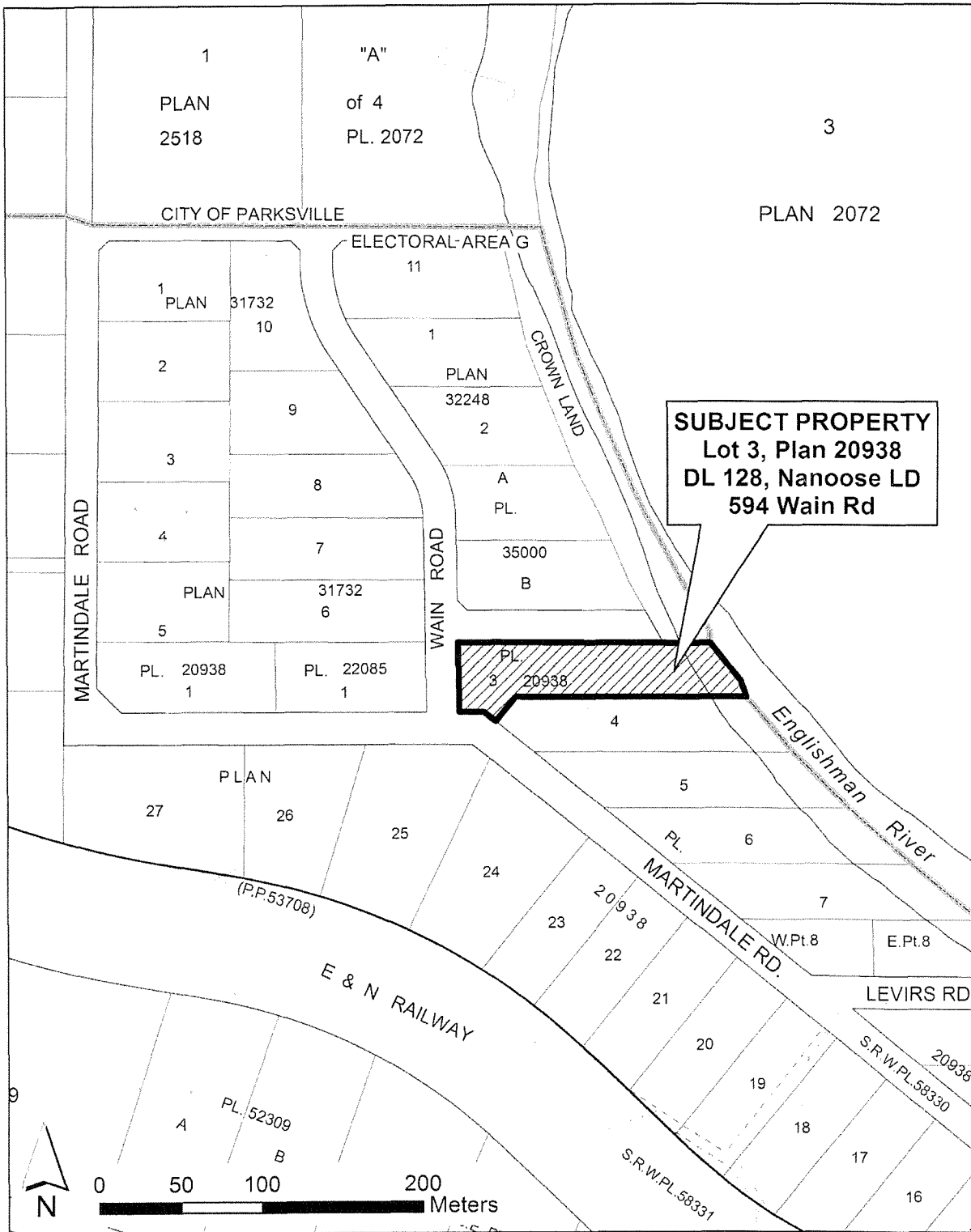
(SCALE: 1/8" = 1'-0")



LEFT ELEVATION
 RENOVATED NEAR ELEMENT OF HOUSE

(SCALE: 1/8" = 1'-0")

Attachment 1
Subject Property Map



BCGS MAPSHEET: 92F.039.2.1



RDN REPORT	
CAO APPROVAL	
EAP	<input checked="" type="checkbox"/>
COW	<input type="checkbox"/>
JUN 01 2012	
RHD	<input type="checkbox"/>
BOARD	<input type="checkbox"/>

MEMORANDUM

TO: Jeremy Holm
Manager of Current Planning

DATE: May 28, 2012

FROM: Robert Stover
Planning Technician

FILE: PL2012-049

SUBJECT: Development Permit with Variance Application No. PL2012-049 – McIntosh
Lot 31, District Lot 29, Nanoose District, Plan 32898 – 891 Fisherman Circle
Electoral Area 'G'

PURPOSE

To consider an application for a Development Permit with Variance to allow for the construction of an engineered rock retaining wall on the subject property.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Josh Fayerman on behalf of Greg and Michele McIntosh in order to permit the construction of an engineered rock retaining wall. The subject property is approximately 809.37 m² in area and is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment 1 – Subject Property Map).

