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DP-09-13 – YOUNG

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, SEPTEMBER 17, 2013**

SUBJECT **DEVELOPMENT PERMIT AND FRONTAGE EXEMPTION FOR LOT 9, DISTRICT LOT 136, MALAHAT DISTRICT, PLAN 30892 – 4111 ROCKY MOUNTAIN ROAD**

ISSUE

A request has been made for a development permit to address the Steep Slopes, and Foreshore and Marine Shoreline development permit objectives, and for an exemption to Section 944 of the *Local Government Act (LGA)*, for the purpose of allowing a two-lot subdivision and construction of a single-family dwelling and driveway on proposed Lot B.

BACKGROUND

The 4.0 ha property is located at 4111 Rocky Mountain Road in the Malahat and is zoned Greenbelt 2 (GB2) in Langford Zoning Bylaw, 1981, Bylaw No. 980. The property is bounded by GB2 zoned properties to the north and south, Rocky Mountain Road to the west, and Saanich Inlet to the east (Appendix 1).

The applicant has submitted a subdivision application (S-06-13) to create one additional lot (Appendix 2) under the provisions of Section 3.2.06B of Bylaw No. 980, which allows for parcels in excess of 2 ha in the GB2 zone that existed prior to adoption of the bylaw to be subdivided into two parcels, neither of which may be less than 1 ha. Staff note that the subject property was created on August 26, 1977, and that Bylaw No. 980 was adopted on February 10, 1982.

Since the property is partially designated as a Steep Slopes Development Permit (DP) Area, and a Foreshore and Marine Shoreline DP Area, the applicant must obtain approval of a development permit prior to any site disturbance or final approval of the subdivision. In addition, the applicant must obtain approval of an exemption to Section 944 of the *LGA*, which requires that the minimum frontage must be greater than 10% of the perimeter of the lot.

ALTERNATIVES

- 1) That the steep slopes, and foreshore and marine shoreline development permit DP-09-13 be approved subject to conditions and that the exemption from Section 944(1)(a) of the *Local Government Act* for proposed Lot B of the two-lot subdivision of Lot 9, District Lot 136, Malahat District, Plan 30892 for the purpose of allowing a two-lot subdivision, be approved.
- 2) Deny the development permit and frontage exemption, and require that the subdivision comply with the requirements of the *Local Government Act*.
- 3) Refer the application back to staff for additional information.

LEGISLATIVE IMPLICATIONS

Section 944(1) of the *LGA* establishes the minimum frontage requirements for parcels created by subdivision. Where a local government has not established a minimum frontage requirement, the statutory minimum frontage requirement is 10% of the lot perimeter. A local government may exempt a parcel from the statutory minimum frontage requirement under Section 944(2).

The Malahat Official Community Plan, Schedule 'A', outlines development permit guidelines. The property is within the Steep Slopes DP area, and Foreshore and Marine Shoreline DP area; therefore, a development permit is required before the land may be subdivided or altered.

PUBLIC CONSULTATION IMPLICATIONS

There is no requirement for public consultation if a local government is considering a statutory exemption pursuant to Section 944 of the LGA. There is also no requirement to notify residents/tenants under the Capital Regional District Bylaw No. 3110, Fees and Procedures Bylaw for a statutory exemption or a development permit application. However, to ensure community interests are considered, each resident/tenant within 500 m of the subject property received notice of the requested development permit with frontage exemption. Responses received from the public are included in the September 17, 2013 Land Use Committee supplementary agenda.

LAND USE IMPLICATIONS

The subject property is partially designated as a Steep Slopes DP Area. In accordance with the Steep Slopes DP Guidelines, the applicant has submitted a geotechnical report (Appendix 3), prepared by a qualified professional. Since proposed Lot A has already been developed, the report identified the location of steep slopes and provided recommendations for completion of the existing driveway and placement of structural fill for the construction of a single-family dwelling on proposed Lot B. The report concluded that if the recommendations are followed, the site is safe for the intended use.

The subject property is also partially designated as a Foreshore and Marine Shoreline DP Area. No works related to the subdivision, driveway completion or dwelling construction will occur near the foreshore as part of the current proposal.

In cases where a frontage exemption is acceptable to the local government, the Provincial Approving Officer must be advised of the approval before a subdivision can be finalized. In evaluating if an exemption is justified, the following technical criteria are considered:

- Will reducing the frontage eliminate future subdivision potential of the lot and of lots beyond?
- Does the proposed reduction disturb existing residences?
- Will reducing the frontage produce an awkward lot configuration?
- How does it relate to the topography of the area?
- Does it create any environmental impacts?
- Will the exemption reduce road network and access options?

