
TO: Electoral Area Services Committee **DATE:** January 8, 2019

FROM: Kristy Marks
Planner **FILE:** PL2018-149

SUBJECT: **Development Permit with Variance Application No. PL2018-149**
6820 Island Highway West – Electoral Area H
Lot 10, District Lot 36, Newcastle District, Plan 1820, Except Parcel A (DD
18277-N) and Plan 37332

RECOMMENDATIONS

1. That the Board approve Development Permit with Variance No. PL2018-149 to permit a parcel depth variance for proposed Lots A and B in conjunction with a two lot subdivision subject to the terms and conditions outlined in Attachments 2 to 5.
2. That the Board direct staff to complete the required notification for Development Permit with Variance No. PL2018-149.

SUMMARY

This is an application for a Fish Habitat Protection Development Permit and a parcel depth variance in conjunction with a two lot subdivision. Given that the development permit guidelines have been met and no negative impacts are anticipated as a result of the proposed variance, it is recommended that the Board approve the development permit with variance 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 Fern Road Consulting Ltd. on behalf of Randolph Low to permit a parcel depth variance in conjunction with a two lot subdivision. The subject property is approximately 0.9 hectares in area and is zoned Residential 2 (RS2), Subdivision District 'M', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is located to the west of the Island Highway West and is surrounded by developed rural residential parcels, the unconstructed Eastdowne Road to the south, and a road that will remain unconstructed to the west. Thames Creek bisects the western boundary of the property and is contained within a steep ravine which makes the western portion of the property near the creek inaccessible (see Attachment 1 – Subject Property Map).

The property contains two dwelling units and a number of accessory buildings that will be retained on proposed Lot B. Proposed Lot A would be vacant and approximately 0.5 hectares in

size. Both lots would be serviced by Bowser Waterworks District and onsite wastewater disposal.

The proposed development is subject to the Freshwater and Fish Habitat Protection Development Permit Areas per the “Regional District of Nanaimo Electoral Area ‘H’ Official Community Plan Bylaw No. 1335, 2017”:

Proposed Development and Variance

This is an application for a development permit to permit a parcel depth variance in conjunction with a proposed two lot subdivision. The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 4.5.1 - Parcel Shape and Dimensions** to increase the permitted parcel depth for proposed Lot A from 40% to 45.2% of the length of the perimeter of the parcel and for proposed Lot B from 40% to 43.4% of the length of the perimeter of the parcel.

Proposed Lot No.	Perimeter (m)	Maximum Parcel Depth (40%)	Proposed Parcel Depth	Proposed Parcel Depth as a % of the Parcel Perimeter
A	508.2	203.3	229.7	45.2%
B	355.5	142.2	154.2	43.4%

Land Use Implications

Both of the proposed parcels are at least twice the minimum parcel size of 2,000 m² which is the minimum parcel size for a lot connected to a community water system. However, the proposed parcels do not comply with the 40% parcel depth requirement of Bylaw 500. The purpose of this requirement is to ensure that each lot created is not excessively deep, relative to their width. “Board Policy B1.5 Development Variance Permit Application Evaluation” (B1.5) requires a demonstration of a land use justification or rationale to address why the proposal cannot comply with the regulations and how the proposal can provide for efficient land use.

Thames Creek crosses the western end of proposed Lot A and is confined within a steep ravine. The applicant has provided a Geotechnical Hazards Assessment prepared by Lewkowich Geotechnical Engineering Associates Ltd. dated November 29, 2018 to address slope stability and address the Development Permit Area (DPA) guidelines related to the protection of development from hazardous conditions. The report recommends a minimum setback of 25.0 metres from the crest of the ravine slope for any dwelling unit and a minimum setback of 7.0 metres for accessory buildings and other non-habitable structures. The report also recommends that trees in proximity to the slope be retained and that septic fields be located greater than 10 metres from the crest of the slope. The applicant will be required to register a Section 219 Covenant on the property title that includes the Geotechnical Hazards Assessment and a save harmless clause that releases the RDN from all losses and damages to life and property as a result of the potential hazard (see Attachment 2 – Terms and Conditions of Permit).