The subject property is currently occupied by a dwelling unit, and is surrounded by residentially zoned lots to the north, south, and east; a side channel of Morningstar Creek lies to the west of the subject property. A Ministry of Transportation and Infrastructure lane separates the subject property from the neighbouring parcel to the south.

The proposed development is subject to the following Development Permit Areas (DPA's) as per Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008:

- Environmentally Sensitive Features for Sensitive Ecosystem Protection (Riparian Vegetation);
- Hazard Lands;
- Fish Habitat Protection.

Proposed Development and Variances

The applicant proposes to replace an existing failing wooden retaining wall with an engineered rock retaining wall (see Schedules 2 and 3). The proposed works are to occur within the required 2.0 metre setback from the Rear Lot Line, the required 5.0 metre setback from the Other Lot Line, and within the 30.0 metre riparian assessment area from Morningstar Creek. The applicant has submitted an application for a Development Permit with Variances to satisfy the requirements of the associated Development Permit Areas, and to request setback relaxations from the Rear Lot Line and Other Lot Lines for portions of the proposed retaining wall.

The “Regional District of Nanaimo Land use and Subdivision Bylaw No. 500, 1987”, identifies required setbacks for structures from all property lines. Any portion of a retaining wall over 1.0 metre in height is defined as a structure. The applicant is requesting relaxations to the Rear Lot Line setback from 2.0 metres to 0.0 metres for a portion of the proposed retaining wall, and a relaxation to the Other Lot Line setback from 5.0 metres to 0.0 metres for a portion of the proposed retaining wall. The variances proposed will allow the wall to follow the property line and 15 metres Streamside Protection and Enhancement Area (SPEA) boundary.

ALTERNATIVES

1. To approve Development Permit with Variance Application No. PL2012-049 subject to the conditions outlined in *Schedule 1*.
2. To deny Development Permit with Variance Application No. PL2012-049.

LAND USE IMPLICATIONS

Development Implications

The applicant has submitted a geotechnical report prepared by Ground Control Geotechnical Engineering Ltd. and dated September 29, 2011, to address the Hazard Lands Development Permit Area Guidelines. The report states that the existing wooden retaining wall is failing and unsafe. The report concludes that the existing wall should be replaced, as failure of the wall could pose a safety hazard, and could result in damage to surrounding property. Elevation drawings of the proposed rock retaining wall, prepared by Ground Control Geotechnical Engineering Ltd. were submitted as part of the application and are attached as *Schedule 3*.

The applicant has also submitted a Riparian Areas Regulation Assessment Report prepared by EDI Environmental Dynamics Inc. dated February 27, 2012, to address the Fish Habitat and Environmentally Sensitive Features Development Permit Guidelines. The report recommends a 15.0 metre SPEA from the side channel of Morningstar Creek; recommendations for re-vegetating a portion of the SPEA where the existing wall is situated are also provided.

Environmental Implications

The proposed rock retaining wall is to be sited outside of the recommended 15.0 metre SPEA outlined in the Riparian Areas Regulation Assessment Report. Construction of the rock retaining wall will be completed in accordance with the recommendations outlined in the Riparian Areas Regulation Assessment Report. As some of the works during construction will occur within the 15.0 metre SPEA, environmental monitoring will be conducted in accordance with the Riparian Areas Regulation, which will ensure that the project is completed in a manner which minimizes any environmental impacts on the site. These mitigation measures are included in the conditions of approval of the Development Permit with Variance.

Sustainability Implications

In keeping with Regional District of Nanaimo Board policy, staff have reviewed the proposed development with respect to the “Regional District of Nanaimo Sustainable Development Checklist”. Replacement of the existing retaining wall will prevent the stream side area from being impacted by failure of the wall. A portion of the 15.0 metre SPEA will be re-vegetated with the construction of the new retaining wall.

