



**NOTICE OF
ELECTORAL AREA SERVICES COMMITTEE MEETING**

Tuesday,
June 1, 2010
Regional District Board Room
175 Ingram Street, Duncan, BC

3:00 pm

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11. **CLOSED SESSION**
Motion that the meeting be closed to the public in accordance with the Community Charter Part 4, Division 3, Section 90(1), subsections as noted in accordance with each agenda item.

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NOTE: A copy of the full agenda package is available at the CVRD website www.cvrld.bc.ca

Director B. Harrison
Director K. Cossey
Director I. Morrison

Director M. Marcotte
Director G. Giles
Director K. Kuhn

Director L. Iannidinardo
Director L. Duncan
Director M. Dorey

Minutes of the Electoral Area Services Committee Meeting held on Tuesday, May 18, 2010 at 2:00 pm in the Regional District Board Room, 175 Ingram Street, Duncan, BC.

PRESENT

Director B. Harrison, Chair
Director M. Marcotte, Vice Chair
Director L. Iannidinardo
Director G. Giles
Director K. Kuhn
Director I. Morrison
Director M. Dorey
Director L. Duncan
Director K. Cossey

CVRD STAFF

Tom Anderson, General Manager
Rob Conway, Manager
Mike Tippet, Manager
Brian Farquhar, Parks and Trails Manager
Jill Collinson, Planning Technician
Brian Duncan, Chief Building Inspector
Cathy Allen, Recording Secretary

**APPROVAL OF
AGENDA**

The Chair noted changes to the agenda which included removing agenda item D2, adding five listed items of New Business, including one closed session item, and one additional New Business item.

It was Moved and Seconded
That the agenda, as amended, be accepted.

MOTION CARRIED

M1 - MINUTES

It was Moved and Seconded
That the minutes of the April 20, 2010, EASC meeting, be accepted.

MOTION CARRIED

It was Moved and Seconded
That the minutes of the May 4, 2010, EASC meeting, be accepted.

MOTION CARRIED

BUSINESS ARISING

Director Giles responded to the motion passed at the May 4th EASC meeting respecting the dangerous dog situation on Cowichan First Nations lands and reported that she has met with the Justice Councillor for Cowichan Tribes and that the matter is being pursued.

DELEGATIONS

D1 – LeBlanc

Tom Anderson, General Manager, provided background and the process to date respecting the draft Subdivision Servicing Bylaw. He stated that Committee direction is required so that we can proceed to meet with the Ministry of Transportation and Infrastructure who are the key agency on whether or not the bylaw will proceed. Mr. Anderson introduced Gerard LeBlanc of Landworks Consultants, who drafted the bylaw, to outline key issues.

Gerard LeBlanc showed a Power point presentation which provided a review of proposed Bylaw 3215.

Note: Director Cossey arrived to the meeting at this point.

A question and answer session ensued.

The Chair thanked Mr. LeBlanc for his presentation.

D2 – McCullough

Agenda item D2 removed.

D3 - Dhillon

Jill Collinson, Planning Technician, reviewed Application No. 2-B-09DP (Ramina Dhillon) to construct a single storey single family dwelling at 2024 Cullin Road, located within 15 metres of the high water mark on Shawnigan Lake.

Ramina Dhillon, applicant, was present and provided further information to the application.

The Committee directed questions to staff and the applicant.

It was Moved and Seconded

That Application No. 2-B-09DP by Ramina Dhillon for a variance to Section 5.14(a) of Zoning Bylaw No. 985, to decrease the setback from Shawnigan Lake from 15 metres (49.2 feet) to 9.8 metres (32.1 feet) at 2024 Cullin Road, Lot A, Shawnigan Lake Suburban Lots, Plan 22742, (PID 000-105-759), be approved, subject to

- Approval from the Department of Fisheries and Oceans,
- Compliance with RAR Report by QEP Adam Compton,
- Receipt of an irrevocable letter of credit in a form suitable to the CVRD, equivalent to 125% of the landscape costs, to be refunded if the plantings are successful and to the satisfaction of a Qualified Environmental Professional,
- Survey confirming compliance with the approved setback of 9.8 metres.

MOTION CARRIED

STAFF REPORTS

**SR1 – Subdivision
Bylaw**

It was Moved and Seconded

That the "Report on Subdivision Servicing Bylaw" and draft "Subdivision Servicing Bylaw No. 3215, 2010" prepared by Landworks Consultants Inc. be received, and that EASC members be requested to forward their comments on the draft bylaw to Tom Anderson, General Manager, over the course of the next couple of weeks.

MOTION CARRIE

**SR2 – Cowichan
Station Service Bylaw**

It was Moved and Seconded

1. That an annual financial contribution service be created for the Cowichan Station Area Association with a maximum requisition limit of \$20,000 to assist with costs associated with the operation and maintenance of buildings and lands located at 2375 Koksilah Road (former Cowichan Station School Site) and the delivery of community based programs and services, heritage projects and community events.
2. That "**CVRD Bylaw No. 3389 – Cowichan Station Area Association Annual Financial Contribution Service Establishment Bylaw, 2010**", be forwarded to the Board for consideration of first three readings, and following provincial and voter approval, be considered for adoption.
3. That voter approval to establish the Cowichan Station Area Association Annual Financial Contribution Service be obtained through an alternative approval process.

MOTION CARRIED

**SR3 – Reserve Fund
Bylaw**

Dan Derby, General Manager, presented staff report dated May 3, 2010, regarding Reserve Fund Expenditure Bylaw – Honeymoon Bay Fire Hall Roof.

It was Moved and Seconded

That a Reserve Fund expenditure bylaw be prepared authorizing expenditure of no more than \$6,400 from the Honeymoon Bay Fire Protection Local Service Area Capital Reserve Fund (CVRD Establishment Bylaw No. 1897, cited as the Honeymoon Bay Fire Protection Local Service Area Capital Reserve Fund Establishment Bylaw, 2000) for the purpose of repairing the roof of the Honeymoon Bay Fire Hall, and that the reserve fund bylaw be forwarded to the Board for consideration of three readings and adoption.

MOTION CARRIED

**SR4 – Fresh Outlook
Conference**

Tom Anderson, General Manager, presented staff report dated May 12, 2010, regarding Building Sustainable Communities Conference in Kelowna, November 15-18.

It was Moved and Seconded

That Electoral Directors who are interested in attending the “Building Sustainable Communities Conference” in Kelowna, November 15th to 18th, be requested to contact Tom Anderson, General Manager, in order that appropriate arrangements can be made.

MOTION CARRIED

Discussion turned to attendance at the upcoming FCM conference. It was suggested that first priority should go to those who have not yet attended that conference. It was advised that Directors interested in attending FCM should contact Mr. Anderson.

APC

AP1 - Minutes

It was Moved and Seconded

That the minutes of the Area G APC meeting of May 5, 2010, be received and filed.

MOTION CARRIED

**CORRESPOND-
ENCE**

C1 – Grant in aid

It was Moved and Seconded

That a grant-in-aid (Area D) be given to Cowichan Bay Improvement Association in the amount of \$500 to provide funding support for their Low Tide Day event, May 15, 2010.

MOTION CARRIED

It was Moved and Seconded

That a grant-in-aid (Area F) be given to Cowichan Lake Salmonid Enhancement Society in the amount of \$1,000 to provide funding support for their annual Fry Salvage Program.

MOTION CARRIED

It was Moved and Seconded

That a grant-in-aid (Area G) be given to Saltair Ratepayers Association in the amount of \$1,000 to provide funding support for their Saltair Centennial Celebration, August 15, 2010.

MOTION CARRIED

INFORMATION

IN1 – Building Report

It was Moved and Seconded

That the April 2010 Building Report be received and filed.

MOTION CARRIED

NEW BUSINESS

NB1 – Add-on correspondence

Add-on email dated December 29, 2009 from John Crawford respecting Application No. 2-B-09DP (Dhillon) – dealt with under agenda Item D3.

NB2 – Solar Hot Water Regs

Tom reviewed letter dated April 12, 2010, from the Building and Safety Policy Branch regarding Solar Hot Water Ready Regulation.

Brian Duncan, Chief Building Inspector, provided clarification on the proposed regulation.

General discussion ensued.

It was Moved and Seconded

That a letter be forwarded to the Building and Safety Standards Branch, Ministry of Housing and Social Development, requesting that the CVRD be included in the list of local government jurisdictions that will be “Solar Hot Water Ready”.

MOTION CARRIED

NB3 – Grant in Aid

Director Harrison advised that the Grant in Aid to Cowichan Music Festival Society was dealt with at the last Board meeting.

NB4 – Grant in Aid

It was Moved and Seconded

That a grant-in-aid (Area B) be given to Shawnigan Lake Community Association in the amount of \$750 to provide funding support for their Canada Day celebration.

MOTION CARRIED

CLOSED SESSION

It was Moved and Seconded

That the meeting be closed to the public in accordance with the *Community Charter* Part 4, Division 3, Section 90(1), subsections as noted in accordance with each agenda item.

MOTION CARRIED

The Committee moved into Closed Session at 4:00 pm.

RISE

The Committee rose without report.

ADJOURNMENT

It was Moved and Seconded

That the meeting be adjourned.

MOTION CARRIED

The meeting adjourned at 4:33 pm.

Chair

Recording Secretary

D1

Request to Appear as a Delegation

Meeting Information

Request to Address:*

☐ CVRD Board

☒ Committee

If Committee, specify the Committee here:*

Electoral Area Services Committee

Meeting Date:*

01/06/10

Meeting Time:*

am

Applicant Information

Applicant Name:

Lynn Weaver

Representing:

Matoto Multicultural Arts Society

(Name of organization if applicable)

As:

SLAM Street Fest

(Capacity / Office)

Number Attending:

100

Applicant Contact Information

Applicant Mailing Address:

PO Box 439

Applicant City:

Shawnigan Lake

Applicant Telephone:

250 743 5846

Applicant Fax:

Applicant Email:

info@matoto.org

Presentation Topic and Nature of Request:

There is a proposed Arts & Multi-Culture Street Festival in Shawnigan Lake Village on September 18, 2010.

This festival is in partnership with:
MoonDance Dynamic Arts School
Cowichan Intercultural Society
Matoto Multicultural Arts Society
and
Welcome BC

The Ministry of Transportation requires that we have the authority of the regional district for the event, prior to approving the permit application for the road closure.

* indicates required fields.



D2

STAFF REPORT

ELECTORAL AREA SERVICES COMMITTEE OF JUNE 1, 2010

DATE: May 26, 2010 **FILE NO:** 1-A-10DVP
FROM: Jill Collinson, Planning Technician **BYLAW NO:** 2000
SUBJECT: Development Variance Permit Application No. 1-A-10DVP
(Grisdale & Grondin)

Recommendation:

That Application No. 1-A-10 DVP by **David Grisdale and Isabel Grondin** for a variance to Section 8.4.A(b)(3) of Zoning Bylaw No. 2000, to decrease the setback to the front parcel line from 7.5 metres to 4.5 metres AND to decrease the setback to the side exterior parcel line from 4.5 metres to 3.18 metres, on Lot 1, District Lot 18, Malahat District, Plan 21362 (*PID 002-706-849*), **be approved**, subject to a legal survey confirming compliance with approved setbacks.

Purpose:

To consider an application to vary the setback to the side exterior parcel line by 1.32 metres and to vary the setback to the front parcel line by 3.0 metres.

Background:

Location of Subject Property: 2581 Partridge Road

Legal Description: Lot 1, District Lot 18, Malahat District, Plan 21362, (*PID 002-706-849*)

Date Application and Complete Documentation Received: March 8th, 2010

Owner: David Grisdale & Isabel Grondin

Applicant: As above

Size of Parcel: ± 0.08 ha. (0.22 acre)

Zoning: R-3A (Urban Residential – Limited Height)

Setback permitted by zoning: 7.5m setback to the front parcel line
4.5m setback to the side exterior parcel line

Existing Plan Designation: Urban Residential

Existing Use of Property: Residential

Existing Use of Surrounding Properties:

North:	Residential (R3-A Urban Residential Limited Height)
South:	Residential (R3-A Urban Residential Limited Height)
East:	Residential (R3-A Urban Residential Limited Height)
West:	Residential (R3 Urban Residential)

Services:

<u>Road Access:</u>	Seaview Road and Partridge Road
<u>Water:</u>	Mill Bay Waterworks
<u>Sewage Disposal:</u>	On-site septic System

Agricultural Land Reserve Status: Out

Environmentally Sensitive Areas: None Identified

Archaeological Site: None Identified

Proposal

An application has been made to vary: Section 8.4.A(b)(3) of Zoning Bylaw No. 2000, of Electoral Area A – Mill Bay/Malahat to relax the required front and exterior side yard setback.

For the purpose of: issuing a Development Variance Permit for construction of an addition.

Surrounding Property Owner Notification and Response:

A total of 10 letters were mailed-out or hand delivered, as required pursuant to CVRD Development Application and Procedures and Fees Bylaw No. 3275. The notification letter described the purpose of this application and requested comments regarding this variance within a recommended time frame. To date, no correspondence has been received.

Planning Division Comments:

The subject property is a corner lot located at 2581 Partridge Road in Mill Bay. This 0.22 acre property is flat, fenced on two sides and is predominantly lawn with localized areas of landscaping. As it is adjacent to both Seaview Road and Partridge Road, clarification of the front parcel line is necessary. The shortest parcel boundary contiguous with a road is specified in the Zoning Bylaw 2000 as the front parcel boundary. In this case, the boundary along Partridge Road is the front parcel line, resulting in side exterior parcel line identified along Seaview Road.

Currently there is a single family dwelling and an attached garage located on the subject property. The applicants are proposing to construct a ± 900 sq.ft addition, in the north-western portion of their lot adjacent to Seaview Road. They are also proposing to construct a small covered porch area, at the front entrance, on the western side of the home adjacent to Partridge Road.

A Development Variance Permit is required as the applicants are requesting to vary the setback to the front parcel line from 7.5 metres to 4.5 metres, as well as vary the setback to the side exterior parcel line from 4.5 metres to 3.18 metres.

The requested 3.0 metre variance to the front parcel line will allow for the construction of a covered front porch area. The proposed porch area actually only requires a 2.7 metre variance,

but the corner of the existing home is sited 4.5 metres from the front parcel line. As the home is currently non-conforming in siting, the applicants are taking this opportunity to also achieve compliance with the Bylaw for the existing dwelling.

Along Seaview Road, the proposed setback is 3.18 metres from the parcel line. As this application encroaches into the 4.5 metre setback to Seaview Road stipulated by the Ministry of Transportation and Infrastructure (MOTI), the applicants have obtained a setback permit from MOTI (permit #2010-02267).

The applicants are requesting the variance of 1.32 metres to allow for siting of the addition 3.18 metres from the side exterior parcel line to accommodate their growing family. As the septic field is near the proposed area for the addition, the applicants are unable to move the building envelope over to accommodate the 4.5 metre required setback stipulated in CVRD Zoning Bylaw 2000. The other possible location for the proposed addition is at the opposite end of the home bordering the interior parcel line. The immediate neighbour at 2575 Partridge Road would have his views negatively affected by siting of the addition in this location.

Staff is recommending approval of the 3.0 metre front parcel line variance since the non-conforming siting of the home makes it impossible to comply with a 7.5 metre setback. Staff is also recommending approval of the 1.32 metre side exterior line variance as the septic field and negative implications on immediate neighbours negate other possible building locations.

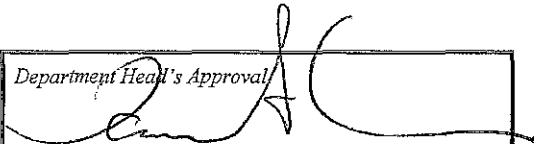
Options:

1. That the application 1-A-10 DVP by David Grisdale and Isabel Grondin for a variance to Section 8.4.A(b)(3) of Zoning Bylaw No. 2000, to decrease the setback to the front parcel line from 7.5 metres to 4.5 metres AND to decrease the setback to the side exterior parcel line from 4.5 metres to 3.18 metres, on Lot 1, District Lot 18, Malahat District, Plan 21362 (PID 002-706-849), be approved, subject to a legal survey confirming compliance with approved setbacks.
2. That the application 1-A-10 DVP by David Grisdale and Isabel Grondin for a variance to Section 8.4.A(b)(3) of Zoning Bylaw No. 2000, to decrease the setback to the front parcel line from 7.5 metres to 4.5 metres AND to decrease the setback to the side exterior parcel line from 4.5 metres to 3.18 metres, on Lot 1, District Lot 18, Malahat District, Plan 21362 (PID 002-706-849), be revised.

Option 1 is recommended.

Submitted by,

Jill Collinson,
Planning Technician
Development Services
Planning and Development Department

<p>Department Head's Approval</p>  <p>Signature</p>

JC/ca



City of Vancouver
Valley Regional District

This map is compiled from various sources for information use and is designed for reference purposes only.

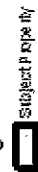
The Regional District does not warrant the accuracy.

All persons making use of the compilation are advised that amendments have been consolidated for convenience purposes only and that boundaries are representative.

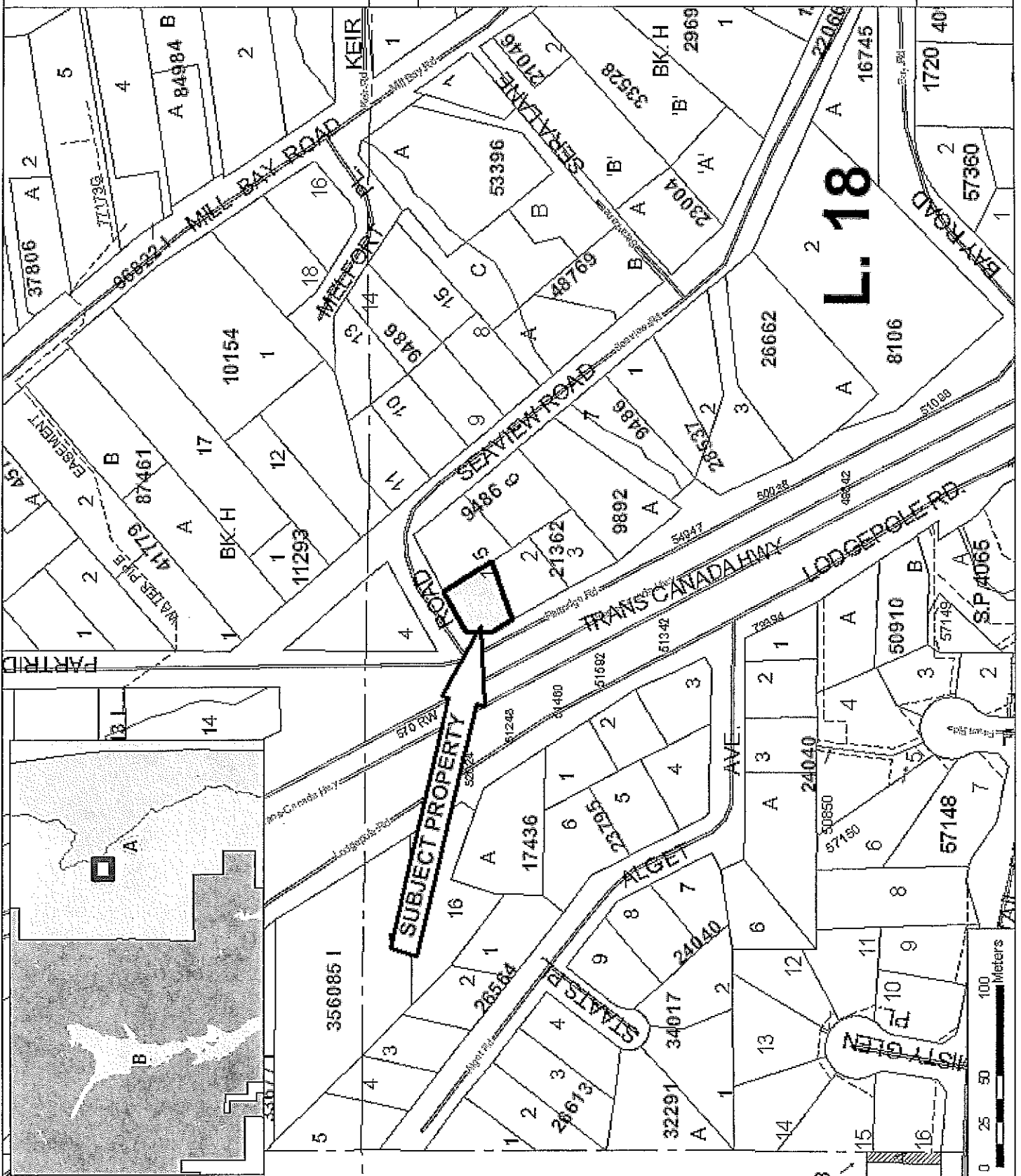
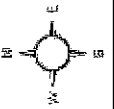
The colored legend should be used for all purposes of interpretation and significance of the system.

FILE: 1-A-10
-DVP

Legend



Subject Property



8.4.A R-3A ZONE – URBAN RESIDENTIAL (LIMITED HEIGHT)

Subject to compliance with the general requirements detailed in Parts 4 and 5 of the Bylaw, the following regulations apply in the R-3A Zone:

(a) Permitted Uses

The following uses and no others are permitted in an R-3A Zone:

- (1) One single family dwelling;
- (2) Bed and breakfast accommodation;
- (3) Daycare, nursery school accessory to a residential use;
- (4) Home occupation;
- (5) Horticulture;
- (6) Secondary suite or small suite.

(b) Conditions of Use

For and parcel in an R-3A Zone:

- (1) The parcel coverage shall not exceed 25 percent for all buildings and structures;
- (2) The height of all buildings and structures shall not exceed 7.5 m, except accessory buildings, which shall not exceed a height of 6 m;
- (3) The following minimum setbacks apply:

COLUMN I Type of Parcel Line	COLUMN II Residential Buildings & Structures	COLUMN III Buildings and Structures Accessory to Residential Use
Front	7.5 metres	7.5 metres
Interior Side	3.0 metres	3.0 metres
Exterior Side	4.5 metres	4.5 metres
Rear	4.5 metres	3.0 metres

(c) Minimum Parcel Size

Subject to Part 13, the minimum parcel size in the R-3 Zone is:

- (1) 0.1675 ha for parcels served by community water and community sewer systems;
- (2) 0.2 ha for parcels served by a community water system only;
- (3) 1.0 ha for parcels served by neither a community water system nor community sewer system.

