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BOARD	<input type="checkbox"/>	
		DATE: October 6, 2014

## MEMORANDUM

**TO:** Chris Midgley  
Manager, Energy & Sustainability

**FROM:** Lainya Rowett  
Senior Planner

**FILE:** 3900-02 GBBA

**SUBJECT:** Amendments to Regional District of Nanaimo Land Use & Subdivision Bylaw No. 500, 1987;  
Regional District of Nanaimo Electoral Area 'F' Zoning & Subdivision Bylaw No. 1285, 2002; and Board Policy B1.5  
Electoral Areas 'A', 'C', 'E', 'F', 'G', 'H'

### PURPOSE

To consider amendments to Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500 and Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285, and updates to Board Policy B1.5 to support green building features, systems and technologies on properties located within the Regional District of Nanaimo (RDN) Electoral Areas.

### BACKGROUND

In June of 2014, staff initiated a collaborative, interdepartmental project involving Current Planning, Long Range Planning, Building Inspection and Energy and Sustainability to review Zoning Bylaws 500 and 1285 for barriers to green building features; to identify bylaw precedents from within the Region and beyond; and to propose bylaw amendments that would remove identified barriers. This undertaking was included in the 2014 work plan for the Energy and Sustainability department as part of ongoing implementation of the *RDN Green Building Action Plan*:

#### **Action 6: Reduce Regulatory Barriers and Provide Incentives for Green Buildings**

- a) RDN staff will review RDN existing building bylaws and planning regulations, and adapt best practices from elsewhere to streamline the development process and reduce regulatory barriers to green building in the region. (RDN Green Building Action Plan, 2010, p. 2)

The review narrowly focused on building related features, and deliberately excluded regulations relating to landscaping and zoning provisions such as density, parking requirements and other planning tools more focused on general community form and scale or land use. This focus was in the interest of addressing more immediate barriers in a timely and more impactful way at the site scale to property owners and developers.

Table 1 lists the existing barriers to green building features identified upon staff review of Zoning Bylaws 500 and 1285.

**Table 1: Current Green Building Barriers in Bylaw 500, 1987 and Bylaw 1285, 2002**

<b>Green Building Feature</b>	<b>Bylaw 500 Barriers</b>	<b>Bylaw 1285 Barriers</b>
Renewable Energy Systems <ul style="list-style-type: none"> <li>• Solar</li> <li>• Wind</li> </ul>	Definition of height includes exemptions but does not include renewable energy systems. Wind turbines not contemplated in setback regulations.	Height exemptions do not include renewable energy systems. Wind turbines not contemplated in setback regulations.
Passive Design Features <ul style="list-style-type: none"> <li>• Over-hangs</li> <li>• Thick Walls</li> </ul>	Exterior space and uninhabitable perimeter walls included in definition of floor area. This penalizes thick walls, and large over-hangs.	Uninhabitable perimeter walls included in the definition of floor area. This penalizes thick walls.
Rainwater Harvesting	Rainwater harvesting equipment and apparatus are not permitted within setback areas.	Rainwater harvesting equipment and apparatus are not permitted within setback areas.

Fortunately, the barriers identified in Table 1 can be addressed through amendments to the *General Regulations* and *Definitions* sections of both bylaws, and zone-specific amendments are not required.

***Proposed Bylaw Amendments***

The proposed amendments to overcome the barriers listed in Table 1 are summarized below. The detailed text amendments are provided in Attachment 1: Proposed Amendment Bylaw No. 500.396, 2014, and Attachment 2: Proposed Amendment Bylaw No. 1285.22, 2014.

For Bylaw 500, 1987:

- New height exemptions to permit solar systems to exceed maximum permitted height up to 60 cm, with roof coverage provisions for the over-height portion relating to parcel size; and one micro wind turbine per parcel to be up to twice the maximum permitted height.
- A revised section on setbacks adds provisions for micro wind turbines to ensure minimum distances from parcel boundaries and eagle and heron nesting trees.
- The existing definition of floor area is replaced with a definition that measures floor area from the inside surface of the outer perimeter walls of a structure.
- For clarity, a definition for ‘*micro wind turbine*’ is added to the *Bylaw Definitions*.

For Bylaw 1285, 2002, the proposed amendments include:

- Revised height exemptions to permit solar systems to extend up to 1.0 m above the highest point of the roof, with roof coverage provisions for the over-height portion relating the parcel size; one micro wind-turbine per parcel to be up to twice the maximum permitted height; and one small wind-turbine per parcel to exceed the maximum permitted height to up to 30 m in height.

- A revised section on setbacks adds provisions for micro and small-wind turbine systems that ensure minimum distances from parcel boundaries and eagle and heron nesting trees.
- Setback exemptions are revised to allow components of rainwater harvesting systems to encroach into setback areas, provided height and volume constraints are met.
- The existing definition of floor area is replaced with a definition that measures floor area from the inside surface of the outer perimeter walls of a structure.
- For clarity, 'micro wind turbine' and 'small-wind turbine' are added to the *Bylaw Definitions*.

### **Policy B1.5**

Board Policy B1.5 *Development Variance Permit, Development Permit with Variance & Floodplain Exemption Application Evaluation* is a policy that guides RDN planning staff and elected officials on land use justifications for allowing variances to established zoning regulations.

Through the review of Bylaws 500 and 1285, it was recognized that the proposed amendments would represent incremental steps towards removing barriers to green building. The implication of this precautionary approach is that some variances from zoning regulations for green building features, systems and technologies will remain necessary, even if the proposed amendments proceed.

