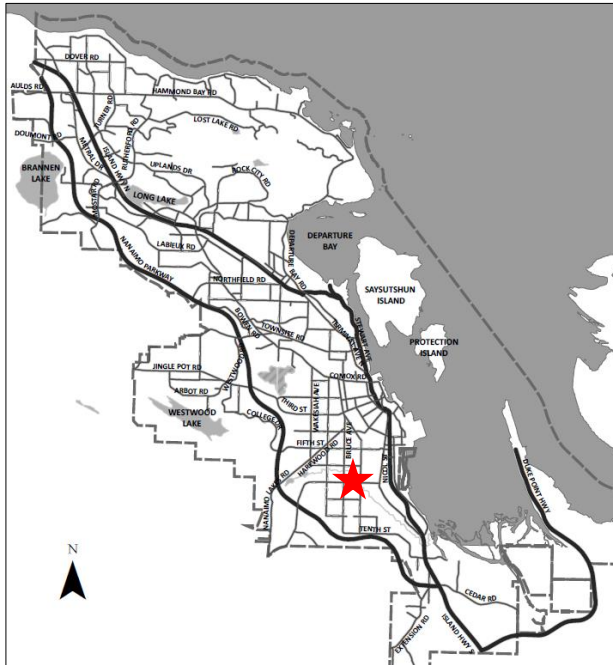


DATE OF MEETING | September 25, 2023

AUTHORED BY | PAYTON CARTER, PLANNER, CURRENT PLANNING

SUBJECT | DEVELOPMENT PERMIT APPLICATION NO. DP1308 – 855 DOUGLAS AVENUE



Proposal:

Proposed encroachment into Watercourse Leave Strip.



Zoning:

R1 - Single Dwelling Residential

City Plan Land Use Designation:

Suburban Neighbourhood

Development Permit Areas:

DPA1: Environmentally Sensitive Areas

Lot Area:

1,858m²



OVERVIEW

Purpose of Report

To present for Council's consideration a development permit application to vary the watercourse leave strip for a proposed detached secondary suite at 855 Douglas Avenue.

Recommendation

That Council issue Development Permit No. DP1308 for a proposed detached secondary suite within the watercourse leave strip at 855 Douglas Avenue with a variance as outlined in the "Proposed Variance" section of the Staff Report dated 2023-SEP-25.

BACKGROUND

A development permit application, DP1308, was received from Lindsay and Dianna Fitzgerald to allow a proposed detached secondary suite on the subject property with a variance to reduce the required watercourse leave strip.

This development permit application was considered by Council on 2023-AUG-28 and denied with the following resolution being passed:

"that Development Permit Application No. DP1308 be denied for the reasons that the principle of net gain has not been demonstrated and the required reporting has not been submitted."

The applicant has submitted additional information and clarification to demonstrate how the proposal addresses the principle of net gain and the proposed Permit Terms and Conditions have been revised accordingly.

Subject Property and Site Context

The subject property is located at the corner of Douglas Avenue and an undeveloped portion of Eighth Street, on a lot that borders the Chase River. The property is situated at the top of a steep, forested ravine of the Chase River. The entire property is located within Development Permit Area DPA1 – Environmentally Sensitive Areas, which extends 30m from the top of ravine bank across the property and into Douglas Avenue. Approximately 570m² of the lot area is level and suitable for development between the top of the ravine and the front lot line. An existing dwelling, and an accessory shed to be removed, are currently located within the existing historically cleared area suitable for development. A development permit is required to allow the proposed detached suite within the DPA, and watercourse leave strip.

DISCUSSION

Proposed Development

The applicant proposes to construct a two-storey detached secondary suite with the closest point, the southwest corner, being 4.5m from the top of bank of the Chase River. The footprint of the proposed detached secondary suite is 45m² with a total gross floor area of 89m².

Chase River is a major fish-bearing stream, as such, the Provincial Riparian Areas Protection Regulation (RAPR) applies to this watercourse. The property is also subject to the City's Development Permit Area DPA1 – Environmentally Sensitive Areas, which applies to the riverbed and all area within 30m of the top of bank.

To address the DPA guidelines, the applicant submitted an Environmental Assessment prepared by a Qualified Environmental Professional (QEP). The report confirmed that the Streamside Protection and Enhancement Area (SPEA), as defined by the RAPR, is 30m from the natural boundary of Chase River, located mid-slope up the ravine. The City's required leave strip is measured from the top of bank and extends well beyond the SPEA boundary and across the entire property into the road. The proposed leave strip (4.5m from top of bank) is more than 30m horizontally from the SPEA boundary; therefore, the SPEA would not be reduced by the proposed watercourse leave strip variance.

The QEP concluded that the large, forested ravine that provides excellent quality fish and wildlife habitat will remain undisturbed and nothing of ecological value will be lost or negatively impacted by the proposed development. The QEP further noted that the area proposed for development within the DPA has no wildlife or habitat value and contains no environmentally sensitive features.