Inter-governmental Implications

The Ministry of Environment’s requirements concerning the Provincial Riparian Areas Regulations, have been met through this application and notification. The Ministry of Transportation and Infrastructure (MOTI) is not concerned with the construction of a portion of the wall adjacent to the MOTI lane.

Public Consultation Process

As part of the required public notification process, pursuant to the *Local Government Act*, property owners and tenants located within a 50.0 metre radius, will receive a direct notice of the proposal, and will have an opportunity to comment on the proposed variances, prior to the Board’s consideration of the application.

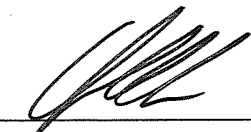
SUMMARY/CONCLUSIONS

This is an application for a Development Permit with Variance to allow for the construction of an engineered rock retaining wall on the subject property to replace an existing failing wooden retaining wall. The proposed works are within the Environmentally Sensitive Features, Fish Habitat and Hazard Lands Development Permit Areas. The applicant is requesting variances to reduce the minimum setback from the Rear Lot Line from 2.0 metres to 0.0 metres, and from the Other Lot Line from 5.0 metres to 0.0 metres for portions of the proposed rock retaining wall. The applicant has provided a Riparian Areas Regulation Assessment Report and a geotechnical report to satisfy the Development Permit Area requirements in support of the application.

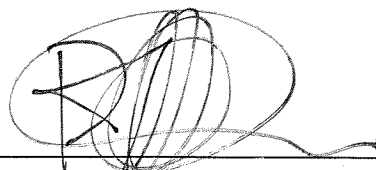
As the application is consistent with the DPA guidelines, and the proposed works will be completed in accordance with the recommendations of the geotechnical and riparian assessment reports, staff recommends that the Board approve the Development Permit with Variance pending the outcome of the public consultation process.

RECOMMENDATIONS

1. That staff be directed to complete the required notification, and
2. That Development Permit with Variance Application No. PL2012-049 to permit the construction of an engineered rock retaining wall be approved subject to the conditions outlined in *Schedule 1*.



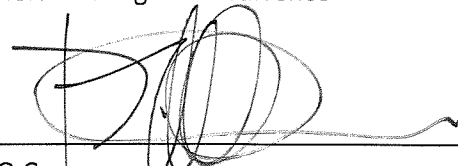
Report Writer



General Manager Concurrence



Manager Concurrence



D/ CAO Concurrence

Schedule 1
Term and Conditions of Development Permit with Variance

The following sets out the terms and conditions of Development Permit with Variance No. PL2012-049:

Bylaw No. 500, 1987 - Variances

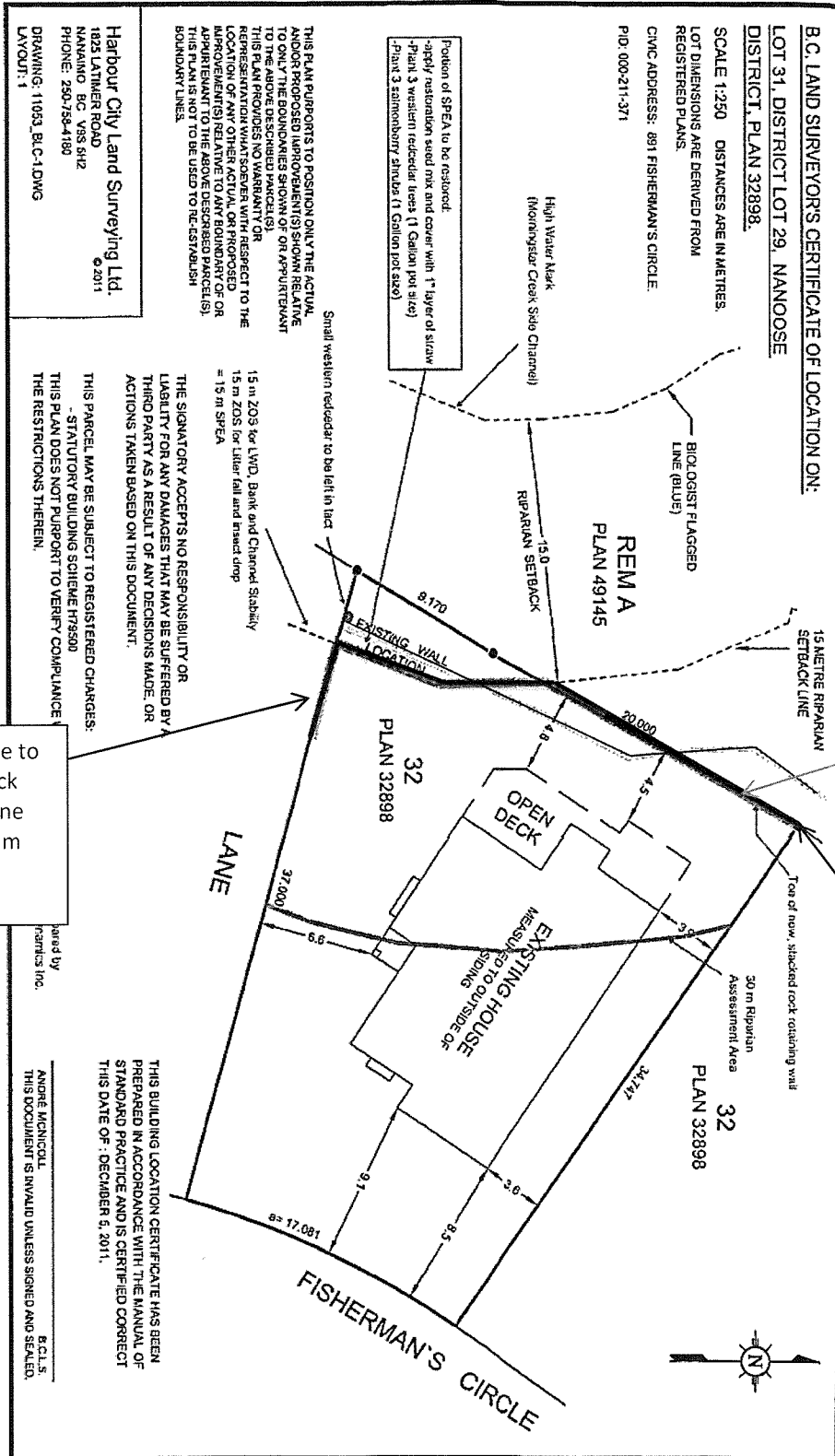
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