To signal in-principle Board support for community investment in renewable energy systems that meet on-site energy needs, and rainwater harvesting systems that provide for on-site water use, a new land use justification is proposed to be added to Board Policy B1.5, as follows:

1. d) viii: The inclusion of a renewable solar or wind energy system, or a rainwater harvesting system proposed for the operation of a building or structure results in the building or structure exceeding maximum height restrictions, or encroaching into a setback area. In such a case, a height variance or setback variance may be recommended where the impacts of the variance are considered acceptable.

The revised draft of Board Policy B1.5 is provided as Attachment 3 for Board consideration.

### **ALTERNATIVES**

1. To proceed with the proposed amendments to Zoning Bylaw No. 500 and Zoning Bylaw 1285 in consideration of first and second reading of Amendment Bylaw No. 500.396 and Amendment Bylaw No. 1285.22 and proceed to Public Hearing, and to proceed with the proposed revision to Board Policy B1.5 *Development Variance Permit, Development Permit with Variance & Floodplain Exemption Application Evaluation*.
2. To not proceed with the Amendment Bylaws readings and Public Hearing, or provide alternate direction to staff, and to not proceed with the proposed revision to Board Policy B1.5, or provide alternate direction to staff.

## **FINANCIAL IMPLICATIONS**

If the bylaw amendments and revision to Board Policy B1.5 proceed as proposed, financial implications are anticipated to be minimal. The statutory consultation process, including public hearing and formal readings of the Amendment Bylaws will require staff time for Current Planning and Energy and Sustainability staff. This is accommodated in the operational budgets for both departments.

The intent of the proposed amendments is to remove regulatory barriers to green building in the region, which may result in fewer Development Variance Permit applications in the future. The potential loss in permit fee revenues is anticipated to be negligible as there are not currently a large number of variance applications relating to green building technologies.

## **LAND USE IMPLICATIONS**

### ***Development Implications***

The proposed amendments are intended to be practical, reasonable, achievable and impactful, and to ensure that green building features otherwise supported in existing RDN community plans and Board policies are also permitted in land use and zoning regulations.

For example, the proposed amendment to introduce height exemptions for specific renewable energy systems will add clarity and consistency to RDN interpretations of the applicable land use regulations. It is anticipated that this will result in more streamlined review of proposals for alternative energy systems.

The proposed amendments also ensure that the RDN zoning provisions take into consideration industry best practices and accommodate the practical and functional requirements to allow renewable energy systems to be viable energy sources for property owners.

While the amendments are intended to address the most typical scenarios, there will be cases where a variance is still necessary to ensure the viability of a green building feature or system. The proposed revision to the Board Policy B1.5 will include a new land use justification for green building related variances, indicating Board support in-principle for green building projects, and give the Board the flexibility to consider variances beyond the provisions proposed by these amendments.

Staff will monitor development applications received and, if necessary, may recommend further bylaw amendments for the Board's consideration in future.

### ***Public Consultation Implications***

Public Information Meetings (PIMs) were held on September 16 in Electoral Area 'A', September 17 in Electoral Area 'C', and September 18 in Electoral Area 'F'. In total, eight members of the public attended these meetings (see Attachments 4, 5 and 6 – Summary of Minutes). Surveys were distributed at the PIMs to gather public comment on the proposed amendments.

Notification of the meetings was advertised in the Nanaimo News Bulletin and Parksville Qualicum Beach News. Printed copies of the notice were distributed to community halls and local libraries throughout the region, and in Electoral Area 'C' notices were also posted near community mailboxes.

Social media (Facebook and Twitter) were used to publicize the meetings, and information was made available to the public on the RDN website, and by email to a network of residents and green building professionals who are involved in the RDN green building program.

While generally supportive, feedback received through the Public Information Meetings was limited, and cannot be generalized to represent the majority of residents in the region. The recurring critique was an interest to see consistency between Bylaws 500 and 1285. However, it is important to recognize that Bylaw 500 covers a larger, more diverse area with different constraints and considerations when compared to Bylaw 1285. As a result, the proposed amendments to Bylaw 1285, for Electoral Area 'F' only, include additional amendments to allow for small wind turbine systems and setback exemptions for rainwater harvesting systems.

If the Amendment Bylaws receive first and second reading, they will then proceed to Public Hearing pursuant to Section 890 of the *Local Government Act*. It is anticipated that this hearing would be scheduled following the inaugural Board meeting in 2015.

### ***Strategic Plan Implications***

This project advances the Strategic Priorities of *Self-Sufficiency* and *Economic Viability* in the 2013-2015 Board Strategic Plan, and fulfils actions identified for Strategic and Community Development.

For *Self-Sufficiency*, the Board Strategic Plan generally aims to encourage and enable residents to take responsibility for their own needs. This includes the objective "to support efficiency measures that reduce water and energy consumption, and develop innovative, clean and renewable energy supplies throughout the region," (Regional District of Nanaimo (2012), *Board Strategic Plan 2013-2015, Working Together For a Resilient Future*, p. 18). Similarly, for *Economic Viability*, the Strategic Plan seeks to build local expertise in green building, renewable energy technologies, materials and processes.

The project also fulfils the strategic goal for Strategic and Community Development to "promote initiatives and policies that contribute to regional sustainability and community resilience," by moving forward with the action to "Implement the *Green Building Action Plan* to promote innovation and efficiency in the construction sector and to advance skill development in the region" (Regional District of Nanaimo (2012), *Board Strategic Plan 2013-2015, Working Together For a Resilient Future*, p. 25).

