

# City of Nanaimo

## REPORT TO COUNCIL

**DATE OF MEETING:** 2015-APR-20

**AUTHORED BY:** GARY NOBLE, DEVELOPMENT APPROVAL PLANNER,  
PLANNING & DESIGN SECTION

**RE:** DEVELOPMENT PERMIT NO. DP922 - 20 BARSBY AVENUE

### STAFF RECOMMENDATION:

That Council issue Development Permit No. DP922 at 20 BARSBY AVENUE to renew DP833 with the following variances:

- to reduce the watercourse setback to 10.0m
- to relax the required front yard setback to 0m
- to increase the maximum allowable building height to 16.5m.

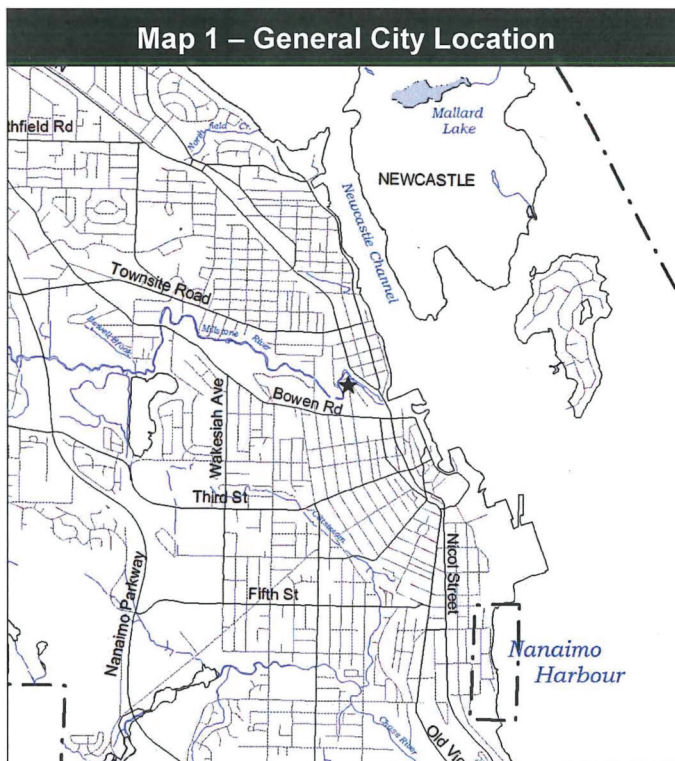
### PURPOSE:

The purpose of this report is to seek Council authorization to renew the Development Permit for a 58-unit multi-family residential project.

### BACKGROUND:

The renewal application was received from P3 INTERNATIONAL TRADE AND INVESTMENT INC. (Mr. Bill Stelmaschuk). Council issued the original Development Permit No. DP432 (2007-FEB-07). Council had also approved three renewals: DP593 (2009-FEB-09), DP697 (2011-JAN-24), and DP833 (2013-MAR-17).

Staff and the Design Advisory Panel (DAP) supported the original application, including the proposed variances, and recommend Council approve the Development Permit renewal.



- Council
- Committee.....
- Open Meeting
- In-Camera Meeting

Meeting Date: 2015-APR-20

**Subject Property**

Zoning	R8 – Medium Density Residential
Location	The vacant subject property is located north of the Prideaux Street, Barsby Avenue and Mill Street intersection. A park trail is located close to the bank of the Millstone River and travels through the north portion of the subject property Park. Park land was dedicated by the applicant to allow the park trail to be continuous and not need a right-of-way to go across the subject property.
Total Area	4,613m <sup>2</sup>
Official Community Plan (OCP)	Map 1 – Future Land Use Plan – Downtown Urban Node Map 3 – Development Permit Area DPA No. 1 – Watercourses; Development Permit Area DPA No. 9 – Commercial, Industrial, Institutional, Multiple Family and Mixed Commercial/Residential development.

**DISCUSSION:**

**Proposed Development**

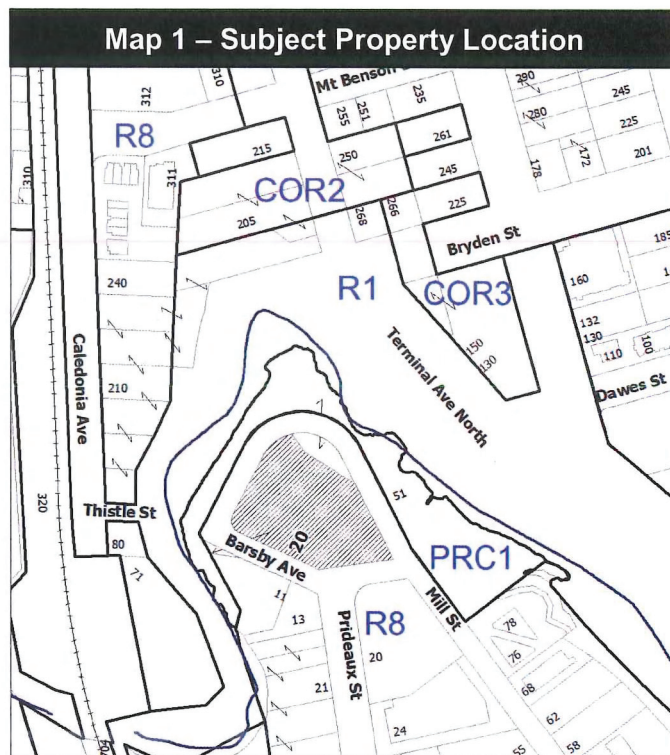
The proposed multi-family development is composed of 58 condo units. The unit configuration is as follows:

- 3 one-bedroom units; and
- 55 two-bedroom units.

All required parking (58 stalls) is provided underground in a parking facility designed for 70 parking spaces.

To provide for a strong street presence along Barsby Avenue, the building face is sited 3.05m (10 ft.) from the property line. Ground floor units have front doors on Barsby Avenue and the public trail way. A courtyard outside the front doors provides transition from the public to the private realm, as well as providing outdoor space for each unit with a south-west exposure. These southwest facing units, in particular, provide ‘eyes on the street’; a key principle of Crime Prevention through Environmental Design (CPTED). The underground parkade will be constructed to the property line requiring the yard setback to be reduced to 0m. The parkade structure is the foundation for the ground floor individual unit courtyards and a decorative concrete wall which creates a street edge punctuated with stairs to ground floor units.

The immediate neighbourhood has a mix of housing forms; traditionally designed single family dwellings and three and four storey flat roof apartments (built in the 1960’s). The design chosen is traditional; sloped roofs, gables, defined building base and significant architectural detailing. This well articulated design is complementary to building form found in the adjacent Old City neighbourhood.





### *Archaeological Review*

The subject property has an identified archaeological resource. Millennia Research Limited completed a site review with input from the Snuneymuxw First Nation and the Ministry of Forests, Lands, and Natural Resource Operations, Archaeology Branch. One area, with archaeological deposits was identified as a new archaeological site (DhRx-102). The shell midden deposit remains were found mixed with historic debris and none of the deposits were intact.

The Management Summary (Schedule L) recommends filling out a Section 12 Site Alteration Permit that will be required prior to any ground altering activities. This will include archaeological monitoring of the removal of an existing concrete slab, to confirm that the archaeological deposits under the slab are disturbed. In the event that intact archaeological layers are found under the cement slab, data recovery will take place in the form of hand excavated units of a sample of the areas of intact cultural layers. This data recovery procedure will be written into the Section 12 Permit.

