

FRASER VALLEY REGIONAL DISTRICT

BOARD OF VARIANCE

OPEN MEETING AGENDA

Monday, July 8, 2024

9:00 am

FVRD Boardroom, 45950 Cheam Avenue, Chilliwack, BC

Pages

1. LAND ACKNOWLEDGEMENT
2. CALL TO ORDER
3. APPROVAL OF AGENDA, ADDENDA AND LATE ITEMS

MOTION FOR CONSIDERATION

THAT the Agenda, Addenda and Late Items for the Board of Variance Hearing of July 8, 2024, be approved;

AND THAT all correspondence and other information set to the Agenda be received for information.

4. COMMENTS BY SECRETARY TO BOARD OF VARIANCE AND STAFF
5. DELIBERATION BY BOARD OF VARIANCE

5.1 Board of Variance Application for #7-9201 Shook Road, Electoral Area G

3 - 56

- Notice to Applicant
- Notice to Adjacent Property Owners
- Corporate report dated July 8, 2024 by Tracey Heron, Planner I
- Hatzic Discussion Paper

6. PUBLIC QUESTION PERIOD FOR ITEMS RELEVANT TO THE AGENDA

IN PERSON PARTICIPATION

FVRD Board Room

ONLINE PARTICIPATION

Email submissions can be made to info@fvrld.ca before 1 pm, July 5, 2024. Alternatively, you may participate in public question period live on Zoom, by phone or computer using the Zoom information provided on the FVRD website.

7. DECISION OF BOARD OF VARIANCE

8. ADJOURNMENT

MOTION FOR CONSIDERATION

THAT the Board of Variance Hearing of July 8, 2024 be adjourned.



June 11, 2024

Don Bruneau
7 – 9201 Shook Road
Mission, BC V2V 7M3

Via email: [REDACTED]

Dear Mr. Bruneau,

RE: Board of Variance Application: #7 – 9201 Shook Road, Electoral Area G

I write to confirm that the Board of Variance hearing with respect to #7- 9201 Shook Road in Electoral Area G will take place on Monday July 8, 2024 at 9:00am. The hearing will take place in person, in the 4th floor boardroom at 45950 Cheam Avenue, Chilliwack BC.

The agenda for this Board of Variance application will be published on Friday June 28, 2024 and a copy will be sent to you by email.

Should you have any questions, please feel free to contact me directly at 604-702-5023.

Regards,

**Jaime
Van Nes**

Digitally signed by
Jaime Van Nes
Date: 2024.06.11
11:00:23 -07'00'

Jaime Van Nes
Director of Legislative Services/Corporate Officer

cc: Director Cory Cassel, Electoral Area G
Jennifer Kinneman, Chief Administrative Officer
Hasib Nadvi, Deputy Director of Planning & Development
Tracey Heron, Planner I

File No. 0388-30 2024- 775.70500.070

June 26, 2024

Re: Application to Board of Variance

Notice in accordance with Section 541 of the *Local Government Act* to property owners and tenants in occupation within the area adjacent to:

#7 – 9201 Shook Road, Electoral Area G

PLEASE TAKE NOTICE that the Board of Variance of the Fraser Valley Regional District will consider this application, pursuant to Sections 531 and 532 of the *Local Government Act* requesting:

**A structural addition to a non-conforming structure
(Roof over an existing deck)**

A Board of Variance hearing has been scheduled for **July 8, 2024, at 9:00 am** at the Fraser Valley Regional District in the Boardroom located on the fourth floor at 45950 Cheam Avenue in Chilliwack, BC.

The intent of this notice is to allow the members of the Board of Variance to receive input from all persons who believe their interest in the property is affected by this proposed Board of Variance application.







Interested persons may attend the Board of Variance hearing or may make a written submission regarding this application. Written submissions must be received no later than **4:30 pm on July 5, 2024**, either by email to jvannes@fvrd.ca or by regular mail sent to the address below. You may also attend the meeting in person or electronically by Zoom, and details for participation may be found at www.fvrd.ca.

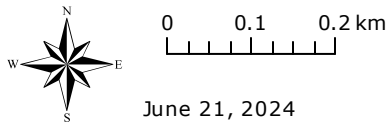
If you have any questions, please feel free to contact me at 604-702-5023.

Regards,

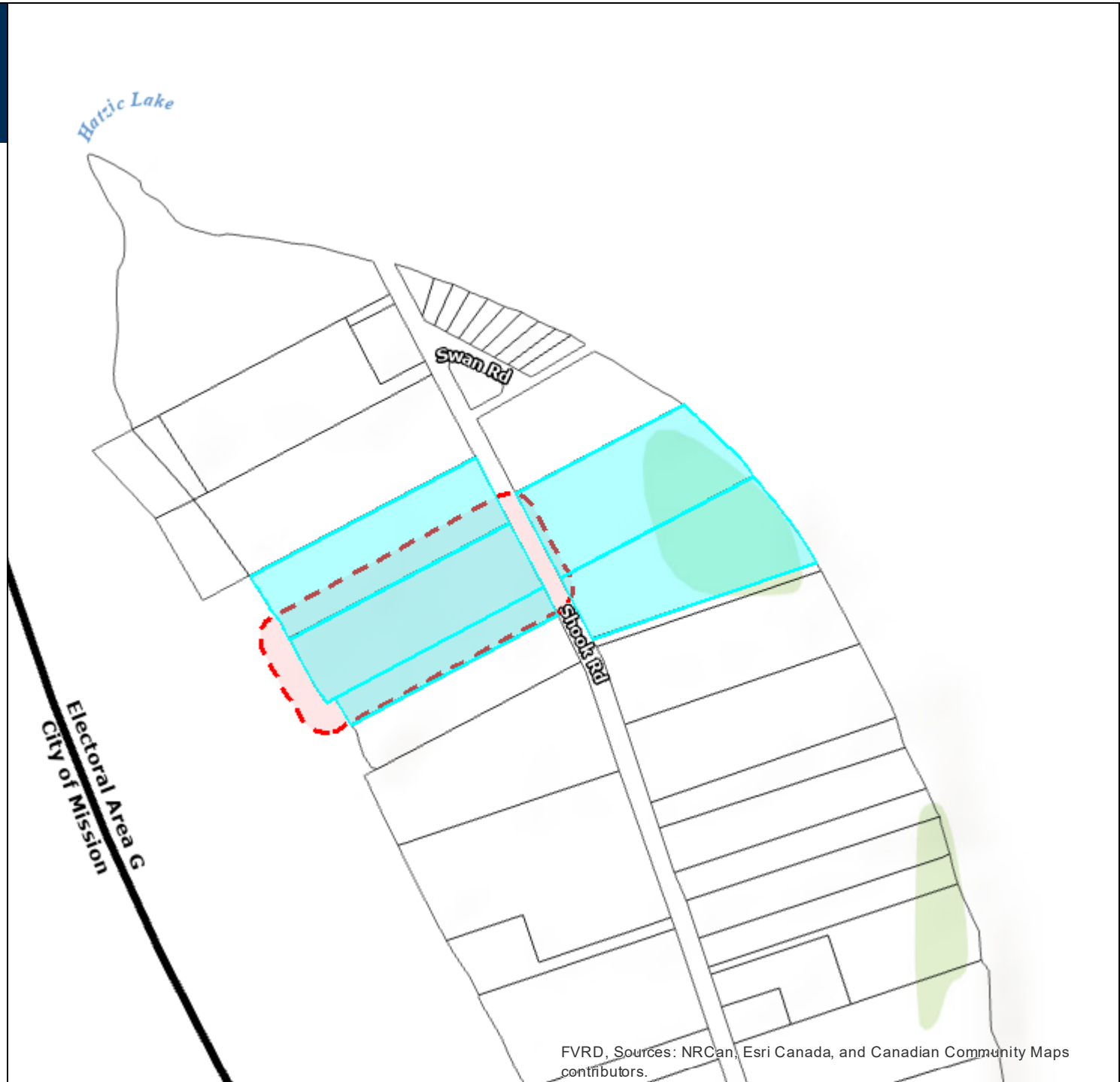
Jaime Van Nes
Secretary to the Board of Variance/
Director of Legislative Services

Radius Map

-  Dikes
-  Jurisdictions
-  First Nations
-  Parks
-  Encumbrances
-  Properties



Disclaimer: This map was compiled by the Fraser Valley Regional District, using data believed to be accurate; however, a margin of error is inherent in all maps. This product is distributed without warranties of any kind, either expressed or implied, including but not limited to warranties of suitability of particular purpose or use.



FVRD, Sources: NRCan, Esri Canada, and Canadian Community Maps contributors.



CORPORATE REPORT

To: Board of Variance

Date: 2024-07-08

From: Tracey Heron, Planner 1

File No: 0388-30 2024-755-70500.070

Subject: Board of Variance Application for 7-9201 Shook Road, Aqua Vista Estates, Area G

REPORT PURPOSE

As of March 14, 2024, the Fraser Valley Regional District (FVRD) is in receipt of a Board of Variance application to permit a roof addition over an existing deck to a legally non-conforming structure, under Section 540(c) of the *Local Government Act*, for the property located at #7-9201 Shook Road, Electoral Area G.

The staff report summarizes the relevant Fraser Valley Regional District Bylaws, information, and other regulations related to the application.

Appendix A: Location Map

Appendix B: User Lot Layout

Appendix C: Site Plan

Appendix D: Application

Appendix E: **Application's Rationale Letter**

Appendix F: Excerpts of the Dewdney-Alouette Regional District Bylaw No. 28, 1972 for Electoral Area B, C, D & E (Non-conforming Use and Rural 3 Zone)

Appendix G: Excerpts of the Land Use and Subdivision Regulation of the consolidated Zoning Bylaw No. 1638, 2021

Appendix H: Excerpts of the Fraser Valley Regional District Official Community Plan for Electoral Area "G" Bylaw No. 0866, 2008

Appendix I: Excerpts from the Local Government Act Section 528-532 and Section 536-544

Appendix J: Hatzic Island Discussion Paper

Appendix K: Petition for Support

DECISION REQUESTED OF THE BOARD OF VARIANCE

The applicant has applied to the Board of Variance under Section 540(c) of the *Local Government Act* for an exemption from Section 531(1) of the same act, to permit a roof addition over an existing wooden deck of a legally non-conforming single-family dwelling.

Section 540 of the Local Government Act allows a person to apply for a Board of Variance order if the prohibition of an addition or alteration to a non-conforming structure would cause the person undue hardship. The provision on non-conformity is stated under Section 531 of the *Local Government Act*.

S.531 of the *Local Government Act* states:

Restrictions on alteration or addition to building or other structure

531 (1) Subject to this section, a structural alteration or addition must not be made in or to a building or other structure while a non-conforming use is continued in all or any part of it.

(2) Subsection (1) does not prohibit a structural alteration or addition that is required by an enactment or is permitted by a board of variance under Section 542 (1) [*authority for variance or exemption to relieve hardship*].

The applicant is asking for the Board of Variance to consider the following:

- To maintain an existing roof addition over a back yard wooden deck.

The Board of Variance must consider if the prohibition of this structural alteration (i.e. a roof addition over an existing deck) would cause the applicant hardship. If the Board of Variance finds that undue hardship would be caused to the applicant if Section 531(1) of the *Local Government Act* is complied with, **the Board must state the exact nature of the hardship for the hearing's record.**

The Board may order that the applicant be exempted from Section 531 (1) of the *Local Government Act*, if the Board:

- a) has heard the applicant and any person notified under Section 541;
- b) finds that undue hardship would be caused to the applicant if the bylaw or Section 531 (1) is complied with; and,
- c) is the opinion that the variance or exemption does not do any of the following:
 - i) result in inappropriate development of the site;
 - ii) adversely affect the natural environment;
 - iii) substantially affect the use and enjoyment of adjacent land;
 - iv) vary permitted uses and densities under the applicable bylaw;
 - v) defeat the intent of the bylaw.

BACKGROUND

Most development on Hatzic Island has occurred over time without a comprehensive planning framework. Land-use regulations began in the mid-sixties (1966 Official Regional Plan), with the Island being designated Lowland Rural as it was located fully within a floodplain. Agriculture and low-density rural uses were supported with the intent to lessen any impacts should flooding occur. This Lowland Rural designation provided a subdivision policy for a minimum parcel size of 8.0 ha (20.0 acres). When the Dewdney-Alouette Regional District introduced zoning in 1972, Hatzic Island was zoned predominantly Rural III (R-3), maintaining the minimum parcel size of 8.0 ha (20.0 acres) for subdivision as set out in the Official Regional Plan. As much of the development on the Island pre-dated the 1972 land use zoning regulations and policies, several developments existing on Hatzic Island are classified as legally non-conforming.

The subject property, referred to as Aqua Vista Estates Ltd., is one such legally non-conforming development pre-dating *Dewdney-Alouette Regional District Zoning Bylaw No. 22, 1972*. The property was not legally subdivided, and as such, the parent parcel only permits one dwelling unit. There are currently twenty-one (21) user lots and dwellings located on this land parcel at 9201 Shook Road.

As user lot #7-9201 Shook Road is located on a legally non-conforming property, any proposed works that are structural are not permitted unless the Board of Variance approves an alteration or addition to the non-conforming use.

The general location of the proposal is shown on the attached location map in Appendix A. The location of the specific user lot is shown on the attached user lot layout plan in Appendix B. Details on the addition are shown on the attached site plan in Appendix C, and the application is found in Appendix D.