With regards to future subdivision potential, staff note that no lots exist beyond the subject property, and that Bylaw No. 980 does not support further subdivision of the proposed lots. With regards to lot configuration and topography, the proposed lot layout will result in two rectangular lots extending from Rocky Mountain Road to the Saanich Inlet and the requested exemption would result in a minor reduction in frontage from 87.1 m to 64 m. The potential building site for proposed Lot B is located on a flat area of the property near Rocky Mountain Road. Staff believe that the environmental impact of this subdivision will be minimal given that the existing driveway cut-in and cleared building location have existed for some time. With regards to the impact on neighbouring residents, approval of the exemption will provide the potential for one additional rural residential type lot. The individual concerns of local residents may be determined as a result of public notification.

Staff recommend approval of the development permit and frontage exemption subject to the conditions of the attached geotechnical report and subject to public notification.

CONCLUSION

The applicant has requested a Steep Slopes, and Foreshore and Marine Shoreline Development Permit to address geotechnical concerns related to a two-lot subdivision at 4111 Rocky Mountain Road in the Malahat. The applicant has submitted a geotechnical engineer's report, certified by Richard Brimmell, P.Eng., which provides recommendations for completing construction of the existing driveway and for the placement of structural fill required for construction of a single-family dwelling. The applicant has also requested an exemption to Section 944 of the *Local Government Act*, which requires 10% of the lot perimeter as frontage. The exemption would result in a minor reduction in frontage from 78.1 m to 64 m.

Planning staff recommend approval of the development permit and frontage exemption subject to the registration of a Section 219 covenant on the title of the property, securing the geotechnical report, and subject to public notification.

RECOMMENDATION

That the Land Use Committee recommends to the Capital Regional District Board:

1. That Steep Slopes, and Foreshore and Marine Shoreline development permit DP-09-13 for Lot 9, District Lot 136, Malahat District, Plan 30892 be approved subject to the following conditions:
 1. That the proposed development comply with the Steep Slopes, and Foreshore and Marine Shoreline Development Permit Guidelines outlined in the Malahat Official Community Plan, Bylaw No. 3721;
 2. That the proposed development comply with the recommendations outlined in the geotechnical engineer's report certified by Richard Brimmell, P.Eng., dated July 19, 2013, (Appendix 3);
 3. That the geotechnical engineer's report certified by Richard Brimmell, P.Eng., dated July 19, 2013, be secured via a restrictive covenant registered on title as part of the subdivision approval process; and
 4. That the conditions of this development permit be verified as part of the building permit process; and
2. That the request for an exemption from Section 944(1)(a) of the *Local Government Act* for proposed Lot B of the two-lot subdivision of Lot 9, District Lot 136, Malahat District, Plan 30892, as shown on the Tentative Subdivision Plan, prepared by JE Anderson & Associates, dated April 23, 2013 (Appendix 2), be approved.

****ORIGINAL SIGNED****

Iain Lawrence
Planner

June Klassen, MCIP
Manager, Local Area Planning
Concurrence

Marg Misek-Evans, MCIP
General Manager
Planning & Protective Services
Concurrence