While there is limited benefit to enhancing the ecological value of the portion of the property outside of the ravine, the property owner has committed to removing invasive species and replanting an area of 166m² adjacent to the ravine from existing lawn to natural habitat by planting native species and seeds, as shown on Attachment F. Where possible, the plantings will include species that are supportive of pollinators. When the enhancement is complete, the replanted area will be approximately four times the size of the footprint of the proposed detached secondary suite. Staff have reviewed and accepted the QEP's observations and conclusions.

In addition, the City has received a letter of support for the proposed variance from the Nanaimo & Area Land Trust (NALT) (Attachment G).

A geotechnical report was also submitted. The proposed detached secondary suite is located outside the geotechnical setback, and the engineer confirmed the property is safe and suitable for the intended residential use, provided the recommendations of the geotechnical report are followed. The geotechnical report will be registered as a covenant through the building permit process.

The proposed development meets the development permit area guidelines and demonstrates improved site conditions that will protect the high value riparian habitat (ravine) and achieve a net gain in the quality and quantity of functional habitat over existing conditions.

Proposed Variances

Watercourse Leave Strip

The required watercourse leave strip is 30m as measured from the top of bank. The proposed watercourse leave strip is 4.5m from the top of bank. This represents a variance of 25.5m.

The proposed variance will allow the removal of existing structures within the leave strip and enhancements to an existing property that is located entirely within DPA1. Site conditions will be

improved following the removal of the existing accessory building, which is currently constructed within the geotechnical setback. There is low ecological value in the area proposed for construction. The QEP concluded that no negative impacts are anticipated with the proposed development as the steep forested ravine, which provides fish and wildlife habitat, will remain intact and the risk of release of sedimentation or deleterious substances into the SPEA is very low and can be managed with standard protection measures during construction.

Staff support the proposed variances.

SUMMARY POINTS

- Development Permit Application No. DP1308 requests the watercourse leave strip be reduced from 30m to 4.5m to allow the construction of a detached secondary suite.
- This application was considered by Council on 2023-AUG-28 and was denied as the principle of net gain was not demonstrated and the required reporting was not submitted to address the applicable (DPA) guidelines, however, additional information and clarification has been provided to demonstrate how the proposed addresses the principle of net gain.
- The proposed development is located outside of the 30m SPEA.
- The QEP concluded that the large, forested ravine that provides excellent quality fish and wildlife habitat will remain undisturbed and nothing of ecological value will be lost or negatively impacted by the proposed development.
- The development permit application meets the development permit area guidelines and achieves improved site conditions and a net gain in the quality and quantity of functional habitat over existing conditions.

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Subject Property Map
ATTACHMENT C: Site Survey
ATTACHMENT D: Environmental Assessment
ATTACHMENT E: Building Elevations
ATTACHMENT F: Proposed Areas of Restoration
ATTACHMENT G: Letter of Support from NALT

Submitted by:

Lainya Rowett
Manager, Current Planning

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
General Manager, Development Services
/ Deputy CAO