Although Lot A is proposed to be 0.5 hectares in area, the long, narrow configuration of the parent parcel, steep slope adjacent to Thames Creek and geotechnical setbacks, result in a

significantly reduced building envelope of 516 m² for any habitable buildings. Due to significant site constraints and to ensure the proposed parcel can accommodate permitted uses and that future development is consistent with the character of surrounding residential properties the applicant has agreed to limit development of proposed Lot A to one dwelling unit and one attached secondary suite. This restriction is to be secured through the registration of a Section 219 Covenant on the title of proposed Lot A concurrent with the registration of the final plan of subdivision (see Attachment 2 – Terms and Conditions of Permit).

With respect to the requested parcel depth variance, the applicant has indicated that the proposed parcel shape and dimensions are influenced by the long, narrow shape of the parent parcel and the fact that the subject property is surrounded by road frontage on three sides. The property could not be uniformly subdivided without a parcel depth variance. As that frontage is measured from the shortest lot line adjacent to a highway or road, parcel depth is measured from the narrowest end of each proposed parcel. The proposed parcels are more than twice the minimum parcel size and there is adequate access and frontage for each parcel. No development concerns have been identified for Lot B and it can accommodate the existing uses. However, as noted above, due to the constraints on Lot A the applicant has agreed to register a Section 219 Covenant to restrict development on proposed Lot A.

Given that the applicant has provided sufficient rationale and the variance will not result in negative land use implications for adjacent properties, the applicants have made reasonable efforts to address Policy B1.5.

Environmental Implications

To address the DP guidelines, the applicant has submitted a Riparian Areas Assessment prepared by Toth & Associates Environmental Services dated February 10, 2018. The assessment notes that Thames Creek runs across the west end of the property within a well-defined ravine and establishes a Streamside Protection and Enhancement Area (SPEA) of 18.0 metres from the high water mark (see Attachment 4 – Riparian Assessment Map). The assessment confirms that development outside the watercourse setbacks will not encroach upon or negatively impact the SPEA, given that the setbacks from watercourses outlined in Bylaw 500 are 9.0 metres from the top of the ravine bank and that the SPEA is located well below the top of the ravine bank. The report recommends that no overland run-off from development be directed to the ravine slope and that traditional techniques for management of stormwater including drain rock chambers and/or infiltration swales should be utilized. In addition, the applicant is required to submit a post development assessment and report within 60 days of project completion to identify whether any development has had any negative impact on the SPEA

DPA guideline 13 requires that the proposed lot configuration should demonstrate that enough developable land is available on each lot to establish a development envelope that includes a reasonable yard area outside of the SPEA. Given that the developable area for proposed Lot A is well above the top of ravine bank outside the SPEA for proposed Lot A, the applicant has satisfied this guideline. Proposed Lot A is more than twice the minimum parcel size and meets guideline 14, which notes that minimum parcel size should be met exclusive of the SPEA. To address DPA guideline 15 the applicant shall be required to install permanent fencing or other means of clearly delineating the SPEA, prior to notifying the Provincial Approving Officer that the conditions of the DP have been met. The applicant has agreed to install one fish habitat

protection sign along the SPEA boundary on proposed Lot A (see Attachment 2 – Terms and Conditions of Permit and Attachment 5 – Fish Habitat Protection Sign Standard).

Given that the applicant has satisfied the intent of the DPA guidelines and measures are being proposed to protect the environmentally sensitive riparian areas, the proposed development is not anticipated to have negative environmental impacts.

Intergovernmental Implications

The Ministry of Transportation and Infrastructure (MOTI) has reviewed the subdivision application and issued preliminary layout approval (PLA). The PLA lists a number of conditions including the preparation of a Section 219 Covenant including the Geotechnical Hazards Assessment prepared by Lewkowich Engineering Associates Ltd. in favour of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure, as well as the local government.

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 Permit with Variance No. PL2018-149 subject to the terms and conditions outlined in Attachments 2 and 3.
2. To deny Development Permit with Variance No. PL2018-149.

FINANCIAL IMPLICATIONS

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

STRATEGIC PLAN IMPLICATIONS

The Plan's "Focus on the Environment" states that the Board will focus on protecting and enhancing the environment in all decisions. The DPA guideline requirement for a biological assessment helps ensure that site-specific environmentally sensitive features are identified and that the impacts of development on the environment are identified and mitigated.