PROPERTY DETAILS	
Electoral Area	G
Address	#7-9201 Shook Road
PID	010-666-761
Legal Description	LOT 13, SECTION 36, TOWNSHIP 17, NEW WESTMINSTER DISTRICT, PLAN NWP2677
Folio	775.70500.070
Registered Property Owner	Aqua Vista Estates Ltd
Applicant	Don & Diane Bruneau
Lot Size	5.0 acres with 21 home sites
Agricultural Land Reserve	No
Floodplain	Within; 9.3m GSC FCL and 7.5m setback from Hatzic Lake
OCP	Rural (R)
Zoning	Rural 4 (R-4)
Development Permit Area	Within Riparian Areas Development Permit Area 2-G; exempted because greater than 30m from Hatzic Lake
Setbacks	Existing roof addition meets 6.0m front property line setback and 1.5m side setback

Bylaw Enforcement		Yes	
ADJACENT ZONING & LAND USES			
Direction	Use	Zoning	OCP
North	Rural Residential	Rural 4 (R-4)	Rural
East	Rural Residential	Rural 4 (R-4)	Rural
West	Hatzic Lake	Rural 4 (R-4)	Rural
South	Rural Residential	Rural 4 (R-4)	Rural

NON-CONFORMANCE

The subject property, referred to as Aqua Vista Estates, is one of several legally non-conforming developments on Hatzic Island, which pre-date zoning bylaw regulations.

The property is zoned Rural 4 (R-4) which permits one dwelling unit per parcel. It is one legal lot with 21 dwelling units contained within its boundaries. The use of the property for up to 21 dwelling units is legally non-conforming (“grandfathered”) pursuant to Section 540 of the *Local Government Act* (LGA).

Generally, the LGA sections considering non-conformity actively work towards conformance by **preventing an increase in the scale of the use and limiting the duration of the use to the ‘natural’ life of the structure.** The net effect is to encourage the replacement of the non-conforming use with one that conforms to the zoning bylaw.

In some instances, the legal framework combined with practical considerations such as ownership structure and the nature of the use, leaves little or no expectation that conformity will be achieved, even in the long term. The result may be that a non-conforming use is permitted, and expected, to continue indefinitely but is still subject to the depressing effects of non-conforming status. In these instances, the non-conforming status may create uncertainty and stifle investment necessary for the maintenance of safe and healthy residences or neighbourhoods. It can become difficult to sell or transfer interests, achieve market value, and obtain mortgages or financing necessary for upgrades and repairs. As a result, developments may steadily degrade over time without any clear mechanism for renewal and replacement. Some of the lawfully non-conforming developments on Hatzic Island may fall into this category.

Official Community Plan Bylaw No. 866, s.7.1 Hatzic Island provides direction on how to improve the non-conformity situation by rezoning the lands to legitimize some of the non-conforming uses on Hatzic Island. This can be done in a meaningful way through water and sewer service infrastructure, proper site development, and improved flood mitigation measures.

HATZIC ISLAND DISCUSSION PAPER

In 2018, a discussion paper on Hatzic Island was presented to the Regional Board. The report highlights that parts of Hatzic Island have the density found in urban areas, without the associated community water and sewer services. The concentration of aging on-site septic and water supplies may present health and environmental risks. Since the early 1970s, land use policies attempted to address these risks by zoning the Island for low-density uses. This approach prevented further **subdivision but created a host of new problems associated with the “grandfathering” of pre-existing** uses. One of the primary reasons for the high density on Hatzic Island is due to the continued presence of lawfully non-conforming residential and recreational development that has occurred in the mobile home parks and resorts.

New approaches are needed to address environmental and health risks and manage land use developments on Hatzic Island. The discussion paper summarizes key issues as a starting point for stakeholder dialogue about options to improve the land use situation on Hatzic Island. The paper is attached to this report in Appendix J.

DISCUSSION

NOTIFICATION AND HEARING

All neighbours within a 30-metre radius of the property have been notified via mail of this Board of Variance application. Neighbours have been invited to attend the Board of Variance Hearing or make a written submission by email or mail. The applicant will also have the opportunity to be heard at the meeting.

The FVRD has received one petition for support, showing the community support for the covered roof from five (5) Aqua Vista Estate residents. This petition can be found in Appendix K.

HARDSHIP

The applicant has provided reasons in support of their application, which are shown in Appendix E. The identified hardships are summarized below.

- The roof cover has existed since 2011. If this structure needs to be removed, the applicant would have to bear the cost to have it removed and disposed of.
- The cover permits outdoor enjoyment for all family members. A medical condition requires one family member to keep out of direct sunlight, and family members can also be outside during periods of rain.
- There is less clean-up of the deck area due to falling debris from the neighbouring trees.
- The deck roof creates safety for the family by reducing slippery conditions on the wooden deck during inclement weather.
- The roof increases the wooden deck's lifespan by reducing the rot rate. This would decrease the amount of work in replacing the deck, as well as limit costs through the purchasing of new deck materials.

- The back deck provides a sanctuary for the family. There is a unique family connection to Hatzic Lake, and being outdoors together is important to the family.

DEVELOPMENT OF THE SITE

The subject user lot contains one single-family dwelling in the form of a manufactured home. In 2011, a cover was erected over a wooden deck on the rear of the manufactured home and was attached to the house roof for the continuity of the deck cover. The roof was constructed without a building permit and was not authorized by the Board of Variance.

As seen in Figure 1A, the main dwelling roof is green while the roof addition is grey. There is no additional height added to the dwelling.



Figure 1: A. Photo taken facing north. The rear deck cover is grey, and contrasts the green roof of the dwelling. There is no added height to the dwelling. B. Photo facing east. This image shows the roof covers the full extent of the wooden deck at the rear of the property.

Image B in Figure 1 shows the extent of the roof cover over the rear, wooden deck. The deck is mainly at grade, with only the western corner of the deck elevated due to the contours of the land. Wooden stairs are used to access the deck from the west, while all other access points are at grade.

The cover over the deck is greater than 215 square feet (20 square metres), and if the BOV application is successful, a building permit is required.



Figure 2: The rear deck cover was attached to the roof of the dwelling to act as one continuous structure. A building permit will address this connection to the dwelling if the BOV application is successful.

SITING AND COVERAGE

Section 7.4.3 Development Regulations of the R-4 zone in *Zoning Bylaw No. 1638, 2021* state the requirements for maximum lot coverage, and the setbacks for all buildings and structures relative to the lot lines. While the deck cover at the rear of the house must adhere to these requirements, the user lots in Aqua Vista Estates Ltd. are not demarcated through a legal mechanism (e.g. surveyed user lot, strata lot lines) at 9201 Shook Road.

The definition section in *Zoning Bylaw No. 1638, 2021* defines a Lot as “land designated as a separate and distinct parcel on a legal subdivision plan or registered in the Land Title Office”, and Lot Line is defined as “legally defined boundaries of any lot”. Since the subject property is the only legally subdivided lot (see subdivision plan below), it is a reasonable interpretation that the legal lot be treated as the parcel, as opposed to the unregistered user lots which do not have any legally defined boundaries.

Based on the site plan in Appendix C, and the subdivision plan in Figure 3, the rear deck cover complies with all the setback requirements. The setback requirements are summarized below:

Application	Setbacks	Subject Property Compliance
Deck cover	6m front lot line	Yes
Deck cover	6m rear lot line	Yes
Deck cover	1.5 m interior lot line	Yes

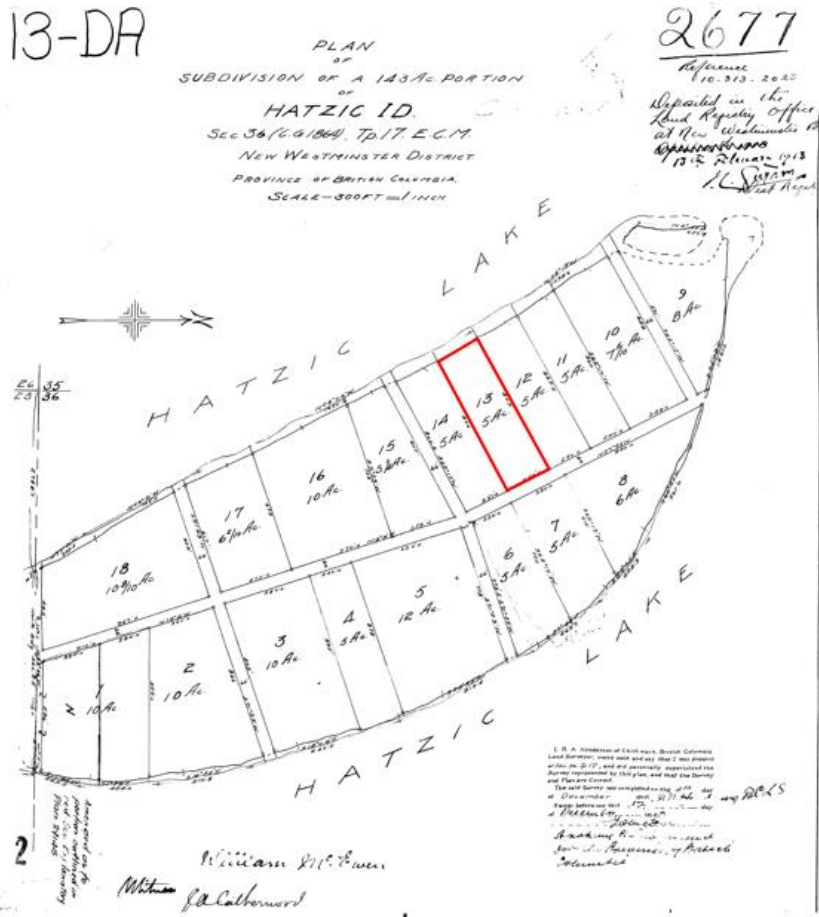


Figure 3: This image shows the 1913 subdivision plan for the northern portion of Hatzic Island. Aqua Vista Estates is identified as Lot 13 on this plan. As seen in this plan, only one parcel exists and it has not been further subdivided into separate user lots.

The maximum lot coverage (i.e. the area of all buildings and structures expressed as a percentage of the lot area) is legally non-conforming due to the development of other user lots on the parent parcel. However, based on the site plan seen in Appendix C, the applicant may meet the maximum lot coverage requirements if the calculation is completed for the individual user lot.

FLOODPLAIN

Hatzic Island, which includes the subject site, is within the Fraser River floodplain. Historically, the area has been prone to flooding as the entire Island is below the elevation of a 1:200-year Fraser River flood. After a devastating flood in 1948, the Dewdney Dike was reconstructed and a pump station was added to help protect Hatzic Island from flooding.

The Island still experiences flooding due to the volume of water coming off the surrounding watersheds, and overwhelming the drainage capacity of the system. The updating and addition to the pump station in 2013 helped to improve the drainage during times of high water levels in the Fraser River, but localized flooding can still occur as proven in the November 2021 atmospheric river event. This localized flooding causes concern due to its effects on on-site septic systems, individual sand point water wells, and the increased risk of land use contaminants entering the water supply.

In addition, the residents of Hatzic Island are dependent on the single-access road to and from the Island, with the possibility of this low-lying access road and bridge being cut off during a major flood event.

While area flooding is a concern, the roof cover over the deck in this BOV application meets a flood construction level exemption in the FVRD *Floodplain Management Bylaw No. 1669, 2022*.

8) General Exemption

- a)iii) A building or structure, or portion thereof, to be used as:
 - b. Carport, unenclosed porch, or open deck.

NATURAL ENVIRONMENT

Increased density on Hatzic Island, without the associated servicing such as community water and sewer systems, has been shown to have an impact on the natural environment. The Hatzic Island Discussion Paper (see Appendix J) highlighted research on the quality of drinking water, and showed that some wells on Hatzic Island had high levels of nitrate, with the source most likely coming from septic systems. The research found a strong relationship between nitrate levels, well depths, and the proximity to development.

The roof addition over the existing wooden deck has not increased the density on the Island and is estimated by staff to have minimal impact on the natural environment.

USE AND ENJOYMENT OF ADJACENT LAND

Property owners and residents within 30-metres of the property, including the other user lot owners in Aqua Vista Estates Ltd., have been notified by the FVRD and will have the opportunity to provide written comments, or attend the Board of Variance meeting to state their comments.

At the time of writing this report, there has been one petition for support with five (5) user lot residents in support of this application. (See Appendix K).

PERMITTED USE AND DENSITY

Residential Use in *Zoning Bylaw No. 1638, 2021* is permitted, with Residential Use being defined as **“the use of a dwelling unit as the permanent domicile of a person or household.”**

Section 7.4.3 of the R-4 zone regulates residential density by permitting **“One (1) dwelling unit in a single detached dwelling per lot”**. As there are 21 dwelling units in existence on one legal parcel at 9201 Shook Road, the property is legally non-conforming in terms of its density.

The addition of a roof over an existing deck will not increase the number of legally non-conforming uses, or the size and scale of the legally non-conformance.

INTENT OF THE OFFICIAL COMMUNITY PLAN AND ZONING BYLAWS

The Official Regional Plan adopted by the Lower Mainland Regional Planning Board in 1966, designated Hatzic Island as Lowland Rural (RRL-3) best suited to large rural holdings. Zoning was introduced on Hatzic Island in 1972 by the Dewdney-Alouette Regional District. *Zoning Bylaw No. 28, 1972* zoned much of Hatzic Island Rural III (R-3) with a minimum parcel size of 20 acres (8 hectares). Two bylaw adoptions followed this; *Dewdney Alouette Regional District Bylaw No. 202-1980*, and *Zoning Bylaw No. 559, 1992*. Recently, upon consolidation of *Zoning Bylaw No. 1638, 2021*, the R-3 zones are now Rural 4 (R-4) zones with the minimum parcel size and other land-use regulations remaining unchanged.

In the opinion of staff, the zoning bylaws have intended to prevent further urban density development on Hatzic Island while bringing pre-existing developments into compliance with the bylaws at the end of the useful life of the existing structures. Rezoning with servicing upgrades to meet the current environmental standards is the preferred approach to gaining compliance.

The average density of development on the Island is high for an un-serviced rural area and, by commonly accepted servicing standards, is not sustainable. There is potential for on-site sewage disposal to contaminate the groundwater and water supplies in these high-density developments. Such un-serviced high-density development may pose risks to the environment and human health. Development is also at risk from Fraser River and local watershed flooding due to the low elevations on the Island, and there is only one access to and from the Island.