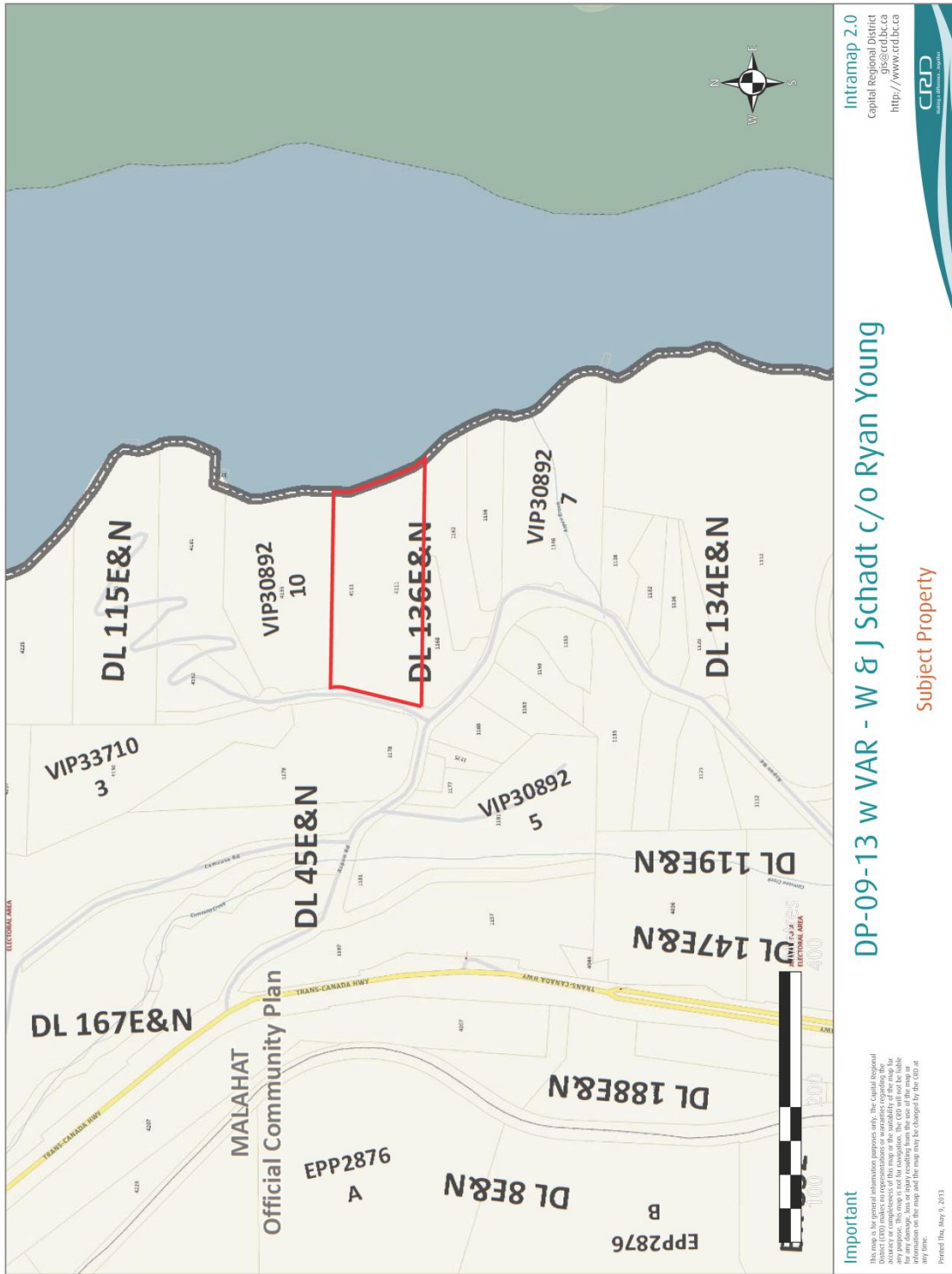
Robert Lapham, MCIP
Chief Administrative Officer
Concurrence