1. **Section 3.4.61 – Minimum Setback Requirements** by reducing the minimum setback requirement from the Rear Lot Line from 2.0 metres to 0.0 metres for a portion of a proposed retaining wall as shown on *Schedule 2*.
2. **Section 3.4.61 – Minimum Setback Requirements** by reducing the minimum setback requirement from the Other Lot Line from 5.0 metres to 0.0 metres for a portion of a proposed retaining wall as shown on *Schedule 2*.

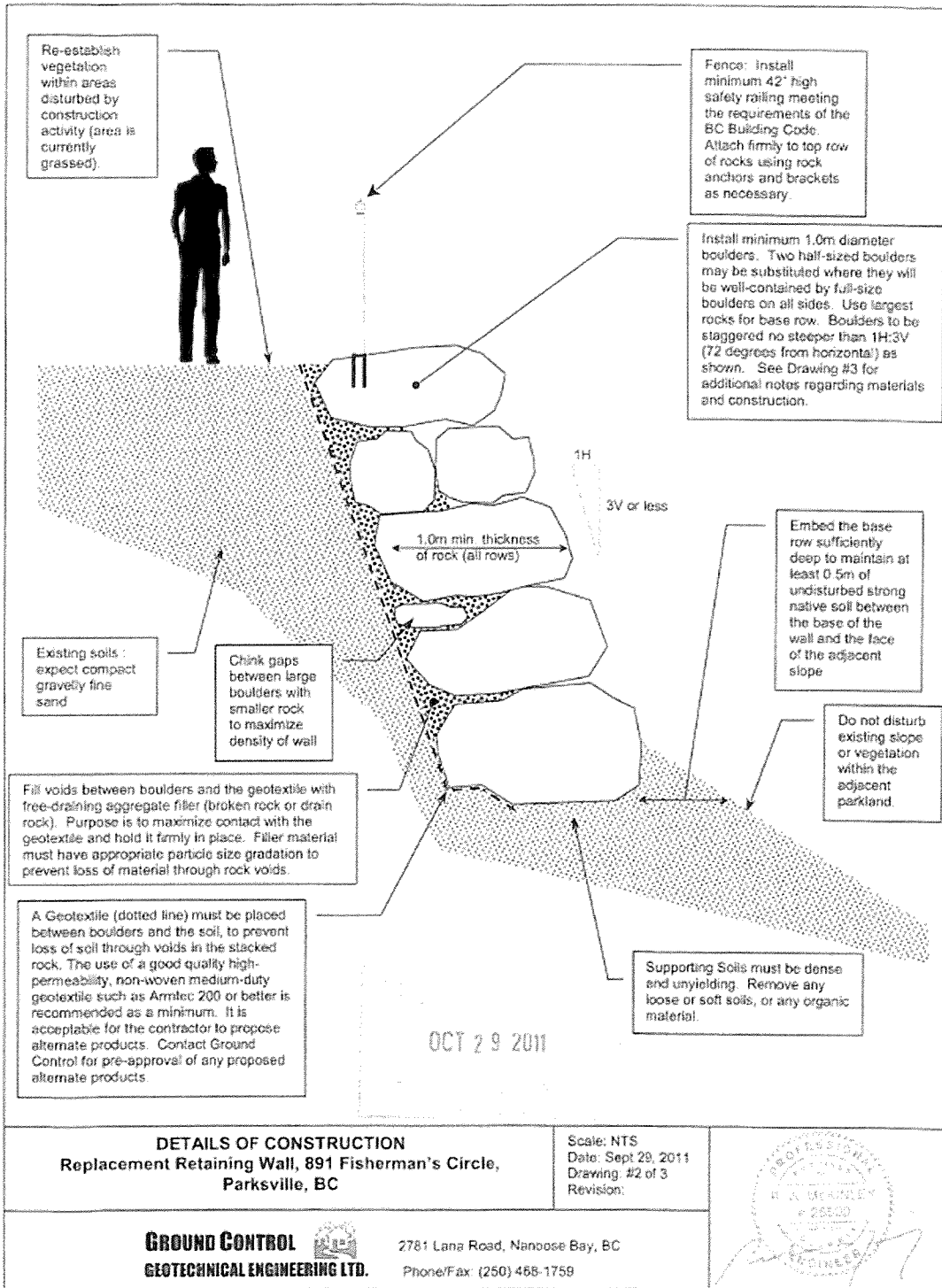
Conditions of Approval

1. The proposed retaining wall shall be sited in accordance with the site plan prepared by Harbour City Land Surveying Ltd. and dated December 5, 2011.
2. The proposed rock retaining wall shall be constructed in accordance with the details of construction drawing prepared by Ground Control Geotechnical Engineering Ltd. dated September 29, 2011.
3. The lands shall be developed in accordance with the recommendations and environmental monitoring requirements outlined in the Riparian Areas Regulation Assessment Report prepared by EDI Environmental Dynamics Inc. dated February 27, 2012.
4. A building permit application shall be submitted and building permit issued prior to construction of the retaining wall.
5. Prior to building permit application a landscaping and security deposit for completion of the mitigation measures required within the SPEA as per item 3 above shall be provided equal to the total estimated costs of all materials and labour as determined by a landscaping architect or other qualified person to the satisfaction of the RDN.

