



REGIONAL
DISTRICT
OF NANAIMO

**DEVELOPMENT PERMIT WITH VARIANCE APPLICATION NO. PL2020-035
REQUEST FOR RELAXATION TO THE 10% FRONTAGE REQUIREMENTS IN RELATION TO
SUBDIVISION APPLICATION PL2019-107 AND CONSIDERATION OF PARK DEDICATION
LOT 57 KAYE ROAD, ELECTORAL AREA G**

Please note: The recommendation was varied by the Committee as follows:

- 1. That the Board approve Development Permit with Variance No. PL2020-035 to permit a four-lot subdivision subject to the terms and conditions outlined in Attachment 3, as amended, with the removal of Condition 3.**
- 2. That the Board approve the request for the 10% road frontage relaxation for Lots A, B, C and D.**
- 3. That the Board waive the requirement for park land dedication and that proposed Lot D be donated to The Nature Trust of British Columbia.**

RECOMMENDATIONS

1. That the Board approve Development Permit with Variance No. PL2020-035 to permit a four-lot subdivision subject to the terms and conditions outlined in Attachment 3.
2. That the Board approve the request for the 10% road frontage relaxation for Lots A, B, C and D.
3. That the Board waive the requirement for park land dedication and that proposed Lot D be donated to The Nature Trust of British Columbia.
4. That the Board direct staff to complete the required notification for Development Permit with Variance No. PL2020-035.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from JE Anderson & Associates on behalf of Emil Anderson Construction Co. Ltd. and The Nature Trust of British Columbia, Inc. No. XS0009934 (NTBC) for a development permit with variances, frontage relaxations and waiver of park land dedication, all in order to permit a four-lot subdivision. The proposal includes three 1.0 hectare lots for residential development, and one 29.2 hectare lot proposed to be donated to The Nature Trust of British Columbia in exchange for park land dedication. The portion of the NTBC land to the south west is required to attain sufficient land area to meet the parcel averaging provisions.

The subject properties (the Lands) are vacant, approximately 32.4 hectares in total area and zoned Agriculture 2 Zone (AG2), Subdivision District 'B', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (Bylaw 500) and "Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008." (OCP). The subject properties are legally described as District Lot 57, Nanoose District and Block 564, Nanoose District, Except That Part Shown Outlined in Red on Plan 613-R And Except Parts in Plans 360RW, 3132RW, 31833, 39893, 42873, VIP66068, VIP67422, VIP69511, VIP71158, VIP75276, VIP75277 and VIP75278.

The Lands are located north of the Rivers Edge residential development and large sections of land owned by The Nature Trust of British Columbia; south of the City of Parksville and the Parksville-Qualicum Fish and Game Association owned lands, east of the Englishman River and Englishman River Regional Park and Top Bridge Community Park within the City of Parksville and west of Kaye Road and the Inland Island Highway (see Attachment 1 – Subject Property Map).

Proposed Development and Variances

The proposed four-lot subdivision will require variances to the subdivision regulations to allow for parcel depth greater than 40% of the perimeter of the parcel for proposed Lots A and C and to reduce the parcel size beyond the permitted parcel averaging provisions that currently allow a parcel to be reduced to 80% of the permitted parcel size for Lots A, B and C. As such, the applicant proposes to vary the following regulations from Bylaw 500:

Section 4.5.1 – Parcel Shape and Dimensions to increase the permitted parcel depth for Lot A from 40% to 43.8% of the length of the perimeter of the parcel and Lot C from 40% to 40.9% of the length of the perimeter of the parcel.

Section 4.3.4 – Parcel Size to increase the 50% provision to 75% of lots permitted to be reduced by more than 80% of the size permitted in the subdivision district and reduce the permitted 80% reduction in parcel size to Lot A to 13.0%, Lot B to 12.5% and Lot C to 13.5%.

With the variance to allow the three smaller parcels, the average size of the four parcels still meet the minimum lot size density of one lot per 8.0 hectares. The minimum lot size can be varied provided the overall density is not increased.

Minimum 10% Perimeter Frontage Requirement

Proposed Lots A, B, C and D do not meet the minimum 10% perimeter frontage requirement pursuant to Section 512 of the *Local Government Act*. The applicant has requested approval of the RDN Board to reduce the frontage requirement of Lot A to 4.2%; Lot B to 4.3%; Lot C to 3.9% and Lot D to 9.0%. The three lots for residential use will have adequate access to the public road system and there will be enough useable area to accommodate the permitted residential uses in the AG2 zone.

