

DATE OF MEETING June 19, 2017

AUTHORED BY TAMERA ROGERS, PLANNER, CURRENT PLANNING AND SUBDIVISION

SUBJECT DEVELOPMENT VARIANCE PERMIT NO. DVP312 – 316 NOTTINGHAM DRIVE

OVERVIEW

Purpose of Report

To present for Council's consideration, a development variance permit application to allow an open deck to be constructed in the rear yard and side yard setback at 316 Nottingham Drive.

Recommendation

That Council issue Development Variance Permit No. DVP312 at 316 Nottingham Drive with the following variances:

- reduce the minimum (west) side yard setback for an open deck from 1.5m to 0m; and,
- reduce the minimum rear yard setback for an open deck from 5.5m to 0m.

BACKGROUND

A development variance permit application, DVP312, was received from Mr. William Earthy on behalf of Ms. Sharon Earthy to vary the provisions of the City of Nanaimo "Zoning Bylaw 2011 No. 4500" to allow an open deck within the rear yard and side yard setbacks at 316 Nottingham Drive.

On 1984-JAN-19, the Board of Variance (BOV) approved the variance request of the property owner of the day to allow an existing open deck to be sited with a 0.17m rear yard setback and 0m side yard setback. Due to the need to replace the deck, the deck was removed and the property owner is requesting a variance to allow a new deck of a similar size and location. As the BOV approval was granted specifically to allow the previous deck, the owner is required to make a new variance request.

Subject Property

<i>Zoning</i>	R1 – Single Dwelling Residential
<i>Location</i>	The subject property is located two lots north of the intersection of Cumberland Place and Nottingham Drive.
<i>Total Lot Area</i>	1,296m ²
<i>Official Community Plan</i>	Map 1 – Future Land Use - Neighbourhood

The subject property is located in a single dwelling residential neighbourhood with varied lot sizes. The subject property slopes up from Nottingham Drive and is very rocky. The existing house is located at the rear of the property and has non-conforming siting.

Statutory Notification has taken place prior to Council's consideration of the variance.

DISCUSSION

Proposed Development

The proposed development is an open deck to replace the deck that was recently demolished. The deck is also used to access the side door of the house.

The proposed deck will be adjacent to the side yard of the property to the south at 302 Nottingham Drive. The neighbour's attached garage is approximately 5m from this shared property line. The proposed deck will also be adjacent to the side yard of the property to the west at 336 Nottingham Drive. The proposed deck will not obstruct the neighbouring properties' views, which are oriented to the south, and is not anticipated to negatively impact adjacent properties.

The applicant's Letter of Rationale is included as Attachment D.

PROPOSED VARIANCES

Minimum Required Side Yard and Rear Yard Setbacks

The minimum required side yard setback for the proposed open deck and stairs is 1.5m. The proposed side yard setback is 0m, a proposed 1.5m variance. Additionally, the minimum required rear yard setback is 7.5m, but an open deck may project up to 2m into the rear yard setback. Therefore, the required setback is 5.5m. The proposed rear yard setback is 0m, a proposed 5.5m variance.

The original open deck has existed in this location since 1984; the proposed deck will be of a similar size and location as the original deck. Due to the slope of the property and distance from neighbouring residences, the proposed open deck is not anticipated to negatively impact views or privacy of surrounding lots.

SUMMARY POINTS

- Development Variance Permit No. DVP312 proposes a variance to reduce the side yard and rear yard setbacks to allow an open deck.
- The proposed deck will be of a similar size and location as the recently demolished deck.
- The requested setback variances are not anticipated to negatively impact adjacent properties.

ATTACHMENTS

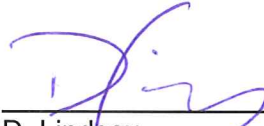
ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Location Plan
ATTACHMENT C: Site Survey
ATTACHMENT D: Letter of Rationale
ATTACHMENT E: Aerial Photo

Submitted by:



L. Rowett
Manager, Current Planning and Subdivision

Concurrence by:



D. Lindsay
Director, Community Development

ATTACHMENT A
PERMIT TERMS AND CONDITIONS

TERMS OF PERMIT

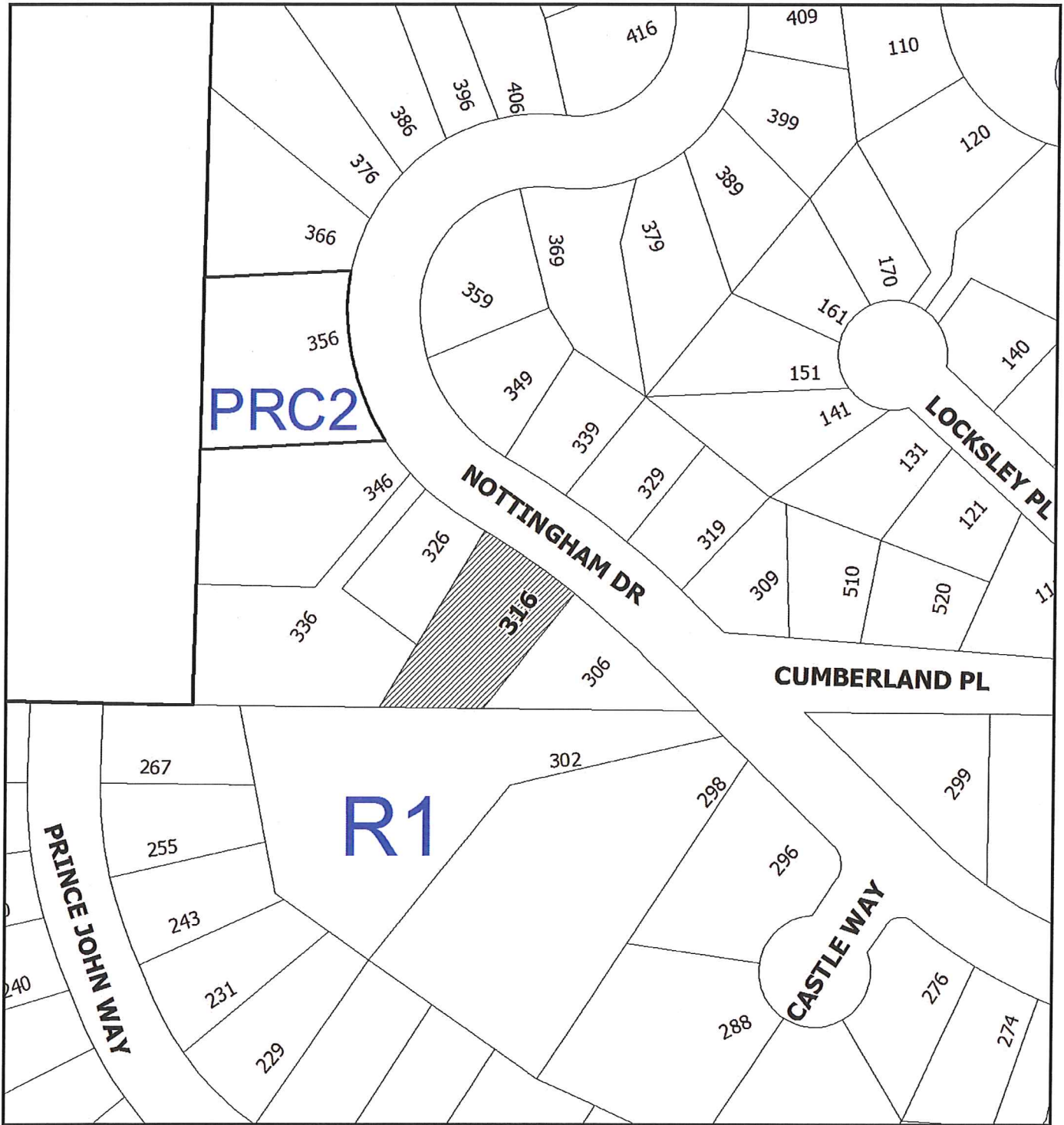
The City of Nanaimo "ZONING BYLAW 2011 NO. 4500" is varied as follows:

1. *Section 7.5.1* – to reduce the minimum west side yard setback for an open deck and stairs from 1.5m to 0m.
2. *Section 7.5.1 and Section 6.5.1* – to reduce the minimum rear yard setback for an open deck from 5.5m to 0m.

CONDITIONS OF PERMIT

1. The subject property shall be developed in accordance with the Site Survey prepared by Williamson & Associates Professional Surveyors., received 2017-APR-13, as shown on Attachment C.

