

**REGIONAL DISTRICT OF NANAIMO**

**ELECTORAL AREA PLANNING COMMITTEE**

**TUESDAY, JANUARY 12, 2016**

**6:00 PM**

***(RDN Board Chambers)***

**A G E N D A**

**PAGES**

**CALL TO ORDER**

**PRESENTATION**

**Staff Presentation** – Board of Variance.

**MINUTES**

3-5 Minutes of the Regular Electoral Area Planning Committee meeting held Tuesday, November 10, 2015.

**BUSINESS ARISING FROM THE MINUTES**

**COMMUNICATIONS/CORRESPONDENCE**

**DEVELOPMENT PERMIT**

6-10 Development Permit Application No. PL2015-164 – Electoral Area ‘H’.

**DEVELOPMENT PERMIT WITH VARIANCE**

11-18 Development Permit with Variance Application No. PL2014-147 – 5370 Gainsberg Road, Electoral Area ‘H’.

19-29 Development Permit with Variance Application No. PL2015-153 – 2462 Shady Lane (Horne Lake), Electoral Area ‘H’.

30-37 Development Permit with Variance Application No. PL2015-148 – Island Highway West, Electoral Area ‘H’.

38-45 Development Permit with Variance Application No. PL2015-126 – 5469 Island Highway West, Electoral Area ‘H’.

46-60 Development Permit with Variance Application No. PL2015-155 – Electoral Area ‘A’.

**DEVELOPMENT VARIANCE PERMIT**

- 61-70 Development Variance Permit Application No. PL2015-170 – 1542 Madrona Drive, Electoral Area 'E'.
- 71-76 Development Variance Permit Application No. PL2015-157 – 674 Hawthorne Rise, Electoral Area 'G'.
- 77-84 Development Variance Permit Application No. PL2015-145 – 1304, 1304A & 1306 Alberni Highway, Electoral Area 'F'.

**OTHER**

- 85-92 Development Permit and Site-Specific Exemption Application No. PL2015-116 – 5497 Deep Bay Drive, Electoral Area 'H'.
- 93-99 Temporary Use Permit Application No. PL2015-152 – 1410 Alberni Highway, Electoral Area 'F'.
- 100-105 Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement in Relation to Subdivision Application No. PL2015-045 – 1110 & 1120 Keith Road, Electoral Area 'H'.
- 106-112 Development Permit Application No. PL2015-129 and Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement Subdivision Application No. PL2015-137 – 1032 Robertson Boulevard, Electoral Area 'G'.
- 113-120 Development Variance Permit Application No. PL2015-167 and Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement Subdivision Application No. PL2015-081 – 1577 Brynmarl Road, Electoral Area 'E'.

**ADDENDUM**

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**NEW BUSINESS**

**ADJOURNMENT**

**REGIONAL DISTRICT OF NANAIMO**

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE MEETING  
OF THE REGIONAL DISTRICT OF NANAIMO HELD ON  
TUESDAY, NOVEMBER 10, 2015 AT 6:32 PM IN THE  
RDN BOARD CHAMBERS**

In Attendance:

Director B. Veenhof	Chairperson
Director A. McPherson	Electoral Area A
Director M. Young	Electoral Area C
Director B. Rogers	Electoral Area E
Director J. Fell	Electoral Area F
Director J. Stanhope	Electoral Area G

Also in Attendance:

P. Thorkelsson	Chief Administrative Officer
J. Hill	A/Director of Corporate Services
R. Alexander	Gen. Mgr. Regional & Community Utilities
G. Garbutt	Gen. Mgr. Strategic & Community Development
D. Trudeau	Gen. Mgr. Transportation & Solid Waste
J. Holm	Mgr. Current Planning
P. Thompson	Mgr. Long Range Planning
C. Golding	Recording Secretary

**CALL TO ORDER**

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

**ELECTORAL AREA PLANNING COMMITTEE MINUTES**

**Minutes of the Regular Electoral Area Planning Committee meeting held Tuesday, October 13, 2015.**

MOVED Director Stanhope, SECONDED Director Fell, that the minutes of the Regular Electoral Area Planning Committee meeting held Tuesday, October 13, 2015, be adopted.

CARRIED

**DEVELOPMENT PERMIT**

**Development Permit Application No. PL2015-127 – 1764, 1768 and 1772 Cedar Road, Electoral Area 'A'.**

MOVED Director McPherson, SECONDED Director Fell, that Development Permit Application No. PL2015-127 in conjunction with a proposed lot line adjustment and a three-lot subdivision be approved subject to the conditions outlined in Attachments 2 to 4.

CARRIED

## **DEVELOPMENT PERMIT WITH VARIANCE**

### **Development Permit with Variance Application No. PL2015-026 – 1604 Cedar Road, Electoral Area ‘A’.**

MOVED Director McPherson, SECONDED Director Young, that the Board approve Development Permit with Variance Application No. PL2015-026 as proposed subject to the conditions outlined in Attachments 1 to 3 and direct staff to proceed with notification.

CARRIED

### **Development Permit with Variance Application No. PL2015-115 – 1100 Pepper Place, Electoral Area ‘G’.**

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

CARRIED

MOVED Director Stanhope, SECONDED Director Young, that Development Permit with Variance Application No. PL2015-115 to reduce the front lot line setback from 8.0 metres to 3.5 metres for a dwelling footprint be approved subject to the conditions outlined in Attachments 2 and 3.

CARRIED

### **Development Permit with Variance Application No. PL2015-123 – 5451 Island Highway West, Electoral Area ‘H’.**

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

CARRIED

MOVED Director Stanhope, SECONDED Director Rogers, that Development Permit with Variance Application No. PL2015-123 to permit the renovation and minor expansion of an existing dwelling unit be approved subject to the conditions outlined in Attachments 2 to 4.

CARRIED

## **OTHER**

### **Electoral Area ‘H’ Official Community Plan Review.**

MOVED Director Stanhope, SECONDED Director McPherson, that the Electoral Area ‘H’ Official Community Plan Review Project be initiated through endorsement of the Terms of Reference and Engagement Plan as attached.

CARRIED

### **Ministry of Agriculture’s Discussion Paper and Proposed Minister’s Bylaw Standards Regulating Agri-tourism and Farm Retail Sales in the Agricultural Land Reserve.**

MOVED Director Rogers, SECONDED Director Stanhope, that the Board receive the report for information.

CARRIED

MOVED Director Rogers, SECONDED Director Stanhope, that the Minister's proposed set of bylaw standards be considered when drafting new bylaws.

CARRIED

MOVED Director Rogers, SECONDED Director Stanhope, that the Regional District of Nanaimo respond to the Ministry of Agriculture's request for comments on the draft criteria for developing local government bylaws related to agri-tourism, agri-tourism accommodation, and farm retail sales with the following comments:

- a) that the Regional District of Nanaimo does not support the prohibition of cooking facilities within agri-tourism accommodation sleeping units, specifically cabins.
- b) that the Agriculture Land Reserve Use, Subdivision, and Procedure Regulation and relevant Agricultural Land Commission Policies be updated, where appropriate, to be consistent with the Minister's "Guide for Bylaw Development in Farming Areas".

CARRIED

**ADJOURNMENT**

MOVED Director Young, SECONDED Director Stanhope, that this meeting be adjourned.

CARRIED

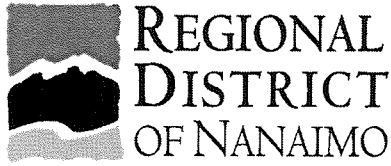
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CHAIRPERSON

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CORPORATE OFFICER



RDN REPORT		
CAO APPROVAL		✓
EAP	✓	
COW		
DEC 29 2015		
RHD		
BOARD		

**STAFF REPORT**

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

**FROM:** Kelsey Chandler  
Planning Technician

**SUBJECT:** Development Permit Application No. PL2015-164  
Lots 5 and 6, District Lot 81, Newcastle District, Plan 16060  
Electoral Area 'H'

**DATE:** December 29, 2015

**MEETING:** EAPC January 12, 2016

**FILE:** PL2015-164

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**RECOMMENDATION**

That Development Permit No. PL2015-164 to permit the construction of two dwelling units and two detached accessory buildings be approved subject to the conditions outlined in Attachments 2 and 3.

**PURPOSE**

To consider an application for a Development Permit to permit the construction of a dwelling unit and a detached accessory building on each of the two subject properties.

**BACKGROUND**

The Regional District of Nanaimo has received an application from Wave Crest Construction Ltd. to permit the construction of one dwelling unit and a detached accessory building on each of the two subject properties. The subject properties are each approximately 0.19 ha in area and are zoned Rural 1 (RU1) Zone, Subdivision District 'D', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The properties are located to the south of Lasqueti Road (see Attachment 1 – Subject Property Map), and are surrounded by RU1 zoned properties. Both lots are treed with some cleared areas, though neither subject property contains any existing structures.

The proposed development is subject to the Hazard Lands Development Permit Area (DPA) per the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003".

***Proposed Development***

The applicant proposes to construct one dwelling unit and a detached accessory building on each of the two subject properties as shown on Attachment 3 (Proposed Site Plan). A Development Permit approval is required for construction of the houses, as the subject property is designated in the Hazard Lands DPA due to a steep slope to the north of the subject properties.

**ALTERNATIVES**

1. To approve the Development Permit No. PL2015-164 subject to the conditions outlined in Attachments 2 and 3.
2. To deny the Development Permit No. PL2015-164.

**LAND USE IMPLICATIONS**

***Development Implications***

The applicant has provided a Geotechnical Hazard Assessment, prepared by Lewkowich Engineering Associates Ltd. and dated December 15, 2015, to satisfy the Hazard Lands DPA guidelines. The report notes that the recommended geotechnical slope stability setback from the top of the slope lies within properties to the north of the subject properties. Therefore, the subject properties are outside the influence of the steep slope and no restrictions to building locations on the subject properties with respect to the steep slope are warranted. The report concludes that the subject property is safe and suitable for the proposed development and that the proposal will not have a detrimental impact on the environment or adjacent properties, provided the recommendations in the report are followed. The geotechnical engineering report was prepared in accordance with Association of Professional Engineers and Geoscientists of BC's Professional Practice Guidelines for Legislated Landslide Assessments for Residential Development in BC.

**FINANCIAL IMPLICATIONS**


Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

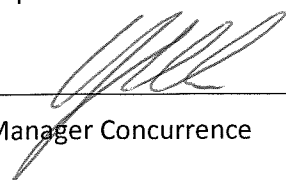
**STRATEGIC PLAN IMPLICATIONS**


Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.

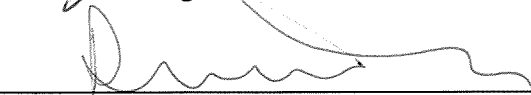
**SUMMARY/CONCLUSIONS**

This is an application for a Development Permit to permit the siting of a dwelling unit within the Hazard Lands DPA. The applicant has provided a Geotechnical Hazard Assessment, prepared by Lewkowich Engineering Associates Ltd. and dated December 15, 2015, to satisfy the Hazard Lands DPA guidelines. Given that the Hazard Lands DPA guidelines have been met and no negative impacts are anticipated as a result of the proposed development, staff recommends that the Board approve the proposed Development Permit subject to the terms and conditions outlined in Attachments 2 and 3.

  
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Report Writer

  
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Manager Concurrence

  
\_\_\_\_\_  
General Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence





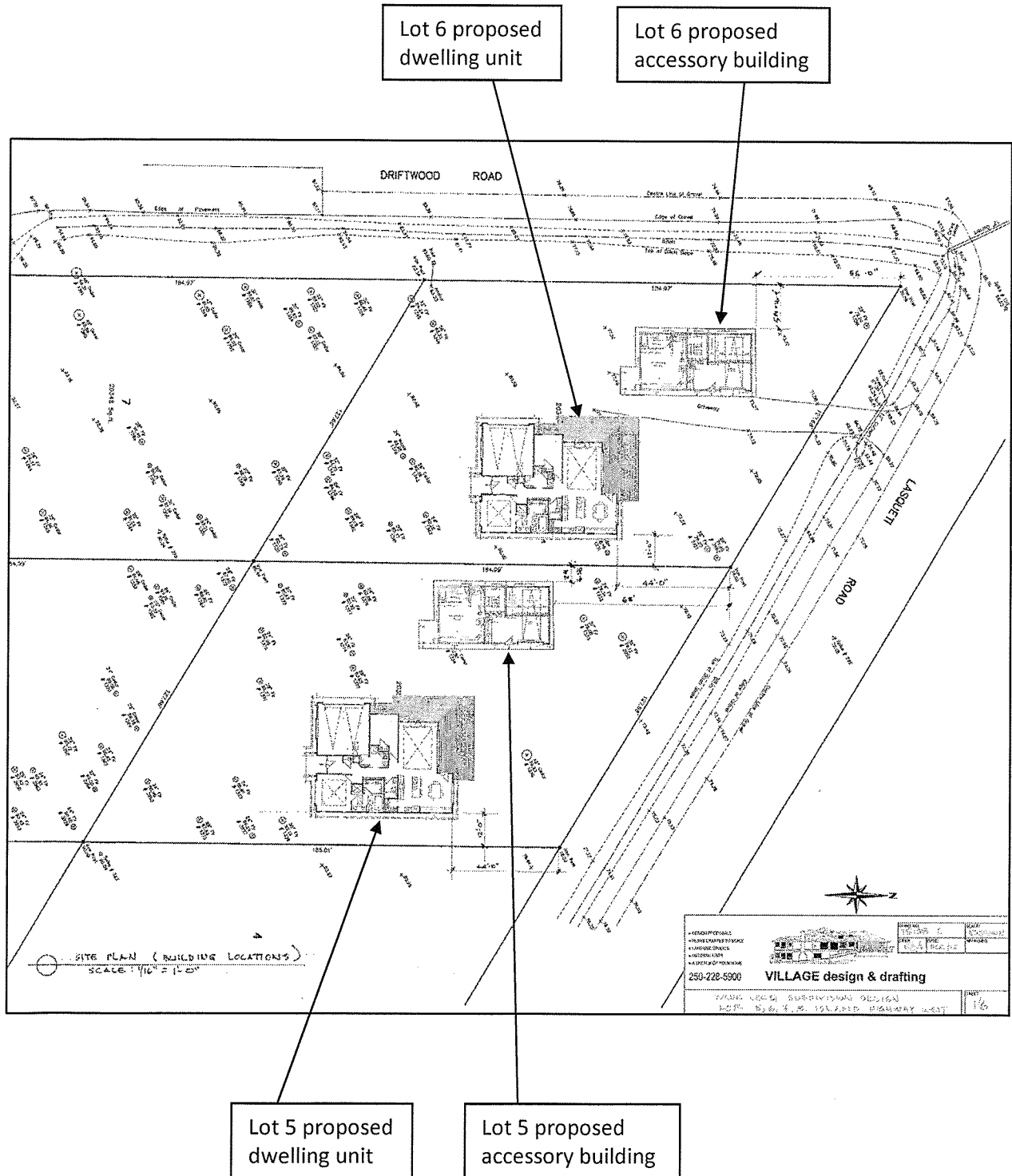
**Attachment 2  
Terms and Conditions of Permit**

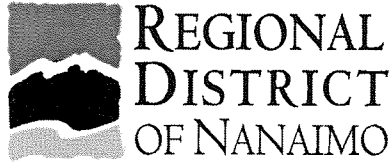
The following sets out the terms and conditions of Development Permit No. PL2015-164:

Conditions of Approval

1. The subject property shall be developed in accordance with the recommendations contained in the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd., dated December 15, 2015.
2. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 Covenant on the property title containing the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd. dated December 15, 2015, 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.
3. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

### Attachment 3 Proposed Site Plan





CAC APPROVAL		✓
EAP	✓	
COW		
DEC 29 2015		
RHD		
BOARD		

## STAFF REPORT

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

**DATE:** December 23, 2015

**FROM:** Jamai Schile  
Planner

**MEETING:** EAPC – January 12, 2016

**FILE:** PL2014-147

**SUBJECT: Development Permit with Variance Application No. PL2014-147  
Lot 96, District Lot 1, Newcastle District, Plan 20442  
5370 Gainsberg Road, Electoral Area 'H'**

### RECOMMENDATIONS

1. That staff be directed to complete the required notification.
2. That Development Permit with Variance No. PL2014-147 to permit the construction of a new residential dwelling, retaining wall, repair of an existing deck, and to vary the interior side setback from 2.0 m to 0.4 m be approved subject to the conditions outlined in Attachment 2.

### PURPOSE

To consider an application for a Development Permit with Variance to allow the construction of a new dwelling unit on an existing foundation, repair an existing deck structure, and add a retaining wall on the subject property.

### BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Toby Taylor on behalf of Donna D’Aquino in order to permit the construction of a new residential dwelling, add structural improvements to an existing deck and add a new retaining wall. The subject property is approximately 0.18 ha in area and is zoned Residential 2 (RS2) pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”.

The subject property is adjacent to residential zoned properties (RS2), except for the property to the north, which is currently zoned Commercial (CM5). The subject property is bound to the west by Crome Point Road and Gainsberg Road to the east.

The property owner has recently demolished the previously existing house as it was deemed unsafe. The foundation of that dwelling remains as well as an existing accessory building (garage), deck and shed, as illustrated on Attachment 3.

The proposed development is subject to the following applicable Development Permit Areas as per “Electoral Area ‘H’ Official Community Plan Bylaw No. 1335, 2003”:

1. Fish Habitat Protection
2. Hazard Lands

***Proposed Development and Variance***

The applicant is seeking a development permit to construct a new single-storey, three bedroom residential dwelling with a total living area of 156 m<sup>2</sup>. The proposed new dwelling is to be sited in roughly the same footprint as the previously existing residential dwelling, as illustrated in Attachment 3.

The proposed dwelling is in compliance with the current zoning regulations, including use, height and lot coverage. However, the siting of the existing accessory building does not conform to the current zoning bylaw’s minimum 2.0 m interior side lot line, illustrated in Attachment 3. The siting of the accessory building appears to be a result of the physical constraints associated with the parcel, which includes a ravine that occupies a quarter of the western portion of the parcel, and the pan handle access laneway from Gainsberg Road, see Proposed Site Plan – constraints illustrated by top and bottom of bank, watercourse and pan handle access – Attachment 3.

To bring this property into compliance with the current bylaw, the applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

**Section 3.4.62 Minimum Setback Requirement – Interior Side Lot Line** to reduce the minimum setback interior side lot line requirement of 2.0 m to 0.4m.

**ALTERNATIVES**

1. To approve Development Permit with Variance No. PL2014-147 subject to the conditions outlined in Attachment 2.
2. To deny Development Permit with Variance No. PL2014-147.

**LAND USE IMPLICATIONS**

***Development Implications***

The applicant proposes to construct a new dwelling on an existing foundation, carry out structural improvements to an existing deck and to add a new 4.0 m long retaining wall within the Environmental Sensitive Feature - Fish Habitat Protection and Hazard Lands Development Permit Area.

The applicant has submitted a preliminary Geotechnical Hazard Assessment, prepared by Lewkowich Engineering Associates Ltd., dated July 7, 2014. One of the recommendations in the report is to ensure that the deck footings have adequate subjacent support and in the event sufficient soil is not available to construct a short retaining wall below the deck footings. A further assessment conducted by Robert Roenicke, Project Engineer, dated January 17, 2015, and updated October 6, 2015, concurred with the Lewkowich report’s recommendation, and proposes to construct an additional section of retaining wall at the toe of the bank beneath the north-west corner of the foundation, as illustrated in Attachment 3.

In both the reports, the Professional Engineers confirmed that: *“From a geotechnical point of view, the site is considered safe and suitable for the intended uses if the recommendations in the report are followed”*. The development of the property in accordance with the Professional Engineer’s assessment and recommendations are included as a condition of the permit as per Attachment 2.

Staff recommend that the applicant be required to register the Geotechnical Hazard Assessment on the property title as a Section 219 covenant with a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of the potential hazard, see Attachment 2 – Terms and Conditions of Permit.

Board Policy B1.5 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 Policy provides examples of acceptable land use justifications, which include legalizing a non-conforming, long standing existing structure where the impact of the variance is acceptable and the use of the building or structure conforms to the current zoning regulations (Policy B1.5 (vii)). Staff have reviewed the applicant’s variance request, to reduce the interior lot line setback from 2.0 m to 0.4 m in order to legalize the siting of the existing accessory building, and do not anticipate any negative implications that would be associated with the approval of Development Permit with Variance Application No. PL2014-147.

#### ***Environmental Implications***

The applicant has submitted a Riparian Assessment Report prepared by Scott Toth, R.P.Bio, dated March 21, 2014, which was later updated on August 5, 2015, to include the deck and retaining wall. The Qualified Environmental Professional (QEP) concluded that: *“The planned renovation / reconstruction of the deck and existing residence on the property will be on the existing foundations and will not result in further intrusion into the 10.0 m Streamside Protection and Enhancement Area (SPEA).”* On consideration of the proposed retaining wall, which is to be located in the SPEA, the QEP concluded: *“The construction of the retaining wall poses minimal potential for impacts upon the watercourse or Streamside Protection and Enhancement Area (SPEA) setback.”* The QEP’s assessment and recommendations are included as a condition of the permit as per Attachment 2.

#### **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

#### **STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the 2013 – 2015 Board Strategic Plan.

#### **INTER-GOVERNMENTAL IMPLICATIONS**

Due to known archaeological features on the subject property, staff have notified the Qualicum First Nation of the application. The owner’s agent has applied for and received a Site Alteration Permit from the Provincial Archeological Branch for the proposed works.

## PUBLIC CONSULTATION IMPLICATIONS

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 m 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

The applicant proposes to construct a new single-storey, three bedroom residential dwelling which is to be sited roughly in the same footprint as the previously existing dwelling. In addition, an existing deck is to be repaired and a retaining wall is to be constructed. The proposal requires approvals under the Fish Habitat Protection and Hazard Lands Development Permit Areas, in accordance with the "Electoral Area 'H' Official Community Plan Bylaw No 1355, 2003".

The applicant has provided a Geotechnical Hazard Assessment and a Riparian Assessment Report prepared by relevant professionals, which satisfy the Development Permit Area guidelines. The geotechnical report confirms that the land is considered geotechnically safe and suitable for the use intended: to construction a new residential dwelling, install an additional retaining wall and repair an existing deck. Additionally, the Riparian Assessment Report concluded that the proposed activities are unlikely to result in further intrusion in the SPEA and holds minimal potential for impacts upon the watercourse.

In addition, to bring this property into compliance with the current land zoning bylaw, the applicant proposes to vary the minimum interior side lot line setback requirements from 2.0 m to 0.4 m. staff do not anticipate any negative implications resulting from approval of this variance. Thus, staff recommend approval of the Development Permit with Variance application pending the outcome of statutory notification.



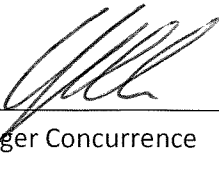
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Report Writer



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General Manager Concurrence



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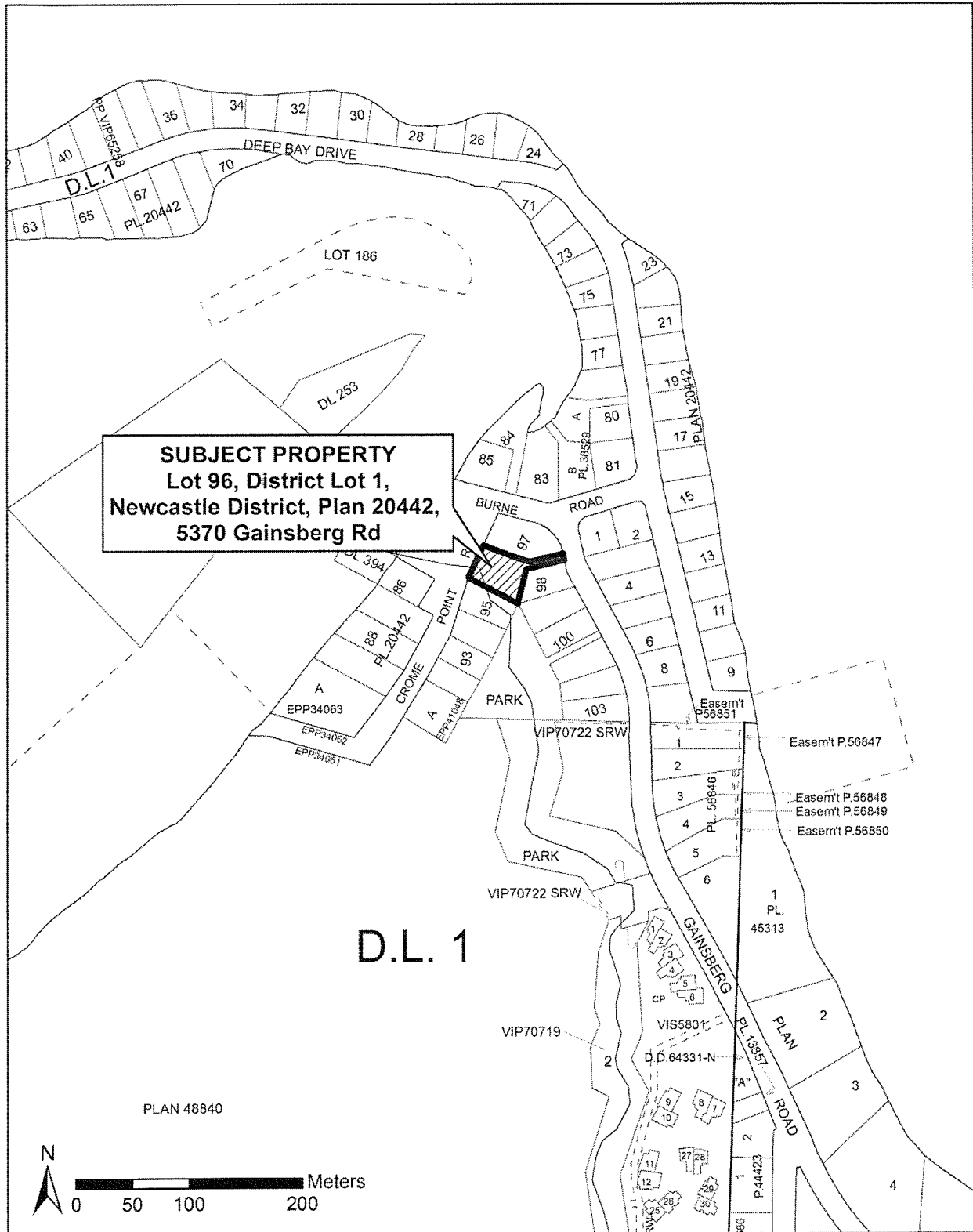
Manager Concurrence



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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. PL2014-147:

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:

**Section 3.4.62 – Minimum Setback Requirements – Interior Side Lot Line** - reduce the minimum interior side lot line setback from 2.0 m to 0.4 m to legalize the existing accessory building as shown on the Survey Plan prepared by Peter Mason dated February 23, 2015 and attached as Attachment 3.

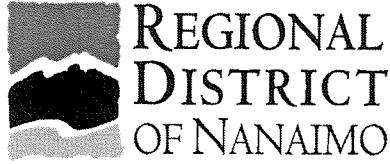
Conditions of Approval:

1. The proposed development is sited in accordance with the Survey Plan prepared by Peter Mason dated February 23, 2015, and attached as Attachment 3.
2. The variances associated with Development Permit with Variance No. PL2014-147 applies only to the existing accessory building in accordance with the Survey Plan and specifications included in Attachments 3.
3. The subject property shall be developed in accordance with the recommendations contained in the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd., dated July 7, 2014 and updated October 6, 2015.
4. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 Covenant on the property title containing the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd., dated July 7, 2014, and updated October 6, 2015, and include a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of the potential hazard.
5. The subject property shall be developed in accordance with the recommendations contained in the Riparian Assessment Report prepared by Scott Toth, R.P.Bio, dated March 21, 2014, and updated August 5, 2015.
6. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.









RDN REPORT	
CAO APPROVAL <input checked="" type="checkbox"/>	
EAP	<input checked="" type="checkbox"/>
COW	<input type="checkbox"/>
DEC 23 2015	
RHD	<input type="checkbox"/>
BOARD	<input type="checkbox"/>

# STAFF REPORT

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

**DATE:** December 18, 2015

**FROM:** Tyler Brown  
Planner

**MEETING:** EAPC – January 12, 2016

**FILE:** PL2015-153

**SUBJECT:** Development Permit with Variance Application No. PL2015-153  
Strata Lot 322, District Lot 251, Alberni District, Strata Plan VIS5160  
2462 Shady Lane – Electoral Area ‘H’

## RECOMMENDATIONS

1. That staff be directed to complete the required notification.
2. That Development Permit with Variance No. PL2015-153 to recognize the siting of an existing deck and to permit the installation of a permanent deck cover on the existing deck be approved subject to the conditions outlined in Attachments 2 to 5.

## PURPOSE

To consider an application for a Development Permit with Variance to recognize the siting of an existing deck and to permit the installation of a permanent deck cover on the existing deck on the subject property.

## BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Christine and Ian Wallace to permit construction of a permanent roof cover over an existing deck. The subject property is approximately 743 m<sup>2</sup> in area and is zoned Horne Lake Comprehensive Development Zone 9 (CD9), pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is bordered by Horne Lake to the north, a common property access lane (Shady Lane) to the south, and similarly zoned recreational parcels to the east and west (see Attachment 1 – Subject Property Map). The developed property contains a recreational cabin and accessory building. No community services are provided to the parcel.

The proposed development is within the Fish Habitat Protection Development Permit Area as per the “Regional District of Nanaimo Electoral Area ‘H’ Official Community Plan Bylaw No. 1335, 2003”. In addition, the subject property is also subject to previously issued Development Permit No. 0120, which applies to the entire Horne Lake recreational development strata.

### *Proposed Development and Variance*

The applicant is proposing to cover an existing deck, which will be open on all sides excluding the exterior wall of the existing cabin, on the northern side of the recreational residence which is within both the interior side lot line setback and the setback to Horne Lake (see Attachment 3 – Site Plan and

Variations). The existing deck is adjacent to Horne Lake and 46.5 m<sup>2</sup> in floor area. The applicant is proposing to cover the deck, which is elevated approximately 1.7 m above the ground, so it can be utilized in poor weather conditions. The proposed deck cover would result in the structure being defined as a porch in accordance with the CD9 Zone. To recognize the siting of the existing deck and to permit the construction of the deck cover (porch), the applicant proposes to vary the following regulations from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

1. **3.4.107.4 – Minimum Setback Requirements** to reduce the minimum setback requirement from Horne Lake from 8.0 m to 4.8 m to recognize the siting of an existing deck and to permit construction of a permanent cover over the existing deck to form a porch.
2. **3.4.107.4 – Minimum Setback Requirements** to reduce the minimum setback requirement from the interior side lot line from 1.5 m to 1.05 m to recognize the siting of an existing deck and to permit construction of a permanent cover over the existing deck to form a porch.
3. **3.4.107.6 – Other Regulations – xiii** to increase the permitted floor area used for porches and decks attached to a cabin from 40 m<sup>2</sup> to 46.5 m<sup>2</sup> to recognize the existing deck adjacent to Horne Lake on the subject property.

#### ALTERNATIVES

1. To approve Development Permit with Variance No. PL2015-153 subject to the conditions outlined in Attachments 2 to 5.
2. To deny Development Permit with Variance No. PL2015-153.

#### LAND USE IMPLICATIONS

##### *Development Implications*

The applicant is proposing to cover an existing deck which is reported by the applicant to have been in place since at least 2002, which predates both zoning and building inspection (see Attachment 4 – Deck Elevations). The variances requested are required for the non-conforming siting of the existing deck. As the existing deck does not conform to both the required 8.0 m setback from Horne Lake and the required 1.5 m setback from the western interior side lot line, it follows that the proposed addition to cover the deck requires a variance as well.

To minimize the number of requested variances, the applicant is not proposing to recognize the siting of stairs which lead from the deck to Horne Lake and will construct the deck cover within the maximum permitted height (6.1 m). Furthermore, the applicant has made efforts to avoid additional encroachment into the setback areas by minimizing the proposed deck cover overhang beyond the bounds of the existing deck for portions of the deck that encroach within the setback areas. The applicant is not proposing any overhang on the western side of the deck to avoid further encroachment within the setback towards the neighbouring property.

A relaxation of 0.45 m of the interior side lot setback is being requested (see Attachment 3 – Site Plan and Variations and Attachment 5 – Deck Plan). A relaxation of 3.2 m of the setback to Horne Lake is being requested. To provide better cover from the weather, the deck cover overhangs the existing deck

floor by 0.40 m towards Horne Lake. As the deck is existing, the addition of the deck cover will not result in changes to the ground below. Minor upgrades to the deck footings will be required to support the deck and deck cover structure in accordance with the British Columbia Building Code.

