

TO: Electoral Area Services Committee **DATE:** July 9, 2019
FROM: Sarah Martin
 Planning Technician **FILE:** PL2019-076
**SUBJECT: Development Permit with Variance Application No. PL2019-076 -
862 Poplar Way, Electoral Area F
Lot 13, Distict Lot 74, Newcastle District (Partly within Cameron), Plan 23200**

RECOMMENDATIONS

1. That the Board approve Development Permit with Variance No. PL2019-076 to permit the construction of an accessory building subject to the terms and conditions outlined in Attachment 2.
2. That the Board direct staff to complete the required notification for Development Permit with Variance No. PL2019-076.

SUMMARY

The applicant has applied to the Regional District of Nanaimo for a Development Permit with Variance for a proposed accessory building to be used as a studio space. Due to the constraints of the site, the applicant is requesting a variance to the top of bank setback for watercourses from 15.0 metres to 6.6 metres. The proposed siting is supported by a Riparian Area Assessment, prepared by Aquaparian Environmental Services Ltd and a Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd. No development is proposed within the streamside protection and enhancement area, and the building is sited greater than the recommended 4.5 metre geotechnical setback from the top of slope. Given that the development permit area 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 Schedules 1 to 4 of the draft development permit with variance, included as Attachment 2.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Kyle Tamburri on behalf of Anne Tamburri to permit the construction of an accessory building within the rear yard area of the subject property. The property is approximately 0.18 hectares in area and is zoned Rural Residential 2 (R-2) pursuant to "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002". The property is located to the south of Alberni Highway and is bordered by Crocker Creek (see Attachment 1 – Subject Property Map).

The property contains a dwelling unit and dilapidated accessory building. It is serviced by a well and on site sewerage.

The proposed development is subject to the Freshwater and Fish Habitat Development Permit Area (DPA) per the “Regional District of Nanaimo Electoral Area ‘F’ Official Community Plan Bylaw No. 1152, 1999”.

Proposed Development and Variance

The proposed development includes the removal of soil and construction of a building within 30.0 metres of a mapped, fish-bearing watercourse. The rear yard area is impacted by a watercourse located on a neighbouring property, meandering along the subject property’s rear lot line at the bottom of a steep slope (Crocker Creek). To accommodate the siting of an accessory building, the applicant proposes to vary the following regulations from the “Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”:

- **Section 2.10.2 - Setback Requirements from Watercourses** to reduce the top of bank setback from 15.0 metres to 6.6 metres, for the proposed accessory building as shown on Schedule 2 of Attachment 2.

Land Use Implications

The applicant’s rationale for siting the proposed accessory building within the watercourse setback is due to the septic field within the front yard and existing parking provisions within the side yard area (driveway). The applicant notes that the watercourse setback and riparian assessment area impact the entirety of the rear yard area. A variance would be required regardless of the siting. The proposed location was chosen to maintain the functionality of the existing yard area.

It is worth noting that the zoning bylaw requires a minimum of two parking spaces per dwelling unit provided on site; the driveway serves this requirement.

In support of the proposed variance, the applicant has submitted a Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd, dated April 5, 2019. The hazard assessment provides a review of the characteristics of the steep slope and proposed building site: soil conditions, surface and ground water, and floodplain impacts. It notes that the steep slope is in stable condition, however, slow surficial sloughing and erosion is occurring, which will result in the eventual regression of the slope crest. A setback of 4.5 metres from the crest of slope (top of bank) is recommended. The proposed siting exceeds this recommendation at 6.6 metres from the crest of slope. The hazard assessment concludes that from a geotechnical point of view, the land is considered safe for the use intended provided the recommendations of the assessment are followed. It is recommended that the subject property be developed in accordance with the recommendations of the Geotechnical Hazard Assessment, as outlined in the conditions of permit included in Attachment 2.