ATTACHMENT B
LOCATION PLAN



DEVELOPMENT VARIANCE PERMIT NO. DVP00312

LOCATION PLAN

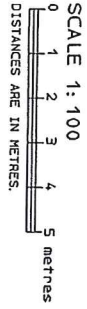
Civic: 316 Nottingham Drive
Lot 2, Section 15A, Wellington District,
Plan 33755



**Subject
Properties**

ATTACHMENT C SITE SURVEY

B. C. LAND SURVEYOR'S CERTIFICATE OF PROPOSED DECK LOCATION ON:
**LOT 2, PLAN 33755, SECTION 15A,
WELLINGTON DISTRICT.**



NOTES:

CIVIC ADDRESS: 316 NOTTINGHAM DRIVE
LOT DIMENSIONS ARE DERIVED FROM REGISTERED PLANS.
DECK DESIGN FROM KRASTEL DESIGN GROUP INC. AND
SORENSEN TRILLOY DRAWINGS DATED MAY 30, 2016.
DECK DIMENSIONS SHOWN ARE APPROXIMATE.

*THE UNDERSIGNED CONFIRMS THAT HE HAS BEEN
TRAINED BY BILL EARTHY TO PROVIDE ACCURATE
INFORMATION ON THE PROPOSED DECK AND STEPS IN ACCORDANCE
WITH THE LOCATIONS SHOWN ON THIS PLAN.

- STANDARD IRON POST FOUND.

THIS PLAN REPORTS TO POSITION ONLY THE ACTUAL
ID/OR PROPOSED IMPROVEMENT(S) SHOWN RELATIVE
TO THE BOUNDARIES SHOWN OF OR APPURTENANT
TO THE ABOVE DESCRIBED PARCEL(S).
THE REPORT DOES NOT REPRESENT A GUARANTEE
AS TO THE ACCURACY OF THE DATA PROVIDED
HEREIN. THE REPORT IS NOT TO BE USED TO RE-ESTABLISH
BOUNDARY LINES.

THE SIGNATORY ACCEPTS NO RESPONSIBILITY OR
LIABILITY FOR ANY DAMAGES THAT MAY BE SUFFERED
BY A THIRD PARTY AS A RESULT OF ANY DECISIONS
MADE, OR ACTIONS TAKEN BASED ON THIS DOCUMENT.

THIS PARCEL MAY BE SUBJECT TO REGISTERED CHARGES
& PERMITS:

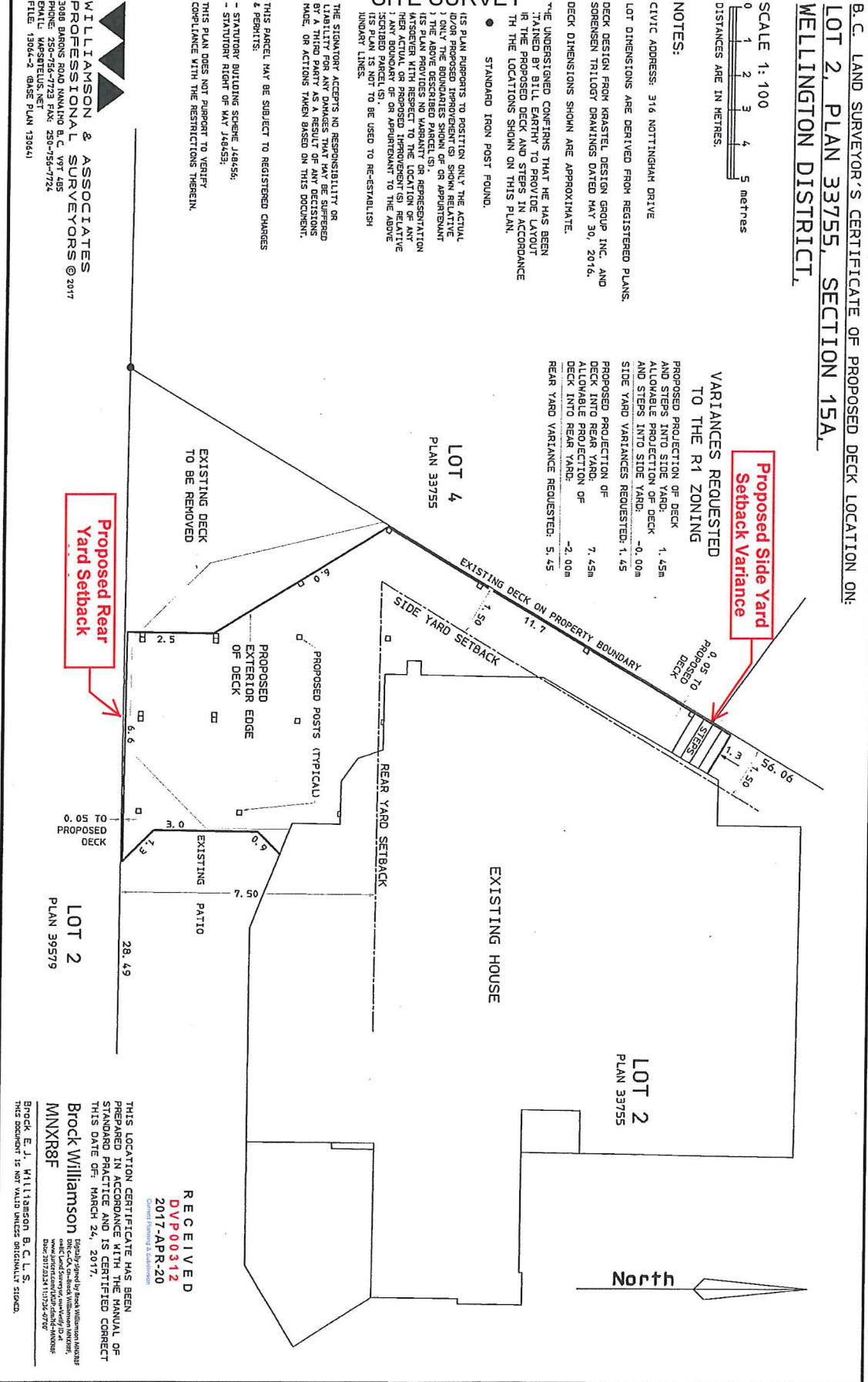
- STATUTORY BUILDING SCHEME J24455;
- STATUTORY RIGHT OF WAY J4455;