### ***Inter-governmental Implications***

The proposed bylaw and policy amendments were referred for information and comment to member municipalities, neighbouring regional districts and the Ministry of Transportation and Infrastructure. No comments have been received at this time. The proposed amendments will also be referred for information to local First Nation governments including Snuneymuxw, Snaw-Naw-As and Qualicum.

### **SUMMARY/CONCLUSION**

The purpose of the proposed amendments to Bylaws 500 and 1285 and Board Policy B1.5 is to provide more clarity on the interpretation of the applicable zoning regulations for green building features, systems and technologies, and to remove barriers to these sustainable features and systems. The Amendment Bylaw would introduce a new definition of floor area to support passive design features, and to allow over-height solar and wind energy systems on properties located within Electoral Areas 'A', 'C', 'E', 'F', 'G', and 'H', as well as rainwater harvesting systems in the setback area in Bylaw 1285 only.

Public information meetings were held on September 16, 17, and 18 where members of the public, including green building experts, provided their comments on the proposed amendments. Attendees were unanimously supportive of the proposed amendments, and urged the RDN to continue with policy initiatives of this sort.

Given that the proposed amendments advance the goals of the Board Strategic Plan and represent implementation of the *RDN Green Building Action Plan*, staff recommend the Board proceed with readings of the proposed Amendment Bylaws 500.396 and 1285.22 and the proposed revision to Board Policy B1.5.

### RECOMMENDATIONS

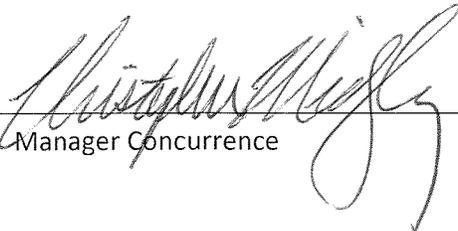
1. That the Summaries of the Public Information Meetings held on September 16, 17 and 18, 2014, be received.
2. That "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.396, 2014", be introduced and read two times.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.396, 2014", be chaired by Director Stanhope or his alternate.
4. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285.22, 2014", be introduced and read two times.
5. That the Public Hearing on "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285.22, 2014", be chaired by Director Fell or his alternate.
6. That the Board approve the revision as proposed to Board Policy B1.5 *Development Variance Permit, Development Permit with Variance & Floodplain Exemption Application Evaluation*.



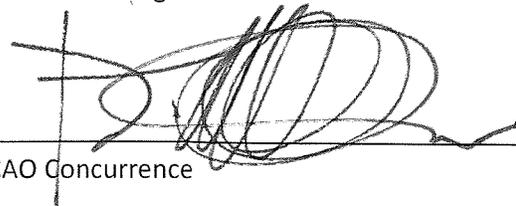
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

Attachment 1  
Proposed Amendment Bylaw No. 500.396, 2014

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 500.396

A Bylaw to Amend Regional District of Nanaimo  
Land Use and Subdivision Bylaw No. 500, 1987

The Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

- A. This Bylaw may be cited as “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.396, 2014”.
- B. The “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”, is hereby amended as follows:

1. **Part 2 Interpretation, Section 2.1 Definitions**, by deleting the definition of “floor area” and replacing with the following:

*floor area* means the sum total of the gross horizontal area of each floor of a building as measured from the inside surface of the outermost exterior walls.

2. **Part 2 Interpretation, Section 2.1 Definitions**, by deleting the following text from the definition of “height”:

“but specifically excludes chimney, mast aerial, church spire, flag pole, watertank, observation and transmission tower, mechanical devices necessary for the operation of a building, and agricultural buildings or structures where permitted in the applicable zone.”

3. **Part 2 Interpretation, Section 2.1 Definitions**, by inserting the following definition after “medium industry”:

*micro wind turbine system* means a wind energy conversion system consisting of a wind turbine, associated structures and mechanical devices with a nameplate rated capacity of not more than 1 kW.

4. **Part 3 Land Use Regulations, Section 3.3 General Regulations**, by renaming subsection 10) Setbacks - Agricultural Buildings to:

**10) Setbacks – Buildings and Structures**

and replace the text in subsection 10) with the following:

- a) Agricultural Buildings

All buildings and structures for housing animals, other than pets, and for the storage of manure shall be a minimum of 30.0 metres from a watercourse or any property line adjoining a residential zone.

b) Micro wind turbine systems

- i) For a system installed on the ground, the minimum setback from all parcel boundaries shall be equal to the height of the system as measured from the natural grade at the base of the wind turbine tower to the top of the highest vertical extension of the wind turbine at the top of the rotor blade arc; or
- ii) For a system installed on a rooftop or side of a building, the minimum setback from all parcel boundaries shall be equal to the height of the system as measured from the lowest point of the micro wind turbine system to the top of the highest vertical extension of the wind turbine at the top of the rotor blade arc.
- iii) No such system shall be located within 60 metres of any eagle or heron nesting tree, as determined by a Qualified Environmental Professional (QEP), measured from the base of the nesting tree to the base of the wind turbine system.

5. **Part 3 Land Use Regulations, Section 3.3 General Regulations**, by inserting the following text as a new subsection 11) and renumbering subsections 11) through 16) in sequential order:

**11) Height Exemptions**

The following structures, mechanical devices or parts of buildings may exceed a height restriction under this Bylaw:

- a) Chimney stacks, mast aeriels, church spires, flag poles, water tanks, observation and transmission towers, mechanical devices necessary for the operation of a building, and agricultural buildings or structures.
- b) Components of solar photovoltaic or solar thermal systems where:
  - i) On a parcel less than 5,000 m<sup>2</sup> in area
    - a. the over-height portion of such system is limited to 50% of the roof width to which the system is attached; and
    - b. no portion of such system exceeds 0.6 metre above the maximum permitted height.
  - ii) On a parcel 5,000 m<sup>2</sup> or greater in area, no portion of such system exceeds 0.6 metre above the maximum permitted height.
- c) One over-height micro wind turbine system per parcel provided that no such system exceeds twice the maximum permitted height, as measured from the natural grade

at the base of the wind turbine tower to the top of the highest vertical extension of the wind turbine at the top of the rotor blade arc.