The specific environmental, human health, and safety issues summarized above have guided community plans and zoning bylaws since the late 1960s and have given rise to designating and zoning the Island for low-density, large lot, rural-type uses. The application of these low-density land use regulations rendered the existing developments legally non-conforming, with the expectation **that the developments would eventually “fade away” over time.**

However, the multiplicity of owners and the tenure structure of developments like Aqua Vista Estates presents a major challenge to the re-development of the property in accordance with the current

Rural 4 (R-4) zoning. The nature of the statute and case law, the land ownership structure, and the form of development make it unlikely that conformance with the Zoning Bylaw will be achieved under the current circumstances. While each variance request individually may seem minor, continued approval of such variances creates a disincentive toward compliance in the long term. It enables the continued transfer of lease lots or ownership shares without the necessary investments in community servicing and fire separation and deters the owners from making a joint rezoning application to legalize the existing use.

The OCP supports the rezoning of lawfully non-conforming developments in conjunction with the improvement of servicing to the area, and limiting exposure to hazards, as the best way to address this situation.

The Board of Variance should consider whether approving the application would set back, or desensitize, the owners from investing in the rezoning of the property and servicing upgrades.

PREVIOUS BOARD OF VARIANCE APPROVALS

Previous Board of Variance (BOV) applications have come from three recreational holdings/unregistered subdivisions. Aqua Vista Estates Ltd. is one of them, and since 1997, FVRD has received six (6) BOV applications which were all approved.

The table below summarizes the year, unit number, and BOV request for all the applications received from Aqua Vista Estates Ltd.

Year	Unit #	BOV Request
2022	17	Structural alteration and addition to an existing single-family dwelling to accommodate the replacement of the current flat roof.
2015	18	Structural alteration and addition to an existing single-family dwelling to accommodate the addition of a two-car garage and deck.
2013	18	Structural alteration and addition of a double-wide mobile home to an existing single-family dwelling.
2013	3	Construction of an extension to the existing single-family dwelling to accommodate a bathroom.
2009	4	Structural alteration and addition to an existing double-wide mobile home.
1997	16	Renovate and repair old residence.

FURTHER FVRD APPROVALS REQUIRED

A decision by the Board of Variance to approve the roof addition over an existing deck does not constitute any further approvals in relation to a specific building permit application. A referral was

made to the Building department, and as per their comments, a building permit will be required if the BOV is approved. The applicant must meet all requirements of the building permit process.

The construction is required to comply with all relevant Fraser Valley Regional District regulations and bylaws, including the *Fraser Valley Regional District Building Bylaw No. 1188, 2013, and Zoning Bylaw No. 1638, 2021*. It must also comply with any other agency requirements, such as the *2024 BC Building Code*.

COST

The \$1,575.00 Board of Variance application fee has been paid in full by the applicant.

Submitted By:

Tracey Heron

Planner I

Electoral Area Planning, Fraser Valley Regional District

COMMENTS BY:

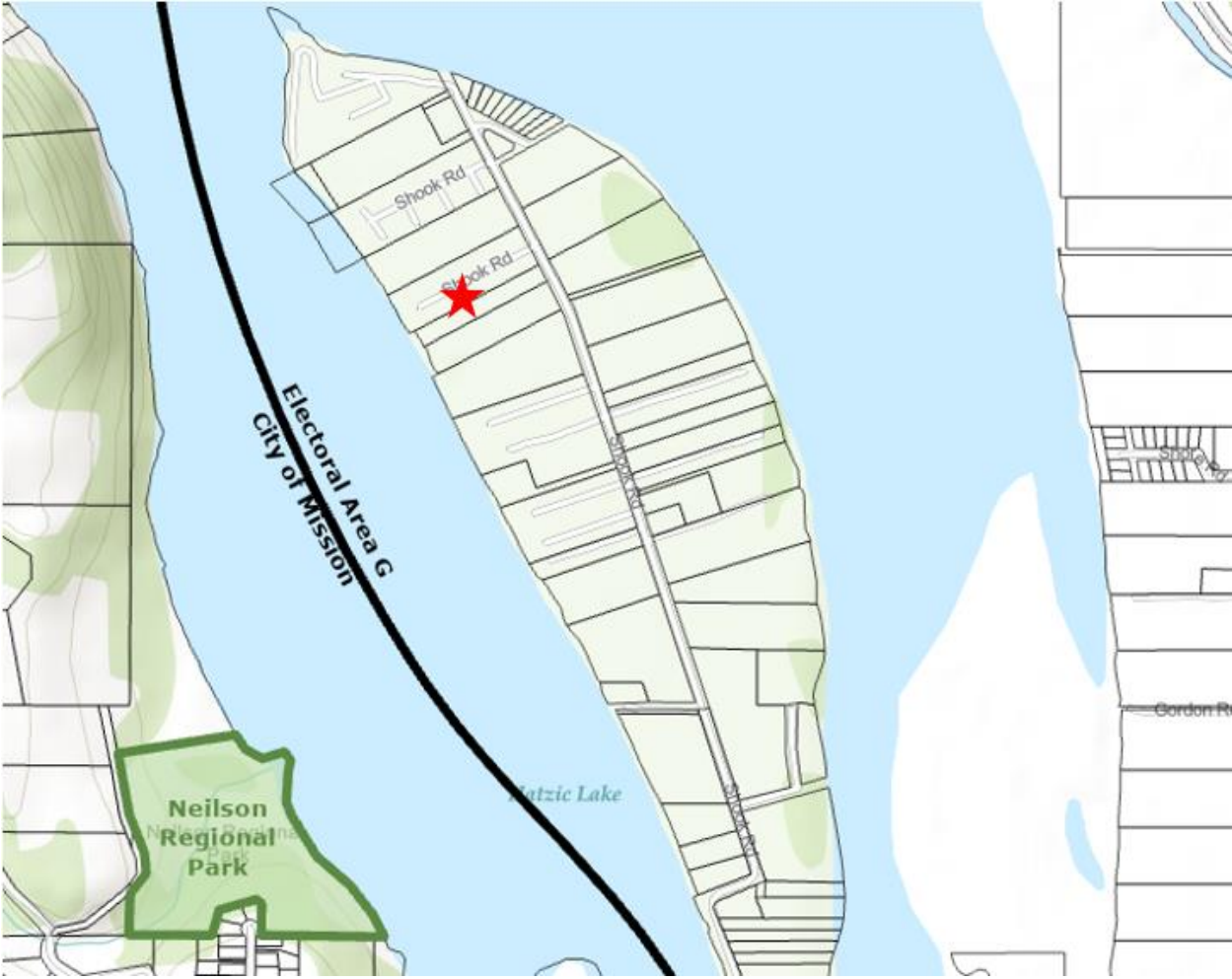
Hasib Nadvi, Deputy Director of Planning & Development: reviewed and supported

Graham Daneluz, Director of Planning & Development: Reviewed and supported.

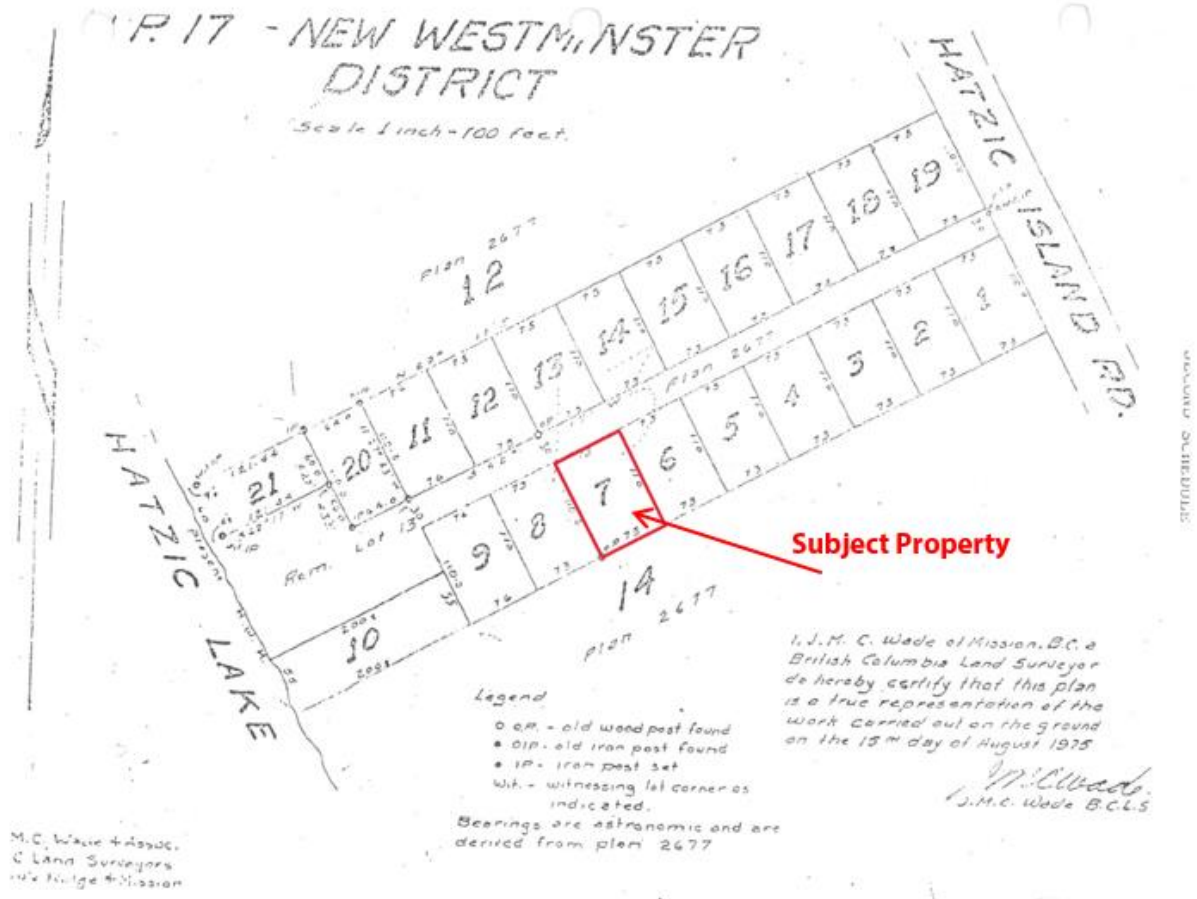
Kelly Lownsborough, Director of Corporate Services/CFO: Reviewed and supported.

Jennifer Kinneman, Chief Administrative Officer: Reviewed and supported.

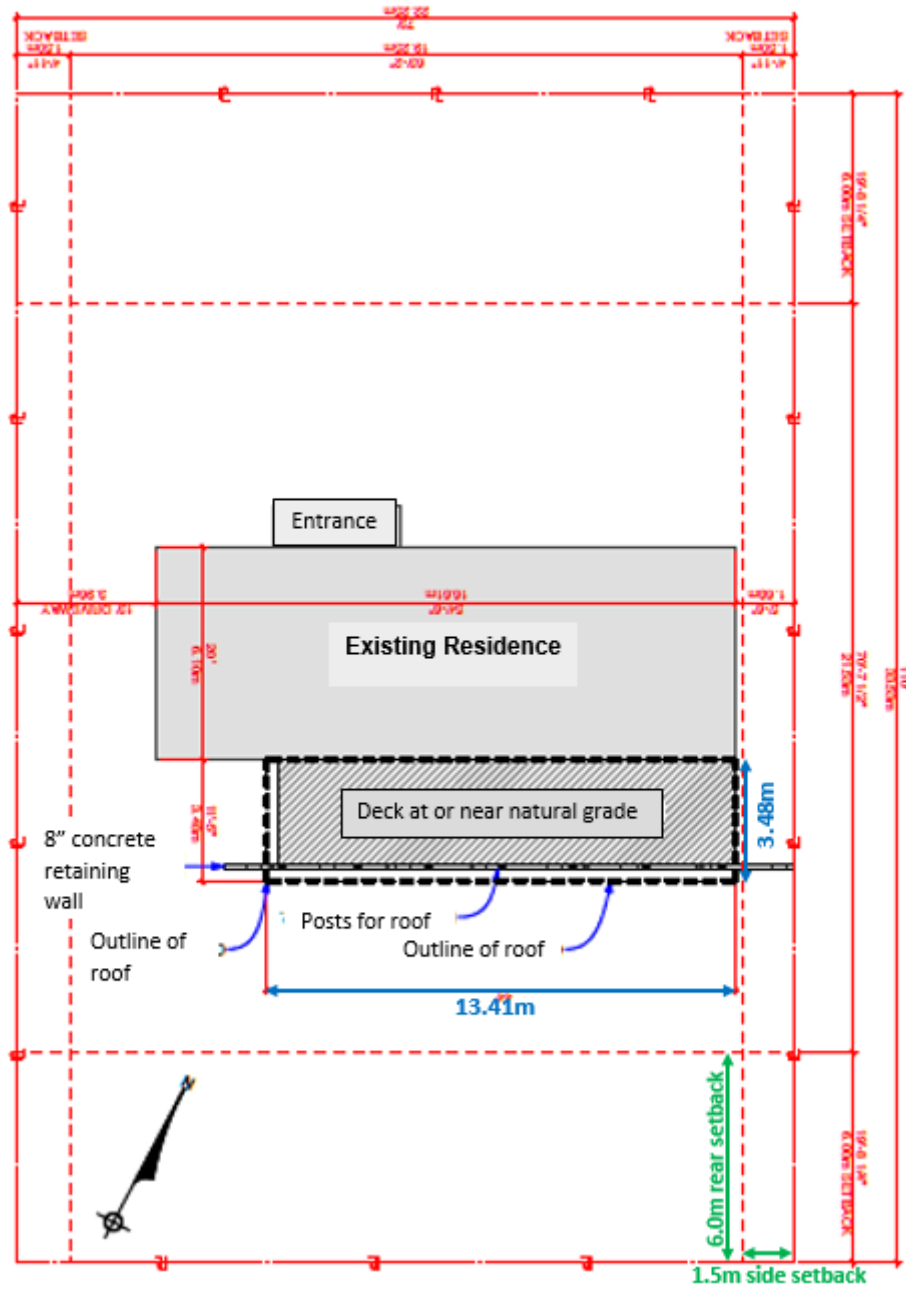
Appendix A
Location Map



Appendix B
 User Lot Layout




Appendix C
Site Plan



Appendix D

Application



PLANNING & DEVELOPMENT

www.fvrd.bc.ca | planning@fvrd.bc.ca

SCHEDULE A
Application to Board of Variance

I/We hereby apply to the Fraser Valley Regional District Board of Variance for:

- A minor variance from bylaw requirements due to hardship (Local Government Act, Section 540)
- Structural alteration or addition to non-conforming structure (Local Government Act 540 and 531)
- Other (describe) _____ LGA s. _____

An Application Fee in the amount of \$ 1845⁰⁰ as stipulated in FVRD Board of Variance Establishment Bylaw No. 0903, 2008 must be paid upon submission of this application.