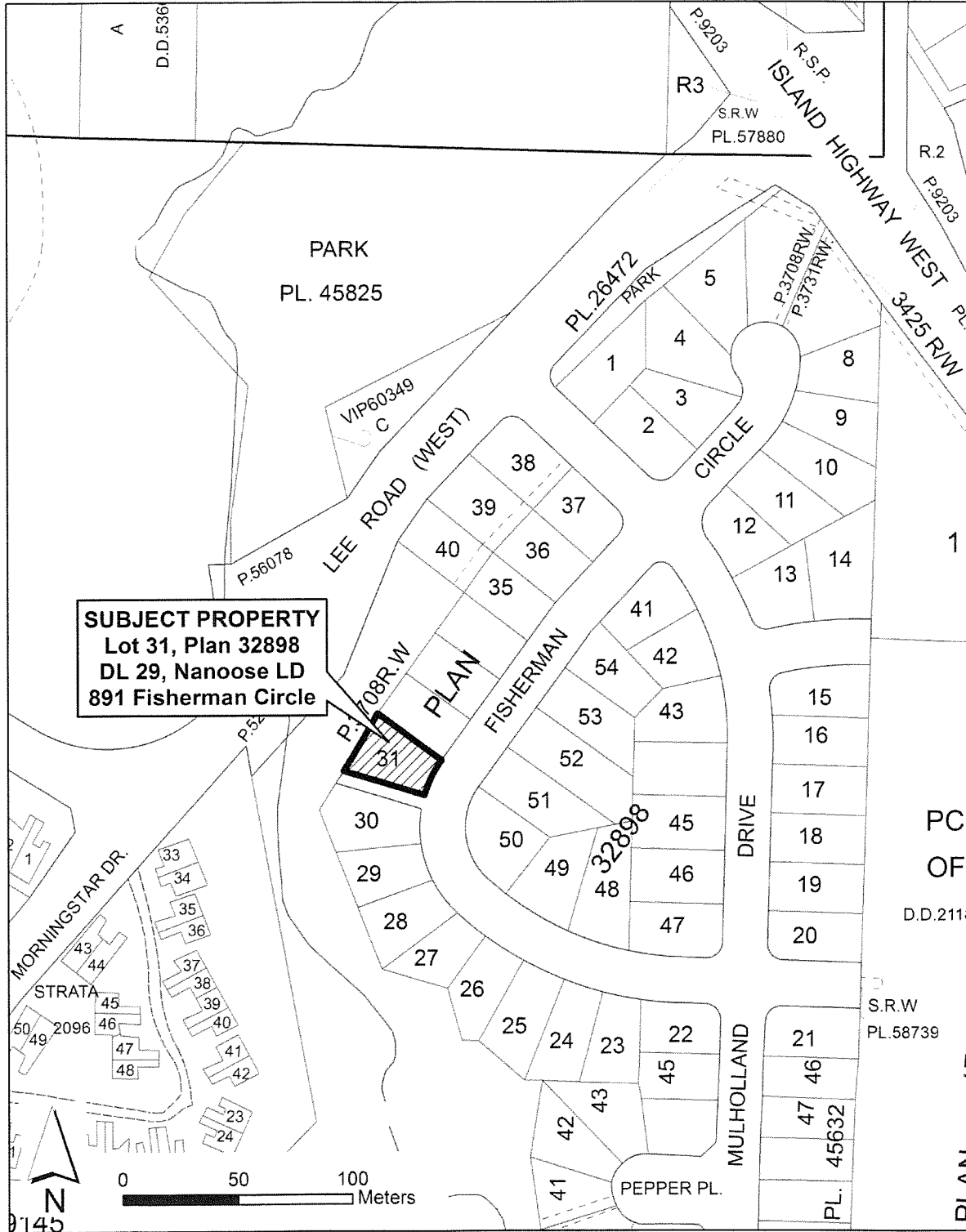
Schedule 2
Proposed Site Plan and Variances



**Schedule 3
Details of Construction**



Attachment 1
Subject Property Map





RDN REPORT	
D/ CAO APPROVAL	
EAP	✓
COW	
JUN 01 2012	
RHD	
BOARD	

MEMORANDUM

TO: Jeremy Holm
Manager, Current Planning **DATE:** May 31, 2012

FROM: Lainya Rowett
Senior Planner **FILE:** PL2011-087

SUBJECT: Request to Accept Cash-In-Lieu of Park Dedication - Ryvers & Son Home (Builders) Inc. Lot 1, District Lot 85, Newcastle District, Plan 6267, Except That Part in Plan 24808; Lot A, District Lot 85, Newcastle District, Plan VIP71091, Except That Part in Plan VIP73453
6620 Island Highway West and Adjacent Property to the North Electoral Area 'H'

PURPOSE

To consider a request to contribute cash-in-lieu of park land dedication in conjunction with a proposed bare land strata subdivision within the subject properties.

BACKGROUND

The Regional District of Nanaimo has received a subdivision proposal (Application No. PL2011-087) from Ron Ryvers of Ryvers & Son Home Builders Ltd., to subdivide the two subject properties into eleven bare land strata lots and one common property lot (see *Schedule 1 for proposed subdivision plan*). The subdivision is subject to the consideration of parkland dedication or cash-in-lieu of park land or a combination of both.

The combined site area is 2.5 ha in size, and the existing zoning of the properties is Residential 2 (RS2) Zone, Subdivision District 'M' (*minimum 2,000 m² with community water service or 1.0 ha without community water*) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The applicant proposes to retain an existing dwelling located at 6620 Island Highway West within proposed Strata Lot 3. The properties are bordered by the Island Highway West on the north side; rural residential lots to the west and east; and the Esquimalt & Nanaimo (E&N) Railway right-of-way to the south (*see Attachment 1 for location of subject property*).

Proposed Development

The applicant proposes to subdivide the subject properties under the current zoning (RS2) to create eleven bare land strata lots and one common property lot, containing an internal road access and common septic area. The proposed lots vary in size approximately from 1,600 m² to 2,600 m² in area (*see Schedule 2 for proposed plan of subdivision*). In accordance with the Bare Land Strata Regulations, the average lot area is 2,000 m², which meets the minimum parcel size pursuant to the RDN Land Use and Subdivision Bylaw No. 500, 1987, with the lots proposed to be connected to the Bowser Waterworks District community water system.

