



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

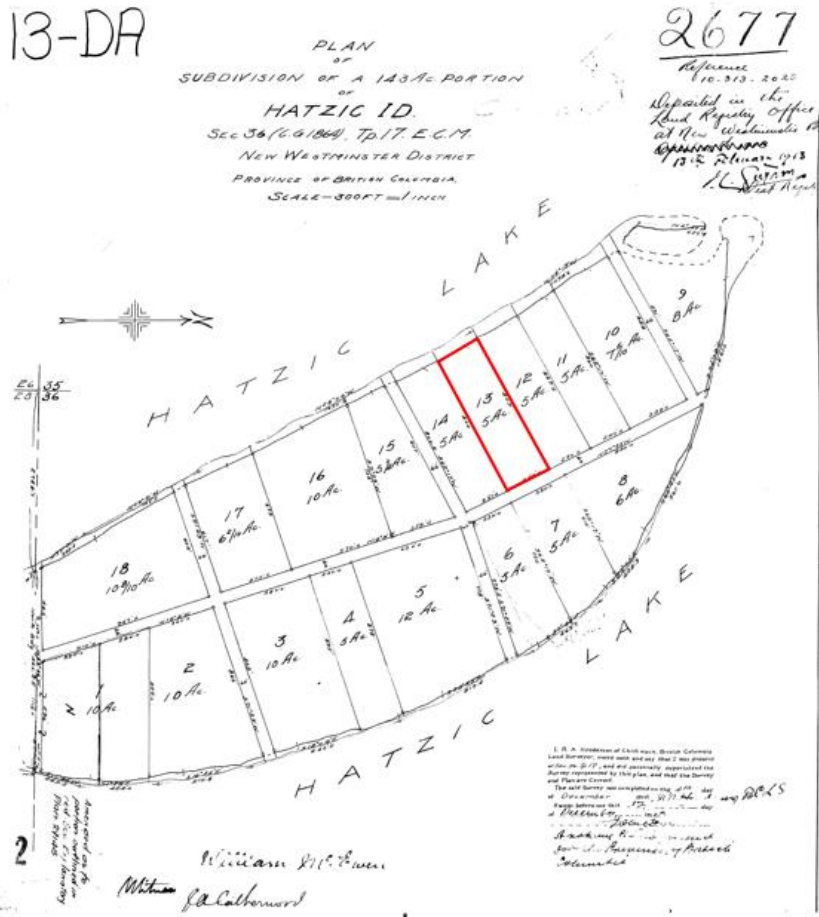


Figure 3: This image shows the 1913 subdivision plan for the northern portion of Hatzic Island. Aqua Vista Estates is identified as Lot 13 on this plan. As seen in this plan, only one parcel exists and it has not been further subdivided into separate user lots.

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 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:

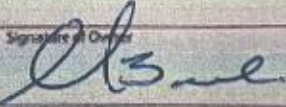
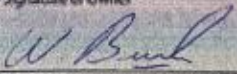
- A minor variance from bylaw requirements due to hardship (Local Government Act, Section 540)
- Structural alteration or addition to non-conforming structure (Local Government Act 540 and 531)
- Other (describe) _____ LGA s. _____

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) <u>AQUA VISTA ESTATES</u>	Signature of Owner 	Date <u>03/13/24</u>
	Name of Owner (print) <u>AQUA VISTA ESTATES</u>	Signature of Owner 	Date <u>03/13/24</u>

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

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 with 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