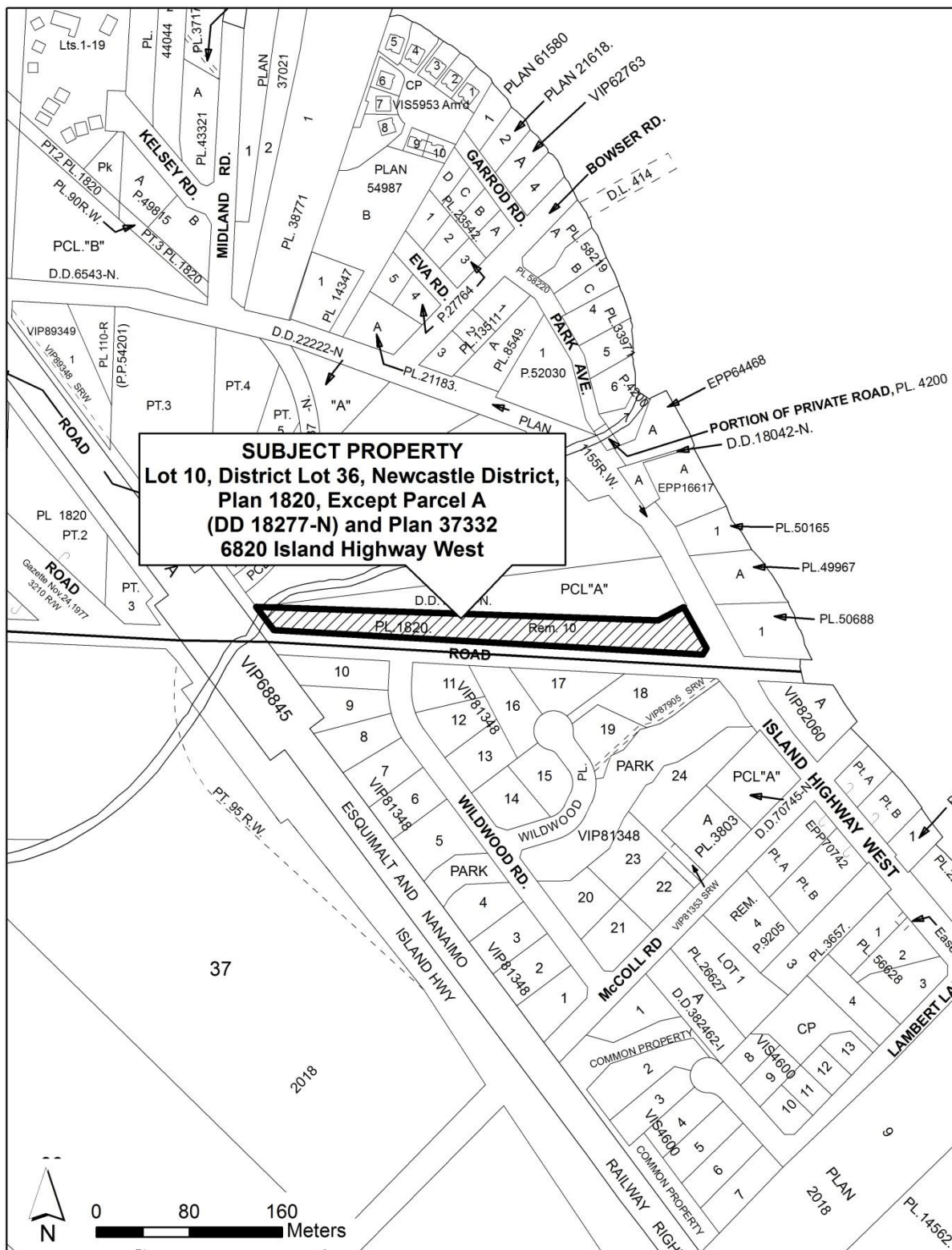
Kristy Marks
kmarks@rdn.bc.ca
December 19, 2018

Reviewed by:

- P. Thompson, 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 Plan of Subdivision and Variances
4. Riparian Assessment Map
5. Fish Habitat Protection Sign Standard



Attachment 2

Terms and Conditions of Permit

The following sets out the terms and conditions of Development Permit with Variance No. PL2018-149:

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:

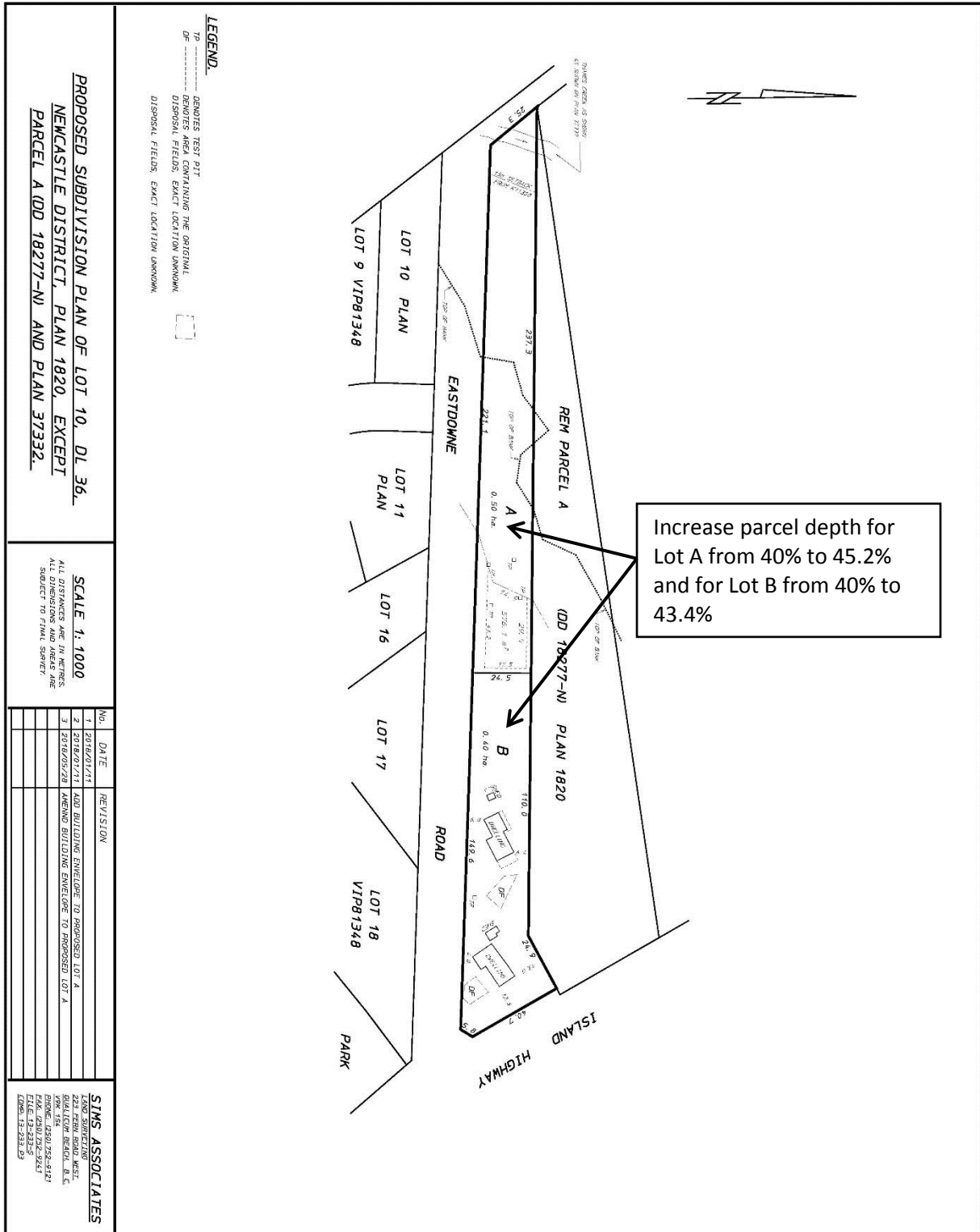
1. **Section 4.5.1. – Parcel Shape and Dimensions** to increase the permitted parcel depth for proposed Lot A from 40% to 45.2% of the length of the perimeter of the parcel and Lot B from 40% to 43.4 % of the length of the perimeter of the parcel.

