

# **Municipality of North Cowichan**

## **Board of Variance**

### **AGENDA**

Wednesday, February 26, 2020, 2:00 p.m.  
Municipal Hall - Maple Bay Meeting Room

**Pages**

**1. CALL TO ORDER**

**2. APPROVAL OF AGENDA**

Recommendation:

That the Board of Variance approve the agenda as circulated [or as amended].

**3. ADOPTION OF MINUTES**

2 - 3

Recommendation:

That the Board of Variance adopt the minutes of the meeting held February 5, 2020.

**4. BUSINESS**

**4.1 Election of Chair**

Purpose: To elect the 2020 Board of Variance Chair for a one-year term expiring December 31, 2020 (Note: as per the April 24, 2019 Board of Variance meeting minutes which state the term for Chair Roome expired on December 31, 2019).

**4.2 BOV00005 - 9833 Willow Street**

4 - 18

Purpose: To provide the Board of Variance with information and analysis regarding an application to vary the side yard setback at 9833 Willow Street ("the subject property") to accommodate 4 heat pumps.

**5. NEW BUSINESS**

**6. ADJOURNMENT**

# **Municipality of North Cowichan Board of Variance MINUTES**

**February 5, 2020, 2:00 p.m.  
Municipal Hall - Maple Bay Meeting Room**

Members Present	Shannon Roome, Chair Don Bruniski Peter Ordynec
Members Absent	Daniel Robin David Wiebe
Staff Present	Rob Conway, Director of Planning and Building Anthony Price, Planning Technician Glenn Morris, Development Planning Coordinator Nelda Richardson, Deputy Corporate Officer

## **1. CALL TO ORDER**

There being a quorum present, the Chair called the Board of Variance meeting to order at 2:00 p.m.

## **2. APPROVAL OF AGENDA**

It was moved and seconded:

**That the Board of Variance approve the February 5, 2020 agenda as circulated.**

**CARRIED**

## **3. ADOPTION OF MINUTES**

It was moved and seconded:

**That the Board of Variance adopt the minutes of the meeting held October 30, 2019.**

**CARRIED**

## **4. BUSINESS**

### **4.1 Application to Accommodate a Generator at 9910 Esplanade Street**

The Board received a presentation from Anthony Price, Planning Technician regarding the subject property and the proposed request to vary setbacks to accommodate a diesel generator for emergency power.

The Board had a question with regard to how power would be shared between the two facilities. The Board heard from the applicant, Mr. Lamont, Project Facilitator Ltd. that

patients would be relocated between facilities to the facility that had power. Not that power would be distributed between the facilities during a power outage.

Mr. Lamont stated that the proposed location is very easy and safe access for refueling the generator. It is the best place to locate the generator. The slope of the land allows for soundproofing. A fence would be incorporated around the area for security.

Board Member Ordynec raised concerns with size of the generator and the noise that would come from it. A question was asked if the generator would be tested. The Board heard that the generator is required to be tested once a month and would be done during working hours on business days only. A question was asked why the measurement is 7 meters for sound distance ratings. The Board heard staff did not know the rationale and that the closest neighbor is ten meters away and the residential dwelling is farther away.

Chair Roome asked staff if there had been any submissions from surrounding neighbours opposed to the application. The Board heard there were no submissions received regarding the application.

The Board asked what happens now when the power goes out. The Board heard that the resident's wheelchair bound or with accessibility issues cannot leave their rooms as there would be no elevator and staff would be required to bring their meals to them.

Board Member Bruniski noted he has concerns with noise from the generator but it would only be used during power outages and is in favour of the application based on the occupants.

Board Member Ordynec noted that he is in favour of the application due to the nature of the residents in the facility and the necessity for power.

Chair Roome, noted that there is well documented need and proven undue hardship to the applicant.

It was moved and seconded:

**That the Board approve application BOV00004 to vary Section 35 (3) of Zoning Bylaw No. 2950, reducing the required rear yard setback to 0 m instead of 4.5 m at 9910 Esplanade Street, in order to accommodate a diesel generator for emergency power.**

**CARRIED**

**5. NEW BUSINESS**

None.

**6. ADJOURNMENT**

The Board of Variance meeting ended at 2:34 p.m.

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Signed by Chair

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Certified by Recorder

# Report

Date	February 26, 2020	Folder No.	BOV00005
To	Board of Variance	Folio No.	15687-001
From	Anthony Price, Planning Technician	File No.	3730-20 20.01
Subject	BOV00005 – 9833 Willow Street		

## Purpose

The purpose of this report is to provide the Board of Variance with information and analysis regarding an application to vary the side yard setback at 9833 Willow Street ("the subject property") to accommodate 4 heat pumps.

## Background

Address: 9833 Willow Street

Zone: Comprehensive Development Zone (CD10) (ATTACHMENT 9)

Property Area: 0.06 Ha (0.16 Acres)

Agricultural Land Reserve: No

### Land Use Context (ATTACHMENT 3)

North: Pacific Shores Inn Hotel (Commercial General Zone, C2)

South: Single Family Dwelling (Residential One and Two-Family Zone, R3)

East: Single Family Dwelling (Residential One and Two-Family Zone, R3)

West: Single Family Dwelling (Residential One and Two Family Zone, R3)

### Proposal

To vary Section 35 (3) of Zoning Bylaw No. 2950 to place 4 heat pumps, with a maximum variance request of 3 m from the side yard setback, to allow the installation of a ductless heat pump (ATTACHMENT 4).

## Discussion

### Zoning

Section 35 (3) of Zoning Bylaw 2950 regulates the placement of heat pumps at 4.5 m from any property line. The intent of the bylaw is to reduce potential noise impacts created by heat pumps (ATTACHMENT 5).

