



STAFF REPORT TO COMMITTEE

DATE OF REPORT July 11, 2019

MEETING TYPE & DATE Electoral Area Services Committee Meeting of August 7, 2019

FROM: Development Services Division
Land Use Services Department

SUBJECT: Rezoning Application No. 03-H-16RS (13271 Simpson Road)

FILE: 03-H-16RS

PURPOSE/INTRODUCTION

The purpose of this report is to offer the applicant an opportunity to present an alternative to the covenant that was previously required by the Committee.

RECOMMENDED RESOLUTION

For information.

LOCATION MAP



BACKGROUND

At the March 14, 2018, Board meeting, the following resolution was made:

18-151 It was moved and seconded:

- 1. That Zoning Amendment Bylaw for Application No. 03-H-16RS (13271 Simpson Road) be forwarded to the Board for consideration of 1st and 2nd readings;**
- 2. That referrals to Ministry of Transportation and Infrastructure (Nanaimo), Island Health (Nanaimo), North Oyster Volunteer Fire Department, Regional District of Nanaimo, Agricultural Land Commission and Nanaimo Airport Commission be accepted;**
- 3. That a covenant be drafted to secure proposed amenities and environmental protection measures; and**
- 4. That a public hearing be scheduled with Directors from Electoral Areas H, G and E as delegates.**

PLANNING ANALYSIS

The applicant indicates that the landowner is not supportive of a covenant as is required as per part 3 of the Board resolution reproduced above, but have proposed instead a Land Improvement Agreement, that would not be registered on title and therefore not be enforceable should the party that signed the agreement change.

The decision before the Committee is therefore whether to substitute the requirement for a covenant under Board Resolution 18-151 with a requirement for the Land Improvement Agreement submitted by the applicant, or to reaffirm the need for a covenant.

CVRD legal counsel have indicated that the proposed agreement is not as effective as a covenant would be because it would not run with the land, but with the current tenant (Schnitzer).

OPTIONS

Option 1 (recommended):

For information.

Option 2:

That it be recommended to the Board that Resolution 18-151, Part 3 be rescinded and replaced with the following:

- 3. That a land improvement agreement be drafted to secure from the applicant the amenities and environmental protection measures they have proposed; and**

Prepared by:



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Manager

Reviewed by:

Not Applicable
Not Applicable



Ann Kjerulf, MCIP, RPP
General Manager

ATTACHMENTS:

Attachment A – Draft Land Improvement Agreement

Attachment B – Current and Proposed Paving Areas