The CD9 zone permits up to 40 m<sup>2</sup> of floor area for porches and decks attached to a cabin. As stated previously, the existing deck is approximately 46.5 m<sup>2</sup> in area and is reported to predate both zoning and building inspection. Therefore, to recognize the size of the existing deck the applicant is requesting to increase the permitted floor area for decks and porches attached to a cabin by 6.5 m<sup>2</sup> (see Attachment 5 – Deck Plan). The applicant is not requesting a variance for the deck area attached to the western and southern side of the cabin (see Attachment 3 – Site Plan and Variances).

As identified in the Regional District of Nanaimo Board Policy B1.5 (Development Variance Permit, Development Permit with Variance & Floodplain Exemption Application Evaluation), longstanding existing buildings or structures that do not conform to siting but do conform to use under current zoning are considered as having an acceptable land use justification supporting a variance request. The variance request for the siting of the existing deck is therefore in accordance with Board Policy B1.5. Under existing zoning, the applicant is permitted to construct additional deck on the property as long as it is not attached to the cabin. The proposed cover for the deck will allow the applicant to have a covered deck without the need for additional deck construction or an increase to parcel coverage on the subject property. Given that the applicant has provided sufficient rationale to support the variance, the proposal will not result in an increase to parcel coverage, and that the variance is not anticipated to result in any negative view implications for adjacent properties, staff recommend approval of the variance request.

### ***Environmental Implications***

To address the Fish Habitat Protection Development Permit Area guidelines, the applicant has submitted a letter from EDI Environmental Dynamics Inc., dated October 23, 2015. The purpose of the Fish Habitat Protection Development Permit Area is to protect riparian areas for the protection of fish habitat in accordance with the *Fish Protection Act*. The submitted letter acknowledges that a previously issued development permit (Development Permit No. 0120) established a 15.0 metre setback for riparian protection from the boundary of Horne Lake. The letter concludes that the Riparian Areas Regulations do not apply to the proposed construction as the regulations provide exemptions for structures that predate the implementation of the *Fish Protection Act*. Furthermore, the report states that the proposed construction of the roof over the deck is not expected to cause new adverse impacts to the features, functions and conditions of the riparian areas.

### ***Development Permit No. 0120 Implications***

Works undertaken, as part of the current development proposal and if the Development Permit with Variance is approved, must be consistent with the detailed guidelines outlined in Development Permit No. 0120, except where it would be modified by this permit. Development Permit No. 0120 provides specific development measures for the environmental protection of Horne Lake and varies the CD9 zone for a variety of development cases.

The proposed development is to construct a roof cover over an existing deck. While the CD9 zone prescribes a setback distance of 8.0 metres from Horne Lake for decks and porches, Development Permit No. 0120 acknowledges that there are existing decks and porches that exist within the prescribed 8.0 m setback distance and in such cases a site specific variance is required to permit additions to nonconforming structures. As the deck is existing and the applicant is not proposing further

encroachment within the setback to Horne Lake, nor is the proposal invasive to the natural environment, in staff's evaluation the applicant's proposal is consistent with the intent of Development Permit No. 0120. Therefore, staff recommend that the terms and conditions of Development Permit with Variance No. PL2015-153 are in addition to, and supersede in the event of conflict, the Conditions of Approval of Development Permit No. 0120 (see Attachment 2 – Site Plan and Variances).

**FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

**STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.

**PUBLIC CONSULTATION IMPLICATIONS**

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 a Development Permit with Variance to permit the construction of a cover over an existing deck attached to a cabin on the subject property. The existing deck is within both the interior side lot line setback and the setback to Horne Lake, and is over the maximum permitted floor area for decks and porches attached to a cabin as prescribed in the CD9 zone (see Attachment 3 – Site Plan and Variances). The applicant has provided, in support of the application, a site survey, deck elevations, and a letter authored by a qualified environmental professional stating that the proposal is exempt from the requirements of the riparian areas regulations. Given that the applicant has provided sufficient rationale to support the variance and made attempts to minimize the variance request, the proposal will not result in an increase to parcel coverage, and that the variance is not anticipated to result in any negative view implications for adjacent properties, staff recommend approval of the variance request subject to the terms and conditions outlined in Attachment 2.

Report Writer

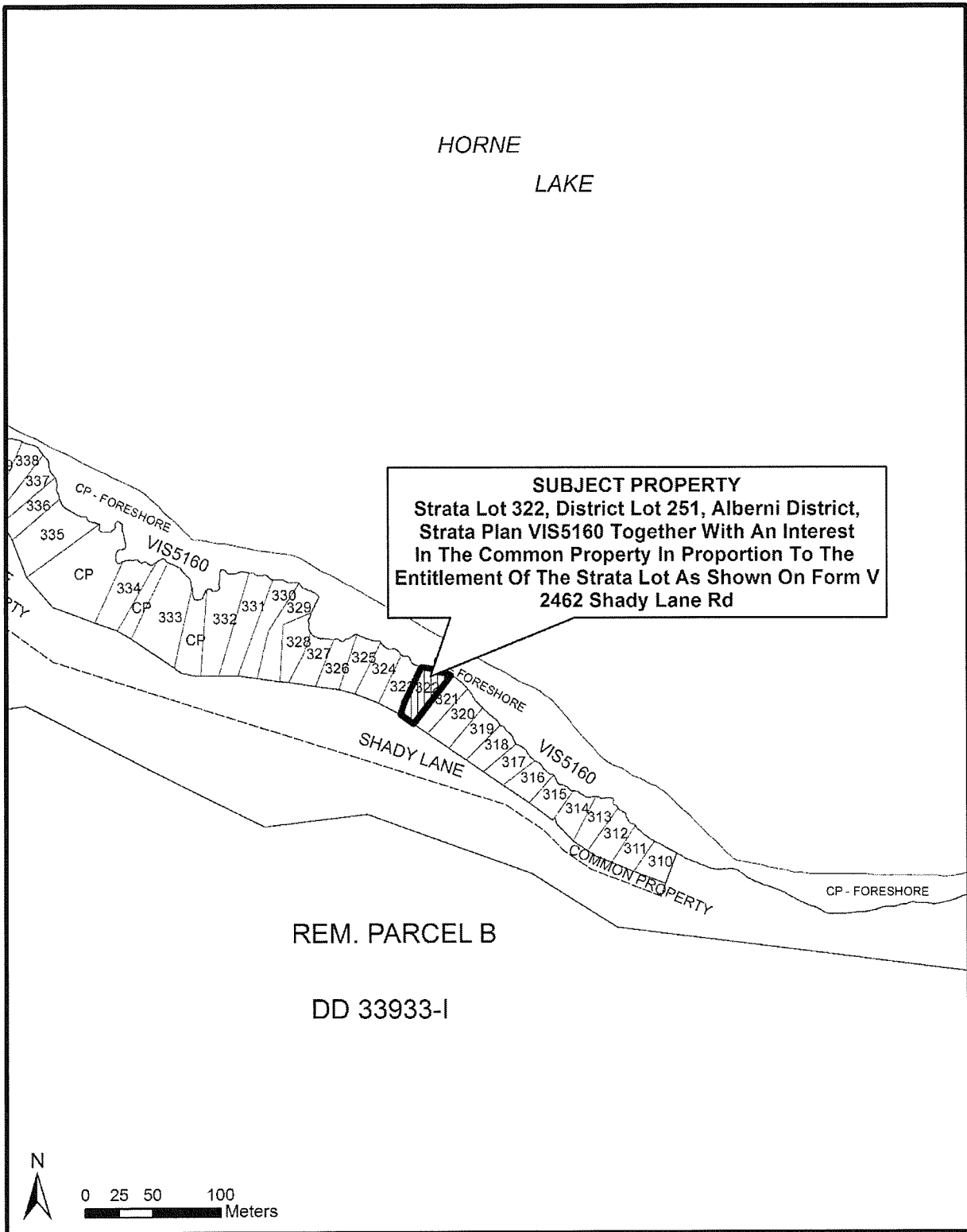
Kelsey Chandler for Tyler Brown

General Manager Concurrence

for 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. PL2015-153 and are in addition to, and supersede in the event of conflict, the Conditions of Approval of Development Permit No. 0120:

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:

**3.4.107.4 – Minimum Setback Requirements** to reduce the minimum setback requirement from Horne Lake from 8.0 m to 4.8 m to recognize the siting of an existing deck and to permit construction of a permanent deck cover over the existing deck to form a porch as shown on Attachment 3.

**3.4.107.4 – Minimum Setback Requirements** to reduce the minimum setback requirement from the interior side lot line from 1.5 m to 1.05 m to recognize the siting of an existing deck and to permit construction of a permanent deck cover over the existing deck to form a porch as shown on Attachment 3.

**3.4.107.6 – Other Regulations – xiii** to increase the permitted floor area used for porches and decks attached to a cabin from 40 m<sup>2</sup> to 46.5 m<sup>2</sup> to recognize the existing deck adjacent to Horne Lake on the subject property as shown on Attachments 3 and 5.

Conditions of Approval:

1. The site is developed in accordance with the Sketch Plan prepared by Bruce Lewis Land Surveying Inc., dated November 3, 2015.
2. The proposed development is in general compliance with the plans and elevations prepared by Steller Architectural Consulting, dated December 16, 2015.
3. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.





**Attachment 3  
Proposed Site Plan and Variances (Page 2 of 2)**

**3.4.107.4 – Minimum Setback Requirements – Horne Lake**

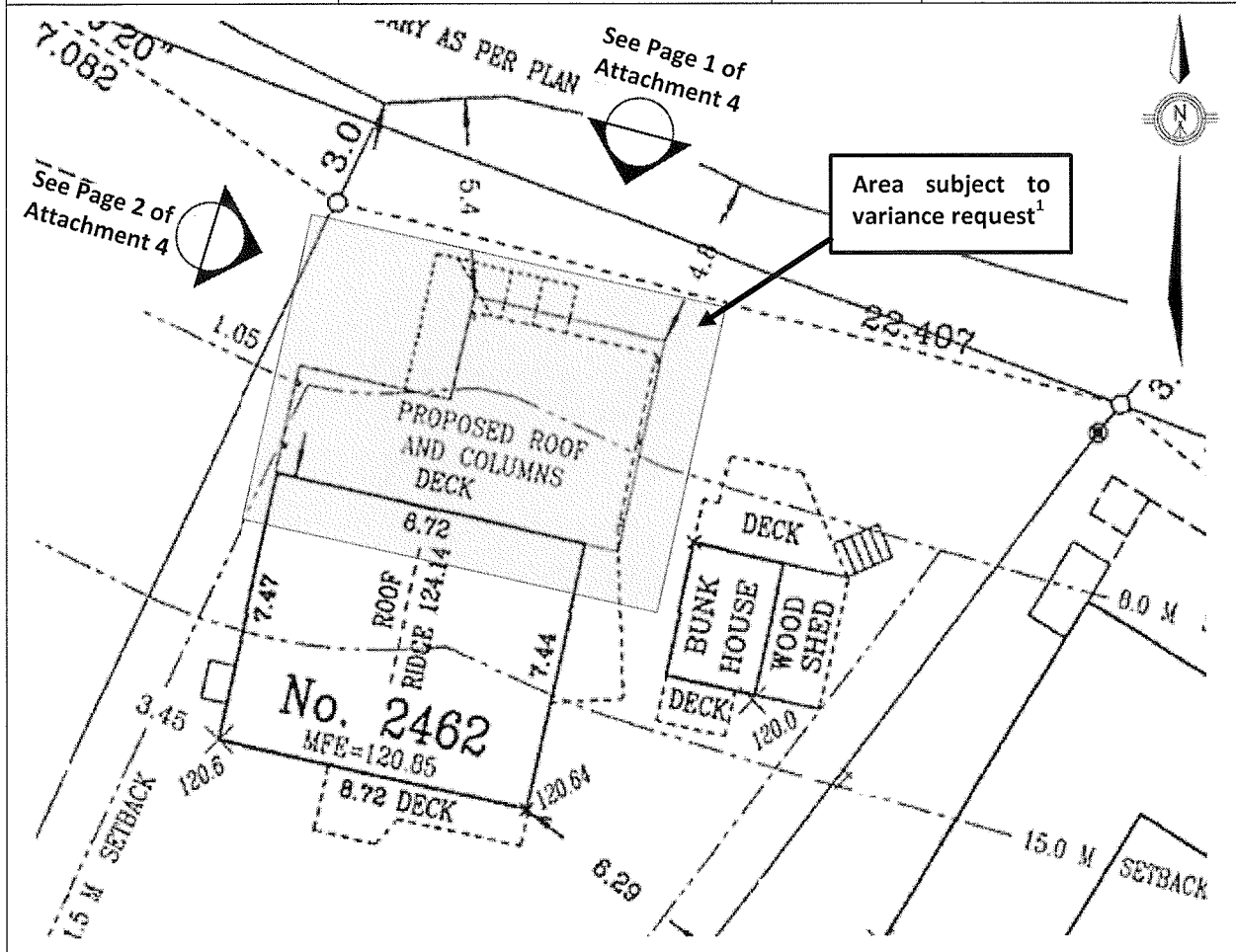
Article	Required Setback by Bylaw	Setback	Variance Amount
Existing Deck and Proposed Cover (porch)	8.0 m	4.8 m	3.2 m

**3.4.107.4 – Minimum Setback Requirements – Interior Side Lot Line**

Article	Required Setback by Bylaw	Setback	Variance Amount
Existing Deck and Proposed Cover (porch)	1.5 m	1.05 m	0.45 m

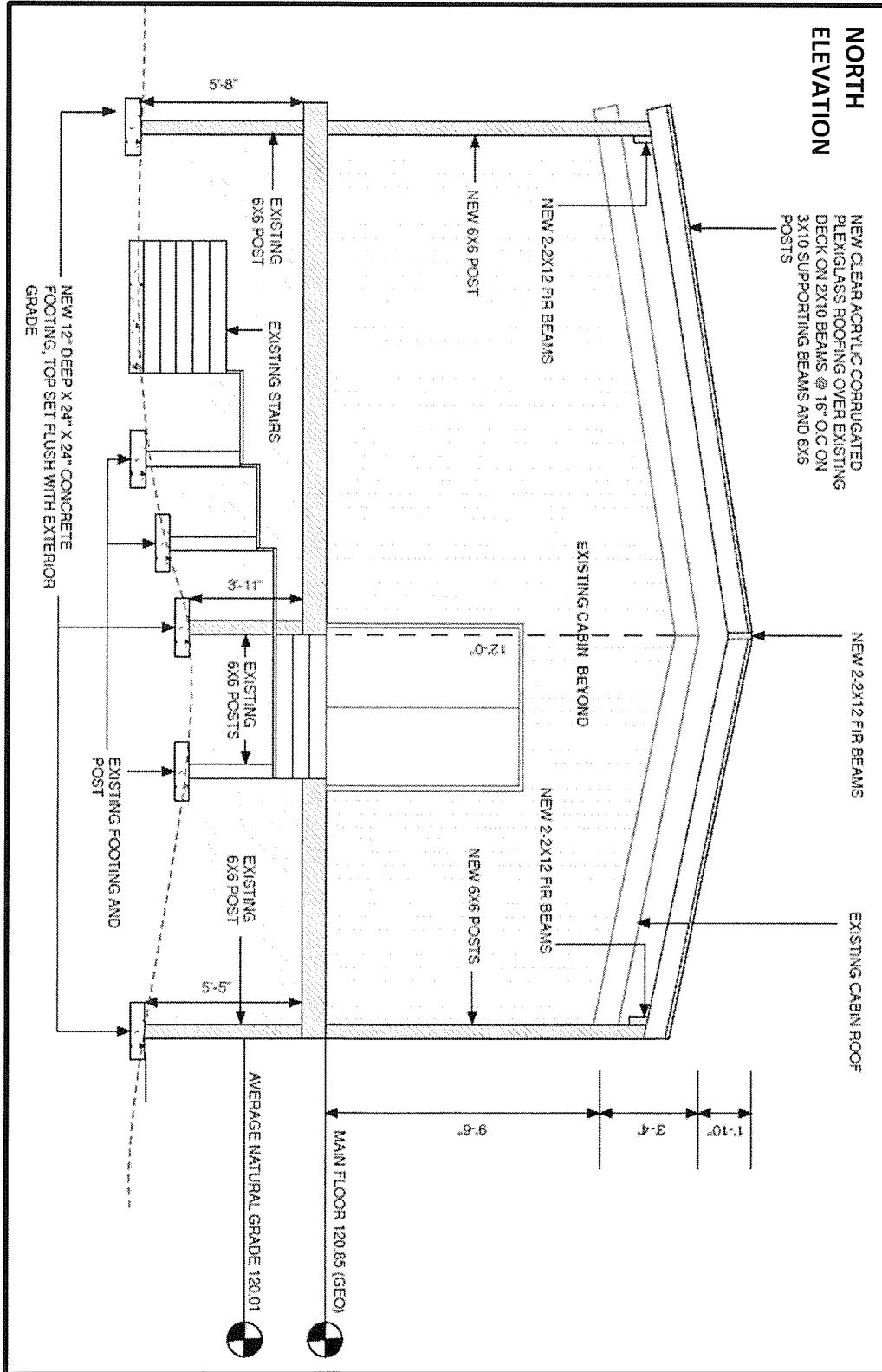
**3.4.107.6 – Other Regulations – xiii Floor Area for Porches and Decks Attached to a Cabin**

Article	Maximum Permitted Floor Area	Floor Area	Variance Amount
Existing Deck <sup>1</sup>	40 m <sup>2</sup>	46.5 m <sup>2</sup>	6.5 m <sup>2</sup>



<sup>1</sup> See Attachment 5 for the extent of the deck floor area variance.

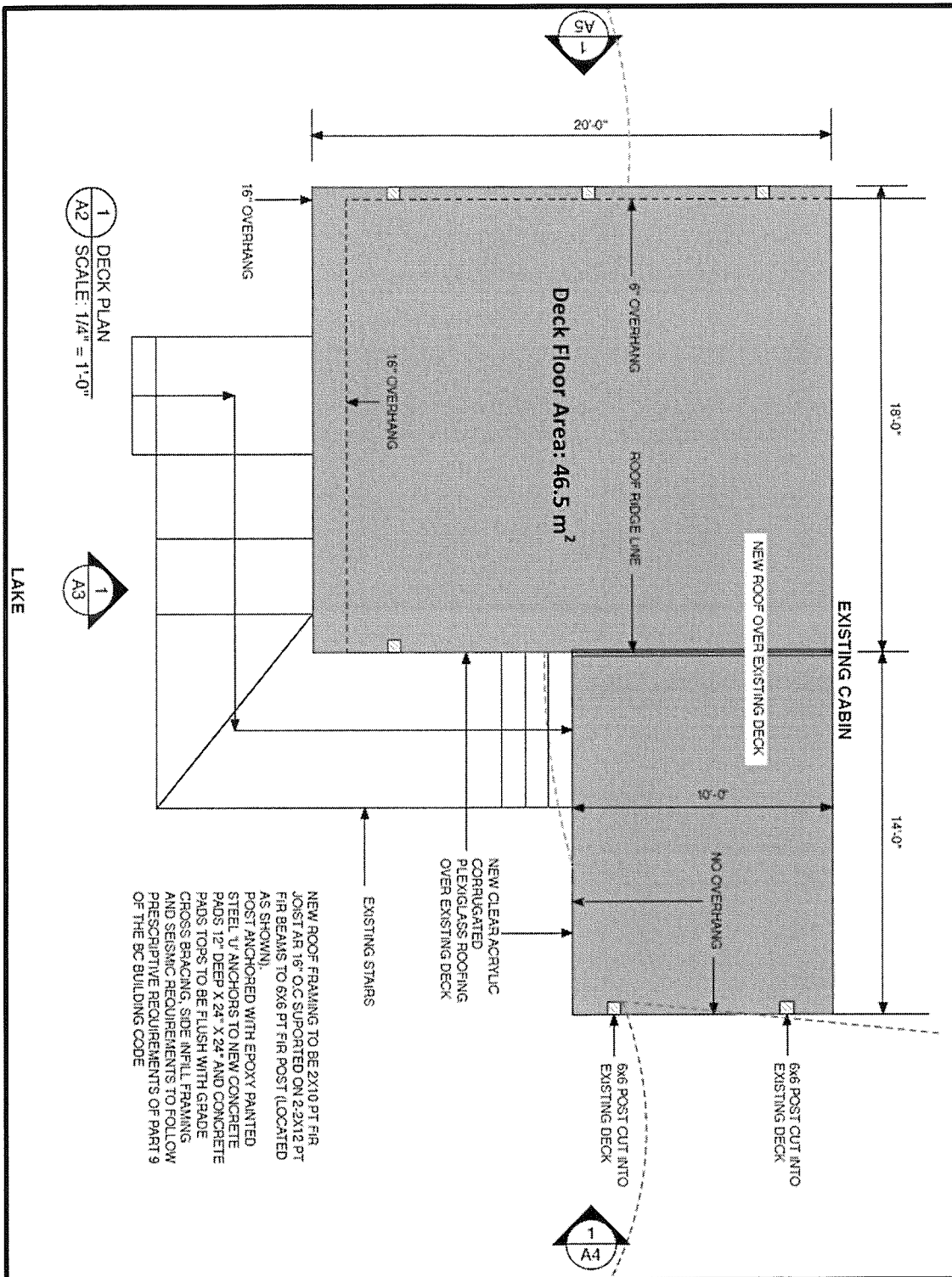
Attachment 4  
Deck Elevations (Page 1 of 2)

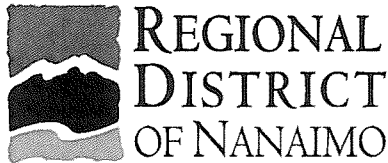


Attachment 4



Attachment 5  
Deck Plan





RDN REPORT	
CAO APPROVAL	✓
EAP	✓
COW	
DEC 22 2015	
RHD	
BOARD	

**STAFF REPORT**

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

**DATE:** December 3, 2015

**FROM:** Stephen Boogaards  
 Planner

**MEETING:** EAPC – January 12, 2016

**FILE:** PL2015-148

**SUBJECT:** Development Permit with Variance Application No. PL2015-148  
 Lot 2, District Lot 21, Newcastle District, Plan EPP50478  
 Island Highway West - Electoral Area 'H'

**RECOMMENDATIONS**

1. That staff be directed to complete the required notification.
2. That Development Permit with Variance No. PL2015-148 to reduce the watercourse setback for a retaining wall and footbridge over Nash Creek and increase the maximum height for a dwelling unit, be approved subject to the conditions outlined in Attachments 2 to 4.

**PURPOSE**

The purpose of this Development Permit with Variance application is to reduce the watercourse setback to permit the construction of a retaining wall and footbridge, and to increase the maximum permitted height for a dwelling unit on the subject property.

**BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from Fern Road Consulting Ltd. on behalf of James Deas to permit the construction of a retaining wall and footbridge within the watercourse setback and to increase the maximum allowable height for a proposed dwelling unit. The subject property is approximately 0.268 ha in area and is zoned Residential 2 Zone (RS2), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is adjacent to the Strait of Georgia, Island Highway West and other residentially zoned properties (see Attachment 1 – Subject Property Map). Nash Creek transects the eastern portion of the property and runs parallel to the natural boundary of the sea (see Attachment 3 – Proposed Site Plan and Variances).

The property previously contained the foundation for a dwelling unit and detached garage, authorized under a Development Permit No. 60723 issued in 2007. Subsequently, the parent parcel was subdivided into two lots and the foundation on the subject property was removed under Development Permit No. PL2014-097 in 2014.

The proposed development is subject to the following Development Permit Areas per the “Regional District of Nanaimo Electoral Area ‘H’ Official Community Plan Bylaw No. 1335, 2003”:

1. Environmentally Sensitive Features Development Permit Area– Coastal Areas; and
2. Fish Habitat Protection Development Permit Area

### ***Proposed Development and Variance***

The applicant proposes variances to allow the construction of a retaining wall and footbridge within the setback to Nash Creek and to increase the maximum height for a dwelling unit (see Attachment 3 – Site Plan and Variances). The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 3.3.8 – Watercourses, excluding the sea** to reduce the minimum setback from the watercourse, as measured from natural boundary, from 15.0 metres to 10.0 metres for a retaining wall.
- **Section 3.3.8 – Watercourses, excluding the sea** to reduce the minimum setback from the watercourse, as measured from stream centreline, from 18.0 metres to 0.0 metres for a footbridge over Nash Creek.
- **Section 3.4.62 – Maximum Number and Size of Buildings and Structures** to increase the maximum dwelling unit height from 8.0 metres to 8.7 metres.

### **ALTERNATIVES**

1. To approve Development Permit with Variance No. PL2015-148 subject to the conditions outlined in Attachments 2 to 4.
2. To deny Development Permit with Variance No. PL2015-148.

### **LAND USE IMPLICATIONS**

#### ***Development Implications***

As the property contains Nash Creek and is adjacent to the sea, construction on the property is subject to the “Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006”. The applicant submitted a Geotechnical Hazard Assessment completed by Lewkowich Engineering Associates Ltd. dated June 10, 2015, which establishes a recommended flood construction level of 5.1 metres GSC (Geodectic Survey of Canada) for building a residence on the property. The applicant proposes to add fill to the property to achieve the recommended flood construction level, as the elevation of the building site at natural grade is 3.9 metres GSC.

The applicant has also provided a Riparian Area Regulations Assessment Report prepared by Toth and Associates Environmental Services, dated November 3, 2015, to satisfy the requirements of both the Environmentally Sensitive Features and Fish Habitat Protection Development Permit Areas. The report confirms the 10 metre Streamside Protection and Enhancement Area (SPEA) established at subdivision

stage, and addresses the development of the site with the proposed dwelling, retaining wall, and the footbridge. The report concludes that the redevelopment of the property will not result in negative impacts in the coastal development permit area or the Nash Creek SPEA.

As the placement of fill on the property is proposed to achieve the recommended flood construction level, the applicant has requested variances to zoning requirements for the construction of the dwelling. Since the zoning bylaw calculates the height of structures from natural grade, the height of the dwelling will exceed the maximum 8.0 metre height permitted by zoning. The applicant has attempted to reduce the requested variance, with the actual dwelling height designed to be 7.3 metres from the underside of the floor joist to the highest ridge.

The fill will also be used to create a small yard behind the dwelling. To contain the fill a retaining wall is proposed to be located along the 10.0 metres Nash Creek SPEA boundary, which is within the zoning bylaw watercourse setback. The applicant has demonstrated that the house and yard cannot be located elsewhere on the property due to constraints relating to the siting of a septic field and the requirement for adequate space to maneuver vehicles on the property to avoid the need to back out onto the highway.

The applicant also requests a variance to the Nash Creek watercourse setback to accommodate a footbridge across the creek. The applicant has submitted a Section 9 Notification under the *Water Act* to the Water Stewardship Division, as the proposed bridge represents a change around a stream. The Riparian Area Assessment report states that the installation of the footbridge will be scheduled to coincide with the Fisheries Window (June 15 to September 15).

Board Policy B1.5 for the evaluation of Development Permit with Variance Applications requires that there is an adequate justification prior to the Board's consideration. The applicant proposes a minor height variance and a setback variance to accommodate fill on the property to address the recommended flood construction elevation and to provide space for a small rear yard. The applicant also proposes a single footbridge over Nash Creek to allow access to the waterfront. The applicant has supported these variances with reports from appropriate professionals and has provided a suitable justification for the requested variances.

#### **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

#### **STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.

#### **PUBLIC CONSULTATION IMPLICATIONS**

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

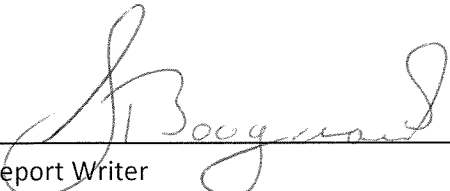


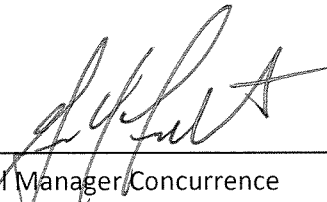
will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the application.

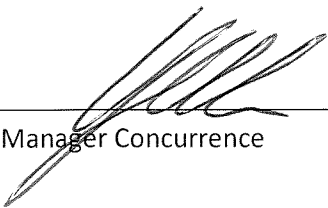
**SUMMARY/CONCLUSIONS**

The applicant requests a development permit with variance for a dwelling unit, retaining wall and a footbridge across Nash Creek. Since buildable sites on the property are below the recommended flood construction level as determined by a Geotechnical Hazard Assessment by Lewkowich Engineering Associates Ltd, fill is proposed to elevate the dwelling unit. The proposed fill will also require a retaining wall within the setback to Nash Creek to accommodate a small yard behind the house. As height calculations for structures are from natural grade, the dwelling unit will require a variance to the maximum allowable height. The applicant also requests a variance to the watercourse setback to accommodate a footbridge across Nash Creek.

The applicant has provided a Riparian Area Regulation Assessment Report by Toth and Associates Environmental Services to comply with the development permit requirements. The report establishes a 10 metre SPEA for Nash Creek and states that the proposed development will not impact Nash Creek or the coastal area. The report also establishes that the retaining wall will permanently mark the location of the SPEA. Given that the variances for the dwelling unit, retaining wall, and footbridge are not anticipated to have any negative impacts on neighbouring properties and will comply with the Development Permit Area guidelines, staff recommends that the Board approve the variance pending outcome of the public notification and subject to the terms and conditions outlined in Attachment 2.