Introduced and read two times this \_\_\_ day of \_\_\_\_\_ 20\_\_.

Public Hearing held this \_\_\_ day of \_\_\_\_\_ 20\_\_.

Read a third time this \_\_\_ day of \_\_\_\_\_ 20\_\_.

Approved by the Minister of Transportation and Infrastructure pursuant to the *Transportation Act* this \_\_\_ day of \_\_\_\_\_ 20\_\_.

Adopted this \_\_\_ day of \_\_\_\_\_ 20\_\_.

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Chairperson

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Corporate Officer

Attachment 2  
Proposed Amendment Bylaw No. 1285.22, 2014

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 1285.22

A Bylaw to Amend Regional District of Nanaimo  
Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002

The Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

- A. This Bylaw may be cited as "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285.22, 2014".
- B. The "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002", is hereby amended as follows:

1. **Section 5 Definitions**, by deleting the definition of "floor area" and replacing with the following:

*floor area* means the sum total of the gross horizontal area of each floor of a building as measured from the inside surface of the outermost exterior wall.

2. **Section 5 Definitions**, by inserting the following definition after "Medical Marihuana Production":

*Micro Wind Turbine System* means a wind energy conversion system consisting of a wind turbine, associated structures and mechanical devices with a nameplate rated capacity of not more than 1 kW.

3. **Section 5 Definitions**, by inserting the following definition after "Silviculture":

*Small Wind Turbine System* means a wind energy conversion system consisting of a wind turbine, a wind turbine tower and associated equipment, machinery, and structures with a nameplate rated capacity of greater than 1 kW but not more than 10 kW.

4. **Section 2 General Regulations**, by renaming subsection 2.9 Setbacks to:

**2.9 Setbacks – Buildings and Structures**

and add the following text after d):

- e) Micro wind turbine systems
- i) For a system installed on the ground, the minimum setback from all parcel boundaries shall be equal to the height of the system as measured from the

natural grade at the base of the wind turbine tower to the top of the highest vertical extension of the wind turbine at the top of the rotor blade arc; or

- ii) For a system installed on a rooftop or side of a building, the minimum setback from all parcel boundaries shall be equal to the height of the system as measured from the lowest point of the micro wind turbine system to the top of the highest vertical extension of the wind turbine at the top of the rotor blade arc.
  - iii) No such system shall be located within 60 metres of any eagle or heron nesting tree, as determined by a Qualified Environmental Professional (QEP), measured from the base of the nesting tree to the base of the wind turbine system.
- f) Small wind turbine systems
- i) The minimum setback from all parcel boundaries shall be equal to the height of the small wind turbine system as measured from natural grade at the base of the wind turbine tower to the highest vertical extension of a wind turbine at the top of the rotor blade arc.
  - ii) No such system shall be located within 100 metres of any eagle or heron nesting tree, as determined by a Qualified Environmental Professional (QEP), measured from the base of the nesting tree to the base of the wind turbine system.

5. **Section 2 General Regulations, subsection 2.11 Setback Exemptions**, by adding the following text after h):

- i) rainwater harvesting structures, equipment and apparatus, including rain barrels and cisterns which are 2.0 metres or less in height and 4,546 litres or less in volume.

6. **Section 2 General Regulations, subsection 2.12 Height Exemptions**, by adding the following text after i):

- j) Components of solar photovoltaic and solar thermal systems where:
  - (i) On a parcel less than 5,000 m<sup>2</sup> in area
    - a. the over-height portion of such system is limited to 50% of the roof width to which the system is attached; and
    - b. no portion of such system exceeds 1.0 metre above the highest point of the roof to which the system is attached.
  - (ii) On a parcel 5,000 m<sup>2</sup> or greater in area, no portion of such system exceeds 1.0 metre above the highest point of the roof to which the system is attached.

- k) One over-height micro wind turbine system per parcel provided that no such system exceeds twice the maximum permitted height, as measured from the natural grade at the base of the wind turbine tower to the top of the highest vertical extension of the wind turbine at the top of the rotor blade arc.
  
- l) One over-height small wind turbine system per parcel provided that no such system exceeds 30 metres in height as measured from the natural grade at the base of the wind turbine tower to the highest vertical extension of a wind turbine at the top of the rotor blade arc.

Introduced and read two times this \_\_\_ day of \_\_\_\_\_ 20\_\_.

Public Hearing held this \_\_\_ day of \_\_\_\_\_ 20\_\_.

Read a third time this \_\_\_ day of \_\_\_\_\_ 20\_\_.

Approved by the Minister of Transportation and Infrastructure pursuant to the *Transportation Act* this \_\_\_ day of \_\_\_\_\_ 20\_\_.

Adopted this \_\_\_ day of \_\_\_\_\_ 20\_\_.

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Chairperson

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Corporate Officer

Attachment 3  
Draft Revised Board Policy B1.5  
**REGIONAL DISTRICT OF NANAIMO**  
**DRAFT POLICY**

SUBJECT:	<i>Development Variance Permit, Development Permit with Variance &amp; Floodplain Exemption Application Evaluation</i>	POLICY NO: B1.5 CROSS REF.:
EFFECTIVE DATE:	March 8, 1994	APPROVED BY: Board
REVISION DATE:		PAGE: 1 of 4

**PURPOSE**

This policy is to provide staff with guidelines for reviewing and evaluating development variance permit applications, development permit applications that include bylaw variances, and site-specific exemptions to the Floodplain Bylaw.

