

**REGIONAL DISTRICT OF NANAIMO**

**ELECTORAL AREA PLANNING COMMITTEE**

**TUESDAY, JUNE 10, 2014**

**6:30 PM**

***(RDN Board Chambers)***

**A D D E N D U M**

**PAGE**

**DEVELOPMENT PERMIT WITH VARIANCE APPLICATION**

2-9

Development Permit with Variance Application No. PL2014-036 – Harris – 2960 Leon Road, Electoral Area 'H' – *report to replace earlier version on Electoral Area Planning Committee Agenda, June 10, 2014.*



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**TO:** Jeremy Holm  
Manager, Current Planning

**DATE:** May 27, 2014

**FROM:** Tyler J. Brown  
Planner

**FILE:** PL2014-036

**SUBJECT:** Development Permit with Variance Application No. PL2014-036 – Harris  
Lot U, District Lot 19, Newcastle District, Plan 8196 – 2960 Leon Road  
Electoral Area 'H'

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#### PURPOSE

To consider an application for a Development Permit with Variance to permit the subdivision of the subject parcel and reduce the setback from a watercourse for the proposed building envelope.

#### BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Fern Road Consulting Ltd. on behalf of Paul Harris in order to permit subdivision of the subject parcel and reduce the setback to the watercourse for a proposed residential building envelope (see Attachment 1 - Subject Property Map). The subject property is approximately 0.57 hectares in area and is zoned Residential 2 (RS2) subdivision district 'M' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The parcel is bordered by Leon Road to the north and Marshall Road to the south. Moreover, the subject parcel is surrounded by other RS2 parcels. Additionally, a small creek (Westglade Brook) bisects the parcel. The proposed development is subject to the following development permit areas as per the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003":

- Fish Habitat Protection
- Environmentally Sensitive Features – Aquifer Protection

#### *Proposed Development and Variances*

The applicant is proposing a two lot subdivision of the subject parcel (see Attachment 3 - Proposed Plan of Subdivision). The proposed plan of subdivision would create a 0.31 hectare and a 0.24 hectare parcel. The northern larger parcel would retain the existing dwelling unit, shed, studio, garage and carport while the smaller southern parcel would be bare land with the exception of a small pump house. A small shed is located on proposed Lot B which will be removed prior to subdivision. Both parcels will be serviced by community water and individual septic systems.

The applicant has applied for a variance to Section 3.3.8 Setbacks – Watercourse, excluding the Sea – from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" to reduce the minimum horizontal distance from the stream centerline from 18.0 metres to 15.9 metres to allow for a 713 m<sup>2</sup> building envelope on the subject property (see Attachment 4 – Proposed Building Envelope and

Variance). As a condition of preliminary layout approval for the proposed subdivision, the Ministry of Transportation and Infrastructure (MoTI) is requiring the applicant to register a section 219 covenant restricting any improvements within 15.0 metres of the present natural boundary of Westglade Brook due to flooding concerns. Additionally, MoTI is requiring road dedication to expand the width of Marshall Road (see Attachment 4 – Proposed Building Envelope and Variance). The variance, if approved, will vary the setback requirement to an equal distance of that required by MoTI for the brook at its narrowest point (15.0 metres from the present natural boundary) and allow for a reasonably sized building envelope with suitable area for a septic disposal system.

## ALTERNATIVES

1. To approve the Development Permit with Variance Application No. PL2014-036 subject to the conditions outlined in Attachments 2 to 4.
2. To deny the Development Permit with Variance Application No. PL2014-036.

## LAND USE IMPLICATIONS

### *Development Implications*

The applicant submitted a Hydrogeological Impact Review report prepared by GW Solutions Inc. and dated April 4, 2014 to satisfy the Environmentally Sensitive Features – Aquifer Protection Development Permit Area guidelines.

The report concludes that the site is considered suitable for the proposed subdivision and residential use, and includes a number of recommendations with respect to ensuring that the aquifer is protected. Specifically, the report recommends that a rainwater management plan that includes Best Management Practices for enhancing rainwater storage and infiltration should be produced to direct site layout, site grading and structure design. The report suggests that the following Best Management Practices would likely be effective on the subject property:

- Disconnected roof leaders, discharging to rain garden;
- Pervious driveway with crown;
- Vegetated landscaping swales (lawn or garden allowing temporal impounding);
- Thick organic soils;
- Buffer strip allowing infiltration at edge of property (swale shape);

Staff recommend that the applicant be required to register a *section 219* covenant that registers the Hydrogeological Impact Review report on the property title and includes a clause requiring the development and enactment of a rainwater management plan, which is to be reviewed by a hydrogeologist once the building footprint has been finalized, prior to the construction of a dwelling unit on the newly created lot.