Civic Address #7-9201 SHOOK RD PID 010-666-761

Legal Description Lot 13 Block _____ Section 36 Township 17 Range _____ Plan 2677

The property described above is the subject of this application and is referred to herein as the "subject property." This application is made with my full knowledge and consent. I declare that the information submitted in support of the application is true and correct in all respects.

Owner's Declaration	Name of Owner (print)	Signature of Owner	Date
	AQUA VISTA ESTATES	<i>[Signature]</i>	03/13/24
	AQUA VISTA ESTATES	<i>[Signature]</i>	03/13/24

Owner's Contact Information	Address	City	Postal Code
	<u>59-9201-SHOOK RD</u>	<u>MISSION</u>	<u>V6V 7M5</u>
	Email _____	Phone _____	Fax _____

Office Use Only	Date	File No.
	Received By _____	Folder No. _____
	Receipt No. _____	Fees Paid \$ _____

4590 Ocean Avenue | Chilliwack, BC | V2P 1N6

Phone: 604-702-5000 | Toll Free: 1-800-528-0067 | Fax: 604-702-9664

Agent I hereby give permission to DONALD BRUNEAU to act as my/our agent in all matters relating to this application.

Only complete this section if the applicant is NOT the owner.

Signature of Owner <u>[Signature]</u>	Date MARCH 13/24
Signature of Other <u>[Signature]</u>	Date MARCH 13/24

Agent's contact information and declaration

Name of Agent <u>DON BRUNEAU</u>		Company	
Address [REDACTED]		City [REDACTED]	
Email [REDACTED]		Postal Code [REDACTED]	
Phone [REDACTED]	Cell [REDACTED]	Fax [REDACTED]	

I declare that the information submitted in support of this application is true and correct in all respects.

Signature of Agent <u>[Signature]</u>	Date
--	------

Variance Details

Property Size _____ (m² or ha) Present Zoning _____

Existing Use RESIDENTIAL

Proposed Development: OPEN COVERED PATIO

Proposed Variance ADDITION TO NON CONFORMING STRUCTURE - ROOF OVER PATIO DECK

(use separate sheet if necessary)

Reasons in Support of Application WELL WITHIN SET BACKS, DOES NOT AFFECT NEIGHBORS VIEW, IS NOT HIGHER THAN HOUSE, DOES NOT ADD SQUARE FOOTAGE, IS NOT A VISUAL IMPAIRMENT, IS NOT LARGER THAN OTHER STRUCTURES NEAR BY, OPEN SPACE

Supporting Information

(check all applicable boxes)

- Location Map
- Site Plan showing dimensions of property, easements and locations of existing buildings
- Location of proposed buildings, alterations or additions, including any proposed variances
- Location of any watercourses, streams, or ponds
- Location of existing or proposed water supplies, septic systems or other services
- Letters of support if applicable
- Other supporting information or reports (describe) _____

The personal information on this form is being collected in accordance with Section 27 of the *Freedom of Information and Protection of Privacy Act*, RSBC 1990 Ch. 165 and the *Local Government Act*, RSBC 2015 Ch. 1. It will only be collected, used and disclosed for the purpose of administering matters with respect to planning, land use management and related services delivered or proposed to be delivered, by the FVRD. Questions about the use of personal information and the protection of privacy may be directed to the FVRD Privacy Officer at 45950 Cheam Avenue, Chilliwack, BC V2P 1N5, Tel: 1-800-528-0061 EOI@fvr.ca.

Appendix E

Applicant's Rationale Letter

Tracey Heron

From: Di Bruneau [REDACTED]
Sent: April 23, 2024 11:02 AM
To: Tracey Heron
Cc: Don Bruneau; Di
Subject: Fwd: Board of Variance_7-9201 Shook Rd

Hi Tracy,

My husband, Don Bruneau and I, are responding to your request to explain the hardship involved in this outstanding request for us to appear before the FVRD-BOV, regarding Local Government Act 540 and 531.

Our 16 year-old daughter was killed in a boating accident on Hatzic Lake fourteen years ago. For twelve years our family was reluctant to continue to go back to our property there. During that time, in the event that our family would ever want to return to what we refer to as "*the cabin*", for recreational use, Don maintained this property.

Now that our kids are grown up, they have returned, and frequently spend time there. They find comfort in the place where happy childhood memories exist. Our daughters also refer to Hatzic as a 'sacred place', because their sister died there.

With the cover over the deck, we are able to gather there, especially outside, no matter the weather. The inside space is limited.

The cabin has helped to bring our family back together. If the deck is not covered, we will definitely not be able to go there as often; and the deck will rot from our wet climate, causing unnecessary expense to replace.

The back deck of #7 is made of wood. Years ago, Don built a covering over it to help preserve and protect it from rain, weather, cedar branches and debris from trees, (mostly from our neighbours' on either side--the owner, and complainant, [REDACTED].) We have had to frequently clean the debris from our roof over the deck, which would have otherwise been falling on the deck and us. Last year we asked to have the cedar removed, which it was.

The complainant of our deck cover, [REDACTED] has harassed, and caused financial and emotional strain to our community for many years now, after being forced out of a neighbouring

community on Hatzic Island, and moving into ours. Police have had to intervene on several occasions.

Don has already complied with the FVRD about [REDACTED] other complaints, and is struggling to maintain this property to meet family needs.

Don is 63 years old, on medications for a heart condition and high blood pressure, and had 5 stents placed in his coronary arteries a couple of years ago in lieu of heart bypass surgery for now.

Taking down the shelter over the back deck at #7-9201 Shook Rd would cause undue hardship in regards to:

- Don's health
- increased stress and mental anguish of our family
- the expense of removal and disposal of materials.

Let us know if you need further elaboration.

Respectfully,

Diane Bruneau/ Don Brunea |

[REDACTED]

Tracey Heron

From: Don Bruneau [REDACTED]
Sent: June 17, 2024 9:16 PM
To: Tracey Heron
Subject: FW: V-1 drawing for #7-9201 SHOOK ROAD [REDACTED]
Attachments: V-1-dwg-7-9201ShookRd.pdf

Don Bruneau
[REDACTED]

From: Denis P Bruneau [REDACTED]
Sent: October 26, 2023 11:36 AM
To: Don Bruneau
Subject: V-1 drawing for #7-9201 SHOOK ROAD [REDACTED]

Hi Don

Please find attached the drawings that can be used for the Variance permit application.

A few notes:

Using graphics and set back line, we trying to show that the deck cover is:

1. well within setbacks
2. does not affect any neighbour's view
3. is not higher than the house
4. does not add share footage
5. does not make your foot print more than the neighbour's
6. is not a visual distraction
7. etc..

Hope this helps.

[REDACTED]

Denis Bruneau
Architect AIBC, MRAIC, ASCT, LEED AP
[Denis Bruneau Architecture](#)
Tel: 604.318.0020

Improving the built environment.

This e-mail may be privileged and confidential. Any unauthorized use is strictly prohibited.
If you have received this e-mail in error, please contact the sender immediately.

1

It's not clear what part of our letter will be redacted, but I can elaborate on hardship we would face having to take the roof off of our back deck:

- the property would not be usable without a roof over the deck. The neighbour behind us also has many trees. The debris from those trees, as well as rain, would make the wooden deck slippery, rot faster and need replacing sooner. Also debris and rain would fall on us when we sit outside.
- a slippery deck would be hazardous for everyone, especially for us as seniors, and our adult disabled son.
- Our disabled son who lives with us, will not go outside if it is raining, unless there is shelter. He is also not able to wear sunscreen, due to a skin condition called Hidradenitis.
- Stress has already affected our health, especially Don's. We would have to deal with the deconstruction ourselves, due to cost.
- The costs already incurred by having to meet with the Board of Variance, and cooperate with other complaints, are adding up. This is a mobile home we're trying to improve, not a mansion.

Keep us posted about whatever else is required of us.

Thanks,
Diane and Don Bruneau

Appendix F

Excerpts of the Dewdney-Alouette Regional District Bylaw No. 28, 1972 for Electoral Area B, C, D & E (Non-conforming Use and Rural 3 Zone)

PART 4 GENERAL REGULATIONS

401 NON CONFORMING USE

- (1) The regulations governing non conforming use are set forth in the Municipal Act.
- (2) No use shall be established so as to render any existing use on the same lot non conforming.

PART 5 RURAL ZONES

RURAL II (R-2)
RURAL III (R-3)

501 PERMITTED USES

<u>PERMITTED USES</u>	<u>ZONES IN WHICH THE USE IS PERMITTED</u>	
RURAL	R-2	R-3
ONE-FAMILY RESIDENTIAL	R-2	R-3
BOARDING	R-2	R-3
ACCESSORY HOME OCCUPATION	R-2	R-3
ACCESSORY HOME	R-2	R-3
ACCESSORY EMPLOYEE RESIDENTIAL		R-3
ACCESSORY OFF STREET PARKING	R-2	R-3
ACCESSORY PRODUCE SALES	R-2	R-3

- (1) Buildings for ONE-FAMILY RESIDENTIAL USE shall be limited to one per lot.

Appendix G

Excerpts Land Use and Subdivision Regulation of Zoning Bylaw No. 1638, 2021

7.4.1 Permitted Uses

The following principal uses are permitted:

Residential;

Farm;

Resource Extraction;

Cannabis Production Facility (excluding Electoral Area F).

7.4.3 Development Regulations

Subject	Requirement or Regulation
Maximum Density - Residential	One (1) dwelling unit in a single detached dwelling per lot
Maximum Density - Accessory Personal Care Residential	One (1) dwelling unit in a manufactured home per lot
Maximum Density – Accessory Employee Residential	One (1) dwelling unit in a single detached dwelling on a lot with a lot area greater than 7.5 ha; or Two (2) dwelling units in single detached dwellings on a lot with a lot area greater than 15.0 ha
Minimum Setback – Front	6.0 m
Minimum Setback – Exterior-Side	6.0 m
Minimum Setback – Interior-Side	1.5 m
Minimum Setback – Rear	6.0 m
Maximum Height	11.0 m
Maximum Lot Coverage	30%

7.4.4 Subdivision Regulations

Subject	Requirement or Regulation
Minimum Lot Area	8.0 ha

Appendix H

Excerpts of the Fraser Valley Regional District Official Community Plan for Electoral Area "G" Bylaw No. 0866, 2008

7.1 Hatzic Island

The recreational amenities and rural atmosphere of Hatzic Island have made it a popular recreation and residential location for many decades. However, the attraction of the area, combined with its particular development history and environmental attributes, have created a number of difficult challenges for the community:

- The average density of development on Hatzic Island is high for an unserviced rural area due to the presence of non-conforming urban-type residential developments, mobile home parks and recreational resorts. By most standards, unserviced development at the density found on Hatzic Island is not sustainable. Redevelopment of several non-conforming developments is unlikely due to legislation, land ownership structures, and form of the development currently existing.
- On-site sewage disposal fields may be contaminating groundwater and water supplies in some locations.
- Hatzic Island is within the Fraser River floodplain. Even high points on the Island are two metres below the elevation of a 1:200 Fraser River flood. Locations on the Island are also subject to frequent minor flooding from within the Hatzic watershed which cause the most disruption and damage in low lying areas such as Everglades Resort.
- Residents of the Island are dependent on one access road and bridge; access may be cut off during major Hatzic floods.

For these and other reasons, the land use plans and zoning bylaws since the late 1960's have generally designated the Island for low density rural uses. In doing so, they rendered a number of existing developments "non-conforming".¹

This plan continues the objective of these previous plans to generally limit development to existing levels. However, it includes important new directions that may improve the situation in meaningful ways. This plan contains new policies regarding:

- a. legitimization of some non-conforming uses if current servicing, site development and flood mitigation standard can be met;
- b. investigation of public sewer and water services to address environmental and human health risks;
- c. **the prospect of limited 'country residential'** –type subdivision if community water or sewer infrastructure is achieved; and,
- d. advocacy for infrastructure improvements to reduce flood hazards and enhance recreational values.

¹ The 1968 Official Regional Plan for the Lower Mainland Planning Area designated the Island as a lowland rural area best suited to large rural holdings. Zoning was introduced to the community in 1972 by the Dewdney-Alouette Regional District. DARD Bylaw No. 28-1972 zoned much of the Island Rural 3 with a minimum site area of 20 acres. This direction has since been maintained in land use plans and zoning bylaws.

Non-Conforming Uses

Occasionally, the adoption or amendment of a zoning bylaw will prohibit uses that were previously permitted. In these cases, lawfully existing uses established before the prohibiting bylaw are considered to be non-conforming, or 'grandfathered'. Rights surrounding lawfully non-conforming uses are set out in Section 911 of the Local Government Act (LGA). Section 911 allows lawfully established non-conforming uses to continue while eventually facilitating their elimination. The tension inherent in this purpose is obvious. Not surprisingly, a large and complex body of case law dealing with statutory non-conforming use has evolved which, from time to time, changes how the legislation is understood. It is essential to consider this case law when applying Section 911 in a particular instance.

Generally, Section 911 actively works towards conformance by preventing an increase in the scale of **the use and limiting the duration of the use to the 'natural' life of the structure.** In addition, non-conformance with zoning may depress the value of a property and increase difficulty in obtaining insurance, mortgages and financing. The net effect is to encourage replacement of the non-conforming use with one that conforms to the zoning bylaw.