C ADDRESS

[illegible]



CVRD

COWICHAN VALLEY REGIONAL DISTRICT

DEVELOPMENT VARIANCE PERMIT

NO: 1-A-10DVP DRAFT

DATE: JUNE 9TH, 2010

TO: DAVID GRISDALE & ISABEL
GRONDIN

ADDRESS: 2581 PARTRIDGE ROAD
MILL BAY, BC V0R 2P1

1. This Development Variance Permit is issued subject to compliance with all of the bylaws of the Regional District applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Development Variance Permit applies to and only to those lands within the Regional District described below (legal description):

Lot 1, District Lot 18, Malahat District, Plan 21362, (PID 002-706-849)
3. Zoning Bylaw No. 2000, applicable to Section 8.4.A(b) is varied by;
 - 1.32 metres to allow construction of an addition 3.18 metres from the exterior side parcel line
 - 3.0 metres to allow for construction of a covered porch 4.5 metres from the front parcel line
4. A survey certificate from a BC Land Surveyor is required confirming compliance with the setback variance described in Section 3 of the Permit.
5. The following plans and specifications are attached to and form a part of this permit.
 - Schedule A – Site Plan
6. The land described herein shall be developed in substantial compliance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit shall form a part thereof.
7. This Permit is not a Building Permit. No certificate of final completion shall be issued until all items of this Development Variance Permit have been complied with to the satisfaction of the Planning and Development Department.

AUTHORIZING RESOLUTION NO. XX-XXX(X) PASSED BY THE BOARD OF THE COWICHAN VALLEY REGIONAL DISTRICT THE 9TH DAY OF JUNE 2010.

Tom Anderson, MCIP
General Manager, Planning and Development Department

NOTE: Subject to the terms of this Permit, if the holder of this Permit does not substantially start any construction within 2 years of its issuance, this Permit will lapse.

I HEREBY CERTIFY that I have read the terms and conditions of the Development Permit contained herein. I understand and agree that the Cowichan Valley Regional District has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with SHEENA NELSON other than those contained in this Permit.

Signature

Witness

Owner/Agent

Occupation

Date

Date



D3

**ELECTORAL AREA SERVICES COMMITTEE MEETING
OF JUNE 1, 2010**

DATE: May 25, 2010 **FILE NO:** 5-D-09 DP VAR
FROM: Alison Garnett, Planning Technician **BYLAW NO:** 925
SUBJECT: Development Permit with Variance Application No. 5-D-09 DP VAR (Fitzpatrick)

Recommendation:

That the application by Peter Fitzpatrick for a development permit on District lots 199 and 200, Cowichan District, for the construction of a dwelling be approved, subject to:

- a) Construction in strict compliance with the attached plans by Pacific West Home Design Ltd., dated May 26, 2010,
- b) Construction in compliance with the recommendations and mitigations measures specified by the Cowichan Estuary Environmental Management Committee, and the Castor Consultants report, dated October 9, 2009,
- c) That non-combustible building materials be used for the platform supports, deck and building sides of the proposed structure,
- d) That the underside of the floor system be constructed at 2.95 metre elevation, and that approval from a geotechnical engineer is required prior to building permit to ensure the proposal is safe for the intended use.

And further, that the following variances be granted:

- a) Relax Section 12.7 (b)(3) of Zoning Bylaw 1015 to reduce the front parcel line from 7.5 metres to zero, the west and east side parcel lines from 1.5 metres to zero to allow for construction of the deck, and
- b) Relax Section 4.1 of Off-street Parking Bylaw No. 1001 to reduce the number of required off-street parking spaces for a single family home from two to zero.

Purpose:

To consider an application to rebuild a stilt home with an approximate floor area of 263 m² (2835 ft²) on a water lease lot, in accordance with the Cowichan Bay Village Development Permit Area.

Background:

Location of Subject Property: 1781 Cowichan Bay Road

Legal Description: District Lot 199 & 200, Cowichan District, Water Lease 102018

Date Application and Complete Documentation Received: September 30, 2009

Owner: Province of BC

Applicant: Peter Fitzpatrick

Size of Water Lease Lot: 0.09 ha

Existing Zoning: W-8 (Water Lot Residential)

Minimum Lot Size Under Existing Zoning: N/A

Existing Plan Designation: Water Lot Residential

Existing Use of Property: Residential

Existing Use of Surrounding Properties:

North: Cowichan Bay Foreshore
 South: Cowichan Bay Road
 East: Water lease lot residential
 West: Water lease lot residential

Services :

Road Access: Cowichan Bay Road
 Water: Cowichan Bay Waterworks District
 Sewage Disposal: Cowichan Bay Sewer System

Agricultural Land Reserve Status: Out

Environmentally Sensitive Areas: The subject property is located at the edge of the Cowichan Bay Estuary. The Cowichan Bay Village Development Permit Area guidelines state that where shading of the foreshore from buildings and structures is proposed as an aspect of development in Cowichan Bay, review and approval from the Cowichan Estuary Environmental Management Committee (CEEMC) is required. The CEEMC's comments are outlined on page 5 of this report.

Archaeological Site: None have been identified in either CVRD mapping or from the BC Archaeological Branch mapping information (RAAD).

The Proposal:

Policy Context

The subject property is located within the Cowichan Bay Village Development Permit Area (DPA) as specified within Official Settlement Plan Bylaw No. 925 (OSP). The Cowichan Bay DPA was created to protect the marine environment from damage and natural hazard, to ensure compatibility of new development with the existing character of the village, to strengthen the village core as the commercial focal point of Cowichan Bay, and to help realize the full potential of the village from a heritage, economic, touristic, cultural and architectural perspective.

Project Description

District Lot 199 and 200 are residential water lease lots in Cowichan Bay. The lot is currently occupied by an existing stilt home, approximately 157 m² (1688 ft²) in size, which was significantly damaged by fire in 2008. The applicant proposes to remove the existing residence and rebuild a two storey, 263 m² (2835 ft²) residence and deck, roughly within the footprint of the existing structure.

The proposed stilt home will be 11 metres wide and 13 metres long, and will be supported by 15 concrete pilings, each with approximately one square metre footings. The dwelling will also be supported by a reconstructed retaining wall located along the road. A deck will be constructed around the residence and protrude an additional 3 metres beyond the residence into the ocean side of the lease lot. The proposed deck will not extend further onto the mudflat than the existing deck, however the attached drawings show that overall there will be an increase in deck area, and resultant shading of the foreshore and intertidal area, by 17.7 m² (190.5 ft²).

The existing residence, along with many other stilt homes, is constructed from the edge of the backshore immediately adjacent to Cowichan Bay Road and extends into the upper portion of the intertidal zone of the Bay. Although these homes are not located on the travelled portion of Cowichan Bay Road, they are generally built partially within the road allowance. The attached plans provided by the applicant show that the new residence, including deck, will not encroach further onto Cowichan Bay Road than the existing structure. The Ministry of Transportation and Infrastructure has been consulted and consider their interests unaffected by this application, as the reconstruction does not represent any increase in the building encroachment onto the road.

A significant component of this development permit application is review and approval of the project by the Cowichan Estuary Environmental Management Committee (CEEMC). The CEEMC's objective is to maintain and protect habitat and the Cowichan Bay estuary marine environment from negative impacts related to development. The CEEMC reviewed this application November 23, 2009, and their comments are noted on page 5 of this report. To assist in the CEEMC's review, the applicant has supplied a report by Castor Consultants, which provides a biological assessment of the site and essentially states that the redevelopment will not create a negative impact on the estuary if appropriate best management practices are followed.

Height

Electoral Area D Zoning Bylaw No. 1015 permits a maximum building height of 10 metres, which is to be measured from the surface of water at high water/tide. This application proposes a two storey, 6.5 metre (21.4') building. The base elevation of the proposed building is 2.95 metres measured from the underside of the floor system, or 3.2 metres from the finished floor elevation. The 3.2 metre base elevation and a 6.5 metre structure result in a total proposed elevation of 9.83 metres.

The Cowichan Bay Village Development Permit Area guidelines suggest that redevelopment of residential cottages in the village be constructed substantially lower than that permitted by the zoning bylaw, and furthermore that the largest of the dwellings should be one storey with loft and dormers. The applicant's original proposal was to build an 8.3 metre tall building with a floor elevation at 3.2 metres. However, both the height and base elevation were decreased to

accommodate the APC's concerns about the proposed height of the building from the perspective of the road, especially in comparison to the adjacent stilt homes.

Since the APC reviewed this application, the base elevation and height of the proposed structure have been raised, due to concerns for flooding and tidal storm surges. The Cowichan Koksilah Floodplain mapping shows that the flood level in Cowichan Bay is 3.2 metres, and past experience with stilt home redevelopment suggests that a 2.95 metre elevation for the underside of the floor system is the lowest floor elevation that a geotechnical engineer would approve. Furthermore, the CEEMC supports the 3.2 metre elevation (of the finished floor), due to the greater protection from tidal storm surges. The applicant has been advised that if a development permit is issued, a geotechnical engineer's review of the proposal will have to be conducted prior to building permit, to ensure that the residence is safe for its intended use and location.

Setbacks

Electoral Area D Zoning Bylaw No. 1015 states that the setback for structures in the W-8 zone is 7.5 metres from the road. Like many of the stilt homes along Cowichan Bay Road, the reconstruction also proposes to encroach on the road, although to a lesser degree than the existing structure. The applicant is requesting a 0 m setback to the front parcel line along Cowichan Bay Road.

The required side setbacks in the W-8 Zone are 10% of the parcel width or 3 metres, whichever is less. For these lots, the required side yard setback is 1.5 metres. A 0 metre setback variance is required to both side lot lines as the setback regulations apply to the deck, which extends to the lease lines. The actual residential structure will be narrower than the existing dwelling, and will be constructed to comply with the required 1.5 metre setback from the lease line.

From the attached drawings, you can see the residence on lot 198 (1779 Cowichan Bay Road) encroaches on the subject property by 1.18 metres, and therefore the two dwellings will be 1.24 metres apart at the narrowest point (on the roadway). The BC Building Code (Section 9.10(15)) has spatial separation requirements for fire protection that apply when dwellings are constructed close together. For example, in instances where a setback is less than 1.2 metres, no windows are permitted on that portion of the building. CVRD Building Inspectors have reviewed the proposal and 1.24 m will be a sufficient separation between the residences. This application was also been referred to the Cowichan Bay Volunteer Fire Department for their review, and no comments have been received.

Parking

CVRD Bylaw No. 1001 requires a residence to provide two off-street parking spaces. The applicant is applying to vary this bylaw requirement, and proposes to park two vehicles on the road right of way, parallel to Cowichan Bay Road. The applicant suggests that providing parking spaces on the lease area would be unsafe as the site is located at a bend in Cowichan Bay Road, and backing out of on-site parking spaces would be dangerous.

The APC has voiced concerns over the lack of on-site parking provided in this proposal; however it appears that this is a pressing issue within the entire village, and one which this specific site and application cannot resolve. Furthermore, the Ministry of Transportation and Infrastructure has been consulted, and MOTI staff support the parallel parking on the road right of way, which is consistent with the applicant's proposal.

Cowichan Bay Village Development Permit Area Guidelines

The DPA guidelines apply to proposed construction, subdivision, and alteration of land unless specifically exempted. Therefore, the guidelines are quite broad and not all are relevant to construction of a single dwelling. Of primary importance within the guidelines is project review by members of the Cowichan Estuary Environmental Management Committee (CEEMC).

- a) The dwelling and deck are the only impervious surfaces that will generate storm flows, and no alternative has been presented other than to direct flow of rainwater onto the beach/ocean. The proposed redevelopment does not represent a significant increase in impervious building footprint.
- b) No discharges of deleterious substances are planned in association with the residential use of the property. However, caution should be taken during the demolition and construction phases, and the applicant must follow Best Management Practices for development along a shoreline. The Castor Report states that the removal of the existing 25 creosote piles will be beneficial to the site.
- c) The proposed redevelopment will create approximately 17.7 m² (190 ft²) of increased shading on the intertidal area, and the CEEMC has provided the following information regarding the subject property (noted in italics): *The Committee's primary concern with the proposed development has been to ensure "no negative impacts to the intertidal mud flat (present on a major part of the lease) and associated ecological communities. Issues that were discussed during our meeting included:*
 - A. *There will be temporary disturbance to the intertidal zone to remove the old structure. This should be carried out during low tides only. The existing pilings are creosote, and will be cut off "below the mud line" and disposed of in a safe manner. This demolition will expose a retaining wall at the road. The condition of the wall must be inspected by a Professional Engineer to ensure it can support the reconstruction project. If the opinion is not positive, there will need to be a new retaining wall constructed in the same location which will not cause harm to fish or fish habitat. Some backfilling using clean rock/cobble substrate is needed to support the wall.*
 - B. *The house is to be located on the lease, in a manner that it will not extend beyond the intertidal gravel substrate as described in the Waters Report. The deck will extend over the mudflat. There is an additional 190 ft² of shading that will result from the proposed design. The deck will not extend beyond the neighbours existing decks to the east and west.*
 - C. *Peter Fitzpatrick did indicate during our meeting that the residence would be built two ft (3.2 metre elevation) higher than the old structure's main floor level. We remain concerned about flooding of stilt homes and other infrastructure in the Village. Tidal storm surges that may be expected in Coastal BC with the onset of future global warming is an issue that the CVRD will have to address in future planning for this area.*

D. 15 concrete pilings with 1 metre square footings will support the building.

E. Marine foreshore construction should take place between June 1 and February 15 of any calendar year. The Committee requires a professional biologist to provide monitoring services at key stages during the project, especially during demolition, inspection and reconstruction of a retaining wall, reconturing gravel substrates to support the wall, building of the building pilings. Appropriate Best Management Practices (for construction of docks and floats) from the Department of Fisheries and Oceans should be followed (see attached).

F. The measures to ensure environmental protection during the construction (Excavated materials, concrete leachate, creosote pilings and additional measures in the Waters Report) must be implemented.

G. This project does not include a dock that will be attached to the residence.

H. The sewer connection to this residence must be securely braced to the structure of the residence, and there must be a "fencing" of some form that will exclude logs from floating under the residence, and breaking the sewer line.

The Committee discussed the idea of eelgrass restoration on Peter's leases, as a community stewardship initiative. If Peter is open to the idea, we can discuss the idea with the Cowichan Community Land Trust."

- d) As noted above, the CEEMC requires marine foreshore construction to take place between June 1 and February 15 of a given year, in accordance with Best Management Practices for Construction of Docks and Floats in the South Coast Area. The CEEMC requires that a professional biologist be involved during demolition, excavation and construction phases to ensure relevant BMPs are followed.
- e) The existing retaining wall along the road requires inspection by a professional engineer to ensure that it can support the reconstruction. If it cannot, an engineer must be involved in design and construction of a new retaining wall in the same location.
- f) The Castor Report notes that there is no riparian vegetation on the site, as the existing structure occupies the entire shoreline along the road. Furthermore, the report recommends that imported cobble or shot rock be used to supplement the intertidal habitat. Excavation associated with forming and pouring of concrete footings will be required, as well as possible works if the retaining wall must be reconstructed. As noted above, the CEEMC requires that a professional biologist monitor construction during key stages of development.
- g) This dwelling will be connected to the Cowichan Bay Sewer System. This connection must be securely braced to the structure and fenced to prevent floating debris from breaking the sewer line.
- h) The stilt home design includes large exposed wooden beams, nautical style porthole windows, and a metal roof. The applicant is proposing to use cedar shingles on the front and rear of the residence, and Hardie panels with battens on the sides (Hardie panel or other non combustible material is required for fire protection). Natural wood stain colours will be used. The north facing water side of the residence includes a second story deck and numerous windows.
- i) The proposed design includes a 2.4 metres (8 ft) overhang above the front door.
- j) The stilt homes in Cowichan Bay do not have one cohesive design style and that is generally what makes the area special.

- k) In terms of building height and massing, the application proposes that the new residence will be constructed higher than the existing structure. However, views from the road should not be impacted by the increase in height, because the width of the residence along the road will actually be reduced. Across from Cowichan Bay Road is a steep bank and all development is well above these stilt homes so there is no threat to views from this perspective. Although the proposed residence will not extend any further towards the ocean than the existing structure, it is difficult to anticipate the effect that a taller building will have on the adjacent stilt homes. Due to the height and proximity of the two dwellings, the amount of light that will penetrate through the window will likely be decreased.

The proposed residence will be a full two stories, and approximately 0.65 metres (2.13') higher than the existing structure. The neighbouring residence to the west is a two storey structure built significantly lower than Cowichan Bay Road, and the residence to the east is also a two-storey structure, built just below road elevation. Both neighbouring residences are currently lower than the existing structure, and therefore will be significantly lower than the proposed reconstructed stilt home.

- l) Variances to the front and side setbacks are proposed, as noted above.
As shown on the attached site plan, the existing residence, as well as the proposed residence, is constructed parallel to the lease lines. This is in contrast to the adjacent stilt homes, which have been built on an angle in relation to the lease lines. Although from a visual perspective this may not be ideal, the proposal does not represent a change from the status quo.
- m) This guideline states that the largest stilt home cottages in the development permit area should be one storey, possibly with a loft and dormers, and the height of these buildings should be substantially lower than the 10 metre height limit in the Zoning Bylaw. As noted above, the proposed structure is 6.53 metres (21.4') tall, and the total proposed elevation is 9.83 metres. Although this proposal does not appear to comply with this development permit guideline, the height is not inconsistent with the height of other recent stilt homes along Cowichan Bay Road. In addition, the base elevation of the structure is much higher than the older stilt homes, due to increased concerns for storm surges and flooding.
- n) No public viewpoints are present in these residential lease areas.
- o) N/A
- p) N/A
- q) N/A
- r) N/A
- s) N/A
- t) As noted above, the exterior building materials being proposed are cedar shingles on the front and rear of the residence, and Hardie panel and battens on the sides. Exposed timber beams will also be incorporated into the design.
- u) N/A
- v) Modest landscaping plans include potted plants at the front of the residence are proposed.
- w) This guideline is applicable to larger scale projects.
- x) Vehicle parking will be on Cowichan Bay Road, as noted above.
- y) N/A

- z) Wiring to the stilt homes is above-ground.
- aa) N/A

Surrounding Property Owner Notification and Response:

A total of 28 letters were mailed out and/or otherwise hand delivered to adjacent property owners, as required pursuant to CVRD Development Application Procedures and Fee Bylaw No. 3275, which described the purpose of this application and requested comments on this variance within a specified time frame. Three pieces of correspondence have been received, and are attached to this report. The original development plans received one letter of objection; however the objection was withdrawn when the plans were revised.

Advisory Planning Commission:

The APC reviewed this application first in January 27, 2010, at which point they unanimously recommended that the application not be approved because it did not meet the intent of the Cowichan Bay Village Development Permit Area bylaw, including

- Building area and size too large
- Building too high
- No onsite parking
- Encroaches too much on the road right of way

The applicant submitted a revised proposal which decreased the building's encroachment onto the road right of way, lowered the base elevation, lowered the height and reduced the building size by 13 m² (143 ft²).

At their meeting April 28, 2010 to review the application a second time, the following recommendation was made by the APC:

That the application be approved subject to obtaining the applicant's commitment to protecting street parking and pedestrian walkways as shown on Plan 1 of 3.

Please note that since the APC reviewed this application, the elevation of the residence has been increased by 0.5 metres to address safety and flooding concerns that will arise at time of building permit. Knowing that height was a concern of the APC, this increase in height was mitigated by further reducing the structure by 0.25 m (10"), so that the overall elevation of the structure was increased by only 0.33 m (13").

Options:

1. That the application by Peter Fitzpatrick for a development permit on District lots 199 and 200, Cowichan District, for the construction of a dwelling be approved, subject to:
 - a) Construction in strict compliance with the attached plans by Pacific West Home Design Ltd., dated May 26, 2010,
 - b) Construction in compliance with the recommendations and mitigations measures specified by the Cowichan Estuary Environmental Management Committee, and the Castor Consultants report, dated October 9, 2009,
 - c) That non-combustible building materials be used for the platform supports, deck and building sides of the proposed structure,

- d) That the underside of the floor system be constructed at 2.95 metre elevation, and that a approval from a geotechnical engineer is required prior to building permit to ensure the proposal is safe for the intended use.

And further, that the following variances be granted:

- a) Relax Section 12.7 (b)(3) of Zoning Bylaw 1015 to reduce the front parcel line from 7.5 metres to zero, the west and east side parcel lines from 1.5 metres to zero to allow for construction of the deck, and
- b) Relax Section 4.1 of Off-street Parking Bylaw No. 1001 to reduce the number of required off-street parking spaces for a single family home from two to zero.

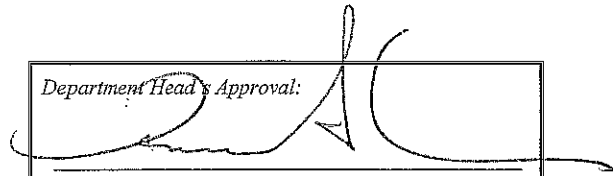
2. That the application be revised.

Submitted by,



Alison Garnett,
Planning Technician
Development Services Division
Planning and Development Department

AG/ca

<p>Department Head's Approval:</p> 
<p>Signature</p>



COWICHAN VALLEY REGIONAL DISTRICT

DEVELOPMENT PERMIT

NO: 5-D-09 DP VAR

DATE: May 25, 2010

TO: Peter Fitzpatrick DRAFT

ADDRESS: 9366 Smiley Road

Chemainus BC V0R 1K4

1. This Development Permit is issued subject to compliance with all of the bylaws of the Regional District applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Development Permit applies to and only to those lands within the Regional District described below (legal description):

District Lots 199 and 200, Cowichan District

3. Authorization is hereby given for the construction of a single family home on the subject property in accordance with the conditions listed in Section 4, below.
4. The development shall be carried out subject to the following conditions:
 - a) Construction in strict compliance with the attached plans by Pacific West Home Design Ltd., dated May 26, 2010,
 - b) Construction in compliance with the recommendations and mitigations measures specified by the Cowichan Estuary Environmental Management Committee, and the Castor Consultants report, dated October 9, 2009,
 - c) That non-combustible building materials be used for the platform supports, deck and building sides of the proposed structure,
 - d) That the underside of the floor system be constructed at 2.95 metre elevation, and that a approval from a geotechnical engineer is required prior to building permit to ensure the proposal is safe for the intended use.