The applicant has provided a Riparian Areas Assessment report prepared by Toth and Associates Environmental Services dated January 8, 2014. This report establishes a Streamside Protection and Enhancement Area (SPEA) of 10.0 metres along the entire perimeter of the watercourse on the subject property. As shown in Attachment 3, the proposed subdivision lot line and future residential building envelope are to be located outside of the Streamside Protection and Enhancement Area (SPEA). The

development permit area guidelines state that minimum parcel size should be met exclusive of the SPEA. The proposed lot configuration does not satisfy this guideline. However, the proposed lot configuration significantly minimizes the potential building site south of the watercourse on proposed Lot B, due to the rear lot line and watercourse setback, and therefore eliminates the need for stream crossings.

The Riparian Areas Assessment report requires that the SPEA must be surveyed and marked prior to any physical development and that hard surface derived run-off should be directed to infiltration fields or rock chambers. Staff recommend that the applicant be required to include the Riparian Areas Assessment report in the *section 219* covenant with a clause requiring the SPEA to be marked as per the criteria in the report prior to any physical development on the subject parcel and that the storm water management recommendations be included in the rainwater plan to be prepared a hydrogeologist.

### ***Strategic Plan Implications***

Staff has reviewed the proposed development and note that the proposed subdivision will increase density within an area serviced by an existing community water system.

### ***Inter-governmental Implications***

The Ministry of Transportation and Infrastructure is requiring the applicant so register a section 219 covenant restricting any improvements within 15.0 metres of Westglade Brook due to flooding concerns.

### ***Public Consultation Process***

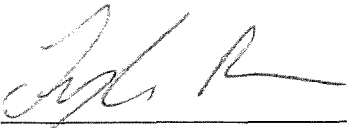
Pending the Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005", property owners and tenants of parcels located within a 50 metre radius of the subject property will receive 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.

## **SUMMARY/CONCLUSIONS**

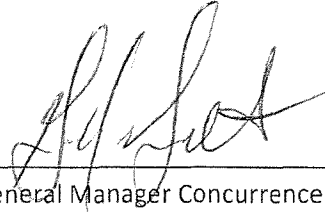
This is an application to consider an application for a Development Permit with Variance to permit the subdivision of the subject parcel and reduce the setback from a watercourse for the proposed building envelope. The applicant has provided both a Hydrogeological Impact Review Report and Riparian Areas Regulation Assessment Report to address the potential impacts of the proposed development on the aquifer and Westglade Brook. Both reports outline protective measures at the time of development which are proposed to be secured through a restrictive covenant as a condition of approval (see Attachment 2 – Terms and Conditions of Permit). Furthermore, a SPEA of 10.0 metres has been established along the entire perimeter of Westglade Brook. The applicant has applied for a variance to Section 3.3.8 Setbacks – Watercourse, excluding the Sea – from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" to reduce the minimum horizontal distance from the stream centerline from 18.0 meters to 15.9 meters to allow for a 713 m<sup>2</sup> building envelope on the subject property.

**RECOMMENDATIONS**

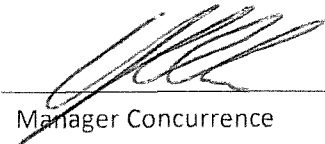
1. That staff be directed to complete the required notification.
2. That Development Permit with Variance Application No. PL2014-036 to permit the subdivision of the subject parcel and reduce the setback from a watercourse for the proposed building envelope be approved subject to the conditions outlined in Attachments 2 to 4.