However, in some instances the legal framework combined with practical considerations such as ownership structure and the nature of the use, leaves little or no expectation that conformity will be achieved, even in the long term. The result may be that a non-conforming use is permitted, and expected, to continue indefinitely but is still subject to the depressing affects of non-conforming status. In these instances, non-conforming status may create uncertainty and stifle investment necessary for the maintenance of safe and healthy residences or neighbourhoods. It can become difficult to sell or transfer interests, achieve market value, and obtain mortgages or financing necessary for upgrades and repairs. As a result, developments may steadily degrade over time without any clear mechanism for renewal and replacement. Some of the lawfully non-conforming development on Hatzic Island may fall into this category.

It is the policy of the Regional Board that:

7.1.11 Where the Regional Board considers that there is low likelihood of achieving conformity with zoning over time, the Board may treat lawfully non-conforming uses on Hatzic Island as Class II non-conformities under Section 5.7 of this Plan and rezone to reflect actual existing uses subject to:

- a. connection to a community water or sewer system, or where no public system is available, upgrade of on-site systems to meet acceptable standards;
- b. implementation of appropriate site development standards;
- c. no increase in density, scale or intensity of development;
- d. no increase in hazard or exposure risk;
- e. ability to meet flood construction levels and setbacks; and,
- f. adequate access.

Appendix I

Excerpts of the Local Government Act Sections 528-532 and 536-544 Division 14 – Non-conforming Use and Other Continuations

Non-conforming uses: authority to continue use

- 528 (1) Subject to this section, if, at the time a land use regulation bylaw is adopted,
- (a) land, or a building or other structure, to which that bylaw applies is lawfully used, and
 - (b) the use does not conform to the bylaw,
- the use may be continued as a non-conforming use.
- (2) If a non-conforming use authorized under subsection (1) is discontinued for a continuous period of 6 months, any subsequent use of the land, building or other structure becomes subject to the land use regulation bylaw.
- (3) The use of land, a building or other structure, for seasonal uses or for agricultural purposes, is not discontinued as a result of normal seasonal or agricultural practices, including
- (a) seasonal, market or production cycles,
 - (b) the control of disease or pests, or
 - (c) the repair, replacement or installation of equipment to meet standards for the health or safety of people or animals.
- (4) A building or other structure that is lawfully under construction at the time of the adoption of a land use regulation bylaw is deemed, for the purpose of this section,
- (a) to be a building or other structure existing at that time, and
 - (b) to be then in use for its intended purpose as determined from the building permit authorizing its construction.
- (5) If subsection (1) authorizes a non-conforming use of part of a building or other structure to continue, the whole of that building or other structure may be used for that non-conforming use.

Non-conforming structures: restrictions on maintenance, extension and alterations

- 529 (1) If the use and density of buildings and other structures conform to a land use regulation bylaw but
- (a) the siting, size or dimensions of a building or other structure constructed before the bylaw was adopted does not conform with the bylaw, or
 - (b) the siting, size, dimensions or number of off-street parking or loading spaces constructed or provided before the bylaw was adopted does not conform with the bylaw,
- the building or other structure or spaces may be maintained, extended or altered to the extent authorized by subsection (2).

(2) A building or other structure or spaces to which subsection (1) applies may be maintained, extended or altered only to the extent that

(a) the repair, extension or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time of the repair, extension or alteration was started, and

(b) in the case of protected heritage property, the repair, extension or alteration is permitted or authorized in accordance with the provisions governing the heritage protection of the property.

Restrictions on increasing non-conforming use of land

530 In relation to land, section 528 [*non-conforming uses*] does not authorize the non-conforming use of land to be continued on a scale or to an extent or degree greater than that at the time of the adoption of the land use regulation bylaw.

Restrictions on alteration or addition to building or other structure

531 (1) Subject to this section, a structural alteration or addition must not be made in or to a building or other structure while a non-conforming use is continued in all or any part of it.

(2) Subsection (1) does not prohibit a structural alteration or addition that is required by an enactment or is permitted by a board of variance under section 542 (1) [*authority for variance or exemption to relieve hardship*].

(3) Subsection (1) does not apply to alterations or additions in or to a protected heritage property if the alteration is authorized by a heritage alteration permit under section 617.

Restrictions on repair or reconstruction of non-conforming structures

532 (1) If a building or other structure, the use of which does not conform to the provisions of a land use regulation bylaw, is damaged or destroyed to the extent of 75% or more of its value above its foundations, as determined by the building inspector, the structure must not be repaired or reconstructed except for a conforming use in accordance with the bylaw.

(2) If the use of a building or other structure that is on land identified in a phased development agreement under Division 12 [*Phased Development Agreements*] complies with a zoning bylaw provision specified under section 516 (2) [*zoning rules for land subject to the agreement*] for the phased development agreement, subsection (1) of this section does not apply to the building or other structure while the phased development agreement is in effect, unless

(a) the provision has been repealed or amended, and

(b) either

(i) the developer has agreed in writing under section 516 (5) that the changes to the zoning bylaw apply, or

(ii) the changes to the zoning bylaw apply under section 516 (6) without the written agreement of the developer.

(3) Subsection (1) does not apply to repair or reconstruction of a protected heritage property if the repair or reconstruction is authorized by a heritage alteration permit under section 617.

Division 15 – Board of Variance

Requirement for board of variance

- 536 (1) A local government that has adopted a zoning bylaw must, by bylaw, establish a board of variance.
- (2) A person is not eligible to be appointed to a board of variance if the person is
- (a) a member of the local government or the advisory planning commission, or
 - (b) an officer or employee of the local government.
- (3) Subject to subsections (4) and (5) and to the rules established under section 538 (2) (b) (i) [*rules for joint board of variance*], an appointment to a board of variance is for a 3 year period.
- (4) If no successor has been appointed at the end of the 3 year period referred to in subsection (3), the appointment continues until the time that a successor is appointed.
- (5) A local government may rescind an appointment to a board of variance at any time.
- (6) If a member of a board of variance ceases to hold office, the person's successor is to be** appointed in the same manner as the member who ceased to hold office, and, until the appointment of the successor, the remaining members constitute the board of variance.
- (7) Members of a board of variance must not receive compensation for their services as members, but must be paid reasonable and necessary expenses that arise directly out of the performance of their duties.
- (8) A local government must provide in its annual budget for the necessary funds to pay for the costs of the board of variance.

Board of variance for municipality or regional district

- 537 (1) If the population of a municipality is 25,000 or less, the municipal board of variance is to consist of 3 persons appointed by the council.
- (2) If the population of a municipality is more than 25,000, the municipal board of variance is to consist of 5 persons appointed by the council.
- (3) A regional district board of variance is to consist of 3 persons appointed by the board.
- (4) The board of a regional district may establish one or more boards of variance for the regional district, but, if more than one board of variance is established, the bylaw establishing them must specify the area of the regional district over which each board of variance has jurisdiction and those areas must not overlap.

Joint board of variance

- 538 (1) Two or more local governments may satisfy the obligation under section 536 (1) [*requirement for board of variance*] by jointly establishing a board of variance by bylaw adopted by all participating local governments.
- (2) A bylaw under subsection (1) must
- (a) specify the area of jurisdiction for the board of variance, which may be all or part of the participating local governments, but must not overlap with the area of jurisdiction of any other board of variance, and

(b) establish rules for the following that apply in place of those established by section 536 *[requirement for board of variance]* and 539 *[chair and procedures]*:

- (i) appointment and removal of members of the board of variance;
- (ii) appointment and removal of a chair of the board of variance.

(3) As exceptions to section 537 *[local board of variance]*, the following apply to a board of variance established under this section:

(a) if a municipality is one of the participating local governments, the board of variance is to consist of

- (i) 3 persons, if the population of the area of the jurisdiction of the board of variance is 25, 000 or less, and
- (ii) 5 persons, if the population of the area of the jurisdiction of the board of variance is more than 25,000;

(b) if a municipality is not one of the participating local governments, the board of variance is to consist of 3 persons.

Chair and procedures for board of variance

539 (1) The members of a board of variance must elect one of their number as chair.

(2) The chair may appoint a member of the board of variance as acting chair to preside in the absence of the chair.

(3) A bylaw establishing a board of variance must set out the procedures to be followed by the board of variance, including the manner in which appeals are to be brought and notices under section 541 *[notice of application for variance]* or 543 (2) *[notice of application in relation to early termination of land use contract]* are to be given.

(4) A board of variance must maintain a record of all its decisions and must ensure that the record is available for public inspection during regular office hours.

Application for variance or exemption to relieve hardship

540 A person may apply to a board of variance for an order under section 542 *[board powers on application]* if the person alleges that compliance with any of the following would cause the person hardship:

(a) a bylaw respecting

- (i) the siting, size or dimensions of a building or other structure, or
- (ii) the siting of a manufactured home in a manufactured home park;

(b) a subdivision servicing requirement under section 506 (1) (c) *[provision of water, sewer and other systems]* in an area zoned for agricultural or industrial use;

(c) the prohibition of a structural alteration or addition under section 531 (1) *[restrictions on alteration or addition while non-conforming use continued]*;

(d) a bylaw under section 8 (3) (c) *[fundamental powers – trees]* of the *Community Charter*, other than a bylaw that has an effect referred to in section 50 (2) *[restrictions on authority – preventing all uses]* of that Act if the council has taken action under

subsection (3) of that section to compensate or mitigate the hardship that is caused to the person.

Notice of application for variance

- 541 (1) If a person makes an application under section 540, the board of variance must notify all owners and tenants in occupation of
- (a) the land that is subject to the application, and
 - (b) the land that is adjacent to the land that is subject to the application.
- (2) A notice under subsection (1) must state the subject matter of the application and the time and place where the application will be heard.
- (3) The obligation to give notice under subsection (1) is satisfied if the board of variance made a reasonable effort to mail or otherwise deliver the notice.

Board powers on application

- 542 (1) On an application under section 540, the board of variance may order that a minor variance be permitted from the requirements of the applicable bylaw, or that the applicant be exempted from section 531 (1) [*alteration or addition while non-conforming use continued*], if the board of variance
- (a) has heard the applicant and any person notified under section 541,
 - (b) finds that undue hardship would be caused to the applicant if the bylaw or section 531 (1) is complied with, and
 - (c) is of the opinion that the variance or exemption does not do any of the following:
 - (i) result in inappropriate development of the site;
 - (ii) adversely affect the natural environment;
 - (iii) substantially affect the use and enjoyment of adjacent land;
 - (iv) vary permitted uses and densities under the applicable bylaw;
 - (v) defeat the intent of the bylaw;
 - (vi) vary the application of an applicable bylaw in relation to residential rental tenure.
- (2) The board of variance must not make an order under subsection (1) that would do any of the following:
- (a) be in conflict with a covenant registered under section 219 of the *Land Title Act* or section 24A of the *Land Registry Act*, R.S.B.C. 1960, c. 208;
 - (b) deal with a matter that is covered in a land use permit or covered in a land use contract;
 - (c) deal with a matter that is covered by a phased development agreement under Division 12 [*Phased Development Agreements*];
 - (d) deal with a floodplain specification under section 524 (3);
 - (e) apply to a property

(i) for which an authorization for alterations is required under Part 15 [*Heritage Conservation*],

(ii) for which a heritage revitalization agreement under section 610 is in effect, or

(iii) that is scheduled under section 614 (3) (b) [*protected heritage property*] or contains a feature or characteristic identified under section 614 (3) (c) [*heritage value or character*].

(3) In relation to an order under subsection (1),

(a) if the order sets a time within which the construction of the building, structure or manufactured home park must be completed and the construction is not completed within that time, or

(b) if that construction is not substantially started within 2 years after the order was made, or within a longer or shorter time period established by the order,

the permission or exemption terminates and the bylaw or section 531 (1), as the case may be applies.

(4) A decision of the board of variance under subsection (1) is final.

Exemption to relieve hardship from early termination of land use contract

543 (1) The owner of land subject to a land use contract that will be terminated by a bylaw adopted under section 548 [*early termination of land use contracts*] may apply to a board of variance for an order under subsection (5) of this section if

(a) the owner alleges that the timing of the termination of the land use contract by the bylaw would cause the owner hardship, and

(b) the application is received by the board of variance within 6 months after the adoption of the bylaw.

(2) If an application is made under subsection (1), the board of variance must notify all owners and tenants in occupation of

(a) the land that is subject of the application, and

(b) the land that is adjacent to land that is the subject of the application.

(3) A notice under subsection (2) must state the subject matter of the application and the time and place where the application will be heard.

(4) The obligation to give notice under subsection (2) must be considered satisfied if the board of variance made a reasonable effort to mail or otherwise deliver the notice.

(5) On an application under subsection (1), the board of variance may order that, despite the termination of the land use contract and despite any zoning bylaw, the provisions of that land use contract continue to apply in relation to the applicant for a specified period of time ending no later than June 30, 2024, if the board of variance

(a) has heard the applicant, and

(b) finds that the timing of the termination of the land use contract by the bylaw would cause undue hardship to the applicant.

(6) An order under subsection (5) does not run with the land.

(7) The board of variance must make a decision on an application under subsection (1) within 6 months after the application is received by the board of variance.

(8) A decision of the board of variance under subsection (5) is final.

Extent of damage to non-conforming use property

544 (1) A person may apply to a board of variance for an order under subsection (2) if the person alleges that the determination by a building inspector of the amount of damage under section 532 (1) *[end of non-conforming use protection if other building of other structure is seriously damaged]* is in error.


(2) On an application under subsection (1), the board of variance may set aside the determination of the building inspector and make the determination under section 532 (1) in its place.

(3) The applicant or the local government may appeal a decision of the board of variance under subsection (2) to the Supreme Court.

Appendix J
Hatzic Island Discussion Paper

Appendix K
Petition for Support

**RE #7-9201 Shook Rd.
Mission, B.C. V2V 7M5
604-375-9719/ 778-847-4050**



June 15, 2024

**Fraser Valley Regional District
#1—45950 Cheam Ave
Chilliwack, B.C. V2P 1N6**

To Whom It May Concern,

Kindly consider our support for the improvements to the above named property in our community of Aqua Vista Estates on Hatzic Island, by the owners, Don and Diane Bruneau.