Development Permit Areas

In support of the variances and relaxation requests, and to satisfy the Development Permit Area (DPA) guidelines for Environmentally Sensitive features and Freshwater and Fish Habitat Protection, the applicant has submitted a Biophysical Assessment, dated June, 2020, and Riparian Area Protection Regulation Report (RAPR), dated January 14, 2021, both prepared by Aquaparian Environmental Consulting Ltd. Most of Lot D exists within the Englishman River floodplain that lies within a steep ravine and the northern section contains several trail networks used by the public, providing connection to adjacent park land. The floodplain is largely within the Agricultural Land Reserve and is comprised of a mosaic of habitat types and topographical features consisting mainly of mature forest and wetland areas where the Streamside Protection and Enhancement Area (SPEA) is identified within the RAPR Report. The Biological Assessment identifies the presence of habitat that is likely to support a variety of wildlife including several species-at-risk as well as “older trees”, some up to 250 years old. Lot D is proposed to be donated to the NTBC and to be protected by registering a conservation covenant. This measure is in line with the Freshwater and Fish Habitat DPA guideline No. 14 to protect the integrity of the identified SPEA by way of gifting to a nature preservation organization and ensuring conservation measures. Proposed residential Lots A, B and C are within an old gravel pit where there are no sensitive features identified within the biological assessment. However, the report does recommend development to occur outside the songbird nesting window and the creation of an Environmental Protection Plan (EPP) as part of the residential development of each residential lot. The proposed rear lot lines of Lots A, B and C are along the top of slope of a ravine. The Riparian Assessment Area extends 10.0 meters into these lots from the top of slope and the report includes measures to protect the SPEA from encroachment and recommends measures to control sediment and erosion during development.

To ensure that the property is safe for the intended use, the applicant has submitted a Geotechnical Assessment prepared by Lewkowich Engineering Associates Ltd., dated January 14, 2021. The assessment concludes that the land is safe for the intended residential use and specifies a 10.0 metre setback from the top of the ravine bank for all buildings and structures. The report recommends a 10.0 metre setback for all buildings from the top of slope and a 3H:1V geotechnical setback from the slope for residential buildings (see Attachment 3 – Draft Development Permit with Variance). Given the significant topographical and environmental constraints, reduced parcel size and

configuration, Lots A, B and C do not have adequate buildable areas to reasonably support all the uses permitted by the AG1 Zone. To satisfy Policy B1.4 and ensure that there are adequate buildable areas on each lot, the applicant is proposing to restrict the land use in a Section 219 Covenant to residential use only, household livestock and household poultry only.

As part of the subdivision referral process, the applicant submitted a Desktop Hydrogeological Assessment by Chinook Arch Geoscience Inc., dated May 7, 2020. Regional & Community Utilities (RCU) staff and the Chinook report conclude a declining trend and stress in aquifer 1098. RCU and the Chinook report offer recommendations to limit groundwater use and to protect water quality. To limit the potential impact of this development, several conditions will be required for the proposed development by RCU and the Assessment Report. These include irrigation and lawn restrictions, stormwater management and rainwater harvesting. (see Attachment 3 – Draft Development Permit with Variances).

The registration of a number of Section 219 Covenants are required to ensure that the subject property is developed in accordance with the professional reports and RDN policies; these include mitigating potential impacts on ground water and surface water, prohibit development in geotechnical hazard areas, and restrict land uses on the residential lots to be compatible with the proposed variances (see Attachment 3 – Draft Development Permit with Variances). Given that the applicants justification is sufficient and has addressed anticipated environmental impacts, the applicant has addressed the DPA guidelines and Policy B1.5.

Park Land Consideration

The applicant is requesting that the Electoral Area services Committee waive park land dedication and/or cash-in-lieu of park land pursuant to Section 510 of the *Local Government Act* in lieu of donating proposed Lot D, 29.2 hectares of land to the NTBC, and provide \$350,000 to the NTBC as a Land Endowment Fund for the management and maintenance of the lands in perpetuity. The applicant is proposing to donate Lot D to the NTBC and protect by registration of a restrictive covenant and Statutory Right-of-Way (SRW) to ensure environmental preservation, limit buildings and structures to those incidental to conservation purposes only and permit continued public access and maintenance to the existing trail networks in perpetuity (see Attachment 2 – Park Land Implications).

Public Consultation Implications

Pending the Electoral Area Services Committee’s recommendation and pursuant to the *Local Government Act* and the “Regional District of Nanaimo Development 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 be provided an opportunity to comment on the proposed variance prior to the Board’s consideration of the application.

FINANCIAL IMPLICATIONS

The proposed development has been reviewed and has no implications related to the Board 2020-2024 Financial Plan.

STRATEGIC PLAN ALIGNMENT

The proposed development has been reviewed and the proposal aligns with the key strategic area of Environmental Stewardship - Protect and acquire lands for environmental preservation and parkland, in keeping with the 2019-2022 Board Strategic Plan. The proposed development would preserve 29.2 hectares of land under the protection of The Nature Trust of British Columbia. Environmental Stewardship - Protect and acquire lands for environmental preservation and parkland.

REVIEWED BY:

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

ATTACHMENTS

1. Subject Property Map
2. Park Land Implications
3. Draft Development Permit with Variances