Conditions of Approval

1. The site is developed in accordance with the Proposed Plan of Subdivision prepared by Sims Associates Land Surveying, dated May 28, 2018 and attached as Attachment 3.
2. The subject property shall be developed in accordance with the recommendations contained in the Riparian Areas Assessment prepared by Toth & Associates Environmental Consulting Ltd. dated February 10, 2018.
3. The property owner shall provide confirmation in the form of a report prepared by a Qualified Environmental Professional (QEP), to the satisfaction of the General Manager of Strategic and Community Development, that development of the subject property has occurred in accordance with the QEP's recommendations.
4. Prior to the issuance of the subdivision compliance letter, one habitat protection sign shall be erected on proposed Lot A along the Streamside Protection and Enhancement Area (SPEA), to permanently mark the SPEA boundary using the sign standard included on Attachment 5.
5. The subject property shall be developed in accordance with the recommendations contained in the Geotechnical Hazards Assessment prepared by Lewkowich Engineering Associates Ltd., dated November 29, 2018.
6. Concurrent with the registration of the final plan of subdivision, the applicant, at the applicant's expense, shall register a Section 219 Covenant on the property title containing the Geotechnical Engineering Review prepared by Lewkowich Engineering Associates Ltd. dated November 29, 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.
7. Concurrent with the registration of the final plan of subdivision, the applicant, at the applicant's expense, shall register a Section 219 Covenant on the property title of proposed Lot A restricting development to one dwelling unit and one attached secondary suite, in addition to accessory residential buildings and structures.

8. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

Attachment 3 Proposed Plan of Subdivision and Variances



Attachment 4
Riparian Assessment Map

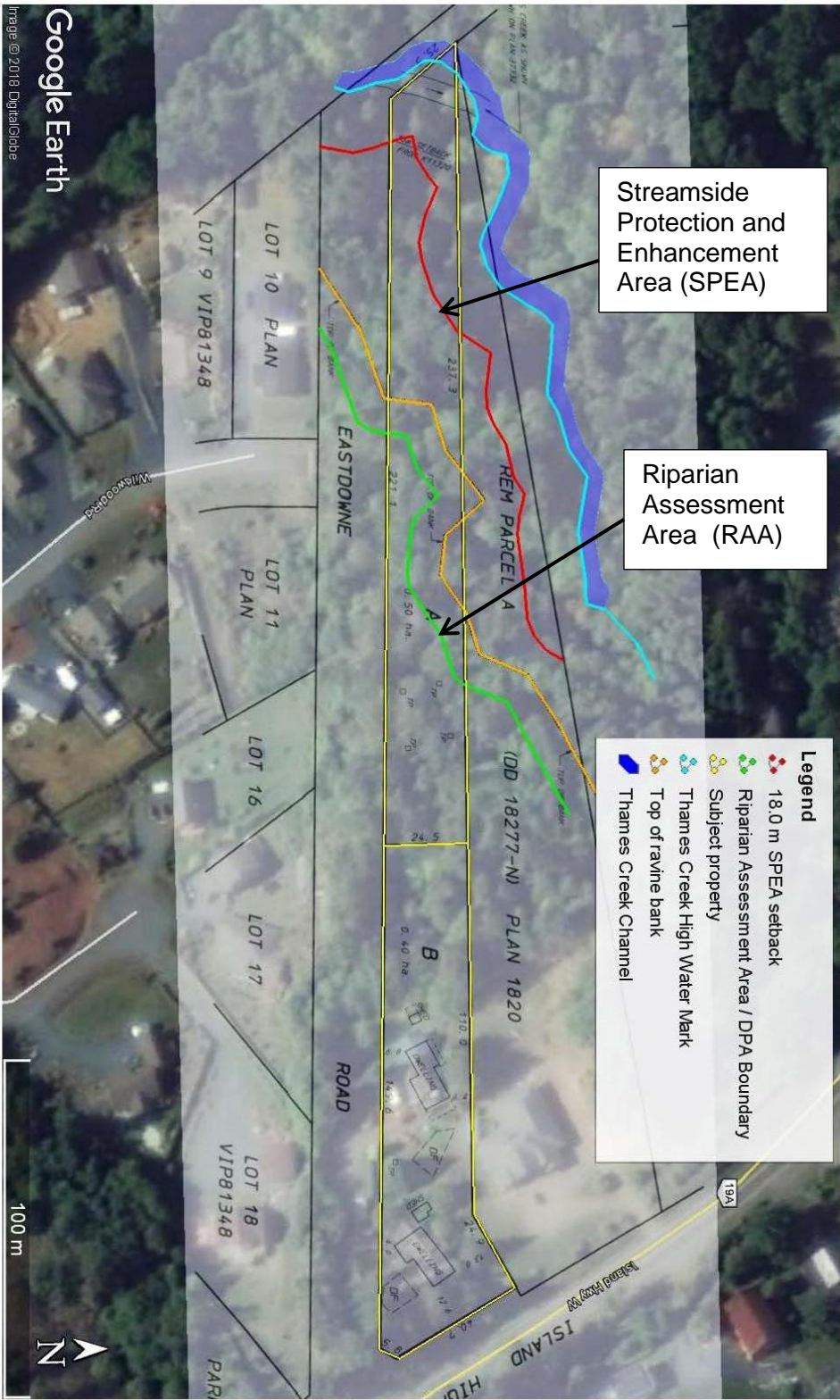
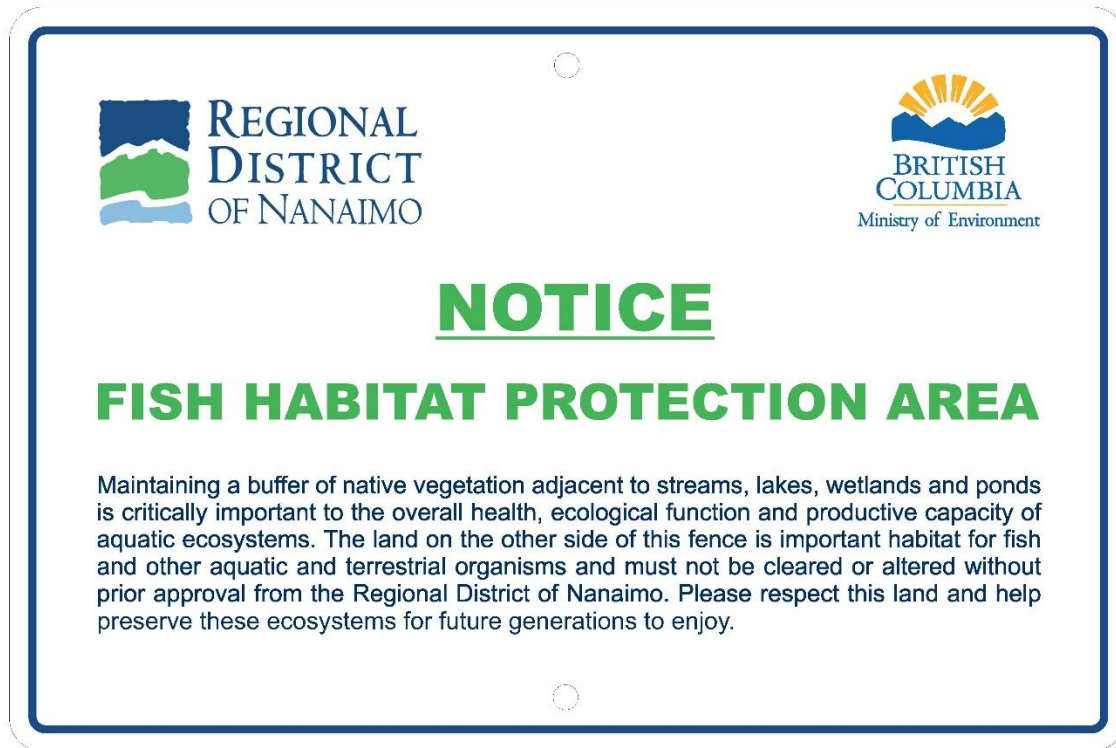


Figure 3. SPEA setbacks, Riparian Assessment Area and proposed subdivision plan on September 2016 air photo

Form 3 Detailed Assessment Form
Riparian Areas Regulation - Qualified Environmental Professional - Assessment Report

Attachment 5
Fish Habitat Protection Sign Standard



Aluminum or Dibond 12"x18" Radius corners
Inline border .14"
RDN logo: 2"x5.17"
Ministry of Environment logo: 2.5"x2.92"
Notice: Arial black type .90"
Fish Habitat Protection Area: Arial black type .60"
All other text: Arial bold type .27"