### *Watercourse Setback*

As this application is being presented for renewal, a Riparian Areas Regulation (RAR) assessment was completed and accepted by the Ministry of Environment. The original Environmental Assessment had been completed in-house and prior to the Provincial RAR coming into effect.

### *Executive Summary*

The Qualified Environmental Professional (QEP) reviewed the application and site history and submitted an RAR assessment. The results of the assessment conclude the previously approved watercourse setback variance is consistent with current regulations and that the previously proposed restoration of the riparian vegetation meets with the City of Nanaimo's current requirement for habitat compensation.

### ***Proposed Variances***

- *Watercourse Setback (Millstone River)*

The required setback from top of bank is 30.0m. The setback will be reduced from 30.0m to 10.0m, a proposed setback variance of 20.0m.

The Millstone River moves through the subject property within a ravine. The subject property is approximately 30.0m above the river edge.

An area of 334.5m<sup>2</sup> between the Millstone River and the building footprint is dedicated as park. This allows a public walkway to parallel the subject property to the north and provide a vista of the river.

- *Required Front Yard Setback*

The required front yard setback is 1.8m. However, to accommodate the underground parking garage, which is at the property line below grade, the setback is varied to 0m, a

proposed setback variance of 1.8m. The portion of the building above grade is set back 3.05m from the road right-of-way.

- *Building Height Variance*

The maximum allowed building height is 14.0m. The applicant is proposing a height variance of 16.0m for the main roof structure and 16.5m for a small flat roofed architectural bay, a variance to the maximum height of 2.5m.

**DAP Recommendation**

The Design Advisory Panel, at its meeting held on 2006-DEC-07, approved the original DP432 with the following recommendations:

- *support for variances for height increase of 1.0m or more to increase main roof slope;*
- *increased roof pitches for the gabled bays;*
- *the main entrance extended and elevated, with consideration for a free standing structure at front entrance;*
- *an icon at Barsby Avenue and Prideaux Street.*

The applicant modified the plans to respond to the DAP recommendations.

Respectfully submitted,

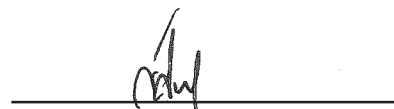


\_\_\_\_\_  
B. Anderson  
MANAGER  
PLANNING & DESIGN SECTION

Concurrence by:



\_\_\_\_\_  
D. Lindsay  
DIRECTOR  
COMMUNITY DEVELOPMENT



\_\_\_\_\_  
T. Seward  
ACTING GENERAL MANAGER  
COMMUNITY DEVELOPMENT &  
PROTECTIVE SERVICES

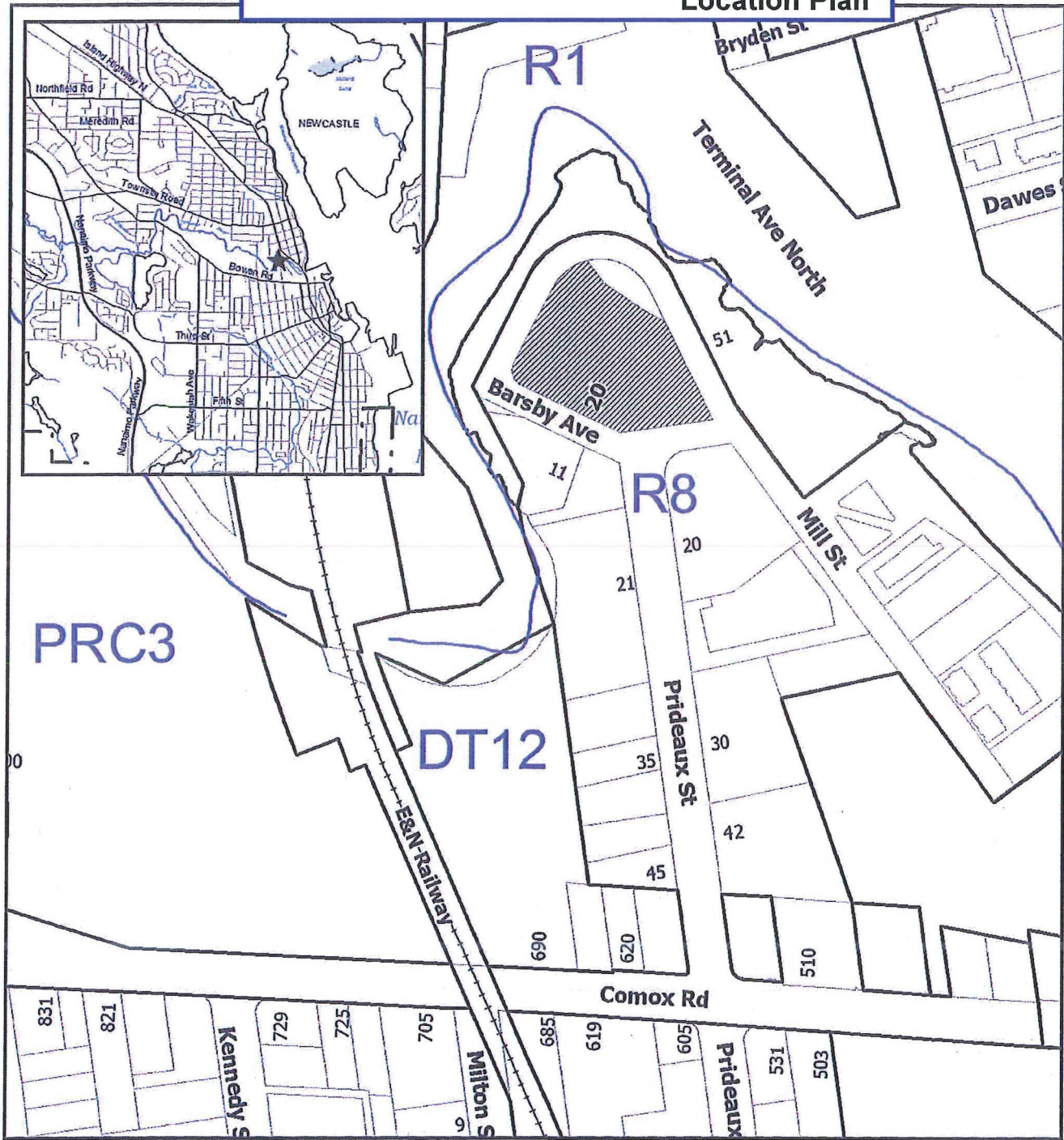
**CITY MANAGER COMMENT:**

I concur with the staff recommendation.