And further, that the following variances be granted:

- a) Relax Section 12.7 (b)(3) of Zoning Bylaw 1015 to reduce the front parcel line from 7.5 metres to zero, the west and east side parcel lines from 1.5 metres to zero to allow for construction of the deck, and
 - b) Relax Section 4.1 of Off-street Parking Bylaw No. 1001 to reduce the number of required off-street parking spaces for a single family home from two to zero.
5. The land described herein shall be developed in substantial compliance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit shall form a part thereof.
6. The following Schedule is attached:
 - Schedule A- Building Drawings, pages 1-3, dated May 26, 2010
 - Schedule B- Biological Assessment by Castor Consultants Ltd, dated October 9, 2009.
 - Schedule C- Habitat Assessment notes by the Cowichan Estuary Environmental Management Committee, dated December 3, 2009
7. This Permit is not a Building Permit. No certificate of final completion shall be issued until all items of this Development Permit have been complied with to the satisfaction of the Development Services Department.

ISSUANCE OF THIS PERMIT HAS BEEN AUTHORIZED BY RESOLUTION NO. XXXXX PASSED BY THE BOARD OF THE COWICHAN VALLEY REGIONAL DISTRICT THE th DAY OF MAY 2010.

Tom Anderson, MCIP
General Manager, Planning and Development

NOTE: Subject to the terms of this Permit, if the holder of this Permit does not substantially start any construction within 2 years of its issuance, this Permit will lapse.

I HEREBY CERTIFY that I have read the terms and conditions of the Development Permit contained herein. I understand and agree that the Cowichan Valley Regional District has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with _____ other than those contained in this Permit.

Signature

Witness

Owner/Agent

Occupation

Date

Date



Cowichan
Valley
Regional
District

This map is compiled from various sources for internal use and is designed for reference purposes only.

The Regional District does not warrant the accuracy.



All persons making use of this compilation are advised that amendments have been consolidated for convenience purposes only and that boundaries are representational.

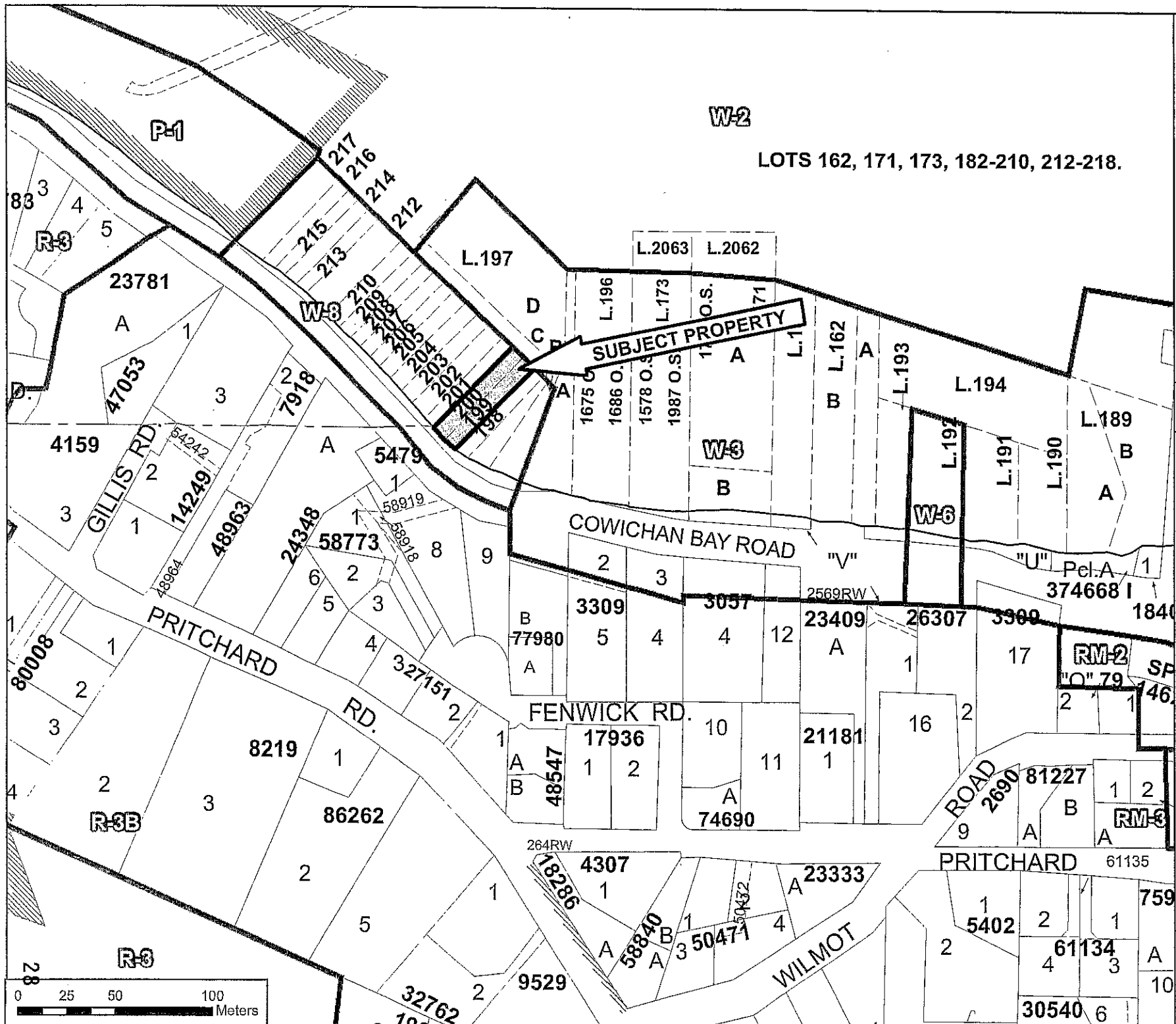
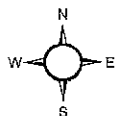
The original Bylaws should be consulted for all purposes of interpretation and application of the Bylaws.

FILE: 5-D-09-DP

ZONING

Legend

-  Subject Property
-  Zoning Electoral Area D





OTHER DPA



RIPARIAN AREAS REGULATION DPA



Cowichan
Valley
Regional
District

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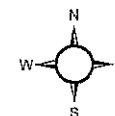
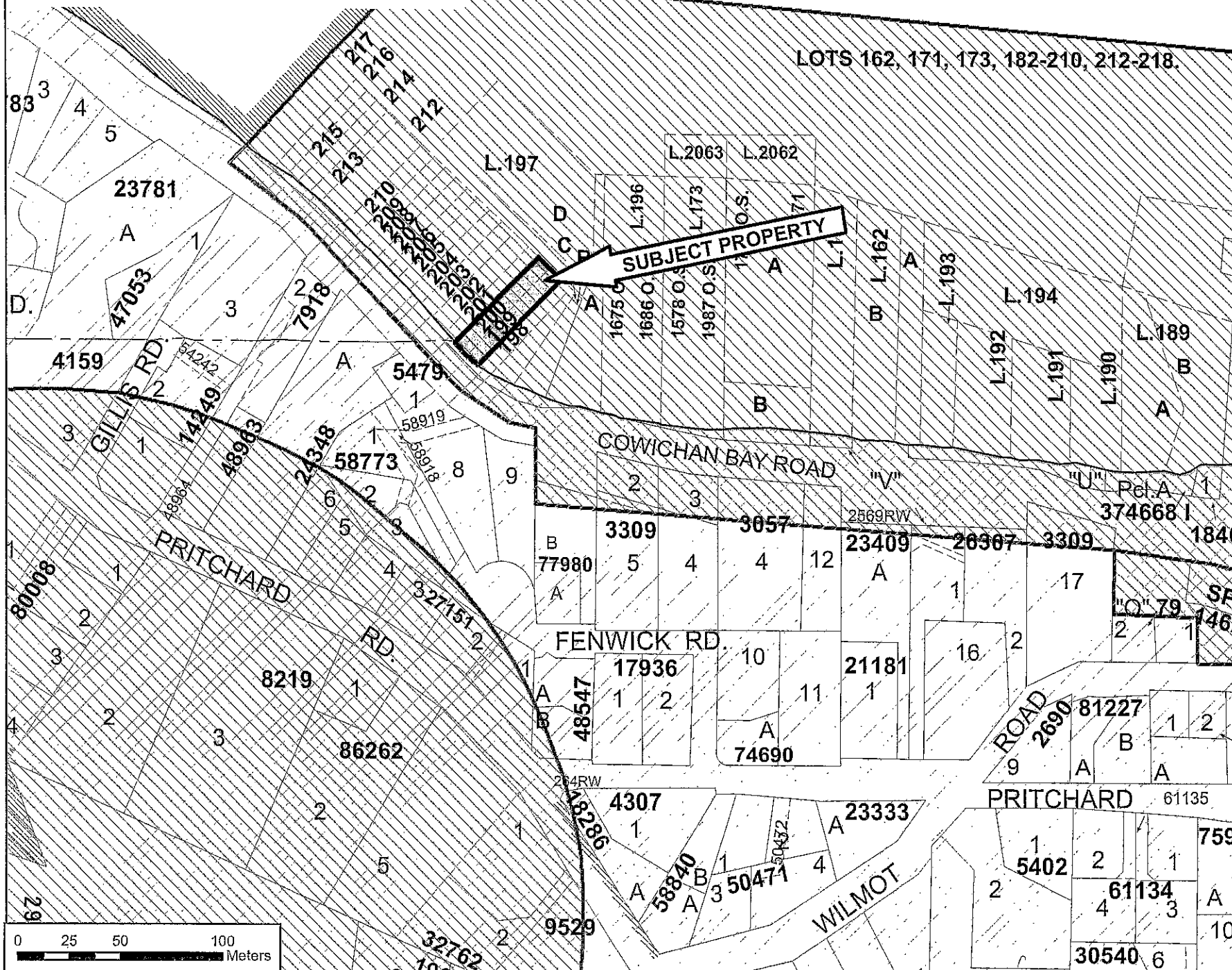
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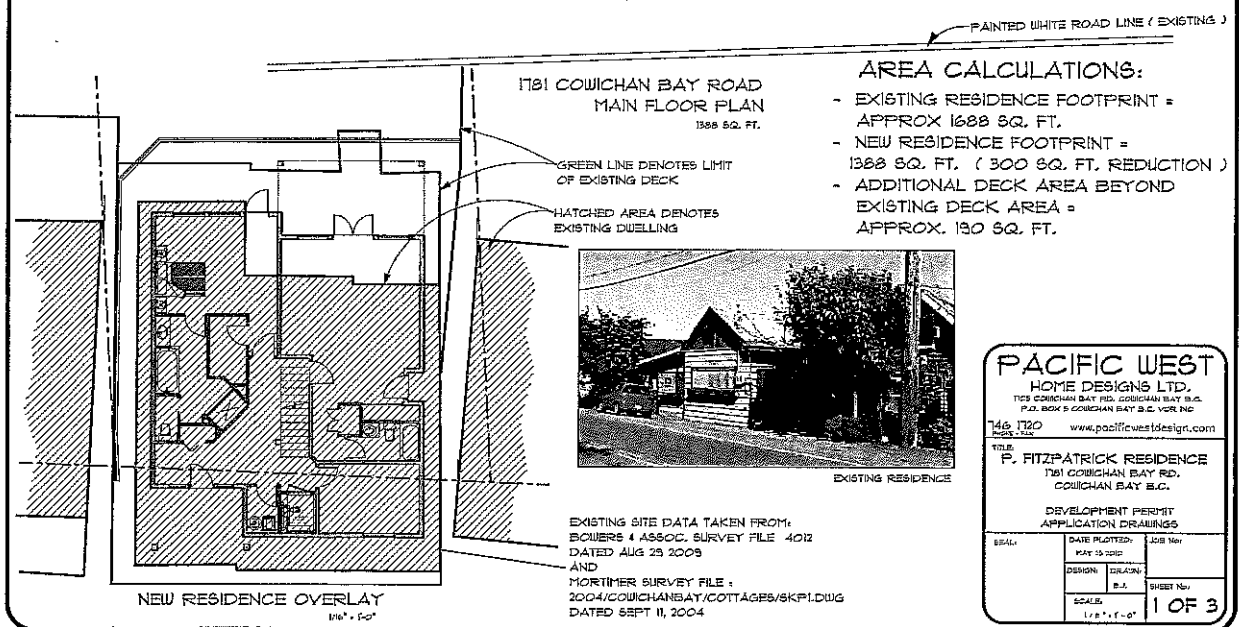
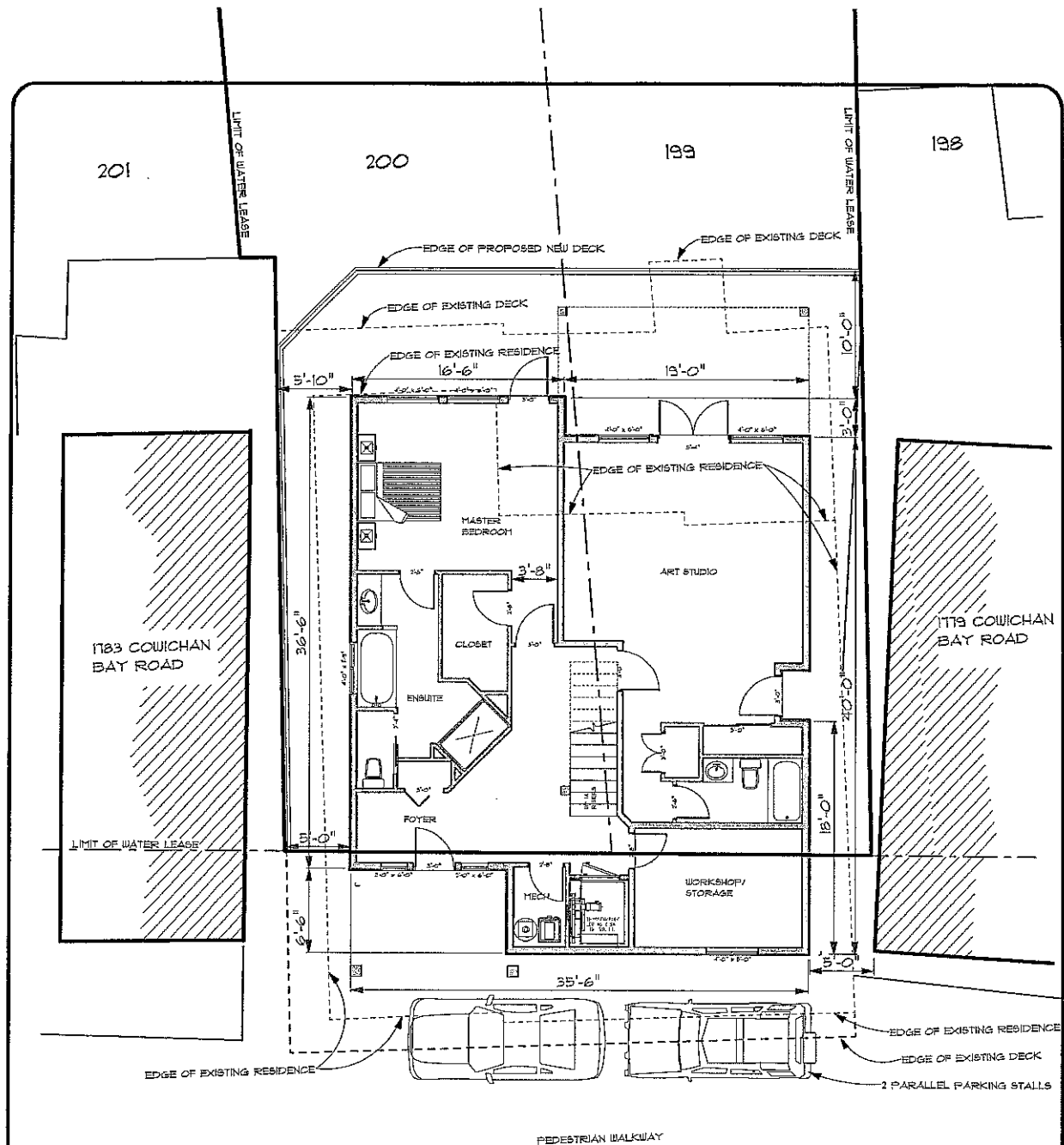
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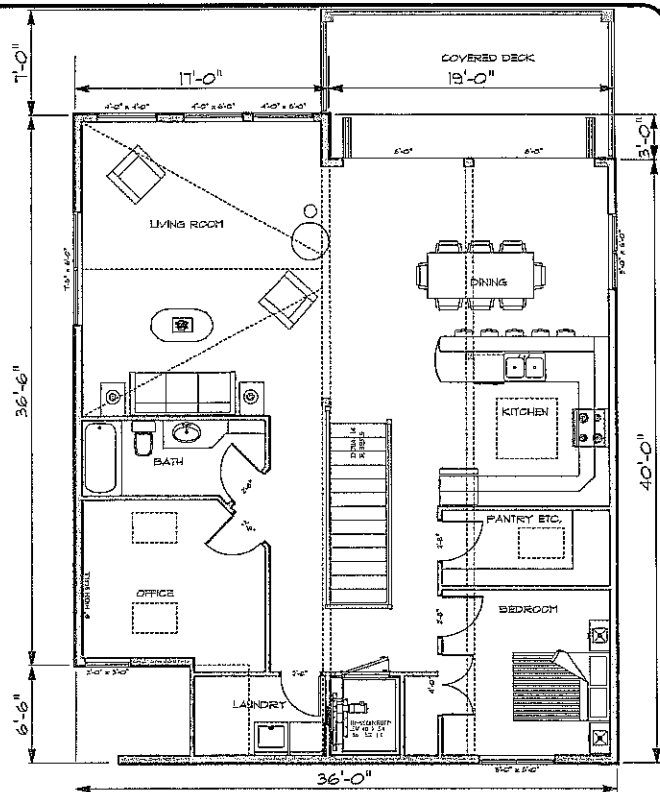
DPA

Legend

 Subject Property

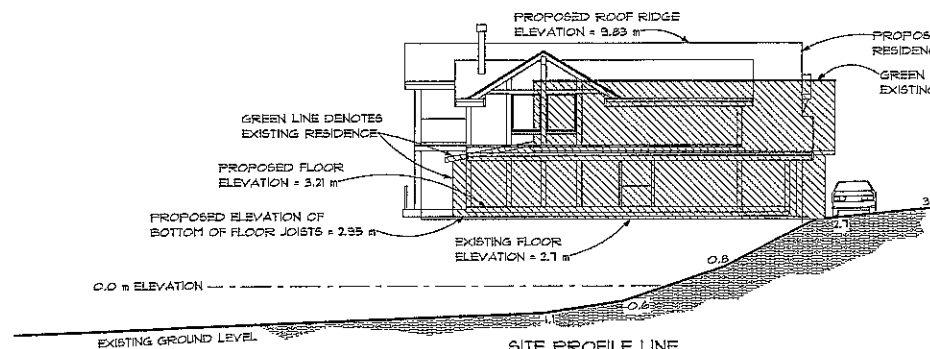
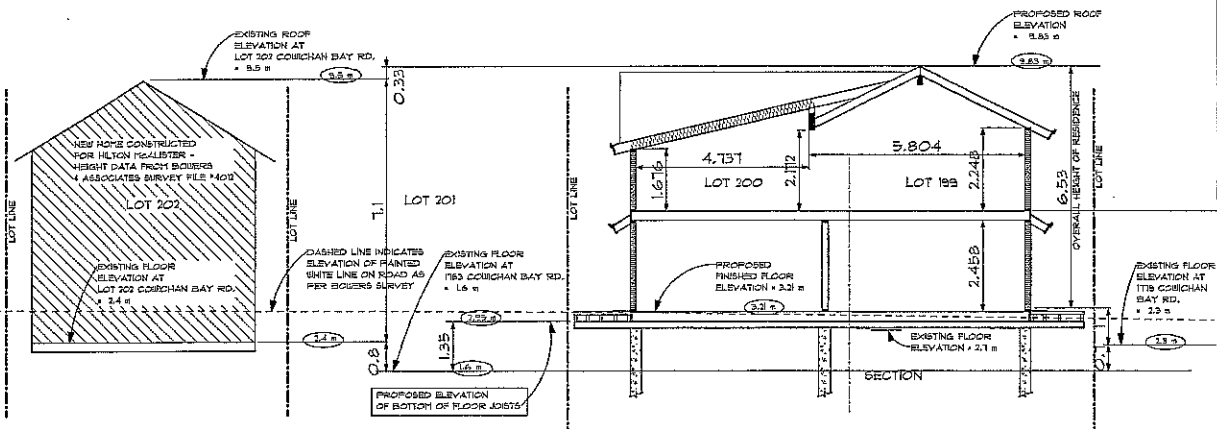






UPPER FLOOR PLAN

1428 SQ. FT.

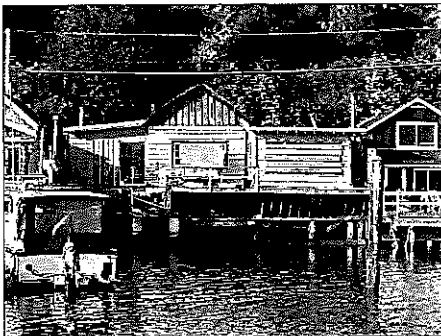
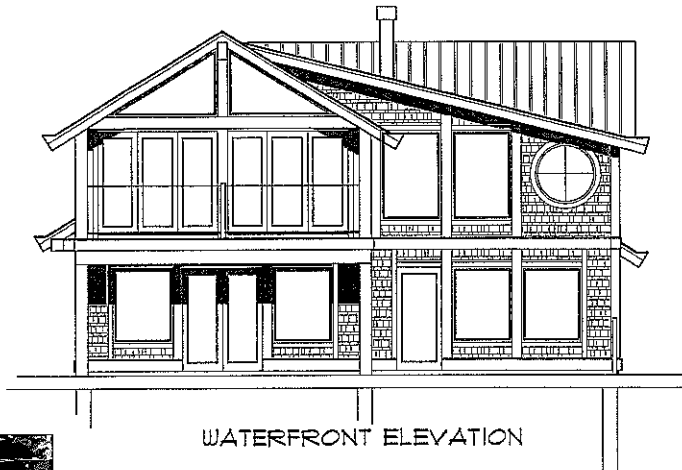
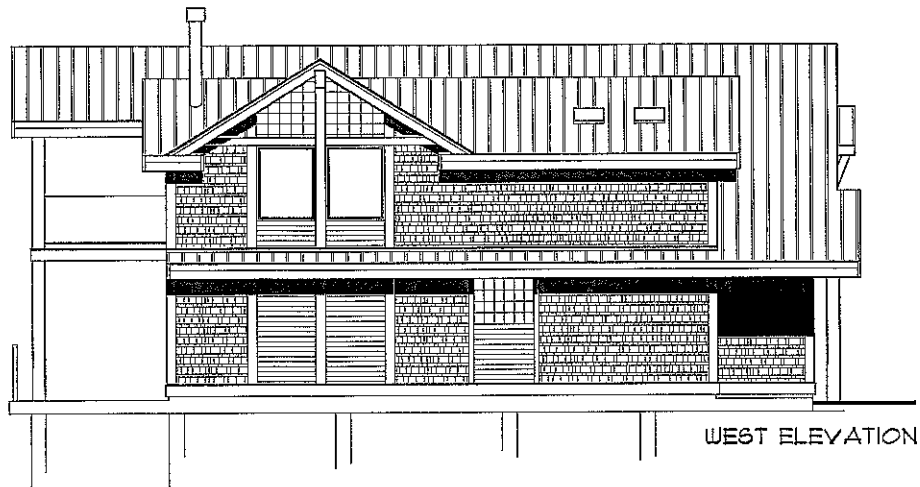


PACIFIC WEST
HOME DESIGNS LTD.
1100 COWICHAN BAY RD. COWICHAN BAY B.C.
P.O. BOX 5 COWICHAN BAY B.C. V9R 1B3
T46 1720 2-888-2444 www.pacificwestdesign.com

TITLE:
P. FITZPATRICK RESIDENCE
1101 COWICHAN BAY RD.
COWICHAN BAY B.C.