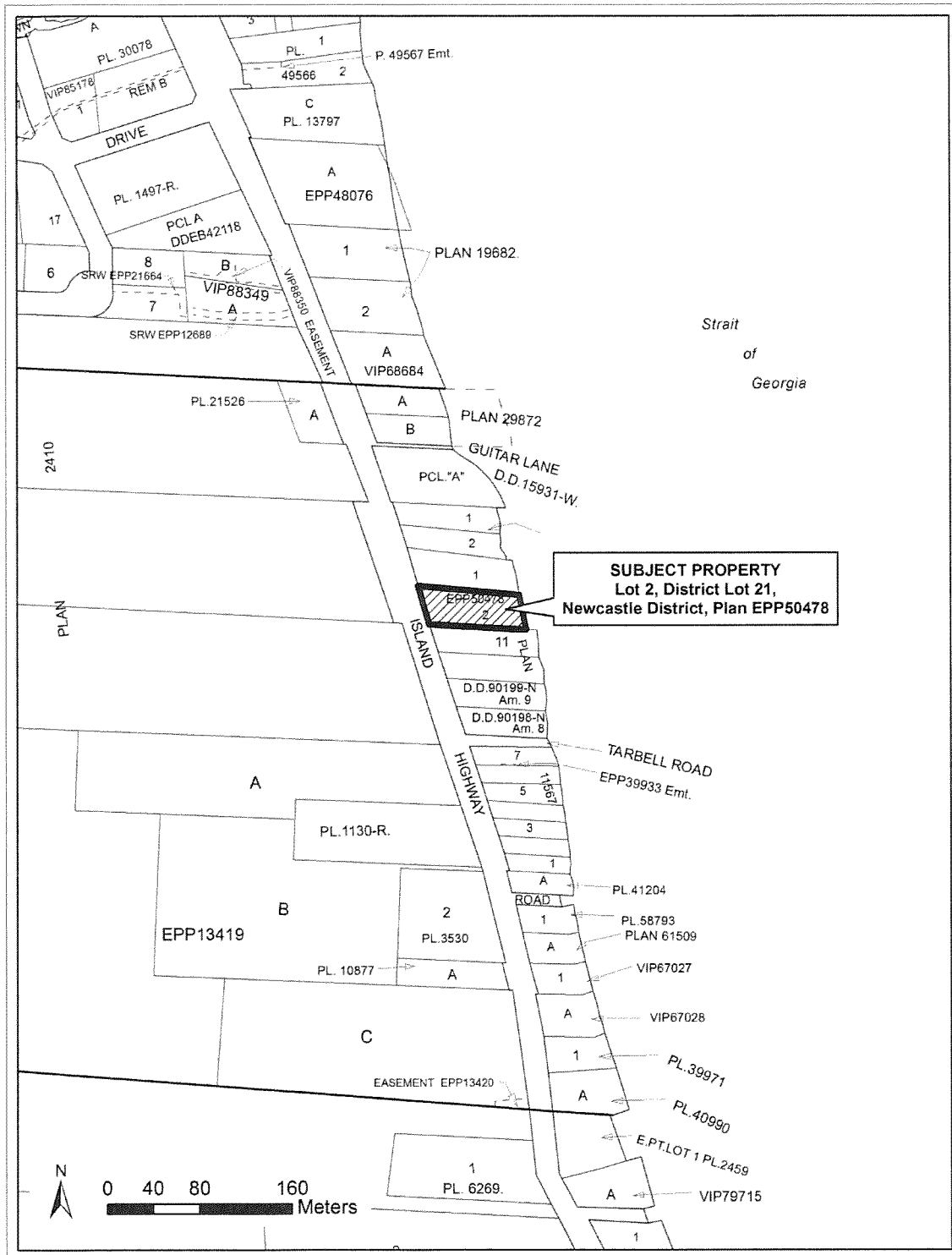
  
\_\_\_\_\_  
Report Writer

  
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General Manager Concurrence

  
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Manager Concurrence

  
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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. PL2015-148:

Bylaw No. 500, 1987 Variances:

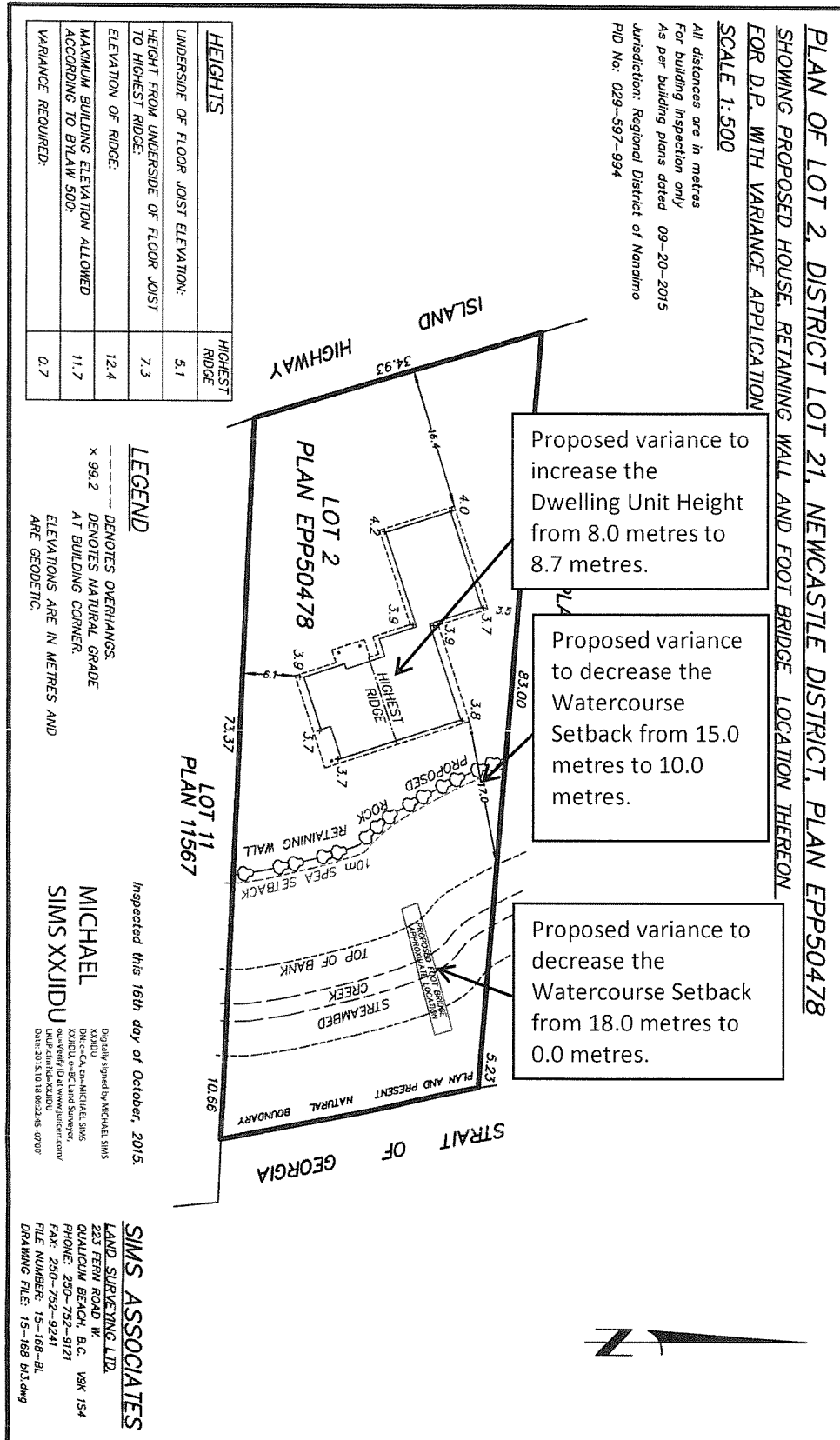
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

1. **Section 3.3.8 – Watercourses, excluding the sea** to reduce the minimum setback from the watercourse, as measured from natural boundary, from 15.0 metres to 10.0 metres for a retaining wall.
2. **Section 3.3.8 – Watercourses, excluding the sea** to reduce the minimum setback from the watercourse, as measured from stream centreline, from 18.0 metres to 0.0 metres for a footbridge over Nash Creek.
3. **Section 3.4.62 – Maximum Number and Size of Buildings and Structures** to increase the maximum dwelling unit height from 8.0 metres to 8.7 metres.

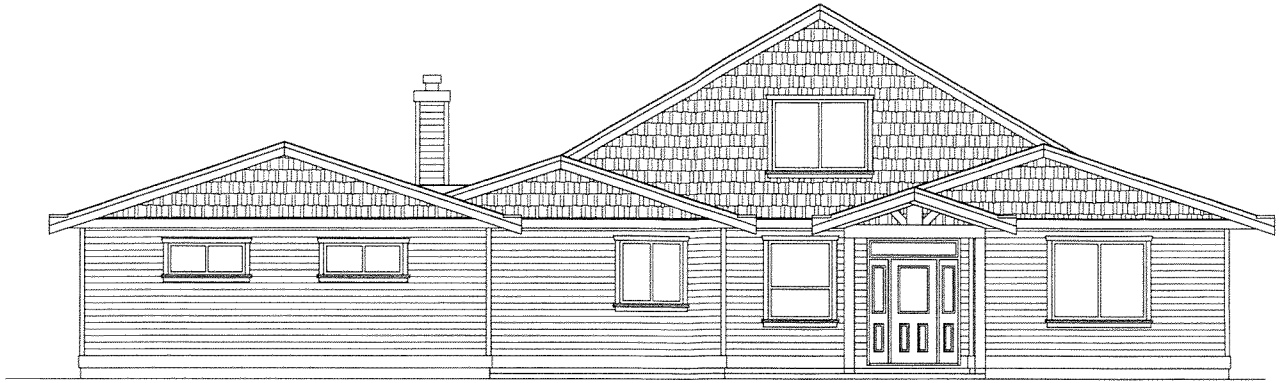
Conditions of Approval:

1. The site is developed in accordance with the Site Plan prepared by Sims Associates dated October 16, 2015 and attached as Attachment 3.
2. The proposed development is in general compliance with the plans and elevations prepared by Lindberg CAD Services dated September 20, 2015, and attached as Attachment 4.
3. The subject property shall be developed in accordance with the recommendations contained in the Riparian Areas Assessment prepared by Toth and Associates Environmental Services, dated November 3, 2015.
4. The subject property shall be developed in accordance with the recommendations contained in the Geotechnical Hazard Assessment and Geotechnical Hazard Assessment Amendment prepared by Lewkowich Engineering Associates Ltd., dated June 10, 2015 and November 19, 2015.
5. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

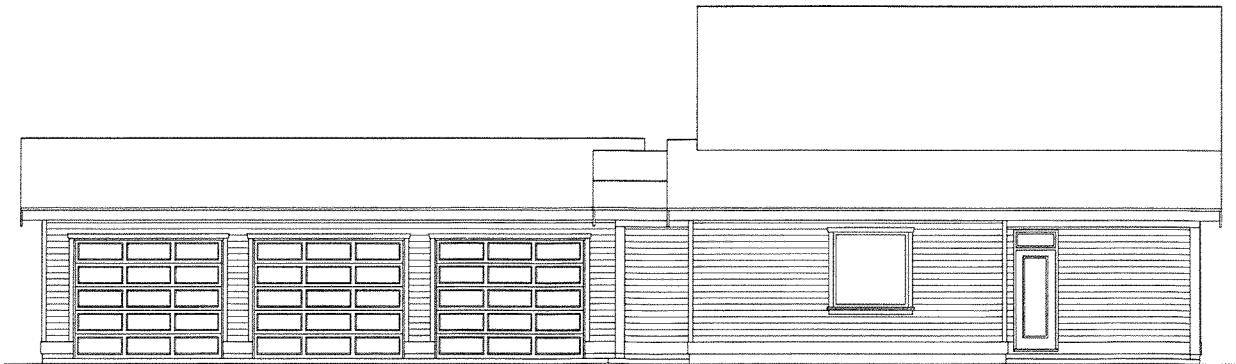
Attachment 3  
Proposed Site Plan and Variances



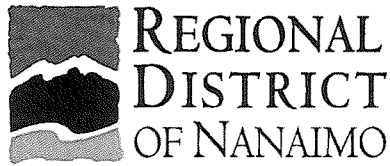
**Attachment 4**  
**Building Elevations**



*FRONT ELEVATION*



*RIGHT ELEVATION*



RDN REPORT		
CAO APPROVAL		✓
EAP	✓	
COW		
DEC 22 2015		
RHD		
BOARD		

**STAFF REPORT**

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

**DATE:** December 7, 2015

**FROM:** Stephen Boogaards  
Planner

**MEETING:** EAPC – January 12, 2016

**FILE:** PL2015-126

**SUBJECT:** Development Permit with Variance Application No. PL2015-126  
Lot 1, District Lot 16, Newcastle District, Plan 15105  
5469 Island Highway West – Electoral Area ‘H’

**RECOMMENDATIONS**

1. That staff be directed to complete the required notification.
2. That Development Permit with Variance No. PL2015-126 to legalize the siting of the existing carport, and permit additions to the dwelling and fence, be approved subject to the conditions outlined in Attachments 2 and 3.

**PURPOSE**

To consider an application for a Development Permit with Variance to reduce the exterior lot line setback for an attached carport, and to permit several additions to the dwelling unit and a fence on the subject property.

**BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from Ian Niamath on behalf of Paul Manhas to reduce the setback to an exterior lot line for an existing carport, and to permit several additions to the dwelling and a fence around the property constructed without previous approval. The additions to the dwelling include two carports, a covered entry, gazebo on the rear deck and rear stairs from the deck.

The subject property is approximately 0.2 ha in area and is zoned Residential 2 Zone (RS2), pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is located beside an unconstructed road right-of-way to the west, the Strait of Georgia to the north, residential property to the east, and Island Highway West to the south (see Attachment 1 – Subject Property Map).

The dwelling on the property was recently renovated and expanded, as authorized under Development Permit with Variance No. PL2013-110. The permit that was issued addressed an existing garage and a proposed fire escape between the dwelling unit and garage. At the time of the building permit review, building inspection staff found that several other additions without a building permit have been made to the dwelling that were not included within PL2013-110. The carport will require a variance and the other structures will require a development permit.

The proposed development is subject to the following Development Permit Areas per the “Regional District of Nanaimo Electoral Area ‘H’ Official Community Plan Bylaw No. 1335, 2003”:

1. Hazard Lands Development Permit Area; and
2. Environmentally Sensitive Features Development Permit Area for Coastal Areas.

### ***Proposed Development and Variance***

The applicant requests to reduce the exterior lot line setback to an unconstructed road right-of-way to legalize the siting of a recently constructed carport. The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 3.4.62 – Minimum Setback Requirements** to reduce the minimum setback from the Other Lot Line from 5.0 metres to 4.5 metres for an attached carport.

### **ALTERNATIVES**

1. To approve Development Permit with Variance No. PL2015-126 subject to the conditions outlined in Attachments 2 to 3.
2. To deny Development Permit with Variance No. PL2015-126.

### **LAND USE IMPLICATIONS**

#### ***Development Implications***

The Hazard Lands Development Permit Area requires the applicant to provide a report by a professional engineer to confirm that the proposed construction is considered safe for its intended use, adjacent properties and the environment. The applicant has previously provided a geotechnical hazard assessment through Development Permit with Variance PL2013-110 to confirm that development of the site will satisfy these requirements. At the time the development permit with variance was issued, the applicant registered a Section 219 restrictive covenant with the geotechnical hazard assessment that included a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of potential flood hazards.

Despite the previous permit issued for the property, the wording of the Hazard Lands Development Permit Area requires a geotechnical assessment for any construction or alteration of land. To satisfy the requirement, the applicant has provided a Geotechnical Hazard Assessment Update by Simpson Geotechnical Ltd. dated November 26, 2015, to consider the geotechnical hazard of the covered entry, carport, gazebo, stairs and chain-link fence. The update confirms that the structures have no geotechnical impact to the subject property or for adjoining properties.

A portion of one of the carports is within the setback to an unconstructed road right-of-way, and requires a variance to the exterior lot line setback. Consistent with Board Policy B1.5 for the evaluation of Development Permit with Variance applications, the lot is constrained due to the larger exterior setback associated with the unconstructed road right-of-way. As the recently constructed carport

complies with the Ministry of Transportation and Infrastructure setbacks to public roadways, no impacts are anticipated on the unconstructed road right-of-way.

### ***Environmental Implications***

A fence has been replaced within the Environmentally Sensitive Features Development Permit Area for Coastal Protection. Since any development or land alteration requires an assessment, the applicant has provided a memo by Aquarian Environmental Consulting Ltd., dated October 27, 2015. The memo confirms that the fence is not contributing to erosion or any other negative impacts to the site.

### **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

### **STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.

### **INTER-GOVERNMENTAL IMPLICATIONS**

The Ministry of Transportation and Infrastructure requires a minimum 4.5 metre setback from a road or 3.0 metre setback from a road where a public land provides secondary access to the property. Since the carport is 4.5 metres from the unconstructed right-of-way, it will not require a permit from the Ministry.

### **PUBLIC CONSULTATION IMPLICATIONS**

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**

The applicant has constructed several additions to the house and structures on the subject property, including a covered entryway, two carports, fence, gazebo and stairway on the subject property within the Hazard Lands Development Permit Area. Further the fence is subject to the Environmentally Sensitive Features Development Permit Area for Coastal Protection. Previously, a development permit with variance was issued for a garage, deck and fire escape on the subject property, which included a geotechnical hazard assessment for development of the subject property.

Since the structures are minor changes to what was previously approved through Development Permit with Variance No. PL2013-110, the applicant was only requested to provide updates from qualified professionals. The applicant has provided a geotechnical assessment update to confirm that the additions and fence have no geotechnical significance to the subject or adjoining properties. The applicant has also provided a letter from an environmental professional confirming that the fence has no negative impacts to the environment.

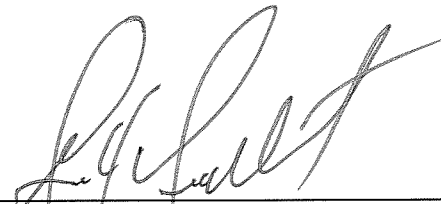


A carport that was recently constructed without a building permit is located within an exterior lot line setback to an unconstructed road right-of-way. Given that the lot is constrained by the larger exterior lot line setback and that the existing carport is not anticipated to impact the unconstructed road right-of-way, staff recommends that the Board approve the proposed Development Permit with Variance subject to the terms and conditions outlined in Attachment 2 and 3.



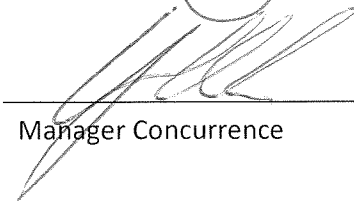
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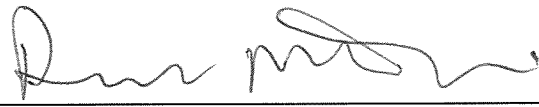
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General Manager Concurrence



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Manager Concurrence



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CAO Concurrence



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

The following sets out the terms and conditions of Development Permit with Variance No. PL2015-126:

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:

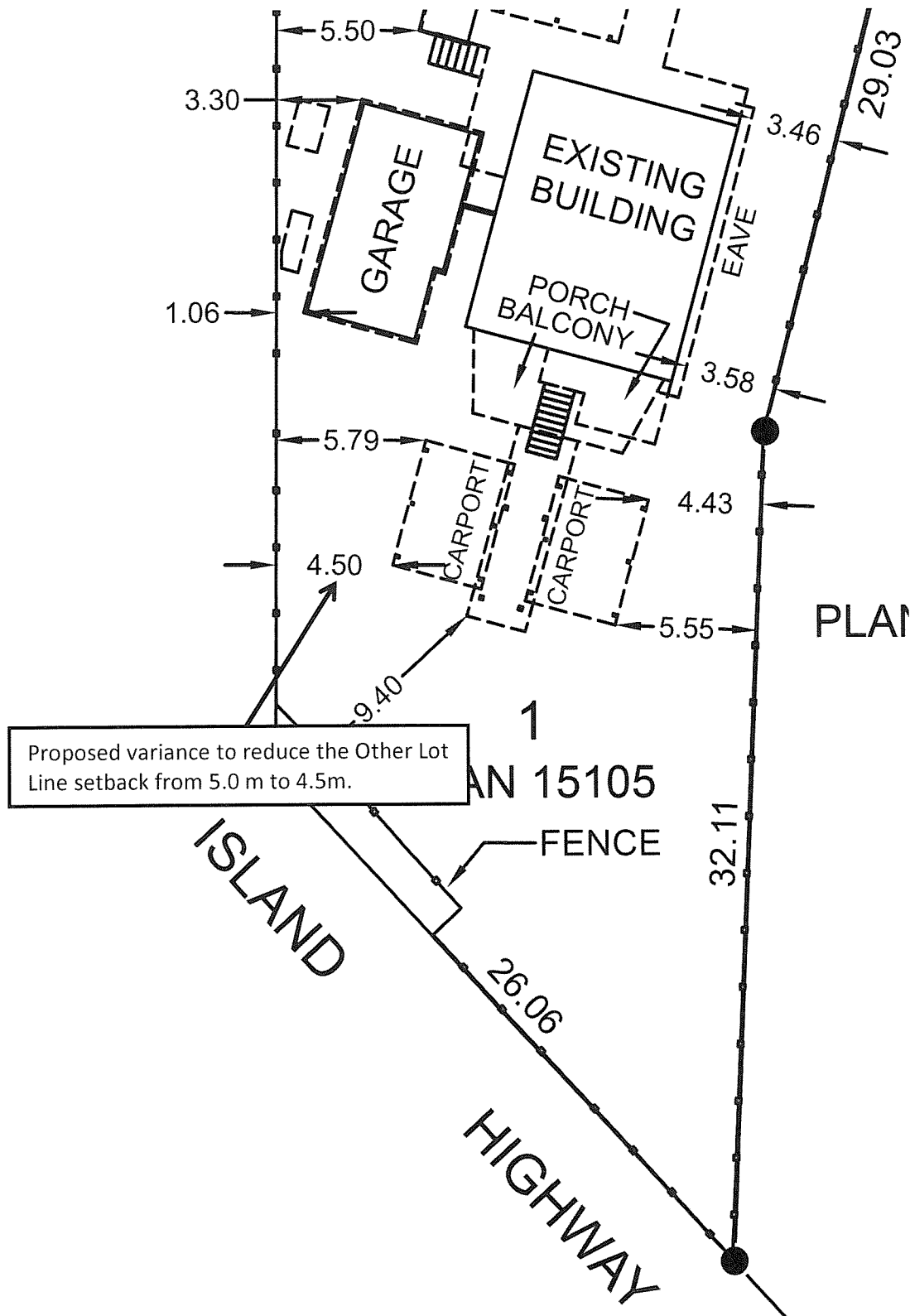
**Section 3.4.62 – Minimum Setback Requirements** to reduce the minimum setback from the Other Lot Line from 5.0 metres to 4.5 metres for an attached carport.

Conditions of Approval:

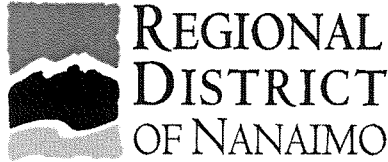
1. The site is developed in accordance with the Site Plan prepared by André McNicoll dated November 19, 2015, and attached as Attachment 3.
2. The subject property shall be developed in accordance with the Geotechnical Hazard Assessment Update prepared by Simpson Geotechnical Ltd., dated November 26, 2015.
3. The subject property shall be developed in accordance with the Memo prepared by Aquaparian Environmental Consulting Ltd., dated October 27, 2015.
4. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.



Attachment 3  
Proposed Site Plan and Variances (Page 2 of 2)



Proposed variance to reduce the Other Lot Line setback from 5.0 m to 4.5m.



RDN REPORT		
CAO APPROVAL		✓
EAP	✓	
COW		
DEC 23 2015		
RHD		
BOARD		

**STAFF REPORT**

TO: Jeremy Holm  
 Manager, Current Planning

DATE: December 18, 2015

MEETING: EAPC – January 12, 2016

FROM: Tyler Brown  
 Planner

FILE: PL2015-155

SUBJECT: Development Permit with Variance Application No. PL2015-155  
 Lot A, Section 13, Range 7, Cranberry District, Plan VIP83828  
 Electoral Area 'A'

**RECOMMENDATIONS**

1. That staff be directed to complete the required notification.
2. That Development Permit with Variance No. PL2015-155 to permit the construction of an industrial building be approved subject to the conditions outlined in Attachments 2 to 5.

**PURPOSE**

To consider an application for a Development Permit with Variance to allow for the construction of an industrial building on the subject property.

**BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from Delinea Design Consultants Ltd. on behalf of 0763634 B.C. Ltd., to permit the construction of an industrial building on a portion of the subject property. The subject property is approximately 5.2 ha in area and is zoned Schoolhouse and Harold Roads Light Industrial Comprehensive Development Zone (CD33) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is located to the east of the Trans-Canada Highway and is bordered by Schoolhouse Road on the southwestern lot line and Harold Road on the southern lot line. Undeveloped Industrial 1 zoned parcels border the parcel to the east, a Residential 2 zoned parcel that is occupied by a large telecommunication tower borders the parcel to the north, and a light industrial zoned property borders the parcel to the west (see Attachment 1 – Subject Property Map).

There are currently no buildings or structures on the subject property and any development will be serviced by well water and a septic disposal system. Access to the proposed development will be from both Schoolhouse Road and Harold Road (see Attachment 3 – Site Plan). The proposed development is subject to the South Wellington Industrial-Commercial and the Watercourse and Fish Habitat Protection Development Permit Areas as per "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1620, 2011". The purpose of the South Wellington Industrial-Commercial Development Permit Area is for the protection of the natural environment, the establishment of objectives to promote water and energy conservation, and to guide the form and character of commercial or industrial development.

A previous development permit application (PL2011-104) was submitted to the Regional District of Nanaimo for a proposed boat and recreational storage facility on the subject property. Although the Board approved the permit on October 2<sup>nd</sup>, 2012, the applicant never completed the required conditions of approval for the issuance of the permit. As such, the permit has expired.

### *Proposed Development and Variance*

Proposed development for the property includes the placement of a pre-engineered steel framed building with metal siding and associated parking and loading areas. The footprint of the proposed industrial building is approximately 929 m<sup>2</sup> in area with a total floor area of 1096.2 m<sup>2</sup> divided over two storeys. Specifically, the building will include approximately 167.2 m<sup>2</sup> of floor area as office space, 185.8 m<sup>2</sup> of floor area as warehouse space and 576.0 m<sup>2</sup> as shop space, all on the ground floor. The building plans also include an upper floor with approximately 167.2 m<sup>2</sup> of floor area to be used for storage, a lunch area, meeting rooms, and locker rooms. The building will result in approximately 2.3% parcel coverage. Additional development will include 22 parking spaces, as required by Bylaw No. 500, and a loading area (see Attachment 3 – Site Plan). To accommodate a bridge crane with a minimum hook height of 6.25 m for use within the proposed shop, the applicant proposes to vary the following regulation from “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

**Section 3.4.133.2 –Maximum Number and Size of Buildings and Structures – Height**  
from 8.0 metres to 12.8 metres to accommodate an industrial building (see Attachment 2 – Terms and Conditions of Permit and see Attachment 4 – Building Elevations and Variance).

The applicant is proposing a 5.0 metre landscape buffer along Schoolhouse Road and Harold Road, excluding access points, for the length of the proposed development which exceeds the 2.0 metre buffer width outlined in the Development Permit Area guidelines. A planting plan has been prepared by Keltie Chamberlain Landscape Design and Consulting. A mixture of rock boulders, gravel, cobbles, grass, trees and shrubs are proposed in the landscaping plan (see Attachment 5 – Landscape Plan). A clover lawn is proposed to cover the area reserved for a septic field. While the Development Permit guidelines require a continuous landscaping buffer along the inside of all property boundaries, due to the relatively small development footprint proposed in comparison to the size of the parcel, and given that the eastern edge of the development area borders a wetland, the applicant is proposing to buffer only the lot lines along Schoolhouse Road and Harold Road.

### ALTERNATIVES

1. To approve Development Permit with Variance No. PL2015-155 subject to the conditions outlined in Attachments 2 to 5.
2. To deny Development Permit with Variance No. PL2015-155.

### LAND USE IMPLICATIONS

#### *Development Implications*

The applicant has submitted a Rainwater Management Plan, prepared by J.E. Anderson & Associates and dated February 24, 2015, to address the Development Permit guidelines pertaining to rainwater management for the proposed development. The plan evaluates existing drainage conditions and

concludes that rainwater can be managed on site. The plan includes an oil water separator to remove potential contaminants from entering the environment. Additional recommendations are included and of specific mention is silt control for the protection of aquatic habitat and measures for limiting post-development flows to pre-development levels. Staff recommend that the conclusions and recommendations of the Rainwater Management Plan be included as terms of the Development Permit if approved (see Attachment 2 – Terms and Conditions of Permit). In addition, and in accordance with the Development Permit Area guidelines, staff recommend that the applicant be required to register a *Section 219* covenant on the property title with a commitment to a maintenance schedule for the proposed oil water separator.

The applicant has submitted a Potential Well Yield Assessment, prepared by Levelton Consultants Ltd. and dated November 6, 2015, to satisfy the Development Permit guidelines pertaining to groundwater protection for the proposed development. The report reviews two previous assessments pertaining to groundwater on the subject property and concludes that the proposed well is capable of supplying groundwater at a long-term rate that exceeds 3.5 m<sup>3</sup>/day. The report recommends the well be commissioned into service after shock chlorination and testing for bacteriological parameters, and that water conservation measures, such as low flow plumbing fixtures should be considered for this development. Staff recommend that the conclusions and recommendations of the assessment be included as terms of the Development Permit.

As stated previously, the proposed development for the property includes the placement of a pre-engineered steel framed building with metal siding on the southernmost portion of the lot (see Attachment 4 – Building Elevations and Variance). In order to accommodate a bridge crane required for industrial use within the proposed building, the applicant is requesting to vary the maximum permitted height from 8.0 metres to 12.8 metres (see Attachment 4 – Building Elevations and Variance). Due to the grading of the site, the building will be set into the site and provide a height profile and building mass, when viewed from the Trans-Canada Highway, similar in size and scale to nearby buildings. As such, no negative land-use impacts are anticipated as a result of the proposed height variance.

A mixture of rock boulders, gravel, cobbles, grass, trees and shrubs valued at \$17,592.75 are proposed to buffer the proposed building and loading areas from Schoolhouse Road, Harold Road, and the Trans-Canada Highway to satisfy the landscaping requirements of the Development Permit guidelines (see Attachment 5 – Landscape Plan). The planting plan has been prepared by Keltie Chamberlain Landscape Design and Consulting and the proposed landscaping is to be secured through a landscaping security deposit (see Attachment 2 – Terms and Conditions of Permit). The proposed landscaping would provide attractive buffering between the bordering roadways and the proposed building, and any future development on the subject property will be subject to the South Wellington Industrial-Commercial development permit area. The proposed landscaping will help shield the development from the Trans-Canada Highway.

In accordance with the Development Permit area guidelines, no lighting will be directed towards Schoolhouse Road, Harold Road, the Trans-Canada Highway, the night sky or neighbouring properties (see Attachment 4 – Building Elevations and Variance). All lighting, as shown on the submitted plans, is directed downwards and is directed towards parking, loading and pedestrian areas. As such, the proposed lighting is consistent with the Development Permit Area guidelines (see Attachment 4 – Building Elevations and Variance). A fascia sign is proposed on the western side of the building which is consistent with the Development Permit Area guidelines and does not require a variance to the RDN sign bylaw. The applicant is not proposing a freestanding sign as part of the current development proposal. If a freestanding sign is proposed at a future date, an additional development permit will be required.



In order to address the Watercourse and Fish Habitat Protection Development Permit Area guidelines, the applicant has provided a Riparian Areas Assessment Report prepared by Toth and Associates Environmental Services Ltd. dated November 4, 2015. The report establishes a 10.0 metre Streamside Protection and Enhancement Area to buffer the water feature (wetland) and comments that the proposed development is outside the protected area. The report notes, in accordance with the Riparian Areas Regulations, that the boundary of the Streamside Protection and Enhancement Area should be marked prior to physical development and that sediment and erosion control to protect the water feature is adequately addressed in the Rainwater Management Plan, prepared by J.E. Anderson & Associates. No additional protective measures are included within the report. Development in accordance with the recommendations contained in each report is included in the Conditions of Approval outlined in Attachment 2.

### ***Environmental Implications***

A covenant in favour of the RDN is registered on the title of the subject property. Covenant FB154462 was registered against the lands in March of 2009. The covenant provides numerous environmental conditions for the development of the site. The covenant was registered on title prior to the adoption of the current Official Community Plan (2011). Not all of the conditions apply to the current development proposal and those that do, with one exception, are adequately addressed through the development permit area guidelines. The one covenant condition that is not adequately addressed through the Development Permit Area guidelines requires that a bird nest survey must be conducted prior to land clearing activities undertaken during the period of April 15 to August 1. As such, staff recommend that any land clearing of the site, as a condition of development permit approval, is consistent with the covenant FB154462 (see Attachment 2 – Terms and Conditions of Permit).

### **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

### **STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal is in line with the strategic priority of self-sufficiency as the proposal will generate economic opportunities within the region.

### **INTER-GOVERNMENTAL IMPLICATIONS**

The application was referred to the Ministry of Transportation and Infrastructure, Island Health and the Cranberry Volunteer Fire Department. The Ministry of Transportation and Infrastructure indicated that the applicant will require a commercial access permit from Schoolhouse Road and Harold Road and that any site drainage directed to the Ministry's highway system must not exceed pre-development levels. Island Health has reviewed the well report submitted by the proponent and has determined that the well is considered a water system; therefore, source approval from Island Health will be required. Development in accordance with the requirements of the Ministry of Transportation and Infrastructure and Island Health are included in the Terms and Conditions of Approval outlined in Attachment 2. The Cranberry Volunteer Fire Department did not express any concern with the proposal.


**PUBLIC CONSULTATION IMPLICATIONS**

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.

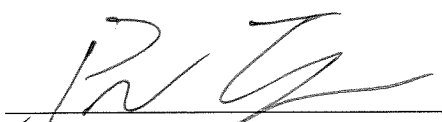
**SUMMARY/CONCLUSIONS**

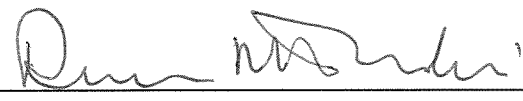
This is an application to consider a Development Permit with Variance to permit the construction of a light industrial building on the subject property. The applicant has provided a comprehensive Site Plan, a Rainwater Management Plan, a Potential Well Yield Assessment, Riparian Areas Assessment Report, Building Elevations and a Landscape Plan. The technical reports outline protective measures to ensure any potential contaminants from the industrial activity will not be harmful to the natural environment and the landscape plan illustrates a vegetative buffer to shield the development from surrounding road network.

The applicant has applied to vary the maximum height provision in the CD33 Zone from 8.0 metres to 12.8 metres to accommodate an overhead crane within the proposed building (see Attachment 2 – Terms and Conditions of Permit and see Attachment 4 – Building Elevations and Variance). If approved, Development Permit PL2015-155 would permit an industrial building with a footprint of approximately 929 m<sup>2</sup> with a vehicle loading area and 22 parking spaces on the subject property. As the applicant has provided the technical assessments required to address the development permit area guidelines, followed the guidelines with respect to the design of the site and no negative development implications are anticipated as a result of the height variance request, staff recommend approval pending the outcome of public notification.