ATTACHMENT A PERMIT TERMS AND CONDITIONS

TERMS OF DEVELOPMENT PERMIT

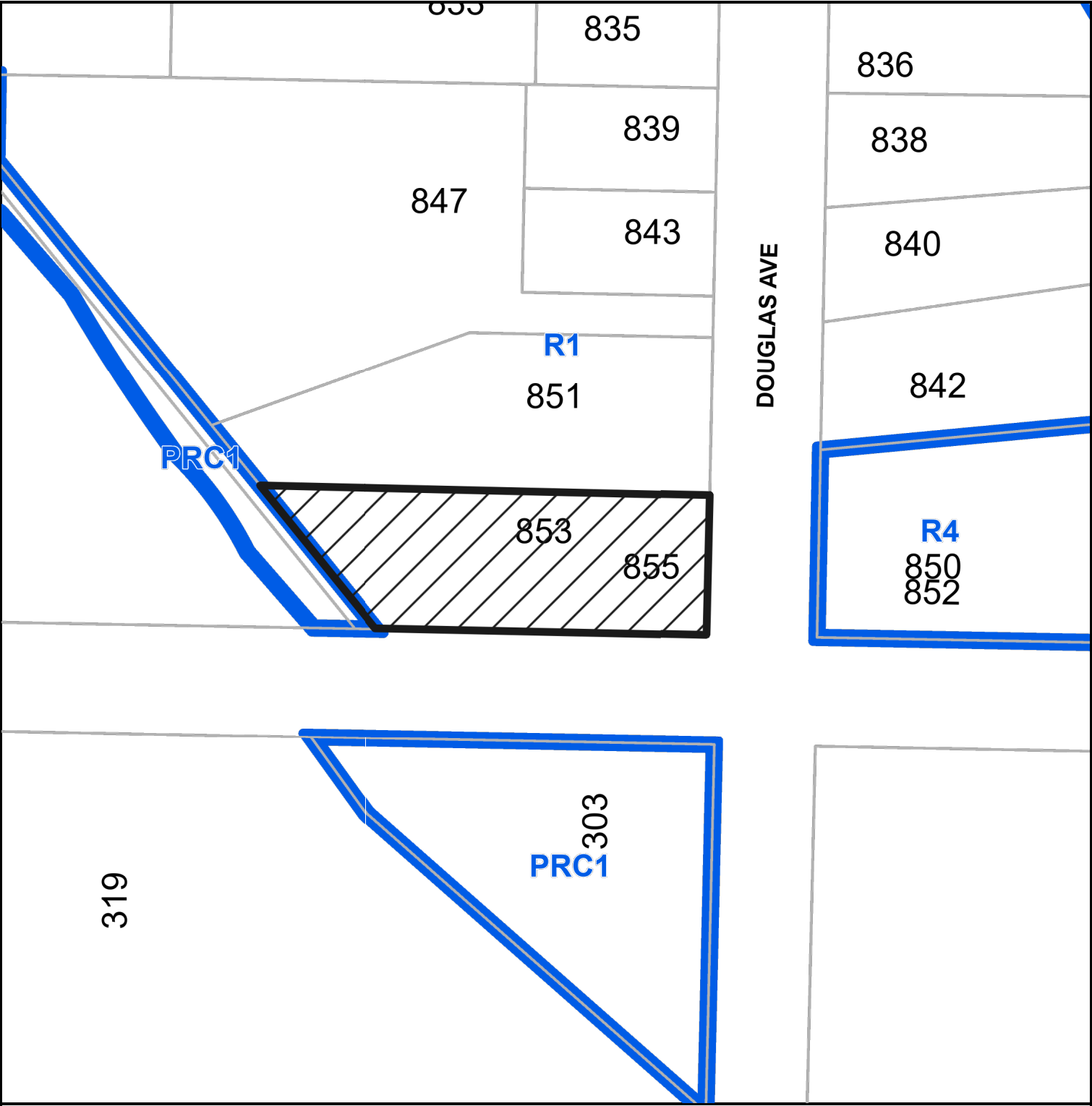
The “City of Nanaimo Bylaw 2011 No. 4500” is varied as follows:

1. *Section 6.3.1.1 Location and Siting of Buildings and Structures to Watercourses* to reduce the minimum required watercourse setback from Chase River from 30m to 4.5m to allow a detached secondary suite.

CONDITIONS OF PERMIT

1. The subject property shall be developed in accordance with the Site Survey prepared by Bennett Land Surveying Ltd, dated 2023-APR-04.
2. The subject property shall be developed in accordance with Environmental Assessment prepared by Aquaparian Environmental Consulting Ltd., dated 2023-SEP-01.
3. Site restoration shall be completed in accordance with the Proposed Areas of Restoration Plan, as shown on Attachment F.