## Analysis

The subject property is located within the Chemainus Mixed-Use Commercial Core, in close proximity to services and amenities. Council adopted a zoning amendment for application (ZB000092) January 31, 2019 to rezone the subject property from R3 (ATTACHMENT 10) to CD10 (ATTACHMENT 9), allowing the construction of 8 one-bedroom purpose-built rental units. The CD10 zone allows for minimal setbacks, in order to provide flexibility while maximizing developable lands.

The proposed heat pumps will be located on the decks (ATTACHMENT 8) of the upper 4 units. These decks double as the main entrances for units 1 to 4, providing direct access to Willow Street via a small set of steps.

The applicant's rationale (ATTACHMENT 11), refers to the extensive benefits of the ductless heat pumps, which are designed to provide an energy-efficient, cost-effective and quiet solution, compared to alternative heating and cooling options. The rationale goes on to further explain that the location of the proposed heat pumps will face Willow Street, and will not disturb any residents.

The proposed heat pumps have a normal operating load of 49-51 Decibels (ATTACHMENT 6), which is comparable to other domestic noises. The proposed heat pumps are setback various distances from the property line (ATTACHMENT 7). The closest adjacent property that may be affected by the proposed is approximately 18 metres to the north of the subject property at 9845 Willow Street.

The proposed heat pumps are not easily sited in compliance with Section 35 (3) of the Zoning Bylaw (ATTACHMENT 4). The alternative is to locate the heat pumps on the roof of the building, this would not only add considerable expense and increased difficulty to be maintained but visually impact the aesthetics of the building (ATTACHMENT 8).

## Communications and Engagement

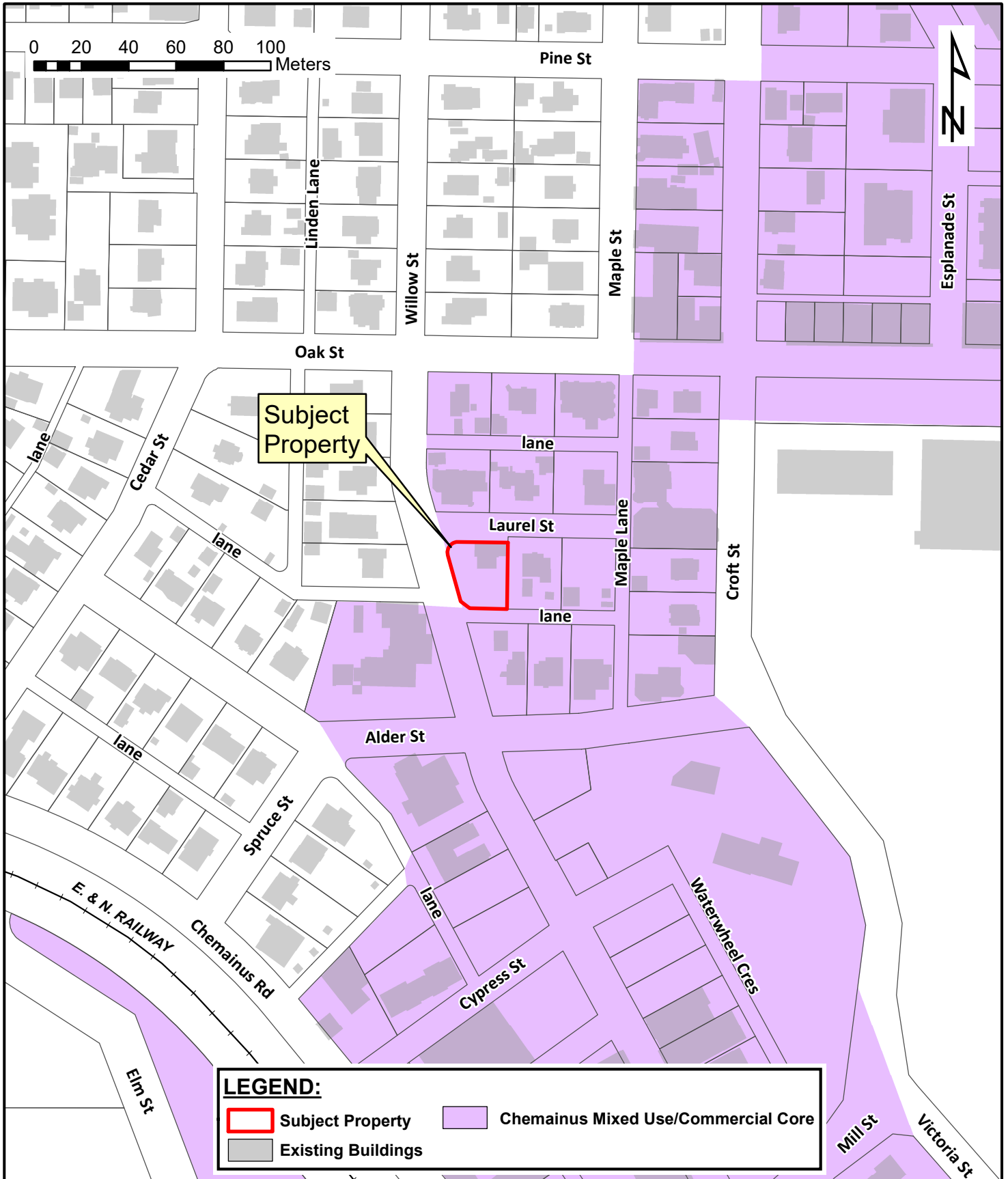
Pursuant to the Municipality of North Cowichan Board of Variance Bylaw, Bylaw No. 3727, notification letters have been sent to the applicant, as well as to owners and occupants adjoining the subject property. Any responses will be presented at the February 26, 2020 Board of Variance hearing. The notice of hearing includes subject matter of the application, the date, time and place where the application will be heard, and applicable North Cowichan staff contact information. The application to the Board is available for public inspection at the Municipal Hall during regular business hours.