  
\_\_\_\_\_  
for Report Writer

  
\_\_\_\_\_  
for General Manager Concurrence

  
\_\_\_\_\_  
for Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence



**Attachment 2  
Terms and Conditions of Permit**

The following sets out the terms and conditions of Development Permit with Variance No. PL2015-155:

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:

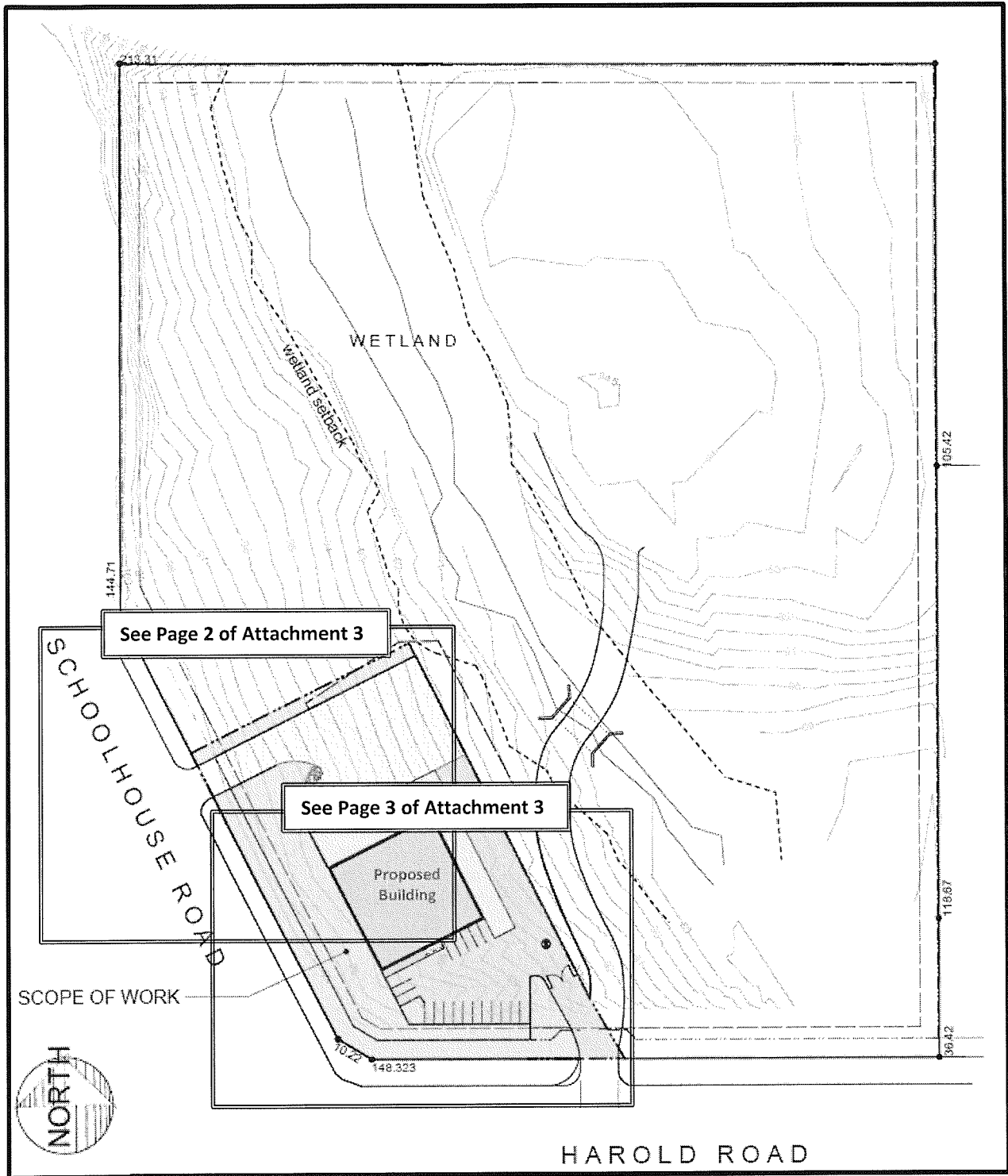
**Section 3.4.133.2 –Maximum Number and Size of Buildings and Structures – Height** from 8.0 metres to 12.8 metres to accommodate an industrial building as shown on Attachment 4.

Conditions of Approval:

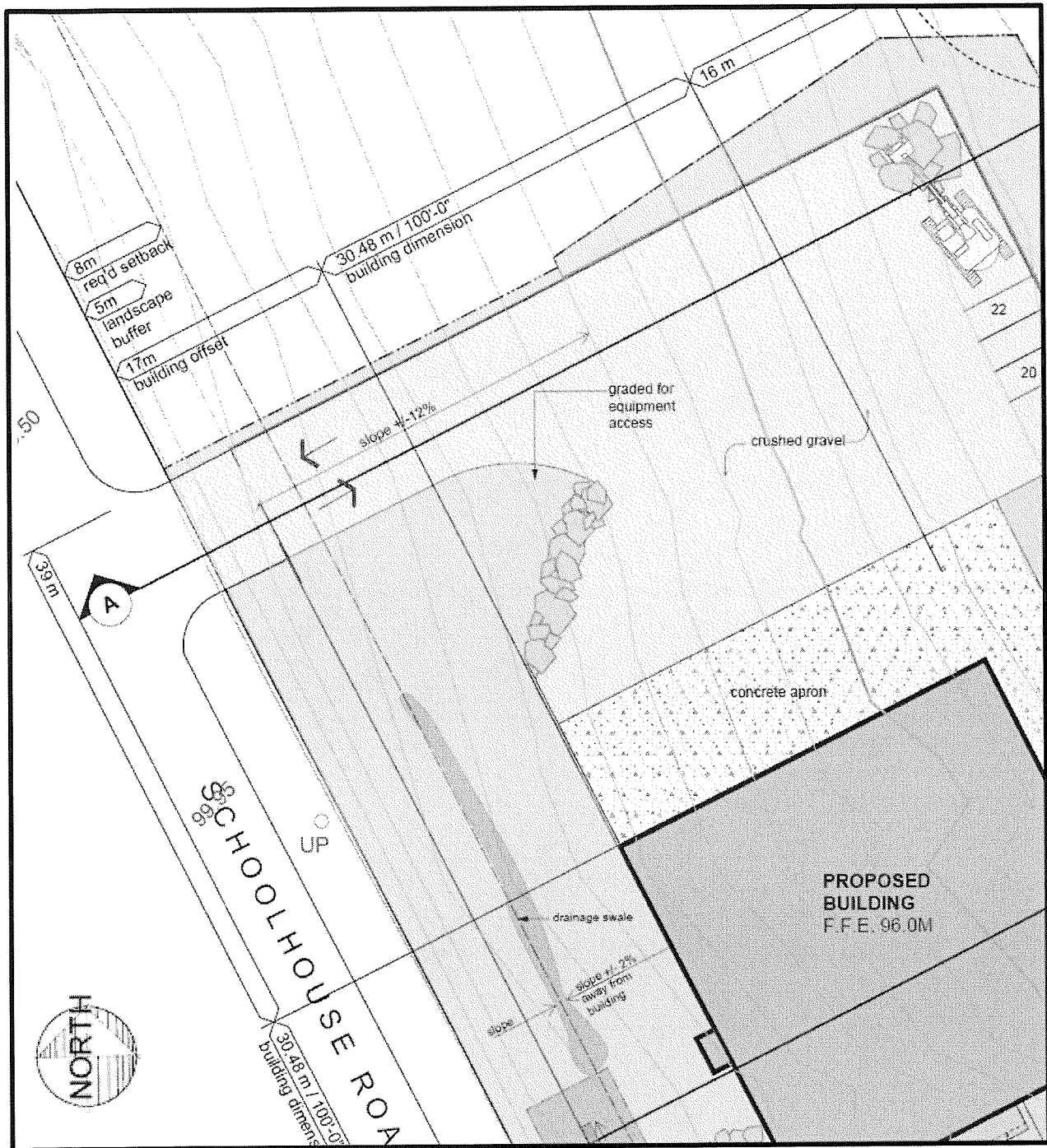
1. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense registers a *Section 219* covenant on the property title with a commitment to a maintenance schedule, prepared by a Qualified Engineer, for the proposed oil water separator as shown on the Rainwater Management Plan, prepared by J.E. Anderson & Associates, dated February 24, 2015.
2. The proposed development shall be sited in general accordance with the Site Plan prepared by Delinea Design Consultants Limited, dated September 28, 2015.
3. The proposed development shall be in general compliance with the plans and elevations prepared by Delinea Design Consultants Limited, dated September 28, 2015.
4. The site shall be developed in accordance with the Rainwater Management Plan, prepared by J.E. Anderson & Associates, dated February 24, 2015.
5. The site shall be developed in accordance with the Potential Well Yield Assessment, prepared by Levelton Consultants Ltd., dated November 6, 2015.
6. The proposed landscaping shall be provided and maintained in accordance with the Landscaping Plan submitted by Keltie Chamberlain Landscape Design and Consulting, dated October, 2015.
7. Staff shall withhold the issuance of this Permit until the applicant provides a landscaping security in the amount of \$17,592.75.
8. The site shall be developed in accordance with the Riparian Areas Assessment Report prepared by Toth and Associates Environmental Services Ltd., dated November 4, 2015, and specifically adhere to the following requirements:
  - a. The Streamside Protection and Enhancement Area is to be staked prior to any physical development; and
  - b. As identified in the Rainwater Management Plan, prepared by J.E. Anderson & Associates dated February 24, 2015, silt control shall be provided in accordance with the "Land Development Guidelines for the Protection of Aquatic Habitat" as prepared by Fisheries and Oceans Canada.

9. The applicant is to obtain a valid access permit from the Ministry of Transportation and Infrastructure.
10. Prior to final occupancy of the industrial building, the applicant must receive source approval from Island Health for the well servicing the industrial development.
11. Development of the site shall be in accordance with covenant FB154462, which is registered against the lands and specifically adhere to the following condition: a bird nest survey must be completed prior to land clearing activities undertaken during the period of April 15 to August 1.
12. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

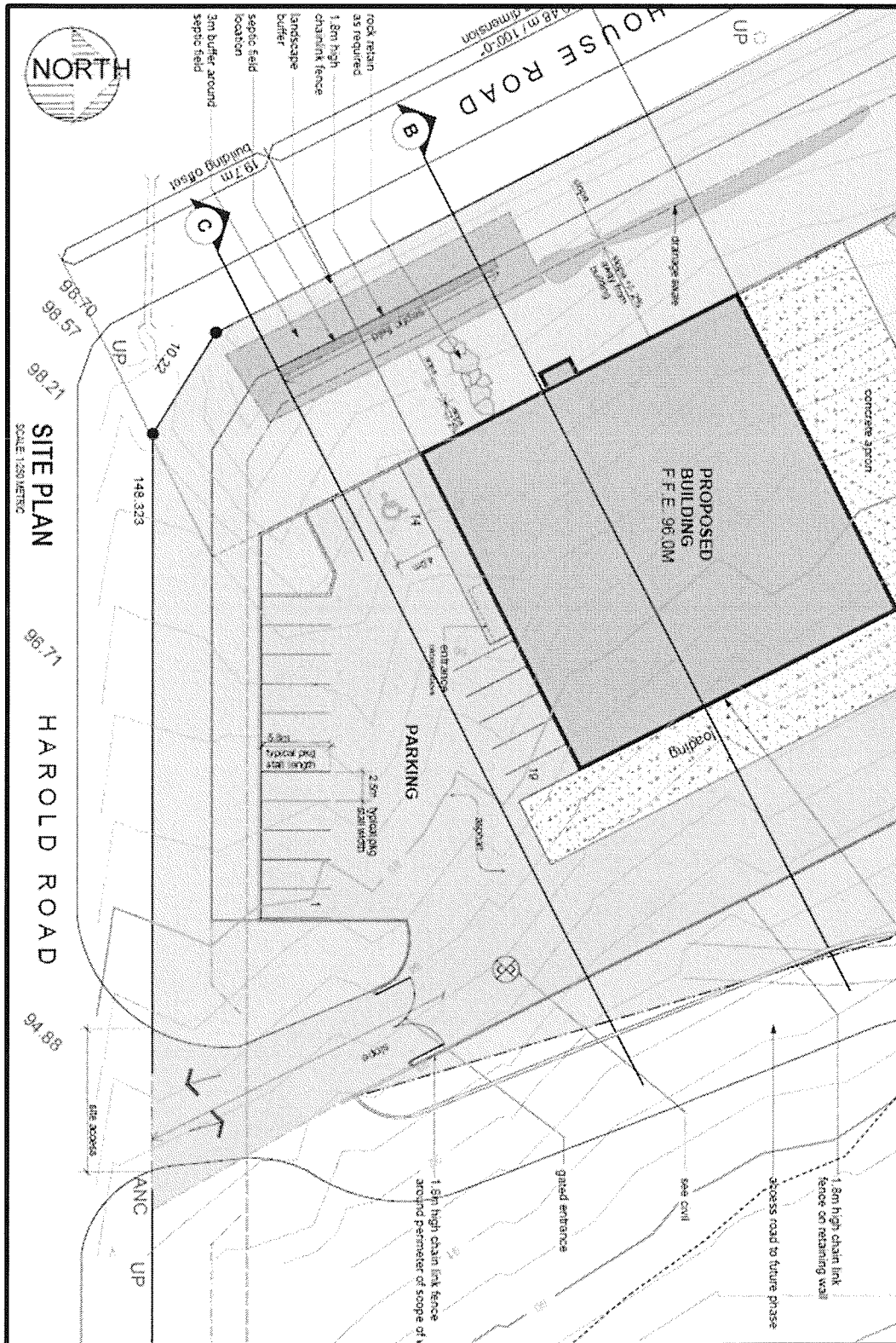
Attachment 3  
Site Plan (Page 1 of 3)



Attachment 3  
Site Plan (Page 2 of 3)



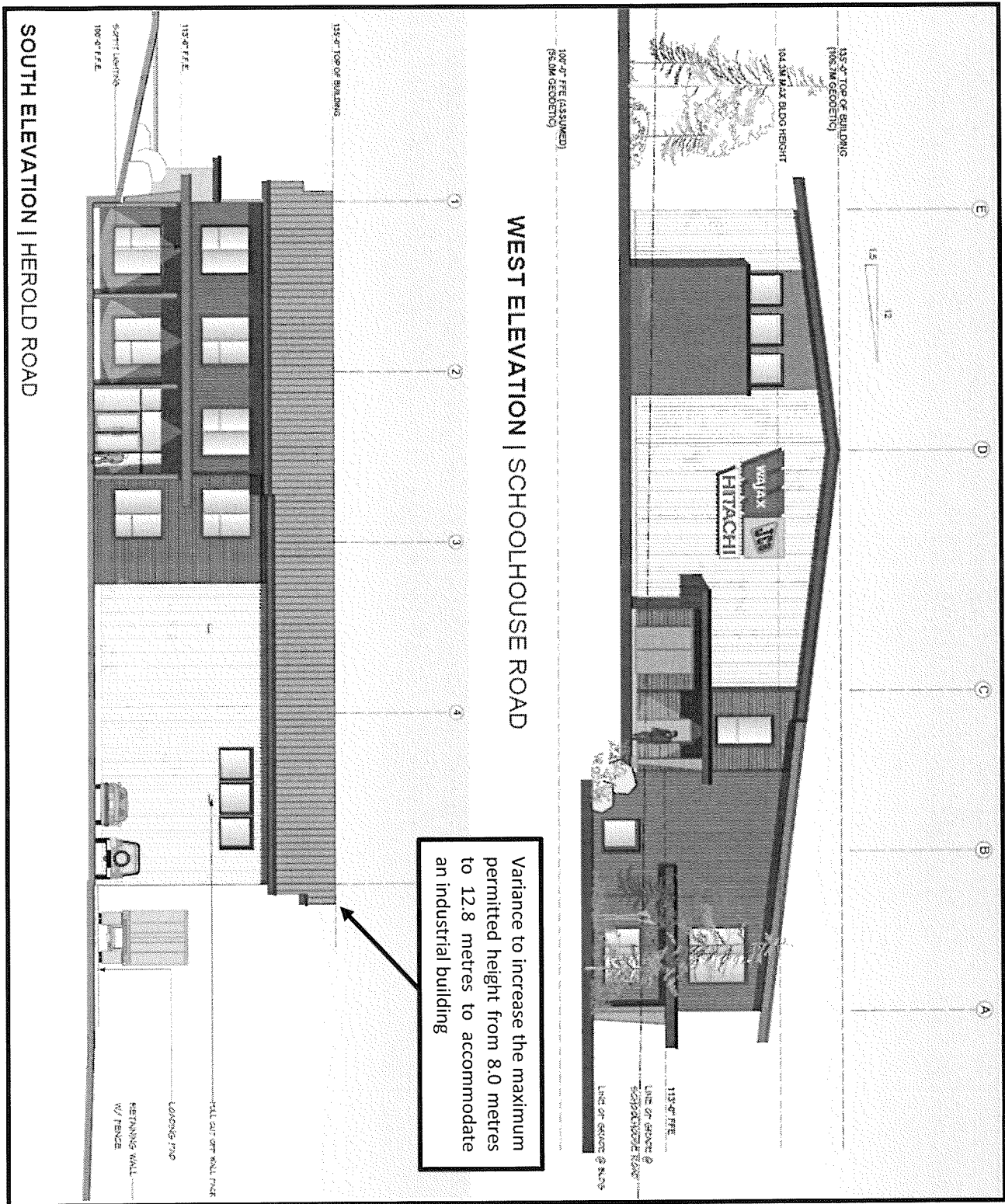
Attachment 3  
Site Plan (Page 3 of 3)



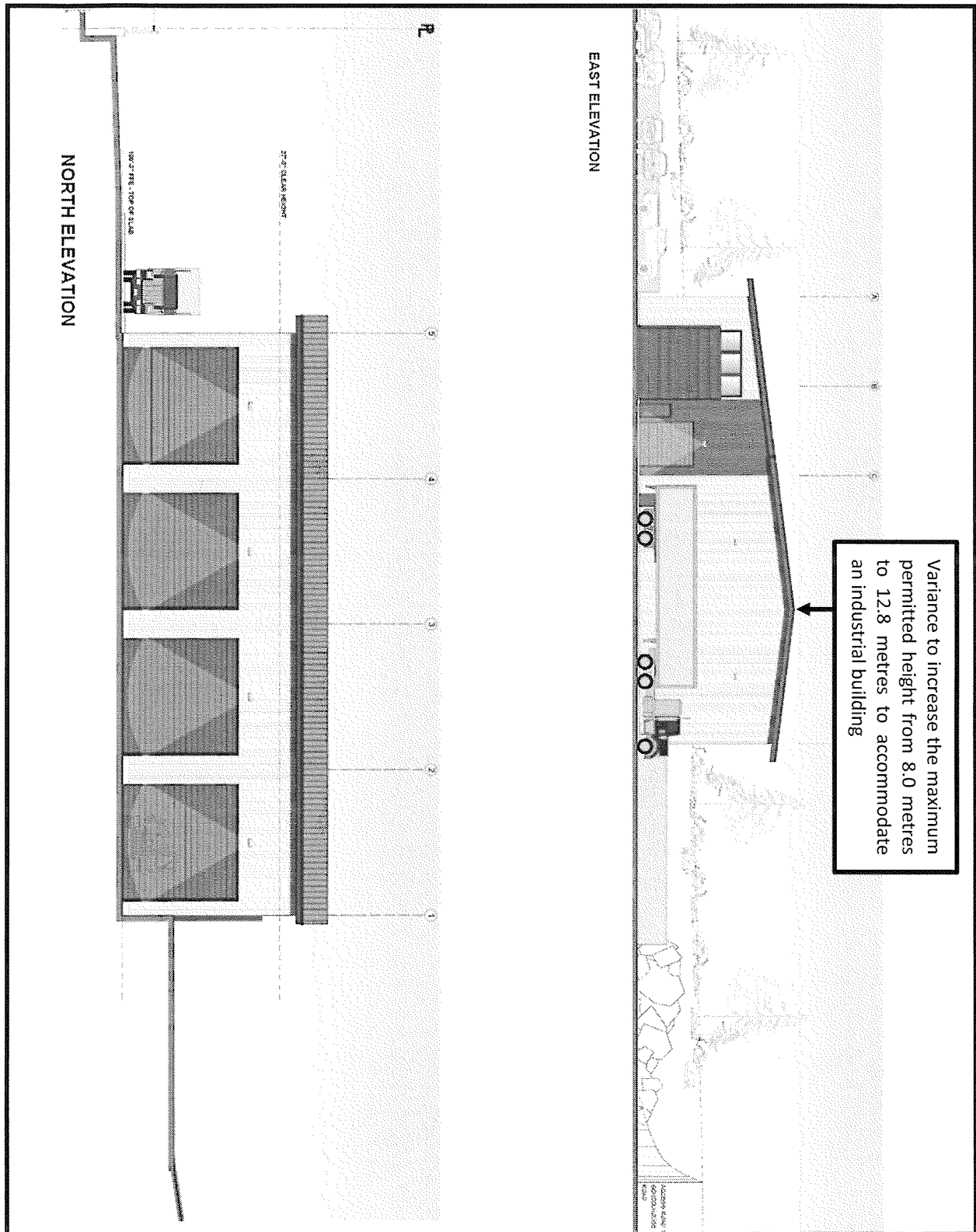


Attachment 4

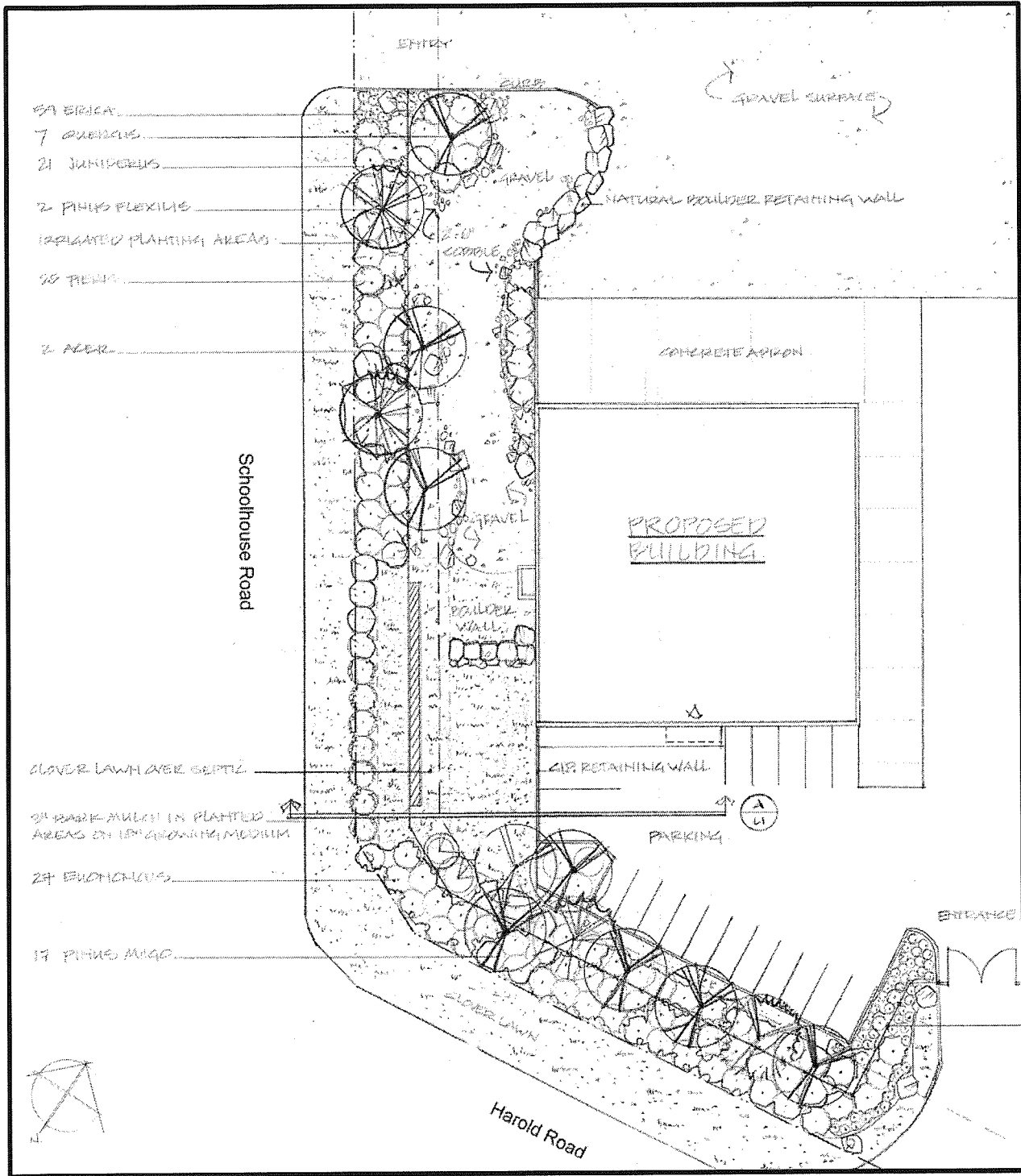
Building Elevations and Variance (Page 1 of 2)



Attachment 4  
Building Elevations and Variance (Page 2 of 2)



Attachment 5  
Landscape Plan (Page 1 of 2)



Attachment 5  
Landscape Plan (Page 2 of 2)

**Suggested PLANTING PALETTE**

**Schoolhouse & Harold Road**  
Keltie Chamberlain, BA CHort  
Landscape Design & Consulting

October, 2015

BOTANICAL NAME	COMMON NAME	SIZE - SPACING
<b>Trees - deciduous</b>		
2 Acer platanoides 'Crimson King'	Crimson King Norway Maple	6 CM - AS SHOWN
7 Quercus rubra	Red Oak	6 CM - AS SHOWN
<b>Trees &amp; shrubs- coniferous</b>		
25 Juniperus sabina	Tam Juniper	#2 - 2m
17 Pinus mugo mughus	Mugo Pine	#2 - 2m
2 Pinus flexilis 'Vanderwolf's Pyramid'	Limber Pine	2m - AS SHOWN
2 Pinus nigra	Austrian Pine	2.5m - AS SHOWN
<b>Shrubs - deciduous &amp; broadleaf</b>		
<b>evergreen</b>		
2 Cornus sericea	Red Osier Dogwood	#3 - 3m
59 Erica carnea	Heath -- mix season blooms	#1 - 1m
27 Euonimus alatus	Burning Bush	#1 - 1.5m
15 Pieris japonica 'Mountain Fire'	Pieris	#3 - 2m
<b>Vines on chainlink fence</b>		
3 Campsis radicans	Trumpet vine	Spaced on fence line
3 Parthenocissus tricuspidata	Boston Ivy	along road frontage

**NOTES:**

All planted areas to be irrigated by automatic system designed by a IIABC professional using water saving system design by drip or microdrip and rain sensor. Shop drawings of system design to be forwarded to Consultant prior to installation for approval. Owner to make point of connection available and indicate controller location.

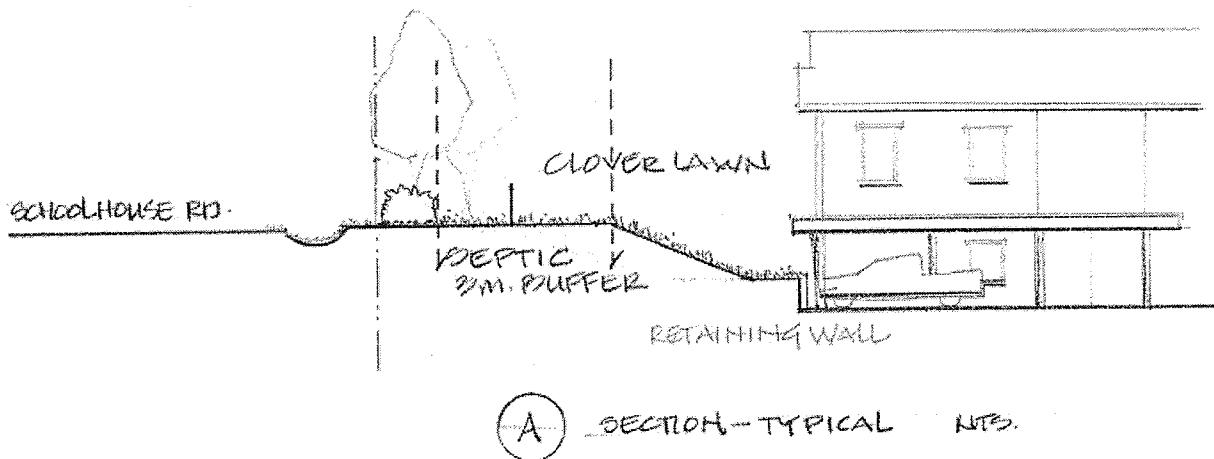
All planting is to be done to BCLNA standards including plant stock, growing medium, mulch. Growing medium must be from a reputable source with analysis available.

**Cobble:** 2 - 6 inch clear

**Gravel:** ¾ inch minus with landscape fabric beneath

**Clover lawn area:** Mix of white clover and lawn seed as recommended by supplier

**Seeding of disturbed areas:** Erosion control grass seed mix at the manufacturers recommended rate at appropriate time of application for germination. Reseeding to take place in thin areas.





RDN REPORT		
CAO APPROVAL		✓
EAP	✓	
COW		
DEC 22 2015		
RHD		
BOARD		

**STAFF REPORT**

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

**DATE:** December 21, 2015

**MEETING:** EAPC – January 12, 2016

**FROM:** Tyler Brown  
Planner

**FILE:** PL2015-170

**SUBJECT:** Development Variance Permit Application No. PL2015-170  
Lot 48, District Lot 68, Nanoose District, Plan 26680  
1542 Madrona Drive – Electoral Area ‘E’

**RECOMMENDATIONS**

1. That staff be directed to complete the required notification.
2. That Development Variance Permit No. PL2015-170 to recognize the siting of a nonconforming dwelling unit and permit the construction of a freestanding deck be approved subject to the conditions outlined in Attachments 2 to 4.

**PURPOSE**

To consider an application for a Development Variance Permit to recognize the siting of a dwelling unit and permit the construction of a freestanding deck.

**BACKGROUND**

The Regional District of Nanaimo has received an application from J.E. Anderson & Associates on behalf of Nicholas and Kandyce Keen to permit the renovation and expansion of a single-storey dwelling unit and the construction of a freestanding deck on the subject property. The subject property is approximately 0.13 ha in area and is zoned Residential 1 (RS1), pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is bordered by the Strait of Georgia to the northeast, Dolphin Drive to the southwest, and similarly zoned RS1 parcels flank the interior lot lines (see Attachment 1 – Subject Property Map). The subject property generally slopes gently from the front property line before dropping steeply to the foreshore (see Attachment 3 – Site Plan and Variance). The subject property is developed with a dwelling unit with an attached deck both of which does not conform to existing zoning setbacks.

The applicant previously submitted an application for a Development Variance Permit (PL2015-068) requesting a relaxation to the setback from Northwest Bay to expand the nonconforming dwelling unit and deck within the setback area. The application was denied by the Regional District of Nanaimo Board on September 29, 2015. The applicant has since revised their proposal and is no longer proposing to expand the nonconforming structures within the setback area. The current variance request is to recognize the siting of the existing structures.

### ***Proposed Development and Variance***

The applicant's proposal is to renovate and expand an existing dwelling unit and convert an existing deck into a freestanding deck on the subject property (see attachment 4 – Building Elevations). The applicant is proposing to utilize the existing deck footings and to rebuild the deck in the same location but as a freestanding structure due to geotechnical considerations. Such considerations are discussed in the Development Implications section of this report. To permit the rebuilding of the deck and to recognize the siting of the house, the applicant proposes to vary the following regulations from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

**Section 3.3 9 b) ii) – Setbacks – Sea** to reduce the minimum setback requirement from the natural boundary of the Strait of Georgia from 15.0 m to 7.62 m for the conversion of an existing deck to a freestanding deck in the same location and from 15.0 m to 8.70 m to recognize the siting of the existing dwelling unit as shown on Attachment 3.

**Section 3.4.61 – Minimum Setback Requirements – Interior side lot line** to reduce the minimum setback requirement from the interior side lot line from 2.0 m to 1.13 m for an existing dwelling unit as shown on Attachment 3.

The requested variances, if approved, would recognize the siting of the dwelling unit within the setback to the sea and the interior side yard setback as it currently exists. The requested variances would also recognize the siting of the existing deck within the setback to the sea and allow the deck to be reconstructed as a detached deck as recommended by the applicant's geotechnical engineer. No expansion of the dwelling unit, or deck within required setback is proposed and none would be permitted if the variances are granted as requested.

While the property owner does propose to expand the dwelling unit towards Madrona Drive, outside of the required setbacks, this proposed expansion is entirely compliant with zoning bylaw requirements including setbacks and height. No variances are required in relation to the proposed expansion of the dwelling unit and the expansion is not the subject of this development variance permit application.