The subject properties are located within the Environmentally Sensitive Features Development Permit Area for Aquifer Protection pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003". The applicant has submitted a separate Development Permit Application (No. PL2011-171) for consideration by the General Manager of Development Services in accordance with the "Regional District of Nanaimo Delegation of Authority Bylaw No. 1166, 1999".

As this subdivision application involves the creation of more than three parcels, the provision of park land or cash-in-lieu is required as per the *Local Government Act*. The applicant proposes to provide cash-in-lieu of park land. This offer was referred to the Electoral Area 'H' Parks and Open Space Advisory Committee (POSAC) on March 28, 2012, and was presented at a Public Information Meeting held on May 7, 2012.

ALTERNATIVES

1. To require the applicant to pay cash-in-lieu of park land dedication to be contributed to the Electoral Area 'H' Community Parks Acquisition Fund.
2. To not accept the offer of cash-in-lieu of park land dedication and instead require the applicant to dedicate 5% park land.

DEVELOPMENT IMPLICATIONS

Parkland Implications

The proposed subdivision will create more than three new parcels, therefore the applicant is required to provide park land dedication and/or cash-in-lieu of park land pursuant to Section 941 of the *Local Government Act*. Where an Official Community Plan (OCP) contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash or a combination of both. The maximum amount of park land that the Regional District may request is 5% of the total site area, which amounts to 1,250 m² for this application. The applicant proposes instead to contribute cash-in-lieu of park dedication in the amount equivalent to the market valuation of the land.

The Electoral Area 'H' Official Community Plan (OCP) Policy No. 4.1.4 generally supports obtaining park land for community recreation, nature preservation, and linear connections; however, the OCP does not specifically identify a need for additional park land within the subject properties. There is an existing regional trail (Lighthouse Country Regional Trail) adjacent to the subject site within the E&N railway right-of-way, and community parks and trail connections within one kilometer, including Wildwood Community Park to the north and Lynx Road and Lioness Boulevard trail accesses to the south. Therefore, additional community park and trail connections within the subject site are not required. Given the limited size of the potential park land dedication and the proximity of the subject site to existing and planned regional and community trails, this subdivision does not represent a significant opportunity for park acquisition in accordance with the objectives of the OCP. Instead, accepting cash-in-lieu of park land is the most prudent option in consideration of other implications when acquiring many small, non-contiguous areas of park land, which can have proportionally significantly higher maintenance costs and management issues such as dumping, encroachment, and hazard tree removal.

Area 'H' Parks and Open Space Advisory Committee

The proposal for park land dedication was referred to the Electoral Area 'H' Parks and Open Space Advisory Committee (POSAC) at its meeting of March 28, 2012, (see Attachment 2 for Advisory Committee Comments). The Committee supports the proposal to provide cash-in-lieu of park land dedication in conjunction with the subdivision.

PUBLIC CONSULTATION

Public Information Meeting

A Public Information Meeting (PIM) was held on May 7, 2012, at Lighthouse Community Centre, 240 Lions Way, Qualicum Beach. Three members of the public attended the meeting and asked general questions about the proposed subdivision and cash-in-lieu of park land dedication, and were not opposed to the cash-in-lieu proposal (see Attachment 3 for Minutes of the Public Information Meeting).

Sustainability Implications

The subdivision involves the infilling of existing residentially zoned parcels with community water service to be provided to all of the proposed lots.

FINANCIAL IMPLICATIONS

The subject properties have a combined assessed value of \$417,000.00 according to the 2012 authenticated assessment roll. The valuation of the properties for 5% cash-in-lieu of park land charges will be based on a certified appraisal of the land at the time of Preliminary Subdivision Approval. Therefore, it is anticipated that the appraised market value may result in an approximately \$20,850.00 contribution to the Electoral Area 'H' Community Parks Acquisition fund.

SUMMARY/CONCLUSIONS

The applicant proposes to subdivide the subject property under the current zoning (RS2) into eleven bare land strata lots and one common property lot. The applicant has offered to contribute cash-in-lieu of 5% park dedication. This proposal was referred to the Electoral Area 'H' Parks and Open Space Advisory Committee, who recommend accepting cash-in-lieu of park land dedication.

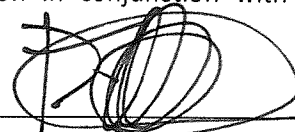
As there is adequate community park and regional trail (Lighthouse Country Regional Trail) located near the subject site, staff recommend acceptance of the proposed cash-in-lieu of park.