## Sample Motions

- 1) That the Board approve application BOV00005 to vary Section 35 (3) of Zoning Bylaw No. 2950, reducing the required side yard setback to 1.5 m instead of 4.5 m for the upper four units at 9833 Willow Street, as indicated on the Site Plan attached to the February 26, 2020 staff report (Attachment 4), in order to accommodate four ductless heat pumps.**
- 2) That the Board deny application BOV00005 to vary Section 35 (3) of Zoning Bylaw No. 2950, reducing the required side yard setback to 1.5 m instead of 4.5 m for the upper four units at 9833 Willow Street, as indicated on the Site Plan attached to the February 26, 2020 staff report (Attachment 4), in order to accommodate four ductless heat pumps.**

Attachments (11)

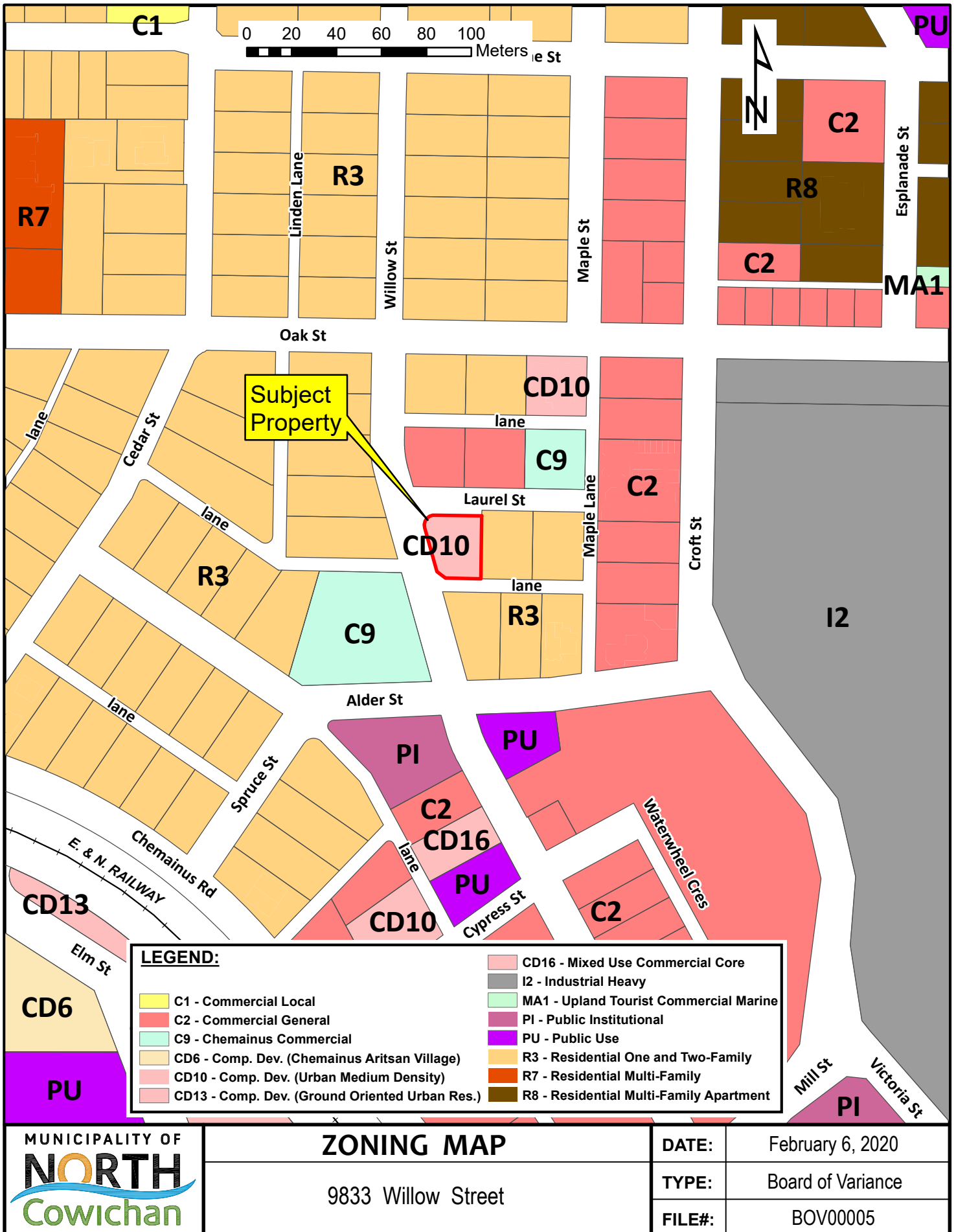
Attachment 1 - Location Map  
Attachment 2 - Orthophoto  
Attachment 3 - Zoning Map  
Attachment 4 - Site Plan  
Attachment 5 - Section 35 (3) Bylaw  
Attachment 6 - Heat Pump Specifications GL12Z-System  
Attachment 7 - Heat Pump Setbacks  
Attachment 8 - West Elevation Heat Pump Location  
Attachment 9 - Comprehensive Development Zone (CD10)  
Attachment 10 - Residential One and Two-Family Zone (R3)  
Attachment 11 - Letter of Rationale