Drafted: 2015-MAR-24  
Prospero attachment: DP000922  
GN/lb



Development Permit DP000922      Schedule A  
 20 Barsby Avenue      Location Plan



DEVELOPMENT PERMIT NO. DP000833



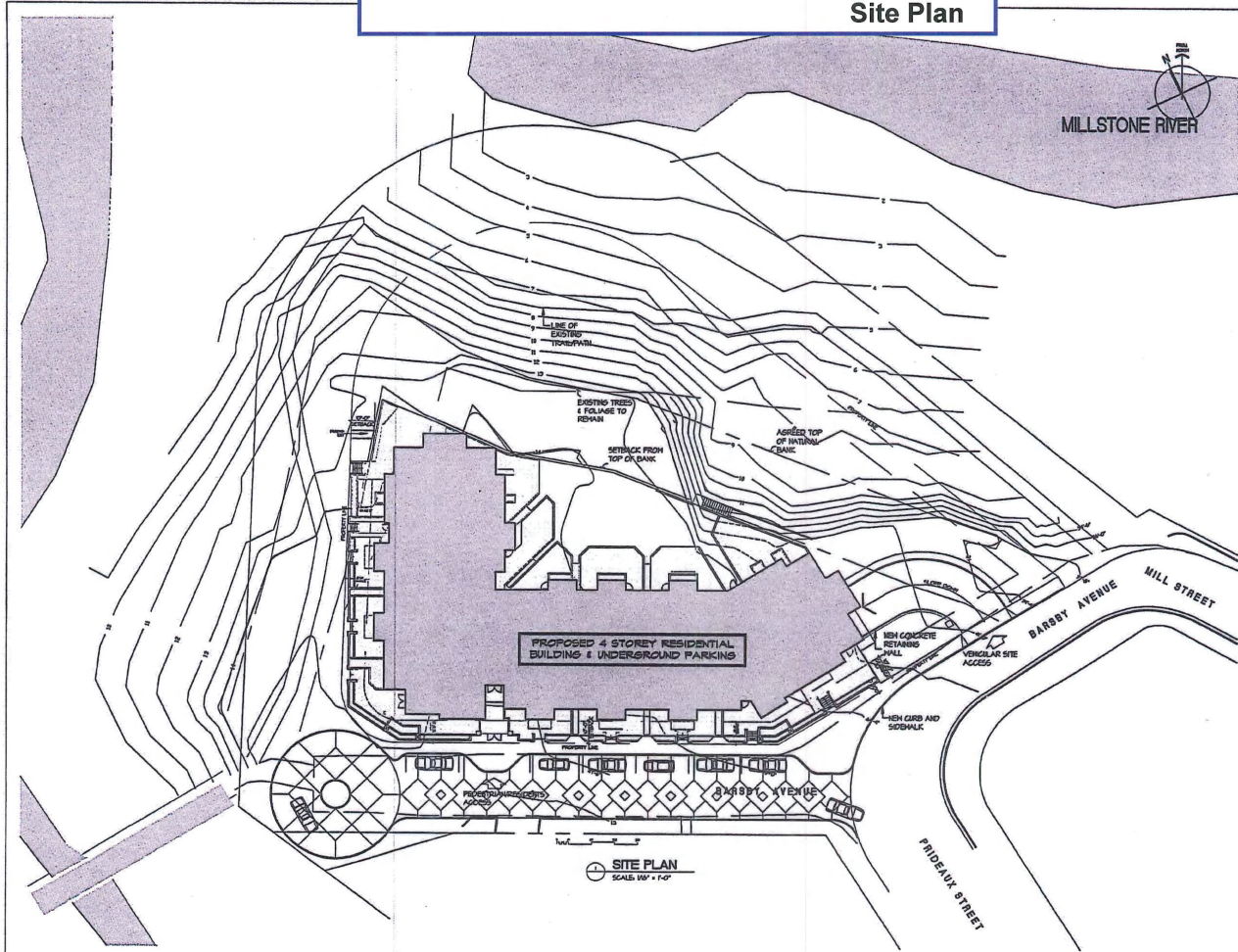
**LOCATION PLAN**

Civic: 20 Barsby Avenue  
 Lot A and B, Section 1, Nanaimo District, Plan 5106,  
 Except that part in Plan VIP82971

 **Subject Property**

Development Permit DP000922  
20 Barsby Avenue

Schedule B  
Site Plan



NO. 100  
100-1000  
100-10000

NOV 16 2008  
10:23am  
100-10000

NOV 16 2008  
10:23am  
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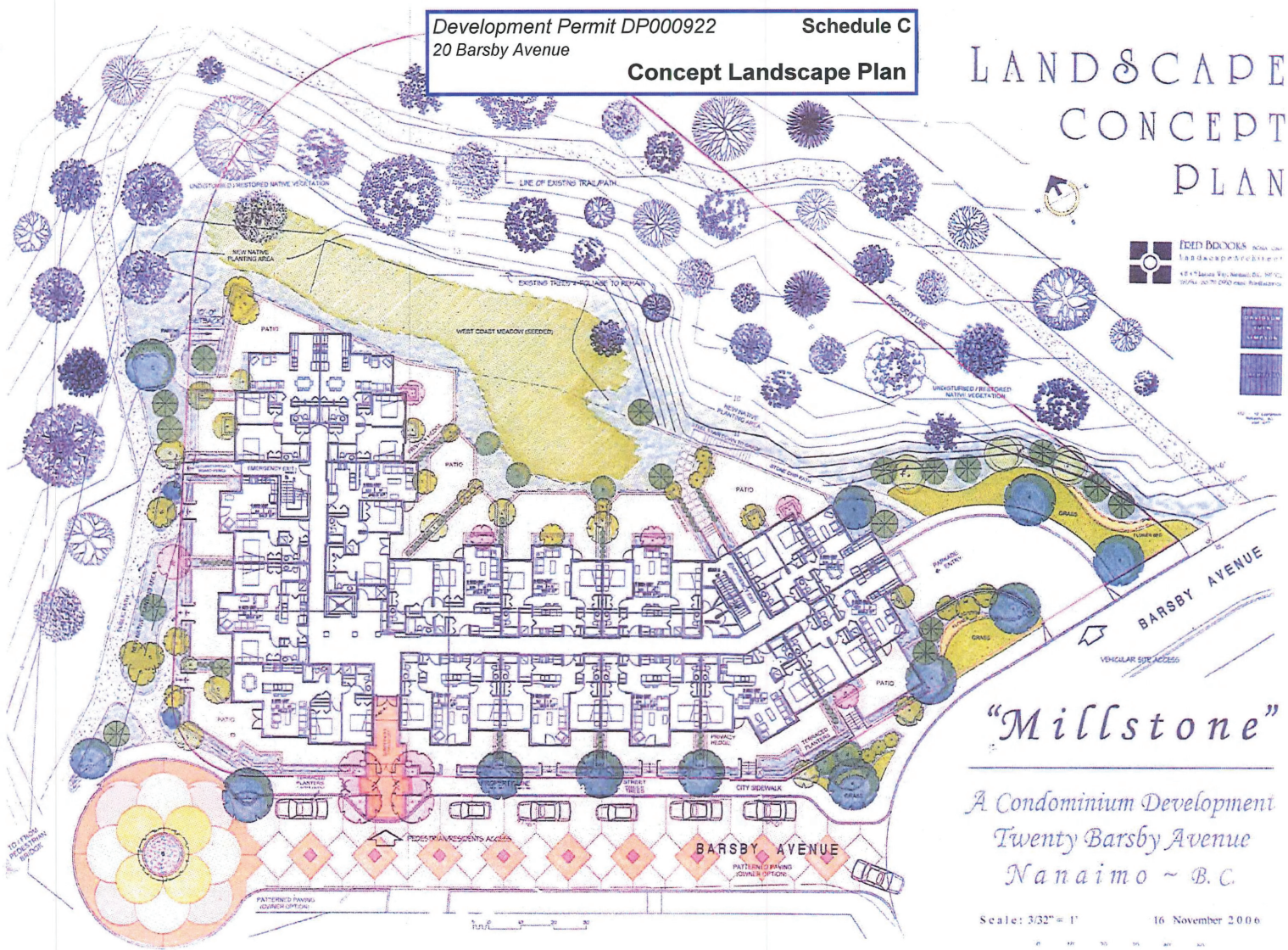
PLOT STAMP: Nov 16, 2008 - 1:23pm NV-DISA-N Projects\1000001 Stelmachuk - 20 Barsby\1-CAD - DP\CAD\_DP-02\_OCT\_2008\1000001-sp CHK Update 061030.dwg (P.S.HWP)-