The proposed siting of the accessory building meets the requirements of the R-2 zone, as well as the height restrictions and parcel coverage provisions. In accordance with the Floodplain Bylaw, the proposed building meets (and exceeds) the calculated setback from the toe of bank (bottom of slope). Natural grade exceeds the prescribed flood construction level above the natural boundary.

Given that the applicant has provided sufficient rationale demonstrating that the ability to use the property is unreasonably constrained and that the proposed variance would allow for more efficient use of the property, the applicant has made reasonable efforts to address Policy B1.5 guidelines. It is recommended that the requested variance be approved subject to the conditions outlined in Attachment 2.

Environmental Implications

In accordance with the DPA guidelines, the applicant has submitted a Riparian Area Assessment that has been submitted to the Province. The RDN is in receipt of a notice of assessment. The riparian assessment, prepared by Aquaparian Environmental Consulting Ltd, identifies Crocker Creek as a fish-bearing watercourse that supports cutthroat trout, rainbow trout, brown trout, and coho salmon. The riparian strip is characterized by a steep slope, vegetated with largely native plant material. A 10.3 metre Streamside Protection and Enhancement Area (SPEA), as measured from the high water mark, applies to the section of the creek impacting the subject property. The proposed development footprint is roughly 4.3 metres outside of the SPEA. One non-native shrub well outside the SPEA is proposed to be removed and a few limbs on a Douglas fir tree may require pruning due to their proximity to the proposed building envelope. An existing wire fence along the top of bank protects the SPEA from encroachment and it is recommended that snow fencing be installed along the dripline of trees adjacent to the construction zone, to prevent compaction of the root zone by heavy machinery. Due to the proposed foundation construction, which requires the excavation of soil to establish a base for a poured concrete slab, additional recommendations were provided via email for sediment and erosion control. As the DPA guidelines have been met and no negative impacts are anticipated as a result of the proposed development, it is recommended that the proposed development permit with variance be approved subject to the conditions outlined in Attachment 2.

Intergovernmental Implications

The Riparian Area Assessment was submitted to the Ministry of Forests, Lands, Natural Resource Operations and Rural Development by the qualified environmental professional, for which the RDN is in receipt of notification. The Province commented that the methodology has been applied correctly.

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 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. PL2019-076 subject to the terms and conditions outlined in Schedules 1 to 4 of Attachment 2.
2. To deny Development Permit with Variance No. PL2019-076.

FINANCIAL IMPLICATIONS

The proposed development 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 2019 – 2022 Board Strategic Plan.



