

# Memo

**File:** 3060-20/DV 2A 21

**DATE:** July 5, 2021

**TO:** Agricultural Advisory Planning Commission

**FROM:** Planning and Development Services

**RE:** Development Variance Permit – 8991 Island Hwy South (3L Developments Inc.)  
Lot 29, Newcastle District, except therefrom the right of way of the Esquimalt and  
Nanaimo railway as shown on plan attached to DD4433-N, PID 001-613-511

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The attached development proposal is for commission members' review and comment. An application has been received to consider a Development Variance Permit (DVP) that would vary the zoning regulation that requires 10 per cent of the perimeter of a lot be frontage.

The subject property (Figures 1 and 2) is a 64 hectare lot located within the Agricultural Land Reserve. The applicant is seeking to implement a lot line adjustment that would move approximately 25 hectares from this lot to the adjoining lot so that the new boundary between the two lots would be the railway (Figure 3). The resulting reconfiguration would leave the subject property with only 4.25 per cent of its perimeter fronting a road right-of-way.

## Zoning

Lot line adjustments are processed in the same manner as subdivisions and, therefore, the resulting lots must meet the zoning regulations. Both properties involved in the lot line adjustment are zoned Rural-ALR. The Zoning Bylaw's Subdivision Regulations, which are applicable to all zones, states:

“The minimum frontage of a lot created by subdivision shall be 10 per cent of the perimeter of the lot unless specified otherwise elsewhere in this bylaw. For this purpose, the water boundary of any lot that abuts a water body or the sea is deemed to be frontage.”

The subject property would be left with approximately 130 metres of frontage along the Island Hwy South in the southwest corner of the lot. This equates to approximately 4.25 per cent of the proposed perimeter. The proposal does not involve dedication of any new road right-of-way and the railway does not contribute to the frontage calculation. Therefore, this DVP is required for this proposed lot line adjustment to proceed.

## Agricultural Land Reserve

The lands are within the Agricultural Land Reserve. Section 3 of the *Agricultural Land Reserve General Regulation* allows for a lot line adjustment where the lots are at least 1 hectare in area each and, in the opinion of the approving officer, the adjustment would enhance farming or permit better use of structures used for farming.

Aquatic and Riparian Habitat Development Permit

The proposed lot line adjustment also requires an Aquatic and Riparian Habitat Development Permit addressing subdivision within 30 metres of a watercourse. The applicant has submitted that Development Permit application and its approval is delegated to staff.

Sincerely,

***T. Trieu***

Ton Trieu, RPP, MCIP  
Manager of Planning Services  
Planning and Development Services

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Attachments: Appendix A – Explanatory Letter from Applicant



Figure 1: Subject Property



Figure 2: Air Photo

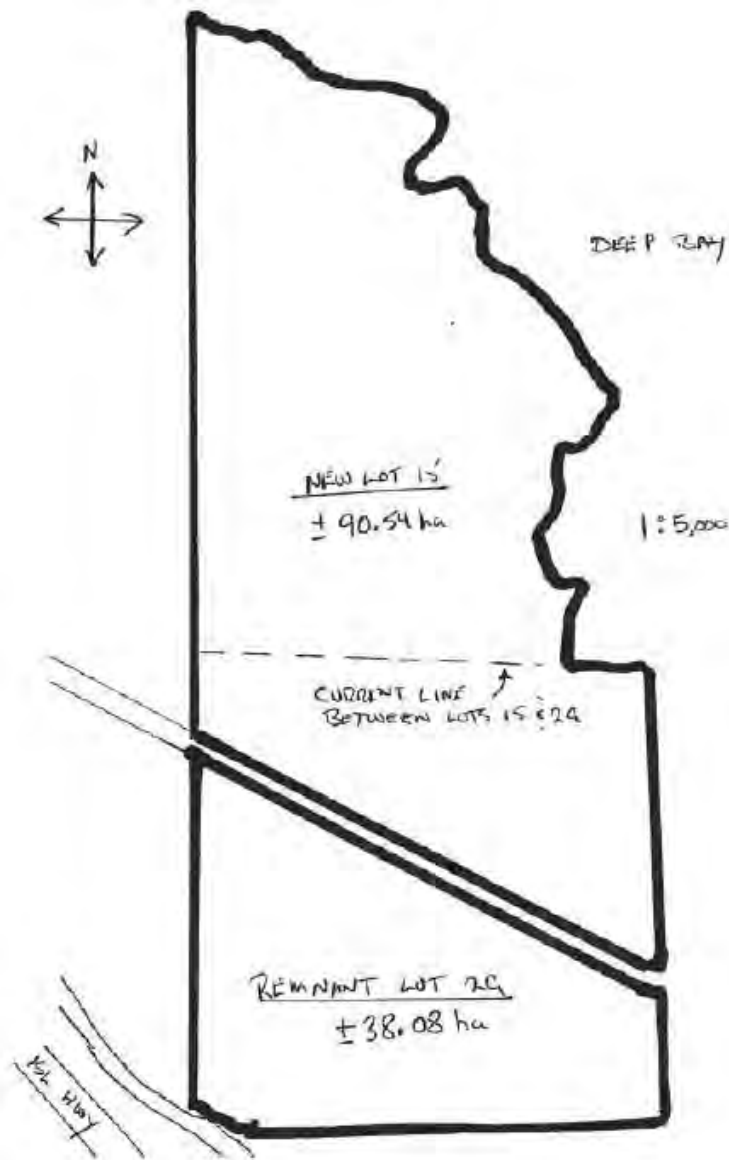


Figure 3: Proposed Lot Line Adjustment

### Attachment to Application for DP and DVP

For: DL 15 and 29, Newcastle District, excepted therefrom the right of way of the E and N railway as shown on DD 4433-N: 8991 Island Highway South

#### Overview

The property is comprised of two lots which are both in the ALR and are being farmed. A lot line adjustment subdivision has been applied for to rationalize the lot line between DLs 15 and 29. No development is being proposed as part of this adjustment. Currently there is no legal access to the northerly portion of DL 29. This adjustment will allow farming to occur on both parcels without access issues.

#### Development Permit

A Development Permit for aquatic and riparian habitat is required because of the lot line adjustment. A registered professional biologist has conducted an assessment and that report is attached to the application. The proposed lot line adjustment does not conflict with the CVRD's Development Permit guidelines. *The Riparian report advises that there is no environmental impact associated with this subdivision proposal.*

As noted in the report by Steve Toth, the land has been improved for farming. The report also recommends additional Biophysical assessment. This is currently underway and will be provided in the near future.

#### Development Variance Permit

A DVP is required for the lot line adjustment because the property does not meeting minimum frontage requirements of 10% per Section 501 (1) (iii) of Bylaw 520. The rationale for this variance is as follows:

- 1) The location of the E&N rail line currently dissects DL 29 and effectively prevents access from the southerly portion of DL 29 to the northerly portion.
- 2) The subdivision is not creating new lots.
- 3) The subdivision will ensure access to each of DL 15 and 29 and will avoid a future access issue for the farming operations. It enhances farming operations.
- 4) The land is in the ALR and the ALC typically does not support road dedications. It would prefer to keep land in the ALR.
- 5) DL 29 currently does not meeting the frontage requirement.
- 6) The current frontage of DL 29 is about 3.43% of the property's perimeter. The adjusted parcel size will increase the frontage to 4.25% thus reducing the existing non-conformity.