

FOR: COUNCIL

MEETING DATE: April 20, 2026

DEPARTMENT: PLANNING AND DEVELOPMENT

SUBJECT: **DEVELOPMENT PERMIT APPLICATION NO. DP001402 – 270 NEEN ROAD**



Proposal:
Environmentally Sensitive Area Development Permit to facilitate an 11-lot subdivision at 270 Neen Road

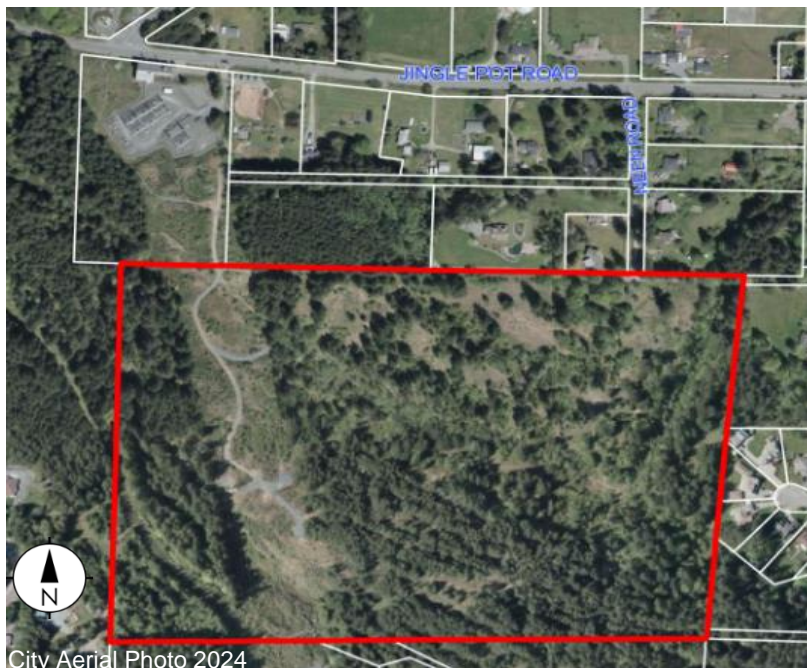


Zoning:
AR2 – Semi-Rural Residential

City Plan Land Use Designation:
Semi-Rural Neighbourhood

Development Permit Areas:
DPA 1 – Environmentally Sensitive Area
DPA 5 – Wildfire Hazard
DPA 6 – Steep Slope

Lot Area:
234,947m²



City Aerial Photo 2024

OVERVIEW**Purpose of Report**

To present for approval an Environmentally Sensitive Area Development Permit to facilitate an 11-lot subdivision at 270 Neen Road, including the construction of an emergency and pedestrian access crossing a watercourse. |

Recommendation

That Council issue Development Permit No. DP001402 to:

- (1) Permit the subdivision of 6 fee-simple lots where the minimum lot area is not achieved exclusive of the watercourse leave strip; and,
- (2) Permit construction of an emergency and pedestrian access across Morgan Creek within the watercourse setback, with associated variances as outlined in the “Proposed Variances” section of the Staff report dated [2026-APR-20] and vary the required watercourse setback from 15.0m to 0.0m. |

BACKGROUND

A development permit application (DP001402) was received from J.E. Anderson & Associates, on behalf of 1299144 B.C LTD, to facilitate an 11-lot fee-simple subdivision. The subject property, 270 Neen Road, is subject to three Development Permit Areas, including: DPA1 Environmentally Sensitive Area, DPA5 Wildfire Hazard, and DPA6 Steep Slopes. The subdivision is exempt from requiring a Wildfire Hazard Development Permit because a report has been submitted from a qualified professional that assesses the risk and provides recommendations to design and protect the proposed development from the wildfire interface hazard. The report will be registered on the titles of the affected parcels as a condition of the subdivision approval. A separate Steep Slopes Development Permit (DP001313) for the subdivision has been issued via delegated authority. A PLA has been issued for the subdivision (SUB01468) within the AR2 (Semi Rural) zone, which allows for two single residential dwellings on each lot.