**PART A – DEVELOPMENT VARIANCE PERMIT AND DEVELOPMENT PERMIT WITH VARIANCE APPLICATION EVALUATION**

**1. Demonstration of Land Use Justification**

- a) An application should demonstrate that the proposed variance is necessary and is supported by an acceptable land use justification; such as:
  - i. the ability to use or develop the property is unreasonably constrained or hindered by having to comply with the bylaw requirement; or,
  - ii. there is a net benefit to the community or immediate area that would be achieved through the variance approval.
  - iii. the proposed variance would allow for more efficient and effective use and development of the subject property.
- b) Failure to provide an acceptable land use justification as outlined in Part A, Section 1(a) may be grounds for staff to recommend that the application be denied by the Board.
- c) If an acceptable land use justification is identified the applicant should demonstrate that a reasonable effort has been made to avoid the need for, or reduce the extent of, the requested variance. If such efforts are not made this may be grounds for staff to recommend that the application be denied by the Board.
- d) Examples of acceptable land use justifications are as follows:

- i. A physical constraint such as a steep slope, watercourse, or rock outcrop results in an unreasonably small building site when setbacks are applied. In such a case a setback variance may be recommended where the impact of the variance is considered acceptable by planning staff.
  - ii. A man-made constraint such as an archaeological site, odd shaped lot, restrictive or conservation covenants, easement, or right-of-way results in an unreasonably small building site when setbacks are applied. In such a case a setback variance may be recommended where the impact of the variance is considered acceptable by planning staff.
  - iii. A hazardous condition exists that requires that the underside of the floor joists be raised to meet floodplain elevations. This may result in an average designed building or structure exceeding the maximum height restrictions. In such a case a height variance may be recommended where the impact of the variance is considered acceptable by planning staff.
  - iv. A topographical constraint such as a depression or sloped area results in an average designed building or structure exceeding maximum height restrictions. In such a case a height variance may be recommended where the impact of the variance is considered acceptable by planning staff.
  - v. An environmentally significant feature such as a stand of Garry Oak trees, a watercourse, or sensitive ecosystem exists on site that the applicant is proposing to avoid, preserve, and/or enhance, which restricts potential building sites on a lot. In such a case a setback variance may be considered where the proposed variance will reduce the impact to the Environmentally Sensitive Area and any other impact considered acceptable by the reviewing planning staff member.
  - vi. The only building site on a lot will block a significant view for area residents. In such a case a setback variance may be considered to allow the relocation of the building to allow the preservation of that view, where the impact of the variance is acceptable.
  - vii. Where a longstanding existing building or structure does not conform to siting or height requirements a variance may be considered to legalize that structure where the impact of the variance is acceptable and the use of the building or structure conforms to the current zoning regulations.
  - viii. The inclusion of a renewable solar or wind energy system, or a rainwater harvesting system proposed for the operation of a building or structure results in the building or structure exceeding maximum height restrictions, or encroaching into a setback area. In such a case, a height variance or setback variance may be recommended where the impacts of the variance are considered acceptable.
- e) Part A, Section 2(d) is not intended to be an exhaustive or definitive list of acceptable land use justifications for a variance application. Staff are to use their judgment in evaluating the specific circumstances involved in each application.

## 2. Impact Evaluation

- a) Where a land use justification for a proposed variance has been demonstrated, the application shall then be evaluated based upon the impact(s) (positive or negative) of the variance. Impact(s) may be classified into the following three general categories:
  - i. Aesthetic impact. This includes the impact of the proposed variance on the streetscape, the views from adjacent properties, compatibility with neighbourhood design standards, etc.
  - ii. Functional impact. This includes the impact of the proposed variance on the function of the property for the permitted uses and the potential impact of the variance on the function of adjacent properties, or road right-of-ways.
  - iii. Environmental impact. This includes the impact of the proposed variance on the long term sustainability of the natural environment or the direct impact on a specific feature of the natural environment.
- b) An unacceptable impact, as evaluated by planning staff, is grounds for staff to recommend that the application be denied by the Board.
- c) An applicant should demonstrate that a reasonable effort has been made to minimize any and all potential negative impacts associated with a variance. If such efforts are not made this would be grounds for staff to recommend that the application be denied by the Board.
- d) Part A, Section 2(a) is not intended to be an exhaustive or definitive list of potential impacts. Staff are to use their judgment in identifying and evaluating all potential impacts associated with the specific circumstances involved in each application.

