

City of Nanaimo

REPORT TO COUNCIL

DATE OF MEETING: 2014-JUL-14

AUTHORED BY: DAVE STEWART, PLANNER, PLANNING & DESIGN SECTION

RE: DEVELOPMENT VARIANCE PERMIT NO. DVP235 – 6728 & 6738 DICKINSON ROAD

STAFF RECOMMENDATION:

That Council issue Development Variance Permit No. DVP235 at 6728 & 6738 Dickinson Road in order to permit the existing real estate sign to remain on the property for an additional 2 years.

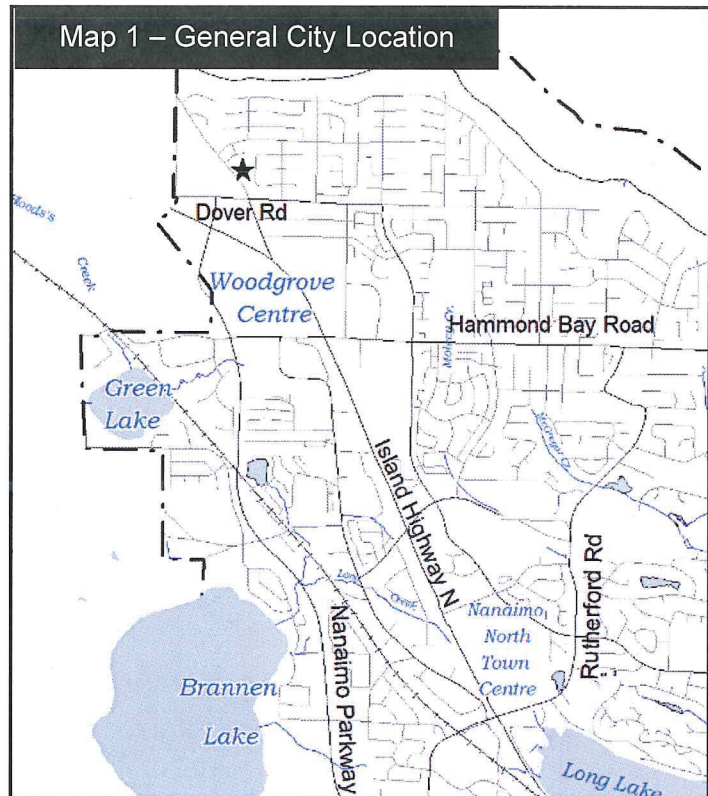
PURPOSE:

The purpose of this report is to seek Council authorization to allow an existing real estate sign to remain on the subject property beyond the maximum length of time permitted.

BACKGROUND:

A Development Variance Permit (DVP) application has been received from BRIAN J. SENINI LAW CORPORATION (Mr. Brian Senini) on behalf of THE OWNERS STRATA PLAN VIS4541 and 0773048 BC LTD to permit an existing real estate sign to remain on the subject property for an additional 2 years.

The City of Nanaimo "SIGN BYLAW 1987 NO. 2850" requires that real estate signs be removed from the property within 14 days after the final sale, rental or lease of the dwelling units or property has been achieved; or, 2 years after the date the sign is erected; or, in the case of a property with an active building permit, for a period of 2 years following issuance of an occupancy permit.



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

Meeting Date: 2014 Jul 14

The occupancy permit was issued for the subject property on 2009-SEP-10 and as such was originally required to be removed before 2011-SEP-10. On 2012-MAY-28, Council approved a development variance permit application (DVP193) in order to permit the sign to remain for an additional 2 years. The extension granted by the variance expired on 2014-MAY-28.

A Statutory Notification has taken place prior to Council’s consideration and approval of the variance.

Subject Property

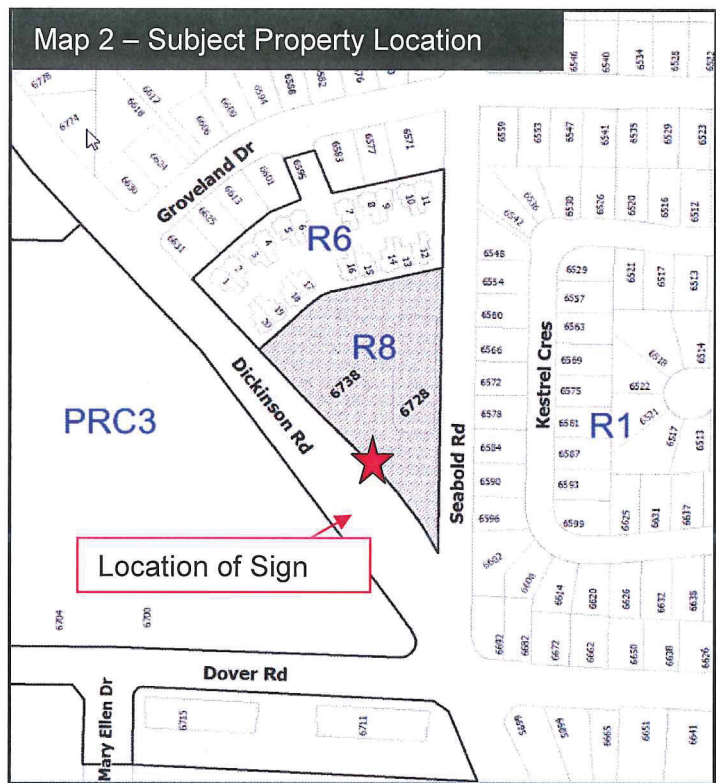
Zoning	R8 – Medium Density Residential
OCP	The subject property is designated Neighbourhood.
Location	The subject property is located on the corner of Dickinson and Seabold Road, off Dover Road in North Nanaimo.
Total Area	9, 206 m ²