Appendix 1: Subject Property Map

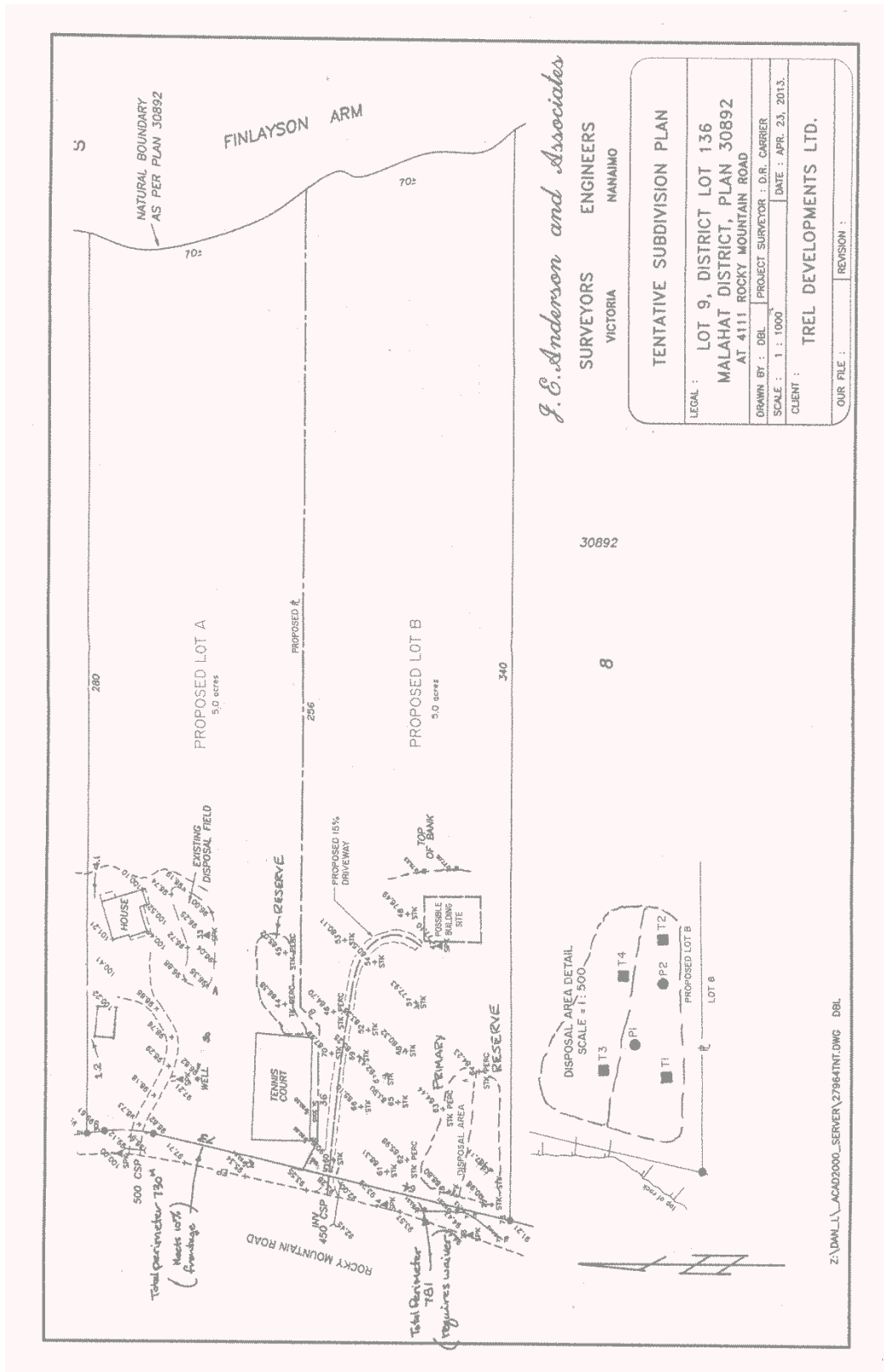
Appendix 2: Tentative Subdivision Plan

Appendix 3: Geotechnical Engineer's Report, certified by Richard Brimmell, P.Eng., dated July 19, 2013.

Appendix 1: Subject Property Map



Appendix 2: Tentative Plan of Subdivision



Appendix 3: Geotechnical Report

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Trel Dev'ts

July 19/13
File 13-79

Att: Ryan Young

Re: Proposed Two Lot Subdivision at 4111 Rocky Mountain Rd., Malahat
Geotechnical Considerations

This letter summarizes our observations and discussion at the above site today. The JE Anderson & Associates Tentative Subdivision Plan is appended along with photos. Proposed Lot A is already developed and this letter discusses proposed Lot B.

Proposed Lot B slopes down to the east, toward Finlayson Arm. Apart from localized steep areas grades tend to be moderate within the western third of the property, steepening to over 30% starting about 40 m east of the proposed house site. At about 60 m east of the house site the grade becomes much steeper, at close to 100%, which continues eastward to the downslope end of the property at Finlayson Arm. The steep slope portion of proposed Lot B may therefore be taken as being east of a north-south line located 40 m east of the proposed building site. There are bedrock exposures throughout the steep slope area, and gravelly soil was noted in exposures in the vicinity of the proposed house site. The land upslope of the subject property is not a cause for concern.

There is a shallow, eastward-sloping swale down the upper part of proposed Lot B near its south property line. Site drainage should be reviewed by JE Anderson to see if a ditch or culvert is required to handle runoff, particularly in the area of the proposed building site.

A shotrock driveway has been roughed in as shown on the attached drawing. Fill slopes associated with this driveway should either be at 1.5:1 (hor:ver) or alternatively consist of neatly stacked boulders at 0.75:1.

4111 Rocky Mountain Rd. Geotech Considerations

The proposed house site is relatively level and is presently occupied by a burn pile. The site should be excavated to native gravel, till or bedrock. As the site is low and seasonally wet, it is recommended that it be raised to elev 77.5 m with compacted shotrock fill. This recommendation is based on spot elevations shown on the attached drawing. Any structural filling should be done under the field direction of a geotechnical engineer.

Provided that any risk of flooding is dealt with through appropriate site drainage and shotrock filling as described, the selected building site (as shown on the attached dwg) is safe for the intended useage of single family residential construction with respect to potential geotechnical hazards including slope instability, rockfall, landslide and flooding. It is confirmed that the requirements for legislated Landslide Assessments (seismic design event of 2% probability in 50 years of exceedance) has been considered when assessing the site.

I trust that this information meets your present requirements. Please do not hesitate to contact the writer if there are questions.

Yours truly



Richard Brimmell, P.Eng.
for Brimmell Engineering Ltd.

cc: Danny Carrier, BCLS
Iain Lawrence-CRD

Lot B of Proposed S/D at 4111 Rocky Mountain Rd. July 19/13 photos



Proposed house site looking south



Shotrock/boulder fill at east end of the roughed-in driveway

Lot B of Proposed S/D at 4111 Rocky Mountain Rd. July 19/13 photos



Looking east from proposed house site



Outcropping bedrock about 60 m east of the house site, looking west

