
TO: Electoral Area Services Committee **MEETING:** November 20, 2018

FROM: Angela Buick
Planner **FILE:** PL2017-173

SUBJECT: Development Variance Permit Application No. PL2017-173
1352 Madrona Drive – Electoral Area E
Lot 6, District Lot 68, Nanoose District, Plan 26680

RECOMMENDATIONS

1. That the Board approve Development Variance Permit No. PL2017-173 to legalize the siting of an existing deck, portion of the house, stairs and to permit the construction of an addition by reducing the setback to the sea and interior side lot line subject to the terms and conditions outlined in Attachments 2 to 3.
2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2017-173.

SUMMARY

This is an application to vary the setback from the natural boundary of the sea to legalize the siting of an existing deck, stairs and house and to allow construction of a sunroom and to vary the setback to the interior side lot line to legalize an existing set of stairs. Given that no negative impacts are anticipated as a result of the proposed variance, staff recommends that the Board approve the development variance permit pending the outcome of public notification and subject to the terms and conditions outlined in Attachment 2.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Helen Sims of Fern Road Consulting Ltd. on behalf of Arlene Ackerman and Philip Lipsey to legalize the siting of an existing house, deck and stairs and to permit the construction of a sunroom addition to project into the 15.0 metre setback from the natural boundary of the sea. The applicant is also requesting a variance to the required 2.0 metre interior side lot line to legalize the siting of an existing set of stairs. The subject property is approximately 0.18 hectares in area and is zoned Residential 1 Zone (RS1), Subdivision District 'N', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is located on the waterfront of the Salish Sea on Madrona Point and is surrounded by other RS1 zoned lots (see Attachment 1 – Subject Property Map). The property contains a dwelling unit with two deck structures and connecting stairs.

The requested variances are as follows:

- **Section 3.3.9 b) iv) – Setbacks – Sea** to reduce the setback from the natural boundary of the sea from 15.0 metres to 13.5 metres to legalize a portion of the existing dwelling unit.
- **Section 3.3.9 b) iv) – Setbacks – Sea** to reduce the setback from the natural boundary of the sea from 15.0 metres to 11.2 metres to legalize a portion of an existing deck.
- **Section 3.3.9 b) iv) – Setbacks – Sea** to reduce the setback from the natural boundary of the sea from 15.0 metres to 13.8 metres for a sunroom addition to the dwelling unit.
- **Section 3.3.9 b) iv) – Setbacks – Sea** to reduce the setback from the natural boundary of the sea from 15.0 metres to 8.0 metres to recognize an existing set of stairs.
- **Section 3.4.61 Minimum Setback – Interior Side Lot Line** to reduce the interior side lot line setback from 2.0 metres to 1.6 metres to recognize an existing set of stairs.

Land Use Implications

As required by Board Policy B1.5 *Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation* for evaluation of development variance permit applications there must be an adequate demonstration of an acceptable land use justification prior to the Board's consideration. In this case, the applicants attained a building permit in 1987 to construct the dwelling unit and attached garage. Shortly thereafter, the applicants constructed two deck structures without a building permit; one attached to the dwelling unit and one adjacent to the natural boundary and both connected by a set of stairs. At the time, RDN Zoning Bylaw No. 53 required an 8.0 metre setback from the natural boundary of the sea. As a result, the attached deck did meet the setbacks of the time, however the lower deck was completely within the 8.0 metre setback.

Subsequently, the Nanoose Official Community Plan was revised as "Nanoose Bay Official Community Plan No. 1400, 2005" which gave direction to extend the setback to the sea for Electoral Area E only from 8.0 metres to 15.0 metres. In February 2006, the "Regional District of Nanaimo Land Use and Subdivision Bylaw No.500, 1987" was amended to reflect this change to the setback to the sea. As a result, the existing attached deck, stairs and portion of the house within the 15.0 metre setback became legal non-conforming, however the lower deck does not qualify to be considered legal non-conforming as it never met the setbacks of the time of construction.

The applicant would like to legalize the siting of the non-conforming structures as they no longer meet the current zoning bylaw setback to the sea and vary the setback for the proposed sunroom addition. As a component of the works on the property the lower deck will be removed. The original plan for the property had the proposed sunroom projecting further past the existing attached deck. Following discussions, the proposal was amended to have the sunroom in line with the deck in order to reduce the requested variance and possible view obstructions.

The applicants are also requesting to recognize an existing set of stairs which provide beach access by reducing the interior side lot line setback. The applicants have proposed to remove a portion of the stairs in order to reduce the requested variance to the interior side lot line setback while maintaining a sufficient area to ensure they are usable and provide safe access (see Attachment 3 – Proposed Site Plan and Variances).

The existing stairs and deck and the proposed sunroom are not anticipated to have any view implications for the adjacent property owners to the north or south as these structures are situated further back from the front of the neighbouring dwelling units. The applicants are required to obtain the necessary building permits prior to construction of the sunroom addition and repair of the deck and stair structures (see Attachment 2 – Terms and Conditions of Permit).

The applicants are planning to remove the lower deck structure and replace it with landscaping in order to comply with current zoning bylaws.

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 the application.

ALTERNATIVES

1. To approve Development Variance Permit No. PL2017-173 subject to the conditions outlined in Attachments 2 to 3.
2. To deny Development Variance Permit No. PL2017-173.