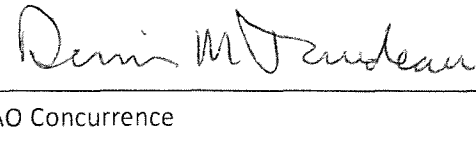
Report Writer



General Manager Concurrence

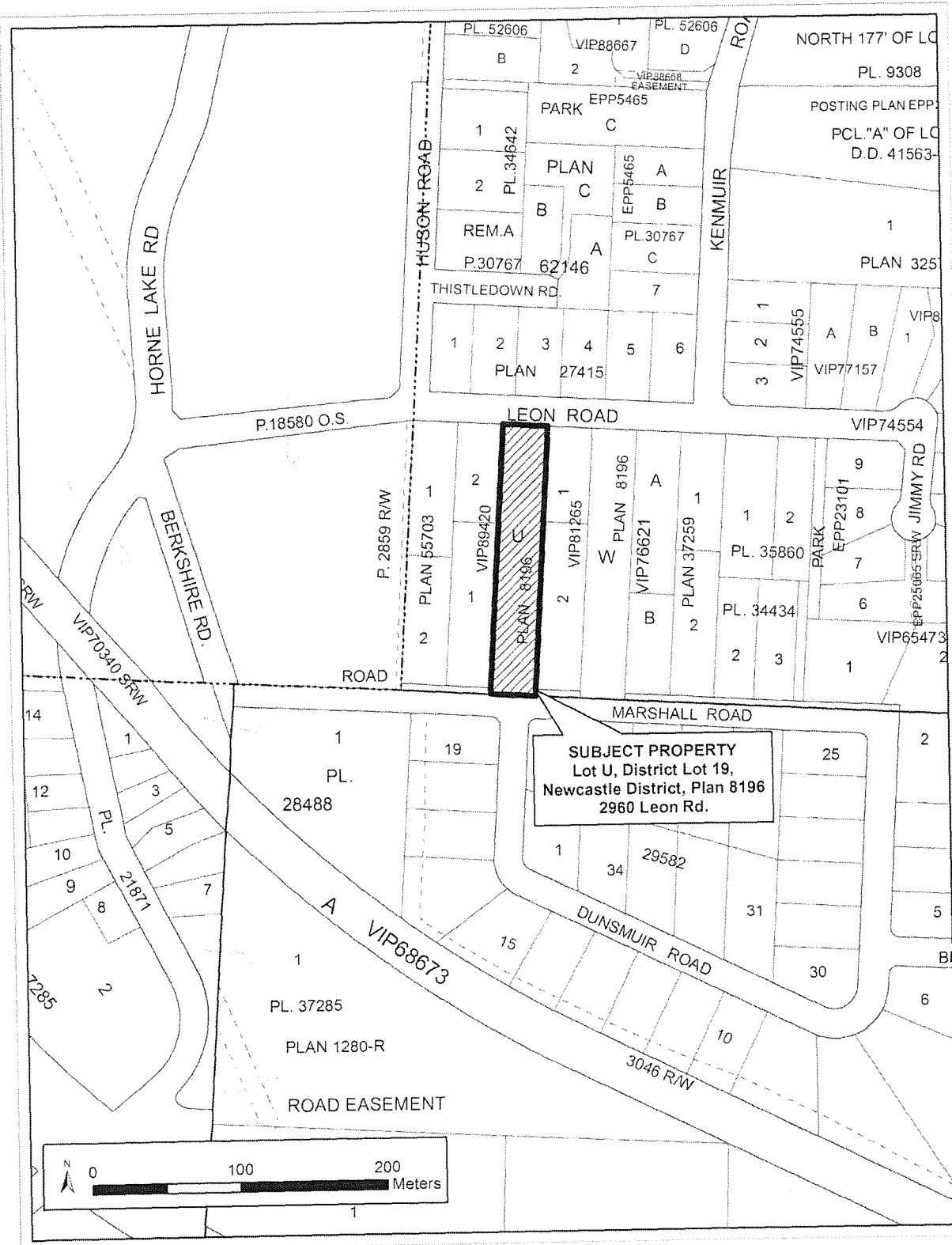


Manager Concurrence



CAO Concurrence

Attachment 1  
Subject Property Map



**Attachment 2**  
**Terms and Conditions of Permit**

The following sets out the terms and conditions of Development Permit with Variance No. PL2014-036:

Bylaw No. 500, 1987 Variances:

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

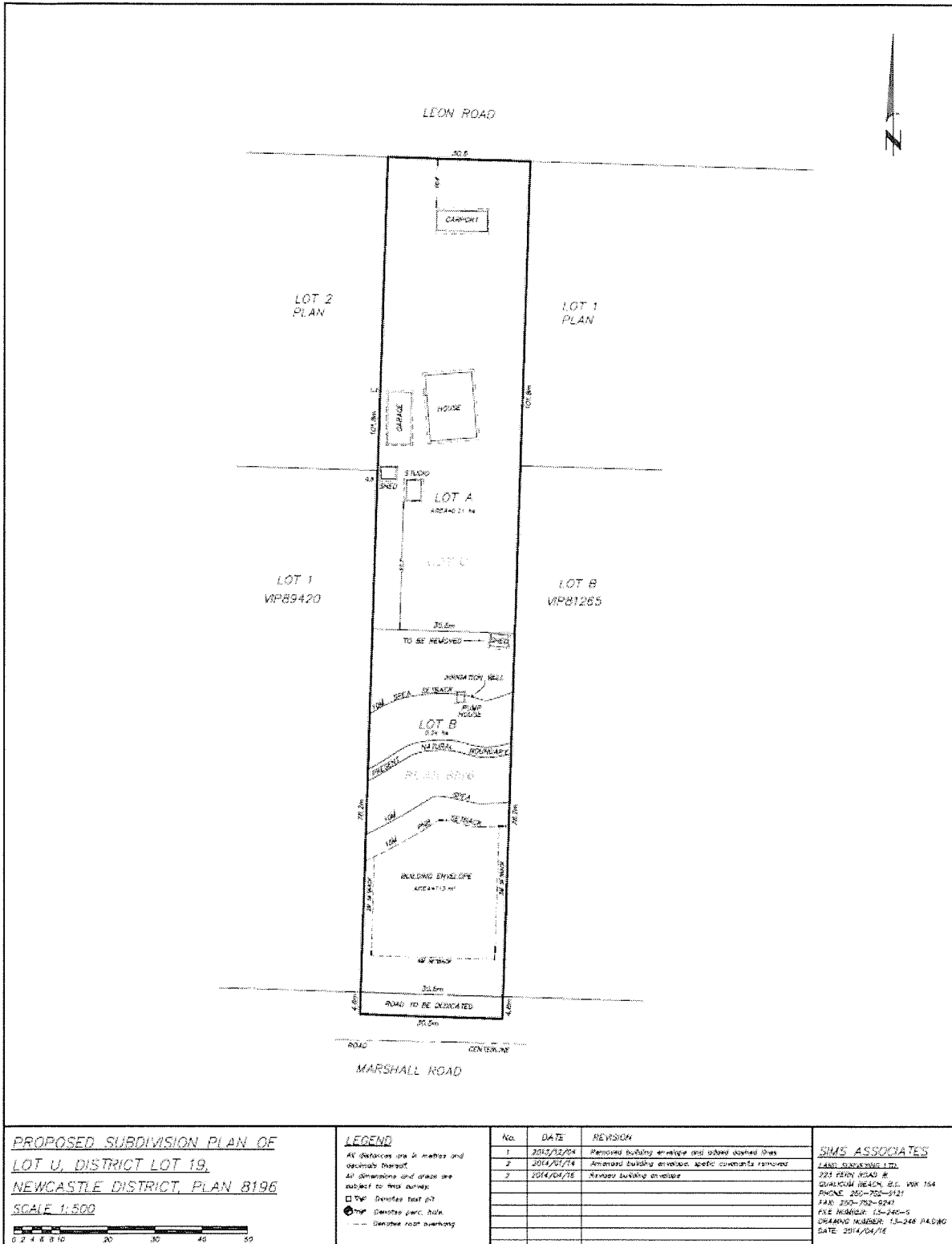
1. Section 3.3.8.i Setbacks – Watercourse, excluding the Sea – to reduce the minimum horizontal setback distance from the stream centerline from 18.0 metres to 15.9 metres.

Conditions of Approval:

1. The proposed subdivision boundary is located in general compliance with the Proposed Plan of Subdivision prepared by Sims Associates Land Surveying Ltd, dated April 16, 2014 and attached as Attachment 2.
2. The applicant shall register a section 219 covenant registering the Hydrogeological Impact Review report prepared by GW Solutions Inc. and dated April 4, 2014 and the Riparian Areas Assessment report prepared by Toth and Associates Environmental Services and dated January 8, 2014 on the property title which includes a clause requiring the development and enactment of a rainwater management plan with the considerations stated in both reports prior to the construction of a dwelling unit on the newly created lot. "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987"



Attachment 3  
Proposed Plan of Subdivision



**Attachment 4**  
**Proposed Building Envelope and Variance**