Several years ago, they asked for approval from several members of our community to build a back deck with a roof over it. We regarded the improvement to be an asset to the aesthetics of the #7 property, which shows efforts by the owners to improve the standard of Aqua Vista Estates.

Sincerely,

Bob Haffner #13

Nico Beuk #17

Wim Beuk #3

Ginette Brisson #14

Bill Patterson #12

HATZIC ISLAND



Discussion Paper

March 2018

Johannes Bendle, Planner I
Fraser Valley Regional District



Summary of Situation

Development on Hatzic Island has occurred over time without a comprehensive planning framework. Much of the development on the Island pre-dates land use planning zoning regulations. Many older developments are at an urban density with simple on-site individual water and sewage systems. There are indications of variable contamination of the environment and drinking water. Furthermore, Hatzic Island is within the Fraser River floodplain and is also susceptible to localized flood hazards.

Since the adoption of land use controls, policies and regulations have constrained subdivision, but has failed to address the environmental and health hazards or provide for effective management of construction and land use. The situation is compounded by the lawful non-conforming status and complex land tenure arrangements found on the Island. There is increasing pressure for recreational residential use and low cost residential accommodations. New approaches are needed to address environmental and health risks, and manage land use and development on Hatzic Island.

Description

Hatzic Island is located within Electoral Area “G” of the Fraser Valley Regional District (FVRD) on Hatzic Lake. Hatzic Island’s popularity as a recreational area and its evolution in use to a residential area, in conjunction with environmental constraints and concerns regarding water and sewage, has created challenges for the Island. This evolution from seasonal recreational use to permanent residential use has only exasperated existing challenges. The rising real estate costs in the Fraser Valley have arguably contributed to increasing permanent residential use on Hatzic Island as people seek out affordable housing options. Current development on the Island ranges from larger rural residential uses to dwelling units on small individual user lots, to mobile home parks, recreational vehicle campsites and a church summer camp. BC Assessment data obtained by the FVRD shows that there are currently 757 folio numbers associated with Hatzic Island. A folio number is typically associated with one parcel, multiple parcels, or a portion of a parcel. This data provides a good estimate on the number of lots and user sites there are on Hatzic Island.

Subdivision History

Hatzic Island was first subdivided in 1882 when the provincial government issued the first Crown grant for the northern portion of the Island. The original Crown grant was for a 57.87 ha (143 ac) parcel¹. A subsequent Crown grant was issued for the southern portion of the Island. It covered the remaining 16.61 ha (40 ac) of the Island². The area of land known as Everglades Resort on the southeast portion of the Island seems to have been submerged and only appeared on later maps.

¹ British Columbia. *Government Access Tool for Online Retrieval (GATOR)*
[http://a100.gov.bc.ca/pub/pls/gator/gator\\$querylist_detail.parcel_detail?v_Pin_Sid=6507431&v_Historical=ON](http://a100.gov.bc.ca/pub/pls/gator/gator$querylist_detail.parcel_detail?v_Pin_Sid=6507431&v_Historical=ON).
(accessed April 10, 2017).

² British Columbia. *Government Access Tool for Online Retrieval (GATOR)*
[http://a100.gov.bc.ca/pub/pls/gator/gator\\$querylist_detail.parcel_detail?v_Pin_Sid=6500871&v_Historical=ON](http://a100.gov.bc.ca/pub/pls/gator/gator$querylist_detail.parcel_detail?v_Pin_Sid=6500871&v_Historical=ON).
(accessed April 10, 2017).

The subdivision pattern that developed on Hatzic Island by 1919, with the exception of the southern quarter of the Island, resembles today's subdivision pattern. By 1922, there was further subdivision on the Island. By 1952, today's subdivision pattern on Hatzic Island was mostly established and the area of land known as Everglades Resort emerged. By 1972, the subdivision pattern resembles today's map. Since that time there have been several subdivisions in the form of lot realignments, consolidation of parcels, and creation of new parcels; however, overall the number of parcels appears to have stayed consistent. The subdivision pattern that developed on Hatzic Island is illustrated in Appendix A.

Development Constraints

Floodplain

The major environmental constraint facing Hatzic Island is its location within the Fraser River floodplain. Historically the area has been prone to flooding. The highest points on the Island are two metres below the elevation of a 1:200 Fraser River flood³. The old 1988 Dewdney – Hatzic Lake Official Community Plan states that notable floods from the Fraser River occurred in 1882, 1883, 1894, 1900, 1936 and 1948⁴. The floods of 1948 were devastating and resulted in the reconstruction of riverside dikes. The present Dewdney Dike, along with flood boxes and a pump station, were constructed after the floods of 1948⁵. The Dewdney Dike protects Hatzic Island from flooding from the Fraser River. Since the 1948 flood there have been no Fraser River floods; however, Hatzic Island still experiences flooding due to the volume of water coming off the surrounding watersheds overwhelming the drainage capacity of the system⁶. Localized internal flooding occurred in 1955, 1972, 1981 and 1983⁷. The last noteworthy flood event occurred on Hatzic Island in 1990. Drainage from Hatzic Lake flows into the Fraser River through the Lower Hatzic Slough. However, high Fraser River levels can prevent this drainage and during rain events the lack of drainage causes flooding and necessitates the use of a pump station. In 2013, a second pump station with three fish friendly axel pumps was completed to enhance drainage during high Fraser River levels⁸.



³ Fraser Valley Regional District. *Official Community Plan for Electoral Area "G" Bylaw No. 0866, 2008*. 2008.

⁴ Dewdney – Alouette Regional District. *Dewdney – Hatzic Lake Official Community Plan Bylaw No. 478, 1988*. 1988.

⁵ Dewdney Area Improvement District. <http://www.daidinfo.com/history/> (accessed January 30, 2017).

⁶ Dewdney Area Improvement District.

⁷ Dewdney – Alouette Regional District. *Dewdney – Hatzic Lake Official Community Plan Bylaw No. 478, 1988*. 1988.

⁸ Letts Environmental Consultants Ltd. *Dewdney Area Improvement District. Operations Manual: Hatzic Lake Slide Gates*. October 2014.

Recognizing Hatzic Island is located within the floodplain, the FVRD has included the Island within the *Fraser Valley Regional District Floodplain Management Bylaw 0681, 2005* (Floodplain Management Bylaw). The Floodplain Management Bylaw states the Flood Construction Level (FCL) for Hatzic Island is 9.3 metres Geodetic Survey of Canada (GSC) datum. The minimum ponding elevation, which addresses flooding from within the Hatzic watershed, is 5.2 metres GSC datum. The floodplain setback for Hatzic Island is 7.5 metres from the natural boundary of Hatzic Lake. The required FCL is 9.3 metres GSC datum but if the minimum ponding elevation of 5.2 GSC is met and a save harmless covenant is registered in favour of the FVRD then the 9.3 m GSC FCL does not need to be met.

The mapping provided in Appendix B illustrates the low elevation of Hatzic Island. This mapping is showing GSC datum elevation levels and is therefore measuring elevation from sea level, but it still is illustrative of the low elevation levels of Hatzic Island. The lowest area of elevation on Hatzic Island is found in Everglades Resort, which happens to also be the most densely developed area on Hatzic Island. Most of the other high density development falls largely within the low level turquoise area. The existing FCL elevation on Hatzic Island ranges from 2.8 metres to 8.2 metres. Everglades Resort maximum elevation levels range from 2.8 metres to 3.6 metres and most other high density development on Hatzic Island falls within 5.6 metres to 7.4 metres GSC datum. Depending on elevation, new construction would at a minimum need to be 5.2 metres to 9.3 metres GSC datum. To meet the required FCL either fill has to be brought in to elevate the structure or construction has to be designed to have the non-habitable space (i.e. garage) locate below the FCL and the habitable floor located above the FCL or a combination of fill and construction. The elevation levels highlight the risk of flooding and the challenges of developing in low lying areas such as Hatzic Island.

The low elevation of Hatzic Island is not only a concern because of flooding but it is also a concern because seasonal high ground water affects on-site sewage septic systems and individual sand point water wells. The flooding also increases the risk of land use related contaminants from entering the water supply. The sewage and water challenges on Hatzic Island will be discussed in the next sections.

Road Access

In addition to the flood risks and concerns regarding sewage and water there is only one access road and bridge to Hatzic Island. As a result access may be cut off during major floods or other emergencies. The elevation of the Shook Road Bridge is approximately 5.2 GSC metres. This should be sufficient to keep the bridge above design flood levels for floods within the Hatzic watershed; however, it would be inundated by a Fraser River flood that breaches the existing Fraser River dike system. During the flood of 1990 a water level 4.25 GSC was recorded at Everglades Resort⁹.

Sewage Disposal

Development on Hatzic Island initially took the form of recreational development, but over time has evolved to primarily residential development that relies on on-site sewage disposal systems. Typically these are individual on-site septic fields. Considerable development occurred in the 1960's and 1970's

⁹ Associated Engineering, *Hatzic Prairie Drainage Study*. Volume 1. 1992.

prior to when provincial regulations were implemented regarding septic field design¹⁰. Many of these systems are nearing the end of their anticipated life¹¹. As a result they will require significant investment to replace them. Concerns have been raised in the past that the deep trench sewage disposal systems most commonly used on the Island may be brought into conflict with the seasonally high groundwater on Hatzic Island¹². In previous surveys respondents have experienced concerns or problems with sewage disposal systems and supported the concept of a community sewer system¹³. There were also concerns that the density of septic systems and proximity of wells to septic systems are a cause for concern.

Water Supply

Hatzic Island residents generally rely on wells. The Nicomen Slough Aquifer, the source of the Island's drinking water was in the past classified by the Ministry of Environment as "highly vulnerable" to contamination¹⁴. There are some concerns that sewage disposal on Hatzic Island is contaminating ground water and drinking water supplies. Previous research that focused on groundwater to determine the quality of drinking water conducted sample well tests in Hatzic Valley and found wells that had high nitrate levels on Hatzic Island¹⁵. The source of nitrates was likely the septic systems. Furthermore, there was a strong relationship between nitrate levels, well depths and proximity to development.

Ownership Structure

The ownership structure is also complex in numerous developments on Hatzic Island. In some instances there is one owner with multiple residential sites. In other instances there is fractional ownership in which each owner holds a fraction of the property and is allowed to occupy a defined area (user site) based on an agreement among the owners. In other instances, an owner may hold shares in the corporation which owns the land. These ownership structures act as "unregistered subdivision" of land but they have avoided the subdivision approval process which is intended to ensure the health, safety, practicality and overall suitability of the subdivision. This creates development challenges as individual owners wishing to apply for amendments to the Official Community Plan or Zoning Bylaw require the support of the other fractional owners of the development. It also creates a situation where there are no internal land use setbacks between user sites but only setbacks between buildings and exterior lot lines. As well, it complicates redevelopment and has important implications for lawful non-conforming ("grandfathering") status.

¹⁰ Fraser Valley Regional District.

¹¹ Fraser Valley Regional District.

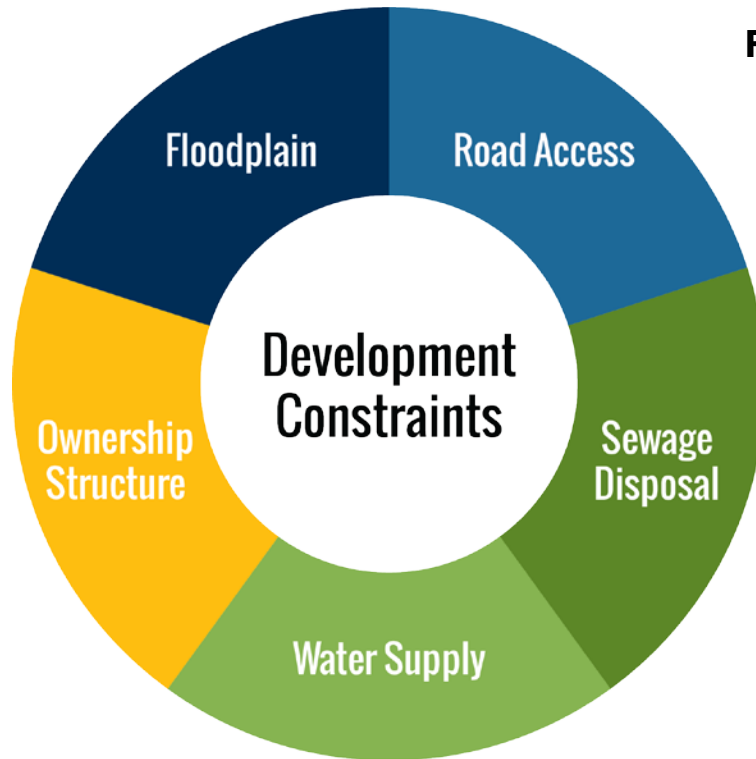
¹² Fraser Valley Regional District.

¹³ Fraser Valley Regional District.

¹⁴ Fraser Valley Regional District.

¹⁵ Magwood, Simon. *Drinking Water Quality in the Hatzic Valley, BC*. Master's Thesis, University of British Columbia, 2004.

Figure 1



Planning Policies and Regulations

The policy and regulatory regime has been consistent in preventing further subdivision and maintaining the size of the remaining larger parcels.

The Official Regional Plan adopted by the Lower Mainland Regional Planning Board in 1966, designated Hatzic Island as Lowland Rural (RRL-3). This designation was applied to areas located within a floodplain that are predominately large parcel size and are best suited for low agricultural or large holding rural development and therefore impacted less should flooding occur. The Official Regional Plan’s subdivision policy for minimum parcel size was 20 ac (8 ha).

The original zoning bylaw, *Dewdney-Alouette Regional District Zoning Bylaw No. 28, 1972*, introduced by the Dewdney-Alouette Regional District in 1972, zoned much of Hatzic Island Rural III (R-3) with the exception of four parcels which were zoned Tourist-Recreation Commercial (TC) and one parcel zoned Institutional (P) where a church camp is located. The Zoning Bylaw maintained the minimum parcel size of 20 ac (8 ha) for the Rural III (R-3) zone that was designated by the Official Regional Plan. The minimum parcel size for the Tourist Recreation Commercial (TC) zone was 3 ac (1.2 ha). The minimum parcel size for the Institutional (P) Zone was not less than 20,000 ft² (0.186 ha).