DEVELOPMENT PERMIT
APPLICATION DRAWINGS

SCALE:	DATE PLOTTED: MAY 23 2013	JOB No:
DESIGN:	DRAWN:	SHEET No:
SCALE:	1/8" = 1'-0"	2 OF 3



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P. FITZPATRICK RESIDENCE			
1101 COWICHAN BAY RD.			
COWICHAN BAY B.C.			
DEVELOPMENT PERMIT APPLICATION DRAWINGS			
DATE PLOTTED	DATE	JOB NO.	
11/11/05	11/11/05		
DESIGN	DRAWN		
SCALE			SHEET NO.
1/8" = 1'-0"			3 OF 3

Application for Development Permit. 1781 Cowichan Bay Road.

Re. Item 15 Variance request

Variance request # 1

(a) Relaxation of side yard setback adjacent to 1779 Cowichan Bay rd.

Request to relax side yard setback from allowable 3 meters to proposed 1.42 meters to new house at narrowest point, adjacent to road, as well as 0 meter setback to wooden deck structure which surrounds house. This request is in reality from the existing non conforming building which imposes onto 1781 Cowichan Bay rd. water lease by 1.18 meters. See sheet 1 of 3

(b) Relaxation of side yard setback adjacent to 1783 Cowichan Bay rd.

Request to relax side yard setback from allowable 3 meters to 1.52 meters to new house at narrowest point , adjacent to road, as well as 0 meter setback to wooden deck which surrounds house.

Variance request # 2

Request to relax front yard setback from allowable 7.5 meters to imposing on road, as the building to be replaced does, and all other buildings along the road do, as well as recent permitted home at 1783 Cowichan Bay rd.

Variance request # 3

Request to relax onsite parking requirements, and to allow parallel parking for 2 vehicles along road edge, as all other residents along the road now do. See also explanatory sheet re. parking variance request.

Peter Fitzpatrick, owner

Application for Development Permit. 1781 Cowichan Bay Road.

Re. Item 15

Request for parking variance:

I feel that parking on the street, without a garage is justified due to the fact that the property is located on a blind corner of the road. Although the speed limit is 30 kmh, the off hour traffic speed is considerably higher, and poses a very real problem when backing out of a garage. There have been accidents in the past in this location.

Also, by not having a parking garage, the building footprint remains approximately the same size as the existing building and deck area to be demolished. This prevents creating a negative impact on the foreshore intertidal shading if the building were to be made larger by requiring a garage, an issue which has been voiced by Peter Law of Cowichan Estuary environmental Management Committee.

Even with a single vehicle garage, the required additional vehicle must park on the street.

Therefore, the dynamics of the parking situation remain the same, regardless of whether a garage exists or not.

Peter Fitzpatrick, owner

A handwritten signature in black ink, appearing to be 'Peter Fitzpatrick', written over a horizontal line.

CASTOR CONSULTANTS LTD.

October 9, 2009

Department of Fisheries and Oceans
3225 Stephenson Point Road
Nanaimo, BC
V9T 1K3

Attention: Mr. Scott Northup

Re: Biological assessment for proposed house reconstruction at 1781 Cowichan Bay Road,
Cowichan Bay, B.C.

Dear Scott:

Castor Consultants Ltd. was contracted to undertake a biological assessment of the subject site at Cowichan Bay on behalf of the Mr. Peter Fitzpatrick as a part of a proposed water lot redevelopment application. The owner is currently completing the development application and wishes to submit this information for your consideration as a part of that application.

The habitat assessment work was conducted by the undersigned and Rob Russell on April 14, 2009 around 1530 hrs during a low tide (0.7 m tide @ 1453hrs). Figure 1 shows the overall site plan, a section of the proposed site improvements and the biological inspection sites. Table 1 provides a summary of field observations.

The objective of this assessment is to examine the fish habitat attributes to determine if harmful alteration, disturbance or destruction (HADD) of fish habitat might occur as a result of the proposed reconstruction. The assessment work was undertaken following Fisheries and Oceans Marine Foreshore Environmental Assessment Guidelines.

Quadrat and visual inspections of the intertidal zone were made at six points. Still digital photographs of the intertidal features were recorded (Appendix 1). Locations were determined by dead reckoning relative to the existing structure deck and building footprint. The characteristics of the inspection sites are represented by the still photographs in Appendix 1.

The overall findings as summarized in the attached photographs show that the proposed improvements would be consistent with the pre-existing structure, extending primarily over a reducing mud and silt intertidal zone (mudflat) with some minor elements of more granular material, and a cobble and gravel substrate with some brick and associated anthropogenic debris in the upper tidal zone.

The intertidal zone (Photograph 1) can be divided into two parts based on our assessment:
1/ a shallow reducing sediment consisting of mud and silt (mudflat) overlying hardpan and
2/ a cobble/gravel zone in the higher intertidal area beneath the structure (Figure 1 and Table 1). The sediments appeared to be influenced by anthropogenic inputs including bricks and brick fragments, bottles and glass. In some areas, the exposed sediment exhibited an oily sheen. As indicated in Table 1, the infauna were generally sparse except for marine worms,

CASTOR CONSULTANTS LTD.

which were numerous in places. Three species of clams were present, but were found in very low numbers in the mudflat habitat. In general the mudflat habitat was relatively very unproductive and appeared to have been compromised by previous anthropogenic activity. Oysters and barnacles were noted where attachment allowed in the mudflat and abundant in the cobble gravel substrate area (Photograph 2). There was no riparian zone as the existing structure occupied the entire shoreline along Cowichan Bay Road.

As noted in Figure 1, the proposed reconstruction will basically result in maintenance of the status quo with a larger deck structure being extended over the intertidal area. In terms of design, the new building will be supported on concrete piles and footings. The new project will result in fewer piles being incorporated into the structure at the site. In addition to the foundation wall above high water adjacent to the road, there will be a total of 15 concrete posts and footings installed, 14 of which will be in the mid-intertidal and upper intertidal zones. Initial estimates indicate that the footings will be 1.4 m² in area, 30 cm thick and founded at least a half-metre deep. It is estimated that the top of the footings will lie 15 to 20 cm below the sediment surface. The old pilings, numbering about 25, will be cut off at or below the mud line, as practical.

While there will be a temporary disturbance to the intertidal zone as a result of the demolition, construction access and excavation, it is anticipated that after the work and backfilling are complete, the sediments will stabilize in a few tidal cycles. It is expected that the sediments will be re-populated with local infauna in within a period of a few months. Where the footings may be exposed above the existing substrate because the bearing soil is shallower than anticipated, it is recommended that they be covered with imported cobble or shot rock (8" minus) to supplement rocky intertidal habitat and provide niche environments for macroinvertebrates. The removal of the creosote piles, provided they are cut off below the mud line, as practical, can be expected to provide some benefit to local marine life as well, since they will no longer leach creosote onto the substrate. The use of concrete posts will provide a better base of attachment for many sedentary species using this habitat type. The proposed reconstruction with the expanded deck, which as indicated on Figure 1 will add a further 190 ft² (17.7 m²) or about 3-5 ft seaward, is not expected to markedly change the status quo of the existing intertidal habitat by additional shading of the area, as there are no algae and associated marine plants at the subject site.

The concrete posts and footing requirements and the new structure are not expected to have a marked affect on the shellfish infaunal community and associated habitat. Providing the above suggestions and the following mitigation measures are followed, the assessment indicates that the proposed works will not cause a harmful alteration, disruption or destruction (HADD) of fish habitat. The proposed works should follow the Fisheries and Oceans best management practices for shoreline construction activities, including debris and silt control and the use of concrete in the marine environment. All intertidal work will be carried out during low water periods when the site is not wetted by the tide. Prior to initiation of work beneath the structure, it is recommended that shellfish (clams and oysters) be salvaged and relocated to a suitable adjacent habitat. The salvage should include all areas where access to the site and excavation of the sediments may occur.

CASTOR CONSULTANTS LTD.

If you have any questions please don't hesitate to contact me.

Yours truly,

Rob Waters, R.P. Bio.

Enc. Figure 1 and Table 1
 Appendix 1: Photographs of Intertidal Characteristics.

Cc: Mr. P. Fitzpatrick, 9366 Smiley Road Chemainus, B.C. V0R 1K4
 Mr. Peter Law, Ministry of Environment, 2080 Labieux Road, Nanaimo, B.C. V9T 6J9

Ms Alison Garnett
Planning Technician
Development Services Division
CVRD

January 25 2010

Dear Alison:

This email is in response to your letter of January 19 2010 soliciting neighbour input to the proposed construction and request for variance at 1781 Cowichan Bay Road.

My concerns with the proposal pertain primarily to the requested 0 metre sideyard setback to the west, and are as follows:

1. It appears from the schematic supplied that the proposed walkway which runs the entire length of the house encroaches on the common interior property line . Any walkway over 4'9" wide will encroach on the existing 1783 Cow Bay Road lease lot; any walkway over 4'0" wide will encroach when the MOH lands are integrated with the existing leases.
2. A 0 metre sideyard setback to the west means there will be limited spatial separation between the houses and zero separation between the waterside decks. I am OK with the separation between the houses but the zero separation between the decks is unacceptable, especially since the proposed neighbouring deck is 4 feet higher in elevation and extends a further 6 feet than it currently does. This will result in a loss of privacy and necessitate the construction of higher and wider privacy panels between the houses. It also becomes a security issue because **non-visible** ready access from the road to our deck via the applicant's property becomes a concern.

There are a number of solutions, some of which are quite onerous for the applicant . All things considering and without belabouring the alternatives, I believe the following solution is the fairest.

Eliminate the westmost walkway, including that part as it transitions to the deck. This is the simplest solution. The applicant can still access his deck from the east side of the house; it provides

a 4 ft 8 in. separation between our neighbouring decks; it recognizes my earlier security concerns; the 4 foot elevation disparity is less obtrusive; it negates the need for higher privacy barriers

which tend to block views for all neighbours; and, it provides an uninterrupted sightline of the water (albeit small) for passers-by . Under this scenario, I have no concern with the proposed 6 foot deck extension to the north.

I think we need to be cognizant of the fact that variances from the zoning bylaw are considered in situations where compliance with respect to the siting, dimension, or size of a building

Alison Garnett

From: McAlister Hylton [dhmcalister@shaw.ca]
Sent: April 22, 2010 8:32 AM
To: Alison Garnett; Iannidinardo Lori
Subject: Peter Fitzpatrick's proposed stilt home

Hi Alison / Lori

I understand the APC is meeting tonight to discuss Peter's proposed stilt home in Cowichan Bay. I have had an opportunity to review his plans and as his neighbour to the west and most affected by his proposal, I would like to add my full support. The new structure will be a welcome addition to the neighbourhood.

Hylton McAlister
1783 Cowichan Bay Road

Alison, Re: 1781 Cowichan Bay Rd District - Lot 199 and 200, Cowichan District
(License No. 102018)

Mr. Fitzpatrick has kept us fully informed as to his plans for the rebuilding of the fire damaged residence at 1781 Cowichan Bay Rd and we have no objection to the 0 metre setback from the front lot line of the residence and a 0 metre setback for the side decks.

Living next door, we are fully aware of the necessity of a decked walk-way between the cottages and have agreed to joint access of our adjoining side decks.

It was because of the walk-way on the west side of our house that the firemen were able to access the water-side of the properties and were therefore able to contain the fire to that one residence only.

It also makes for good neighbours, as it allows each owner access to the side of their property for repairs and maintenance etc.

Parking.

A variance was recently granted for the new dwelling being built at 1784 Cowichan Bay Rd (No.3-D-08DP) to relax Section 4.1 of Off-street Parking

Bylaw No. 1001 to reduce the number of required off-street parking spaces for a single family dwelling from two to zero,

As these properties are adjacent and the foot print for the new dwelling is slightly less than that of the previous residence, it would seem reasonable to grant the same variance to this application.

Michael and Valerie Tansley.
1779 Cowichan Bay Rd.
Cowichan Bay.
B.C. V0R 1N0

(250) 746 0967



04

**ELECTORAL AREA SERVICES COMMITTEE MEETING
OF JUNE 1, 2010**

DATE: May 26, 2010 **FILE No:** 3-A-09RS
FROM: Alison Garnett, Planning Technician **BYLAW No:** 2000 & 1890
SUBJECT: Proposed Zoning and OCP Bylaw Amendment (Koutougos)

Recommendation:

- a) That a public hearing be scheduled with Directors Harrison, Morrison and Giles appointed as Board delegates, following submission of a draft Section 219 Covenant which requires a 3 metre wide trail dedication along Mill Bay Road.
- b) That prior to a public hearing, a draft Section 219 Covenant be provided which requires the appropriate disposal of invasive plants, roots systems and soil of affected areas, under the direction of a qualified invasive plant species biologist, prior to the development of the land.
- c) That application referrals to the Ministry of Transportation and Infrastructure, Malahat First Nation, Mill Bay Waterworks, Mill Bay VDP, School District No. 79, the Vancouver Island Health Authority, the Ministry of Community Services, the CVRD's Parks, Recreation and Culture Department, Engineering and Environmental Services Department be accepted.

The Proposal:

The applicant is applying to amend the Electoral Area A Zoning Bylaw No. 2000, to create a new residential duplex zone, and to apply the proposed new zone to the subject property.

Financial Implications: N/A

Interdepartmental / Agency Implications: N/A

Background Information:

Location: 2691 Mill Bay Road

Legal Description: Lot 1, Sections 1 and 2, Range 9, Shawnigan District, Plan 30142
(PID: 001-293-605)

Date Application and Complete Documentation Received: April 8, 2009

Owner(s): Violetta Investments Ltd.

Applicant: Gerry Koutougas

Size of Parcel: 1837 m² (0.4 acres)

Contaminated Site Profile Received: Declaration signed

Existing Use of Property: Vacant

Existing Use of Surrounding Properties:

North: Brentwood College
 South: Single family residence
 East: Single family residence
 West: Commercial (Mill Bay Centre)

Services:

Road Access: Handy Road
Water: Mill Bay Waterworks is proposed
Sewage Disposal: On site system is proposed

Agricultural Land Reserve Status: The subject property is not located within the ALR

Environmentally Sensitive Areas: The CVRD Environmental Planning Atlas does not indentify Provincially designated sensitive ecosystem polygons within the subject property. The Atlas does identify a non-TRIM stream with possible fish presence running adjacent to the subject property, however an assessment by a biologist clarified it is not subject to the Riparian Areas Regulation.

Archaeological Sites: None identified

Existing Plan Designation: Urban Residential

Proposed Plan Designation: No Change

Existing Zoning: R-3A (Urban Residential Limited Height)

Proposed Zoning: New residential duplex zone

Minimum Lot Size Under Existing Zoning: 0.2 ha for parcels serviced by community water system only

Minimum Lot Size Under Proposed Zoning: No change

Background:

The Electoral Areas Services Committee reviewed this application at the December 1, 2009 meeting, and passed the following motion:

“That Rezoning Application No. 3-A-09 RS (Koutougos) be held in abeyance pending the following:

- *The applicant to address the comments from Ministry of Transportation and the Vancouver Island Health Authority;*
- *Recommendation of APC regarding proposed new zone; and*
- *Clarification from CVRD Engineering Services regarding service area.”*

The Electoral Areas Services Committee reviewed this application on March 16th, 2010, at which time the Committee recommended that the application proceed to public hearing, following first and second readings by the CVRD Board. However, the Board referred the application back to the APC to seek a recommendation on a proposed development permit guideline. The APC’s comments are noted on page 5 of this report.

Proposal:

The application has been revised since it was previously before the EASC. What was originally a request to rezone two adjacent lots for duplex residential use is now a proposal respecting a single lot. The attached conceptual site plan shows a two story, side by side duplex, with approximate floor areas of 250 m² (2700 ft²) per unit. A new driveway is proposed from Handy Road, as far a distance as possible from the intersection with Mill Bay Road.

The subject property is a vacant lot located at the corner of Mill Bay Road and Handy Road, within the Urban Containment Boundary of Electoral Area A. Adjacent land uses include Brentwood College’s sports fields, commercial use at Mill Bay Centre and Mill Bay Marina, and otherwise single family residential. The current zoning is R-3A (Urban Residential Limited Height) which permits one single family dwelling. The subject property’s lot size of 1837 m² does not permit a secondary or small suite.

A zone permitting duplexes does not exist within Zoning Bylaw No. 2000, therefore a new zone and definition of “duplex” is required in order for the proposed development to proceed. Staff have drafted a proposed R-4 Urban Residential Duplex zone, which is attached to this report for the Board’s consideration. Please note that there is no proposed change to the height limit or parcel coverage from the existing R3-A zone.

Parks

The Parks Commission reviewed this application at their meeting on November 19th, 2009 and recommended to the CVRD Board that a setback for a potential walking path and bicycle path be considered for the area that borders the property along Mill Bay Road. Since then, site visits were conducted by CVRD staff, Ministry of Transportation and Infrastructure staff, the applicant, and Area Parks Commission members, to identify a possible location for the trail. Due to existing trees and a ditch in the road right of way, it has been determined that the best location for the trail is entirely on the subject property. The attached site plan shows the dedication of a 3 metre strip to the CVRD, so that a future trail corridor can be constructed.

A 3 metre wide land dedication has implications for the construction of duplex residences on a lot of this size. To accommodate the trail dedication, the front yard setback has been adjusted to a 4.5 metre setback where the lot abuts a CVRD trail. The result of this specific setback is that all buildings and structures will be setback 7.5 metres from Mill Bay Road, but only 4.5 metres from the trail corridor.

Servicing

When the Committee previously considered this application, there were uncertainties with respect to servicing the proposed duplex units, as noted by the Vancouver Island Health Authority's referral comments. Mill Bay Waterworks had given preliminary approval to connect both residences to their water system, but as no community sewer system is available in the Mill Bay area, the proposed duplex residence will require onsite sewage disposal. Since that time, the applicants have submitted a report from a professional engineer which confirms that there is sufficient site area and capacity to service the proposed development (please see attachments). This report would appear to satisfy VIHA's comments.

As noted above, the subject property's existing zoning does not permit a secondary suite or small suite on this lot, as the 1837 m² lot is below the standard 0.4 ha required to accommodate a second residence. Despite the apparent inconsistency of this application with these zoning regulations, the Board could consider this application as an infill development proposal, that on a site specific level has the approval of a professional engineer.

Ministry of Transportation and Infrastructure

The Ministry of Transportation and Infrastructure's earlier referral comments stated that a traffic impact study and sight line improvements were required. However, since the application has been revised to propose only one duplex residence, the MOTI has withdrawn these requirements.

Invasive Plant Species

The CVRD is aware of a considerable amount of a dangerous invasive plant species called Giant Hogweed on the subject property. Any development or disturbance of this site increases the risks of off-site transport of the plant root system and seeds in the soil, thereby increasing the threat of dispersion within the Cowichan Valley. If this application proceeds, staff recommend that a Section 219 covenant be registered to ensure the appropriate disposal of the plants, root systems and soil of the affected area, to take place prior to the issuance of a development permit and under the direction of a qualified invasive species plant biologist.

Policy Context:

The subject property is located within the Urban Containment Boundary, and is designated for Urban Residential use. Urban Residential Policy 7.6.1 prescribes a maximum density of one dwelling per parcel, with a minimum parcel size of 2000 m² if the lot is connected to a community water system. If this application proceeds, an OCP amendment is required to include duplex development as an acceptable form of urban residential development within the UCB. Attached are proposed OCP amendment bylaws, which have been drafted to incorporate recommendations from the Advisory Planning Commission, and establish strict criteria for circumstances when duplex residential development may be considered by the Board.

Although an OCP amendment is required to permit this specific type of proposed development, the application is not inconsistent with the Plan, as OCP Policy 7.3.1 encourages infill development in existing residential areas. The subject property represents a good location for a modestly higher density, as the use is compatible with the adjacent residential land uses. Infilling higher residential densities within a core residential area would be an efficient use of land, will support a less vehicle dependent lifestyle, and will not jeopardize the areas agricultural and forestry lands.

Duplex development on this lot would be subject to the Mill Bay Development Permit Area, which establishes guidelines for the form and character of intensive residential, multi-family, commercial and industrial development. Staff have prepared draft amendments to the Mill Bay DPA guidelines, pertaining specifically to duplex residences. The goal is to ensure that duplex development is compatible with surrounding residential properties, that parking and vehicle traffic concerns are addressed, and that view corridors to the Saanich Inlet are preserved.