Development Permit DP000922      Schedule C  
 20 Barsby Avenue      **Concept Landscape Plan**

# LANDSCAPE CONCEPT PLAN

**FRED BOOKER** BCMA Lic. 10000  
 Landscape Architect  
 4181 Janszky Way, Nanaimo, BC V9Y 1G2  
 (250) 754-0000 Fax: (250) 754-0001



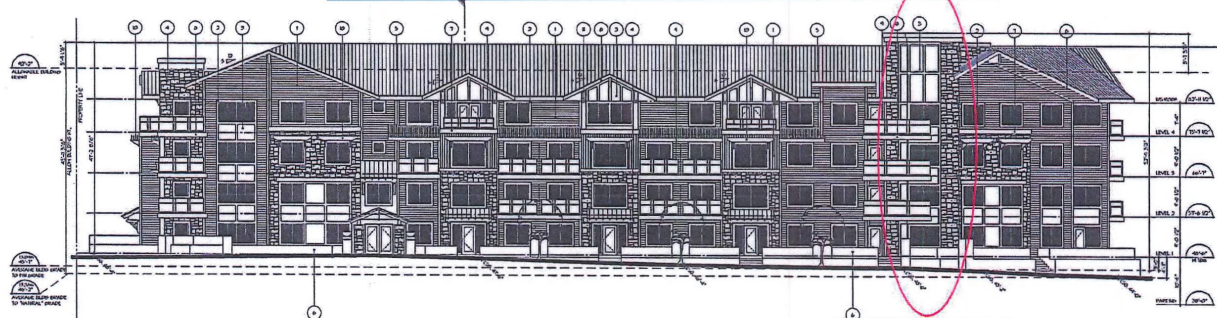
*"Millstone"*

A Condominium Development  
 Twenty Barsby Avenue  
 Nanaimo ~ B.C.

Scale: 3/32" = 1'      16 November 2006

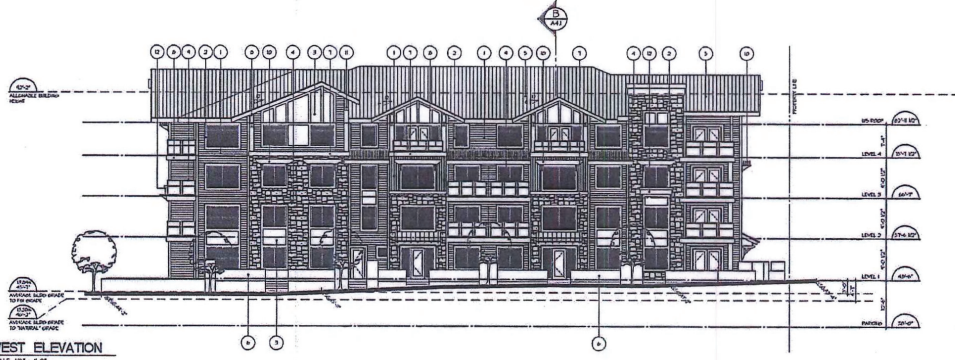


Development Permit DP000922 Schedule D  
 20 Barsby Avenue  
**ELEVATIONS, South & West**



SMALL FLAT ROOFED ARCHITECTURAL BAY

**SOUTH ELEVATION - BARSBY AVENUE**  
 SCALE: 1/8" = 1'-0"



**WEST ELEVATION**  
 SCALE: 1/8" = 1'-0"

PROVIDED	
1	WOOD SHINGLES
2	WOOD SHINGLES
3	CORNERED BOARD
4	LOCAL WOOD VENEER
5	WOOD SHINGLES
6	WOOD SHINGLES
7	RED OAK CONCRETE CAP
8	WOOD FINISH
9	RED FINISHED BRICK
10	WOOD SHINGLES
11	ARTICULATED WOOD SHINGLES
12	WOOD SHINGLES
13	WOOD SHINGLES

**DAVIDSON**  
 ARCHITECTS  
 10750 166th Street, Surrey, BC V4N 1Y4  
 TEL: 604-273-1111  
 FAX: 604-273-1112

**NOTES:**  
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE BC BUILDING CODE AND ALL APPLICABLE REGULATIONS.  
 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE BC BUILDING CODE AND ALL APPLICABLE REGULATIONS.  
 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE BC BUILDING CODE AND ALL APPLICABLE REGULATIONS.

**PROJECT NAME:**  
 BARSBY AVENUE RESIDENTIAL PROJECT  
 NANAIMO, BC

**DATE:** 16 NOV 2005  
**SCALE:** 1/8" = 1'-0"  
**PROJECT NUMBER:** 10255001

**ELEVATIONS**

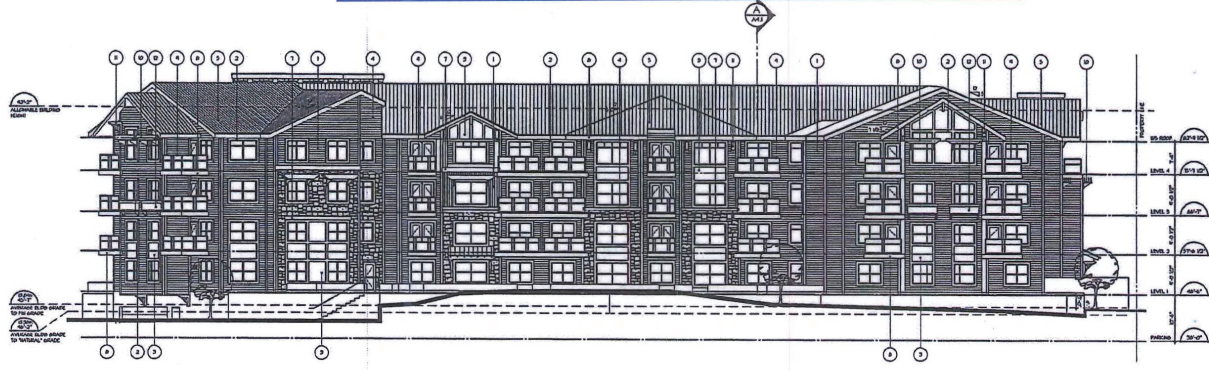
PL07 5340P: Jan 26, 2007 - 3:04pm \\S:\0758-03 Projects\10255001 Steelmesh - 20 Barsby\CO - DP\000922\10255001-lev 6-12 Pln.dwg (P.S.W.D.)