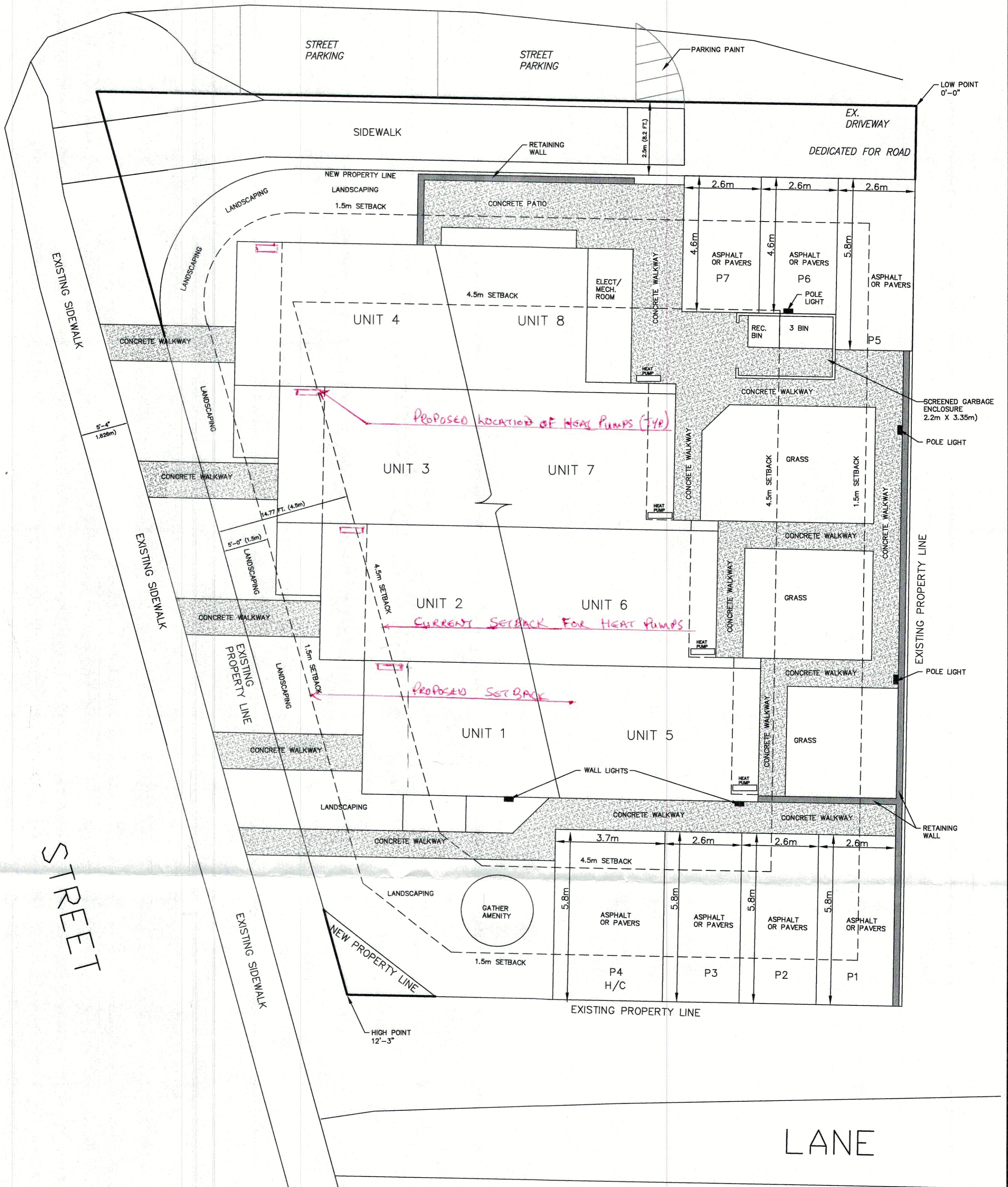
	<b>LOCATION MAP</b>  9833 Willow Street	<b>DATE:</b> February 6, 2020 <b>TYPE:</b> Board of Variance <b>FILE#:</b> BOV00005



	<b>ORTHOPHOTO MAP</b> ( Orthophoto is from 2019 aerial photography)	<b>DATE:</b> February 6, 2020
	9833 Willow Street	<b>TYPE:</b> Board of Variance
		<b>FILE#:</b> B00005



LAUREL STREET



- (f) the creation of on-street traffic or parking congestion,
- (g) pressure spray-painting, or
- (h) welding. [BL3323]

**31** Home-based businesses which discharge or emit the following will not be permitted:

- (1) odorous, toxic, or noxious vapours and/or matters;
- (2) heat, glare, electrical interference, or radiation; and/or
- (3) recurring ground vibration.

**32** The "Automobile Repair" facet of home-based business shall not:

- (1) involve bodywork;
- (2) involve repair to any type of motor vehicle other than private passenger motor vehicles; or
- (3) be conducted on a lot less than 4,000 m<sup>2</sup> (0.988 acres) in area.

**32.1** Any home-based business or retail store that is an adult novelty business or drug paraphernalia business must not be located within 1 km of a school. [BL3323]

### **Projections into Required Yards/Setbacks**

- 33** (1) All required setback areas must be kept free of buildings and structures, excluding permitted projections.
- (2) Where a principal or accessory building, or any portion thereof, is situated wholly below ground, no setbacks are required in the yards, side, or the yard, rear, to that building or portion of that building situated wholly below ground.

**34** A swimming pool shall not be located within 1.5 m (4.92') of any lot line.

**35** (1) The following may project not more than 0.6 m (1.97') into a required yard:

- (a) a step;
- (b) an eave;
- (c) an awning;
- (d) a canopy;
- (e) an open, cantilevered balcony without a roof;
- (f) a porch;
- (g) a chimney;
- (h) a cornice;
- (i) a gutter;
- (j) a pilaster;
- (k) a sill; and
- (l) a bay window without any habitable floor area. [BL3457]

- (2) Despite the previous subsection, a step, canopy, or cantilevered balcony may project not more than 1.2 m (3.93') into a required front or rear yard of an apartment or townhouse.