Advisory Planning Commission:

The Advisory Planning Commission reviewed this application at their September 14th, 2009 meeting, where the following motion was passed:

That the application No 3-A-09 RS be approved with the following limitation:

1. *Access to both lots would be from Handy Road with no access directly on to Mill Bay Road*
2. *No secondary suites*
3. *Perk tests and sewage evaluation must be completed. As there is some question whether the lots can accommodate the required space for septic tanks and field.*

The Mill Bay APC reviewed the application a second time, as directed by the EASC, to specifically comment on the proposed R-4 zone. The following recommendation was made on January 12, 2010:

1. *That Rezoning Application No. 3-A-09 RS to R4 Urban Residential Duplex Zoning not be approved. The new OCP will deal with duplex zoning.*
2. *That the APC will ask the CVRD Board to consider this rezoning application as a "one off" with a variance.*
3. *That the only permitted use other than single family dwelling and duplex would be Home Occupation businesses in this "one off" duplex zoning with limited or no vehicle traffic.*
4. *That no secondary suites are allowed.*

The Mill Bay APC reviewed the application a third time, as directed by the Board, to specifically comment on a proposed development permit guidelines respecting the width of building at the road frontage. The following recommendation was made:

Area A APC was equally split on the decision to change the development permit guideline "The units shall occupy no more than 40% of the frontage along Mill Bay Road". Fifty percent recommended that the guideline remain at the 40% limitation and fifty percent recommend that the guideline be changed to a 60% frontage limit.

Government Agency Comments:

This application was referred to government agencies on September 3, 2009. The following is a list of agencies that were contacted and the comments received.

- Ministry of Transportation –
 1. *Handy Road intersection with Mill Bay Road, coming out onto Mill Bay Road has insufficient sight distance. The required sight distance is 140 metres. Applicant to prove he can provide.*
 2. *Traffic Impact study required*
These comments are no longer applicable since the development proposal has been revised.
- Malahat Band – *No comments received*
- School District No. 79- *Interests unaffected*
- Mill Bay Waterworks- *No comments received*
- CVRD Engineering and Environment- *CVRD Water Management has no objection to this proposal. Currently this property is not in a CVRD sewer service area, therefore on-site sewage disposal is required. The Mill Bay Marina has applied for inclusion into the Sentinel Ridge Sewer Service Area, but has not paid any fees for inclusion, has not upgraded the sewer for its usage or installed any infrastructure for this purpose.*
- Mill Bay Volunteer Fire Department – *no comments received*
- Central Vancouver Island Health Authority – *Approval recommended subject to: The proposed development should be connected to a community water system (Mill Bay Waterworks). It is recommended that the applicant contact an Authorized Person, as described in the Sewerage System Regulations, to provide information on the suitability of sewage disposal on the subject properties, and comment on the layout of proposed buildings with respect to lot size and potential location of sewerage systems. According to the Sewerage System Standard Practice Manual, there is a setback requirement of 5-10 feet from the property line to the disposal area, and 6-10 feet from the building to the disposal area (setbacks depend on type of sewerage system). From the supplied design drawings, it is uncertain if there will be enough room to install a sewerage system on either property. Furthermore, the current sewerage system located at 2673 Mill Bay Road may have to be excavated and removed to prevent a cross connection to surrounding properties.*

Summary:

The three items listed in the Committee's motion at the December 1st meeting have been addressed. Firstly, Ministry of Transportation's requirements were withdrawn when the proposed density was decreased, and the report on sewage disposal has addressed the Vancouver Island Health Authority's concerns. Secondly, the Mill Bay APC's recommendation for the proposed Urban Residential zone has been incorporated into the draft bylaws; no secondary suites are permitted in addition to a duplex. The APC's recommendation for a "one off" approval of this application is somewhat addressed by the fact that the proposed duplex residential zone only applies to the subject property, and could only be applied to other properties if approved by the Board.

With regards to the request for clarification from CVRD Engineering and Environment, staff have confirmed that Mill Bay Marina intends to connect to the Sentinel Ridge sewer system. The proposed duplex residences could conceivably connect that system, and alleviate concerns about servicing, but at this point there is no certainty as to whether or not that sewer line will be built.

It is staff's opinion that the application complies with the infill policies of the plan. The uncertainties with respect to sewage disposal have been satisfied from a report by a professional engineer, although the proliferation of onsite septic systems in the absence of a community sewer system may be a legitimate concern. The proposed trail dedication would be of benefit to the community, as the first link in a Mill Bay Road walking and cycling path. Staff believe that there is sufficient merit in this application to recommend that a public hearing be scheduled to assess the community's input on this type of development.

The applicant is at this point agreeable to the park dedication, and staff recommend that a draft Section 219 Covenant be received prior to public hearing, which would require the 3 metres wide land dedication to take place prior to a development permit. We also recommend that a draft covenant be received, again prior to public hearing, which outlines a commitment for the appropriate disposal of the Giant Hogweed on the site.

With respect to the development permit guideline for which the application was referred to the APC, staff recommend a 60% frontage limit in the attached draft bylaw amendments. The 60% frontage guideline would allow duplex development on this site consistent with the plans that were originally proposed by the applicant, and for which the APC and EASC have previously recommended proceeding to public hearing. Although staff originally suggested a frontage limitation of 40%, it is now clear that such a limitation places undue restriction on development of the lot.

Options

1.

- a) That a public hearing be scheduled with Directors Harrison, Morrison and Giles appointed as Board delegates, following submission of a draft Section 219 Covenant which requires a 3 metre wide trail dedication to CVRD Parks along Mill Bay Road.
- b) Prior to a public hearing, submission of a draft Section 219 Covenant which requires the removal and/or appropriate disposal of invasive plants, roots systems and soil of affected areas, under the direction of a qualified invasive plant species biologist, prior to the development of the land.
- c) That application referrals to the Ministry of Transportation and Infrastructure, Malahat First Nation, Mill Bay Waterworks, Mill Bay VDP, School District No. 79, the Vancouver Island Health Authority, the Ministry of Community Services, the CVRD's Parks, Recreation and Culture Department, Engineering and Environmental Services Department be accepted.

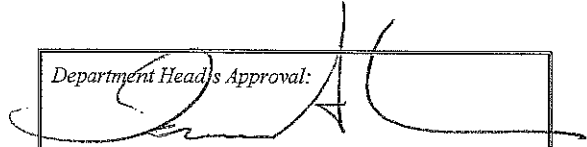
2. That application No. 3-A-09RS (Koutougos) be denied, and a partial refund be given to the applicant in accordance with CVRD Development Applications Procedures and Fees Bylaw No. 3275.

Submitted by,



Alison Garnett,
Planning Technician
Development Services Division
Planning and Development Department

AG/ca

Department Head's Approval:

Signature



Cowichan
Valley
Regional
District

This map is compiled from
various sources for internal
use and is designed for
reference purposes only.

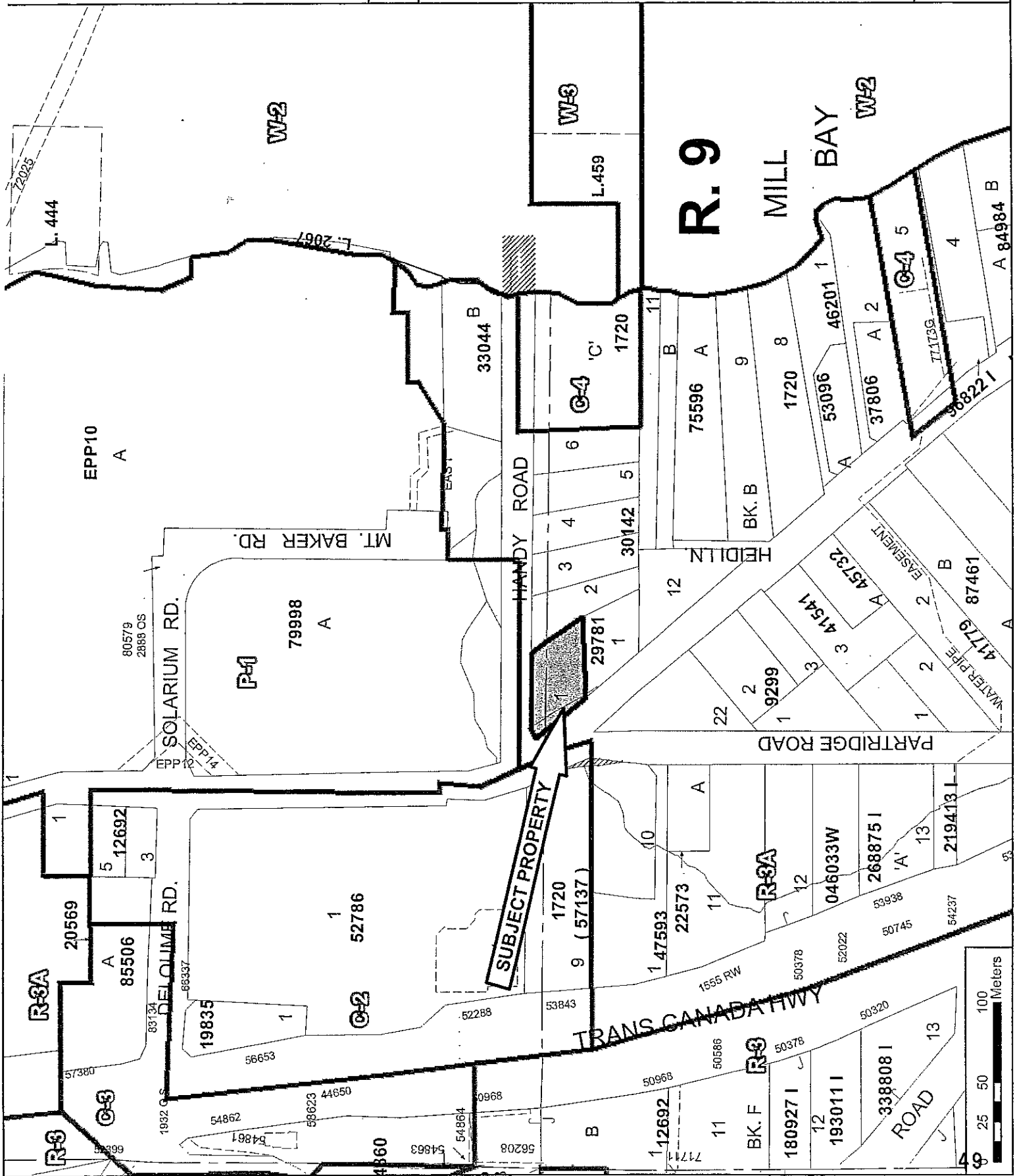
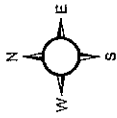
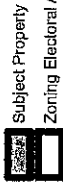
The Regional District does not
warrant the accuracy.

All persons making use of this
compilation are advised that
amendments have been
consolidated for convenience
purposes only and that
boundaries are representational.

The original Bylaws should be
consulted for all purposes of
interpretation and application
of the Bylaws.

FILE: 3-A-09-RS

Legend





**Cowichan
Valley
Regional
District**

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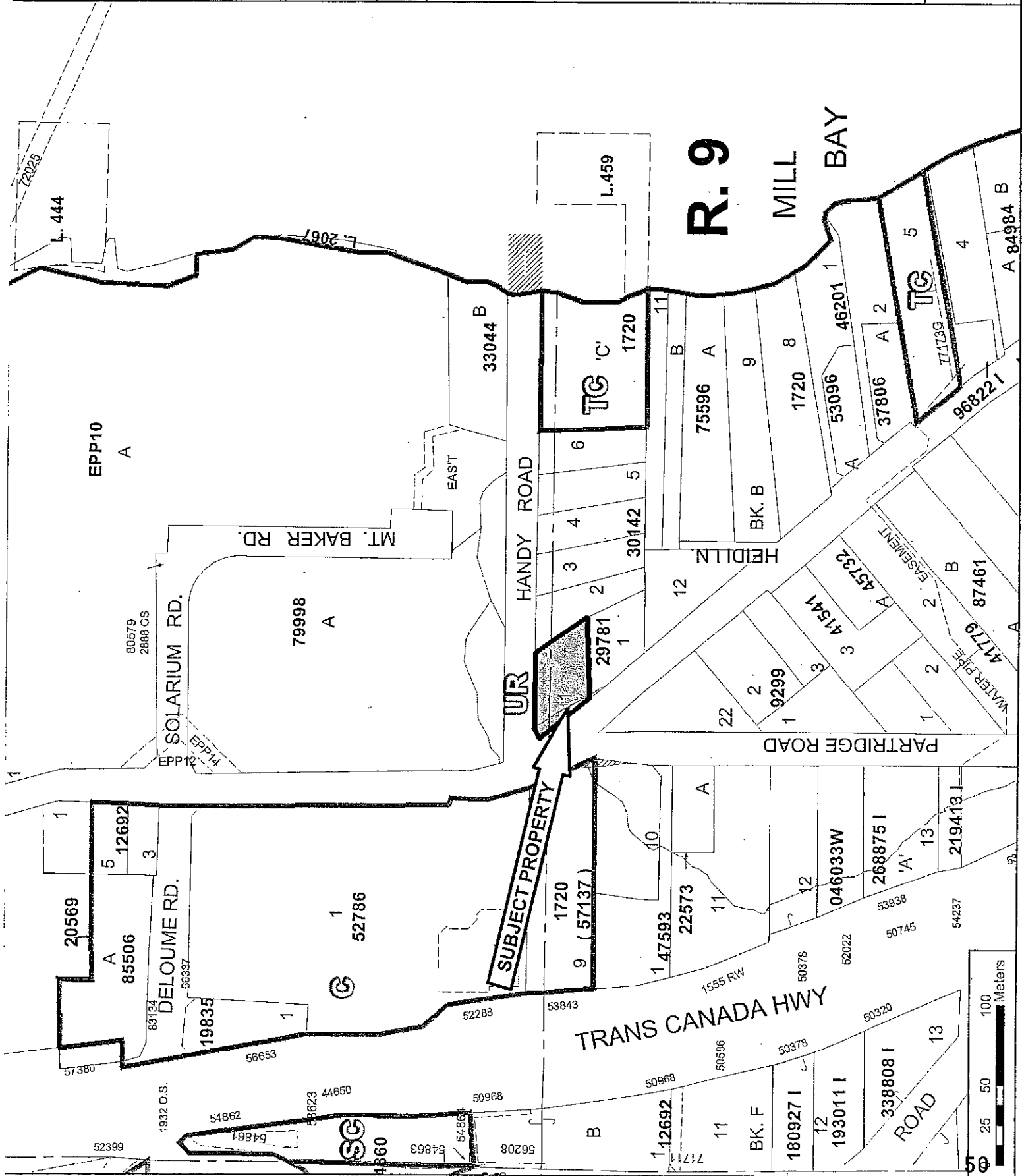
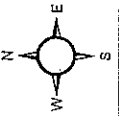
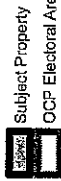
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The original Bylaws should be consulted for all purposes of interpretation and application of the Bylaws.

FILE: 3-A-09-RS

OCP

Legend



COWICHAN VALLEY REGIONAL DISTRICT

BYLAW No. XXXX

A Bylaw For The Purpose Of Amending Official Community Plan Bylaw No. 1890, Applicable To Electoral Area A – Mill Bay/Malahat

WHEREAS the *Local Government Act*, hereafter referred to as the "*Act*", as amended, empowers the Regional Board to adopt and amend official community plan bylaws;

AND WHEREAS the Regional District has adopted an official community plan bylaw for Electoral Area A – Mill Bay/Malahat, that being Official Community Plan Bylaw No. 1890;

AND WHEREAS the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

AND WHEREAS after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Community Plan Bylaw No. 1890;

NOW THEREFORE the Board of Directors of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

1. **CITATION**

This bylaw shall be cited for all purposes as "CVRD Bylaw No. 3378 - Area A – Mill Bay/Malahat Official Community Plan Amendment Bylaw (Koutougos), 2010".

2. **AMENDMENTS**

Cowichan Valley Regional District Official Community Plan Bylaw No. 1890, as amended from time to time, is hereby amended as outlined on the attached Schedule A.

3. **CAPITAL EXPENDITURE PROGRAM**

This bylaw has been examined in light of the most recent Capital Expenditure Program and Solid Waste Management Plan of the Cowichan Valley Regional District and is consistent therewith.

READ A FIRST TIME this _____ day of _____, 2010.

READ A SECOND TIME this _____ day of _____, 2010.

READ A THIRD TIME this _____ day of _____, 2010.

ADOPTED this _____ day of _____, 2010.

SCHEDULE "A"

To CVRD Bylaw No. 3378

Schedule A to Official Community Plan Bylaw No. 1890, is hereby amended as follows:

- a) Policy 7.6.9 is added to the Urban Residential Policies:

Policy 7.6.9

Notwithstanding Section 7.6.1, the Regional Board may, through the zoning bylaw, initiate residential duplex zones within the Urban Residential designation to encourage infilling in the Urban Containment Boundary. The following will be considered in evaluating proposals for residential duplex zoning:

- a) The development is located within the Urban Containment Boundary;
 - b) Vehicle and pedestrian safety measures are implemented, and vehicle access from Mill Bay Road is strongly discouraged;
 - c) The proposed use is compatible with adjacent land uses;
 - d) If feasible, the development will connect to community water and sewer systems. If not feasible, onsite sewage disposal shall be in accordance with the Vancouver Island Health Authority regulations;
 - e) Residential duplex development will be subject to the Mill Bay Development Permit Area.
- b) The following is inserted in to the Mill Bay Development Permit Area Guidelines, Section 14.5.5 as (m), and the subsequent guidelines are reordered as (n) accordingly:

(m) Duplex Development

1. Duplex residences shall be designed to maintain and preserve important view corridors, such as the Saanich Inlet and Mill Bay, from the perspective of roadways, community places and nearby residences.
2. It is recommended that the units shall occupy no more than 60% of the frontage along Mill Bay Road or other major roads.
3. Duplexes that appear as mirror images are prohibited. Variation in building design features such as height, roof lines, building materials and building massing are encouraged.
4. Duplex residences shall be designed to maintain the character of a single family home.
5. The units shall be connected by a common shared wall, and not by a trellis, deck, breezeway or like structure.
6. Vehicle access from Mill Bay Road will be strongly discouraged, and Ministry of Transportation and Infrastructure approval for access will be required.
7. Parking areas shall be discrete, and shall be located in the rear or side yards. Turnaround areas shall be available on site.
8. Any home occupation shall not generate any traffic or require additional parking.

Cowichan Valley Regional District

Bylaw No.

A Bylaw For The Purpose Of Amending Zoning Bylaw No. 2000 Applicable To Electoral Area A – Mill Bay/Malahat

WHEREAS the *Local Government Act*, hereafter referred to as the "*Act*", as amended, empowers the Regional Board to adopt and amend zoning bylaws;

AND WHEREAS the Regional District has adopted a zoning bylaw for Electoral Area A – Mill Bay/Malahat, that being Zoning Bylaw No. 2000;

AND WHEREAS the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

AND WHEREAS after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Zoning Bylaw No. 2000;

NOW THEREFORE the Board of Directors of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

1. CITATION

This bylaw shall be cited for all purposes as "**CVRD Bylaw No. XXXX - Area A – Mill Bay/Malahat Zoning Amendment Bylaw (Koutougos), 2010**".

2. AMENDMENTS

Cowichan Valley Regional District Zoning Bylaw No. 2000, as amended from time to time, is hereby amended in the following manner:

- A. That Part 8 be amended by adding the following after Section 8.4A, and that existing Sections 8.5 to 8.9 be renumbered accordingly.

8.5 R-4 ZONE – URBAN RESIDENTIAL DUPLEX

Subject to compliance with the general requirements detailed in Parts 4 and 5 of the Bylaw, the following regulations apply in the R-4 Zone:

(a) Permitted Uses

The following uses and no others are permitted in an R-4 Zone:

.../2

- (1) Single family dwelling;
- (2) Duplex;
- (3) Home occupation;
- (4) Secondary suite accessory to a single family dwelling

(b) Conditions of Use

For any parcel in an R-4 Zone:

- (1) Not more than one duplex or one single family dwelling is permitted on a parcel;
- (2) The parcel coverage shall not exceed 25 percent for all buildings and structures;
- (3) The height of all buildings and structures shall not exceed 7.5 m, except accessory buildings, which shall not exceed a height of 6 m;
- (4) The following minimum setbacks apply:

COLUMN I Type of Parcel Line	COLUMN II Residential Buildings & Structures	COLUMN III Buildings and Structures Accessory to Residential Use
Front	7.5 metres	7.5 metres
Interior Side	3.0 metres	3.0 metres
Exterior Side	4.5 metres	4.5 metres
Rear	4.5 metres	3.0 metres

- (5) Where a parcel adjoins a CVRD trail, the minimum setback of all buildings and structures is 4.5 metres.

(c) Minimum Parcel Size

Subject to Part 13, the minimum parcel size in the R-4 Zone is:

- (1) 0.1675 ha for parcels served by community water and community sewer systems;
- (2) 0.2 ha for parcels served by a community water system only;
- (3) 1.0 ha for parcels served by neither a community water system nor community sewer system.

- B. That Part 6 Creation and Definition of Zones, Section 6.1 be amended by adding the following to the Zones Table:

“R-4 Urban Residential Duplex”

- C. That Part 3 Definitions be amended by adding the following:

“duplex” means two residential dwellings placed side by side or one above the other in a principal building on a single lot.

- D. That Schedule B (Zoning Map) to Electoral Area A – Mill Bay/Malahat Zoning Bylaw

No. 2000 be amended by rezoning Those Parts (legal description) as shown outlined in a solid black line on Schedule A attached hereto and forming part of this bylaw, numbered Z-X, from R-3A (Urban Residential Limited Height) to R-4 Zone (Urban Residential Duplex).

3. **FORCE AND EFFECT**

This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME this _____ day of _____, 2010.

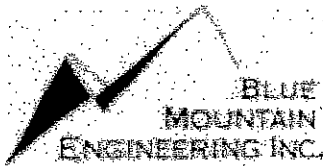
READ A SECOND TIME this _____ day of _____, 2010.

READ A THIRD TIME this _____ day of _____, 2010.

ADOPTED this _____ day of _____, 2010.