ATTACHMENT B
SUBJECT PROPERTY MAP



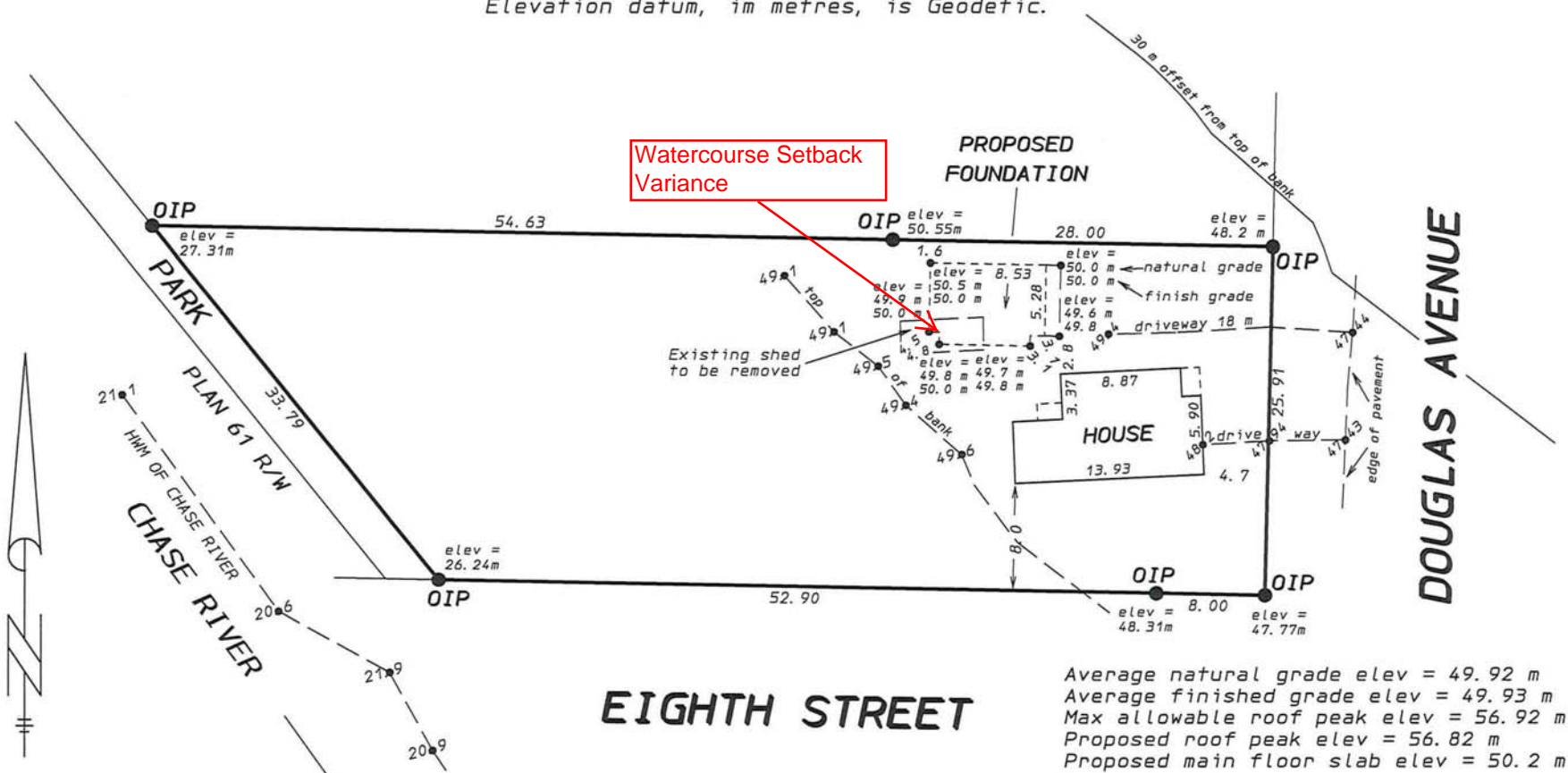
855 Douglas Avenue

**ATTACHMENT C
SITE SURVEY**

**B. C. LAND SURVEYOR'S CERTIFICATE OF LOCATION OF
HOUSE AND PROPOSED CARRIAGE HOUSE ON LOT 1,
PLAN VIP41511, SECTION 1, NANAIMO DISTRICT.**

SCALE = 1: 500

All distances are in metres.
Elevation datum, in metres, is Geodetic.



Average natural grade elev = 49.92 m
 Average finished grade elev = 49.93 m
 Max allowable roof peak elev = 56.92 m
 Proposed roof peak elev = 56.82 m
 Proposed main floor slab elev = 50.2 m

Bennett Land Surveying Ltd.

B. C. Land Surveyors & Planners
Nanaimo, B. C.

Date: April 4, 2023.

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2023-MAY-15
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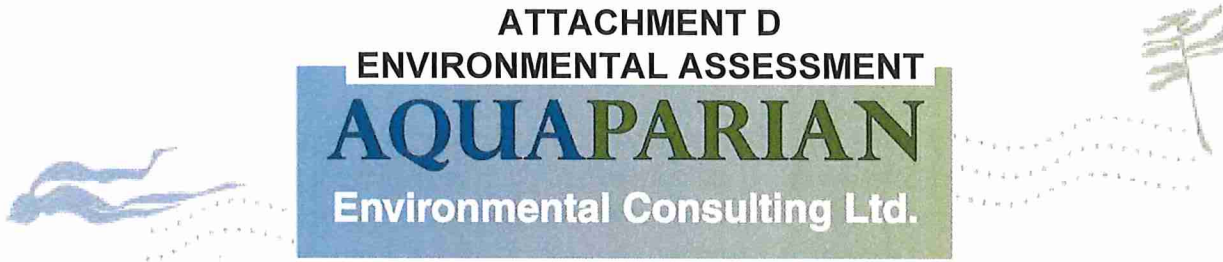
George
Smythies
HKVC8I

Digitally signed by George
Smythies HKVC8I
DN: c=CA, cn=George Smythies
HKVC8I, o=BC Land Surveyor,
ou=Verify ID at www.juricert.com/
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Date: 2023.04.06 09:51:20 -07'00'

B. C. L. S.

This document is not valid unless
originally signed and sealed.