(3) Despite the previous two subsections, land within 4.5 m (14.76') from a property line must not be used for the placement of a generator, a heat pump or an air conditioner. [BL3754, BL3764]

- (4) For certainty, a projection designed to accommodate furniture (e.g. a dining room hutch) must meet every yard requirement.



Indoor Unit: MSZ-GL12NA-U1



Wireless Remote Controller



Outdoor Unit: MUZ-GL12NA-U1



COOLING &amp; HEATING



## SPECIFICATIONS:

Rated Conditions (Capacity / Input)			
Cooling <sup>1</sup>	Btu/h / W	12,000 / 920	
Heating at 47°F <sup>2</sup>	Btu/h / W	14,400 / 1,100	
Capacity Range		Minimum	Maximum
Cooling <sup>1</sup>	Btu/h	1,500	13,600
Heating at 47°F <sup>2</sup>	Btu/h	2,000	18,100
Heating at 17°F <sup>3</sup>	Btu/h	-	12,000
Heating at 5°F <sup>4</sup>	Btu/h	-	9,700

<sup>1</sup> Cooling | Indoor: 80°F (27°C) DB / 67°F (19°C) C/WB; Outdoor: 95°F (35°C) DB / 75°F (24°C) C/WB<sup>2</sup> Heating at 47°F | Indoor: 70°F (21°C) DB / 60°F (16°C) C/WB; Outdoor: 47°F (8°C) DB / 43°F (6°C) C/WB<sup>3</sup> Heating at 17°F | Indoor: 70°F (21°C) DB / 60°F (16°C) C/WB; Outdoor: 17°F (-8°C) DB / 15°F (-9°C) C/WB<sup>4</sup> Heating at 5°F | Indoor: 70°F (21°C) DB / 60°F (16°C) C/WB; Outdoor: 5°F (-15°C) DB / 5°F (-15°C) C/WB

\* Rating Conditions per AHRI Standard.

Operating Conditions (Indoor Intake Air Temp.) (Max./ Min.)	
Cooling	90°F (32°C) DB / 67°F (19°C) DB
Heating	80°F (27°C) DB / 70°F (21°C) DB

Operating Conditions (Outdoor Intake Air Temp.) (Max./ Min.)	
Cooling <sup>5</sup>	115°F (46°C) DB / 14°F (-10°C) DB
Heating	75°F (24°C) DB / -4°F (-20°C) DB**

<sup>5</sup> Applications should be restricted to comfort cooling only; equipment cooling applications are not recommended for low ambient temperature conditions.

\*\* System cuts out at -9°F (-23°C) to avoid thermistor error and automatically restarts at -4°F (-20°C).

AHRI Efficiency Ratings	
SEER / HSPF	23.1 / 12.5
COP at 47°F / 17°F	3.84 / 3.1
Energy Star <sup>®</sup>	Yes

ENERGY STAR products are third-party certified by an EPA-recognized Certification Body.

Specifications are subject to change without notice.

Electrical Power Requirements	208 / 230V, 1-Phase, 60 Hz
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Minimum Circuit Ampacity (MCA)		
Indoor / Outdoor	A	1 / 9

Indoor Unit		
Blower Motor (ECM)	F.L.A.	0.76
Blower Motor Output	W	30
SHF / Moisture Removal		0.740 / 2.5 pt./h
Field Drainpipe Size O.D.	In.(mm)	5/8 (15)

Outdoor Unit		
Compressor		DC INVERTER-driven Twin Rotary
Fan Motor (ECM)	F.L.A.	0.5

Airflow Rate (Quiet - Lo - Med - Hi - Super Hi)			
Indoor (Cooling)	DRY	CFM	145-170-237-321-399
	WET		109-134-201-286-364
Indoor (Heating)	DRY		145-170-237-321-406
Outdoor			1,229 / 1,172

Sound Pressure Level (Quiet - Lo - Med - Hi - Super Hi)			
Indoor	Cooling	dB(A)	19-22-30-37-45
	Heating		19-22-30-37-43
Outdoor	Cooling		49
	Heating		51

External Dimensions		
Indoor (H x W x D)	In.(mm)	11-5/8 x 31-7/16 x 9-1/8 (295 x 798 x 232)
Outdoor (H x W x D)		21-5/8 x 31-1/2 x 11-1/4 (550 x 800 x 285)

Net Weight		
Indoor	Lbs.(kg)	22 (10)
Outdoor		81 (37)