### **ALTERNATIVES**

1. To approve Development Variance Permit No. PL2015-170 subject to the conditions outlined in Attachments 2 to 4.
2. To deny Development Variance Permit No. PL2015-170.

### **LAND USE IMPLICATIONS**

#### ***Development Implications***

Due to the steep slopes present on the lot and the potential for flood hazards due to sea level rise, the applicant has submitted a Geotechnical Hazard Assessment, prepared by Lewkowich Engineering Associates Ltd., dated July 23, 2015, with an addendum to reflect the revised proposal dated December 21, 2015, in support of the development variance application. The report concludes that the proposed development is safe and suitable from steep slope instability and sea level rise if the recommendations outlined in the assessment are followed. The recommendations include a minimum 2.5 metre setback

from the slope crest (top of slope) for all structures (see Attachment 3, Page 2 – Site Plan and Variance). However, the applicant is proposing to utilize the existing deck footings, which are only set back 1.8 metres from the slope, for the reconstruction of the deck. As such, the recommendations of the Geotechnical Hazard Assessment include that the deck be constructed as a freestanding structure as a precaution against structural damage to the house if slope stability issues do occur. Staff recommend that the applicant be required to follow the recommendations of the assessment and addendum report and in addition register a Section 219 Restrictive Covenant on the property title that includes the Geotechnical Hazard Assessment, including the addendum report, 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 the potential geotechnical hazards (see Attachment 2 – Terms and Conditions of Permit).

The Regional District of Nanaimo Board Policy B1.5, 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 of a variance proposal. The applicant's rationale is that utilizing the existing foundation minimizes environmental disturbance and minimizes geotechnical risk to the steep slope on the subject and adjacent properties. Board Policy B1.5 identifies variance requests to recognize longstanding existing building or structures that do not conform to siting but do conform to use under current zoning as an acceptable landuse justification to support a variance request. As stated previously, the applicant previously submitted an application for a development variance permit (PL2015-068) requesting a relaxation to the setback from Northwest Bay to expand the nonconforming dwelling unit and deck within the setback area. The application was denied by the Regional District of Nanaimo Board on September 29, 2015 and as a result the applicant has revised the building proposal so that no further encroachment into the setbacks is proposed.

Staff note that all new works, with the exception of the existing deck to a free standing deck, are proposed outside of the zoning setbacks. As such, the proposed additions and renovations of the existing structure could proceed without the need for variances in accordance with the protection provided for nonconforming structures under Section 911 of the *Local Government Act*. The applicant, however, would like to construct the deck as a freestanding structure in accordance with the recommendations of the geotechnical assessment and to have the siting of the existing dwelling recognized through development variance permit. This would provide permanent protection to the existing dwelling, which is not provided by Section 911 of the *Local Government Act*.

Staff have reviewed the applicant's revised variance request to recognize the siting of an existing dwelling unit and to permit the reconstruction of a freestanding deck on the subject property and note that the revised proposal will not result in further encroachment into the setback area or expansion of the existing dwelling within setbacks. As such, no view implications are anticipated for adjacent properties. No other negative land-use impacts are anticipated. If the development variance application is approved, the property owner will be required to obtain the necessary permits in accordance with Regional District of Nanaimo Building Regulations.

#### **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

**STRATEGIC PLAN IMPLICATIONS**


Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.


**PUBLIC CONSULTATION IMPLICATIONS**


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 variances prior to the Board’s consideration of the application.


**SUMMARY/CONCLUSIONS**

This is an application to consider a Development Variance Permit to recognize the siting of an existing dwelling unit and allow the conversion of an existing attached deck into a freestanding deck in the same location on the subject property. Given that the applicant has submitted a geotechnical assessment determining the site suitable for the proposed use provided the recommendations of the assessment are followed and that the applicant has revised the development proposal from their previous application to avoid any further encroachment into the zoning setbacks, staff recommend the Board approve the requested variances, pending the outcome of public notification and subject to the terms and conditions outlined in Attachment 2.

  
\_\_\_\_\_  
For Report Writer

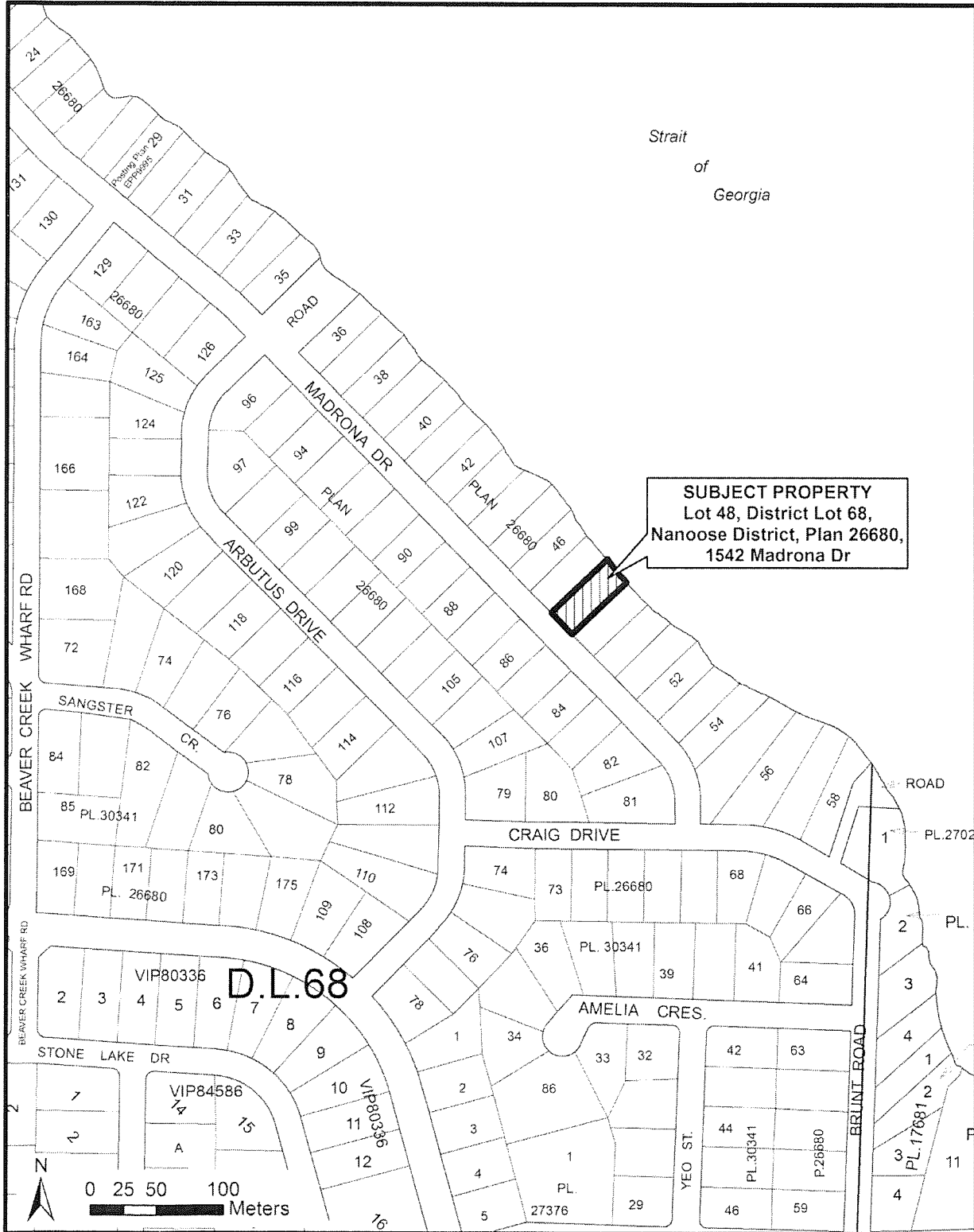
  
\_\_\_\_\_  
General Manager Concurrence

  
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Manager Concurrence

  
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CAO Concurrence



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. PL2015-170:

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:

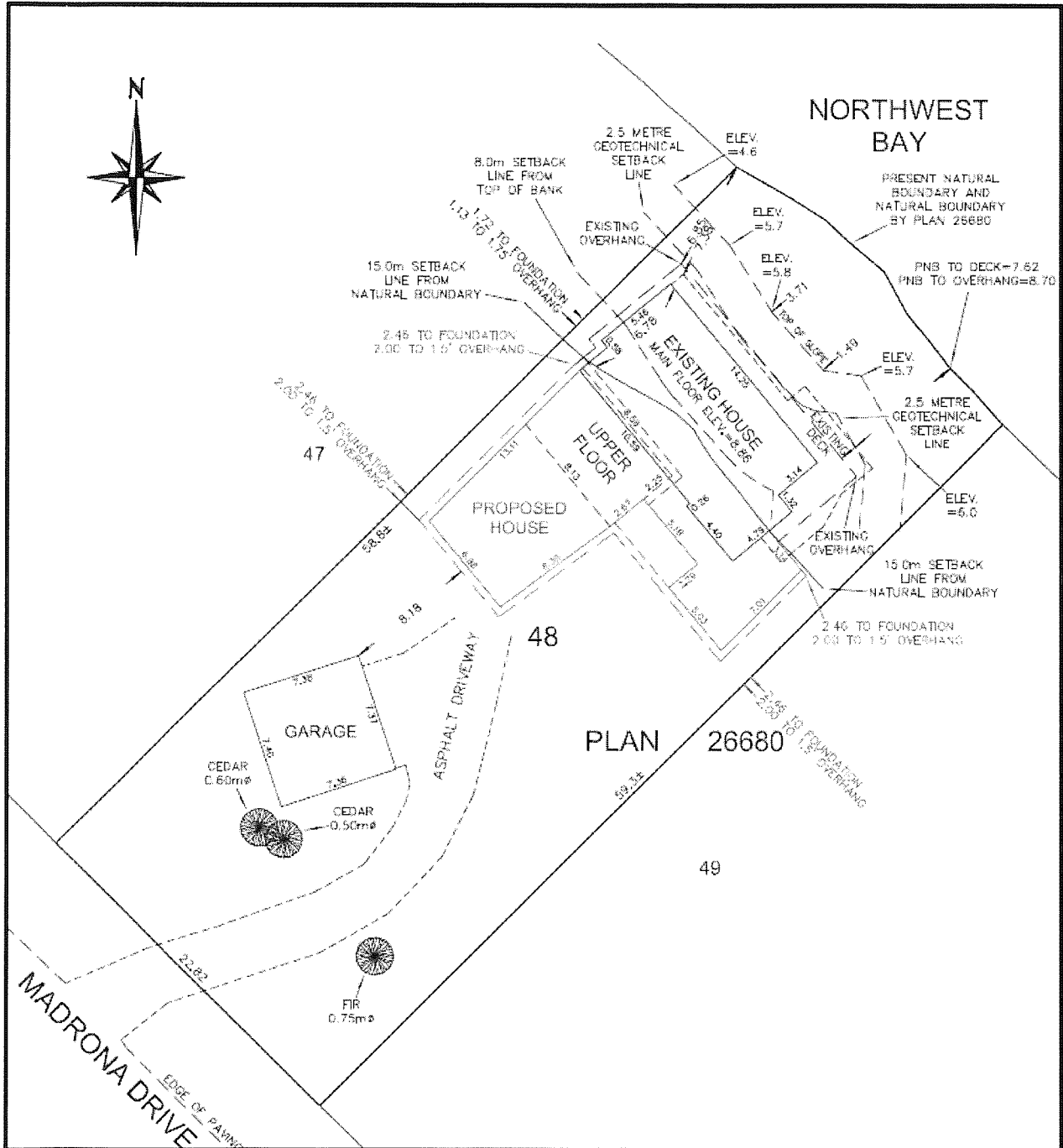
**Section 3.3 9 b) ii) – Setbacks – Sea** to reduce the minimum setback requirement from the natural boundary of the Strait of Georgia from 15.0 m to 7.62 m for the conversion of an existing deck to a freestanding deck in the same location and from 15.0 m to 8.70 m to recognize the siting of the existing dwelling unit as shown on Attachment 3.

**Section 3.4.61 – Minimum Setback Requirements – Interior side lot line** to reduce the minimum setback requirement from the interior side lot line from 2.0 m to 1.13 m for an existing dwelling unit as shown on Attachment 3.

Conditions of Approval:

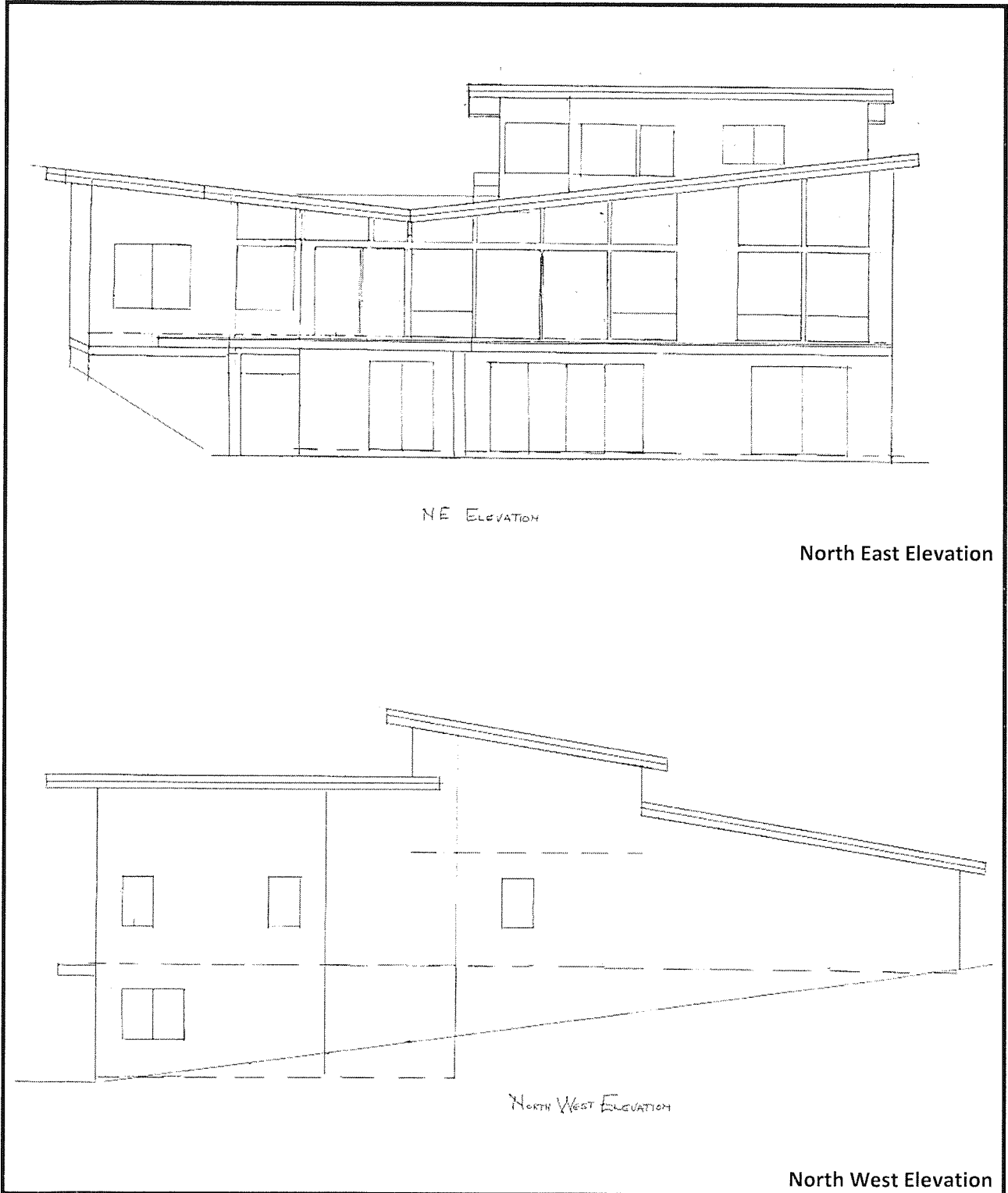
1. The site is developed in accordance with the Site Plan prepared by J.E. Anderson & Associates dated December 17, 2015.
2. The proposed development is in general compliance with elevations prepared by Lindal Cedar Homes and attached as Attachment 4.
3. The subject property shall be developed in accordance with the recommendations contained in the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd., dated July 23, 2015 and addendum report dated December 21, 2015.
4. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 Covenant on the property title containing the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd., dated December 18, 2015, and addendum report dated December 21, 2015. The Section 219 Covenant shall include a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of the potential hazard.
5. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

Attachment 3  
Site Plan and Variance (Page 1 of 2)

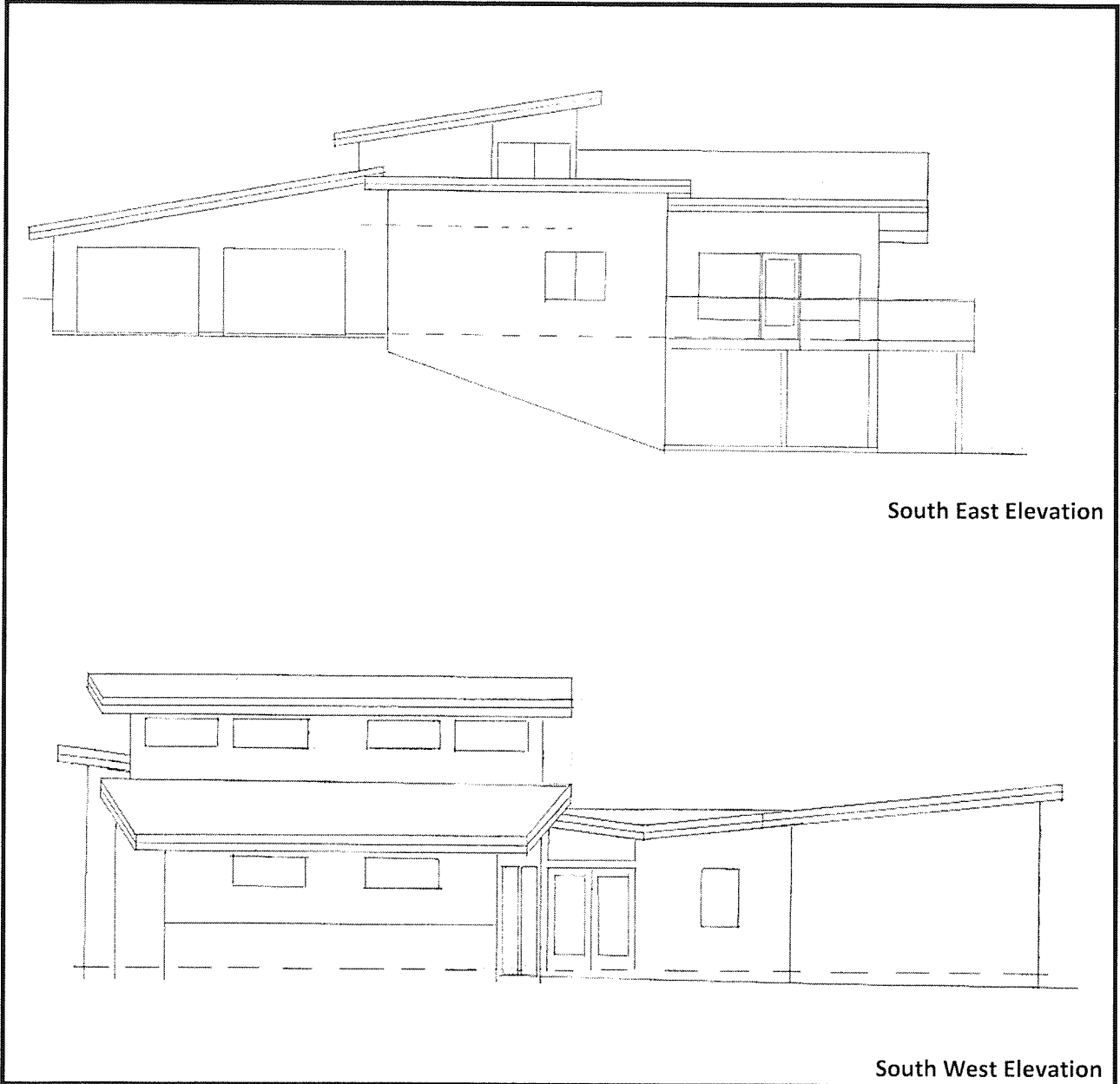




Attachment 4  
Building Elevations (Page 1 of 2)



**Attachment 4**  
**Building Elevations (Page 2 of 2)**





RDN REPORT	
CAO APPROVAL	✓
EAP	✓
COW	
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BOARD	

**STAFF REPORT**

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

**DATE:** December 15, 2015

**FROM:** Kelsey Chandler  
Planning Technician

**MEETING:** EAPC January 12, 2016

**FILE:** PL2015-157

**SUBJECT:** Development Variance Permit Application No. PL2015-157  
Lot 19, District Lot 49, Nanoose District, Plan 24289  
674 Hawthorne Rise – Electoral Area ‘G’

**RECOMMENDATIONS**

1. That staff be directed to complete the required notification.
2. That Development Variance Permit No. PL2015-157 to reduce the interior side lot line setback from 2.0 metres to 1.2 metres and to reduce the other lot line setback from 5.0 metres to 1.75 metres to allow the construction of an accessory building be approved subject to the conditions outlined in Attachment 2.

**PURPOSE**

To consider an application for a Development Variance Permit to reduce the interior side lot line setback from 2.0 metres to 1.2 metres and to reduce the other lot line setback from 5.0 metres to 1.75 metres to allow the completion of an accessory building that was under construction without a building permit on the subject property.

**BACKGROUND**

The Regional District of Nanaimo has received an application from J.E. Anderson & Associates on behalf of Gary and Terry Wong to allow the continued construction of a new accessory building (a garage) built without a building permit on the subject property. The owners demolished an accessory building that existed on site when they purchased the property and commenced construction of a new accessory building. The owners did not apply for either a demolition permit or a building permit, and a Stop Work Order was issued on the new accessory building on October 15, 2015.

The subject property is approximately 0.18 ha in area and is zoned Residential 1 (RS1) Zone, Subdivision District ‘Q’, pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is located southwest of Hawthorne Rise and to the north of Lundine Lane, and has driveway access from both roads. The property contains a dwelling unit, is serviced by community water and sewer systems, and is surrounded by residentially zoned properties (see Attachment 1 – Subject Property Map).

### ***Proposed Development and Variance***

The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

1. **Section 3.4.61 – Minimum Setback Requirements – Interior Side Lot Line** to reduce the minimum interior side lot line setback from 2.0 metres to 1.2 metres; and
2. **Section 3.4.61 – Minimum Setback Requirements – Other Lot Lines** to reduce the minimum other lot line from 5.0 metres to 1.75 metres to allow for the continued construction of a new accessory building built without a building permit.

### **ALTERNATIVES**

1. To approve Development Variance Permit No. PL2015-157 subject to the conditions outlined in Attachment 2.
2. To deny Development Variance Permit No. PL2015-157.

### **LAND USE IMPLICATIONS**

#### ***Development Implications***

The applicant has requested a variance to reduce the south easterly interior side lot line setback from 2.0 metres to 1.2 metres and to reduce the southern other lot line setback from 5.0 metres to 1.75 metres to allow the continued construction of a new accessory building built without a building permit. Given that the previous structure was sited in approximately the same location as the new accessory building, no additional view or privacy implications are anticipated for the adjacent properties as a result of the applicant’s proposal (see Attachment 3 – Proposed Site Plan and Variances).

Board Policy B1.5 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 accessory building does not conform to siting requirements, therefore a variance is being requested to legalize the structure. As per Board Policy B1.5, the impact of the variance is acceptable and the structure’s size (approximately 83 m<sup>2</sup> in floor area) conforms to the Residential 1 zoning regulations for accessory buildings. Given that the applicants have provided sufficient rationale and it is expected that the variance will not result in negative view implications for adjacent properties, the applicants have made reasonable efforts to address Board Policy B1.5 guidelines.

### **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

### **STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.



**INTER-GOVERNMENTAL IMPLICATIONS**

The application was referred to the Ministry of Transportation and Infrastructure, who did not express concern with the proposed development. However, as the structure is located less than three metres from Lundine Lane, the applicants are required to obtain a setback variance permit from the Ministry of Transportation and Infrastructure.

**PUBLIC CONSULTATION IMPLICATIONS**

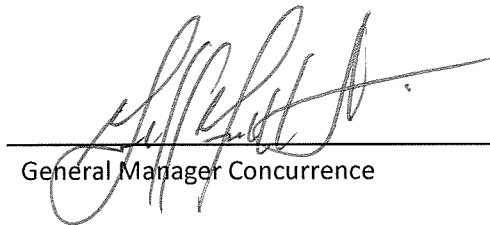
Pending the Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005", property owners and tenants of parcels located within a 50.0 metre radius of the subject property will receive 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.

**SUMMARY/CONCLUSIONS**

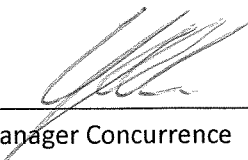
This is an application to consider a Development Variance Permit to vary the south easterly interior side lot line setback from 2.0 metres to 1.2 metres and to vary the southern other lot line setback from 5.0 metres to 1.75 metres to allow the continued construction of an accessory building built without a building permit. Considering the structure is replacing an accessory building that previously existed in approximately the same location, no additional view or privacy implications are anticipated for the adjacent properties as a result of the applicants' proposal. Given that no negative impacts are anticipated as a result of the proposed variance, staff recommends that the Board approve the variance pending the outcome of public notification and subject to the terms and conditions outlined in Attachment 2.



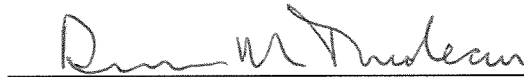
Report Writer



General Manager Concurrence

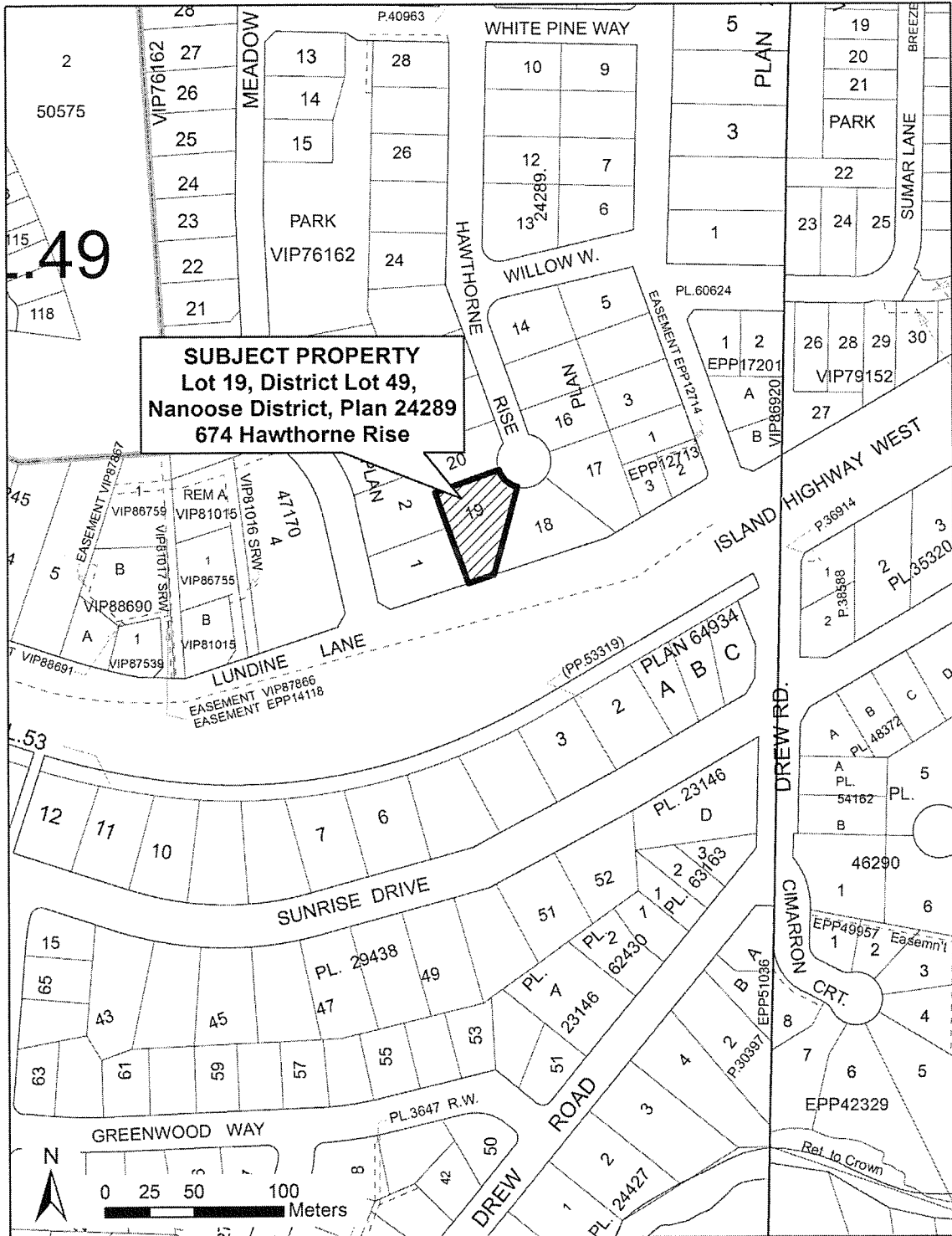


Manager Concurrence



CAO Concurrence

**Attachment 1**  
**Subject Property Map**



**Attachment 2  
Terms and Conditions of Permit**

The following sets out the terms and conditions of Development Variance Permit No. PL2015-157:

Bylaw No. 500, 1987 Variances:

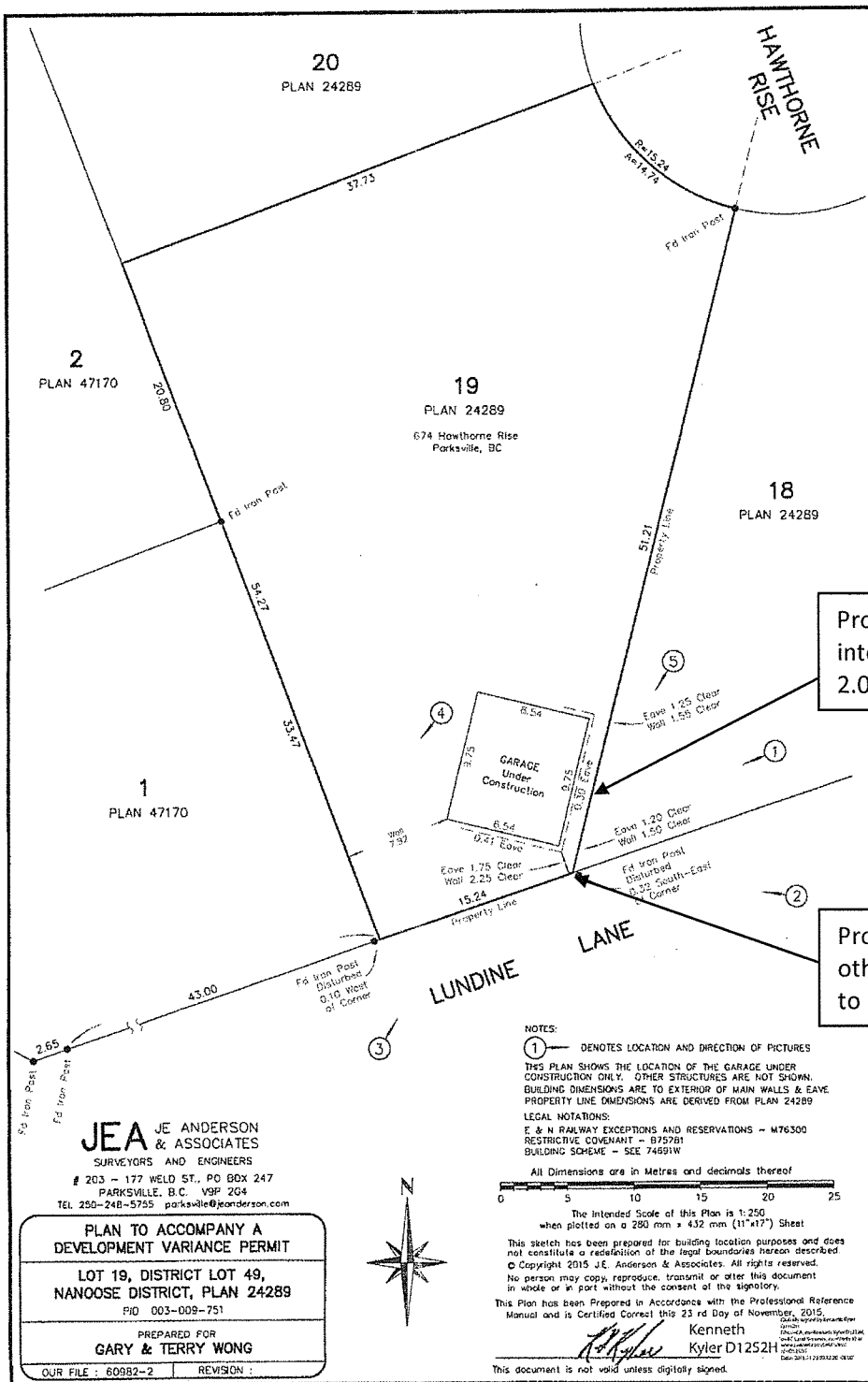
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

1. **Section 3.4.61 – Minimum Setback Requirements – Interior Side Lot Line** – to reduce the minimum interior side lot line setback from 2.0 metres to 1.2 metres; and
2. **Section 3.4.61 – Minimum Setback Requirements – Other Lot Lines** – to reduce the minimum other lot line from 5.0 metres to 1.75 metres to allow for the continued construction of a new accessory building built without building permits.