File: 7-NM-1-5 (110643.001/P1555B3)



April 14, 2023
Rev Sept 1, 2023

Lindsay Fitzgerald
853 & 855 Douglas Avenue
City of Nanaimo, BC V9R 4M9

Via Email: [REDACTED]

**RE: RATIONALE FOR CONSTRUCTION WITHIN DPA1
853 & 855 DOUGLAS AVE, CITY OF NANAIMO BC**

This document is intended to support an application to the City of Nanaimo (CoN) for a Development Permit to construct a carriage home within 853 & 855 Douglas Avenue. The site is legally described as LOT 1, PLAN VIP41511, SECTION 13, RANGE 12, NANAIMO LAND DISTRICT (PID 000-711-624). The subject parcel is zoned R1-Residential and subject to the City's Development Permit Area (DPA) 1 – Environmentally Sensitive Areas. The parcel is situated on the top of a steep, forested ravine of the Chase River, a major fish-bearing stream. The DPA1 for the Chase River extends perpendicularly from the stream bank to 30m from the top of ravine bank as per Schedule 6 of the City's Official Community Plan (OCP) which encompasses the entire parcel. As such, the intent of this letter report is to provide the rationale for locating a proposed carriage house within DPA1.

Though the Riparian Assessment Area (RAA) as defined by the provincial Riparian Areas Protection Regulation (RAPR) is only 10m from the top of bank for a ravine greater than 60m across, a RAPR assessment is required by the municipal DPA and a RAPR report must be submitted to the province for approval. The Streamside Protection and Enhancement Area (SPEA) determined by the detailed assessment methodology is 30m from the stream boundary of the Chase River which is located mid-slope of the ravine and more than 30m horizontally from the proposed building location. Additionally, a geotechnical setback of 4.5m from the top of the ravine bank has been established by Lewkowich Engineering & Associated Ltd. (February 22, 2023) for the building location. Legal setbacks further restrict the buildable area within the lot.

The subject parcel has a total area of 0.19ha, with 2/3rds of the west side of the parcel comprised of the ravine. The only buildable area is between the top of the ravine bank and the road, an area measuring approximately 570m² (0.057ha). Within this area is an existing single-family dwelling and a small side yard north of the house that has been previously cleared and

203-321 Wallace St. Nanaimo, BC V9R 5B6, 250-591-2258
Cell SARAH BONAR 250-714-8446 CHRIS ZAMORA 250-714-8864

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planted with lawn many years ago. The footprint of the proposed carriage house is only 50m². The groundworks to prepare the foundation are expected to be minor because the yard is relatively flat, sloping gently (5%) towards the road and away from the top of bank of the ravine. The condition of the DPA will not be degraded by the proposed building over the existing conditions as the small side yard does not contribute any riparian function; it has no wildlife habitat value and no environmentally sensitive features. Additionally, the proposed construction will first require that a dilapidated old shed be removed from the top of bank. Removal of the shed will improve the site conditions, as the shed is currently constructed too close to the ravine. Following its removal, the geotechnical setback will be free of any structures.

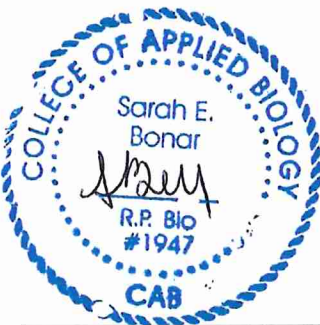
Given that nothing of ecological value will be lost or negatively impacted, and that the large, forested ravine that occupies most of the area of the parcel is to remain intact as a high value riparian habitat providing excellent quality fish and wildlife habitat, habitat compensation is not warranted. However, the owners have a 20-year plan to slowly remove invasive species and replant with reclaimed native species as they become available to increase the natural habitat on the property. Increasing and maintaining native riparian habitat within the parcel is intended to meet the intent of the bylaw.

During a site visit on March 16, 2023, Aquaparian observed the site conditions and determined that the risk of sedimentation or release of deleterious substances into the SPEA, the Chase River or any part of the ravine as a result of construction of the carriage house in the proposed location is very low and easily managed with standard protection measures.

Regards,

AQUAPARIAN ENVIRONMENTAL CONSULTING LTD

Prepared by:



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

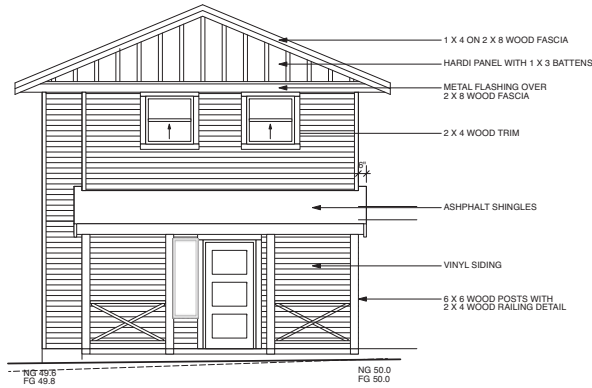
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[HTTPS://NETORG5387218.SHAREPOINT.COM/SITES/SHARED/SHARED DOCUMENTS/PICTURES/PROJECT IMAGES/N1034 853 & 855 DOUGLAS AVE RAPR/DEVELOPMENT WITHIN DPA RATIONALE LETTER MAY 2023.DOCX](https://netorg5387218.sharepoint.com/sites/SHARED/SHARED%20DOCUMENTS/PICTURES/PROJECT%20IMAGES/N1034%20853%20&%20855%20DOUGLAS%20AVE%20RAPR/DEVELOPMENT%20WITHIN%20DPA%20RATIONALE%20LETTER%20MAY%202023.DOCX)

