



**DEVELOPMENT VARIANCE PERMIT APPLICATION NO. PL2023-046
210 COCHRANE ROAD, ELECTORAL AREA H**

RECOMMENDATIONS

1. That the Board approve Development Variance Permit No. PL2023-046 to reduce the setbacks for a proposed telecommunications tower, related infrastructure, and a fence subject to the terms and conditions outlined in Attachment 2.
2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2023-046.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from SitePath Consulting Ltd. on behalf of TELUS Communications Inc. (TELUS) and 537781 B.C. LTD., Inc. No. 537781 to permit the construction of a telecommunications tower, related equipment and fencing within the setback from the interior side lot lines. The proposed telecommunications tower (Application PL2021-017) was originally proposed to be sited on the northwest corner of the subject property. However, following the public consultation process and the applicants request for siting concurrence, the RDN Board passed a motion of non-concurrence on June 22, 2021. Subsequently, the RDN Board reconsidered this previous motion and granted concurrence on July 13, 2021, passing the following motion:

The Regional District of Nanaimo concurs with TELUS Communications Inc.'s proposal to construct a wireless telecommunications facility in the south-west corner as close as is practical to the south and west property boundaries of the parcel legally described as Lot 6, District Lot 20, Newcastle District, Plan 6469.

The applicant has received concurrence from the RDN and Innovation, Science and Economic Development Canada provided confirmation that the proposed cell tower construction can proceed.

The subject property, legally described as Lot 6, District Lot 20, Newcastle District, Plan 6469, is approximately 2.23 hectares in area and is zoned Industrial 2 (IN2), Subdivision District 'D', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (Bylaw 500). The property is located in Qualicum Bay and is surrounded by Cochrane Road, the E&N Railway, and developed residential parcels to the north and east; a large undeveloped resource management zoned parcel to the south; and a rural zoned parcel which is the undeveloped, southern portion of the Qualicum Bay Resort property (see Attachment 1 – Subject Property Map). The property contains a woodworking and small custom teak milling business and outdoor storage.

Proposed Development and Variance

The proposed development includes the construction of a 63.1-metre-tall, self supported telecommunications tower and related equipment in the southwestern corner of the subject property. The tower and related infrastructure, including a diesel genset (generator) and equipment shelter, will be located within a 20 metre x 11 metre compound surrounded by an approximately 2.5-metre-high chain link fence topped with barbed wire. Variances for the proposed siting of the fence surrounding the compound and for the tower and related equipment are required to allow the proposed development to be sited within the 10.0 metre setback to the southern and western property lines. The fence is proposed to be located on the property lines and the telecommunications tower is proposed to be located 1.43 metres from both the southern and western property lines. The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 3.4.32 – Minimum Setback Requirements** to reduce the minimum setbacks from 10.0 metres to 0.0 metres from the interior side lot lines in the southwest corner of the subject property for a fence greater than 2.0 metres in height for a telecommunications tower compound.
- **Section 3.4.32 – Minimum Setback Requirements** to reduce the minimum setbacks from 10.0 metres to 1.43 metres from the interior side lot lines in the southwest corner of the subject property for a telecommunications tower and related equipment within the telecommunications tower compound.

Land Use Implications

The Applicant has provided a site plan and site survey showing the proposed location of the telecommunications tower compound, including tower, existing infrastructure, and fence in addition to the location of existing buildings and structures, access road, and proposed road barrier. The applicant has confirmed that the proposed concrete road barrier will be less than 1.0 metre in height and is therefore not required to meet setbacks. In addition, they have provided engineered plans for the proposed tower and equipment (see Attachment 2 Draft of Development Variance Permit – Schedule 2 Site Survey with Variance and Schedule 3 Telecommunications Tower Plans and Elevations).

The applicant has indicated that they have entered into a Statutory Right of Way (SRW) agreement with the property owner directly to the south to enable delivery of a more direct access driveway and power line into the Telus compound through a narrow strip of privately owned land that connects to the southwest corner of the subject property. The applicant has also noted that they have welcomed input from BC Hydro, the Ministry of Transportation and Infrastructure (MOTI), and Qualicum First Nation on the proposed cell tower and that no concerns had been raised at the time of this application.

“Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation” (Policy B1.5) for the 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 support of this application, the applicant has provided the following rationale for the requested variance:

- The RDN Board requested that the tower be located as far as practical in the southwest corner of the subject property following community opposition to the previously proposed tower location, which was closer to the E&N Railway and nearby residences in the northwest corner of the property.
- The southwest corner of the subject property contains a steep slope making it extremely difficult to construct the proposed tower in a location that would meet the 10.0 metre setback.

- If the proposed tower is required to comply with the setbacks, the tower centre and supporting structure would be located on the steep slope with a 7-metre change in elevation and a substantial structural concrete retaining wall would be required.
- A variance to the setback would allow the tower compound to be constructed in a more practical location on level ground.
- While Bylaw 500 does allow transmission towers to exceed the maximum permitted height restriction, it does not exempt them from meeting setbacks. Many other local governments do specifically allow for utilities such as electrical lines, telephone poles, cell towers etc. to be located within setbacks.
- As a federally regulated use under the *Radiocommunication Act*, zoning requirements, including setbacks, do not typically apply to uses under exclusive federal jurisdiction.

Given that the applicants have provided sufficient rationale, and the variance is not anticipated to result in negative implications for adjacent property owners, the applicants have made reasonable efforts to address Policy B1.5.

Public Consultation Implications

Pending the Electoral Area Services Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Application, Notification Procedures and Fees Bylaw No. 1845, 2022", property owners and tenants of parcels located within a 100.0 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.

FINANCIAL IMPLICATIONS

The proposed development has been reviewed and has no implications related to the Board 2023-2027 Financial Plan.

STRATEGIC PLAN ALIGNMENT

The proposed development has been reviewed and is consistent with the Board Strategic Plan of focusing on Economic Coordination - Set the table to enable diverse economic opportunities across the Region. The proposed telecommunication tower is consistent with this strategic priority as reliable wireless coverage is crucial to businesses and residents who may work from home.

REVIEWED BY:

G. Keller, Acting Manager, Current Planning
 L. Grant, General Manager, Development and Emergency Services
 T. Osborne, Acting Chief Administrative Officer

ATTACHMENTS:

1. Subject Property Map
2. Draft Development Variance Permit