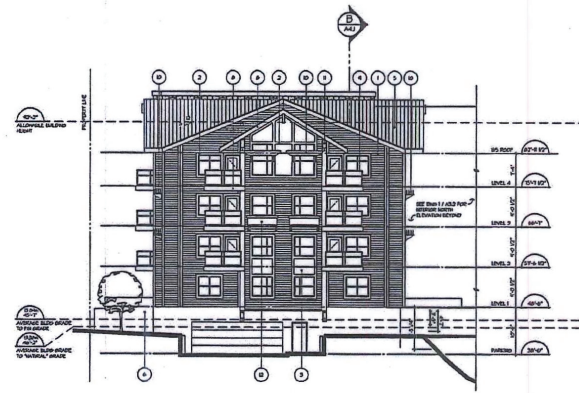
Development Permit DP000922  
20 Barsby Avenue

Schedule E

ELEVATIONS, North & East



NORTH ELEVATION  
SCALE: 1/8" = 1'-0"



EAST ELEVATION  
SCALE: 1/8" = 1'-0"

DAVIDSON  
VON  
ELFRUN  
ARCHITECTS

107 - 1000  
107-1000  
107-1000

- 1. 1/8" = 1'-0" SCALE FOR DEVELOPMENT PERMIT APPLICATION
- 2. 1/8" = 1'-0" SCALE FOR APPROVED ROOF PLAN

PROJECT TITLE  
BARSBY AVENUE  
RESIDENTIAL  
PROJECT  
NANAIMO, BC

ELEVATIONS

- FINISHES
- 1. INTERLOCKING CLAY TILE
  - 2. BRICK
  - 3. CONCRETE
  - 4. LOCAL STONE VENEER
  - 5. EXTERIOR STAIN PINE
  - 6. SANDBLASTED CONCRETE
  - 7. FIRE RATED GARBAGE CAP
  - 8. ROOF FINISH
  - 9. FINE WOOD TRIM
  - 10. PAINTED ALUMINUM
  - 11. PAINTED WOOD
  - 12. PAINTED WOOD
  - 13. PAINTED WOOD
  - 14. PAINTED WOOD

DATE: 16 NOV 2006  
SCALE: 1/8" = 1'-0"  
PROJECT NUMBER: K200003

PROJECT NUMBER: K200003  
A3.2

PLAT STAMP: Jan 26, 2007 - 3:55pm N:\-D12-N Projects\K200003 Steelmasshuk - 20 Barsby\CAD - DP\DP Revision\K200003-conv E-12 Plot.dwg (P.1/10)

Development Permit DP000922  
20 Barsby Avenue

Schedule F

**Trail Location & Area  
for Park Dedication**

NORTH  
↑

Existing Path

**AREA  
OF  
DEDICATION**


Area 334.5m<sup>2</sup>

CURRENT AREA  
4606.5

CURRENT LESS DEDICATION =  
4272.2m<sup>2</sup>

ALLOWABLE (1.5FSR) = 6408.3m<sup>2</sup>  
PROPOSED DEVELOPMENT = 5309.0m<sup>2</sup>

This is Schedule F referred to in the  
Development Permit.

  
Manager of Legislative Services

2011- JAN - 26  
Date

**BARSBY AVENUE**

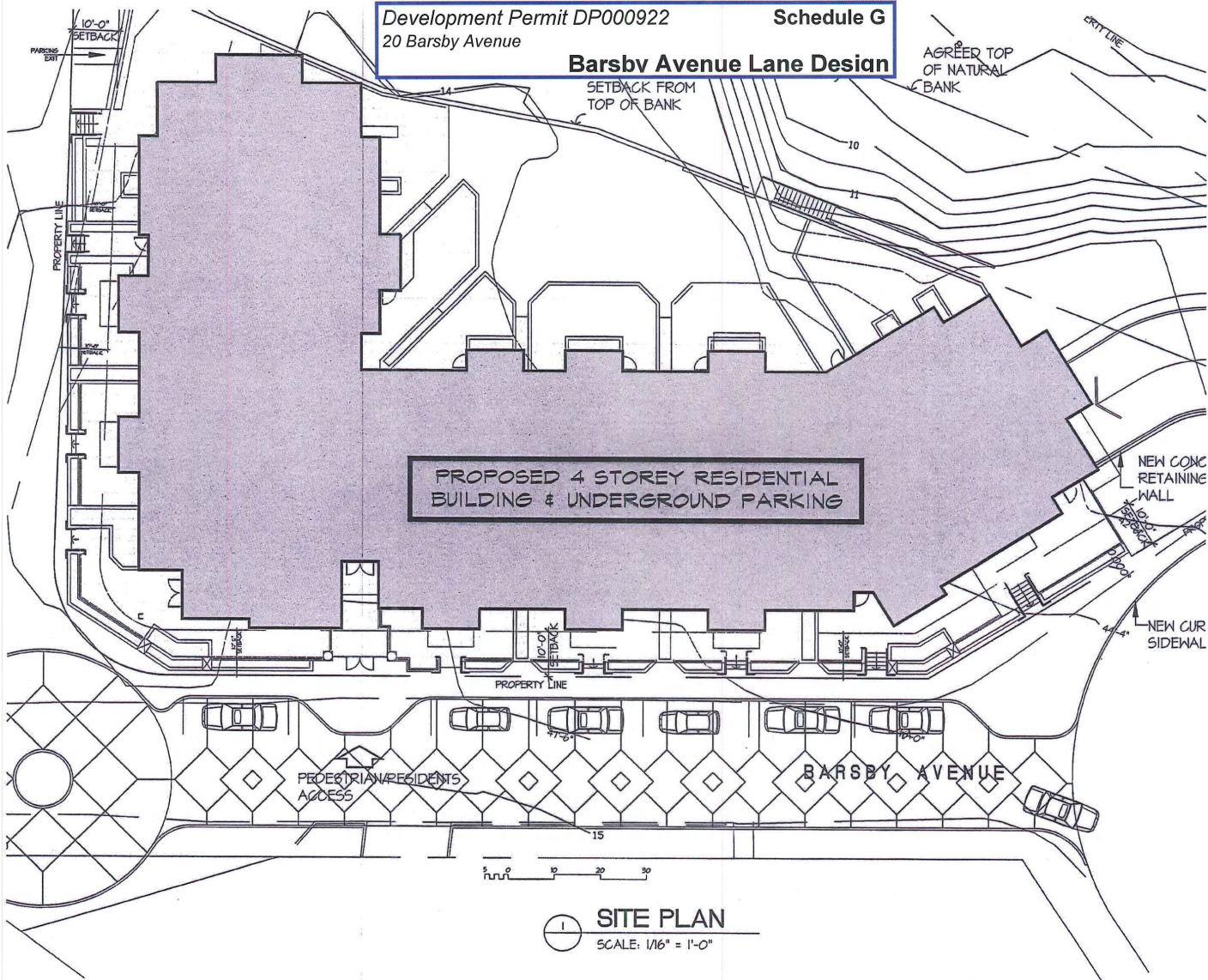


Development Permit DP000922  
20 Barsby Avenue

Schedule G

**Barsby Avenue Lane Design**

PROPOSED 4 STOREY RESIDENTIAL BUILDING & UNDERGROUND PARKING



Development Permit DP000922  
20 Barsby Avenue

Schedule H  
Height Survey

Plan of proposed building on:

Lot A, Section 1, Nanaimo District,  
Plan 5106.



