

Municipality of North Cowichan

Regular Council

AGENDA

Wednesday, November 6, 2019, 1:30 p.m.
Municipal Hall - Council Chambers

Pages

1. CALL TO ORDER

This meeting is open to the public. All representations to Council form part of the public record. Proceedings will be streamed live and archived at northcowichan.ca.

2. APPROVAL OF AGENDA

Recommendation:

That Council adopt the November 6, 2019 Regular Council agenda, as circulated [or as amended].

3. ADOPTION OF MINUTES

3.1 October 1, 2019 - Special Council - Public Hearing

Note: minutes to be distributed at the November 6, 2019 Regular Council meeting.

Recommendation:

That Council adopt the Special Council - Public Hearing minutes of the meeting held October 1, 2019.

3.2 October 16, 2019 - Special Council

6 - 7

Recommendation:

That Council adopt the Special Council minutes of the meeting held October 16, 2019.

3.3 October 16, 2019 - Regular Council

8 - 12

Recommendation:

That Council adopt the Regular Council minutes of the meeting held October 16, 2019.

3.4 October 21, 2019 - Special Council

13 - 14

Recommendation:

That Council adopt the Special Council minutes of the meeting held October 21, 2019.

4. MAYOR'S REPORT

5. DELEGATIONS AND PRESENTATIONS

5.1 PRESENTATION: RCMP Quarterly Report (July through September, 2019) 15 - 32

Purpose: To hear from Inspector Chris Bear regarding the RCMP Detachment's Third Quarter activities (July through September, 2019).

6. PUBLIC INPUT

Opportunity for brief verbal input from registered speakers regarding subsequent agenda items.

7. BYLAWS

7.1 Bylaw 3748 - "Zoning Amendment Bylaw (Cannabis Sales - 2900 Drinkwater), 2019" (Abandon) 33 - 34

Purpose: To provide Council with information and a recommendation regarding "Zoning Amendment Bylaw (Retail Cannabis Sales - 2900 Drinkwater Road), No. 3748, 2019" a site specific zoning amendment application to permit the use of Retail Cannabis Sales at 2900 Drinkwater Road (Cowichan Commons) to facilitate a Liquor Distribution Branch (LDB) operated cannabis retail store.

Recommendation:

That "Zoning Amendment Bylaw (Retail Cannabis Sales - 2900 Drinkwater Road), No. 3748, 2019" be abandoned.

8. REPORTS

8.1 Reconsideration of Zoning Amendment Bylaw No. 3761, 2019 35 - 99

Purpose: To provide Council with information, options and a recommendation on the reconsideration of "Zoning Amendment Bylaw No. 3761, 2019" ("Bylaw No. 3761"), a bylaw to rezone three properties at Cowichan Valley Highway and Drinkwater Road to a new comprehensive development zone.

Recommendation:

That reconsideration of third reading of Bylaw No. 3761 be deferred until after a further public hearing has been held, and that staff be directed to schedule a public hearing and give notice in accordance with the requirements of the Local Government Act, with the public hearing to be held at the Cowichan Performing Arts Centre.

8.2 Reconsideration of Development Permit Application DP000155 100 - 131

Purpose: To provide an outline of the process for Council's reconsideration of Development Permit Application DP000155.

Recommendation:

That reconsideration of Development Permit Application DP000155 be deferred until Council has concluded its reconsideration of Bylaw No. 3761.