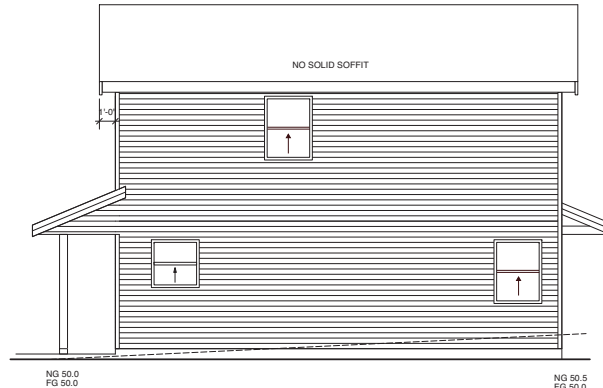


203-321 Wallace St, Nanaimo, BC V9R 5B6
SARAH BONAR 250-714-8446 CHRIS ZAMORA 250-714-8864

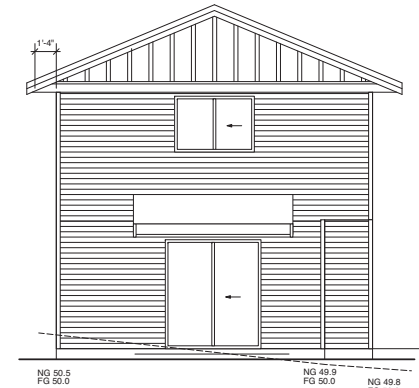
ATTACHMENT E BUILDING ELEVATIONS



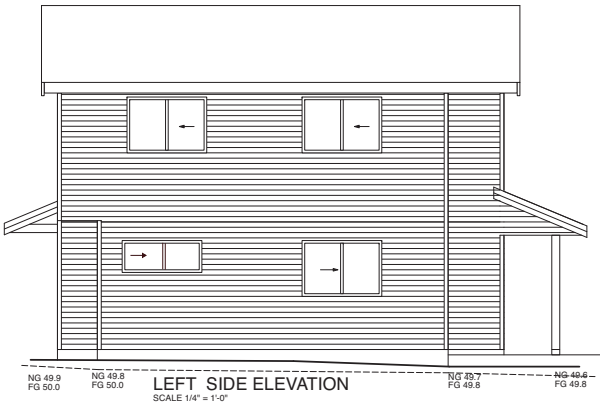
FRONT ELEVATION
SCALE 1/4" = 1'-0"



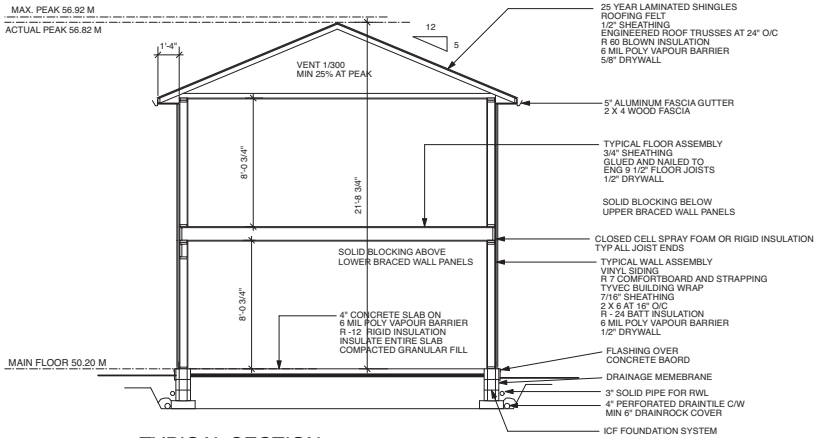
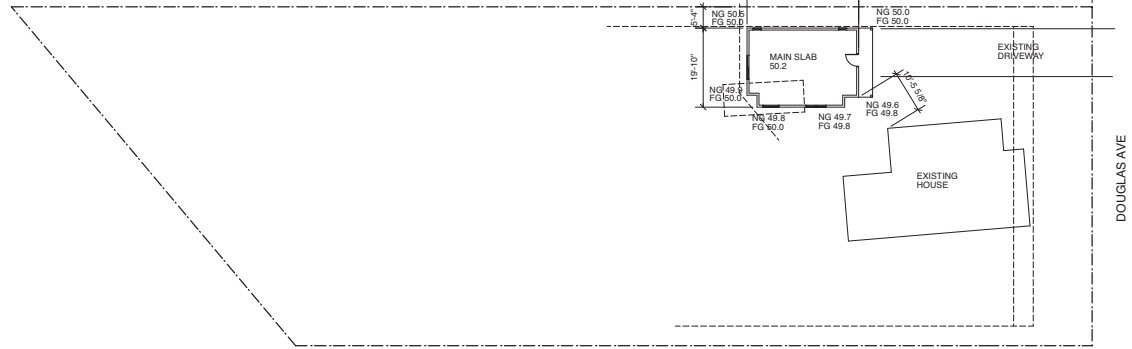
RIGHT SIDE ELEVATION
SCALE 1/4" = 1'-0"
SPATIAL SEPARATION
LIMITING DISTANCE 5.2'
WALL AREA 902 SF
ALLOWABLE OPENINGS 40 SF (8 %)
ACTUAL OPENINGS 33 SF (6.6%)