Sarah Martin
smartin@rdn.bc.ca
June 18, 2019

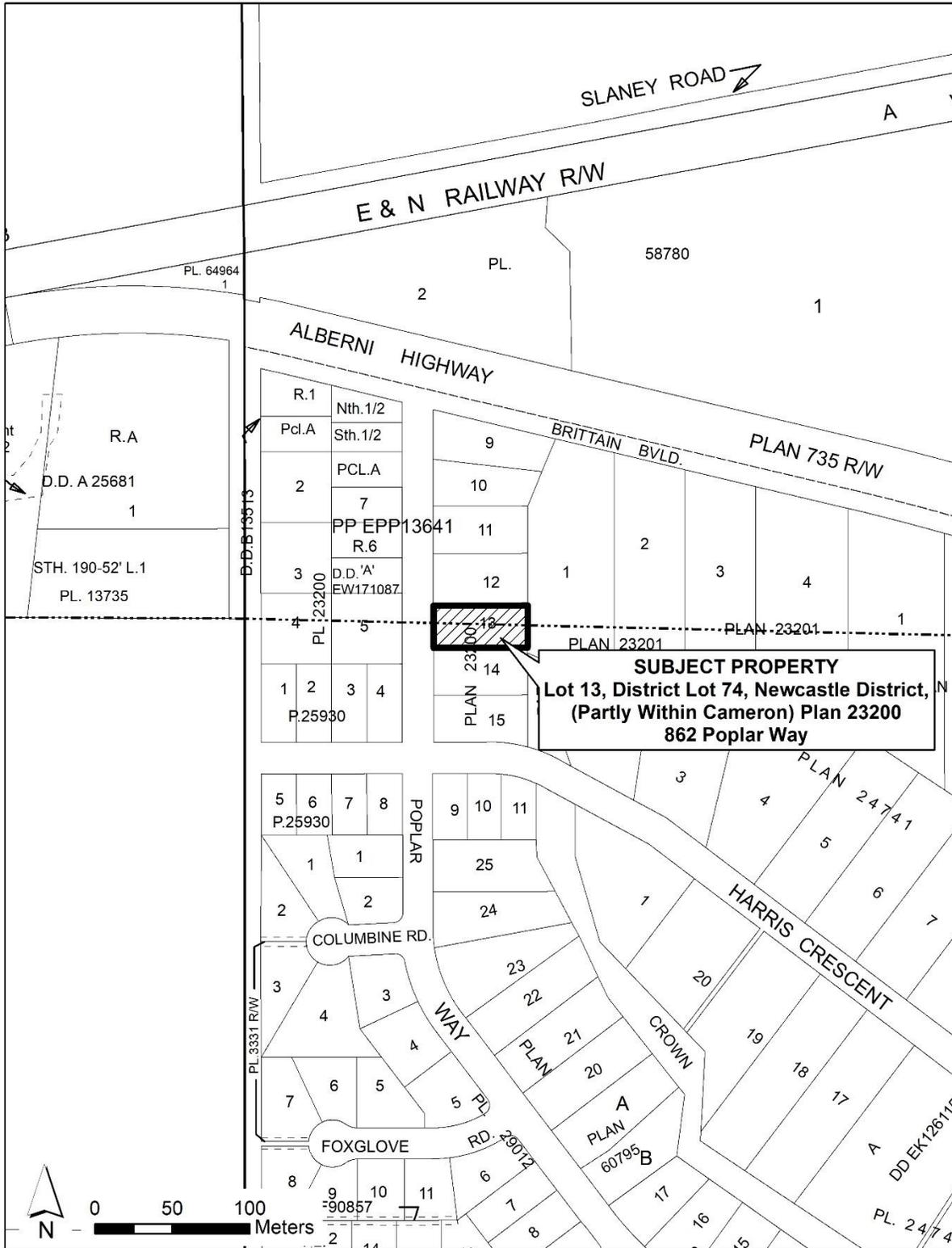
Reviewed by:

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

Attachments:

1. Subject Property Map
2. Draft Development Permit

Attachment 1 Subject Property Map



**Attachment 2
Draft Development Permit**

 <p>REGIONAL DISTRICT OF NANAIMO</p>	<p>STRATEGIC & COMMUNITY DEVELOPMENT</p> <p>6300 Hammond Bay Road, Nanaimo, BC V9T 6N2 250-390-6510 or 1-877-607-4111 www.rdn.bc.ca</p> <p>DEVELOPMENT PERMIT NO. PL2019-076</p>
--	--

To: ("Permittee") Anne Patricia Tamburri

Mailing Address: c/o Kyle Tamburri, 862 Poplar Way, Qualicum Beach V9K 1V7

1. Except as varied or supplemented by this permit, the development permit is issued subject to compliance with all applicable bylaws and provincial and federal statutes and regulations.
2. This development permit applies only to those lands within the Regional District of Nanaimo described below, and all buildings, structures and other development thereon:

Legal Description: Lot 13, District Lot 74, Newcastle District (Partly Within Cameron), Plan 23200 ("the Lands")

