

**TO:** Electoral Area Services Committee      **MEETING:** July 10, 2018  
**FROM:** Stephen Boogaards  
Planner      **FILE:** PL2018-060  
**SUBJECT:** **Development Variance Permit Application No. PL2018-060**  
**3471 Blueback Drive – Electoral Area ‘E’**  
**Lot 71, District Lot 78, Nanoose District, Plan 15983**

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## **RECOMMENDATIONS**

1. That the Board approve Development Variance Permit No. PL2018-060 to reduce the setback from the top of slope 30 percent or greater from 8.0 metres to 3.0 metres, be approved subject to the terms and conditions outlined in Attachments 2 to 4.
2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2018-060.

## **SUMMARY**

The applicant requests to vary the setback from the sea from 8.0 metres to 3.0 metres to allow the construction of a dwelling unit on the subject property. Due to the slope on the property, the applicant has demonstrated that the buildable areas of the lot are limited and has identified safe geotechnical setbacks from the top of slope. The applicant has also demonstrated that the proposed building location is consistent with the neighbouring property and will not impact the view of the sea for neighbouring properties. Given the topographical constraints on the property and that the variance is unlikely to result in negative view implications, it is recommended that the Board approve the variance, pending the outcome of public notification and subject to the terms and conditions outlined in Attachments 2 to 4.

## **BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from J.E. Anderson and Associates on behalf of Gerhard and Colleen Gerke to permit the construction of a dwelling unit within the required setback to the sea. The subject property is approximately 0.17 hectares in area and is zoned Residential 1 Zone (RS1), pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is located to the northwest of the Strait of Georgia and is adjacent to other residential properties (see Attachment 1 – Subject Property Map).

The property contains an existing dwelling unit and is serviced by RDN community water and on-site septic disposal. The existing dwelling is proposed to be demolished to accommodate the new dwelling. Proposed Development and Variance

The applicant requests a variance for a dwelling unit within the setback from the sea from the top of a slope 30 percent or greater. The attached covered patio and a portion of the dwelling unit will be within the 8.0 metre setback. 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 – Setbacks – Sea** to reduce the minimum setback from the top of slope of 30 percent or greater from 8.0 metres to 3.0 metres for the covered patio and a portion of the proposed dwelling.

### ***Land Use Implications***

The applicants are proposing to construct a dwelling unit on the property and request a variance to the top of slope setback to accommodate a covered patio and a portion of the dwelling unit (see Attachment 3 – Proposed Site Plan and Variance). According to “Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation” 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 applicant’s proposal identifies that the steep slopes limit the buildable sites on the property. The proposed building site is also 23.0 metres from the Strait of Georgia at the closest point.

With respect to the justification, the applicant has provided a Geotechnical Hazard Assessment by Lewkowich Engineering Associates Ltd., dated August 8, 2017 to confirm the topographical constraints on the property. The report recommends a 3.0 metres setback from the crest of slope and is reflected in the requested variance and survey plan. The report also addresses potential environmental and safety impacts by confirming that the site is safe and suitable for the intended use of a dwelling unit and that the development will not result in a detrimental impact on the environment provided the recommendations are followed. As a condition of the development variance permit, the report will be registered on the property title as a covenant, saving the RDN harmless from all losses or damages to life or property as a result of the hazardous condition (see Attachment 2 – Terms and Conditions of Permit).

With respect to potential impacts, the applicant has evaluated the proposed building location relative to the neighbouring properties. The applicant has demonstrated that the proposed building location will not appear closer to the sea than the neighbouring dwelling and the building location will not affect the view of the sea for other dwellings. The applicant has also designed and located the dwelling to eliminate the need for a height variance. Given that the applicant has provided sufficient rationale and that the variance is not anticipated result in negative view implications for adjacent properties, the applicants have made reasonable efforts to address Policy B1.5 guidelines.

### ***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 will have an opportunity to comment on the proposed variance prior to the Board's consideration of approval.

### **ALTERNATIVES**

1. To approve Development Variance Permit No. PL2018-060 subject to the conditions outlined in Attachments 2 to 4.
2. To deny Development Variance Permit No. PL2018-060.

### **FINANCIAL IMPLICATIONS**

The proposed development has been reviewed and has no implications related to the Board 2018 – 2022 Financial Plan.

### **STRATEGIC PLAN IMPLICATIONS**

The proposed development has been reviewed and has no implications for the 2016 – 2020 Board Strategic Plan.