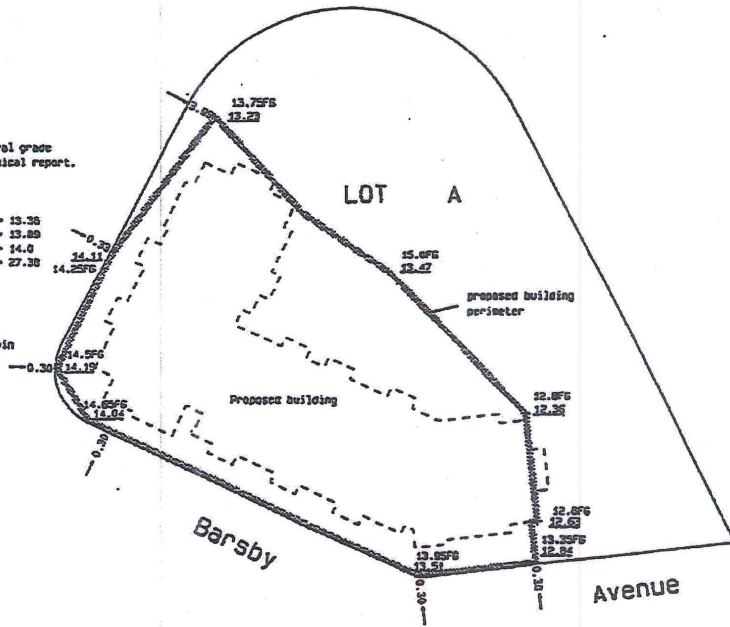
SCALE 1 : 500  
0 5 10 15 20  
All distances are in metres.

Underlined elevations are natural grade  
derived from Lenkovich Geotechnical report.  
Elevations are geosetic.

The average of the 9  
underlined elevations = 13.36  
the average finished grade = 13.89  
allowable building height = 14.0  
maximum building elevation = 27.38

Proposed main floor = 14.78  
Proposed roof = 29.14  
Variance required = 1.76

B.C.L.S. has been retained to pin  
foundation location.



W.R. Hutchingson  
Land Surveying Ltd.  
512 Kentworth St.,  
Nanaimo, B.C.  
V9R 3E4  
753-2921



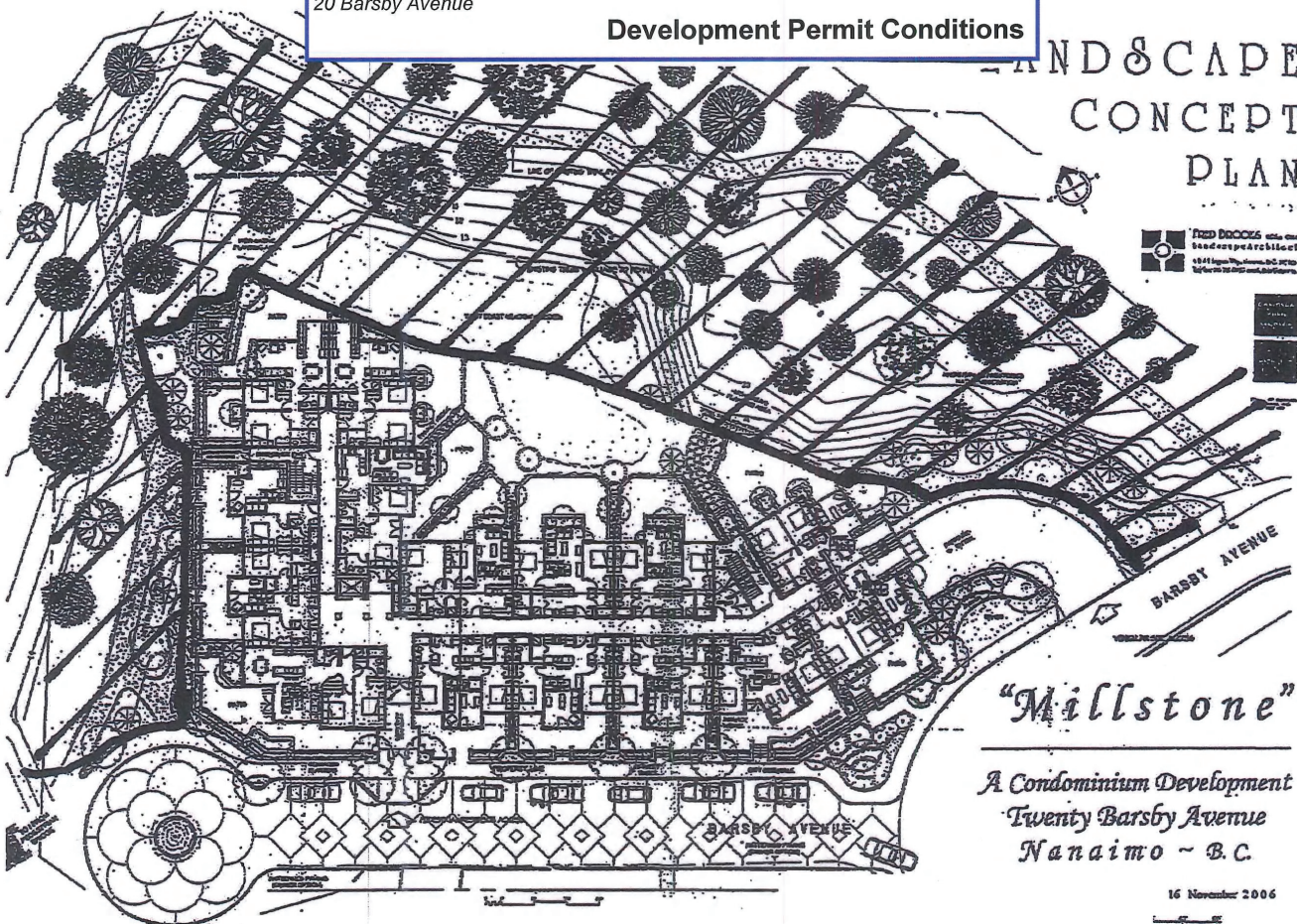
Development Permit DP000922  
20 Barsby Avenue

Schedule I

Development Permit Conditions

LANDSCAPE  
CONCEPT  
PLAN

FRED BROOKS ARCHITECT  
Landscape Architect  
1941 Highway 10, Nanaimo, B.C. V9T 1G7  
Tel: 250-754-2222 Fax: 250-754-2223



*"Millstone"*

A Condominium Development  
Twenty Barsby Avenue  
Nanaimo - B.C.

16 November 2006



Area of Native Plantings



## Remediation Conditions

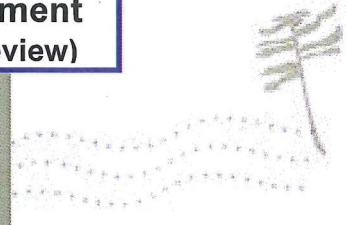
### DEVELOPMENT PERMIT NO DP000922 CONDITIONS

1. The standards for sediment and erosion control outlined in the jointly published BC Environment/Fisheries and Oceans Canada, *Land Development Guidelines for the Protection of Aquatic Habitat* and the City of Nanaimo, *Erosion and Sediment Control Guidelines* must be adhered to.
2. Prior to commencement of construction activities, a snow fence (1.2 m high and orange in color) will be erected along the setback line from the top of the bank of the Millstone River. The fence is to ensure that there are no construction activities within the setback area.
3. Cedar posts (6" x 6") are to be installed every 20 m along the aquatic setback line from the Millstone River, to which signs (provided by the City) identifying the area beyond as environmentally sensitive are to be attached.
4. The area within the setback, as shown on Schedule I, will be replanted with native vegetation at the densities recommended by the Ministry of Environment (approximately one (1) plant per m<sup>2</sup>).
5. The planting medium for the riparian restoration is to be tested and will meet the parameters defined in the MMCD Red Book, Section 02921. The planting medium will be a minimum depth of 250 mm or a combination of high quality top soil and blown composted wood mulch.
6. The drive isle access to the underground parking is to be constructed of pervious material.
7. The two trail way staircases are to be reconstructed.
8. A construction agreement and security for the completion and maintenance for 3 years of the landscape restoration and Revegetation Management Plan (Chatwin Engineering February 2007) is required to be submitted before the building permit is issued.