Civic Address: 862 Poplar Way **P.I.D.:** 000-632-295

3. The Lands shall be developed strictly in accordance with the terms and conditions of this permit.
4. The Permittee as a condition of issuance of this permit agrees to comply with the conditions of Schedule 1, which is attached to and forms part of this permit.
5. The Permittee as a condition of issuance of this permit agrees to develop the Lands, in substantial compliance with the plans and specifications included in Schedules 2, 3, and 4, which are attached to and form part of this permit.
6. With respect to the Lands, "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" is varied as outlined in Schedules 1 to 4, which are attached to and form part of this permit.
7. Subject to the terms of the permit, if the holder of the permit does not substantially start construction with respect to which the permit was issued within two years after the date it is issued, the permit shall lapse in accordance with Section 504 of the *Local Government Act*.
8. This permit prevails over the provisions of the bylaw in the event of conflict.
9. Notice of this permit shall be filed in the Land Title Office at Victoria under Section 503 of the *Local Government Act*, and upon such filing, the terms of this permit or any amendment hereto shall be binding upon all persons who acquire an interest in the Lands affected by this permit.
10. This permit is not a building permit.

Authorizing Resolution to issue passed by the Board this XXth day of Month, 2019.

Schedule 1 Conditions of Permit

The following sets out the terms and conditions of Development Permit with Variance No. PL2019-076:

Bylaw No. 1285, 2002 Variances

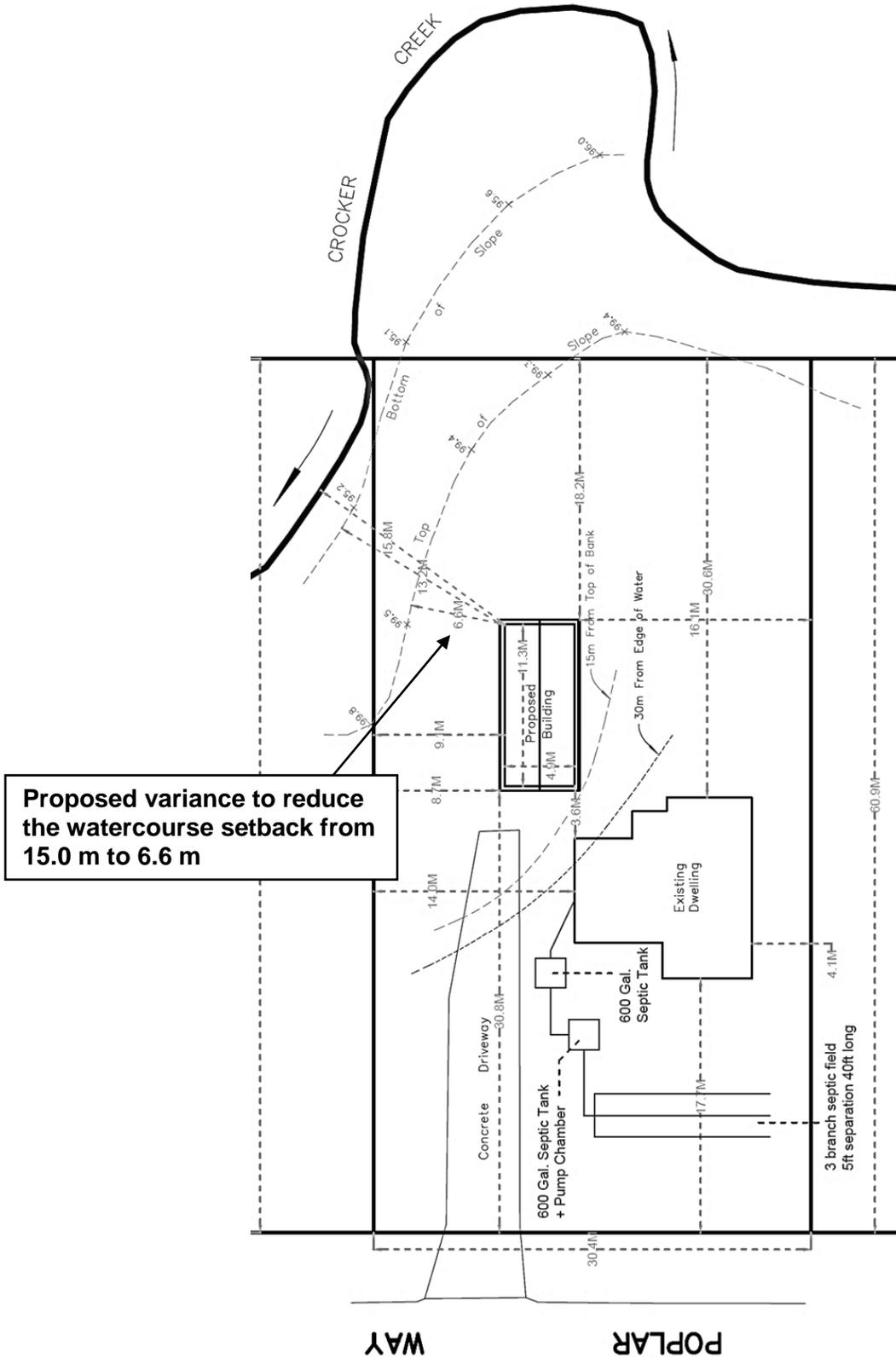
With respect to the lands, “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002” is varied as follows:

1. Section 2.10.2 Setback Requirements from Watercourses – is varied from 15.0 metres to 6.6 metres from the top of bank, for the proposed accessory building as shown on Schedule 2.

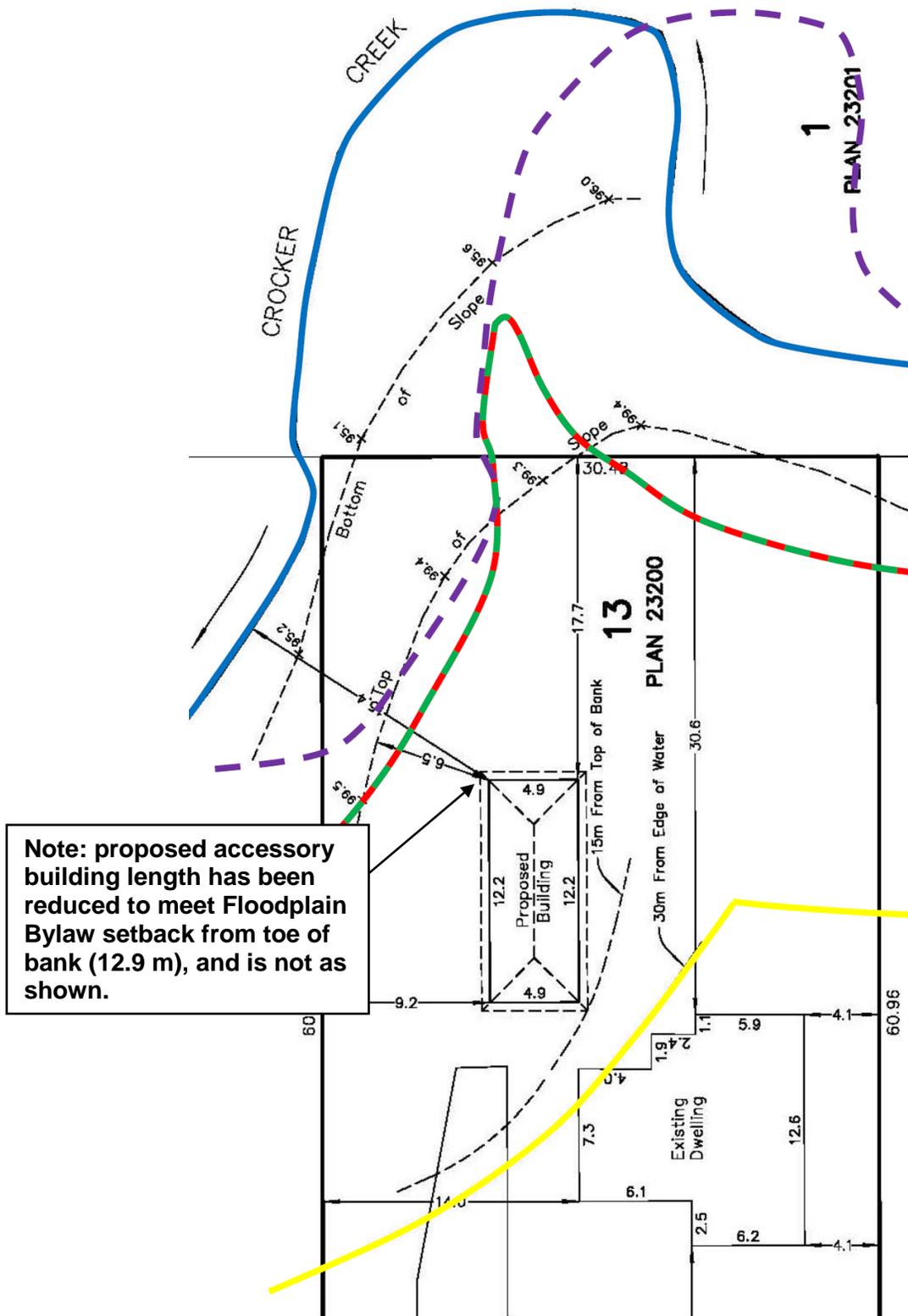
Conditions of Approval

1. The site is developed in accordance with the Site Plan prepared by Kyle Tamburri, attached as Schedule 2 and the Plan of SPEA prepared by Aquaparian Environmental Consulting attached as Schedule 3.
2. The proposed development is in general compliance with the plans and elevations prepared by Kyle Tamburri, attached as Schedule 4.
3. The subject property shall be developed in accordance with the recommendations contained in the Riparian Area Assessment prepared by Aquaparian Environmental