### **3. Specific Impact Evaluation by Application Type**

- a) Height variance requests for a residential use may not be supported where; in the opinion of planning staff:
  - i. the applicant is requesting a height variance to accommodate a third storey;
  - ii. the applicant has not made a reasonable effort to reduce the height of the proposed building or structure by reducing the roof pitch, reducing ceiling height, minimizing the crawl space, etc.;
  - iii. the appearance of the proposed structure from the street will appear out of character with the height of buildings in the immediate neighbourhood;
  - iv. the proposed height variance will result in a notable reduction in a neighbouring properties view of a significant viewscape; or
  - v. the proposed height variance will result in a notable shading of, or lack of privacy for, a neighbouring property.
- b) Lot line relaxation, ocean setback relaxation, and watercourse setback relaxation requests may not be supported where; in the opinion of Planning Staff:

- vi. the applicant has not made a reasonable effort to reduce the need for a setback variance by amending the house design or finding an alternative building site;
  - vii. the proposed setback variance will result in an unreasonable reduction in a neighbouring properties view of a notable viewscape;
  - viii. the proposed setback variance will result in the building or structure appearing to extend closer to the ocean or other watercourse than other houses in the immediate vicinity;
  - ix. the proposed setback variance may result in a geotechnical or flooding hazard;
  - x. the proposed setback variance may result in a negative impact on the natural environment;
  - xi. the proposed setback variance may have a negative impact on an archaeological site; or
  - xii. the proposed setback variance is contrary to senior government legislation (e.g. *Transportation Act, Fish Protection Act, Water Act, Land Title Act*, etc.).
- c) Parking Variance requests for Commercial, Industrial, or Institutional uses may not be supported where:
- i. the proposed variance would interfere with internal traffic flow, loading and unloading, access and egress, pedestrian safety, etc.;
  - ii. the applicant is not proposing to provide adequate parking spaces constructed to Regional District of Nanaimo standards on a hard durable dust free surface; or
  - iii. the proposed variance, in staff's opinion, does not provide an adequate number of parking stalls for the intended use.
- d) Signage variance requests may not be supported where:
- i. the proposed variance would result in an increased appearance of "sign clutter" on the subject property (sign consolidation should be encouraged);
  - ii. the proposed variance creates a visual obstruction which interferes with the safe movement of pedestrians and/or traffic on and off site; or
  - iii. the illumination of a proposed sign is not compatible with the surrounding neighbourhood or would create an unreasonable aesthetic impact on the adjacent properties.

## **PART B – FLOODPLAIN EXEMPTION APPLICATIONS**

### **1. Demonstration of Land Use Justification**

- a) An applicant must demonstrate that the proposed exemption is necessary and is supported by an acceptable land use justification; such as:
- i. there are no other practical building sites located on the subject property;
  - ii. the applicant has exhausted all other options including amendments to zoning setback and height requirements; or
  - iii. it is not practical to develop the subject property without a site specific exemption.

**2. Demonstration that the Exemption is Advisable**

- a) Where an acceptable land use justification has been demonstrated, the applicant must demonstrate that the proposal is in compliance with provincial guidelines and / or provide a report prepared by a professional engineer or geoscientist experienced in geotechnical engineering that the land may be used safely for the use as proposed. Where the report contains restrictions, conditions, or warnings related to the safe use of the site that covenant shall be required to be registered on title.
- b) All reports identified in Part B, Section 2(a) must also discuss the land use justifications in identified in Part B, Section 1 of this policy.
- c) An application must be processed and evaluated in a manner consistent with the provincial Flood Hazard Area Land Use Management Guidelines, May 2004, as amended, and Floodplain Management Bylaw No. 1469, 2006.
- d) Failure to meet any of the above conditions is grounds for staff to recommend the Board deny a floodplain exemption application.

**PART C - TERMS OF USE OF THIS POLICY**

- 1. This policy is intended to apply to staff evaluation of development variance permits, development permit applications that include bylaw variances, and site specific exemptions to the Floodplain Bylaw.
- 2. The Board of the Regional District of Nanaimo is not in any way bound by this policy and is free to apply, or not apply, any evaluation criterion it deems appropriate in its consideration of applications.

**Attachment 4**  
**Summary of Minutes of a Public Information Meeting**  
**Held at Cedar Heritage Centre**  
**1144 Macmillan Road, Cedar**  
**Tuesday, September 16, 2014 at 6:00 pm**

*Note: This summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments and questions of those in attendance at the Public Information Meeting*

There were two members of the public in attendance at this meeting.

**Present for the Regional District of Nanaimo:**

Director McPherson, Electoral Area 'A' (the Chair)  
Chris Midgley, Manager, Energy & Sustainability  
Jeremy Holm, Manager, Current Planning  
Lainya Rowett, Senior Planner  
Ting Pan, Sustainability Coordinator

Prior to the meeting start, members of the public viewed presentation boards and materials and dialogued with staff asking questions about the proposed amendments.

The Chair opened the meeting at 7:03 pm, outlined the evening's agenda, and introduced the RDN staff in attendance. The Chair then stated the purpose of the public information meeting and asked RDN staff to provide background information concerning the proposed amendments.

Lainya Rowett provided a brief summary of the bylaw amendment process and the information made available for public viewing in support of the proposed amendments.

The Chair invited staff to give a presentation of the proposed bylaw and policy amendments.

Chris Midgley, RDN, presented an overview of the proposed amendments to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987; Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002; and Regional District of Nanaimo Board Policy B1.5. Questions and comments were invited from the audience throughout the presentation.

The following comments and questions were expressed throughout the presentation of amendments to Zoning Bylaw No. 1285:

Laurie Gourlay, 2689 Cedar Road, asked if the proposed amendments would limit the number of ground-mounted solar energy systems permitted on a parcel.

Chris Midgley confirmed there is no limit on the number of ground-mounted systems on a parcel which are less than the maximum permitted height in the zoning; however, systems over 1.0 metre in height are considered structures and must meet setback requirements in the zoning. Setback requirements are also proposed for micro-wind turbine systems.

Laurie Gourlay, 2689 Cedar Road, expressed concern that people may cut down eagle or heron nesting trees in order to build homes or install wind turbines and avoid the additional setback requirements. Lainya Rowett commented that nesting trees would still be protected under the *Wildlife Act*.

Jack Anderson, 1653 Cedar Road, asked if there is evidence of eagles being disturbed by wind turbines.