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Stephen Boogaards  
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June 21, 2018

Reviewed by:

- J. Holm, Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

Attachments

1. Subject Property Map
2. Terms and Conditions of Permit
3. Proposed Site Plan and Variance
4. Building Elevations and Plans



## **Attachment 2**

### **Terms and Conditions of Permit**

The following sets out the terms and conditions of Development Variance Permit No. PL2018-060:

#### Bylaw No. 500, 1987 Variance

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

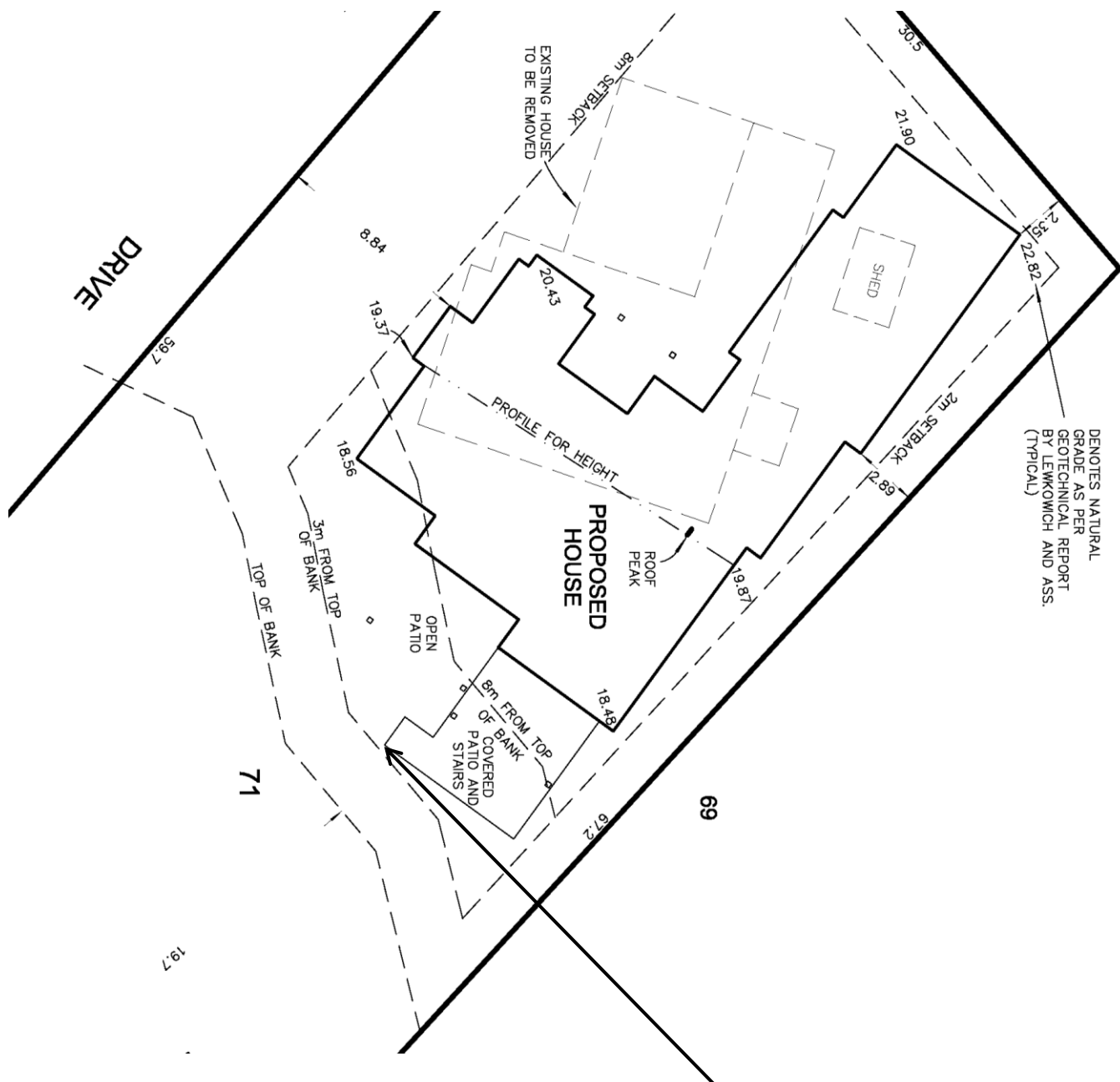
**Section 3.3.9 – Setbacks – Sea** to reduce the minimum setback from the top of slope of 30 percent or greater from 8.0 metres to 3.0 metres for the covered patio and a portion of the proposed dwelling unit.

#### Conditions of Approval

1. The site is developed in accordance with the Survey Plan prepared by J.E. Anderson & Associates dated June 6, 2018 and attached as Attachment 3.
2. The proposed development is in general compliance with the plans and elevations prepared by Foresheew Design Associates, dated February 23, 2018 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 August 8, 2017.
4. The issuance of this Permit shall be withheld 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 August 8, 2018, 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 permits for construction in accordance with Regional District of Nanaimo Building Regulations.



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



### Attachment 4 Building Elevations