Consulting Ltd, dated April 3, 2019 and the recommendations received by email from Chris Zamora of Aquaparian, dated June 7, 2019.
4. 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, prior to final inspection of the accessory building.
5. The subject property shall be developed in accordance with the recommendations contained in the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd, dated April 5, 2019.
6. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

Schedule 2 Site Plan (1 of 2)



Schedule 3
Plan of SPEA – enlarged for convenience
(2 of 2)



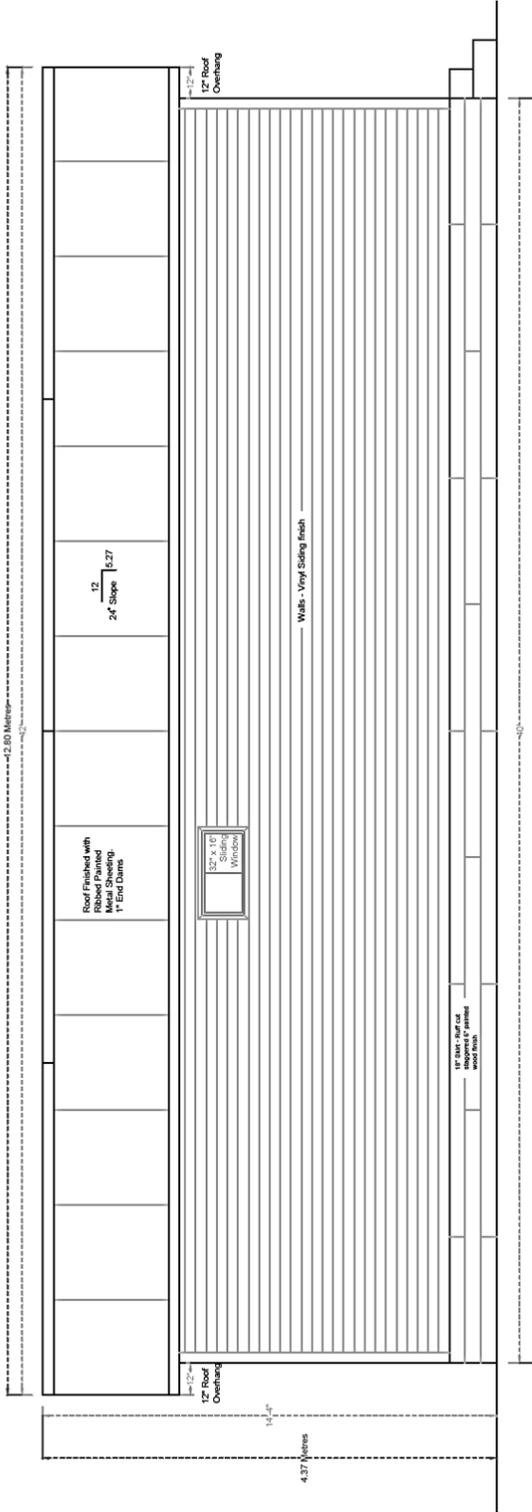
Note: proposed accessory building length has been reduced to meet Floodplain Bylaw setback from toe of bank (12.9 m), and is not as shown.