Conditions of Approval:

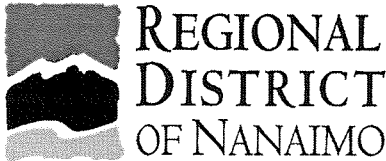
1. The site is developed in accordance with the Proposed Site Plan and Variances prepared by J.E. Anderson & Associates, dated November 23, 2015 and attached as Attachment 3.
2. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

### Attachment 3 Proposed Site Plan and Variances



Proposed variance to reduce the interior side lot line setback from 2.0 m to 1.2 m.

Proposed variance to reduce the other lot line setback from 5.0 m to 1.75 m.



RDN REPORT	
CAO APPROVAL	
EAP	✓
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BOARD	

**STAFF REPORT**

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

**DATE:** January 4, 2016

**FROM:** Jamai Schile  
Planner

**MEETING:** EAPC – January 12, 2016

**FILE:** PL2015-145

**SUBJECT:** Development Variance Permit Application No. PL2015-145  
Lot 26, District Lot 156, Nanoose District, Plan 1964, Except Part in Plan 733 RW  
1304, 1304A & 1306 Alberni Highway – Electoral Area 'F'

**RECOMMENDATIONS**

1. That staff be directed to complete the required notification.
2. That Development Variance Permit No. PL2015-145 to vary the setback requirements for ten micro wind turbines from 4.6 m to 0.46 m from the front lot line and from 4.6 m to 1.3 m from the interior lot line be approved subject to the conditions outlined in Attachment 3.

**PURPOSE**

To consider an application for a Development Variance Permit to reduce the front and interior setbacks to permit the installation of ten (10) micro wind turbines on the subject property.

**BACKGROUND**

The Regional District of Nanaimo has received an application from JE Anderson & Associates on behalf of owners, Randy and Teresa Marston, to permit a variance to the required setbacks to enable the installation of ten micro wind turbines and foundations along the front and interior lot lines of the subject property. The owners currently operate a commercial self-storage facility at this site, where they have already installed solar panels on one existing building and plan to install solar “tracker” panels on each of the four remaining storage buildings.

The subject property is approximately 1.6 ha in area and is zoned Commercial 3 (C-3) Zone, pursuant to the “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”. The property is bound to the north by the Alberni Highway and to the south by rural residential lands. Commercial lands lay to the west and east of the subject property, as illustrated in Attachment 1.

***Proposed Development and Variance***

The proposed development includes installing ten micro wind turbines each on 0.8 m<sup>2</sup> footings. The 600 watt vertical axis wind turbines will have a diameter of 1.5 m and measure 4.6 m in height when erected. As proposed, the turbines will feature a red and blue coloured cylindrical head with aluminum alloy blades, as shown in Attachment 2 - Illustration 1 and 2.

To accommodate the proposed turbines the existing landscaping along the front property line would be removed and the parking would be relocated to the rear and side of the existing mixed-used commercial buildings, as illustrated in Attachment 4 – Proposed Site Plan. The amended parking plan demonstrates that there will be no loss of off-street parking resulting from the proposed variance.

To accommodate the placement of the turbines, 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 2.9(e)(i) – Setbacks – Buildings and Structures – Micro Wind Turbine System** as measured from the natural grade at the base of the wind turbine tower to the top of the highest vertical extension of the wind turbine at the top of the rotor blade arc be reduced from 4.6 m to 0.46 m from the front lot line and from 4.6 m to 1.3 m from the interior lot line.

## **ALTERNATIVES**

1. To approve Development Variance Permit No. PL2015-145 subject to the conditions outlined in Attachment 3.
2. To deny Development Variance Permit No. PL2015-145.

## **LAND USE IMPLICATIONS**

### ***Development Implications***

In support of this application the applicant has submitted a Wind Generator Installation/Placement Report prepared by Kevin Marwick of Cyclone Wind Generation, dated October 25, 2015. In the report two placement options were considered: 1) front section of the property, and 2) rear section of the property. The rear section of the property was deemed unsuitable because of the higher terrain and surrounding buildings, which would have required the towers to be over 15 m high with supporting guy-wires.

The author of the report recommends that towers of 3.6 to 5.5 metres in height with 600 watt wind generators on top are suitable for the front section of the property. The author states that these towers would take advantage of the prevailing east/west wind corridor and the vector winds that rise from the property directly across Highway #4 (ocean side). The applicant is proposing ten towers at a height of 4.6 m each with 600 watt turbines to meet their objectives to generate renewable energy, accessory to their existing commercial uses on the subject property. The applicant has made reasonable effort to limit the extent of the requested variance.

In addition, the applicant has provided the following justification for the requested variance:

- saving of electricity and heating bills by up to 75%;
- providing enough electricity to sell excess power to BC Hydro; and
- a “green” development in keeping with the goals and objectives of the Electoral Area ‘F’ Official Community Plan.

Board Policy B1.5 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 Policy provides examples of acceptable land use justifications including wind energy systems, specifically Part A1 (viii):

*The inclusion of a renewable solar or wind energy system, or a rainwater harvesting system proposed for the operation of a building or structure results in the building or structure exceeding maximum height restrictions, or encroaching into a setback area. In such a case, a height variance or setback variance may be recommended where the impacts of the variance are considered acceptable.*

While Policy B1.5 supports renewable energy systems and acknowledges the potential for impacts resulting from a variance, the policy currently does not provide guidance for evaluating community impacts. In recognition of this, at the October 27, 2015, meeting the Board provided direction to staff to explore criteria for evaluating community impacts of renewable energy systems and to develop various policy alternatives for the Board's future consideration.

In the absence of specific community impact evaluation criteria at this time, staff recommend restricting illumination of the turbines and prohibiting signage and advertising on the turbines in order to minimize the visual impact of the structures from the adjacent public highway (see Attachment 3 - Terms and Conditions).

#### **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

#### **STRATEGIC PLAN IMPLICATIONS**

Staff has reviewed the proposed development and note that the proposal is in keeping with the 2013 – 2015 Board Strategic Plan. The development aligns with the Plan's objective to improve community self-sufficiency with energy conservation, renewable energy initiatives and regional emission reduction projects

#### **INTER-GOVERNMENTAL IMPLICATIONS**

The application was referred to the Ministry of Transportation and Infrastructure (MOTI), who acknowledge the uniqueness of the proposal and that they require that all structures, including the proposed micro wind turbines to be located at least 4.5 m back from the highway right-of-way. Ministry of Transportation and Infrastructure also requested that the property owner apply for a MOTI Setback Permit, which has since been issued.

In addition, staff and MOTI have advised the agent/applicant to contact BC Hydro regarding the potential for conflict between the location of the turbines and the existing private utilities, located in the highway right-of-way adjacent to the subject property, as shown in Attachment 2 - Pictures 1 and 2. This request has also been made a condition of the proposed permit.

**PUBLIC CONSULTATION IMPLICATIONS**

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 m 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.

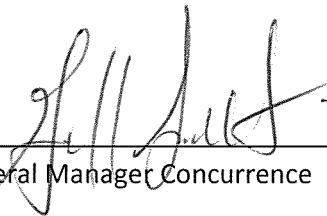
**SUMMARY/CONCLUSIONS**

The applicant is seeking a variance to reduce the minimum front setback from 4.6 m to 0.46 m, and to reduce the minimum interior setback from 4.6 m to 1.3 m to accommodate the installation of ten micro wind turbines. Given that Board Policy B1.5 has been satisfied and no negative land use impacts are anticipated as a result of the proposed variance, staff recommend that the Board approve the variance pending the outcome of the public notification and subject to the terms and conditions outlined in Attachment 2.



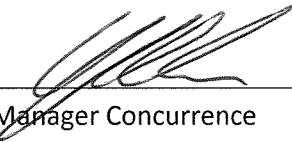
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Report Writer



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General Manager Concurrence



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Manager Concurrence

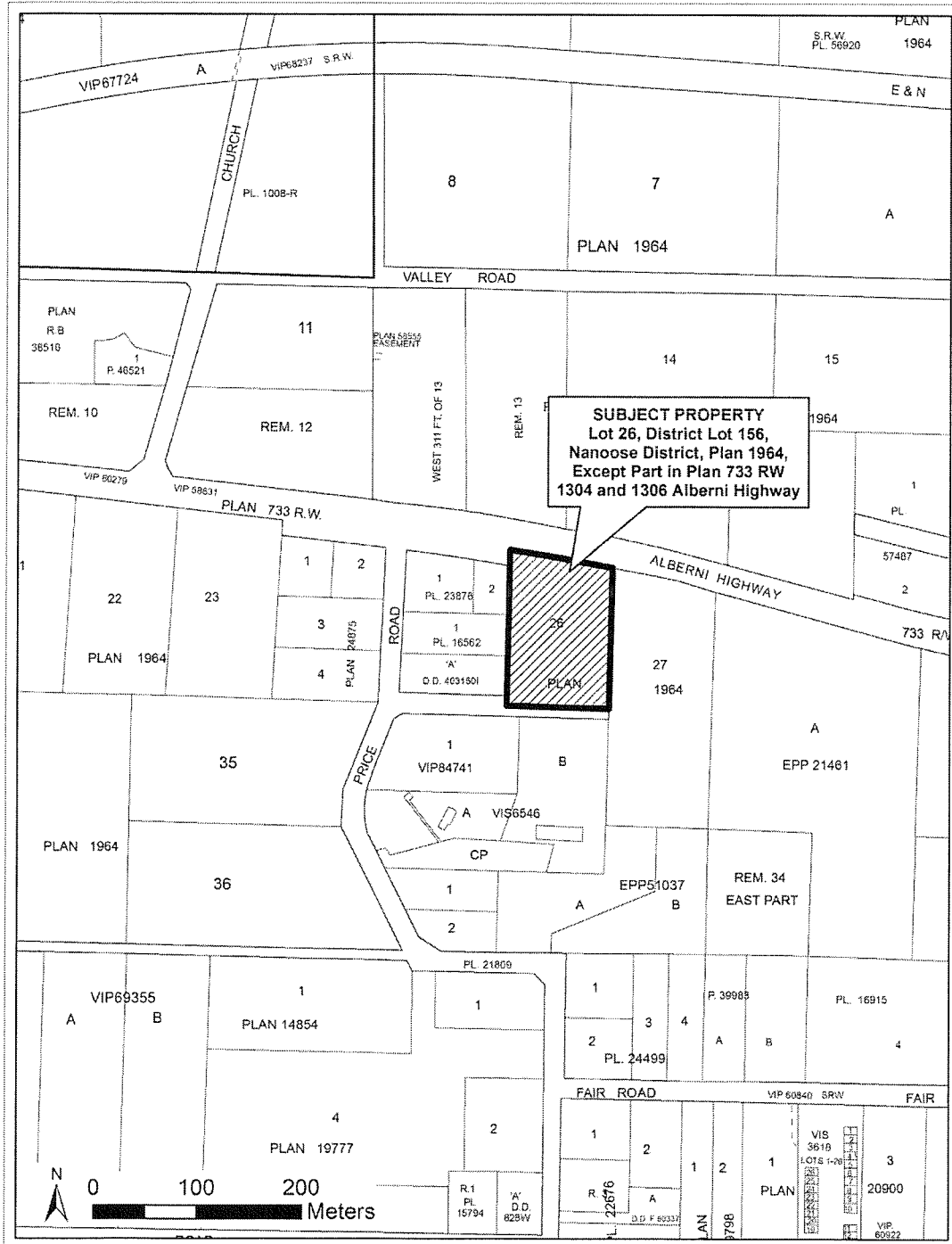


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CAO Concurrence



### Attachment 1 Subject Property Map



**Attachment 2**  
**Site Visit Photos and Proposed Micro Wind Turbine Design**

Picture 1: Proposed subject area looking west along Alberni Highway from driveway access.



Picture 2: Proposed subject area looking east along Alberni Highway from driveway access.



Illustration 1: Proposed Maglev Vertical Axis 600W 24V Wind Generator Head

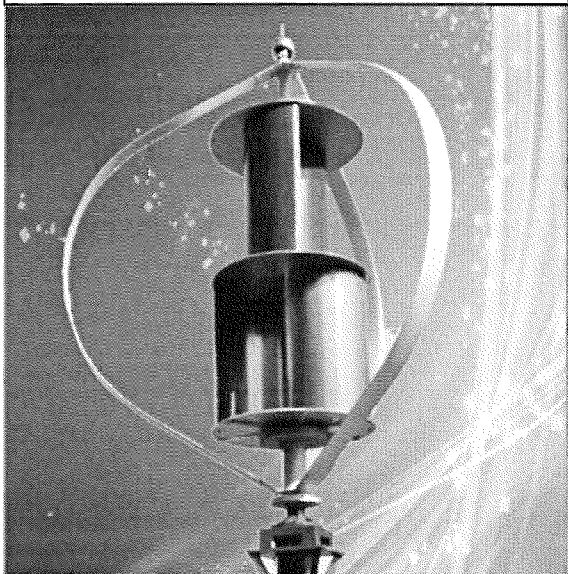


Illustration 2: Maglev Vertical Axis 600W 24V Wind Generator installed in commercial setting



**Attachment 3  
Terms and Conditions of Permit**

The following sets out the terms and conditions of Development Variance Permit No. PL2015-145:

Bylaw No. 1285, 2002 Variances:

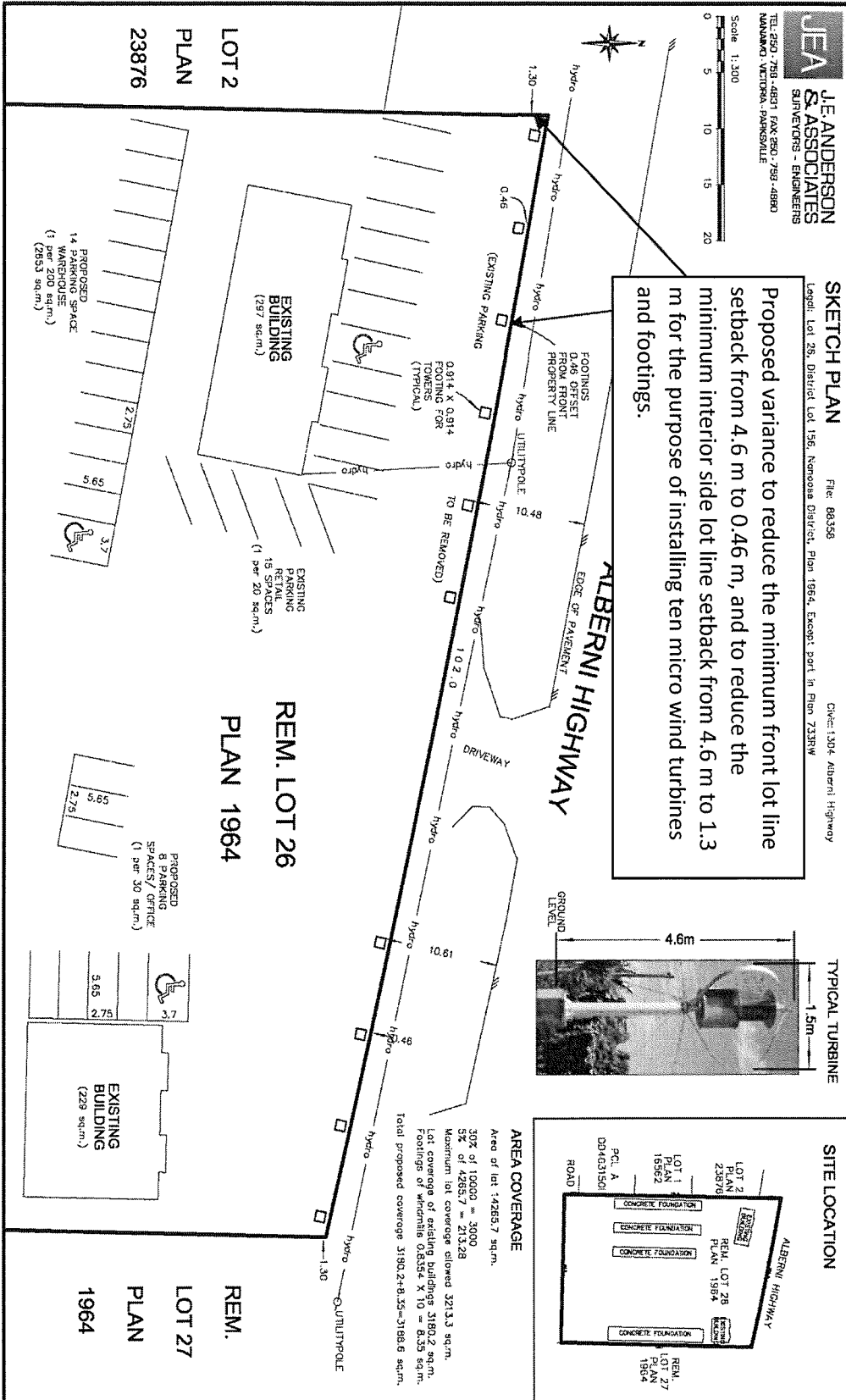
With respect to the lands, "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" is varied as follows:

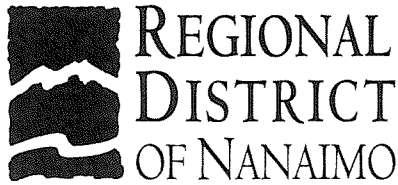
**Section 2.9(e)(i) – Setbacks – Buildings and Structures – Micro Wind Turbine System** as measured from the natural grade at the base of the wind turbine tower to the top of the highest vertical extension of the wind turbine at the top of the rotor blade arc to be reduced from 4.6 m to 0.46 m from the front lot line and from 4.6 m to 1.3 m from the interior lot line.

Conditions of Approval:

1. The site is developed in accordance with the Site Plan/Survey Plan prepared by J.E. Anderson & Associates, dated October 28, 2015 and attached as Attachment 4.
2. No person shall place, construct, maintain or cause to be placed, constructed or maintained on a micro wind turbine a sign or letters or words which advertises or identifies any business, profession, service, activity, entertainment, sale or rental.
3. No person shall place, construct, maintain or cause to be placed, constructed or maintained on a micro wind turbine a light or other form of illumination.
4. The property owner shall be responsible for avoiding any potential conflict between the location of the turbines and the existing private utilities.
5. The property owner shall conform to the applicable bylaws and regulations of the Regional District of Nanaimo, federal and provincial legislation.

Attachment 4  
Proposed Site Plan and Variances





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CAO APPROVAL		<input checked="" type="checkbox"/>
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DEC 22 2015		
RHD		
BOARD		
		<b>DATE:</b>

**MEMORANDUM**

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

**DATE:** December 17, 2015

**MEETING:** EAPC January 12, 2016

**FROM:** Greg Keller  
Senior Planner

**FILE:** PL2015-116

**SUBJECT:** Development Permit and Site Specific Exemption Application  
No. PL2015-116 – Lemoine/Bancroft  
Lot 41, District Lot 1, Newcastle District, Plan 20442 – 5497 Deep Bay Drive  
Electoral Area 'H'

**RECOMMENDATION**

That Development Permit and Site Specific Exemption to the Floodplain Management Bylaw Application No. PL2015-116 to permit the replacement of an existing single wide manufactured home with a double wide manufactured home be approved subject to the terms and conditions outlined in Attachments 2 and 3.

**PURPOSE**

To consider an application for a Development Permit and a Site Specific Exemption to allow an existing single wide manufactured home to be replaced with a double wide manufactured home on the subject property.

**BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from Jeff Wagner on behalf of Tracy Lemoine and Janine Bancroft in order to replace an existing single wide manufactured home with a double wide manufactured home on the subject property. The subject property is approximately 995 m<sup>2</sup> in area and is zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment 1 - Location of Subject Property).

The subject property is a relatively flat waterfront parcel located on the north side of the Deep Bay spit and currently contains a single wide manufactured home and an accessory building. The manufactured home has been in its current location for many years and is located on a concrete pad. The accessory building has also been in its current location for many years and is located within the minimum side and front yard setback requirement. The applicant is not requesting a variance to recognize the siting of the existing accessory building. As such it will retain its non-conforming status. Properties to the east and west are developed with residential uses.

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”:

- Environmentally Sensitive Features (coastal Areas)
- Hazard Lands

## ALTERNATIVES

1. To approve the Development Permit and Site Specific Exemption Application No. PL2015-116 subject to the conditions outlined in Attachments 2 and 3.
2. To deny the Development Permit and Site Specific Exemption Application No. PL2015-116.

## LAND USE IMPLICATIONS

### Development Implications

The applicant is proposing to reuse an existing concrete pad which currently supports the single wide manufactured home and to expand it to accommodate a double wide manufactured home. The applicant is also proposing to reuse the existing deck shown on Attachment 2.

In order to address the Environmentally Sensitive Features (Coastal Areas) Development Permit Area guidelines the applicant has provided a biological assessment prepared by Aquaparian Environmental Consulting dated August 4, 2015. The report indicates that no additional impact to coastal habitat is expected as a result of the proposal. The report includes recommendations with respect to sediment and erosion control during construction and voluntary revegetation. The requirements related to sediment and erosion control are included in the terms and conditions outlined in Attachment 3.

The RDN Floodplain Bylaw defines Flood Construction (FCL) Level as *“the Designated Flood Level plus the allowance for Freeboard and is used to establish the elevation of the underside of a wooden floor system or top of a concrete slab for any Habitable Area. In the case of a Manufactured Home the Designated Flood Level is the Flood Construction Level for the top of the Pad”*. Unlike a conventional dwelling unit where the Designated FCL is measured from the underside of the wooden floor system, the Floodplain Bylaw makes a distinction for manufactured homes that require the top of the pad to meet the designated FCL. As a result, the minimum required FCL as measured to the top of the concrete pad is 1.5 m above the natural boundary of the ocean. Since the applicant is proposing to reuse the existing concrete pad, which is located at 0.48 m (3.74 m Geodetic) above the natural boundary, the pad does not meet the minimum required FCL. As such an exemption to the Floodplain Bylaw FCL is required for the pad.

In addition, the existing concrete pad is located approximately 12.11 metres from the natural boundary of the sea. This exceeds the minimum setback of 8.0 m required by Bylaw 500, but does not satisfy the 15.0 metre minimum setback required by the Floodplain Bylaw. As such an exemption to the Floodplain Bylaw setback is required for the Pad. Due to the location of the existing septic tank, it is not feasible to move the concrete pad further from the natural boundary.

In order to address the Hazard Lands Development Permit Area guidelines and the Site Specific Exemption requirements as outlined in the Floodplain Bylaw, the applicant has submitted a

Geotechnical Evaluation and Hazards Assessment prepared by Lewkowich Engineering Associates Ltd. dated December 4, 2015 prepared in accordance with Association of Professional Engineers and Geoscientists of BC (APEG) Guidelines pertaining to flood hazard assessments in a changing climate. The report recommends a minimum FCL of 4.76 m Geodetic be established as measured to the underside of the manufactured home. As a result, the underside of the manufactured home would have to be raised above the concrete pad by approximately 1.02 metres to meet the minimum recommended FCL.

The Geotechnical Evaluation concludes that the site is safe for the intended use and that the proposed development will not result in a detrimental impact on the subject property or adjoining properties provided the recommendations in the report are followed. The report indicates that it is advisable to grant an exemption to the Floodplain Bylaw due to the fact that modern manufactured homes are equivalent, in matters of flood protection, to a conventional dwelling unit.

In accordance with the Site Specific Exemption Application requirements, staff recommends that the applicant be required to register a Section 219 covenant that registers the Geotechnical Evaluation prepared by Lewkowich Engineering Associates Ltd., and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of potential flood hazard. Development of the property in accordance with the recommendations of this report is included in the terms and conditions set out in Attachment 3.

#### **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

#### **STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications for the 2013– 2015 Board Strategic Plan.

#### **INTER-GOVERNMENTAL IMPLICATIONS**

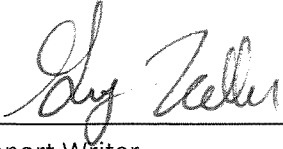
The subject property is located in an area of known archaeological sites. The applicant is proposing to reuse the existing pad and expand the pad at the same grade to help minimize ground disturbance to any potential archaeological materials on site. In addition, the applicant has provided an alteration permit from the Archaeological Branch of the Ministry of Forests, Lands, and Natural Resource Operations authorizing the proposed land alteration. A detailed site investigation was not required by the Archeological Branch and no comments were received from the Archeological branch with respect to the proposal. Staff have contacted Qualicum First Nation to advise of the application.

#### **SUMMARY/CONCLUSIONS**

This is an application for a Development Permit and Site Specific Exemption from the Floodplain Bylaw to allow an existing single wide manufactured home to be replaced with a double wide manufactured home on the subject property.

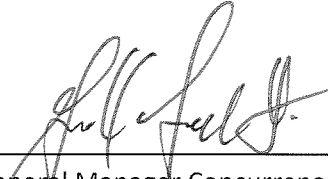
The applicant has submitted a site plan, biological assessment, and a Geotechnical Evaluation and hazard assessment in support of the application. In staff's assessment, this proposal is consistent with

the guidelines of the "Electoral Area 'H' Official Community Plan Bylaw No. 1335 2003" Environmentally Sensitive Features and Hazard Lands Development Permit Areas and the Site Specific Exemption Application requirements of the "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006". As such, staff recommends approval of the Development Permit and Site Specific Exemption.



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Report Writer



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General Manager Concurrence



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Manager Concurrence

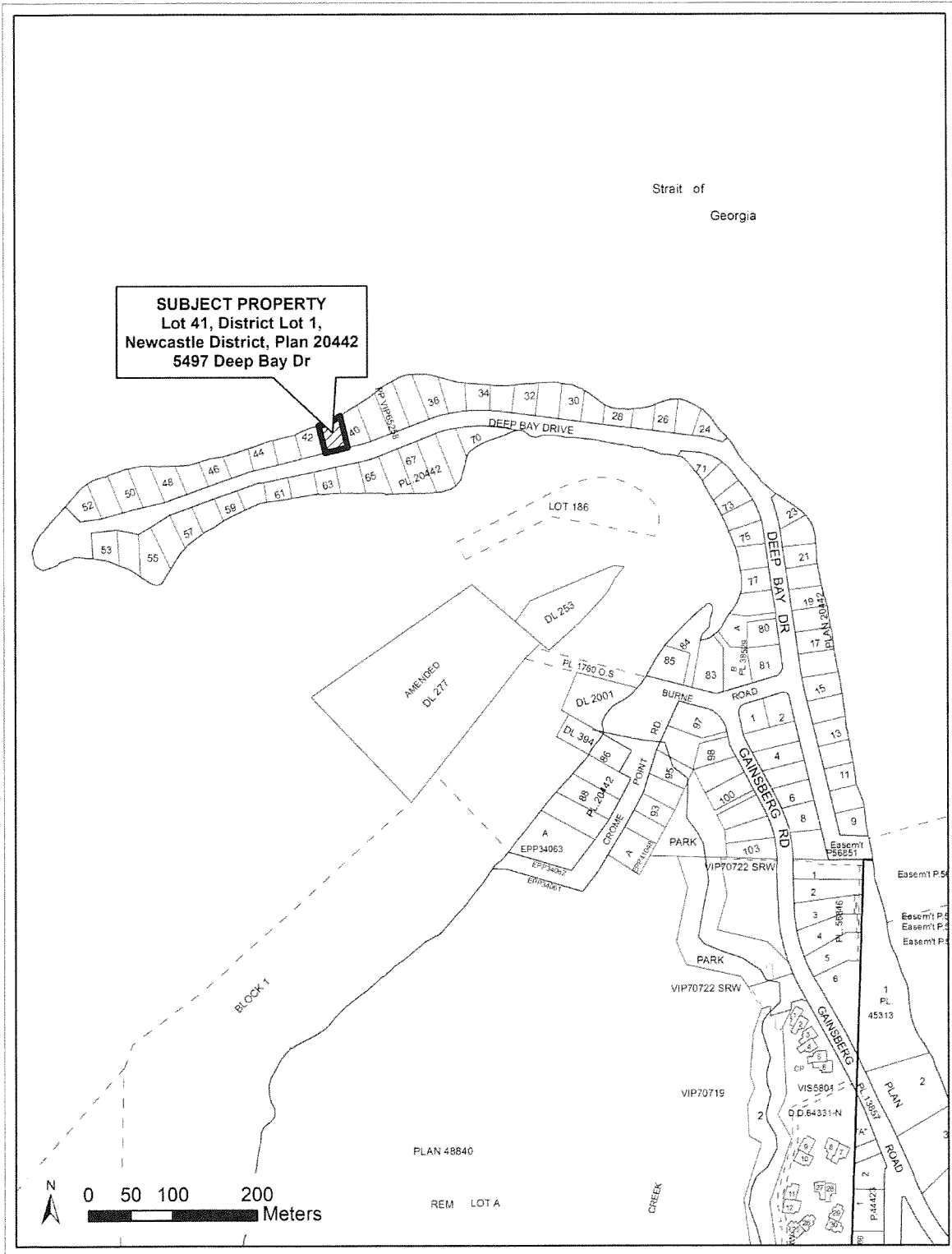


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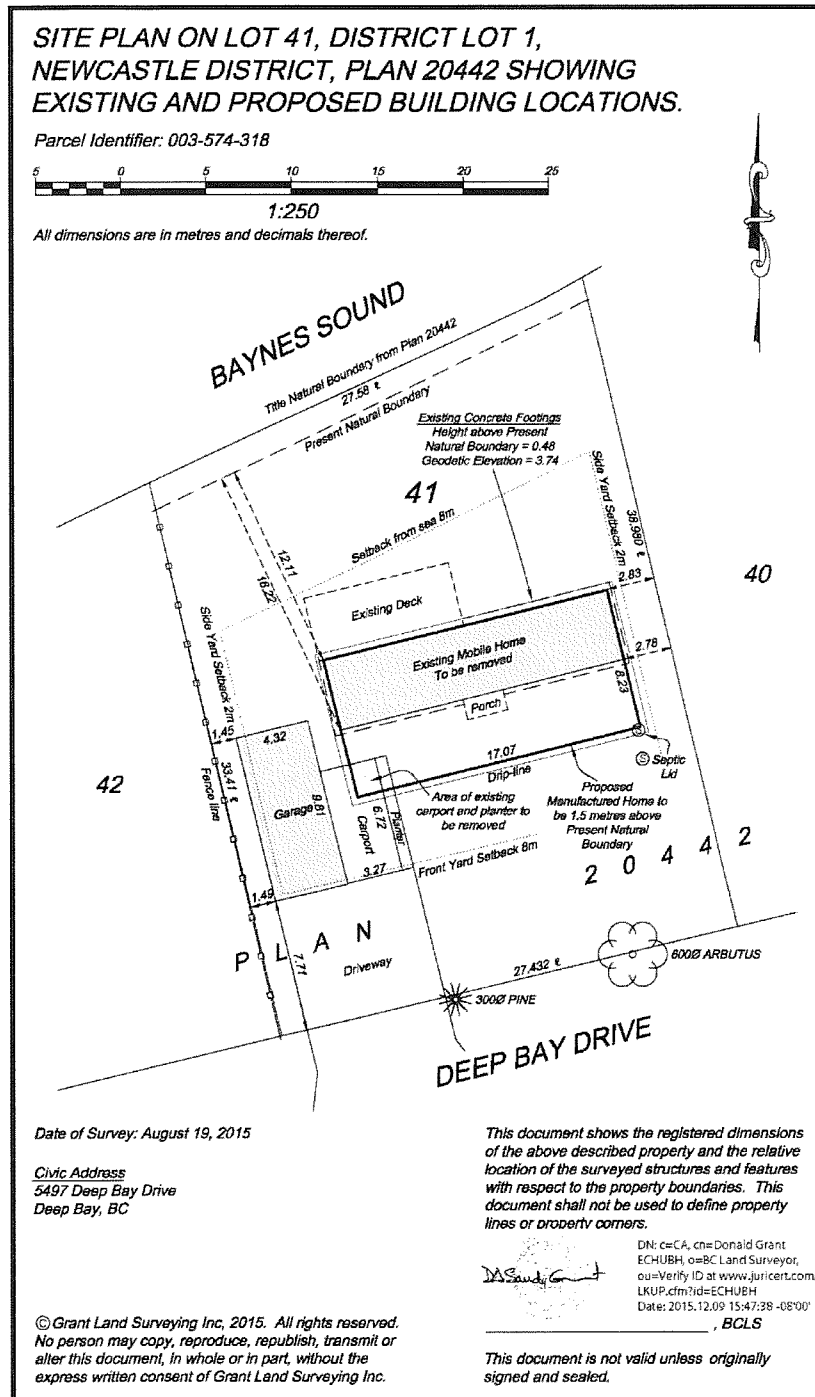
CAO Concurrence