Chairperson

Secretary

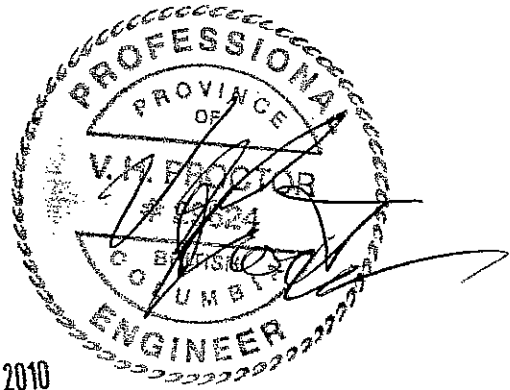


10/02/10

ON SITE SANITARY WASTE RATIONALE

FOR

2691 Mill Bay Rd, Mill Bay, BC



FEB 10 2010

561 Bellamy Close, Victoria, B.C. V9B 6C1

Office: 250-658-0906

Cell: 250-858-2491

Fax: 250-658-0735

E-mail: vproctor@bluemountaineng.ca

1. Introduction

The architect has approached Blue Mountain Engineering to ensure adequate spacing for an on site waste water system to service a duplex to be constructed in Mill Bay.

The purpose of the following summary is to outline the specifications for a suitable Surface Waste Infiltration System (SWIS) design for the site. Site design and specifications were supervised by Victor Proctor, PEng.

2. Summary

The site has sufficient area for two separate fields. Separating the fields will result in little extra cost, but will prevent future argument in case of homeowner induced field failure. To insure proper treatment, some site remediation (curtain drain) will need to be made.

The field area suffers from groundwater saturation. Runoff will need to be diverted via the use of curtain drains to prevent field failure. Further drainage may be required pending further testing. The final conclusion is that the property can support a SWIS system for the current planned domicile.

Job: Finlayson	By: Blue Mountain Engineering	Date: 4-1-2010 Rev. 1
Location	2691 Mill	
Legal		
Architect	A.J. Finlyason Architecture	
Homeowner	Gerry Koutougas	
Area	1672.85 m ²	
Slope	2%	
Terrain	Hilly with trees	
Surface Water	None	
Ditches	North: Large stormwater ditch South: none	
Drains	Upslope: Curtain drain Downslope: none	
Vegetation	Trees: mature Fir	
Structures	Duplex to be constructed upslope of the field	

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Job: Finlayson	By: Blue Mountain Engineering	Date: 4-1-2010 Rev. 1
Slope Erosion	None	
Slope Stability	Stable	
Machine access	From Handy Rd	
Existing System	None	
Proposed Flow	Based on: 3 bedroom/unit duplex Unit 1: 1645 ft ² Unit 2: 1817 ft ²	Unit 1 DDF: 386 IGal Unit 2 DDF=402 IGal
Proposed Treatment Level	Type 3	
Effluent Type	Standard household effluent	
Soil Analysis See filing for more info	KFS for design: 65-120 mm/day	Soil: gravelly granular silt
Design HLR	For selected soil type with type 3 effluent Soil: 1.2 IGal/ft ² /Day	Area: Unit 1: 313ft ² Unit 2: 335ft ²
Design LLR	Based upon final treatment selection	
Design VS	To bottom of soils evaluation: <10"	

Note:

All gallons are in US gallons unless shown otherwise

561 Bellamy Close, Victoria, B.C. V9B 6C1

Office: 250-658-0906

Cell: 250-858-2491

Fax: 250-658-0735

E-mail: vproctor@bluemountaineng.ca

Area A Advisory Planning Commission Meeting
11 May 2010
Held at Mill Bay Fire Hall
Minutes

Present: June Laraman, Deryk Norton, David Gall, Margo Johnston, Cliff Braaten, Ted Stevens, Geoff Johnson, Archie Staats, Brian Harrison (Director Area A), Roger Burgess (Alternate Director Area A)

Regrets: Dola Boas,

Audience: Silvia Bonet representative (Gerry Koutougos/Violetta Investments Ltd.)
Leo Hylkema & Dr Chris Forbes, Mill Bay Veterinary Clinic

Meeting called to order at 6:30 pm

Previous minutes:

It was moved and seconded the minutes of 13 April 2010 meeting be adopted.

MOTION CARRIED

Existing Business:

**Rezoning Application No. 3-A-09RS (Gerry Koutougos/Violetta Investments Ltd.) -
Supplementary Report**

Purpose: to comment with respect to one development permit guideline associated with the draft OCP bylaw amendments for the proposed duplex at the corner of Handy Road and Mill Bay Road.

Originally, a development permit guideline was proposed that read "The units shall occupy no more than 40% of the frontage along Mill Bay Road."

The APC was asked to consider the following questions:

- Should a specific frontage percentage be included in the development permit guidelines?
- Does the guideline in the proposed OCP amendment bylaw suffice?

Silvia Bonet explained the duplex site plan and answered questions.

APC Questions and Concerns:

- Discussion around the need to have a frontage limit in place vs. no limit at all.
- The frontage percentage depends on from what point it is measured. If measured on the shorter distance it is 66% and if measured on the longer width it is 60%.
- A site design meeting a 40% frontage limit was likely not feasible.
- There was concern expressed about the access and lack of visibility from Handy Road to the entrance onto Mill Bay Road.
- This application was originally recommended as a "one-off" or variance to the OCP. There is concern that if this exception were accepted that it would be precedent setting and have potential impact to the Mill Bay Road frontage lots in the future.
- The design of the duplex has not changed from the original application but the driveway and septic location have changed location on the site.
- It was pointed out that if a single home were to be built on this property the 40% frontage limitation would not apply. This was confirmed by the CVRD.
- Some discussion centered on the purpose of the limitation and the need for a view corridor. It was pointed out that there are limited views of the ocean from the property.

APC Recommendation:

Area A APC was equally split on the decision to change the development permit guideline "The units shall occupy no more than 40% of the frontage along Mill Bay Road." Fifty percent recommended that the guideline remain at the 40% limitation and 50% recommend that the guideline be changed to a 60% frontage limit.



SRI

STAFF REPORT

ELECTORAL AREA SERVICES COMMITTEE MEETING OF JUNE 1, 2010

DATE: May 26, 2010

FILE NO:

FROM: Alison Garnett, Planning Technician

BYLAW NO:

SUBJECT: Release of Covenant request regarding 1994 Shawnigan Lake Road

Recommendation:

That the Board Chair and Corporate Secretary be authorized to execute the necessary documents to release Covenant EV117674 in favour of the Cowichan Valley Regional District, concurrent with the registration of the subdivision of District Lot 151, Malahat District (PID 002-019-817).

Purpose:

To consider a request by Marie Perrett to release a secondary dwelling covenant registered on 1994 West Shawnigan Lake Road, which prohibits subdivision.

Financial Implications: N/A

Interdepartmental/Agency Implications: N/A

Background:

The subject property is an approximately 3 ha lot located between the Cowichan Valley Trail and West Shawnigan Lake Road, on the west side of Shawnigan Lake. In 2003, a secondary dwelling was constructed on the property, and in accordance with Zoning Bylaw No. 985, a covenant was registered on title to prevent the subdivision of the secondary dwelling from the primary residence.

In 2007 the subject property was successfully rezoned from F-1 Primary Forestry to R-2 Suburban Residential, to allow subdivision into three lots. The owners of the property are now proceeding with their subdivision application, and are applying to the CVRD Board to release the secondary dwelling covenant. If the subdivision application is approved, the secondary dwelling will effectively become the primary residence of one new lot.

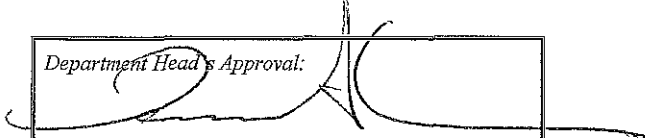
Also taking place concurrent with subdivision registration is a parkland dedication. Through the rezoning process an agreement was reached between the CVRD and the property owners to dedicate land for park. There is no requirement to dedicate parkland pursuant to Section 941 of

the *Local Government Act*, as fewer than 3 lots are proposed. However, a 5 metre strip of land on the north side of the subject property will be transferred to the CVRD, and will widen an existing trail that connects the Cowichan Valley Trail and West Shawnigan Lake Road.

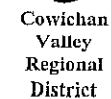
Submitted by,



Alison Garnett
Planning Technician
Development Services Division
Planning and Development Department

Department Head's Approval:	
Signature	

AG/ca

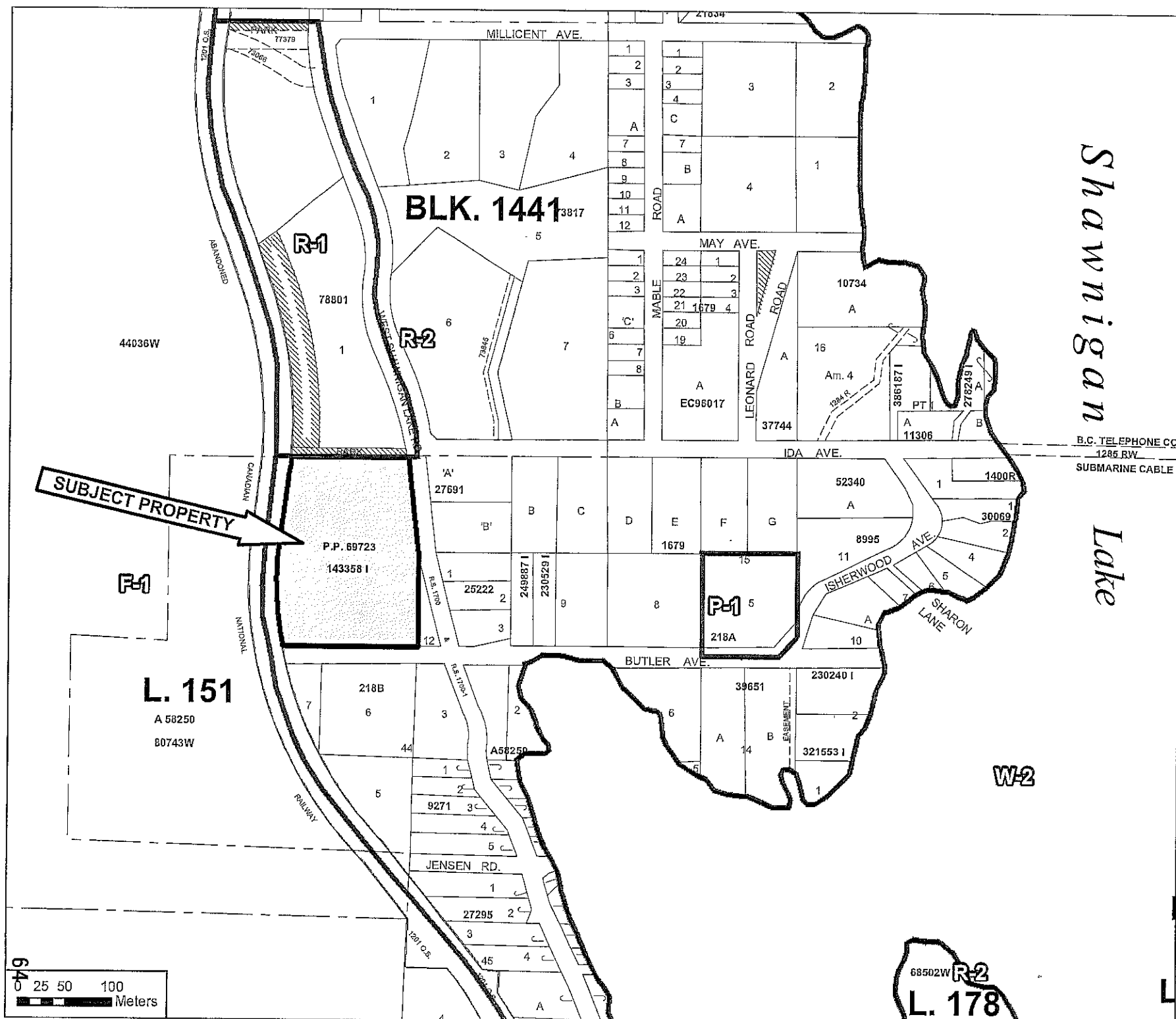
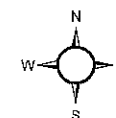


The Regional District does not warrant the accuracy.

The original Bylaws should be consulted for all purposes of interpretation and application of the Bylaws.

ZONING

Subject Property
Zoning Electoral Area B




C.V.R.D.
RECEIVED

NOV 06 2009

1961 Hovey Rd,
Saanichton,

B.C.,

V8M 1V8

4 Nov 2009

Dear Sir,

regarding file number
7-B-09 SA at 1994 West Shawnigan
Lake Rd. We would like to ask
for the release of the 2003 covenant
EV117674 because the property
has been rezoned to permit subdivision.
Thank you.

Yours sincerely

Maie Perrett



SR2

STAFF REPORT

ELECTORAL AREA SERVICES COMMITTEE OF JUNE 1, 2010

DATE: May 25, 2010

FILE NO: 2-I-07RS

FROM: Rob Conway
Manager, Development Services Division
Planning and Development Department

BYLAW NO: 3213, 3214 & 3242

Brian Farquhar,
Manager, Parks and Trails Division
Parks, Recreation and Culture Department

SUBJECT: Youbou Lands Rezoning – Draft Covenants

Action:

For the Committee's information.

Purpose:

To present the draft covenants associated with the Youbou Lands Development rezoning application as per the direction of the Board.

Financial Implications:

None apparent

Interdepartmental/Agency Implications:

None apparent

Background:

At the Regular Board meeting of June 10, 2009, the CVRD Board granted third reading of OCP Amendment Bylaw No. 3213, Zoning Amendment Bylaw No. 3214 and Phased Development Agreement Adoption Bylaw No. 3242. Prior to granting third reading, the Board identified the following three issues it wanted resolved prior to adoption of the bylaws:

- a) *That a publicly accessible boat launch be constructed prior to commencement of the Phase 2 development and that public access to the boat launch be protected by means of a statutory right-of-way in favour of the Cowichan Valley Regional District.*
- b) *That an amendment be made to the Phased Development Agreement to establish a process and criteria for the construction of waterfront lot docks.*
- c) *That the developer confirms commitments made at the public hearing regarding establishment of a fish hatchery.*

At the April 14, 2010 Regular Board meeting, the Board modified the first two issues as follows:

- a) *That a Section 219 Covenant be prepared and registered on the subject property in favour of the Cowichan Valley Regional District with conditions that both a Statutory Right of Way and Restrictive Covenant be registered in favour of the Regional District on the lands to be subdivided to create the proposed boat launch prior to commencement of Phase II of the proposed PDA, with such conditions including but not limited to:*
 - *the boat launch site to be created as a separately titled parcel*
 - *the lands are to be limited to boat launch purposes only*
 - *the CVRD and public will have unrestricted access to use the SRW area to launch and retrieve boats*
 - *the CVRD retains the right to enter the lands to construct or maintain or expand the works at its costs in the event any facilities previously constructed are not in good repair, etc.*
 - *prohibiting the owner from physically obstructing lake access, etc.*
 - *That the terms and conditions of the Statutory Right of Way and Restrictive Covenant be agreeable to the CVRD*
- b) *That a Land Title Act Section 219 Covenant be registered against the Youbou Lands to establish a process and criteria for the construction of waterfront lot docks.*

Prior to registration of the Section 219 Covenants referred to in issues a) and b), the Board directed that the draft covenants be referred back for review. This report provides an overview of the draft covenants and copies of the draft documents for the Committee's review as per the direction of the Board.

Boat Launch Covenant:

The boat launch covenant accomplishes three primary objectives. Firstly, it requires the boat launch to be constructed prior to commencement of the second phase of the project. Secondly, it requires that a statutory right of way to be registered on the boat launch facility lands in favour of the Regional District to secure rights of access and use in perpetuity by the public under certain conditions. Thirdly, it requires a covenant to be registered in favour of the CVRD to limit the use of these lands to only a boat launch facility. At the request of the Developer, the boat launch parking area is structured to be addressed under separate covenant and statutory right-of-way requirements, as the parking area is intended to be in a different location from the actual boat launch.

Only one covenant is required for registration at this time, which commits the applicant to constructing the boat launch on a separate titled parcel of land specifically subdivided for this purpose, and provision of boat launch parking at a separate nearby location. This covenant includes conditions for registration of a further covenant at the time limiting the use of the land parcel created for publicly accessible boat launch purposes only and a statutory right-of-way in favour of the Regional District as noted above granting access to the boat launch facility by the public and CVRD under certain conditions. A separate covenant and statutory right-of-way in favour of the Regional District would also be established granting use of the designated parking area for day use parking of boat trailers/vehicles.

The covenant document also contains provisions for the Regional District, on behalf of the Youbou community, to operate, maintain and improve the boat launch if the facility is not kept open and in operation by the owner of the lands at the time. This provision is at the sole discretion of the Regional District to enact or not, based on the direction of the Board at the time.

Waterfront Dock Covenant:

The purpose of this covenant is to establish a process for controlling and limiting the construction of docks and wharves on Cowichan Lake, fronting proposed waterfront residential lots within the Youbou Lands development. The draft covenant would be registered against all existing parcels where waterfront residential lots are planned. The covenant precludes development on the subject lots until the owner has provided a "dock siting plan" for docks and related structures and CVRD approval of the plan has been granted. The plan would provide survey information on the dock locations, which would allow a subsequent zoning change on the lake surface to limit docks to specific locations.

Criteria established in the covenant for the design and construction of docks includes the following:

- No more than one dock per parcel
- Docks limited in area to 23.25 square metres in area
- Walkways shall not exceed a width of 1.5 metres
- Docks to be secured by anchors rather than pilings

Once the dock siting plan has been submitted and approved and the necessary zoning amendment has occurred the covenant could be discharged from the affected property titles.

Conclusion:

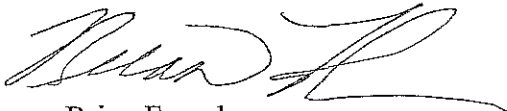
The covenants have been prepared by CVRD legal counsel with a view to addressing the issues the Regional Board requested be resolved prior to adoption of the Youbou Lands Bylaws. The draft covenants have been provided to the developer and our understanding is that they have received independent legal advice. Following changes that were mutually agreed to by staff, the developer and the respective lawyers, the developer has indicated that they are agreeable to the terms and conditions in the draft covenants.

The next step will be for the documents to be finalized for execution by the developer and the Regional District for registration to fully address the issues arising from the April 14, 2010 meeting of the Board.

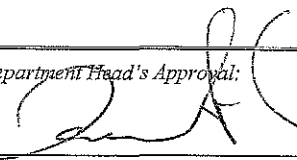
Submitted by,



Rob Conway, MCIP
Manager,
Development Services Division
Planning and Development Department



Brian Farquhar,
Parks and Trails Manager
Parks, Recreation and Culture Department

<p>Department Head's Approval:</p> 
<p>Signature</p>

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1 (This area for Land Title Office use)

Page 1 of 19 Pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

Applicant

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)

See Schedule

(LEGAL DESCRIPTION)

See Schedule

3. NATURE OF INTEREST:*

Description

Document Reference
(page and paragraph)

Person Entitled to Interest

Section 219 Covenant

Entire Instrument

Transferee

See Schedule

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

—

D.F. No.

(b) Express Charge Terms

X

Annexed as Part 2

(c) Release

—

There is no Part 2 of this Instrument.

A selection of (a) include any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):*

0741817 B.C. LTD., (Inc. No. 0741817) as to Covenant

6. TRANSFEE(S): (including postal address(es) and postal code(s))*

COWICHAN VALLEY REGIONAL DISTRICT, 175 Ingram Street, Duncan, British Columbia V9L 1N8

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1

Page 2

7. ADDITIONAL OR MODIFIED TERMS:*

N/A

8. EXECUTION(S):**This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature

Execution Date

Transferor Signature

Y M D

_____ 2010 ____

0741817 B.C. LTD. by its authorized signatories:

Name:

(as to both signatures)

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

Land Title Act
Form E

SCHEDULE

Enter the required information in the same order as the information must appear on the Freehold Transfer Form, Mortgage Form or General Document Form.

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)	(LEGAL DESCRIPTION)
002-984-741	Those Parts of Lot 35, Cowichan Lake District, Lying South of Said Plan 172 RW
002-984-679	Parcel "A" (DD 163332 I), of Lot 31, Cowichan Lake District
027-438-708	Lot 5 District Lots 31 and 64 Cowichan Lake District Plan VIP84672 (See Plan as to Limited Access);
027-438-546	Lot 4 District Lots 31 and 64 Cowichan Lake District and Section 46 Renfrew District (Situated in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access)
027-438-538	Lot 3 Section 46 Renfrew District (Situated in Cowichan Lake District) and District Lot 64 Cowichan Lake District Plan VIP84672 (See Plan as to Limited Access)
027-438-520	Lot 2 Section 46 Renfrew District (Situate in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access)
027-438-511	Lot 1 Section 46 Renfrew District (Situate in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access)

3. NATURE OF INTEREST:*

Description

Document Reference
(page and paragraph)

Person Entitled to Interest

LAND TITLE ACT

FORM D

EXECUTIONS CONTINUED

8. EXECUTION(S):**This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

_____ 2010 _____

**COWICHAN VALLEY
REGIONAL DISTRICT** by its
authorized signatory(ies):

Chair:

(as to both signatures)

Corporate Secretary:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

- * If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.
** If space insufficient, continue executions on additional page(s) in Form D.