Schedule 4
Building Plans and Elevations – enlarged for convenience
(1 of 4)

16FT x 40FT Building
(640 SQ.FT.)

Elevation - North
Facing Wall

1 : 48 Scale
Scale $\frac{1}{4}'' = 1'$

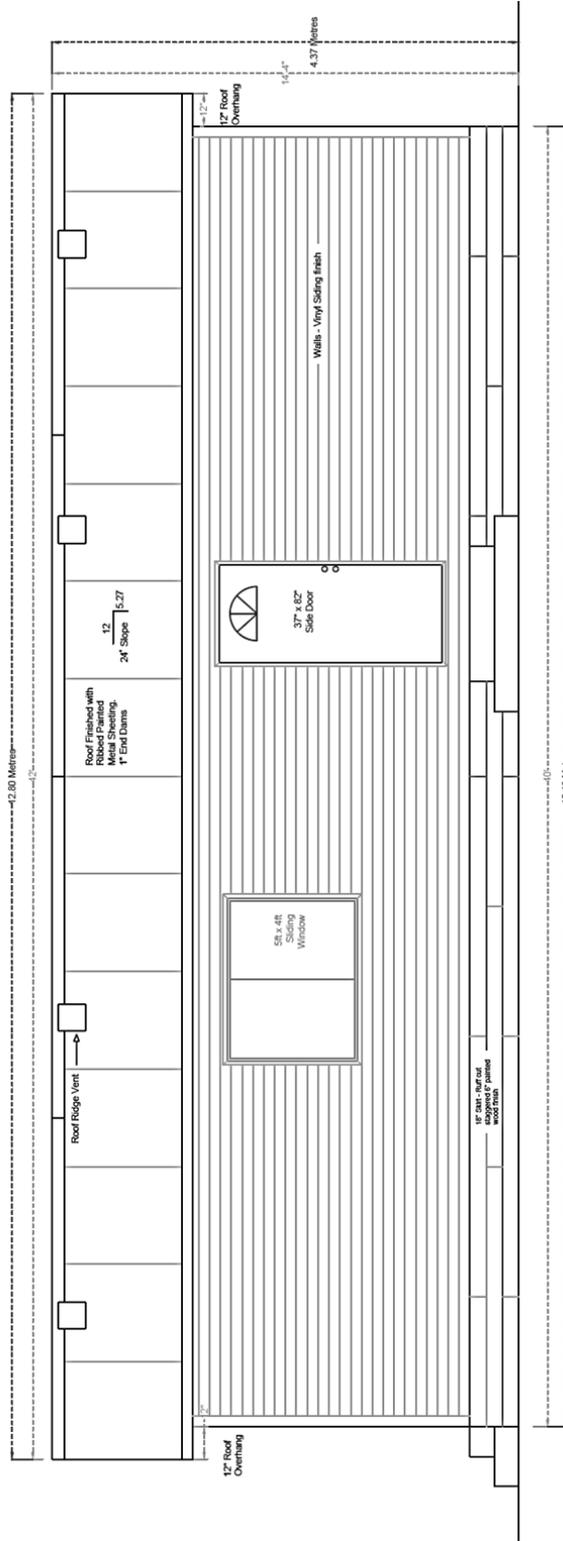


Schedule 4
Building Plans and Elevations— enlarged for convenience
(2 of 4)

16FT x 40FT Building
(640 SQ.FT.)