External Finish	
Indoor	Munsell 1.0Y 9.2 / 0.2
Outdoor	Munsell No. 3Y 7.8 / 1.1

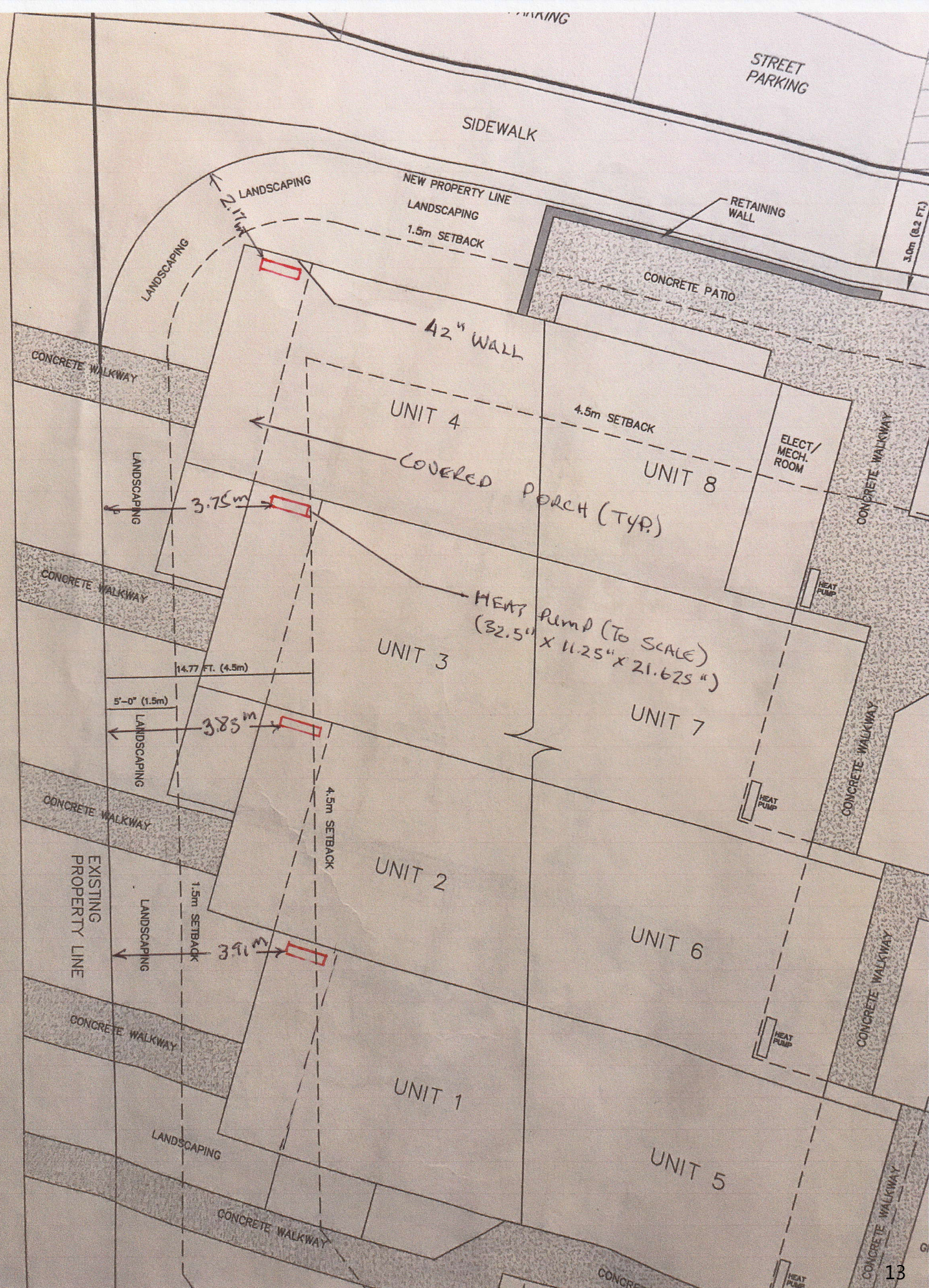
Refrigerant	R410A; 2 lb. 9 oz.
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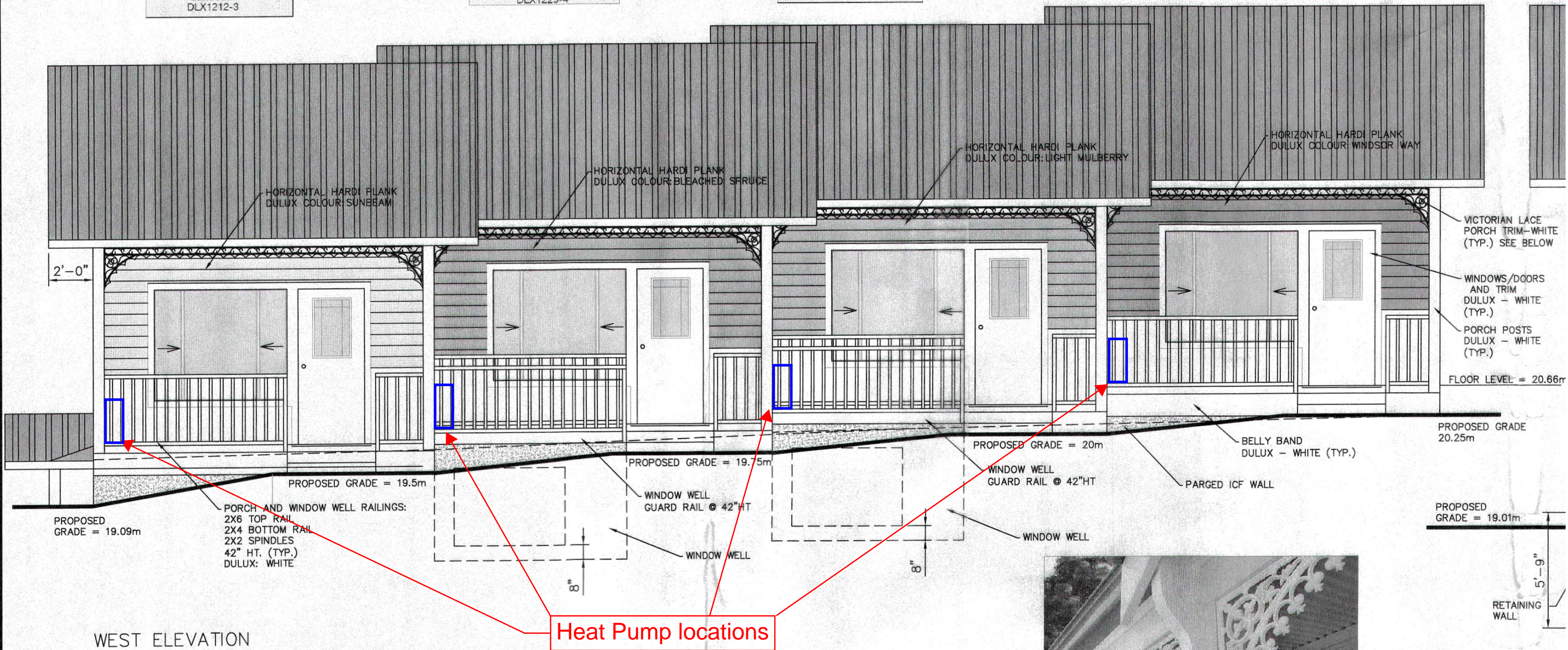
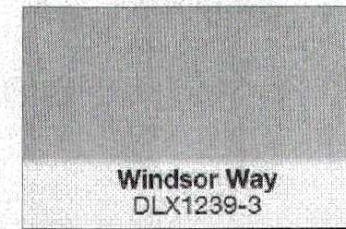
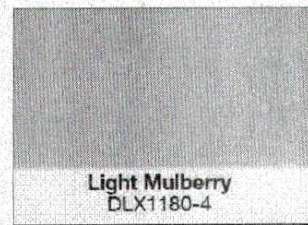
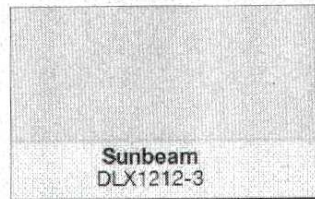
Refrigerant Piping (Flared)		
Liquid (High Pressure)	In.(mm)	1/4 (6.35)
Gas (Low Pressure)		3/8 (9.52)
Max. Total Refrigerant Pipe Length (Height Diff.)	Ft. (m)	40 (12)
Max. Total Refrigerant Pipe Length (Length.)		65 (20)