Dewdney-Alouette Regional District Zoning Bylaw No. 202, 1980 repealed and replaced *Dewdney-Alouette Regional District Zoning Bylaw No. 28, 1972* but maintained the same zoning with the exception of one parcel. The majority of parcels were zoned Rural III (R-3) and maintained a minimum

parcel size of 8 ha (20 ac). Three properties were assigned the Tourist Campsites (TC) zone and the minimum parcel size was increased to a minimum of 2 ha (4.94 ac). The church camp parcel maintained its Institutional (P) zone but the minimum parcel size was increased to 1 ha (2.47 ac).

The current *Dewdney-Alouette Regional District Zoning Bylaw No. 559, 1992* has maintained the zoning designations. The minimum parcel size for the Rural 3 (R-3) was maintained at 8 ha (19.77ac) but the minimum parcel size within the Tourist Campsite (TC) and Civic Assembly (P-1) was reduced to 0.5 ha (1.24 ac).

Figure 2

Minimum Parcel Size History

1966 Official Regional Plan

<u>Land Use Designation</u>	<u>Minimum Parcel Size</u>
RRL-3 Lowland Rural	8 ha 20 acres

Zoning Bylaw No. 28, 1972

<u>Land Use Designation</u>	<u>Minimum Parcel Size</u>
R-3 Rural III	8 ha 20 acres
TC Tourist Commercial	1.2 ha 3 acres
P Institutional	.186 ha 20,000 ft ²

Zoning Bylaw No. 202, 1980

<u>Land Use Designation</u>	<u>Minimum Parcel Size</u>
R-3 Rural III	8 ha 20 acres
TC Tourist Campsite	2 ha 4.95 acres
P Institutional	1 ha 2.47 acres

Zoning Bylaw No. 559, 1992

<u>Land Use Designation</u>	<u>Minimum Parcel Size</u>
R-3 Rural III	8 ha 20 acres
TC Tourist Campsite	.5 ha 1.24 acres
P-1 Civic Assembly	.5 ha 1.24 acres

The Official Regional Plan land designation map from 1966 illustrates a similar subdivision pattern as illustrated in the 1972 map shown in Appendix A. Therefore, subdivision patterns, minimum parcel size policies, and regulations regarding subdivision and land use on Hatzic Island have not significantly changed in over 50 years (1966-2017). With several minor exceptions, from 1966 onward further subdivision of Hatzic Island has been prevented by policies and regulations that were adopted. Since 1972, regulations have sought to keep residential development to large rural parcels and allow for tourist campsites on a number of parcels. There are numerous non-conforming uses that have continued up to the present day. However, evidence gathered by FVRD staff through complaints to bylaw enforcement and site visits indicates that the scale of non-conforming use has increased, rather than decreased. The policy and regulatory response is effective in preventing further subdivision but results in a variety of problems relating to legal non-conforming status implications and land tenure.

Non-Conforming Development

The density of development on Hatzic Island is high for an unserviced area. The reason why Hatzic Island has such high density is because of the continued presence of lawfully non-conforming residential and recreational development that has occurred in the mobile home parks and resorts. These densities found on Hatzic Island are a concern at the current level of servicing. All together there are seven lawfully non-conforming recreational holdings/unregistered subdivisions on Hatzic Island that pre-date the original zoning regulations. These were recognized and described in *Dewdney-*

Alouette Regional District Zoning Bylaw No. 202, 1980 and therefore existed prior to the existing *Dewdney-Alouette Regional District Zoning Bylaw No. 559, 1992*. The non-conforming recreational holdings/unregistered subdivisions recognized are: Green Acres, Aqua Vista Estates, Sundorn Holdings, Hatzic Lake Holdings, Griffs MHP, Everglades MHP and Little Beach MHP. Non-conforming developments are included in Table 1 which lists all high density properties on Hatzic Island. Because these sites are non-conforming, a structural alteration or addition must not be made unless it is permitted by a Board of Variance. The Board of Variance is the formal process to proceed with development on these sites.

Table 1: Hatzic Island Developments

Name	Land Use	Zoning	Units/Sites	Size (acres)	Incorporated
Swans Point	RV (sheds, awning, covered decks)	TC	114	10.26	NA
Camp Luther	Cabins & RV & tenting sites	P-1	39	6.74	NA
Green Acres*	MHP – manufactured homes	R-3	47	6.5	NA
Aqua Vista Estates*	Mobile homes, additions & houses	R-3	21	5	NA
Sundorn Holdings*	Houses & cabins	R-3	43 (45)	8.34	1965
Hatzic Lake Holdings (Dogpatch)*	Houses	R-3	28	5.5	1958
Kostur (Griffs) MHP*	MHP – manufactured homes	R-3	7	1.6	NA
Everglades MHP*	MHP – manufactured homes & additions, & modular homes	TC / R-3	17	4.5	NA
Everglades Resort	RVs, trailers & cabins	TC	395	26.1	1976
Little Beach MHP*	RVs & manufactured homes	R-3	13+1	2.9	NA

*Recognized as existing non-conforming by *Dewdney-Alouette Regional District Zoning Bylaw No. 202, 1980*

Currently for those developments considered lawfully non-conforming, a structural alteration or addition is only allowed as per Section 531 of the *Local Government Act* if it is permitted by a Board of Variance. A person under Section 40 of the *Local Government Act* may apply to a Board of Variance if the person alleges that compliance with the prohibition of structural alterations or additions would cause the person “hardship”. The Board of Variance in turn under Section 542 of the *Local Government Act* may order that the applicant be exempted from Section 531 of the *Local Government Act* which restricts the structural alteration or addition of a building.

The FVRD Board of Variance has considered numerous applications for significant alteration or construction on user sites of legal non-conforming recreational holdings/unregistered subdivisions within the last 20 years. The Board of Variance has for all but one application approved the development applied for by the applicant. Table 2 summarizes the Board of Variance applications considered for Hatzic Island since 1997. Of the 17 Board of Variance applications considered 16 were approved and only one was denied. All Board of Variance applications came from three recreational holdings/unregistered subdivisions: Aqua Vista Estates, Hatzic Lake Holdings (Dogpatch), and Sundorn Holdings. The data reveals which lawfully non-conforming residential



BOV approved house addition
Hatzic Lake Holdings

communities applied for a Board of Variance; however, readers should be cautious in drawing further conclusions as this may simply reflect the circumstances of the property. Owners in these communities contain mostly houses or cabins as opposed to mobile homes and therefore may be more likely to apply for structural alterations or additions as they have a simpler path in receiving the necessary approvals to undertake construction. Members of the Board of Variance in making their decision are guided by the parameters set out in Section 542 of the *Local Government Act* attached in Appendix C. In making a decision the Board of Variance has concluded that the applications met all of the requirements. That development was allowed for an application may seem minimal but the planning concern lies in the incremental impacts of the approval of development over time. The long term result is that development on Hatzic Island intensifies without any improvement in the level of sewer and water services. The results may be a risk for the environment and human health.

Table 2: Board of Variances

Address	Application	Decision
Aqua Vista - 4-9201 Shook Road	Structural alteration and addition to existing double wide mobile.	Approved 2009
Dogpatch -11-8985 Shook Road	Addition of garage to existing dwelling.	Approved 2009
Dogpatch - 11-8985 Shook Road	Conversion of garage to habitable living space.	Approved 2013
Aqua Vista - 18-9201 Shook Road	Structural alteration and placement of manufactured home to an existing single family dwelling.	Approved 2013
Aqua Vista - 3-9201 Shook Road	Construction of extension to existing single family dwelling to accommodate a bathroom.	Approved 2013
Dogpatch - 4-8985 Shook Road	Structural alteration and addition to an existing single family dwelling to accommodate the replacement of current flat roof.	Approved 2015
Dogpatch - 3-8985 Shook Road	Removal and replacement of existing two storey garage attached to existing single family dwelling.	Approved 2015
Aqua Vista - 18-9201 Shook Road	Structural alteration and addition to an existing single family dwelling to accommodate addition of a two car garage and deck.	Approved 2015
Dogpatch - 3-8985 Shook Road	Internal structural alteration.	Approved 2009
Sundorn - 5-9055 Shook Road	BOV did not understand any undue hardship to the applicant to support allowing consideration of the extra addition to the home.	Denied 2006
Dogpatch - 1-8985 Shook Road	Reconstruction of flat rook to pitched roof and addition of storage in roof area.	Approved 2002
Dogpatch - 1-8985 Shook Road	Replace flat roof with pitched roof and enlarge two existing bedrooms by constructing an addition and build a single car open sided carport.	Approved 2003
Sundorn -11-9055 Shook Road	Addition of family room or bedroom and carport.	Approved 2003
Dogpatch - 16-8985 Shook Road	Reconstruction and enlargement of two bedrooms, addition of covered deck, second parking spot, and foyer in garage to building.	Approved 2002
Sundorn - 10-9055 Shook Road	Reduction in setback to the rear property line as long as the proposed picnic shelter not be within 1.5 m of rear property line.	Approved 2001
Sundorn -1-9055 Shook Road	Variance as applied for was denied but the second storey addition to single family dwelling was granted.	Approved 1998
Aqua Vista - 16-9201 Shook Road	Renovate and repair old residence.	Approved 1997

Bylaw Enforcement

Currently there are 39 active bylaw enforcement files for properties on Hatzic Island which are summarized in Table 3. Bylaw enforcement in the FVRD is complaint driven unless FVRD staff are aware of a bylaw contravention which poses a major health or safety concern. Subsequently, there may be additional bylaw contraventions where FVRD staff have not received complaints from the public and therefore no files has been created.

The overwhelming number of bylaw enforcement files, 28 of 39, are located within Everglades Resort. This may be expected as Everglades Resort also has the largest number of user lots. There are also currently two active bylaw enforcement files in Aqua Vista Estates, Sundorn Holdings and Little Beach. All three of the developments are lawfully non-conforming and five of six bylaw enforcement files are concerning construction



Placement of mobile home without a Permit, Little Beach

without a permit. Most of the bylaw enforcement files relate to construction without a permit and the reason that building permits are never applied for in the first place is that the construction is not permitted because of the regulations of the zone. Where the unit is considered lawfully non-conforming a Board of Variance may be an option to reach a resolution; however, where a Board of Variance is not an option the only achievable option is removing the construction, or rezoning the entire property.

Table 3: Bylaw Enforcement Files

Address	Issue	Date File Opened
8400 Shook Road - 28 active files (Everglades)	Construction without permit	1996-2017
8564 Shook Road	Construction without permit	2007
8985 Shook Road	Construction without permit	2013
9010 Shook Road (Little Beach)	Construction without permit	2007
9010 Shook Road (Little Beach)	Zoning use contravention	2013
9046 Shook Road	Multiple bylaw enforcement	2017
9053 Shook Road (Sundorn)	Construction without permit	2016
9055 Shook Road (Sundorn)	Construction without permit	2005
9201 Shook Road (Aqua Vista)	Construction without permit	2013
9201 Shook Road (Aqua Vista)	Construction without permit	2014
9267 Shook Road	Construction without permit	2003
9341 Shook Road	Construction without permit	2000

Moving Forward

Evaluation of Policies

Considering the development history, planning policies and planning regulations, the planning policy and regulatory regime applied to Hatzic Island has only partly been effective in preventing further development and inadequate for protecting environment and health. The previous and current local government policies and the corresponding planning policies and regulations adopted have provided mixed results. The planning policies and regulations have been successful in preventing subdivision but have been unsuccessful in controlling development. The planning policies and regulations have frustrated development, which has resulted in prolonged uncertainty for residents, a difficult path forward for residents wishing to pursue development lawfully, and resulted in illegal development. The extent of the illegal development is unknown, but over the years signs of illegal development have been observed. It appears that illegal development has been quite prevalent. If the last 37 years are any indication, the “grandfathering” of residences within the recreational holdings/unregistered subdivisions look to continue in the future and show no signs of eventually conforming. The intention of the provincial legislation that allows for “grandfathering” of non-conforming uses is that eventually the non-conforming use will come into conformity. For “grandfathering” to apply, the use and structure must be lawfully constructed. This can be difficult to determine because there are changes in ownership. The intention of “grandfathering” is to allow for a use to continue in its current state but the expectation is that eventually the “grandfathered” use will be replaced by a conforming use. It achieves this by prohibiting structural alterations or new construction which would extend the life of the non-conforming use. Furthermore, the problem of “grandfathering” and land tenure is that “grandfathering” rights are evolving through case law. The only way for development to take place is through approval from the Board of Variance or illegal development. Therefore, it is appropriate to re-evaluate the FVRD Board’s policies regarding Hatzic Island, the corresponding planning policies and regulations, and to consider exploring a more sensible approach moving forward.

Community Servicing

The implementation of community servicing that is appropriate for the density of development on Hatzic Island is an effective option to consider in addressing concerns regarding sewage disposal and drinking water. The major foreseeable challenge in moving forward with any community water system or community sewage system is paying for the system. Should Hatzic Island residents support the building of a community water system and/or community sewer system the costs may be prohibitively high in comparison to property/improvement values. Furthermore, the FVRD would not want to encourage development that would result in significantly higher densities whether through subdivision or additions. Usually new development helps to assist in paying for new services but since the FVRD may not want to encourage development it may not be able to rely on future development to help pay for the upgrades to community services. Therefore, the FVRD would need provincial and/or federal support and have to look at funding alternatives in the form of grants to assist in subsidizing rate payers. The implementation of a community water system would be less costly than implementation of a community sewer system as well as having the added benefit of potentially reducing property insurance rates. Despite the financial challenges in bringing community water and

sewage services to Hatzic Island it would address concerns of water quality, human health and impacts on the environment while facilitating zoning to reflect the actual use. As a result the FVRD could also explore opportunities for modest development supported by community water and sewer services and flood protection.