REAR ELEVATION
SCALE 1/4" = 1'-0"



LEFT SIDE ELEVATION
SCALE 1/4" = 1'-0"



TYPICAL SECTION
SCALE 1/4" = 1'-0"

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rights the property of the designer to be used for the
project shown. Written consent is required from the
designer before any reproduction. Contractor to verify
all lines, levels, surveys, dimensions, specifications,
location of building on site, and location of all services
prior to construction. All work to be done in accordance
with the C.C. Building Code, current edition, and all local
building bylaws.
All work to be done in a prudent manner and to the
approval of warranty provider, designer is not
responsible for any field review or compliance to codes
and/or poor building practices. Designer recommends
that owner/ builder retain independent inspectors to
ensure proper design and construction of building
envelope.

AVERAGE NATURAL GRADE = 49.92 M
MAXIMUM ALLOWABLE RIDGE = 56.92 M
AVERAGE PROPOSED GRADE = 49.93 M
MAXIMUM ALLOWABLE RIDGE = 49.93 M

ACTUAL RIDGE = 56.82 M

CIVIC: 855 DOUGLAS AVENUE
LEGAL: LOT 1, PLAN VIP415111, NANAIMO DISTRICT
ZONE: R 1
LOT AREA: 20014 SF
LOT COVERAGE: 8 %
BUILDING AREA:
MAIN 491 SF
UPPER 467 SF
TOTAL 958 SF

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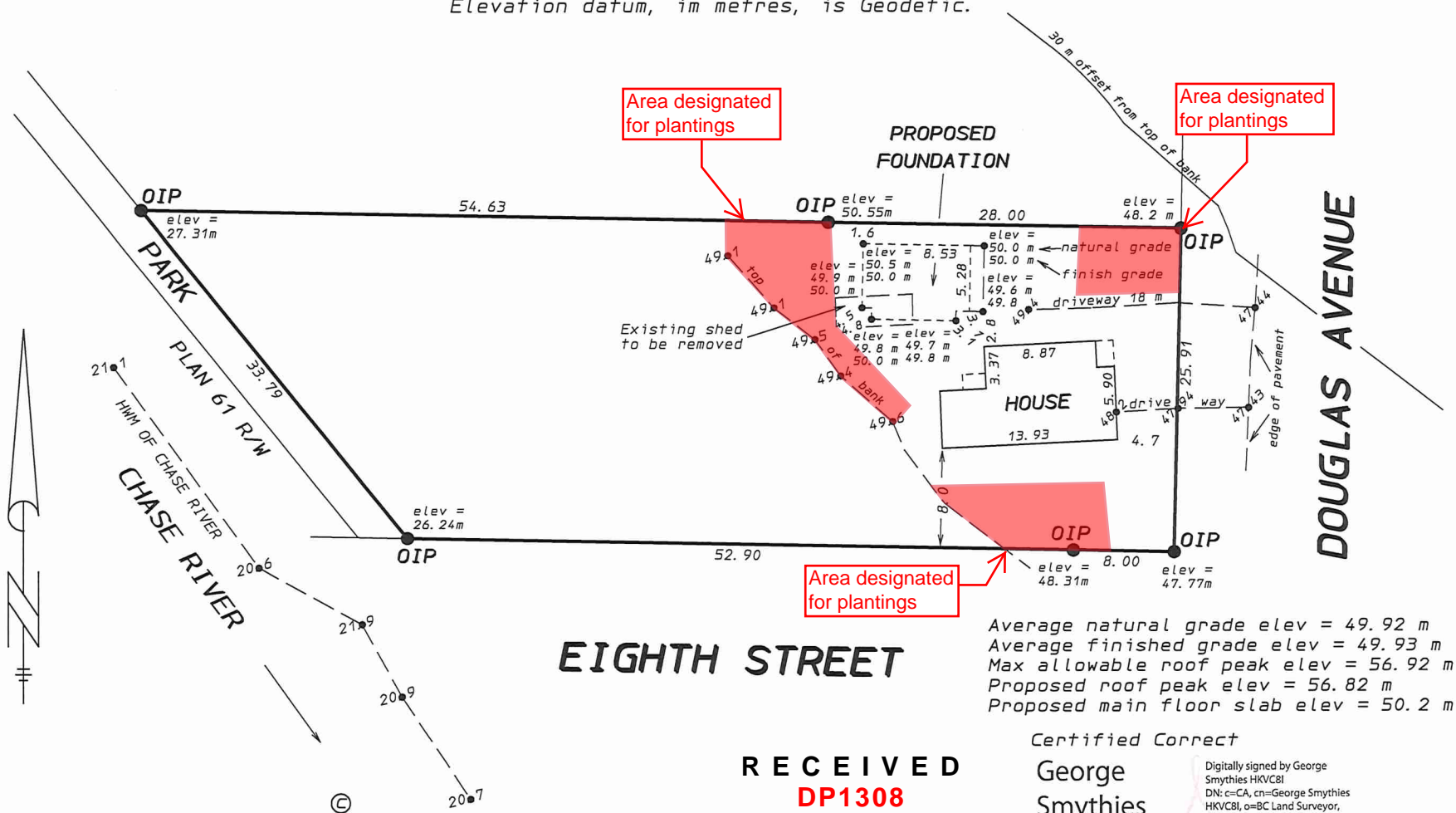
855 DOUGLAS AVENUE	
FITZGERALD RESIDENCE	
SCALE:	NOTED
DATE:	FEB 26, 2022
SHEET:	