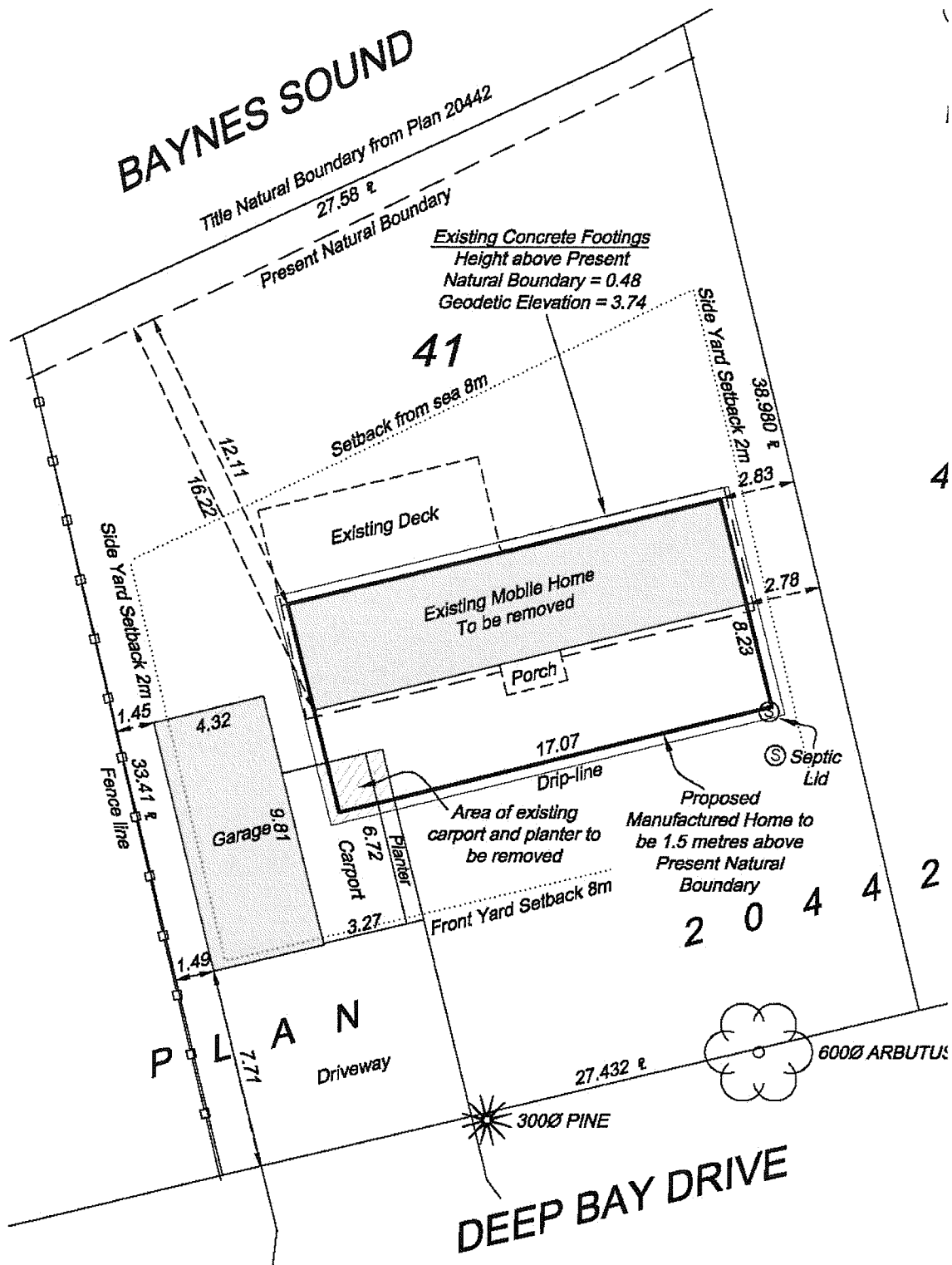
**Attachment 1**  
**Subject Property Map**



Attachment 2 (page 1 of 2)  
Site Plan



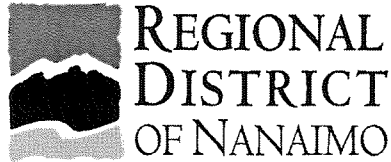
Attachment 2 (page 2 of 2)  
Site Plan



**Attachment 3**  
**Terms and Conditions of Development Permit No. PL2015-116**

The following sets out the terms and conditions of Development Permit and Site Specific Application No. PL2015-116:

1. The addition shall be sited in accordance with the Site Plan prepared by Grant Land Surveying Inc. dated August 19, 2015.
2. The property shall be developed in accordance with the recommendations of the Environmental Assessment prepared by Aquaparian Environmental Consulting Ltd. dated August 4, 2015. These recommendations include no concrete wash is to be discharged toward the beach, the provision of sediment and erosion controls to prevent sedimentation of the marine environment if development is undertaken during the rainy months, transplanting of dune grass shoots that come up on an annual basis from the lawn area to the upper beach, and removal of scotch broom growing near the shoreline during the dry summer months.
3. The property shall be developed in accordance with the recommendations of the Geotechnical Hazards Assessment prepared by Lewkowich Engineering Associates Ltd. dated December 4, 2015.
4. 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 Evaluation and Hazards Assessment prepared by Lewkowich Engineering Associates Ltd. dated December 4, 2015 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.
5. The property owner shall obtain the necessary Building Permit for construction in accordance with Regional District of Nanaimo Building Regulations.



RDN REPORT		
CAO APPROVAL		✓
EAP	✓	
COW		
DEC 31 2015		
RHD		
BOARD		

**STAFF REPORT**

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

**DATE:** December 30, 2015

**MEETING:** EAPC – January 12, 2016

**FROM:** Jamai Schile  
Planner

**FILE:** PL2015-152

**SUBJECT: Temporary Use Permit Application No. PL2015-152  
The Pentecostal Assemblies of Canada  
Lot 21, District Lot 156, Nanoose District, Plan 1964  
1410 Alberni Highway – Electoral Area ‘F’**

**RECOMMENDATIONS**

1. That staff be directed to complete the required notification.
2. That Temporary Use Permit No. PL2015-152 to permit “Outdoor Sales” use on a portion of the subject property be approved subject to the conditions outlined in Attachment 3.

**PURPOSE**

To consider an application for a Temporary Use Permit to allow “Outdoor Sales” use as a permitted temporary use on a portion of the subject property. If approved, the Temporary Use Permit will allow the continuation of an existing non-conforming use.

**BACKGROUND**

The Regional District of Nanaimo has received an application from David Munk on behalf of The Pentecostal Assemblies of Canada, in order to permit an existing non-conforming use. A portion of the subject property is currently leased to Camshron Holdings for the purpose of an auto sales business, known as “Five Star Auto Sales”.

The subject property is approximately 1.90 ha in area and is zoned Institutional/Community Facility 1 (T-1.2) Zone, pursuant to “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”. The property is bound to the north by the Alberni Highway and to the east by Romain Road. The subject property is surrounded by various commercial and public lands, including Commercial 3 (C-3), Comprehensive Development Zone (CD-5), and Parks and Open Space (P-2), see Attachment 1 – Subject Property Map.

The property contains the Oceanside Community Church, a duplex, and a mobile home in addition to “Five Star Auto Sales”. The property is currently serviced by both on-site water and waste water.

### **Proposed Use and Development**

The proposed use is to allow “Outdoor Sales” as a permitted temporary use within a designated area on the subject property, which would enable the continuation of the auto sales business at the current location for the remainder of the existing lease, see Attachment 4 – Proposed Site Plan for illustration of the subject area.

As defined by the “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”:

**Outdoor Sales** means the use of land for the retail sale of goods and services which require outdoor viewing and/or large space including the display, sale or rental of automobiles, heavy equipment, recreational vehicles, manufactured homes, watercrafts and marine products, lumber and building products and includes accessory servicing of such equipment and shall not exceed the maximum lot coverage of the zone.

The auto sales area currently includes an existing building, fenced compound and forecourt - sales lot area consisting of a roughed-in laneway and crushed gravel surface, see Attachment 2 – Site Visit Photos. Staff recommend that as a condition of the permit, that no further development, in terms of size of area, additional buildings or structures, be permitted within the subject area for the duration of the permit.

### **ALTERNATIVES**

1. To approve Temporary Use Permit No. PL2015-152 subject to the terms and conditions outlined in Attachment 3.
2. To deny Temporary Use Permit No. PL2015-152.

### **LAND USE IMPLICATIONS**

#### ***Development Implications***

The subject property is designated “Commercial/Industrial – Mixed Use” and is within the “Rural Village Area” and “Rural Separation Boundaries” within the current “Electoral Area ‘F’ Official Community Plan Bylaw No. 1152, 1999”. Lands within this designation are considered a growth centre and the related policies support the use of temporary use permits for compatible commercial and industrial uses.

The applicant has requested a temporary use permit to continue an existing non-conforming commercial use – “Outdoor Sales” on a portion of the subject property. The owner does not anticipate a change of use or any further development or expansion of the existing auto sales business during the remaining lease period, which expires November 2017. If this application were to be supported by the Board, staff recommend that the Permit validation period be limited to December 31, 2017, to coincide with the term of the lease, and no further physical development associated with “Outdoor Sales” use is to take place on the subject property.

Given that the existing use and existing building and structure is not anticipated to have any significant negative impacts on the land or adjacent properties and the applicable policies within the current

Official Community Plan supports the use of temporary use permits for compatible commercial and industrial uses, staff have no concerns in issuing this permit for the current "Outdoor Sales" use as proposed.

**FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

**STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the 2013 – 2015 Board Strategic Plan.

**INTER-GOVERNMENTAL IMPLICATIONS**


The application was referred to the Ministry of Transportation and Infrastructure (MOTI). In response, MOTI confirmed that they require that all structures, including sales vehicles and signage, be located at least 4.5 m back from the highway right-of-way. The Ministry also requested that the property owner apply for a MOTI Setback Permit, which has since been issued.

**PUBLIC CONSULTATION IMPLICATIONS**

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 m radius of the subject property will receive a direct notice of the proposal and will have an opportunity to comment on the proposed temporary use permit prior to the Board's consideration of the application. In addition, the notice will be posted in a local newspaper prior to the Board considering a resolution to issue the permit.

**SUMMARY/CONCLUSIONS**

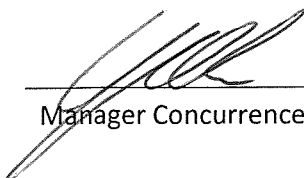
The applicant is seeking a temporary use permit to continue to allow "Outdoor Sales" use on a designated portion of the subject property. Given that the use is consistent with Official Community Plan policy, staff recommend that the Board approve the Permit pending the outcome of public notification and subject to the terms and conditions outlined in Attachment 3.



Report Writer



General Manager Concurrence

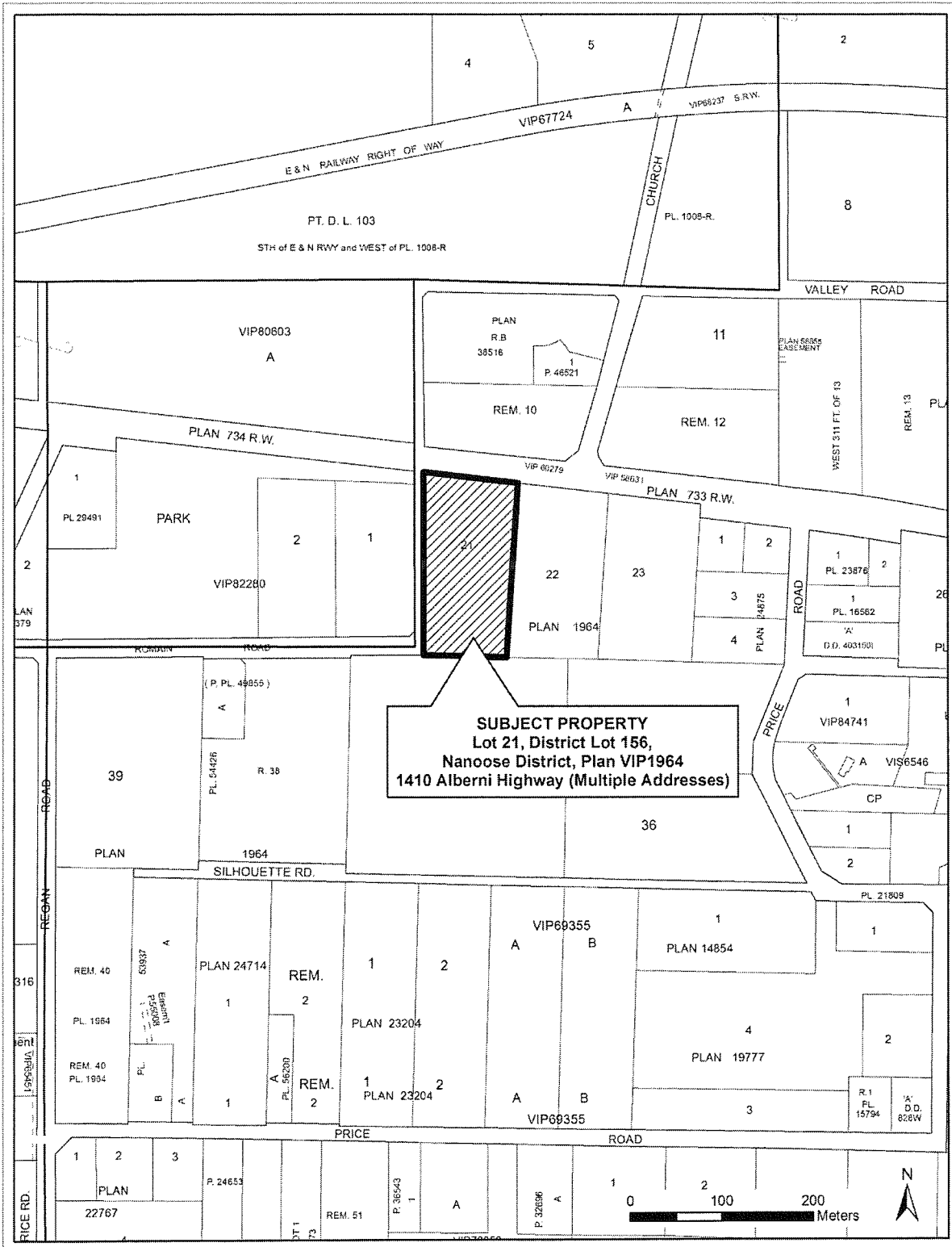


Manager Concurrence



CAO Concurrence

### Attachment 1 Subject Property Map





**Attachment 2**  
**Site Visit Photos (November 10, 2015)**

Picture 1: Auto sales area looking south from Alberni Highway, showing the sales lot and auto sales office & garage from the front.



Picture 2: Auto sales area looking south east towards Alberni Highway, showing the auto sales office & garage from the rear.



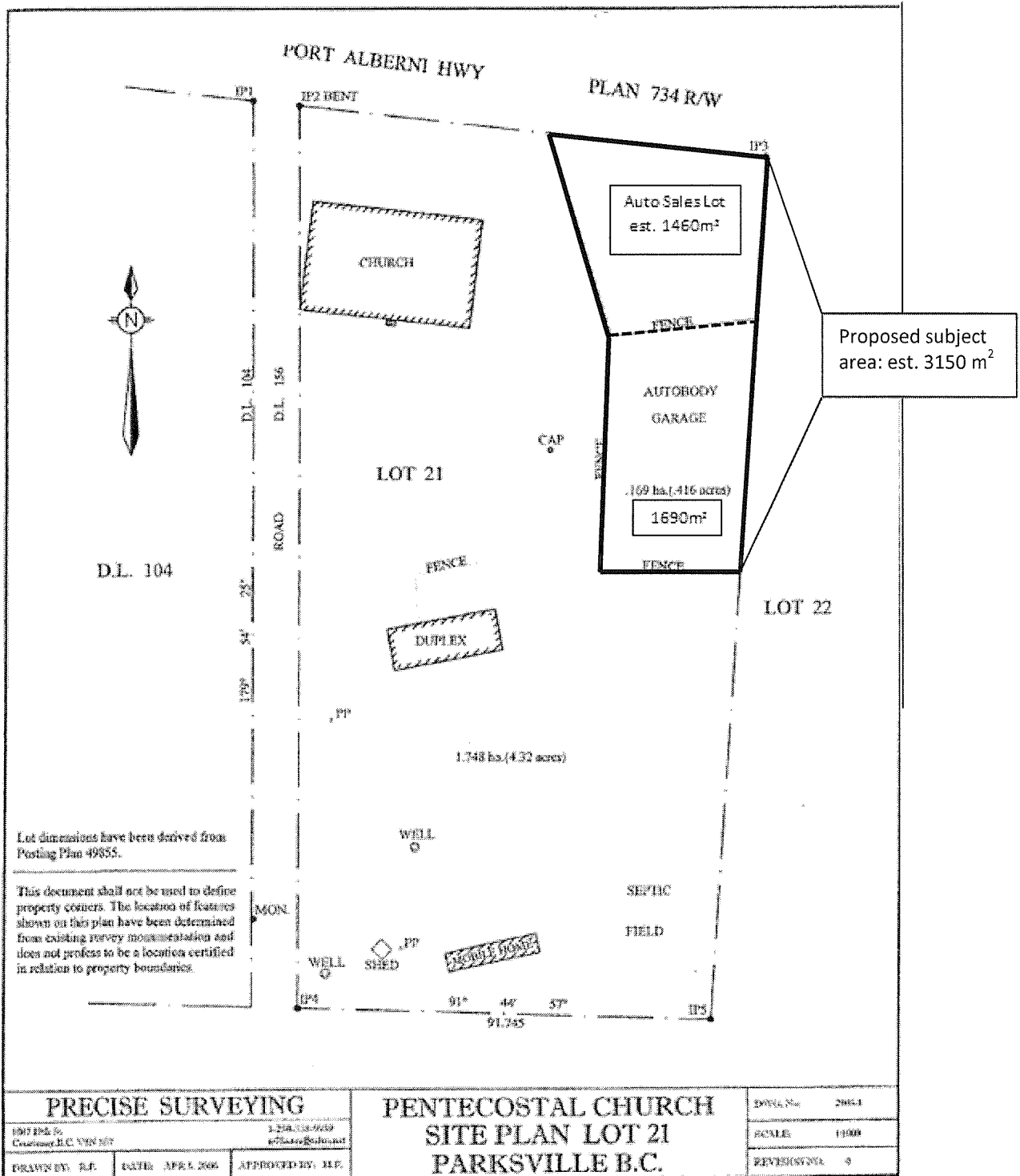
**Attachment 3  
Terms and Conditions of Permit**

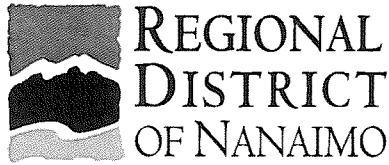
The following sets out the terms and conditions of Temporary Use Permit No. PL2015-152:

Conditions of Approval:

1. The Temporary Use Permit is valid until December 31, 2017.
2. The existing "Outdoor Sales" use, specifically the auto sales business is limited to: the subject area identified on the Site Plan prepared by Precise Surveying, dated April 5, 2006, and amended December 3, 2015, attached as Attachment 4, and the Permit validation period.
3. No additional buildings or structures are to be constructed or erected within the subject area identified on the Site Plan prepared by Precise Surveying, dated April 5, 2006, and amended December 3, 2015, attached as Attachment 4, during the Permit validation period.
4. With respect to the Lands, the Lands shall be restored and all vehicles and signage associated with the "Outdoor Sales" use, shall be removed, at the expense of the Permittee, in accordance with Section 921(10) of the *Local Government Act*.

**Attachment 4  
Proposed Site Plan**





RDN REPORT	
CAO APPROVAL	✓
EAP	✓
COW	
DEC 23 2015	
RHD	
BOARD	

**STAFF REPORT**

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

**DATE:** December 23, 2015

**FROM:** Jamai Schile  
Planner

**MEETING:** EAPC – January 12, 2016

**FILE:** PL2015-045

**SUBJECT:** Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement in Relation to Subdivision Application No. PL2015-045  
Lot 24, Block 360, Newcastle and Alberni Districts, Plan 37698, Except part in Plan VIP64862  
1110 & 1120 Keith Road – Electoral Area ‘H’

**RECOMMENDATION**

That the request to relax the minimum 10% perimeter frontage requirements for the proposed remainder of Lot 24 in relation to Subdivision Application No. PL2015-045 be approved.

**PURPOSE**

To consider an application for a request to relax the minimum 10% perimeter frontage requirement to facilitate a proposed two-lot subdivision of the subject property.

**BACKGROUND**

The Regional District of Nanaimo has received an application from Peter Mason, on behalf of the Osbourne Cabin Corporation, to relax the minimum 10% perimeter frontage requirement in relation to a proposed two-lot subdivision. The subject property is approximately 8.27 ha in area and is zoned Rural 1 (RU1), Subdivision District ‘CC’, pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”.

The waterfront parcel is located on the east side of Spider Lake. The property is surrounded by Rural (RU1) zoned parcels and is accessed from Keith Road to the north (see Attachment 1 – Subject Property Map). The property contains an existing mobile home and a dwelling, which are currently serviced by both on-site water and wastewater.

***Proposed Development***

The applicant proposes to create a 4.21 ha parcel and a 4.08 ha remainder parcel through subdivision (see Attachment 2 – Plan of Subdivision). The proposed lot lines are asymmetrical and each lot will have adequate road frontage and lot depth. However, due to the configuration of the proposed lots, the applicant requires a frontage relaxation to accommodate subdivision.

**Minimum 10% Perimeter Frontage Requirement**

The proposed remainder of Lot 24 does not meet the minimum 10% perimeter frontage requirement pursuant to Section 944 of the *Local Government Act*. Therefore, approval of the Regional District Board of Directors is required to allow exemption from the requirements of Section 944. The applicant has requested approval of the RDN Board to reduce the frontage requirement as follows:

Proposed Lot Perimeter	Required Frontage (10%)	Proposed Frontage	Approximate % of Perimeter
1019.61	101.96	30.81	3%

**ALTERNATIVES**

1. To approve the request for relaxation of the minimum 10% perimeter frontage requirement for proposed remainder of Lot 24 as shown on Attachments 2 and 3.
2. To deny the request for relaxation of the minimum 10% perimeter frontage requirement.

**LAND USE IMPLICATIONS*****Development Implications***

With regards to the relaxation for the proposed remainder lot, adequate road frontage (30.81 m) is provided to accommodate an existing driveway and no negative development implications are anticipated (see Attachment 3 – Proposed Frontage). Both proposed parcels will be serviced by on-site water well and individual septic disposal systems. The lot configuration as proposed will meet minimum parcel size requirements and provide adequate site area to support the permitted uses on both parcels.

**FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

**STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.

**INTER-GOVERNMENTAL IMPLICATIONS**

The Ministry of Transportation and Infrastructure staff have indicated that they have no concerns with the proposed frontage relaxation, and the subdivision proposal has been given Preliminary Layout Approval by the Ministry.

**SUMMARY/CONCLUSIONS**

The applicant has requested the relaxation of the minimum 10% perimeter frontage requirement for the remainder lot within the proposed subdivision of the subject property. Both parcels will meet the minimal parcel size requirements and provide adequate site area to support the permitted land uses. Despite the reduced frontage, no negative land use implications are anticipated. Thus, staff recommend approval of the proposed frontage relaxation as outlined in Attachment 2 and 3.



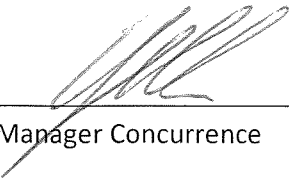
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Report Writer




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A General Manager Concurrence



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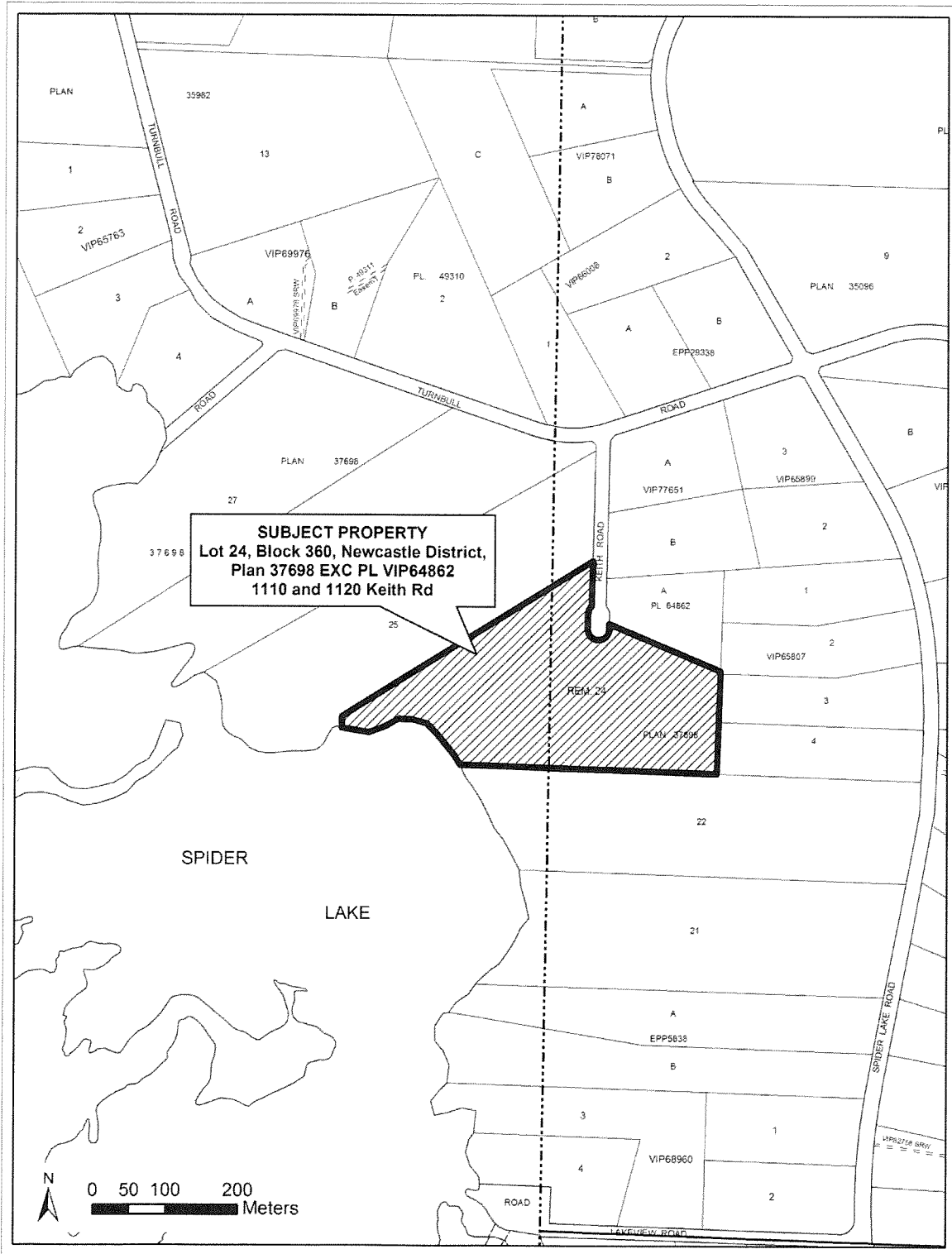
Manager Concurrence



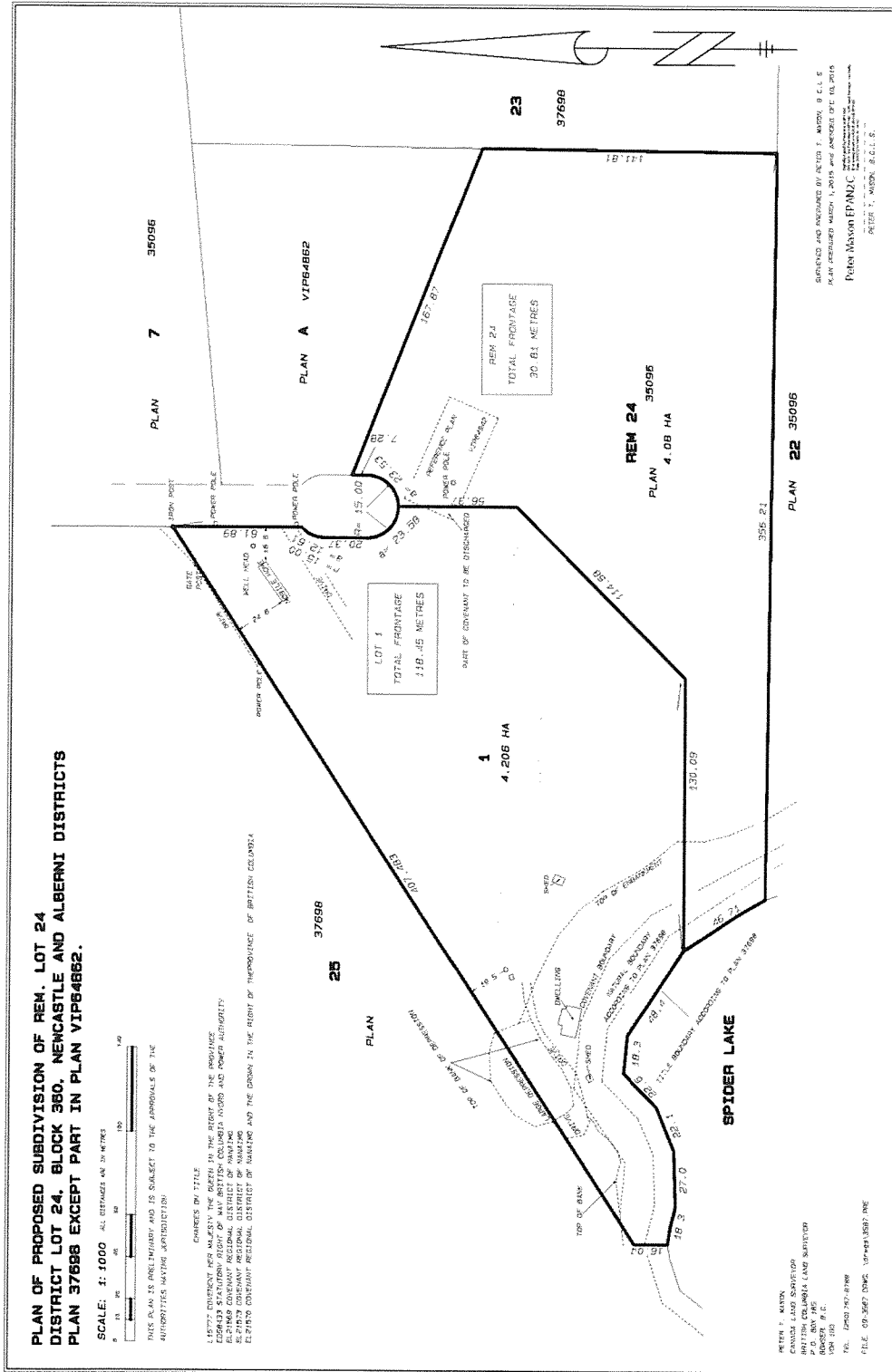
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CAO Concurrence

### Attachment 1 Subject Property Map



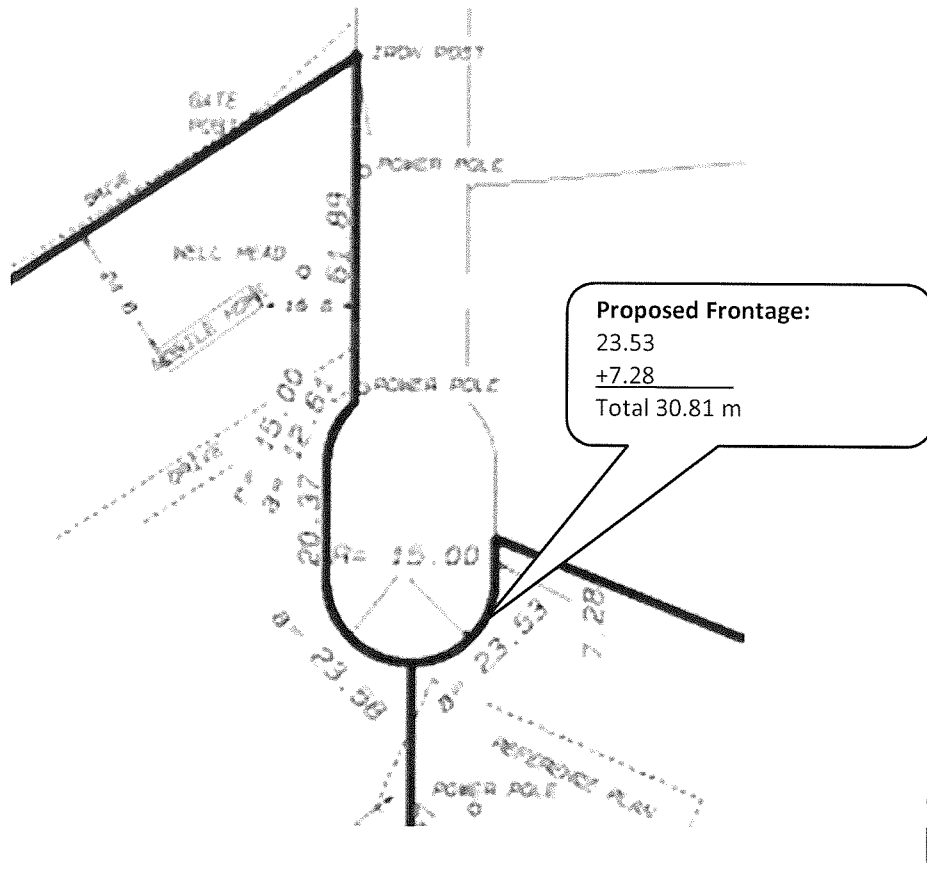
Attachment 2  
Proposed Plan of Subdivision

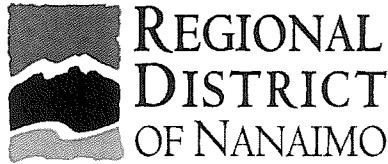




**Attachment 3  
Proposed Frontage**

Proposed Remainder of Lot 24, Plan 37698			
Proposed Lot Perimeter	Required Frontage (10%)	Proposed Frontage	Approximate % of Perimeter
1019.61	101.96	30.81	3%





RDN REPORT	
CAO APPROVAL	✓
EAP	✓
COW	
DEC 22 2015	
RHD	
BOARD	

**STAFF REPORT**

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

**DATE:** December 4, 2015

**FROM:** Tyler Brown  
Planner

**MEETING:** EAPC – January 12, 2016

**FILE:** PL2015-129  
PL2015-137

**SUBJECT:** Development Permit Application No. PL2015-129 and Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement Subdivision Application No. PL2015-137 Lot 3, District Lot 81, Nanoose District, Plan 1799  
1032 Robertson Boulevard – Electoral Area ‘G’

**RECOMMENDATIONS**

1. That the request to relax the minimum 10% perimeter frontage requirement for proposed Lot 15 in relation to subdivision application PL2015-137 be approved.
2. That Development Permit No. PL2015-129 to permit a 54 lot subdivision be approved subject to the conditions outlined in Attachments 2 and 3.