Subject Property and Site Context

The subject property is located at the western boundary of the City of Nanaimo. It is bordered to the south by Westwood Lake Park and to the west by rural residential lands within the Regional District of Nanaimo; a mix of residential single-family and rural residential properties border the subject property to the north and east. A BC Hydro transmission line and right-of-way bisects the property generally north to south along the western extent of the parent parcel. |

DISCUSSION**Proposed Development**

The applicant proposes to subdivide the property into 11 fee-simple rural residential lots ranging in area from 1.0 to 2.37 ha, each permitting up to two single residential dwellings. Five of the proposed lots will be serviced by municipal water, and the remaining six will be serviced with private wells. All lots will have on-site septic systems that will be constructed at the time of building permit.

The subdivision requires an Environmentally Sensitive Area Development Permit for two conditions:

- (1) Lots being created by subdivision which do not meet the minimum lot area exclusive of the watercourse leave strip.
- (2) A variance to the required leave strip to facilitate construction of a watercourse crossing to provide emergency access and pedestrian connections.

(1) Minimum Lot Area Not Met Exclusive of Watercourse Leave Strip

A Development Permit is required for the proposed subdivision, as it does not qualify for the exemption under Section 18.1.6(k) of *City of Nanaimo Zoning Bylaw 2011 No. 4500* which requires, among other conditions, that minimum lot areas be achieved exclusive of watercourse leave strips. The AR2 (Semi Rural) zone does allow the area of the watercourse leave strips to be included in the minimum lot area for subdivision. Six of the eleven proposed lots do not meet the minimum lot area exclusive of watercourse leave strips; because the proposed lot areas were not increased to account for the watercourse leave strips, the subdivision does not meet the exemption criteria of DPA1 and therefore requires a Development Permit.

In the AR2 (Semi Rural) zone, the minimum lot area is 1.0 ha (10,000m²) for lots serviced by municipal water, and is 2.0 ha (20,000m²) for lots not serviced by a municipal water system. City Plan designates the future land use of the subject property as Semi-Rural Neighbourhood. City Plan Policy D4.5.45 prohibits the extension of water and sewer mains within the Semi-Rural Neighbourhood designation but does allow for additional connections where mains already exist. The subject property has sufficient access to an existing water main to provide water service connections to Lots 2-6, while Lot 1 and Lots 7-11 are proposed to be over 2.0 ha in area due to the lack of water connection.

Two Development Permit Area 1 (DPA1) watercourses are located on five of the proposed parcels. An additional small watercourse is located on the subject property, within proposed Lot 1, but is not subject to the Development Permit Area requirements; requirements for protection of this watercourse have been identified through the subdivision review. A copy of the proposed subdivision layout showing the extent of watercourse leave strips is included as Attachment C. The table below outlines the proportion of Development Permit Area watercourse leave strips within each of the proposed lots.

Lot #	Proposed Lot Area (m ²)	Leave Strip Area (m ²)	Remaining Lot Area (m ²)	Minimum Required Lot Area (m ²)	Leave Strip Area %
1	20,000	0.0	20,000.0	20,000	0
2	10,010	0.0	10,010.0	10,000	0
3	10,010	0.0	10,010.0	10,000	0
4	10,030	0.0	10,030.0	10,000	0
5	10,609	4,151.7	6,458.3	10,000	39%
6	12,195	4,916.6	7,278.4	10,000	40%
7	23,756	4,783.8	18,972.2	20,000	20%
8	20,093	2,941.0	17,152.0	20,000	14%
9	20,303	7,390.9	12,912.1	20,000	36%
10	20,502	6,924.3	13,577.7	20,000	33%
11	20,923	2,791.0	18,132.0	20,000	7%

As part of the subdivision review, consideration of buildable area and the ability to use the proposed lots for the uses permitted in the zone was undertaken; no concerns were identified since the proposed lots

are relatively large and the leave strip areas are located generally towards the edges of the parcels, leaving sufficient buildable areas.

A report from a Qualified Registered Professional (QRP) has been submitted in support of this Development Permit (Attachment E). The report provides recommendations to protect the leave strips and to ensure compliance with the Development Permit Area Guidelines with future Building Permits. Staff recommend that the report be registered on the title of all applicable lots, requiring that future development on these parcels meets the recommendations.