- 8.3 Bylaw 3752 - "Zoning Amendment Bylaw (CD10 - 2903 Cypress Street), 2019" (first and second reading)** 132 - 153
- Purpose: To provide Council with information, analysis and recommendations regarding "Zoning Amendment Bylaw (CD10 - 2903 Cypress Street), No. 3752, 2019", a bylaw to rezone the subject property located at 2903 Cypress Street in Chemainus from the Commercial General (C2) to the Urban Medium Density Comprehensive Development Zone (CD10) to regularize the existing apartment building use.
- Recommendation:
That Council give first and second readings to "Zoning Amendment Bylaw (CD10 - 2903 Cypress Street), No. 3752, 2019" - a bylaw to regularize the existing apartment building use at 2903 Cypress Street; and,
- That a Public Hearing for "Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019" be scheduled as required by the *Local Government Act*.**
- 8.4 Bylaw 3758 - "Zoning Amendment Bylaw (Keeping of Farm Animals and Poultry), 2019" (first and second reading)** 154 - 159
- Purpose: To provide Council with information, analysis, and a recommendation to update "Zoning Bylaw 1997, No. 2950" to include general regulations pertaining to the keeping of farm animals and poultry, and regulations for kennels.
- Recommendation:
That Council give first and second reading to "Zoning Amendment Bylaw (Keeping of Farm Animals & Poultry), No. 3758, 2019" in order to regulate the keeping of farm animals and poultry, and to establish setbacks specific to kennels; and
- That a Public Hearing be scheduled and notification given, as per the requirements of the Local Government Act.**
- 8.5 Bylaw 3766 - "Zoning Amendment Bylaw (1038 Herd Road), 2019" (first and second reading)** 160 - 179
- Purpose: To provide Council with information, analysis and recommendations regarding a site-specific zoning bylaw amendment application for 1038 Herd Road, to amend the Residential Rural zone (R1) to permit two residential buildings, with a maximum of two dwelling units for the purpose of short-term accommodation (Bed and Breakfast).
- Recommendation:
That Council give first and second reading to "Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019" in order to permit two residential buildings, with a maximum of two dwelling units; and,
- That a Public Hearing be scheduled for "Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019" and notification be issued in accordance with the requirements of the Local Government Act.**

8.6 Bylaw 3767 - "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), 2019" (first and second reading) 180 - 194

Purpose: To provide Council with proposed changes and an amendment zoning bylaw for side, rear, and front yard setbacks for farm uses in all other principal buildings, other than residential buildings, on agricultural lands.

Recommendation:

1. That Council give first and second reading to "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019"; and
2. That referrals be sent to the BC Young Agrarians, the Cowichan Agricultural Society, and the Cowichan Green Community, and that referral agencies be given a maximum of 30 calendar days to provide a response before a public hearing is held; and
3. That a Public Hearing be scheduled for Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019", and notification issued in accordance with the requirements of the Local Government Act.

8.7 Canada Avenue Flood Gate, Drainage and Road Upgrade Project 195 - 200

Purpose: To seek Council approval to potentially cancel the Canada Ave settlement repair project, defer the Canada Avenue Friendship Trail design project, and re-budget those funds to a new Canada Ave Flood Gate, Drainage and Road Upgrade Project. In addition, staff are seeking Council endorsement of an application to the Union of BC Municipalities' Community Emergency Preparedness Fund for \$750,000 in funding to offset the costs of the new project.

Recommendation:

That Council:

1. Supports an application to the Union of British Columbia Municipalities' Community Emergency Preparedness Fund for \$750,000 for the *Canada Ave Flood Gate, Road and Drainage Upgrade Project*; and
2. Direct staff to cancel the *Canada Ave Road Upgrade Project* and adjust the budgets for 2020 and 2021 for the Canada Ave Flood Gate, Road and Drainage Upgrade Project.

9. NOTICE OF MOTIONS

10. REVIEW OF COMMITTEE MINUTES

10.1 October 16, 2019 - Committee of the Whole Minutes 201 - 204

10.1.1 Official Community Plan (OCP) Project Objectives

Purpose: To consider the October 16, 2019 Committee of the Whole recommendation that Council support the proposed project objectives so that the OCP Project Plan can advance.

Recommendation:

That Council support the proposed project objectives outlined in the October 16, 2019 report by the Community Planning Coordinator so that the OCP Project Plan can advance.

11. NEW BUSINESS

12. QUESTION PERIOD

Public opportunity to ask brief questions regarding the business of this meeting.

13. ADJOURNMENT

Recommendation:

That Council adjourn the November 6, 2019 Regular Council meeting at ____ p.m.