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 – 2018 Board Strategic Plan.



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October 17, 2018

Reviewed by:

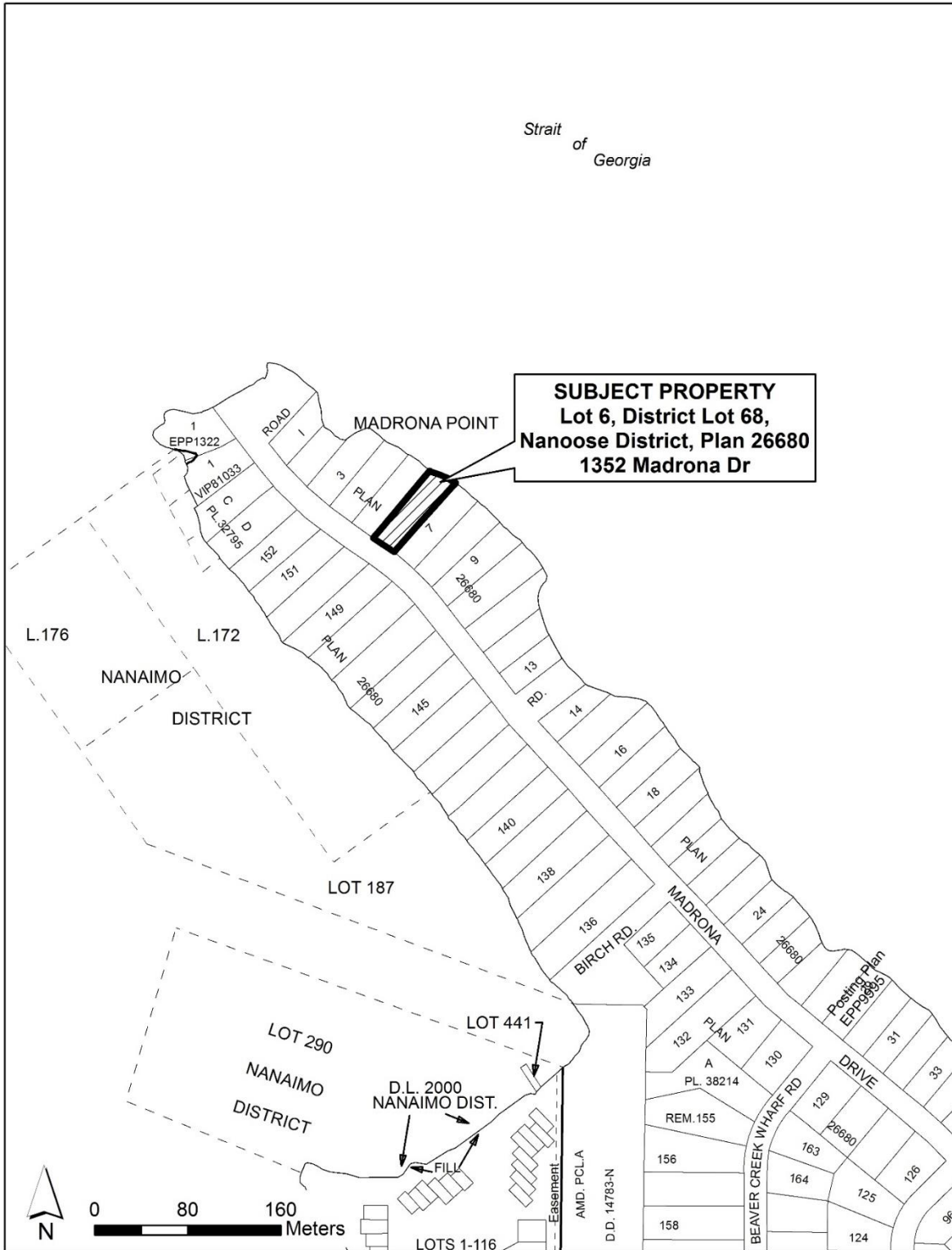
- P. Thompson, Acting Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development

- P. Carlyle, Chief Administrative Officer

Attachments:

1. Subject Property Map
2. Terms and Conditions of Permit
3. Proposed Site Plan and Variances

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. PL2017-173:

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 3.3.9 b) iv) – Setbacks – Sea** to reduce the setback from the natural boundary of the sea from 15.0 metres to 13.5 metres to legalize a portion of the existing dwelling unit.
2. **Section 3.3.9 b) iv) – Setbacks – Sea** to reduce the setback from the natural boundary of the sea from 15.0 metres to 11.2 metres to legalize a portion of an existing deck.
3. **Section 3.3.9 b) iv) – Setbacks – Sea** to reduce the setback from the natural boundary of the sea from 15.0 metres to 13.8 metres for a sunroom addition to the dwelling unit.
4. **Section 3.3.9 b) iv) – Setbacks – Sea** to reduce the setback from the natural boundary of the sea from 15.0 metres to 8.0 metres to recognize an existing set of stairs.
5. **Section 3.4.61 Minimum Setback – Interior Side Lot Line** to reduce the interior side lot line setback from 2.0 metres to 1.6 metres to recognize an existing set of stairs.

Conditions of Approval

1. The site is developed in accordance with the Site Plan prepared by Sims Associates Land Surveying Ltd. dated August 24, 2018 and included 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