EXISTING SIDEWALK

EXISTING SIDEWALK

EXIST

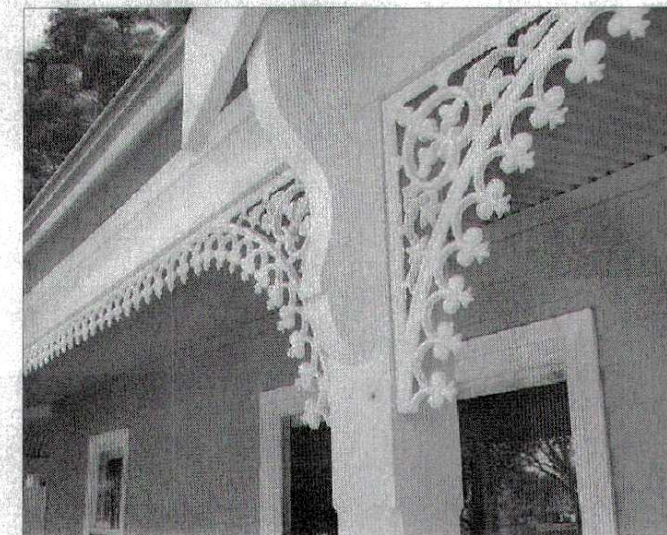




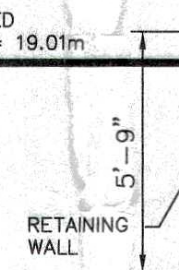
WEST ELEVATION

SCALE: 1/4"=1'-0"

NOTE: ALL WINDOWS AND DOORS AT 7'-0" HEIGHT.



VICTORIAN LACE PORCH TRIM



EAST ELE

SCALE: 1/4"=

NOTE: ALL WINDO

**Permitted Uses**

- 80.10** (1) The Permitted Uses for the CD10 zone are as follows:  
apartment  
multi-family residence  
home-based business

**Minimum Lot Area**

- (2) The minimum lot area required for the CD10 zone is 700 m<sup>2</sup> (7,534.74 sq. ft.)

**Minimum Frontage**

- (3) The minimum frontage required for the CD10 zone is 15 m (49.21').

**Density**

- (4) The maximum permitted floor space ratio for the CD10 zone is 1.5:1 except that parking garages located below a building are not included in the calculation of gross floor area of the building.

**Setback Requirements**

- (5) The minimum permitted setbacks for a principal building within the CD10 zone is as follows:  
(a) Yard, Front, 3 m (9.84')  
(b) Yard, Side, 1.5 m (4.92')  
(c) Yard, Rear, 1.5 m (4.92')

**Maximum Building Height**

- (6) The maximum height of a principal building is 12 m (39.37').

**Landscape Open Space**

- (7) All open areas not covered by buildings, driveways, or parking must be maintained as landscaped area.

**Parking Requirements**

- (8) Despite section 21 (1) of this Bylaw, parking spaces must be provided on-site as follows:  
(a) 1 parking space per dwelling unit with 1 bedroom;  
(b) 1.5 parking spaces per dwelling unit with 2 or more bedrooms;  
(c) an additional 15% of the total number of required parking spaces designated as visitor parking.

**Conditions of Use**

- (9) The conditions of use for the CD10 zone are as follows:  
(a) no fences are permitted where the yard abuts public property, highway, or lane;  
(b) no fences over 1.2 m are permitted in any other yard;  
(c) common garbage receptacles must be enclosed by walls or decorative fencing or enclosures and landscaping for the purpose of screening.
- (10) Multi-family residential buildings must have either a flat roof or a pitched roof with a minimum pitch of 10:12.
- (11) Garage entrances and garage doors must face towards and be accessed by a lane.
- (12) All ground floor residential units must provide an individual identifiable principal access point from the exterior of the building and for certainty may also have an internal or shared access if desired.