Municipality of North Cowichan Special Council MINUTES

**October 16, 2019, 9:00 a.m.
Municipal Hall - Maple Bay Meeting Room**

Members Present	Mayor Al Siebring Councillor Rob Douglas Councillor Christopher Justice Councillor Tek Manhas Councillor Kate Marsh Councillor Rosalie Sawrie
Members Absent	Councillor Debra Toporowski
Staff Present	Ted Swabey, Chief Administrative Officer (CAO) Sarah Nixon, General Manager, Corporate Services Alyssa Meiner, Information Management Officer

1. CALL TO ORDER

There being a quorum present, Mayor Siebring called the meeting to order at 9:02 a.m.

2. APPROVAL OF AGENDA

It was moved and seconded:

That Council approve the October 16, 2019 Special Council agenda as circulated.

CARRIED

3. CLOSED SESSION

It was moved and seconded:

That Council close the October 16, 2019 Special Council meeting at 9:02 a.m. to the public on the basis of the following sections of the *Community Charter*:

- **90(1)(c) - labour relations or other employee relations;**
- **90(1)(g) - litigation or potential litigation affecting the municipality; and**
- **90(1)(k) - negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of Council, could reasonably be expected to harm the interests of the municipality if they were held in public.**

CARRIED

4. RISE AND REPORT

Council rose without report and adjourned the meeting at 11:30 a.m.

Certified by Corporate Officer

Signed by Mayor

Municipality of North Cowichan Regular Council MINUTES

**October 16, 2019, 1:30 p.m.
Municipal Hall - Council Chambers**

Members Present Mayor Al Siebring
 Councillor Rob Douglas
 Councillor Christopher Justice
 Councillor Tek Manhas
 Councillor Kate Marsh
 Councillor Rosalie Sawrie

Members Absent Councillor Debra Toporowski

Staff Present Ted Swabey, Chief Administrative Officer (CAO)
 Mark Frame, General Manager, Financial and Protective Services
 Ernie Mansueti, General Manager, Community Services
 Sarah Nixon, General Manager, Corporate Services
 David Conway, Director of Engineering
 Rob Conway, Director of Planning
 Natasha Horsman, Manager, Communications and Public Engagement
 Megan Jordan, Acting, Manager, Communications and Public Engagement
 Karen Robertson, Corporate Officer
 Nelda Richardson, Deputy Corporate Officer

1. CALL TO ORDER

There being a quorum present, Mayor Siebring called the meeting to order at 1:30 p.m.

2. APPROVAL OF AGENDA

It was moved and seconded:

That Council adopt the October 16, 2019 Regular Council agenda, as amended by:

- **Receiving the October 15, 2019 letter and revised rendering from Juanito Gulmatico, Architect, regarding the exterior changes to the Chemainus Library (to be considered as part of item 7.6);**
- **Considering a motion to hold a Special Closed Council meeting with the City of Duncan at Duncan City Hall (to be considered under New Business – item 10.1); and**
- **Amending the September 18, 2019 Council minutes to correct a clerical error (to be considered under Adoption of Minutes – item 3.2).**

CARRIED

3. ADOPTION OF MINUTES

3.1 October 2, 2019 - Regular Council

It was moved and seconded:

That Council adopt the minutes of the Regular Council meeting held October 2, 2019.

CARRIED

3.2 September 18, 2019 – Regular Council

It was moved and seconded:

That the September 18, 2019 Regular Council minutes (item 5.1, paragraph 5) be deleted and replaced with the following:

That if any or all of the actions in paragraph 3 are not completed by the dates set out above, the District may undertake any or all of those actions required by the Remedial Action Requirement without further notice to and at the expense of the Owner, and recover the costs of doing so in accordance with sections 17, 80, 258, and 259 of the *Community Charter*.

CARRIED

4. MAYOR'S REPORT

The Mayor gave a verbal report on meetings and activities he recently attended.

5. DELEGATIONS AND PRESENTATIONS

5.1 DELEGATION: Shelia Kitson, President - Cowichan Historical Society

Ms. Kitson provided Council with a brief history of the Cowichan Valley Museum and Archives (CVMA) and the role it plays as the trusted caretakers and keepers of Cowichan's history.