**PURPOSE**

To consider an application for a development permit in conjunction with a request to relax the minimum 10% perimeter frontage requirement to permit a 54 lot subdivision of the subject property.

**BACKGROUND**

The Regional District of Nanaimo has received a subdivision application from Fern Road Consulting on behalf of Windward Developments (2002) Ltd. to permit subdivision of the subject property into 54 lots and parkland. The property is approximately 5.17 ha, surrounded by developed residential lots and is bordered by Lowry’s Road on the northwest property boundary and Robertson Boulevard on the northeast property boundary (see Attachment 1 - Location of Subject Property). The subject property is zoned Residential 1.2 (RS1.2), Subdivision District ‘T’, pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”.

The proposed parcel configuration results in Lot 15 requiring a relaxation of the minimum 10% parcel frontage requirement. In addition, the proposed subdivision is subject to the Environmentally Sensitive Features – Aquifer Protection Development Permit Area per the “Regional District of Nanaimo Electoral Area ‘G’ Official Community Plan Bylaw No. 1540, 2008”. The proposed subdivision is within a Regional District of Nanaimo community sewer service area and the EPCOR water service area.

**Proposed Development**

The proposed subdivision is for 54 residential lots, and parkland dedication, pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (see Attachment 3 – Proposed Plan of Subdivision). The proposed lots range in area from 600 m<sup>2</sup> to 1,555 m<sup>2</sup> and would be limited to one dwelling unit per parcel with one secondary suite per principal dwelling unit (see Attachment 3 – Proposed Subdivision Plan). The subdivision proposal is consistent with surrounding Residential 1 zoned lands.

**Minimum 10% Perimeter Frontage Requirement**

Proposed Lot 15 does not meet the minimum 10% perimeter frontage requirement pursuant to Section 944 of the *Local Government Act* (see Attachment 4 – Proposed Frontage Relaxation). The applicant has requested approval of the RDN Board to reduce the frontage requirement as follows:

<i>Proposed Lot</i>	<i>Proposed Perimeter</i>	<i>Required Frontage (10%)</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
15	124.1 m	12.41 m	11.0 m	8.8%

**ALTERNATIVES**

1. To approve the request to relax the minimum 10% perimeter frontage requirement for proposed Lot 15, and Development Permit No. PL2015-129 subject to the conditions outlined in Attachments 2 and 3.
2. To deny the request for relaxation of the minimum 10% perimeter frontage requirement and Development Permit No. PL2015-129.

**LAND USE IMPLICATIONS**

**Development Implications**

With regards to the relaxation for proposed Lot 15, adequate road frontage (11.0 m) is provided to accommodate a driveway and no negative development implications are anticipated. The lot configuration as proposed will meet minimum parcel size requirements and provide adequate site area to support the permitted uses of the RS1.2 zone.

The applicant submitted an Aquifer Impact Review prepared by Bayne Hydrogeological Consulting, dated May 26, 2014, to satisfy the Environmentally Sensitive Features — Aquifer Protection Development Permit Area guidelines. The report makes mention that residential land uses are typically considered to represent a relatively low risk of potential environmental concern for groundwater quality from contamination. Furthermore, the report concludes that the impacts from water supply extraction and domestic waste disposal are not anticipated as all 54 lots must be serviced by community water and sewer to permit subdivision and that the proposed development is unlikely to negatively impact the underlying aquifer.

## FINANCIAL IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

## STRATEGIC PLAN IMPLICATIONS

Staff have reviewed the proposed development and note that the proposed subdivision, in accordance with Strategic Goal Number 2 – Implement the Regional Growth Strategy, would increase density on land inside the growth containment boundary. Moreover, in accordance with Strategic Goal Number 3 – Increase affordable, adaptable housing to support all members of a community, the development proposal would create infill in a suburban area on an existing Nanaimo Regional Transit System route and potentially provide an opportunity for affordable housing in the form of secondary suites.

## INTER-GOVERNMENTAL IMPLICATIONS

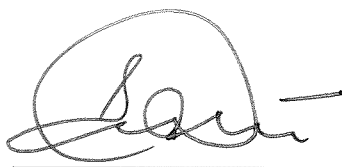
The application was referred to the local fire department, Island Health and the Ministry of Transportation and Infrastructure during the rezoning of the subject property (PL2014-034). These agencies expressed no concern with the proposed development and the subdivision application will be subject to Preliminary Layout Approval by the Ministry of Transportation and Infrastructure.

## SUMMARY/CONCLUSIONS

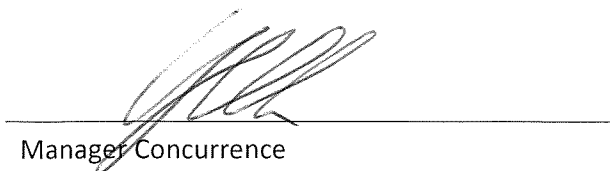
The applicant has requested a relaxation of the minimum 10% perimeter frontage requirement for proposed Lot 15 within a proposed subdivision of the subject property. All proposed parcels will meet the minimal parcel size requirements and provide adequate site area to support the permitted residential land uses. Despite the reduced frontage, no negative land use implications are anticipated. The applicant submitted an Aquifer Impact Review prepared by Bayne Hydrogeological Consulting which determined the subject property is suitable for the proposed subdivision and development. In staff's assessment, the applicant's proposal is consistent with the guidelines of the "Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008" Environmentally Sensitive Features—Aquifer Protection Development Permit Guidelines.



Report Writer



A / General Manager Concurrence

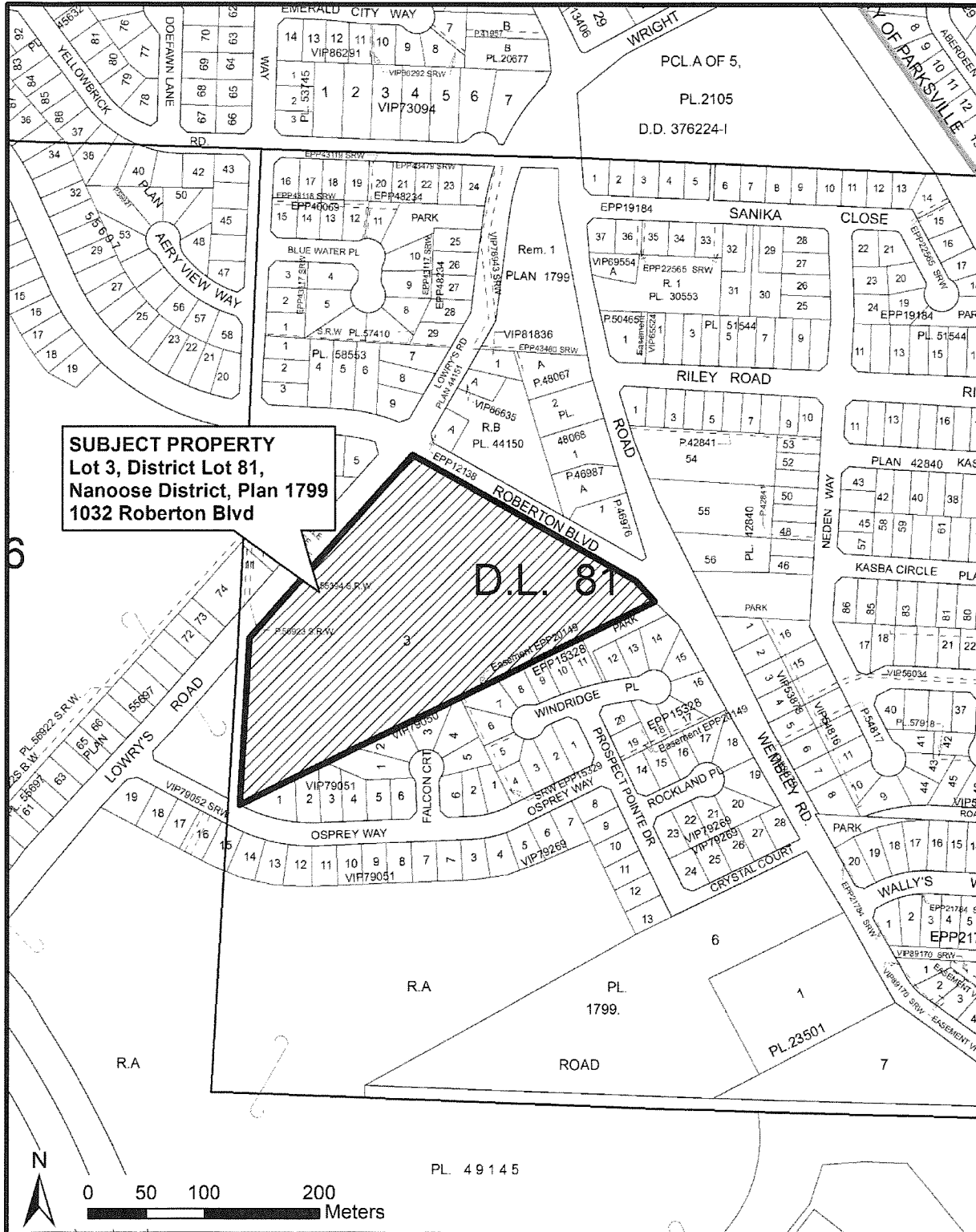


Manager Concurrence



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 No. PL2015-129:

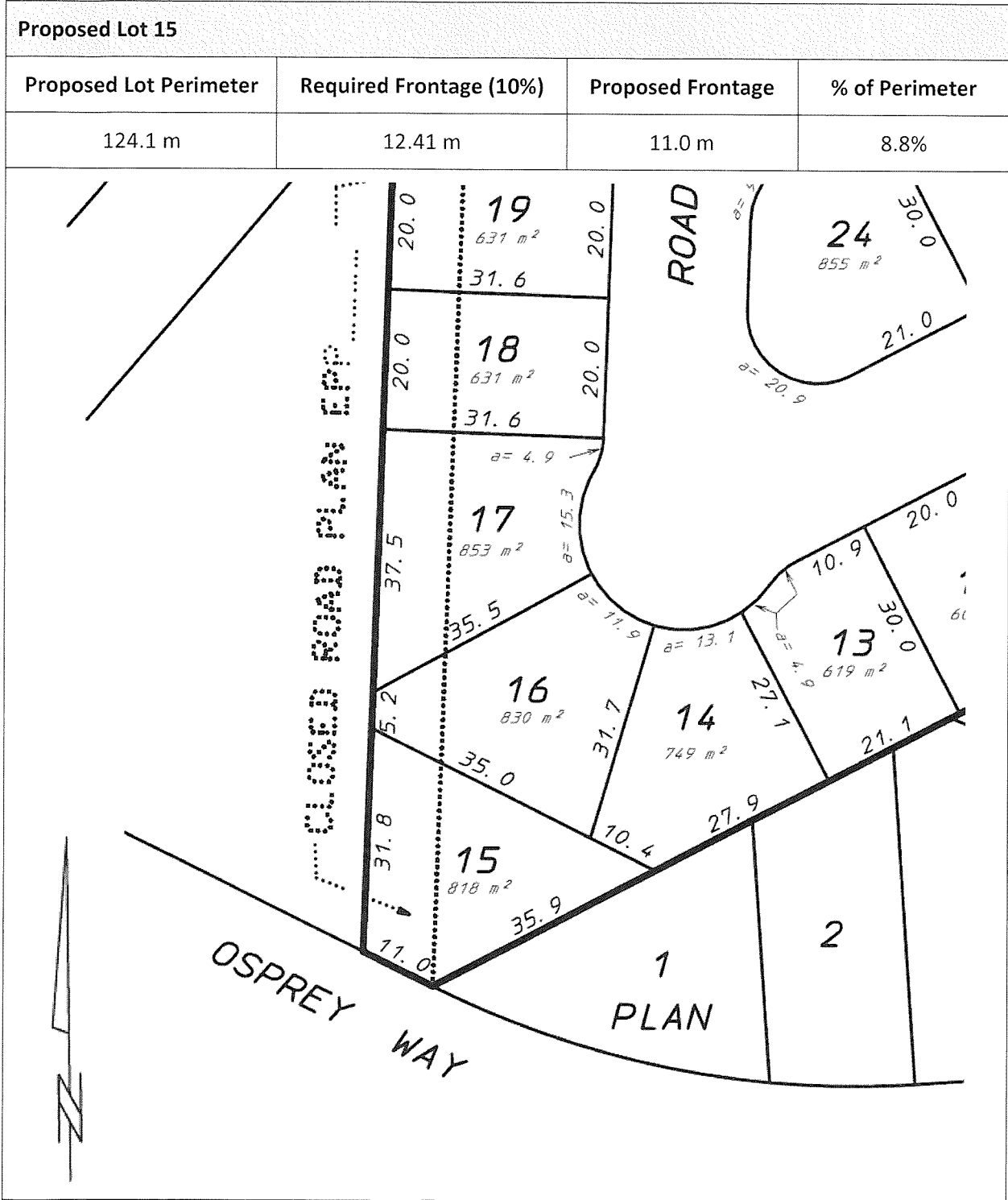
Condition of Approval

The site is developed in general compliance with the proposed subdivision plan prepared by Sims Associates Land Surveying, dated September 21, 2015, and attached as Attachment 3.

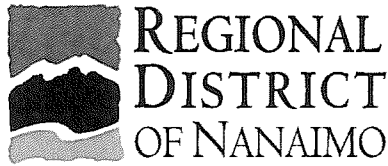
Attachment 3  
Proposed Plan of Subdivision



Attachment 4  
 Proposed Frontage Relaxation







RDN REPORT		
CAO APPROVAL		✓
EAP	✓	
COW		
DEC 22 2015		
RHD		
BOARD		

**STAFF REPORT**

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

**DATE:** December 14, 2015

**FROM:** Tyler Brown  
Planner

**MEETING:** EAPC – January 12, 2016

**FILE:** PL2015-167  
PL2015-081

**SUBJECT:** Development Variance Permit Application No. PL2015-167 and  
Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement  
Subdivision Application No. PL2015-081  
Lot 2, District Lot 38, Nanoose District, Plan 18057  
1577 Brynmarl Road – Electoral Area ‘E’

**RECOMMENDATIONS**

1. That staff be directed to complete the required notification for Development Variance Permit No. PL2015-167.
2. That Development Variance Permit No. PL2015-167 to increase the permitted parcel depth for proposed Lot 2 from 40% to 41.5% of the length of the perimeter of the parcel be approved subject to the conditions outlined in Attachments 2 and 3.
3. That the request to relax the minimum 10% perimeter frontage requirement for proposed Lot 2 in relation to Subdivision Application No. PL2015-081 be approved.

**PURPOSE**

To consider a request to relax the minimum 10% perimeter frontage requirement in conjunction with a two-lot subdivision application and to consider an application for a Development Variance Permit to permit a parcel depth greater than 40% of the perimeter for one of the proposed lots.

**BACKGROUND**

The Regional District of Nanaimo has received an application from Daniel Saliken for a two-lot subdivision (PL2015-081). The proposed parcel configuration results in proposed Lot 2 requiring a relaxation of the minimum 10% parcel frontage requirement as well as a variance to permit parcel depth to exceed 40% of the length of the perimeter of the parcel (see Attachment 3 – Site Plan and Variance).

The subject property is approximately 0.44 ha in area and is zoned Residential 1 (RS1), Subdivision District ‘N’, pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is bordered by Northwest Bay Road to the west, Brynmarl Road to the east, and similarly zoned residential parcels to the north and south (see Attachment 1 – Subject Property Map). The subject

property is vacant with the exception of a dwelling unit foundation which remains from a recent fire on the subject property that destroyed the rest of the house. The proposed lot sizes (0.241 ha and 0.201) meet the minimum parcel size pursuant to the "Regional District of Nanaimo's Land Use and Subdivision Bylaw No. 500, 1987", and each lot will contain a septic wastewater disposal system and be serviced by community water. Access to the existing parcels and the proposed parcels is from Brynmarl Road.

### ***Proposed Development and Variance***

The proposed subdivision of the subject parcel would result in two parcels, one of approximately 0.241 ha in area and the other approximately 0.201 ha in area. The applicant has applied for a variance to Section 4.5.1 — Parcel Shape and Dimensions from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" to increase the permitted parcel depth for proposed Lot 2 from 40% to 41.5% of the length of the perimeter of the parcel. Parcel depth is the measured linear distance between the midpoint of the front lot line and the most distant part of the rear lot line. The measured distance for parcel depth for proposed Lot 2 is illustrated on Page 2 of Attachment 3. The applicant is proposing a parcel depth of 96.05 m for Lot 2. A summary of the proposed variance is as follows:

<b><i>Proposed Lot</i></b>	<b><i>Perimeter</i></b>	<b><i>Permitted Maximum Parcel Depth (40%)</i></b>	<b><i>Proposed Parcel Depth</i></b>	<b><i>Proposed Parcel Depth as a % of Parcel Perimeter</i></b>
2	231.42 m	92.57 m	96.05	41.5%

### ***Minimum 10% Perimeter Frontage Requirement***

Proposed Lot 2 does not meet the minimum 10% parcel frontage requirement for subdivision. The frontage for proposed Lot 2 is as follows:

<b><i>Proposed Lot</i></b>	<b><i>Perimeter</i></b>	<b><i>Required Frontage (10%)</i></b>	<b><i>Proposed Frontage</i></b>	<b><i>Approximate % of Perimeter</i></b>
2	231.42 m	23.1457 m	19.91	8.6%

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

### **ALTERNATIVES**

1. To approve Development Variance Permit No. PL2015-167 and the request for relaxation of the minimum 10% perimeter frontage requirement for proposed Lot 2 subject to the conditions outlined in Attachments 2 and 3.
2. To deny Development Variance Permit No. PL2015-167 and the request for relaxation of the 10% perimeter frontage requirement.

## **LAND USE IMPLICATIONS**

### ***Development Implications***

The applicant has requested a minor variance to increase the permitted parcel depth for proposed Lot 2 from 40% to 41.5% of the length of the perimeter of the parcel. The applicant is also requesting a relaxation to the minimum 10% parcel frontage requirement for proposed Lot 2. The variance request and the request for relaxation to the minimum 10% frontage requirement are to permit subdivision of the existing parcel into two lots.

Board Policy B1.5 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 subdivision of the parent parcel will create two long linear lots. As a result, the length of the parcel exceeds the width which is typical of waterfront lots. The applicant's proposal avoids the need for a panhandle configuration while providing suitable site area for the uses permitted in the Residential 1 zone. Although the applicant's subdivision proposal requires a variance for Lot 2, it is a minor variance and will not result in either lot being characteristically different from other parcels on the waterfront in the surrounding area. Moreover, the parcel depth measurement is the measured linear distance between the midpoint of the front lot line and the most distant part of the rear lot line. On waterfront lots, where the natural boundary of the ocean produces a varied rear lot line, the most distant part of the rear lot line is exaggerated when compared to parcels with perpendicular lot lines that are not defined by natural boundaries. Consequently, a variance to parcel depth may be required on ocean front parcels whereas similarly shaped parcels that do not border the ocean would not require a variance. No view or other negative landuse implications are anticipated as a result of the proposed variance.

## **FINANCIAL IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board's 2015 – 2019 Financial Plan.

## **STRATEGIC PLAN IMPLICATIONS**

Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.

## **INTER-GOVERNMENTAL IMPLICATIONS**

The Ministry of Transportation and Infrastructure staff have indicated that they have no concerns with the proposed frontage relaxation, and the subdivision proposal will be subject to Preliminary Layout Approval by the Ministry.

## **PUBLIC CONSULTATION IMPLICATIONS**

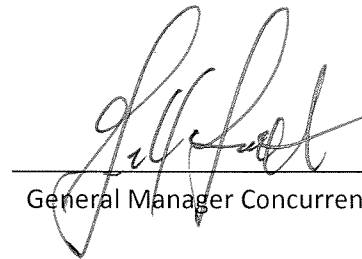
Pending the Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005", property owners and tenants of parcels located within a 50 metre radius of the subject property will receive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

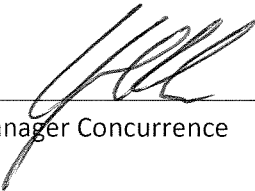
The applicant has requested the relaxation of the minimum 10% perimeter frontage requirement and a variance to increase the permitted parcel depth for proposed Lot 2 (from 40% to 41.5%) to permit a two-lot subdivision. Both parcels will meet the minimum parcel size requirements and provide adequate site area to support the permitted land-uses in the Residential 1 zone. Despite the reduced frontage and variance, no negative land use implications are anticipated. The Ministry of Transportation and Infrastructure have indicated that they have no objection to the request for relaxation of the frontage for proposed Lot 2. Given that proposal will not result in parcels substantially different from others in the area, and that the applicant's proposal is not anticipated to negatively impact neighbouring properties, staff recommend the Board approve the frontage relaxation request and the requested variance pending the outcome of public notification and subject to the Terms and Conditions outlined in Attachment 2.



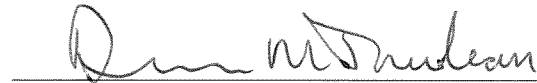
Report Writer



General Manager Concurrence

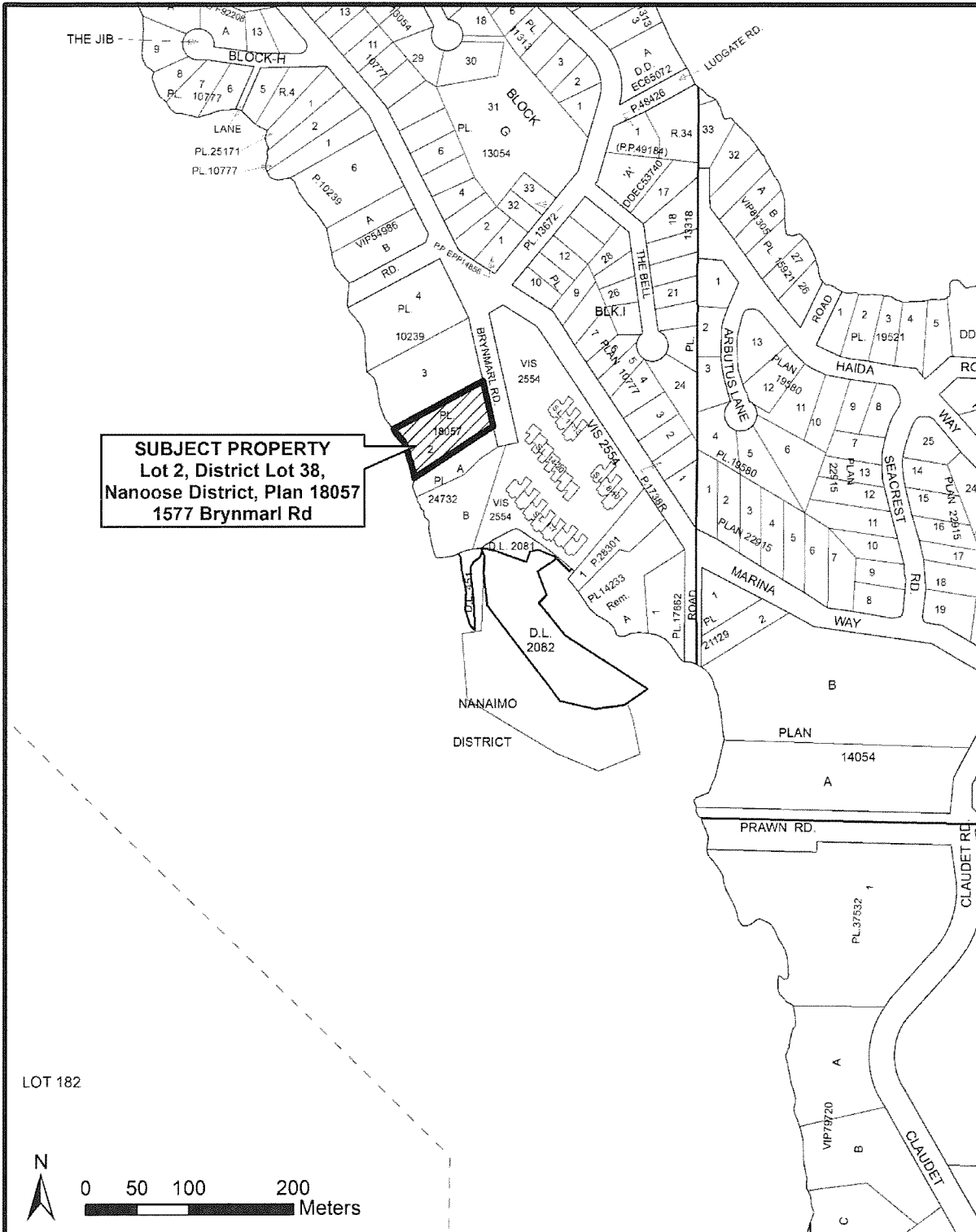


Manager Concurrence



CAO Concurrence

**Attachment 1**  
**Subject Property Map**



**Attachment 2  
Terms and Conditions of Permit**

The following sets out the terms and conditions of Development Variance Permit No. PL2015-167:

Bylaw No. 500, 1987 Variances:

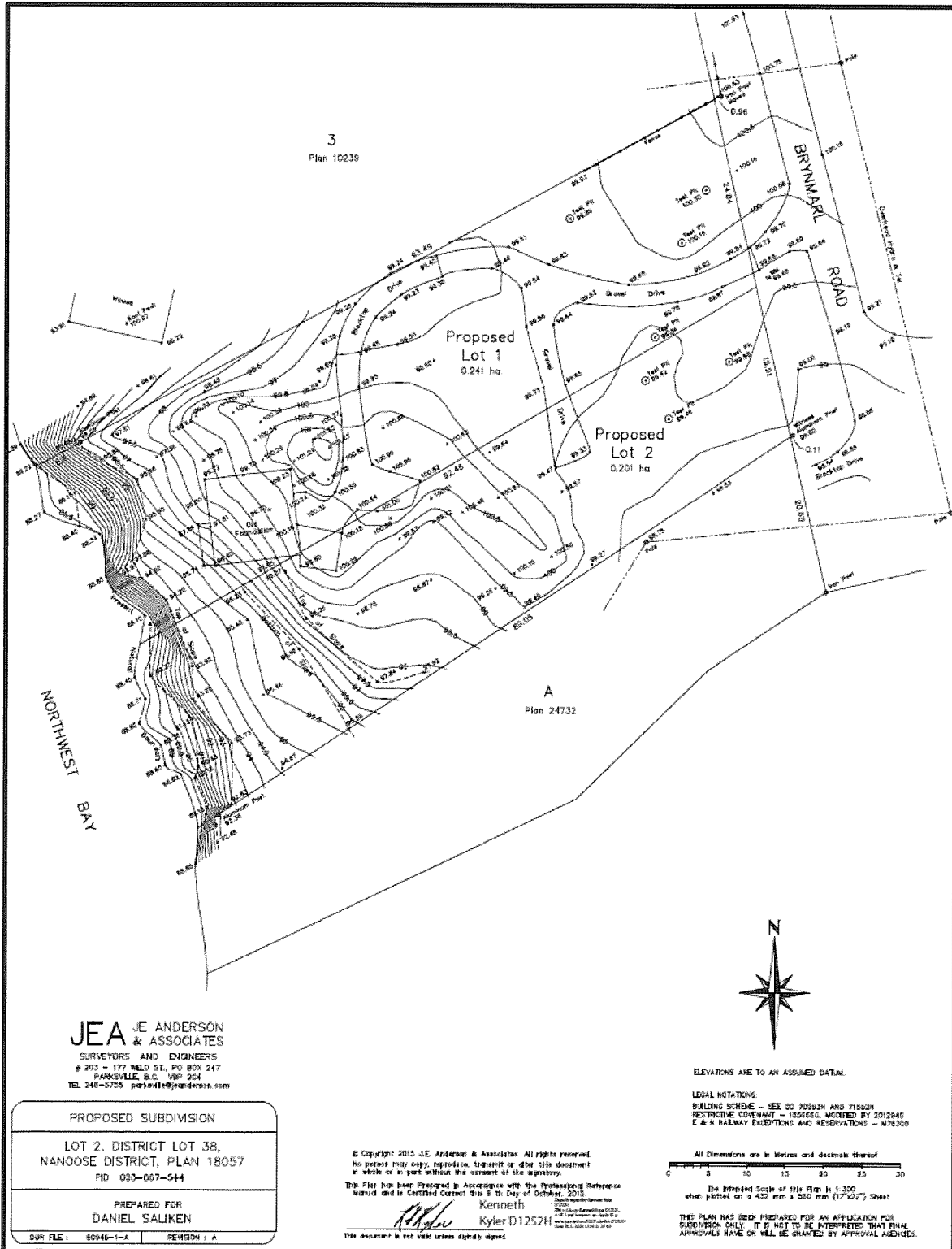
With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” is varied as follows:

**Section 4.5.1 — Parcel Shape and Dimensions** — to increase the permitted parcel depth for proposed Lot 2 from 40% to 41.5% of the length of the perimeter of the parcel as shown on Attachment 3.

Conditions of Approval:

The site is developed in accordance with the Proposed Subdivision Plan prepared by J.E. Anderson & Associates, dated December 16, 2015 and attached as Attachment 3.

Attachment 3  
Site Plan and Variance (Page 1 of 2)



Attachment 3  
 Site Plan and Variance (Page 2 of 2)