Chris Midgley said there is really no data but staff consulted biologists and confirmed that the proposed setback requirements are reasonable.

Jack Anderson, 1653 Cedar Road, said in his experience he had not observed any impact of a micro-wind turbine on a nearby eagle nesting tree.

Laurie Gourlay, 2689 Cedar Road, asked for clarification on the number of micro-wind turbines permitted per parcel, for example if there were two residences on a parcel.

Chris Midgley explained that only one over-height micro-wind turbine system is permitted per parcel in the proposed bylaw amendment.

Jack Anderson, 1653 Cedar Road, commented that this amendment would facilitate only one efficient wind turbine system per parcel.

Chris Midgley said if a variance is needed to accommodate a more efficient system the proposed revision to the Board Policy would support the consideration of such a variance. The revised Policy is intended to address unforeseen situations.

Jack Anderson, 1653 Cedar Road, commented that it would also be helpful to exclude isolated sunspace (sunroom) from the floor area calculation, using a minimum required ratio of 1.5 times the glass area to the footprint of the room to qualify as a sunspace.

Laurie Gourlay, 2689 Cedar Road, said it would be nice to have requirements to accommodate renewable energy systems in new building construction (e.g. solar readiness).

Chris Midgley said this would not be required through zoning.

Lainya Rowett explained how some jurisdictions use density-bonusing as a way to achieve higher construction standards, but there is no incentive in rural development to offer density-bonusing.

Jack Anderson, 1653 Cedar Road, suggested that accessory agricultural buildings (e.g. greenhouses) be exempt from parcel coverage to encourage food production.

Jeremy Holm explained that staff are also working on the implementation of the RDN Agricultural Area Plan and there will be considerations of bylaw amendments in support of agriculture.

Jack Anderson, 1653 Cedar Road, said he would like consideration given to allowing rainwater harvesting systems in the setback area with the proposed amendments to Bylaw 500, similar to what is proposed in Bylaw 1285. He also suggested increasing the allowable volume for a cistern in the setback area from 1,000 gallons to 2,000 gallons, which is more commonly used.

Laurie Gourlay, 2689 Cedar Road, said that screening should be required around cisterns in the setbacks.

Chris Midgley also explained that a property owner could have more than one cistern at the maximum permitted volume within the setback area in the proposed amendment to Bylaw 1285.

The following comments and questions were expressed throughout the presentation of amendments to Zoning Bylaw No. 500:

Jack Anderson, 1653 Cedar Road, said that the proposed limit of 50% roof coverage for over-height solar energy systems is not critical and 100% coverage should be permitted.

Laurie Gourlay, 2689 Cedar Road, asked if the proposed amendment to the definition of floor area included any consideration of the ratio of floor area to lot size, parcel coverage.

Jeremy Holm explained that no changes to the calculation of parcel coverage are proposed, and setbacks would still be measured to the overhang of a building.

Laurie Gourlay, 2689 Cedar Road, asked if the proposed amendments are in response to observed problems or if these are proactive changes to the bylaws.

Chris Midgley explained the bylaw amendments are intended to bring clarity and consistency to understanding and interpretations of regulations for green building features, systems and technologies, to remove barriers, and to allow opportunities for such systems where there is an interest.

Jack Anderson, 1653 Cedar Road, congratulated the RDN for taking the initiative and suggested the proposed amendments could be even more progressive, as it may be several years before further bylaw amendments are proposed.

Laurie Gourlay, 2689 Cedar Road, asked if the proposed amendments would apply to commercial and industrial buildings.

Chris Midgley confirmed that the proposed amendments would apply broadly to all zones.

Following the presentation, the Chair invited further questions and comments from the audience.

The Chair asked if there were any further questions or comments.

Being none, the Chairperson thanked those in attendance and announced that the Public Information Meeting was closed.

The meeting was concluded at 7:45 pm.



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Lainya Rowett  
Recording Secretary

**Attachment 5**  
**Summary of Minutes of a Public Information Meeting**  
**Held at Extension Community Hall**  
**2140 Ryder Street, Extension**  
**Wednesday, September 17<sup>th</sup>, 2014 at 6:00 pm**

*Note: This summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments and questions of those in attendance at the Public Information Meeting.*

There were two members of the public in attendance at this meeting.

**Present for the Regional District of Nanaimo:**

Director Maureen Young, Electoral Area 'C' (the Chair)  
Chris Midgley, Manager of Energy and Sustainability  
Ting Pan, Sustainability Coordinator

The Chair opened the meeting at 6:20 pm, outlined the evening's agenda, and introduced the RDN staff in attendance. The Chair then stated the purpose of the public information meeting and asked RDN staff to provide background information concerning the proposed amendments.

Chris Midgley provided a brief summary of the bylaw amendment process and the information made available for public viewing in support of the proposed amendments.

The Chair invited staff to give a presentation of the proposed bylaw and policy amendments.

Ting Pan, presented an overview of the proposed amendments to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987; Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002; and Regional District of Nanaimo Board Policy B1.5.

The following comments and questions were expressed throughout the presentation of amendments to Zoning Bylaws No. 1285 and No. 500:

Sharon Bennett, 2505 Godfrey Road, asked about restrictions on ground-mounted solar energy systems.

Chris Midgley said that ground-mounted systems are permitted and not restricted in number unless they exceed the maximum permitted height.

Sharon Bennett, 2505 Godfrey Road, commented that larger wind turbines should be allowed if the RDN is serious about supporting sustainable energy.

Sharon Bennett, 2505 Godfrey Road, asked if the proposed setbacks for wind turbines considered protecting other species of birds.