Levels of Service by Parcel Area

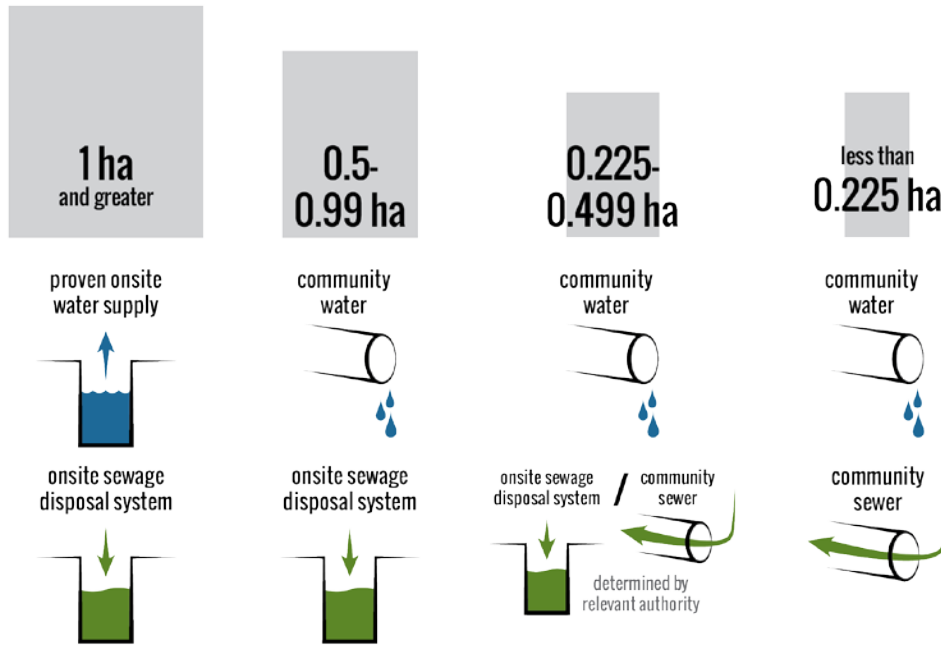


Figure 3

Density by Servicing Requirements in the FVRD

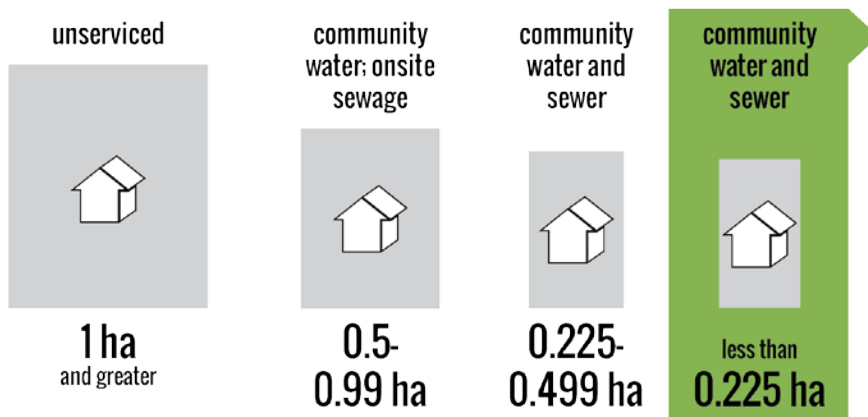


Figure 4

Developments at Aqua Vista Estates, Sundorn Holdings, and Hatzic Lake Holdings have an average parcel size of **0.085 hectares** and are entirely **unserviced**.

Planning Policies and Regulations

Addressing the servicing on Hatzic Island would support the FVRD in looking into re-evaluating its planning policies and regulations regarding existing and future development on the Island. Observations and FVRD documents indicate that the FVRD can expect those non-conforming recreational holdings/unregistered subdivisions to continue in the foreseeable future. In the meantime, the non-conforming status creates uncertainty. The implementation of community services would support the FVRD bringing the non-conforming developments into conformity. The Official Community Plan policies support providing a community water and sewer system and subsequently bringing the non-conforming developments into conformity. The FVRD could explore options to update designations and regulations to recognize the majority of the non-conforming development as conforming. This will address the reality that the existing non-conforming developments are not going to conform on their own because of land ownership structure and compelling economic incentive associated with current density.

Future Development

Addressing the non-conforming status of existing development will also allow the FVRD to better address future development. As has already been discussed, development in the non-conforming recreational holdings/unregistered subdivisions is currently possible by going through the Board of Variance. By addressing the community servicing the FVRD could offer a more desirable and certain path forward for development that is achievable by the owner of a single user site. This would allow owners to construct as long as FVRD development requirements are met.

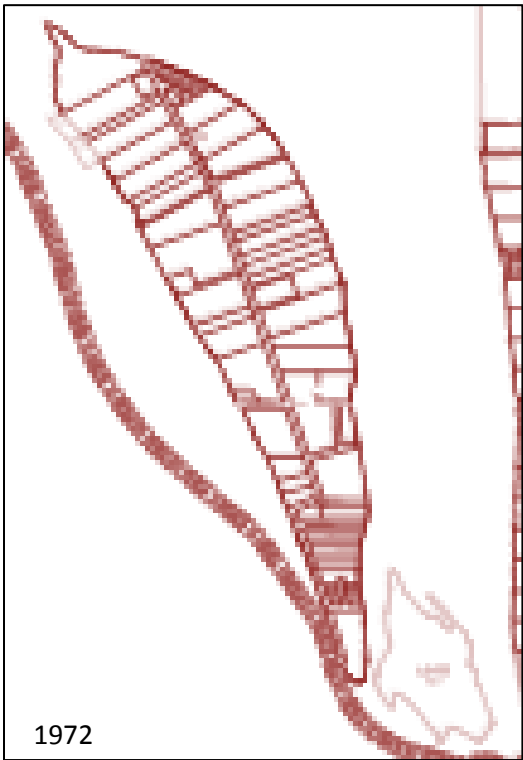
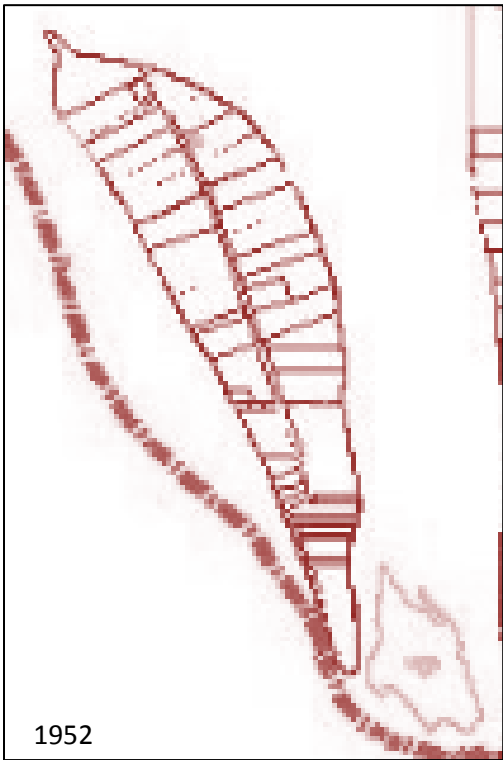
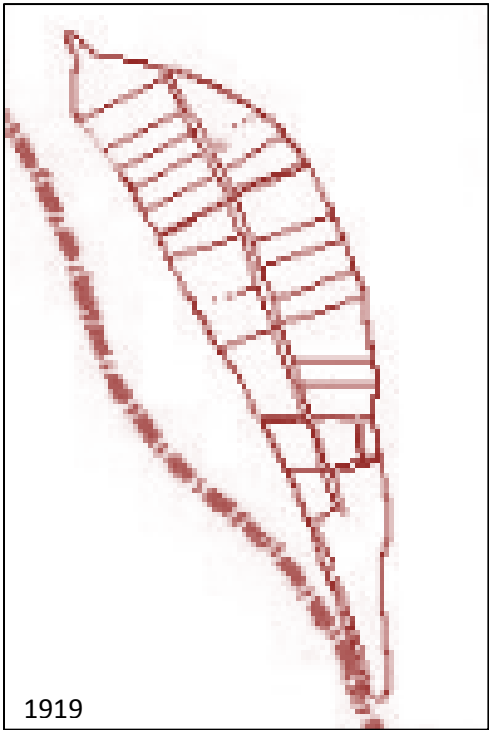
The major benefit of offering a more viable path forward to owners wishing to construct is that it discourages them from undertaking illegal construction. This would result in a more desirable development process and reduce cases of bylaw enforcement. There are currently bylaw enforcement files where options to legalize illegal construction involves the rezoning of the entire recreational property. This would require a list of items to be addressed which includes servicing. Construction in recreational holdings/unregistered subdivisions will occur regardless so the challenge is to allow limited development to proceed in a legal manner that is feasible for the individual owners.

Conclusion

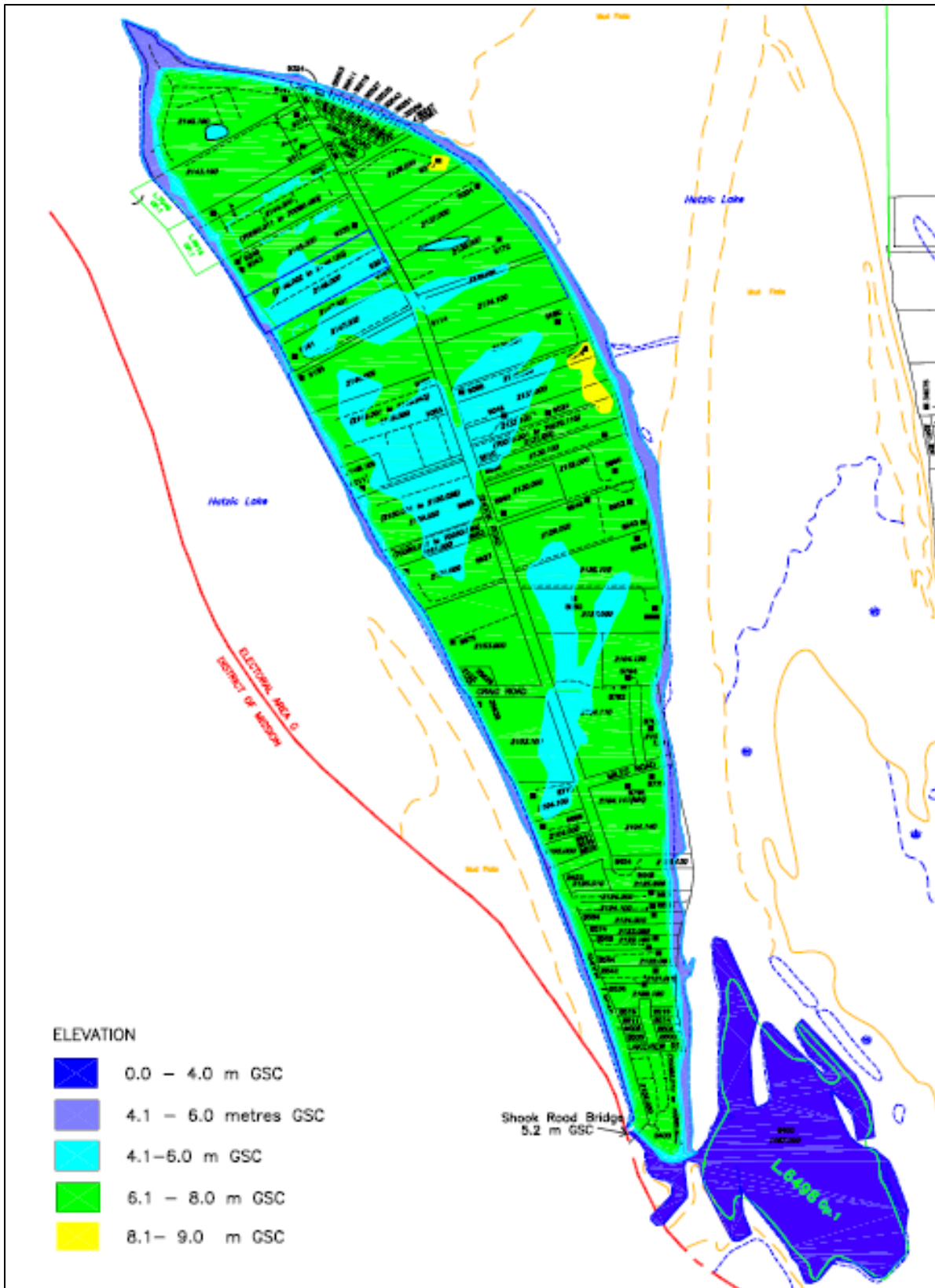
The FVRD has had subdivision and land use policies in place since 1966. The lawfully non-conforming recreational holdings/unregistered subdivisions on Hatzic Island have been recognized and defined in previous zoning bylaws. Given the longevity of the lawfully non-conforming development the FVRD can expect this issue to continue in the foreseeable future. Clearly this status quo has resulted in additional development. The FVRD has received information over the years that indicate there are concerns with the water quality and sources of potable water contamination; however, action is required to move beyond indicators and review a comprehensive study of the water quality and sources of contamination. As part of any policy bringing the non-conforming development into conformity, the delivery of a community water system and community sewer system are important considerations. Concerns associated with the existing and future development on Hatzic Island

require active solutions that will likely require the cooperation of multiple government agencies to commit to investing in Hatzic Island. What is needed is a discussion focusing on different approaches to managing land use and development on Hatzic Island and the support of active solutions.

Appendix A – Subdivision Patterns



Appendix B – Elevations



Appendix C – Section 542 LGA

Board powers on application

- 542** (1) On an application under section 540, the board of variance may order that a minor variance be permitted from the requirements of the applicable bylaw, or that the applicant be exempted from section 531 (1) [*alteration or addition while non-conforming use continued*], if the board of variance
- (a) has heard the applicant and any person notified under section 541,
 - (b) finds that undue hardship would be caused to the applicant if the bylaw or section 531 (1) is complied with, and
 - (c) is of the opinion that the variance or exemption does not do any of the following:
 - (i) result in inappropriate development of the site;
 - (ii) adversely affect the natural environment;
 - (iii) substantially affect the use and enjoyment of adjacent land;
 - (iv) vary permitted uses and densities under the applicable bylaw;
 - (v) defeat the intent of the bylaw.