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT

THIS COVENANT dated for reference the ____ day of _____, 2010

BETWEEN:

0741817 B.C. LTD., (Inc. No. 0741817)

(the “Owner”)

AND:

COWICHAN VALLEY REGIONAL DISTRICT, 175 Ingram
Street, Duncan, British Columbia V9L 1N8

(the “Regional District”)

WHEREAS the Developer is the registered owner of the land in the Cowichan Valley Regional District legally described as:

PID: 002-984-741

Those Parts of Lot 35, Cowichan Lake District, Lying South of
Said Plan 172 RW

PID: 002-984-679

Parcel “A” (DD 163332 I), of Lot 31, Cowichan Lake District

PID: 027-438-708

Lot 5 District Lots 31 and 64 Cowichan Lake District Plan
VIP84672 (See Plan as to Limited Access);

PID: 027-438-546

Lot 4 District Lots 31 and 64 Cowichan Lake District and Section
46 Renfrew District (Situated in Cowichan Lake District) Plan
VIP84672 (See Plan as to Limited Access);

PID: 027-438-538

Lot 3 Section 46 Renfrew District (Situated in Cowichan Lake
District) and District Lot 64 Cowichan Lake District Plan
VIP84672 (See Plan as to Limited Access)

PID: 027-438-520

Lot 2 Section 46 Renfrew District (Situate in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access);

PID: 027-438-511

Lot 1 Section 46 Renfrew District (Situate in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access)

(the "Lands"); and

WHEREAS the Developer has applied to the Regional District for an amendment to CVRD Zoning Bylaw No. 2465 by way of CVRD Bylaw No. 3214 – Area I – Youbou/Meade Creek Zoning Amendment Bylaw (Youbou Lands), 2009 to permit the development on the Land of a range of residential and non-residential uses; and

WHEREAS the Developer has entered into a phased development agreement with the Regional District under s. 905.1 of the *Local Government Act* in respect of the proposed development of the Land (the "PDA"), a copy of which is on file in the offices of the Regional District; and

WHEREAS the PDA contemplates the development of the Land in certain phases and the provision of certain amenities and features of the development more particularly set out in the PDA; and

WHEREAS in addition to the amenities provided for in the PDA the Regional District has required and the Developer has agreed to make provision for a public boat launch on a portion of the Land; and

NOW THEREFORE in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the parties hereto agree as follows:

1. The Developer shall not subdivide the Land, except to create the parcel described in this section, or construct any building or structure on that portion of the Land identified as Phase 2a, 2b, or 3a on Schedule A unless the Developer has:
 - (a) created by subdivision a parcel of land adjacent to Cowichan Lake in the portion identified as 3b for public boat launch purposes, constructed on the parcel a boat launch facility complying with the specifications in Schedule B except to the extent that such specifications are inconsistent with the requirements of the Ministry of Environment or Fisheries and Oceans Canada (the "Boat Launch");
 - (b) registered against title to such parcel in favour of the Regional District, in priority to all other charges, a statutory right of way substantially in the form of Schedule C to this Agreement and a covenant substantially in the form of Schedule D to this Agreement;
 - (c) provided on lands of the Owner in the vicinity of the Boat Launch a motor vehicle and boat trailer parking area with sufficient capacity to accommodate 20 motor

vehicles or boat trailers or such lesser number as the Regional District may specify (the "Parking Area"); and

- (d) registered against title to such parcel in favour of the Regional District, in priority to all financial charges, a statutory right of way over the Parking Area, granting to the Regional District and members of the public a right to enter on the Parking Area and use the Parking Area for the parking of motor vehicles and boat trailers, and a covenant under s. 219 of the *Land Title Act* restricting the use of the Parking Area to parking uses, and neither the statutory right of way nor the covenant shall permit the use of the Parking Area for overnight parking.
- 2. The parcel required by section 1 must have public highway access, and must be of a size and configuration and at a location specified in the village core neighbourhood plan described in the PDA.
 - 3. The Owner shall comply with all requirements of this Agreement at its own cost and expense.
 - 4. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
 - 5. The rights given to the Regional District by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Regional District to anyone, or obliges the Regional District to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement, except that nothing in this section shall affect the contractual rights and obligations of the parties hereto under this Agreement.
 - 6. This Agreement shall restrict use of the Land in the manner provided herein notwithstanding any right or permission to the contrary contained in any bylaw of the Regional District.
 - 7. This Agreement does not
 - (a) affect or limit the discretion, rights or powers of the Regional District under any enactment (as defined in the *Interpretation Act*, on the reference date of this Agreement) or at common law, including in relation to the use or subdivision of the Land;
 - (b) affect or limit any enactment relating to the use or subdivision of the Land, or
 - (c) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land,

and the Owner covenants and agrees to comply with all such enactments with respect to the Land.

8. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s.219 of the *Land Title Act* in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which the Land is subdivided by any means and any parcel into which the Land is consolidated.
9. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
10. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
11. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
12. The parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.
13. Time is of the essence of this Agreement.
14. This Agreement is not intended to create a partnership, joint venture, or agency between the Owner and the Regional District.
15. Any notice or other communication required or contemplated to be given or made by any provision of this Agreement must be given or made in writing and delivered personally (and if so must be deemed to be received when delivered if delivered on a business day prior to 4 p.m. and otherwise on the next business day) so long as the notice is addressed as follows:

- (a) If to the Owner

[TO BE INSERTED]

- (b) If to the Regional District

COWICHAN VALLEY REGIONAL DISTRICT
175 Ingram Street, Duncan, British Columbia V9L 1N8

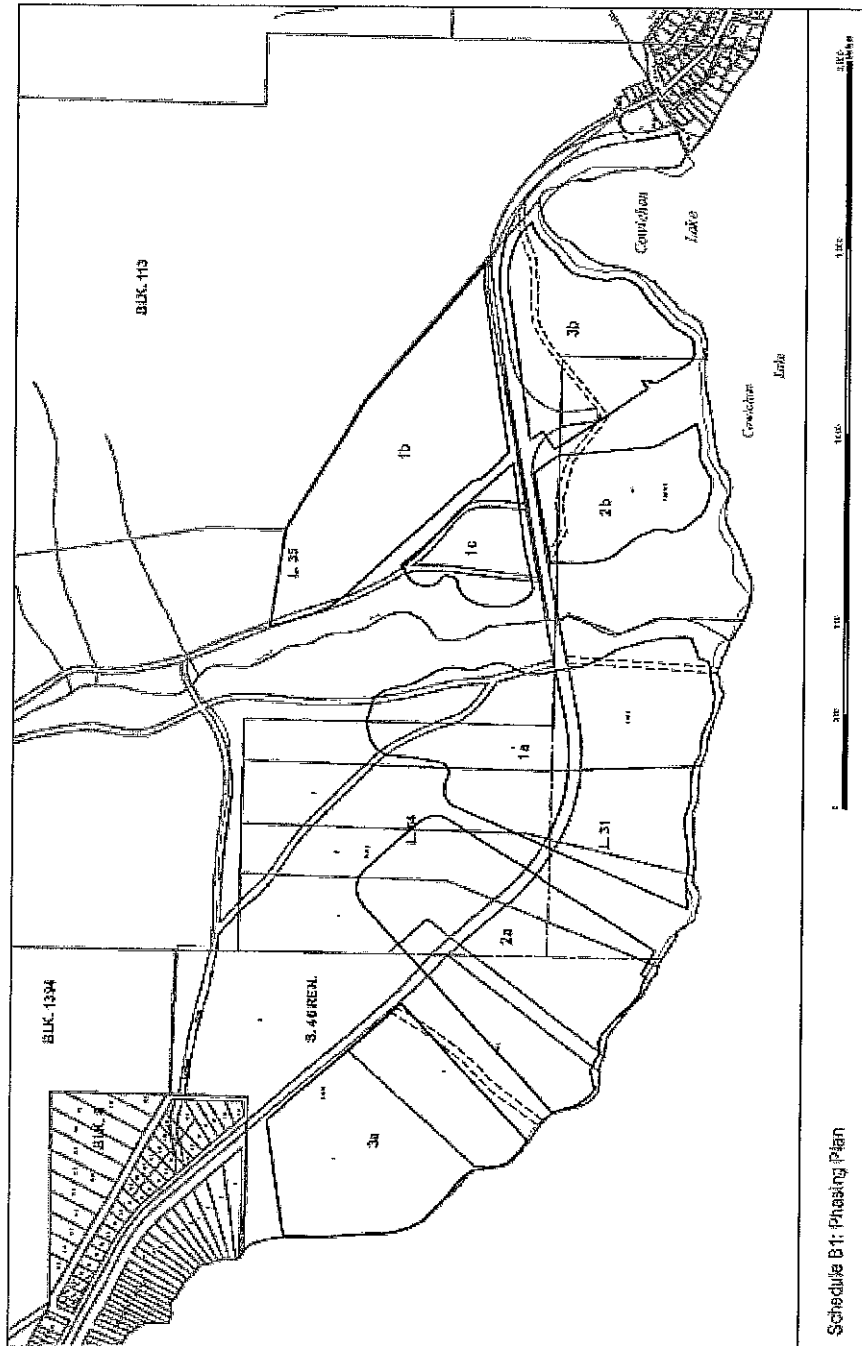
Attention: Manager, Parks and Trails Division

or to such other address to which a party hereto from time to time notifies the other parties in writing.

16. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

SCHEDULE A – PHASING PLAN



B – BOAT LAUNCH SPECIFICATIONS

SCHEDULE

- approximate dimensions 20 foot width and 45 foot overall length
- concrete construction
- launching finger of wood construction approximately 3 foot width and 25 foot length
- ramp to accommodate watercraft up to 25 feet in length
- shoreside staging area to accommodate 2 vehicles with boat trailers, approximate dimensions 25 feet by 50 feet
- design and construction of the facility is subject to B.C. Ministry of Environment approval

▪ **SCHEDULE C – FORM OF STATUTORY RIGHT OF WAY**

TERMS OF INSTRUMENT – PART 2

STATUTORY RIGHT OF WAY – BOAT LAUNCH ACCESS

THIS Agreement dated for reference the ____ day of _____, 2010

BETWEEN:

(the “Owner”)

AND:

COWICHAN VALLEY REGIONAL DISTRICT, 175 Ingram
Street, Duncan, British Columbia V9L 1N8

(the “Regional District”)

GIVEN THAT:

- A. The Owner is the owner in fee simple of that parcel of land in _____, British Columbia, and more particularly described as _____ (the “Land”), which parcel was created by subdivision specifically to be used as a public boat launch and for no other purpose;
- B. The Owner has constructed on the Land certain facilities for the launching of watercraft into Cowichan Lake and the removal of watercraft from Cowichan Lake, including a boat ramp, motor vehicle parking areas and related facilities (the “Boat Launch Facilities”);
- C. Section 218 of the *Land Title Act*, R.S.B.C., c. 250 enables the Owner to grant in favour of the Regional District an easement without a dominant tenement to be known as a statutory right of way;
- D. The Owner wishes to grant and the Regional District wishes to accept a statutory right of way over the Lands for the public use of the Boat Launch Facilities;
- E. The Owner agrees on the terms and conditions herein set forth to grant to the Regional District a statutory right of way over the Lands in their entirety;
- F. This Statutory Right of Way is necessary for the operation and maintenance of the Regional District’s undertaking.

NOW THEREFORE this Agreement witnesses that in consideration of the premises and of the mutual promises and undertakings herein contained and the sum of one dollar (\$1.00) now paid by the Regional District to the Owner and other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged by the Owner, the parties hereto agree pursuant to section 218 of the *Land Title Act* as follows:

1. The Owner does hereby grant and convey in perpetuity and at all times unto the Regional District, its employees, agents and licensees and all members of the public the full, and uninterrupted right, license, liberty, privilege, easement and right of way (the "Statutory Right of Way") in common with the Owner:
 - (a) to pass and repass over and upon the Land with or without motor vehicles and boat trailers for the purpose of launching watercraft into Cowichan Lake and removing such watercraft from Cowichan Lake, by means of the Boat Launch Facilities;
 - (b) to use such facilities ancillary to the Boat Launch Facilities as the Owner may have provided on the Land, including public washrooms and garbage and recycling receptacles;
 - (c) to, by its officers, employees, contractors and agents, enter, use, labour, go, return, pass and repass over and upon the Land for the purpose of repairing and replacing the Boat Launch Facilities at the Regional District's cost in the event that the Owner fails to do so;
 - (d) to, by its officers, employees, contractors and agents, enter, use, labour, go, return, pass and repass over and upon the Land for the purpose of maintaining or operating the Boat Launch Facilities at the Regional District's cost in the event that the Owner fails to maintain or operate the facilities at a standard that is reasonably equivalent to the prevailing standard of maintenance and operation of commercial boat launch facilities in the Cowichan Valley Regional District, provided that following the Regional District's exercise of its powers under this subsection (e) the Owner may resume maintenance and operation of the facilities and the imposition of fees under subsection 3(b) with the written consent of the Regional District but subject to the Regional District's rights under this subsection (e) in the event of any subsequent failure of the Owner;
 - (e) to do all acts which in the opinion of the Regional District are necessary and incidental to the Statutory Right-of-Way herein granted.
2. The Owner covenants and agrees with the Regional District that:
 - (a) the Regional District shall and may peaceably hold and enjoy the Statutory Right of Way hereby granted without hindrance, molestation or interruption on the part of the Owner or of any person, firm or corporation claiming by, through, under or in trust for the Owner;
 - (b) the Regional District and its officers and employees may enter on and pass and repass over the Land during daylight hours for the purpose of inspecting the Boat

Launch Facilities and monitoring the operation of the facilities and the use of the facilities by the public; and

- (c) the Owner will not make, place, erect or maintain on, over or under the Land any building, structure, or other obstruction or do or permit to be done on the Land any act or thing which may in the reasonable opinion of the Regional District interfere with the use by the public of the Boat Launch Facilities or the rights herein granted.
3. It is mutually agreed and declared by and between the parties hereto:
- (a) that this grant of Statutory Right-of-Way to the Regional District does not in any way require the Regional District to maintain, operate, repair or replace the Boat Launch Facilities or any other improvement on the Land;
 - (b) that the Owner or a facility operator engaged by the Owner may charge a reasonable fee to the public for the use of the Boat Launch Facilities, provided that the Owner or facility operator is operating the Boat Launch Facilities at the time the fee is charged;
 - (c) that pursuant to section 218 of the *Land Title Act* this Statutory Right-of-Way and the rights hereby granted shall run with the Land and that no part of the fee of the soil shall pass to or be vested in the Regional District by these presents;
 - (d) that this Statutory Right-of-Way, including all the covenants and conditions herein contained, shall extend to and be binding upon and enure to the benefit of the parties and their heirs, executors, administrators, personal representatives, licensees and successors;
 - (e) that wherever the singular or masculine are used in this Statutory Right-of-Way they shall be construed as meaning the plural or feminine or body corporate or politic where the context or the parties so require;
 - (f) that should any provision or provisions of this Agreement be illegal or not enforceable, it or they shall be considered separate and severable from this Agreement and its remaining provisions shall remain in force and be binding on the parties.
4. Nothing contained or implied herein shall prejudice or affect the Regional District's rights and powers in the exercise of its functions pursuant to the *Local Government Act* or the *Community Charter* or its rights and powers under all of its public and private statutes, bylaws, orders and regulations, including its powers of expropriation, all of which may be fully and effectively exercised in relation to the Land as if this Agreement had not been executed and delivered by the Owner.
5. All chattels, equipment, supplies, fixtures or other materials installed by the Regional District over, on, in or under the Land are and shall remain the property of the Regional District, any rule of law or equity to the contrary notwithstanding.

6. The Owner indemnifies, saves harmless, releases and forever discharges the Regional District and its elected officials, officers, employees and agents from and against all manner of actions, causes of action, claims, debts, suits, demands and promises whatsoever at law or at equity, whether known or unknown, which the Owner or any other person now has or may at any time have by reason of the granting or existence of the Statutory Right of Way or the use of the Boat Launch Facilities or any breach or default by the Owner under this Agreement or any wrongful act, omission or negligence of the Owner or those for whom it is responsible in relation to the Boat Launch Facilities.
7. In the event of any default by the Owner under this Agreement, the Regional District may by notice in writing to the Owner identifying the default, require the Owner to remedy the default by the time specified in the notice, failing which the Regional District may, in the case of a building, structure, or other obstruction interfering with the use by the public of the Boat Launch Facilities or the rights herein granted, enter on the Land to remove the building, structure or other obstruction without further notice to the Owner.
8. Waiver of any default by either party shall not be deemed to be a waiver of any subsequent default by that party.
9. Any notice or other communication required or contemplated to be given or made by any provision of this Agreement shall be given or made in writing and either delivered by hand or sent by facsimile transmission (and in either case shall be deemed to be received when delivered) or mailed by prepaid registered mail in any Canada Post Office (and if so shall be deemed to be delivered on the sixth business day following such mailing, except that, in the event of interruption of mail service notice shall be deemed to be delivered only when actually received by the party to whom it is addressed), so long as the notice is addressed as follows:
 - (a) [TO BE INSERTED]
 - (b) and to the Regional District at:

COWICHAN VALLEY REGIONAL DISTRICT, 175 Ingram
Street, Duncan, British Columbia V9L 1N8

Attention: Manager, Parks and Trails Divisionor to such other address as a party from time to time notifies the other party in writing.
10. Any opinion which the Regional District is entitled by virtue of this Agreement to form may be formed on behalf of the Regional District by the General Manager, Parks, Recreation and Culture or the official performing that function in the event that the title of the position should be changed, in which event the opinion of that person shall be deemed to be the opinion of the Regional District for the purposes of this Agreement.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Office Form C that is attached to and forms part of this Agreement.

SCHEDULE D – FORM OF BOAT LAUNCH COVENANT

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT

THIS COVENANT dated for reference the ____ day of _____, 2010

BETWEEN:

(the “Owner”)

AND:

COWICHAN VALLEY REGIONAL DISTRICT, 175 Ingram
Street, Duncan, British Columbia V9L 1N8

(the “Regional District”)

WHEREAS the Developer is the registered owner of that parcel of land in the Cowichan Valley Regional District legally described as [INSERT NEW LEGAL DESCRIPTION] (the “Land”); and

WHEREAS the Developer or the Developer’s predecessor in title granted a covenant to the Cowichan Valley Regional District registered in the Victoria Land Title Office under No. _____ (the “Boat Launch Covenant”) prohibiting the development of certain phases of the Developer’s development on the Land until the Developer has created a parcel for a boat launch on Cowichan Lake and granted to the Regional District a further covenant limiting the use of the parcel to public boat launch uses and a statutory right of way for public boat launch purposes; and

WHEREAS the Land is the parcel contemplated by the Boat Launch Covenant and the Developer wishes to grant the further covenant required by the Boat Launch Covenant;

NOW THEREFORE in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the parties hereto agree as follows:

1. The Developer shall not use the Land for any purpose other than the provision of facilities for the launching of watercraft into Cowichan Lake and the removal of such watercraft from Cowichan Lake. For the purposes of this Covenant, facilities for the launching and removal of watercraft include ramps, staging facilities for motor vehicles, boat trailers, and watercraft, and washroom facilities, and exclude retail sales of any kind, including the retail sale of fuel or alcoholic beverages, the sale or rental of personal watercraft, and the construction or use of any building or structure directly abutting Cowichan Lake other than a dock, wharf or similar structure required in the operation of the Boat Launch Facilities.

2. The Owner shall comply with all requirements of this Agreement at its own cost and expense.
3. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
4. The rights given to the Regional District by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Regional District to anyone, or obliges the Regional District to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement, except that nothing in this section shall affect the contractual rights and obligations of the parties hereto under this Agreement.
5. This Agreement shall restrict use of the Land in the manner provided herein notwithstanding any right or permission to the contrary contained in any bylaw of the Regional District.
6. This Agreement does not
 - (a) affect or limit the discretion, rights or powers of the Regional District under any enactment (as defined in the *Interpretation Act*, on the reference date of this Agreement) or at common law, including in relation to the use or subdivision of the Land;
 - (b) affect or limit any enactment relating to the use or subdivision of the Land, or
 - (c) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land,and the Owner covenants and agrees to comply with all such enactments with respect to the Land.
7. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s.219 of the *Land Title Act* in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which the Land is subdivided by any means and any parcel into which the Land is consolidated.
8. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

9. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
10. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
11. The parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.
12. Time is of the essence of this Agreement.
13. This Agreement is not intended to create a partnership, joint venture, or agency between the Owner and the Regional District.
14. Any notice or other communication required or contemplated to be given or made by any provision of this Agreement must be given or made in writing and delivered personally (and if so must be deemed to be received when delivered if delivered on a business day prior to 4 p.m. and otherwise on the next business day) so long as the notice is addressed as follows:

(a) If to the Owner

[TO BE INSERTED]

(b) If to the Regional District

COWICHAN VALLEY REGIONAL DISTRICT

175 Ingram Street, Duncan, British Columbia V9L 1N8

Attention: Manager, Parks and Trails Division

or to such other address to which a party hereto from time to time notifies the other parties in writing.

15. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

END OF DOCUMENT

**LAND TITLE ACT
FORM C**

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1 (This area for Land Title Office use)

Page 1 of 10 Pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

Applicant

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)

See Schedule

(LEGAL DESCRIPTION)

See Schedule

3. NATURE OF INTEREST:*

Description

Document Reference
(page and paragraph)

Person Entitled to Interest

See Schedule

Entire Instrument

Transferee

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

☒

Annexed as Part 2

(c) Release

☐

There is no Part 2 of this Instrument.

A selection of (a) include any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):*

0741817 B.C. LTD., (Inc. No. 0741817) as to Covenant

6. TRANSFEE(S): (including postal address(es) and postal code(s))*

COWICHAN VALLEY REGIONAL DISTRICT, 175 Ingram Street, Duncan, British Columbia V9L 1N8

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1

Page 2

7. ADDITIONAL OR MODIFIED TERMS:*
N/A

8. EXECUTION(S):**This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature

Execution Date
Y M D

Transferor Signature

_____ 2010 ____

0741817 B.C. LTD. by its authorized
signatories

Name:

(as to both signatures)

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

Land Title Act
Form E

SCHEDULE

Page 2

Enter the required information in the same order as the information must appear on the Freehold Transfer Form, Mortgage Form or General Document Form.