## Residential One and Two-Family Zone (R3)

### Permitted Uses

- 58 (1) The permitted uses for the R3 zone are as follows:
- Agriculture
  - Assisted Living
  - Bed and Breakfast
  - Community Care Facility
  - Home-based Business
  - Secondary Suite
  - Single-Family Dwelling
  - Supportive Housing
  - Two-Family Dwelling [BL3302]

### Minimum Lot Size

- (2) A lot in the R3 zone must meet the minimum area requirements for the purposes of subdivision and use of the lot for permitted uses as follows:
- (a) Single-family dwelling, 450 m<sup>2</sup> (4,844 sq. ft.)
  - (b) Single-family dwelling with a secondary suite, 450 m<sup>2</sup> (4,844 sq. ft.)
  - (c) Two-family dwelling, 700 m<sup>2</sup> (7,535 sq. ft.) [BL3647, BL3674]
- (2.1) Despite section 58 (2) (b), a single-family dwelling with a secondary suite is permitted on 3133 Cook Street (Parcel Identifier: 027-873-200) with a lot area of 510 m<sup>2</sup> (5,490 sq. ft.). [BL3663]
- (2.2) Despite section 58 (2) (c), a two-family dwelling is permitted on Lot 15 of Plan 5756, on Sayward Road (PID: 001-503-120) with a lot area of 669 m<sup>2</sup> (7,201 sq. ft.). [BL3684]

### Minimum Frontage

- (3) The minimum permitted frontage in the R3 zone is as follows:
- (a) Single-family dwelling, 15 m (49.21'),
  - (b) Single-family dwelling with a secondary suite, 15 m (49.21'),
  - (c) Two-family dwelling, 23.0 m (75.46'). [BL3083, BL3674]

### Density

- (4) The maximum permitted density for the R3 zone is as follows:
- (a) The number of residential buildings shall not exceed one.
  - (b) The maximum permitted floor space ratio is 0.5:1.
  - (c) The number of residential units per building shall not exceed two. For strata buildings/lots, each strata unit constitutes one residential unit.
  - (d) Despite the foregoing, the placement of a temporary trailer may also be permitted subject to "Temporary Trailer Permit Bylaw 1976", No. 1685.
  - (e) Despite the foregoing, a maximum of 2 residential buildings, with a total combined maximum of 2 residential dwelling units, is permitted on 3340 Cowichan Lake Road (PID: 001-375-482). [BL3668]

### Maximum Lot Coverage

- (5) The maximum permitted lot coverage for the R3 zone is as follows:
- (a) 30% of the lot area for lots of 650 m<sup>2</sup> (7,000 sq. ft.) or larger; and
  - (b) 35% of the lot area for lots less than 650 m<sup>2</sup> (7,000 sq. ft.).

### Minimum Setbacks

- (6) The minimum permitted setbacks for the R3 zone are as follows:
- (a) Principal Buildings
    - Yard, Front, 5.0 m (16.40')
    - Yard, Side, 2.0 m (6.56')

- Yard, Side when adjacent to a lane or street, 3.0 (9.8')
- Yard, Rear, 7.5 m (24.6') [BL3323]
- (b) Accessory Buildings and Structures (Excluding Fences)
  - Yard, Front, 5.0 m (16.40')
  - Yard, Side, 1.0 m (3.28')
  - Yard, Rear, 1.5 m (4.92') [BL3323]

- (6.1) The minimum permitted setback from the vehicle entrance of a principal or accessory building to a public road other than a lane is 5.8 m (19.03'). [BL3150]

### Maximum Building Height

- (7) The maximum permitted building heights for the R3 zone are as follows:
- (a) Principal Building, 9.0 m (29.53')
  - (b) Accessory Building, 5.0 m (16.40')

### Conditions of Use

- (8) The conditions of use for the R3 zone are as follows:
- (a) No fences over 1.2 m (4.00') in height are permitted in the required yards, front.
  - (b) No fences over 2.0 m (6.56') in height are permitted in the required yards, side or rear.
  - (c) In no situation shall a fence be greater than 2.0 m (6.56') in height.
  - (d) Bed and breakfast uses may have no more than three sleeping units.
  - (e) Bed and breakfast uses in a single-family dwelling must be an accessory use and shall not be the principal use.
  - (f) Agriculture use shall be subject to the "Animal Control Bylaw, 1995", No. 2856.
  - (g) [Repealed, BL3674]
  - (h) For a lot created prior to March 31, 2000, a single-family dwelling, two-family dwelling, or secondary suite is permitted on any lot. [BL3323, BL3418]
  - (i) Limited farm sale of agricultural products may be sold directly to the public provided that:
    - (i) a minimum of 50% of the agricultural products offered for sale are produced on the land;
    - (ii) the covered retail sales area does not exceed 100 m<sup>2</sup> (1076.4 sq. ft.); and
    - (iii) the retail sales are clearly ancillary to the farm use. [BL3083]
  - (j) Assisted Living, Supportive Housing, and Community Care Facilities may be permitted provided that
    - (i) the number of residents does not exceed three, and
    - (ii) the use is within a single-family dwelling unit only, which for clarity does not include a two-family dwelling. [BL3083; BL3302; BL3323; BL3418]

### Driveway Width

- (9) Individual driveway widths shall not exceed 6.0 m (19.68') of the lot frontage for each dwelling.

January 22, 2018

Letter of Rationale For Development Variance Permit

The intention was to use ductless heat pumps for the 8 units at the Cottages on Willow, 9833 Willow Street, Chemainus. These 12,000 btu heat pumps provide efficient, low cost heating and air conditioning, and are very quiet. Unfortunately, the 4.5 m setback currently in place will not allow for heat pumps to be placed on the front decks of the upper 4 units, as shown on the site plan, and there is no other logical location. These quiet units would face the street and would not bother any other residents. The 4.5 m setback was designed to protect adjacent properties from the noise levels of larger ducted heat pumps, and do not make sense in our situation.

Our request is to vary the setback to a more reasonable of 1.5 m on the Willow Street and Laurel Street sides of the property.

Thank you

Jon Lefebure