**ATTACHMENT F
PROPOSED AREAS OF RESTORATION**

**B. C. LAND SURVEYOR'S CERTIFICATE OF LOCATION OF
HOUSE AND PROPOSED CARRIAGE HOUSE ON LOT 1,
PLAN VIP41511, SECTION 1, NANAIMO DISTRICT.**

SCALE = 1: 500

All distances are in metres.
Elevation datum, in metres, is Geodetic.



Average natural grade elev = 49.92 m
 Average finished grade elev = 49.93 m
 Max allowable roof peak elev = 56.92 m
 Proposed roof peak elev = 56.82 m
 Proposed main floor slab elev = 50.2 m

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George
Smythies
HKVC81

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Smythies HKVC81
DN: c=CA, cn=George Smythies
HKVC81, o=BC Land Surveyor,
ou=Verify ID at www.juricert.com/
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Bennett Land Surveying Ltd.
B. C. Land Surveyors & Planners
Nanaimo, B. C.

Date: April 4, 2023.

File: 7-NM-1-5 (110643.001/P1555B3)



ATTACHMENT G LETTER OF SUPPORT FROM N.A.L.T

Our Mission: to support, promote and protect the natural values of land and water in our area.

September 6th, 2023

To: Payton Carter, Planner
City of Nanaimo

Re: DP001308 – 855/853 Douglas Ave

Dear Payton Carter,

This message is addressed to you as City of Nanaimo staff contact for Development Permit Application DP001308.

From personal discussions with the proponent, and with the receipt of a copy of the Letter of Rationale for the development permit, I am satisfied that the landowner understands the requirements of the bylaw (*Zoning Bylaw 4500. Part 18.1.4*). I accept that the restoration and enhancement plan referred to in the revised Environmental Assessment Report by the Qualified Environmental Professional and further detailed in the Letter of Rationale is a sincere effort to meet the requirements of the bylaw.

In July of 2022, City council unanimously adopted the current development permit guidelines. The major change in the bylaw was the shift from the *no net loss* principle of the previous version to the principle of *net gain*. This is a significant change. No net loss cemented habitat loss brought about by previous actions on the land. Net gain, as expressed in the bylaw, seeks to restore that lost habitat.

Excerpts from *Zoning Bylaw 4500. Part 18.1.4*

Part 18.1.4

Where disturbance within an ESA or ESA leave strip cannot be avoided, the following information must be provided... in order to ensure protection, connectivity and increased functional habitat through mitigation, compensation and restoration of the ESA.

f) a restoration and enhancement... plan. The plan shall meet the following criteria

1) Include restoration and enhancement of ESAs that were impacted by previous development activities.

g) the principle of net gain will be followed, and... must demonstrate how an increase in the quality and quantity of functional habitat within the... ESA leave strip will be achieved,... such that any areas restored will be of better ecological value, and shall be contiguous with the original... ESA leave strip. The following principles apply to establishing net gain:

1) Outcomes through habitat creation, enhancement, and/or restoration;

2) Target conditions (functional habitat in 20 years); and

3) Target metric (twice the area of encroachment into the leave strip).

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Our Mission: to support, promote and protect the natural values of land and water in our area.

The Letter of Rationale outlines a plan to achieve the principle of net gain at twice the area of the disturbance within the riparian leave strip, exclusive of the area previously occupied by a shed (as per Zoning Bylaw 4500. Part 18.1.6.e). When completed, this restoration and enhancement plan will be compliant with the bylaw.

I applaud the City of Nanaimo for creating a pathway to achieve net gain in housing and net gain in habitat.

I look forward to the principle of net gain of functional habitat being applied to other development permit applications in our community.

Sincerely,

Paul Chapman
Executive Director
Nanaimo & Area Land Trust



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