6. PUBLIC INPUT

Council received brief public input regarding agenda items from the following registered speakers:

- Chris Istace – spoke to item 7.1 and submitted a letter from the Chemainus Business Improvement Association to the Corporate Officer for circulation regarding the Chemainus Road project;
- Joyce Behnsen spoke to item 7.4; and
- Sandy McPherson spoke to item 7.1.

7. REPORTS

7.1 Chemainus Road Corridor Improvements Stage 1

It was moved and seconded:

That Council award the Chemainus Road Corridor Improvements Stage 1 contract to Copcan Civil Ltd. for the sum of \$1,163,976 excluding GST.

CARRIED

7.2 Chemainus Road Corridor Upgrade Consideration for Bike Lanes and Parking

It was moved and seconded:

That Council direct staff to pursue the currently designed Modal 3 on-street bike lanes and retain parallel parking on both sides of the road from Henry Road to Victoria Street.

CARRIED

7.3 FireSmart Community Funding Application

It was moved and seconded:

That staff be directed to submit a grant application for the FireSmart Community Funding through the Community Resiliency Investment program to seek funding to provide a debris disposal site for residents and hire a Local FireSmart Representative to be onsite to provide FireSmart information and answer questions.

CARRIED

7.4 Third Quarter Financial Report

It was moved and seconded:

That Council receive for information the October 16, 2019 Third Quarter Financial Report by the Manager of Budget and Infrastructure.

CARRIED

7.5 Proclamation Policy

It was moved and seconded:

That Council reaffirm the practice of not issuing proclamations and adopt the Proclamation policy marked as Appendix 2 to the Corporate Officer's October 16, 2019 report.

(Opposed: Justice)

CARRIED

7.6 Chemainus Library

It was moved and seconded:

That Council approve the requested amendment to Development Permit 000125 (Chemainus Library) described in the October 16, 2019 staff report to reduce the area of window glazing in the south east corner of the building;

AND That Council deny the requested amendment to remove a canopy from the Willow Street elevation.

CARRIED

By consensus Council recessed the meeting at 3:12 p.m.

The Council meeting resumed at 3:20 p.m.

8. BYLAWS

8.1 Rezoning Application No. ZB000093 for Bylaw 3763 (Retail Cannabis Sales - 8432 Trans-Canada Highway), 2019

Councillor Manhas declared a conflict of interest as his employer has submitted a rezoning application for a retail cannabis store and left the Council Chambers at 3:20 p.m.

It was moved and seconded:

That Council give second reading, as amended (to remove reference to Drinkwater Road) to "Zoning Amendment Bylaw (Cannabis Sales – 8432 Trans-Canada Highway), 2019" No. 3763 – a bylaw to permit cannabis retail sales at 8432 Trans-Canada Highway;

AND That a Public Hearing be scheduled for Zoning Amendment Bylaw No. 3763 and that notification be issued in accordance with the requirements of the *Local Government Act*.

(Opposed: Marsh; Sawrie)

CARRIED

Councillor Manhas returned to the Council Chambers at 3:24 p.m.

9. NOTICE OF MOTIONS

9.1 Cannabis Production in the Agricultural Land Reserve

It was moved and seconded:

That the issue of prohibiting cannabis production in the Agricultural Land Reserve, unless it is grown in ways that preserve the productive capacity of agricultural land, be referred to the Cowichan Agricultural Society and the Cowichan Green Community for comment.

CARRIED

10. NEW BUSINESS

10.1 Special Closed Council Meeting to be Held at the City of Duncan on Thursday, October 24, 2019 at 3:00 p.m.

It was moved and seconded:

That Council authorize holding a Special Council meeting outside of the Municipal Hall on Thursday, October 24, 2019 at 3:00 p.m. at the City of Duncan located at 200 Craig Street, Duncan, BC;

AND That the meeting be closed to the public under Section 90(1)(k) of the *Community Charter* – negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages.