Furthermore, through subdivision, the Approving Officer has required the owner to register an Aquatic Setback Protection Covenant on all affected lots. The covenant will require the following:

- restrict vegetation removal and disturbance within the setback area;
- require the owner to maintain the required environmental fencing and/or signposts along the setback boundary for Lots 1 and 5-11;
- enable the City to repair the fence/signposts and charge the owner for the costs should the owner fail to do so.

Although the proposed lots do not meet the Development Permit exemption for minimum lot area being met outside of the watercourse leave strips, the lots have been reviewed to ensure that they can be developed to the use intended. In addition, aside from the construction within a watercourse outlined in the next section of this report, no additional disturbance is proposed within the ESAs or ESA leave strips; accordingly, the development is consistent with the Development Permit Area Guidelines.

(2) Construction Within A Watercourse

Through review of the subdivision, the Approving Officer has determined that access to Holmes Road is required in order to provide necessary and reasonable emergency vehicle and pedestrian access between the proposed subdivision and Holmes Road. As such, as a condition of the subdivision, the Approving Officer required the existing informal path to be upgraded to meet MoESS standards.

The widening of this road requires construction within an Environmentally Sensitive Development Permit Area where Holmes Road crosses Morgan Creek, which necessitates a Development Permit application. Construction activities for the access will affect a total of 205m² of the watercourse setback area.

In support of the application and to address the Development Permit Area (DPA1) guidelines, the applicant submitted a design of the crossing delineating the area of disturbance and restoration plan area (Attachment D). An environmental report was prepared by a Qualified Registered Professional (QRP) which concluded that the proposed works are minor in nature and the Development Permit Area Guidelines will be achieved with a net gain in the quality and quantity of functional habitat within the environmentally sensitive area once the improvements are complete. The report also confirms the construction will not have a measurable impact on the site hydrology (Attachment E).

To demonstrate compliance with the applicable guidelines, the following measures and maintenance strategies will be taken:

- To protect the watercourse and the associated leave strips from disturbance, silt fencing will be installed and maintained until site green-up.

- To ensure the health of the restoration plantings, the site design will adhere to the vegetation restoration plan and the three-year monitoring and maintenance plan.
- The QRP has provided an enhancement and restoration management plan that restores 520m², which is 2.5 times the area of impact.
- To increase the quality of the habitat, invasive plants within the leave strip will be removed and planting of native plants is proposed.

The site has been previously disturbed by existing trail and utility infrastructure and is currently characterized by a high prevalence of invasive species. The proposed restoration works will result in a net gain by establishing functional habitat with greater ecological value than the current condition.

Proposed Variances

Minimum Watercourse Setback

The required watercourse setback for Morgan Creek is 15.0m measured from the top of bank. The setback is proposed to be reduced to 0.0m to construct the pedestrian and emergency access over Morgan Creek. This represents a variance of 15.0m from the City of Nanaimo Zoning Bylaw.

As the area has been previously disturbed and no viable alternative alignment is available for the emergency and pedestrian access, this alignment was determined to be most suitable. As such, Staff support the proposed variance to construct the emergency and pedestrian access and proposed restoration of the leave strip area. The QRP did not identify any significant environmental constraints with regards to proposed subdivision. The restoration plan and recommendations meet the Development Permit Area Guidelines.

COMMUNICATION AND COMMUNITY ENGAGEMENT

This application does not require a statutory notification or community engagement.

KEY MESSAGES

- Development Permit Application No. DP1402 contains separate items for consideration:
(1) to permit the area of watercourse and watercourse leave strips to be included in the minimum lot area for 6 new rural residential lots.
(2) to construct an emergency access and pedestrian connection over a watercourse leave strip area, required as a condition of a subdivision. A variance is required to the watercourse leave strip from 15.0m to 0.0 m to allow for the crossing.
- An Environmental Assessment completed by a QRP was submitted in support of the application and the QRP concluded that the proposal achieves improved site conditions and a net gain in the quality and quantity of functional habitat over existing conditions.
- The application meets the Development Permit Area Guidelines.
- Staff support the proposed variance.

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Subject Property Map
ATTACHMENT C: Watercourse Leave Strip and Setback Areas
ATTACHMENT D: Creek Crossing and Restoration Plan
ATTACHMENT E: Environmental Assessment

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