**Environmental Assessment  
(Watercourse Setback Review)**



**Aquaparian**  
ENVIRONMENTAL CONSULTING



February 6, 2015

P3 International Trade and Investments Inc.  
2518 Hyatt Place  
Abbotsford BC, V2S 5C7  
C/O  
Bill Stelmaschuk

Via E-mail: [stelwi@gmail.com](mailto:stelwi@gmail.com)

**RE: WATECOURSE SETBACK REVIEW  
DEVELOPMENT PERMIT WITH VARIANCE EXTENSION  
20 BARSBY AVE, NANAIMO BC**

## 1.0 INTRODUCTION

Aquaparian Environmental Consulting Ltd (Aquaparian) was retained by you to complete a brief review of a previously approved City of Nanaimo Development Permit (DP) with Variance (No. DP000833), to support an extension of the DP. Aquaparian understands the original environmental assessment to determine the watercourse setback for the proposed development was completed prior to the provincial Riparian Areas Regulation (RAR) coming into effect. The purpose of this review was to determine if the watercourse setback variance is consistent with current regulations and bylaws.

Aquaparian is familiar with the subject parcel having conducted RAR assessments on the adjacent parcels of land. In preparation of this letter report, Aquaparian reviewed the No. DP000833 document, site plans and Google Earth images of the site.

## 2.0 METHODOLOGY

The City of Nanaimo's Development Permit Area (DPA) for Watercourse Protection was first established in 1996 prior to the RAR being enacted. The DPA setbacks were based on the previous *Fish Protection Act* and Streamside Protection Regulations to protect environmentally sensitive riparian buffers adjacent to watercourses. The DPA boundaries are measured horizontally from the **Top of Bank** and are determined based on the width of the stream i.e. larger significant fish bearing streams were given a 30m setback from the top of bank, smaller fish bearing streams were given a 15m setback from the top of bank and very small non-fish bearing streams were given a 7.5m setback from the top of bank. The City of Nanaimo was one



of the first municipalities to create such DPAs and set an example for other communities to follow.

The RAR was enacted in 2004 and is governed through the Municipal Act. As such municipalities in the affected areas were required to create riparian DPAs to meet the RAR requirements. When the RAR was brought into effect, the City of Nanaimo's watercourse DPAs were deemed to "meet or beat" the RAR requirements.

The RAR requires any development activity or subdivision within 30m of the top of bank of a watercourse, or top of ravine bank for small ravines and 10m for large ravines, to be assessed using the RAR's Detailed Methodology to calculate protective setbacks called the Streamside Protection and Enhancement Area (SPEA). Measures to protect the SPEA during and after construction are also outlined in the assessment report. The resultant SPEA is measured horizontally from the High Water Mark of the watercourse.

Under the current protocol for the City of Nanaimo, if a development is proposed within the DPA, it triggers a RAR assessment to be completed using the detailed methodology to determine if the setback can be reduced. In some cases the DPA boundary is the same as the calculated SPEA; sometimes the SPEA allows for a reduced setback. The difference is a result of the distance between the high water mark and the top of bank. Reduction of the DPA setback to the calculated SPEA provides for a DP with Variance to occur in compliance with provincial regulation.

This process is similar to the process that was followed for the subject property's variance that resulted in a setback of 10m from the top of bank as determined by the City of Nanaimo's Environmental Coordinator at that time under the regulations in place at that time. This setback is currently approved until the permit expires.

Based on previous analysis of this section of the Millstone River by Aquaparian, the SPEA for the south bank of the stream will be approximately 30m from the high water mark. This roughly coincides with the current setback of 10m from the top of bank because this section of the stream is a ravine with a long slope between the stream and top of bank.

Recent amendments to the City's variance process have included the requirement of habitat compensation to offset the reduction in watercourse setback. This project included granting a portion of the lot within the riparian area to the City to be included in Barsby Park where a portion of the public walkway is located. In addition, the footprint of the proposed development is located within a previously impacted area that is currently paved. This section of the Millstone River has a long history of industrial impacts and neglect. The riparian area is overgrown with invasive plant species such as English Ivy, Himalayan blackberry and spurge laurel. The landscape plan prepared for this development will provide for a significant improvement over existing conditions.

Finally, development of this site with the proposed plan is likely to provide an additional benefit to the neighbourhood as the site has had a history of undesirable activities due to its location on a dead-end road.

### **3.0 CONCLUSION**

In conclusion, Aquaparian supports the renewal of this DP with a Variance. It is our opinion that the 10m setback from the top of bank, proposed landscape plan and park dedication are consistent with current regulations and City procedures for riparian protection. If the development proceeds as per requirements identified in the DP and current Best Management Practices for urban development, no negative impacts to the Millstone River or the riparian area are anticipated.

Aquaparian trusts that the information provided in this letter report meets your requirements. Should you have any questions or comments regarding information provided in this document, please contact the undersigned at (250) 591-2258.

Sincerely,

**AQUAPARIAN ENVIRONMENTAL CONSULTING LTD**

**ORIGINAL SIGNED**

Sarah Bonar, R.P.Bio  
Senior Biologist / Principal

Z:\Projects\Projects\N139 Barsby Ave\20 Barsby Ave.doc



## Management Summary

Millennia Research Ltd. was contracted by Kirk Stelmaschuk of P3 International Trade and Development Ltd. to conduct an archaeological impact assessment (AIA) for their proposed multi-family residential building and an underground parking facility on a 0.46 hectare parcel of land at 20 Barsby Avenue in the City of Nanaimo, 500 m northwest of the intersection of Island Highway North and Comox Road (*Figure 1*)

The study area is located within the traditional territory of the *Snuneymuxw* First Nation. Denise White of the *Snuneymuxw* First Nation assisted Darcy Mathews and Drew Pawlowski of Millennia Research with the fieldwork on the 8<sup>th</sup> of August 2006 and additional fieldwork on August 18<sup>th</sup> 2006.

The entire development area was visually assessed by the archaeological team, focusing especially on the back edge of the property along the top of the riverbank slope and along the Millstone trail, checking all exposures along the bank. The visual assessment was complemented by judgementally placed shovel tests that were used to identify buried cultural matrices and materials, and backhoe testing to test areas that could not be successfully shovel tested.

One area with archaeological deposits was identified as a new archaeological site: DhRx-102. A total of 20 shovel tests were excavated during the AIA (2 positive and 18 negative shovel tests) with an additional 11 backhoe tests, of which 6 were positive.

The prehistoric shell midden archaeological remains were found mixed with historic debris and are none of the deposit was found intact. The site has a very low scientific significance.

Recommendations included filing a Section 12 Site Alteration Permit that will be required prior to any ground altering activities. This will include archaeological monitoring of the removal of the western cement slab to confirm that the archaeological deposits under the slab are disturbed. In the unlikely event that intact archaeological layers are found under the cement slab, data recovery will take place in the form of hand excavated units of a sample of the areas of intact cultural layers. This data recovery procedure will be written into the section 12 permit.