THIS PLAN DOES NOT PURPORT TO VERIFY
COMPLIANCE WITH THE RESTRICTIONS THEREIN.

**WILLIAMSON & ASSOCIATES
PROFESSIONAL SURVEYORS © 2017**
3088 BARONS ROAD NANAIMO B.C. V9Y 4S5
PHONE: 250-755-7123 FAX: 250-755-7124
EMAIL: info@williamson.ca
FILE: 13064-2 (BASE PLAN 13064)

**VARIANCES REQUESTED
TO THE R1 ZONING**

PROPOSED PROJECTION OF DECK AND STEPS INTO SIDE YARD: 1.45m
ALLOWABLE PROJECTION OF DECK AND STEPS INTO SIDE YARD: -0.00m
SIDE YARD VARIANCE REQUESTED: 1.45
PROPOSED PROJECTION OF DECK INTO REAR YARD: 7.45m
ALLOWABLE PROJECTION OF DECK INTO REAR YARD: -2.00m
REAR YARD VARIANCE REQUESTED: 5.45



ATTACHMENT D
LETTER OF RATIONALE

Dear Councilors and Staff,

This letter is to support our DVP application for a raised deck structure at 316 Nottingham Drive.

We are seeking relief from the rear and side yard setback bylaws to allow us to replace the deck structure which was in place when we purchased this property approximately 8 years ago. The somewhat oddly configured deck was built, in the early 90's, under a Board of Variance ruling, allowing it to occupy the rear and side yard setbacks. This information was not shown on the title search so we were dismayed to find out that we did not have the right to replace the deck. We had originally hoped to expand the size of the deck and were told we would have to apply for a DVP for permission. We were informed that if we wished to replace the deck with a structure the same size or smaller, we would not need a Variance Permit. Upon applying for a building permit for a smaller deck we were told that the decision had been made that a DVP would be required to replace the deck, even with a smaller deck.

Our two neighbors, one to the south (in front of us) and one to the west, have very limited views of the area the new deck would occupy. Both these properties have tremendous views of Departure Bay and the city and the houses are situated to take advantage of the view looking south and west. We feel the impact to either of those adjacent properties by the construction of our proposed deck is minimal to them.

To be restricted to a structure kept within the setback confines would essentially remove the opportunity to have any useable deck space or side yard walkway at all.

We thank you for your consideration in this regard.

Bill & Sharon Earthy

RECEIVED
DVP00312
2017-APR-20
Current Planning & Subdivision

ATTACHMENT E
AERIAL PHOTO



DEVELOPMENT VARIANCE PERMIT NO. DVP00312