DISCUSSION:

Proposed Development

The subject property located at 6728 & 6738 Dickinson Road is a strata development known as Clearview, which was constructed with 28 strata lots in Phase 1 and 42 strata lots in Phase 2. Of the 70 strata lots, 10 remain unsold and are owned by the Developer (0773048 BC LTD). In order to continue marketing the remaining 10 units, the applicant is requesting that the variance be renewed in order to permit the sign to remain on the subject property for an additional 2 years.

The existing real estate signage was erected on the property in 2009. If the variance is approved the sign will be permitted to remain until 2016-JUL-14. No permit is required for the installation of a real estate sign. A photo of the existing sign is shown as Figure 1.



A copy of the applicant’s Letter of Rationale is included (Schedule A).

Required Variances

Section 6(1)(C) of the City of Nanaimo “SIGN BYLAW 1987 NO. 2850” states that real estate signs shall be removed from the property within 14 days after the final sale, rental or lease of the dwelling units or property has been achieved, or 2 years from the date the sign is erected, which ever should occur first.

The applicant requests that the Sign Bylaw be varied to permit the existing real estate signage to remain on a property until the final sale of residential units to a maximum period of two years from the date of this permit issuance.

STAFF COMMENT

Staff supports the requested sign variance and recommends Council approve this application.

Figure 1 – Sign Photo



Respectfully submitted,

for 
B. Anderson
MANAGER
PLANNING & DESIGN SECTION

Concurrence by:


D. Lindsay
DIRECTOR
COMMUNITY DEVELOPMENT


I. Howat
GENERAL MANAGER
CORPORATE SERVICES

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2014-JUN-25
Prospero Attachment: DVP00235
DS/jc/lb

VINING SENINI

An Association of Law Corporations

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OUR FILE: 206232
REPLY TO: Brian J. Senini
Email: bsenini@viningсенini.com

June 12, 2014

CITY OF NANAIMO
455 Wallace Street
Nanaimo, BC V9R 5J6

Attention: City Council

Dear Mayor and Council Members:

**RE: DVP APPLICATION FOR REAL ESTATE SIGN
CITY FILE NO. CIB02340 (CFS 286826)
INITIAL DVP PERMIT NO. DVP00193**

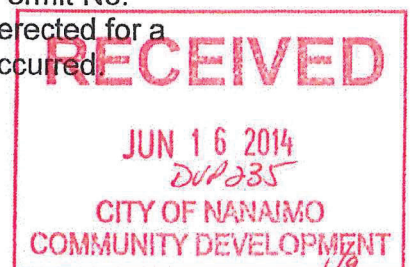
I advise that I am the lawyer for 0773048 B.C. Ltd., which company was the Developer of the second phase of the residential strata titled development located at 6728 Dickinson Road in Nanaimo known as "Clearview at Regency Vista".

The first phase of this development was completed by a prior developer in March of 1998. The Developer completed construction of Phase 2 in September of 2009.

Phase 1 includes 28 residential units and Phase 2 includes 42 residential units.

Section 6(1)(C) of City of Nanaimo Sign Bylaw No. 2850 provides that real estate signs, such as the sign in question, may be erected without a permit provided they are removed from the property within 14 days after the final sale of all dwelling units in a development or 2 years following issuance of an Occupancy Permit.

On May 31, 2012 the City of Nanaimo issued Development Variance Permit No. DVP00193 which granted an extension for the existing sign to remain erected for a maximum of two years, or until the last unit was sold, whichever first occurred.



In May of 2012 my client still had 28 of its 42 residential units for sale. It has since sold 18 of those units, with 10 remaining unsold.

The 10 remaining units continue to be listed for sale with Coast Realty Group of Nanaimo.


I once again respectfully submit that, in consideration of the prevailing residential real estate market conditions, the two year time limit provided for in the subject Sign Bylaw is unrealistic and should be amended generally to permit a developer to maintain appropriate real estate signage until the final sale of all units in a development.

Please note that Section 30 of the Schedule of Standard Bylaws contained in the *Strata Property Act* permit a developer who has unsold units to carry on sales functions that relate to the sale of those units, including the posting of signs for an indefinite period.

I have spoken with the President of the Strata Council for The Owners of Strata Plan VIS4541 and she has confirmed that The Owners are in agreement with the sign remaining in place until such time as the remaining units have been sold to the first purchasers thereof.

All of which is respectfully submitted.

Yours truly,



Brian Senini, Applicant