RECOMMENDATION

That the request to pay 5% cash-in-lieu of park land dedication in conjunction with Subdivision Application No. PL2011-087 be accepted.



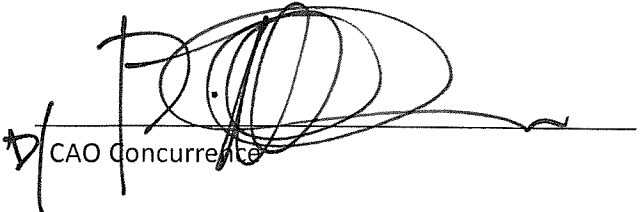
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

Attachment 2
Correspondence from the Electoral Area 'H' Parks & Open Space Advisory Committee
POSAC Comments

Excerpt from the March 26, 2012, minutes of the Electoral Area 'H' Parks & Open Space Advisory Committee:

That the cash-in-lieu of park land proposal for this subdivision application is acceptable.

CARRIED

Attachment 3
Minutes of a Public Information Meeting
Held at Lighthouse Community Centre, 240 Lions Way, Qualicum Beach
Monday, May 7, 2012 at 6:30 pm

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

There were three members of the public in attendance.

Present for the Regional District:

Bill Veenhof, Electoral Area 'H' Director and Chairperson
Jeremy Holm, Manager of Current Planning, Regional District of Nanaimo
Kim Farris, Planner, Regional District of Nanaimo

Present for the Applicant:

Ron Ryvers, Agent
Fred Ryvers, Applicant

The meeting was brought to order at 6:31 pm and the Chairperson stated the purpose of the Public Information Meeting, introduced staff and the project consultant, and explained the course of events for the meeting.

Staff provided a summary of the proposed park land dedication.

The Chairperson called the meeting to order and explained the process for the evening.

The project consultant (Ron Ryvers) provided the background to the subdivision application. He discussed the layout of the subdivision and the rationale behind the proposal for cash-in-lieu of park land dedication.

The Chairperson opened the meeting for questions and comments from the audience.

Spencer Cotton, 6625 Island Highway West – Asked how much the land was appraised at and if the park will be located within the subject property.

The Chairperson responded that the land has yet to be appraised the applicants have asked for cash-in-lieu of park land dedication therefore the park will not be on the subject property.

Jeremy Holm further responded that a land appraiser will be hired to appraise the land at the cost of the applicant and RDN. In addition, he clarified that the applicant has the option to request either park land dedication (5% of total site area) or cash-in-lieu of park land dedication. In this case the applicant has requested to provide cash-in-lieu. Further, if park land was provided the maximum area of park land that the RDN could require is 5% of the total site area in accordance with Section 941 of the *Local Government Act*.

Laurel Webster, 44 Bowser Road – Asked how the cash-in-lieu of park land dedication will be used and if it will be used in the Electoral Area 'H'.

The Chairperson responded that the cash-in-lieu would be used for park acquisition within the Electoral Area 'H'.

Katherine Cotton, 6625 Island Highway West – Would like to see trees retained on subject property as much as possible.

Spencer Cotton, 6625 Island Highway West – Ask who he could contact to find out how much cash has been accumulated for park acquisition, and when the applicant would have to pay the cash-in-lieu of park land dedication.

Chairperson said he should contact the RDN Parks Department.

Jeremy Holm further responded that the applicant would have to pay the cash-in-lieu of park land dedication prior to final approval of the subdivision.

Laurel Webster, 44 Bowser Road – Asked if the applicant would have to dedicate park land if the request to provide cash-in-lieu of park land is denied.

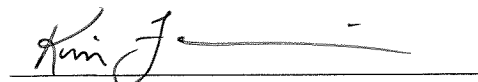
Jeremy Holm responded that if the request is denied the applicant has the option to provide park land or a combination of park land and cash-in-lieu of park dedication. He also commented that the Electoral Area 'H' Parks and Open Spaces Advisory Committee support the proposed cash-in-lieu of park dedication. Further, he mentioned that staff will complete a report on the request for the cash in-lieu of park dedication for the consideration of the Electoral Area Planning Committee and the Regional Board.

Katherine Cotton, 6625 Island Highway West – Agreed that the request for cash-in-lieu of park land dedication would be more appropriate for this site rather than providing park land.

There was general discussion of issues related to the subdivision, such as zoning, drainage, and tree retention, but nothing pertinent to cash-in-lieu of park land.

The meeting concluded at 7:13 pm.

Original Signed

A handwritten signature in black ink, appearing to read "Kim J.", is written over a horizontal line.

Kim Farris
Recording Secretary