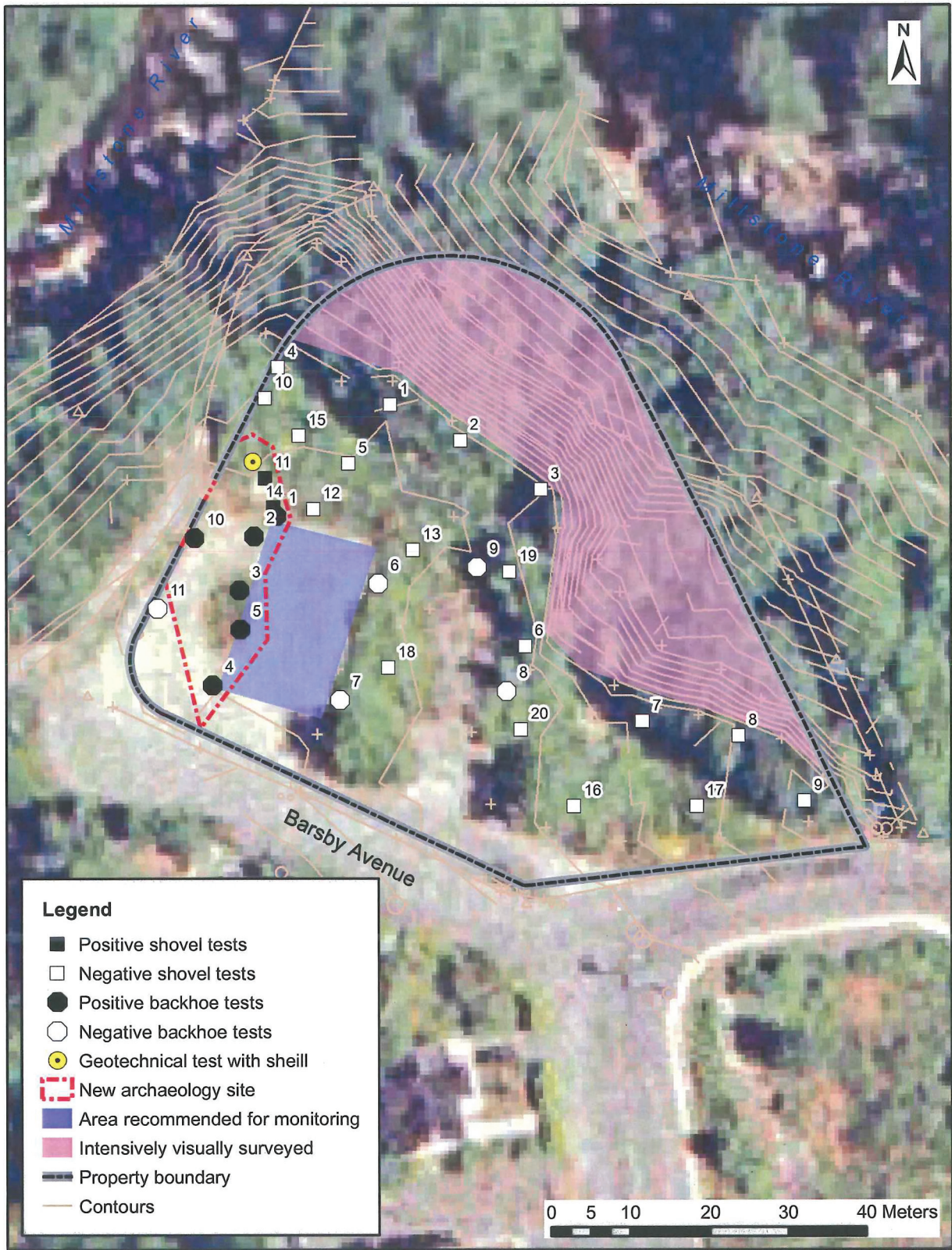


Figure 4. Map of project area showing test locations and archaeological site DhRx-MR1.



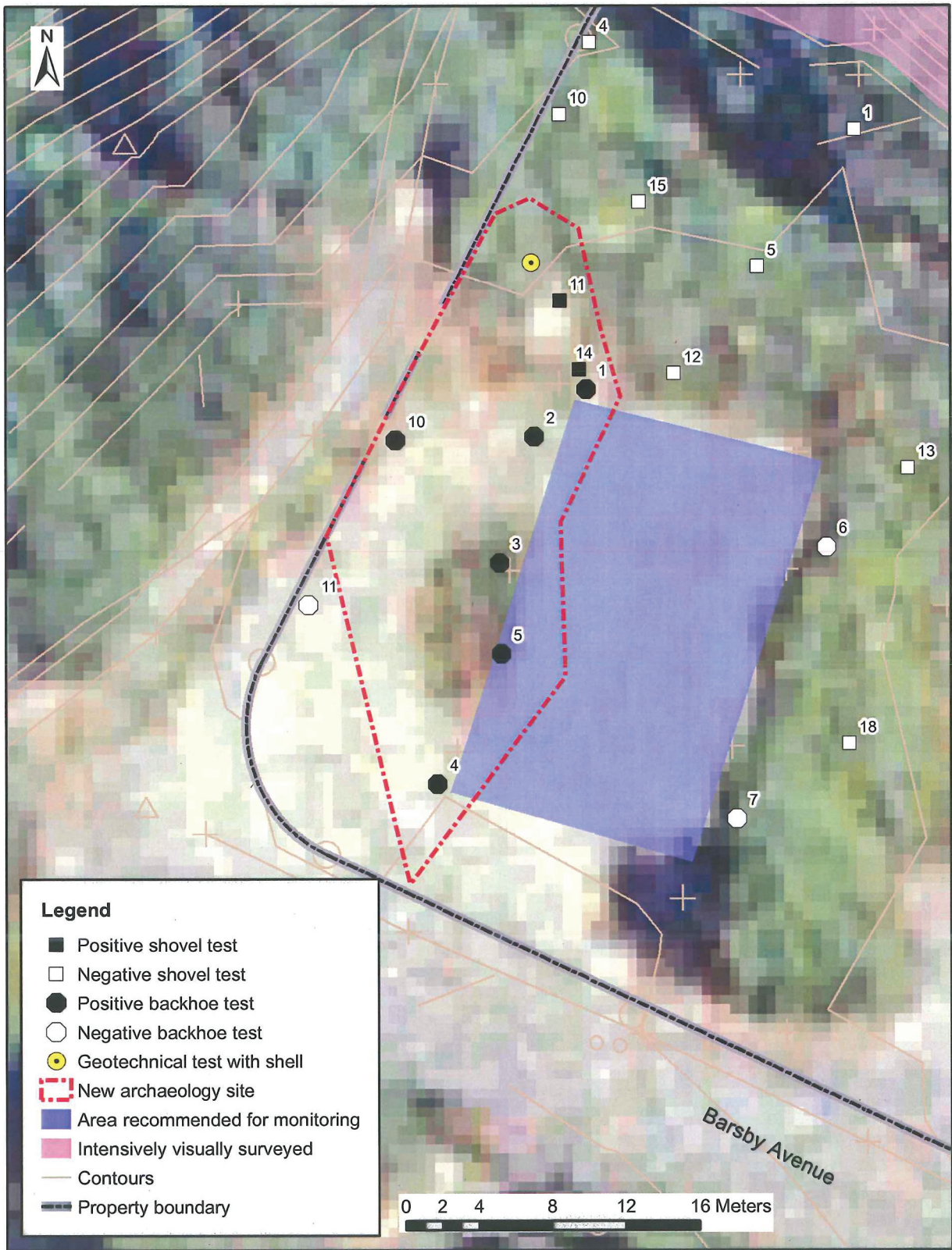


Figure 5. Area one detailed map showing positive tests and boundaries of site.