CARRIED

11. QUESTION PERIOD

Council received questions from the public regarding business considered at this meeting.

12. CLOSED SESSION

It was moved and seconded:

That Council resolve to go into a Closed Committee of the Whole meeting at 3:50 p.m. on the basis of the following section of the *Community Charter*:

- **90(1)(k) - negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of Council, could reasonably be expected to harm the interests of the municipality if they were held in public.**

CARRIED

13. RISE AND REPORT

Council rose without report and adjourned the meeting at 4:30 p.m.

Certified by Corporate Officer

Signed by Mayor

Municipality of North Cowichan Special Council MINUTES

**October 21, 2019, 3:00 p.m.
Municipal Hall - Maple Bay Meeting Room**

Members Present Mayor Al Siebring
 Councillor Rob Douglas
 Councillor Tek Manhas
 Councillor Kate Marsh
 Councillor Rosalie Sawrie
 Councillor Debra Toporowski

Members Absent Councillor Christopher Justice

Staff Present Ted Swabey, (CAO) and Deputy Corporate Officer
 Mark Frame, General Manager, Financial and Protective Services
 Ernie Mansueti, General Manager, Community Services
 Sarah Nixon, General Manager, Corporate Services
 Rob Conway, Director of Planning
 Megan Jordan, Acting Manager, Communications and Public Engagement
 Nelda Richardson, Deputy Corporate Officer (Recorder)

1. CALL TO ORDER

There being a quorum present, Mayor Siebring called the meeting to order at 3:05 p.m.

2. APPROVAL OF AGENDA

It was moved and seconded:

That Council approve the October 21, 2019 Council agenda as circulated.

CARRIED

3. CLOSED SESSION

It was moved and seconded:

That Council close the October 21, 2019 Special Council meeting at 3:05 p.m. to the public on the basis of the following sections of the *Community Charter*:

- **90(1)(g) - litigation or potential litigation affecting the municipality; and**
- **90(1)(i) - the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.**

CARRIED

4. RISE AND REPORT

Council rose without report and adjourned the meeting at 5:20 p.m.

Certified by Corporate Officer

Signed by Mayor



**North Cowichan/Duncan Detachment
Mayor's Report – ending September 30, 2019
Prepared for the Municipality of North Cowichan**



This reporting period encompasses the third 3 month period of the calendar year 2019; July, August and September. The intent of this report is to provide the Mayor and Council with a brief overview of policing operations as they pertain to the Municipality of North Cowichan in particular, and the Cowichan Valley in general.

Annual Performance Plan:

The North Cowichan/Duncan R.C.M.P. Detachment is guided by an Annual Performance Plan that addresses identified local policing priorities. These priorities are identified through consultation with elected officials, senior staff officers, the Community Policing Advisory Committee, Town Hall meetings and other groups. As such, our 2019/20 plan is focused on the following local issues that were consistently identified as priorities throughout the valley:

- 1) Build and Maintain Positive Relations Within the RCMP and With Our Partners;
Police/Community Relations – Visibility of Police
- 2) Reduce Crimes Against Persons – Violence/Domestic Violence/Vulnerable Persons/Mental Health Act
- 3) Reduce Substance Abuse
- 4) Enhance Road Safety
- 5) Indigenous Policing – Build and Maintain Positive Relations with Aboriginal communities
- 6) Reduce Property Crimes
- 7) Contribute to Employee Wellness

Crime Statistics:

During the quarter, **6,141** calls for service were received, compared to **6,237** calls in the same quarter in 2018.

Year to Date Calls for service – **17,540**

2018 Year to Date Calls for service – **17,138**

This equates to a **2.3%** increase.

For 2019, scoring for the RCMP Records has changed where statistical data is no longer being recorded as “ZZZ” Codes (unsubstantiated). As a result, many of the occurrences that were not previously reported on the following pages are now being collected and are going to appear that there is a higher change in past Quarters. We will have to wait for future reports to see if there is any change to previous quarters. Please note that this change was made to all RCMP Detachments in British Columbia.