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*	
(PID)	(LEGAL DESCRIPTION)
027-438-571	Lot 7 District Lots 31 and 64 Cowichan Lake District Plan VIP84672 (See Plan as to Limited Access)
027-438-716	Lot 6 District Lots 31 and 64 Cowichan Lake District Plan VIP84672 (See Plan as to Limited Access)
027-438-708	Lot 5 District Lots 31 and 64 Cowichan Lake District Plan VIP84672 (See Plan as to Limited Access);
027-438-546	Lot 4 District Lots 31 and 64 Cowichan Lake District and Section 46 Renfrew District (Situated in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access)
027-438-538	Lot 3 Section 46 Renfrew District (Situated in Cowichan Lake District) and District Lot 64 Cowichan Lake District Plan VIP84672 (See Plan as to Limited Access)
027-438-520	Lot 2 Section 46 Renfrew District (Situate in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access)
027-438-511	Lot 1 Section 46 Renfrew District (Situate in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access)

3. NATURE OF INTEREST:*		
Description	Document Reference (page and paragraph)	Person Entitled to Interest

LAND TITLE ACT

FORM D

EXECUTIONS CONTINUED

Page

8. EXECUTION(S):^{4*}This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

_____ 2010 ____

**COWICHAN VALLEY
REGIONAL DISTRICT** by its
authorized signatory(ies):

Chair:

(as to both signatures)

Corporate Officer

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT

THIS COVENANT dated for reference the ____ day of _____, 2010

BETWEEN:

0741817 B.C. LTD., (Inc. No. 0741817)

(the “Owner”)

AND:

COWICHAN VALLEY REGIONAL DISTRICT, 175 Ingram
Street, Duncan, British Columbia V9L 1N8

(the “Regional District”)

WHEREAS the Developer is the registered owner of the land in the Cowichan Valley Regional District legally described as:

PID: 027-438-571

Lot 7 District Lots 31 and 64 Cowichan Lake District Plan
VIP84672 (See Plan as to Limited Access);

PID: 027-438-716

Lot 6 District Lots 31 and 64 Cowichan Lake District Plan
VIP84672 (See Plan as to Limited Access);

PID: 027-438-708

Lot 5 District Lots 31 and 64 Cowichan Lake District Plan
VIP84672 (See Plan as to Limited Access);

PID: 027-438-546

Lot 4 District Lots 31 and 64 Cowichan Lake District and Section
46 Renfrew District (Situated in Cowichan Lake District) Plan
VIP84672 (See Plan as to Limited Access);

PID: 027-438-538

Lot 3 Section 46 Renfrew District (Situated in Cowichan Lake
District) and District Lot 64 Cowichan Lake District Plan
VIP84672 (See Plan as to Limited Access)

PID: 027-438-520

Lot 2 Section 46 Renfrew District (Situate in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access);

PID: 027-438-511

Lot 1 Section 46 Renfrew District (Situate in Cowichan Lake District) Plan VIP84672 (See Plan as to Limited Access)

(the "Lands"); and

WHEREAS the Developer has applied to the Regional District for an amendment to CVRD Zoning Bylaw No. 2465 by way of CVRD Bylaw No. 3214 – Area I – Youbou/Meade Creek Zoning Amendment Bylaw (Youbou Lands), 2009 to permit the development on the Land of a range of residential and non-residential uses; and

WHEREAS the Developer and the Regional District wish to ensure that any development of docks giving access to Cowichan Lake from the Land occurs in accordance with a comprehensive plan approved by the Regional District;

NOW THEREFORE in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the parties hereto agree as follows:

1. The Developer shall not construct on any portion of the Land having a boundary on Cowichan Lake any building, structure or other facility providing access to any dock or similar structure on the bed or surface of Cowichan Lake, or alter the natural condition of the Land so as to provide such access, without having first prepared and obtained the Cowichan Valley Regional District's approval of a siting plan for docks and related floats, ramps and similar structures serving the Lands ("dock siting plan"), and shall not alter the natural condition of the Land or construct any dock or facility providing access to any dock pursuant to such approved dock siting plan until the Regional District's zoning bylaw has been amended to designate permitted dock locations and the permitted size and dimensions of docks serving the Lands.
2. The Developer agrees that the dock siting plan required by Section 1 shall be based on the following elements:
 - (a) not more than one dock shall be provided for each parcel on which the Regional District's zoning regulations permit a residential dwelling;
 - (b) dock locations shall be approved in writing by the B.C. Ministry of Environment and Canada Department of Fisheries and Oceans except to the extent that either organization has indicated in writing that its interests are not affected by the location of a dock;
 - (c) docks shall not exceed 23.25 metres in area exclusive of walkways and ramps;

- (d) walkways and ramps connecting docks to the shore shall not exceed a width of 1.5 metres;
 - (e) docks shall not extend into Cowichan Lake beyond 15 metres, except where necessary to provide a minimum depth of water of 3 metres at the shallow end of the dock at the summertime low lake level; and
 - (f) docks shall be secured by anchor systems rather than pilings and shall be constructed of fully encapsulated foam, with fir sub-structure and cedar decking.
3. The Owner shall comply with all requirements of this Agreement at its own cost and expense.
 4. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
 5. The rights given to the Regional District by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Regional District to anyone, or obliges the Regional District to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement, except that nothing in this section shall affect the contractual rights and obligations of the parties hereto under this Agreement.
 6. This Agreement shall restrict use of the Land in the manner provided herein notwithstanding any right or permission to the contrary contained in any bylaw of the Regional District.
 7. This Agreement does not
 - (a) affect or limit the discretion, rights or powers of the Regional District under any enactment (as defined in the *Interpretation Act*, on the reference date of this Agreement) or at common law, including in relation to the use or subdivision of the Land;
 - (b) affect or limit any enactment relating to the use or subdivision of the Land, or
 - (c) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land,

and the Owner covenants and agrees to comply with all such enactments with respect to the Land.

8. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s.219 of the *Land Title Act* in respect of the Land and this Agreement burdens the Land and runs with it and binds the

successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which the Land is subdivided by any means and any parcel into which the Land is consolidated.

9. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
10. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
11. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
12. The parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.
13. Time is of the essence of this Agreement.
14. This Agreement is not intended to create a partnership, joint venture, or agency between the Owner and the Regional District.
15. Any notice or other communication required or contemplated to be given or made by any provision of this Agreement must be given or made in writing and delivered personally (and if so must be deemed to be received when delivered if delivered on a business day prior to 4 p.m. and otherwise on the next business day) so long as the notice is addressed as follows:

(a) If to the Owner

[TO BE INSERTED]

(b) If to the Regional District

COWICHAN VALLEY REGIONAL DISTRICT

175 Ingram Street, Duncan, British Columbia V9L 1N8

Attention: General Manager, Planning and Development Department

or to such other address to which a party hereto from time to time notifies the other parties in writing.

16. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

END OF DOCUMENT

AP 1

Area A Advisory Planning Commission Meeting
11 May 2010
Held at Mill Bay Fire Hall
Minutes

Present: June Laraman, Deryk Norton, David Gall, Margo Johnston, Cliff Braaten, Ted Stevens, Geoff Johnson, Archie Staats, Brian Harrison (Director Area A), Roger Burgess (Alternate Director Area A)

Regrets: Dola Boas,

Audience: Silvia Bonet representative (Gerry Koutougos/Violetta Investments Ltd.)
Leo Hylkema & Dr Chris Forbes, Mill Bay Veterinary Clinic

Meeting called to order at 6:30 pm

Previous minutes:

It was moved and seconded the minutes of 13 April 2010 meeting be adopted.

MOTION CARRIED

Existing Business:

**Rezoning Application No. 3-A-09RS (Gerry Koutougos/Violetta Investments Ltd.) -
Supplementary Report**

Purpose: to comment with respect to one development permit guideline associated with the draft OCP bylaw amendments for the proposed duplex at the corner of Handy Road and Mill Bay Road.

Originally, a development permit guideline was proposed that read "The units shall occupy no more than 40% of the frontage along Mill Bay Road."

The APC was asked to consider the following questions:

- Should a specific frontage percentage be included in the development permit guidelines?
- Does the guideline in the proposed OCP amendment bylaw suffice?

Silvia Bonet explained the duplex site plan and answered questions.

APC Questions and Concerns:

- Discussion around the need to have a frontage limit in place vs. no limit at all.
- The frontage percentage depends on from what point it is measured. If measured on the shorter distance it is 66% and if measured on the longer width it is 60%.
- A site design meeting a 40% frontage limit was likely not feasible.
- There was concern expressed about the access and lack of visibility from Handy Road to the entrance onto Mill Bay Road.
- This application was originally recommended as a "one-off" or variance to the OCP. There is concern that if this exception were accepted that it would be precedent setting and have potential impact to the Mill Bay Road frontage lots in the future.
- The design of the duplex has not changed from the original application but the driveway and septic location have changed location on the site.
- It was pointed out that if a single home were to be built on this property the 40% frontage limitation would not apply. This was confirmed by the CVRD.
- Some discussion centered on the purpose of the limitation and the need for a view corridor. It was pointed out that there are limited views of the ocean from the property.

APC Recommendation:

Area A APC was equally split on the decision to change the development permit guideline "The units shall occupy no more than 40% of the frontage along Mill Bay Road." Fifty percent recommended that the guideline remain at the 40% limitation and 50% recommend that the guideline be changed to a 60% frontage limit.

New Business:**Development Permit Application No. 1-A-10DP (Chris Urquhart CCLC Holdings Ltd.)**

Purpose: to consider the issuance of a Development Permit for the Mill Bay Veterinary Hospital Ltd.

Dr. Chris Forbes and Leo Hylkema answered questions from APC members.

APC Questions and Concerns:

- Dog run is a security measure to keep dogs from exiting the premises. e.g. a catchment area.
- There will not be a crematorium.
- Vehicle parking will not increase. Much of existing Mill Bay Vet Clinic parking is being used by Shell & A & W customers.
- Safety factor concern regarding the Shell Service Station and also the narrow road allowance used as a walkway. A pathway is needed along the boundary with Deloume Rd.
- Upstairs addition could be used if needed for caregiver to overnight.
- The current septic system is sufficient for the proposed addition.
- The adjacent property will not be used for the addition. The property will remain zoned residential.
- Mill Bay Veterinary Hospital was commended for their service to the community.
- It is desirable to have the Mill Bay Veterinary Clinic parking cordoned off from the Shell Station in order to improve the safety for both drivers and pedestrians.

APC Recommendation:

APC unanimously recommends to the CVRD Board that **Development Permit Application No. 1-A-10DP** be approved with the recommendation there is safe access/egress for pedestrians and drivers. A discussion between the applicant and the MoT may be needed.

Other:

SCOC Meeting 13 May 2010: Update on meeting agenda and request for all APC commission members to attend.

Director Update:

- Mill Bay Marina's development permit has expired.
- Limona Group will try to use the present zoning on the Garnett property.

Meeting Adjournment:

It was moved and seconded the meeting be adjourned.

MOTION CARRIED

The meeting adjourned at 8:15 pm

Note: The next APC meeting is scheduled for 8 June 2010 at 6:30 at the Mill Bay Fire Hall

May 5th, 2010
7:30 p.m.

Minutes of the Electoral Area B Advisory Planning Commission held on the above noted date and time at Shawnigan Community Centre .

Present:

APC members: Chair Graham Ross-Smith, Carol Lane, recording secretary Cynara de Goutiere, John Clark, Rod MacIntosh

Absent: Roger Painter ,Vice-Chair Sara Middleton,

Delegation: Craig Partridge and Ron Sharpe

ORDER OF BUSINESS

1) Introductions.

2) Craig Partridge and Ron Sharpe presented Application No 1-B-09RS. This application proposes rezoning the Renfrew Road Property of 33.67 ha from F1 to another Forestry zoning to allow for subdivision into 4 lots that would allow 8 dwellings. Property was purchased in 2009 with the prospect. Applicants are aware that the OCP is in review.

3) Minutes.

Motion to accept minutes of May 2010 meeting. **Motion seconded and carried.**

4) Discussion of Application No 1-B-09RS.

Roger Painter's email communication (nay say) included in the discussion.

APC reluctant to proceed with infill in the Renfrew Road area while OCP is in review.

Motion APC recommends that consideration of Application No 1-B-09RS be delayed until the OCP has been completed. **Motion seconded and carried.**

Motion that Chairman write letter to ES with comments giving special attention Policy 2.6 in the OCP review. **Motion seconded and carried.**

5) Roger Painter has been absent from APC meetings since January 2009. Chair will bring this to Ken Cossey's attention, as commitment is needed from members.

6) Sara Middleton will set up next meeting as Graham will be away.

7) Motion to adjourn meeting. Motion seconded and carried.

Next meeting June 3rd

REC

C I



CVRD

MAY

COWICHAN VALLEY REGIONAL DISTRICT

Financial Services Department

SUBMISSION FOR A GRANT-IN-AID (ELECTORAL AREAS)

Submitted by Director

Loren DUNCAN Area Cowichan Station Softwood Glenora

Grantee:

Grant Amount \$ 2000

NAME:

Cowichan Station Area Association

ADDRESS:

3985 Riverside Road DUNCAN
B.C. V9L 6N1

Contact Phone No:

Madeline 250-776-7804

PURPOSE OF GRANT:

Repair + Restoration of Cowichan
Station

REQUESTED BY:

Loren Duncan
Director Requesting Grant

ACCOUNT NO.	AMOUNT	GST CODE
01-2-1950-0350-115	2000.00	10.0

FOR FINANCE USE ONLY

BUDGET APPROVAL

VENDOR NO.

Disposition of Cheque:

Mail to above address:

Return to

Attach to letter from

Other

Approval at Regional Board Meeting of

Finance Authorization

Cowichan Station Train Station Improvements

PROJECT PLAN

History and Overview

The Station has been in existence, in one form or another, since 1885. The last renovation took place in approximately 1989 when Gordie Maycock, Mike Berry and Darrel Archer, Cowichan Station area residents, repaired the building, installed windows and built planters, in anticipation of the then Prime Minister of Canada, John Turner's brief visit through Cowichan Station.

Since that time various residents have mowed the grass, planted flowers and taken care of things in general, but now the community of Cowichan Station would like to make the Station Site more attractive and user friendly for people taking the train and for visitors arriving. Also for the residents who walk the area on a daily basis and for the cycling and motoring tourists who stop by on their way to visit the Kinsol Tresle and St. Andrew's Anglican Church.

The Island Corridor Association has given us a letter of consent, allowing us to do some restoration work on the waiting room and the surrounding grounds and we also understand that commuter rail will be stepping up it's service in June or July 2010, making it more necessary to give the area a facelift.

Goals

1. Repair the rotting foundation of the waiting room and generally spruce it up with better signage and paint.
2. Re-gravel the road base where the mailboxes are at the start of the mud pathway down to the station.
3. Build a set of steps similar to those at the Jack Fleetwood Memorial Park to restore the pathway.
4. Infill the ditch by the waiting room and make a small bridge if necessary.
5. Replace the picnic table which is getting quite dilapidated.
6. Install a memorial bench in the name of Mrs. Mary Heywood, long time resident of Cowichan Station, who took the train faithfully almost every week, dressed in hat and white gloves. This would be located in the flat area to the north of the waiting room.
7. Plant two ornamental cherry trees located near the bench, for shade.
8. Install a heritage sign giving information and pictures about the station and the hotel which was located in proximity to the station.
9. General pruning and landscape clean-up and planting of Snowdrops and Aconites.

See attached Plan for details of the above

ESTIMATES FOR MATERIALS

Foundation repairs – We have two kind residents who are donating beams, cement pads, equipment and labour to do this.

Gravel road base, 1 load 13.5 tons	\$295
Wood for framing pathway steps	200
Commercial Landscape Fabric	40
Memorial Bench and Picnic Table As per Jack Fleetwood Park	1,200
Two cherry trees @ \$70 each	140
Heritage Information Sign and New Sign for top of Waiting Room	750
Cowichan Station Village Entrance Metal Signs 45cm x 90 cm, 3 @ \$84 each., plus posts and clips	342
TOTAL FUNDING REQUIRED:	\$2,967
All labour is by donation	

PROJECT SCHEDULE

Foundation work is already scheduled to start and a work party is being organized for pruning and clean up to start soon. We are aiming to have as much completed by May Day for our Tea and Train Wave Fun/Work Day Celebrations.

PK 1

Meeting of the Cowichan Station/Glenora/Sahtlam Parks and Recreation Commission Meeting, held on April 29th, 2010 at the CVRD Office, Duncan

Present: Director Loren Duncan, Ron Smith (Chair) Frank McCorkell, Howard Heyd, Irene Evans, Larry Whetstone, Mike Lees, John Ramsey and Phil Gates.

RECEIVED

MAY 20 2010

Call to Order:

The meeting was called to order at 9:35 a.m.

A delegation from the Cowichan Station Area Association came to provide the Commission information on the progress with School District 79 and their proposal to lease the former Cowichan Station Rural Traditional School. They included Angela Davis, Patty John, Alison Nicholson and Madelaine MacLeod.

The delegation also provided the Commission with a copy of their draft Business Plan and outlined both the short term and long term plans for the use and restoration of the school buildings including the older wooden structure, the gym and stage area, and the cinderblock second building on the site. They also discussed the costs associated with the upgrading of the facilities and annual costs to manage the facilities and grounds.

To date the delegation had met with the Electoral Area D Parks and Recreation Commission and will be meeting shortly with the Area D Advisory Planning Committee. Mention was also made of applying for a federal grant to assist with the necessary restoration on the older part of the school building.

Discussion then turned to the need to develop a trail system that could connect with the trail along Wilmot Road in Area D to the Cowichan Station school/park area and also look at the potential to expand the trail system along the railway corridor right-of-way north towards Bright Angel Park and on towards Duncan.

At this point John Ramsey asked about their plans for the old (wooden portion) school and it was indicated that they would request they be allowed to remove the back two rooms that were on stilts and have just four large rooms (2 up and two down). Frank McCorkell indicated that he had attended their community meeting and was concerned that their estimate of around \$1 million to renovate the building may not be sufficient given its age and other unknowns. Phil Gates said he was not keen of keeping the old building and it may be more important for the hamlet to focus their attention on St. Andrew's (Anglican) Church which is now closed but could be a more important asset for Cowichan Station. Discussion then turned to the park/playfields on the south side of Koksilah Road and it was mentioned the Commission was still committed to cover the costs of maintenance and liability of this area as long as certain issues were resolved.

The Chair thanked the delegation for their attendance and information provided on their community project.

Minutes:

The minutes for the March 4th, 2010 meeting were reviewed, and accepted by the Commission.

Business Arising:

Commission members wanted to know whether the new signs requested in our previous two meeting at the Glenora Park horse parking area had been installed yet. If now it was requested they be put up soon

Minutes of the Area E Parks and Recreation Commission Meeting of april 29th, 2010 continued

as the area is going to become very busy as the weather improves. (See Minutes of March 4th 2010—Business Arising).

At this point the Commission asked about the progress on the development of the new signs that were to go at Boys Road and the Trans Canada Highway, on the outside wall (kiosk area) of the washrooms at the Glenora Park, the need for the completion of the Sahtlam information sign as well as a small sign with an arrow pointing to the washrooms on top of the hill near the stairs in the Glenora Riverside Park. At this point Rob Grant of the CVRD GIS department joined the meeting and outlined a general plan to proceed with the completion of the two large signs. It was recommended that he have a quick meeting with Mike Lees (Sahtlam Sign) and other commission members from the Glenora area (kiosk sign at Glenora Park) and then he would sketch out some ideas and meet further to insure all the necessary information was on the signs prior to final production.

Correspondence:

1. Proposed Subdivision at 5270 Koksilah Road

Director Duncan and Ron Smith brought the Commission members up-to-date on the proposed subdivision of this property and monies received in lieu of parkland would go into the parkland reserve fund.

2. Fees and Charges and a Rational for Recreation Services Workshop

Information was distributed to see if any Commission member was interested in attending the ½ day workshop. Frank McCorkell indicated he would like to attend and the Chair informed Brian Farquhar, CVRD Parks and Trails Manager immediately after the meeting.

New Business:

1. Summer Students Projects

The memorandum outlining some of the proposed work to be undertaken this summer was provided to Commission members. Besides projects listed it was mentioned that the summer students could also put up the directional sign to the washrooms at the Glenora Riverside Park while working at the Glenora Adventure Park.

2. Glenora Adventure Park Update

The Commission wanted to know when the anti-graffiti spray would be applied to the completed as there was a feeling that this must be done before the heavy summer use period. They also mentioned the signage at the corral area needed to be put in place (as mentioned above) but that the present informaton sign (near the washrooms) should not be moved until the new kiosk sign is installed. Frank McCorkell also provided the other Commission Members with the progress and possible time line for the completion of the playground at the park.

At this point there was mention that once this project, and the cookhouse at the park were completed the focus of attention by the Commission would start to shift to both the Cowichan Station and Sahtlam areas. Commission members felt there would likely be a need to hold a community meeting in Sahtlam to ask the residents what the believed is needed in the way of parks and recreation services within their particular section of the Electoral Area.

3. John's Road Improvements Memo

This was distributed and there was no discussion other than agreement with the work to be undertaken this summer.

Minutes of the Area E Parks and Recreation Commission Meeting of April 29th, 2010 continued

4. Parks Commission Chairs Meeting

This memo was distributed and the Chair indicated that new staff was being hired for the Parks and Trails Department and a general overview of the great many projects planned for this fiscal year throughout the Regional District. The Parks Capital Projects Steps and Procedures memo prepared by Ryan Dias, Parks Operations Superintendent, was also distributed to the Commission members.

At this point the meeting moved into closed session.

The closed session meeting rose without report and returned to the regular session.

Other Business:

1. Future Parks Commission Meetings

Frank McCorkell suggested that because the Commission was dealing with so many new projects, and the need to see that they are completed as quickly as possible, or at least not forgotten, that we should start having monthly meetings (except for possibly July and August). Others felt that we should also be having more field trips to our parks since a number of new Commissioners were not totally familiar with their location, size or facilities. Because the CVRD office in Duncan was very central for all members it was believed at least half the meetings would still take place there.

2. Parks Commission Chairs Meeting

The Commission discussed this memo further at this time and the need to our Commission to spend some time developing the vision for our community parks and trails for the next ten years. It was suggested by Phil Gates that instead of having staff attend each Parks Commission meeting that we turn our attention to this matter at our next meeting so that Ron Smith would have at least a general outline from the Commission to take back to the June Chair's meeting. The issue of trails connections between each adjacent Electoral Area was also discussed and should be included in our vision at the next meeting.

3. Picnic Table and Bench Pads

The Commission members indicated that the cement pads at the corral area at the Glenora Adventure Park were far too small to accommodate the new tables. Because we will be constructing up to five new pads it was believed we should make them considerably larger and also ensure that a wheelchair could be brought up and sit at the picnic table since the tables were designed to accommodate this need. As for the benches, it was felt that they should be long enough that the cement overhangs both ends and the front by about a half metre (basically so people sitting on the bench will have their feet on the pad and not the ground around the pad).

4. Park Name

The Commission revisited the name "Glenora Adventure Park" and felt that there should be more discussion on the use of the word "Adventure". The Chair asked that members think about other names that may be more suitable and that we make a decision at the next meeting as it was important to have this finalized before we finish the kiosk sign as well as the new sign for the entrance to the park adjacent Robertson Road.

Next Meeting:

The next meeting will be held on May 27th at 9:30. If it is good weather we will have it at the Glenora Adventure? Park, or else at the Glenora Hall. The Chair will e-mail everyone closer to the date.

Adjournment:

The meeting adjourned at 12:55 pm.