



**DEVELOPMENT VARIANCE PERMIT APPLICATION NO. PL2023-067
121 HILLIERS ROAD NORTH, ELECTORAL AREA G**

RECOMMENDATIONS

1. That the Board approve Development Variance Permit No. PL2023-067 to reduce the setback for a proposed fence greater than 2.0 metres in height 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. PL2023-067.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Scott Warren on behalf of Fortis BC Energy Inc., Inc. No. BC1023718 (FEI) to permit the construction of a chain link fence topped with barb wire greater than 2.0 metres in height within the minimum setback from the front and other lot lines of the subject property. The fence is required to enclose an existing FEI meter station and to provide privacy for the adjacent residential property. The subject property, legally described as That Part of Lot 14, District Lot 8, Newcastle District, Plan 1949, Except Plan 514 RW, as Shown on Plan EPP117820, is approximately 0.164 hectares in area and is zoned Agriculture 1 (AG1), Subdivision District 'D', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and is in the Agricultural Land Reserve (ALR). The property is bound by lands in the ALR on all sides including residential dwelling units to the north and east an undeveloped parcel and Hydro right of way to the south, and Hilliers Road North to the west (see Attachment 1 – Subject Property Map).

The property contains an FEI meter station with four existing buildings including a transmission meter building, heater building, distribution meter building and a remote terminal unit. FEI previously held a 30-year lease over the area where the meter station infrastructure is located. When the lease recently expired, FEI purchased this property through an agreement with the property owner and the registration of a new statutory right of way, which granted exclusive right to FEI, effectively resulting in a subdivision and the creation of the subject property. Through the purchase agreement, the adjacent property owner requested that FEI construct an approximately 2.5-metre-high fence along a portion of the shared property line to provide privacy from the Fortis BC Station equipment and workers.

Proposed Development and Variance

The proposed development includes the construction of a fence and two gates with a maximum height of 2.5 metres (approximately 8.0 feet) within the setback to the front and interior side lot lines. The proposed fence will replace an existing temporary fence in generally the same location along the northern side of the site and will include the addition of a new fence and man gate along a portion of the front lot line. The fence and gates are proposed to be constructed of chain link fence panels topped with three rows of barbed wire. The applicant

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

- **Section 3.4.1.3 – Minimum Setback Requirements** to reduce the minimum setback from 8.0 m to 0.00 m from the front lot line and from 8.0 metres to 4.9 metres from the interior side lot lines to the north and east for a fence and gates up to 2.5 metres in height.

Land Use Implications

The applicant has provided a site plan and site survey showing existing infrastructure and the extent and location of the new fence and gates. In addition, they have provided engineered plans showing the general design for the proposed fence (see Attachment 2 Draft of Development Variance Permit – Schedule 2 Site Plans and Schedule 3 Fence Elevations). Most of the property is already fenced with a chain link fence that is less than 2.0 metres in height which will remain. A new 2.5-metre-high fence would replace an existing temporary fence adjacent to the neighbouring parcel to the north and east and additional fencing and gates would replace some exiting fence along the front of the property. The property is buffered from the road by existing vegetation which is largely proposed to be maintained along the road frontage. A row of existing hedges along a portion of the northern property line, within the FEI station, are proposed to be removed and the new fence in this location will include privacy so the station will not be visible to the adjacent property.

The applicant has indicated that the proposed fence is necessary to keep the site secure and inaccessible to the public. In addition, they have indicated that through the recent subdivision and sale of this parcel from the adjacent lot, the adjacent property owner requested that an 8 foot (approximately 2.5 metre) high fence be constructed along the northern property boundary for privacy.

“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 indicated that the fence will provide greater safety and privacy for adjacent property owner and will keep natural gas assets secured and inaccessible to the public.

Given that the applicant has provided sufficient rationale, and the variances are not anticipated to result in negative implications for adjacent property owners, the applicant has 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 and Notification Procedures Bylaw No. 1776, 2018”, 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 variances 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 has no implications for the 2019-2022 Board Strategic Plan.

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