Chris Midgley said that species other than eagles and herons (nesting trees) were not considered and there is no evidence of impacts on birds for this scale of wind turbines.

Sharon Bennett, 2505 Godfrey Road, asked for clarification that wind turbines would not be allowed on urban sized lots.

Chris Midgley agreed that given the setback requirements wind turbines would not be feasible on narrower urban sized lots.

Sharon Bennett, 2505 Godfrey Road, asked why small wind turbine systems are not proposed to be allowed in Bylaw 500.

Chris Midgley explained that Bylaw 500 regulates a much larger, diverse area than Bylaw 1285 and these systems may be acceptable in some areas but not in others. It is difficult to achieve consensus broadly, so the approach to allowing small wind turbine systems in Bylaw 500 would be through a variance in consideration of Board Policy.

Sharon Bennett, 2505 Godfrey Road, asked what staff meant by the term 'super insulation' in discussion of floor area calculation.

Ting Pan explained that this refers to insulation above and beyond what is required by Building Code.

Following the presentation, the Chair invited additional questions and comments from the audience.

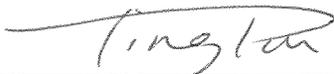
Sharon Bennett, 2505 Godfrey Road, asked why fewer changes were proposed for Bylaw 500 than for Bylaw 1285 and commented that it would be nice to have consistency across the region. She also commented that she was glad to see the RDN was moving forward with these changes. She would like to see the public information meetings and proposed changes publicized better.

Malcolm Macdonald, 2169 Bramley Road, commented the changes were benign and well-intentioned. He agreed with and supported the proposed changes.

The Chair asked if there were any further questions or comments.

Being none, the Chairperson thanked those in attendance and announced that the Public Information Meeting was closed.

The meeting was concluded at 7:17 pm.



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Ting Pan  
Recording Secretary

**Attachment 6**  
**Summary of Minutes of a Public Information Meeting**  
**Held at Bradley Centre**  
**957 Shearman Road, Coombs**  
**Thursday, September 18, 2014 at 6:00 pm**

*Note: This summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments and questions of those in attendance at the Public Information Meeting.*

There were four members of the public in attendance at this meeting.

**Present for the Regional District of Nanaimo:**

Director Fell, Electoral Area 'F' (the Chair)  
Chris Midgley, Manager, Energy & Sustainability  
Lainya Rowett, Senior Planner

The Chair opened the meeting at 6:18 pm, outlined the evening's agenda, and introduced the RDN staff in attendance. The Chair then stated the purpose of the public information meeting and asked RDN staff to provide background information concerning the proposed amendments.

Lainya Rowett provided a brief summary of the bylaw amendment process and the information made available for public viewing in support of the proposed amendments.

The Chair invited staff to give a presentation of the proposed bylaw and policy amendments.

Chris Midgley, RDN, presented an overview of the proposed amendments to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987; Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002; and Regional District of Nanaimo Board Policy B1.5. Questions and comments were invited from the audience throughout the presentation.

The following comments and questions were expressed throughout the presentation of amendments to Zoning Bylaw No. 1285.

Randy Marston, Box 443 Parksville, asked how many micro wind turbines would be permitted to exceed the maximum building height with the proposed amendment to Bylaw 1285.

Chris Midgley confirmed that one over-height micro wind turbine would be permitted per parcel, and there are no restrictions on the number of micro wind turbines that are less than the maximum permitted height.

Randy Marston, Box 443 Parksville, asked if the height exemption for micro wind turbines would also apply on commercially zoned properties.

Chris Midgley confirmed that the proposed amendment for height exemption would apply broadly within the Bylaws and would apply to commercial lots.

Randy Marston, Box 443 Parksville, asked for clarification of the proposed amendment to the definition of floor area in Bylaw 1285, and how thick a wall could be before the floor area would no longer be calculated from the inside of the wall.

Chris Midgley explained that the proposed amendment does not include a threshold for wall thickness, but the finishing must clearly be part of the wall system to be excluded from the floor area calculation.

The following comments and questions were expressed throughout the presentation of amendments to Zoning Bylaw No. 500.

Syd Lee, 1268 Seadog Road, in discussing views, asked if a neighbour's sight line across your property is considered as a "view".

Chris Midgley confirmed this would be considered as part of the view.

Syd Lee, 1268 Seadog Road, explained that he had to apply for a development variance permit application because his micro wind turbine was deemed to be a structure and didn't meet the height or setback requirements. He said he didn't understand why the maximum height of the turbine was related to the maximum height for an accessory building even though the turbine wasn't a building.

Lainya Rowett, clarified that staff would interpret the turbine to be a "structure" requiring setbacks, and the definition of "building" includes "structures", so the height of the turbine was related to the maximum permitted height of an accessory building. With the proposed amendment, however, micro wind turbines would be exempt from building height up to twice the permitted height.

Derrick Grimmer, 1418 Memorial Avenue, suggested the regulations reference best practices for wind loading on solar systems. The regulations could also reference best practices on tip speed for wind turbines, to reduce potential damage to birds and bats. He said he has no concerns with the proposed amendments in Bylaw 500 for passive design features and rainwater harvesting cisterns.

Syd Lee, 1268 Seadog Road, said that a fixed tip speed would render the most commonly used micro-turbines impractical.

Following the presentation, the Chair invited further questions and comments from the audience.

The Chair asked if there were any further questions or comments.

Being none, the Chairperson thanked those in attendance and announced that the Public Information Meeting was closed.

The meeting was concluded at 6:47 pm.



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Lainya Rowett  
Recording Secretary