Elevation - South
Facing Wall

1 : 48 Scale
Scale $\frac{1}{4}'' = 1'$

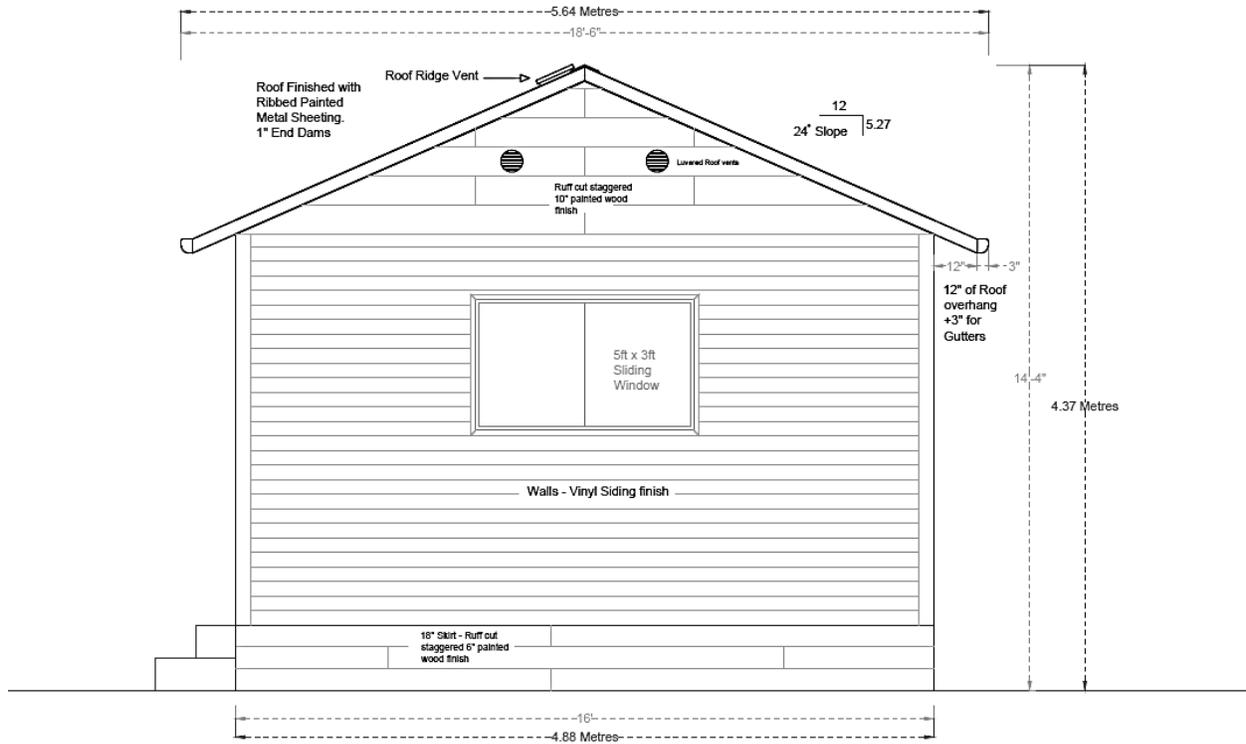


Schedule 4
Building Plans and Elevations – enlarged for convenience
(3 of 4)

16FT x 40FT Building
(640 SQ.FT.)

Elevation - East
Facing Wall

1 : 48 Scale
Scale $\frac{1}{4}'' = 1'$



Schedule 4
Building Plans and Elevations – enlarged for convenience
(4 of 4)

16FT x 40FT Building
(640 SQ.FT.)

Elevation - West
Facing Wall

1 : 48 Scale
Scale $\frac{1}{4}'' = 1'$