During the Quarter, several Crime Statistics are up which could be attributed to the changing of the statistical record keeping change. Assaults, Weapons Offences, Property Crimes, Drugs and Impaired Operation remain high. A number of motor vehicle thefts were reported and increases were noted. We saw a slight decrease in Shoplifting reported offences.



North Cowichan / Duncan RCMP-GRC

Quarterly Report: North Cowichan

Compiled: 2019-10-04 by L. Paras, North Cowichan/Duncan Detachment

Crime Statistics for 2019.07.01 to 2019.09.30- 2019 Quarter # 3

	Oct to Dec 2018	Jan to Mar 2019	Apr to Jun 2019	Jul to Sep 2019	Range - Low	Range - High	YTD (Cal) Previous	YTD (Cal) Current	% Change	Clr. Rate Prev Qrt	Clr. Rate Curr Qrt
Crimes Against the Person											
Arson (1629,2110)	0	3	0	2	0	3	8	3	-63%	N/A	0%
Assaults (1410,1430,1440,1460,1470,1480)	51	63	64	88	42	60	162	131	-19%	77%	80%
Robbery (1610)	2	0	2	1	0	3	3	2	-33%	50%	100%
Sex Offences (1310 to 1385)	13	13	8	7	4	10	29	22	-24%	38%	71%
Weapons Offences (1420,1450,1455,1457,3375,3310,3320,3330,3380)	19	11	20	28	11	20	49	32	-35%	70%	64%
Crimes Against Property											
B&E - Bus. (2120 - 1)	24	27	25	12	11	21	42	50	19%	4%	17%
B&E - Res. (2120 - 2)	18	12	19	20	13	31	45	30	-33%	21%	10%
B&E - Oth. (2120 - 3)	11	20	12	11	10	21	46	33	-28%	0%	18%
Theft of Motor Vehicle (2135)	19	14	18	22	9	17	43	32	-26%	22%	5%
Theft from Vehicle (2132,2142)	47	54	80	87	38	93	290	135	-53%	3%	2%
Other Theft O/5000 (2130)	6	6	4	19	0	8	15	8	-47%	0%	0%
Other Theft U/5000 (2140)	60	75	99	100	58	87	202	177	-12%	8%	7%
Shoplifting (2133,2143)	28	30	35	22	24	44	100	67	-33%	31%	27%
Mischief to Property (2170)	82	130	163	191	81	132	300	299	0%	39%	26%
Traffic Offences											
Non-Fatal Crashes Resulting in Injury (8130-2)	23	21	21	26	16	28	56	44	-21%	N/A	N/A
Crashes Resulting in Fatality (8130-1)	0	0	0	0	0	1	0	0	0%	N/A	N/A
24 hr. Susp. (8120-40, 50) * 24 Hr Susp also present on Impaired Op MV files.	3	1	4	2	1	5	11	4	-64%	N/A	N/A
Impaired Op MV / IRP (8230-2, 3, 30, 9240-1, 2, 9250-1, 8120-41:45)	13	26	41	51	9	25	54	66	22%	N/A	N/A
Other Offences & Occurrences											
Cause Disturbance (3430)	37	78	116	132	43	88	110	193	75%	24%	39%
Drug Possession (4110,4120,4130,4911,4912,4913,4914,4150,4160)	31	46	54	74	26	44	100	98	-2%	31%	43%
Drug Trafficking (4210,4220,4230,4921,4922,4923,4924,4925,4926,4250,4260)	7	25	27	35	0	12	10	51	410%	7%	17%
Drug Production (4410,4420,4430,4952,4953,4961,4450,4460)	0	0	1	0	0	4	4	1	-75%	0%	N/A
Breach of Peace (8350)	46	56	58	60	32	67	123	114	-7%	N/A	N/A

If there is any discrepancy between the data shown within this report and the data released by E Division Headquarters, the latter shall prevail



North Cowichan / Duncan RCMP-GRC

Quarterly Report: North Cowichan / Duncan Detachment Area

Compiled: 2019-10-04 by L. Paras, North Cowichan/Duncan Detachment

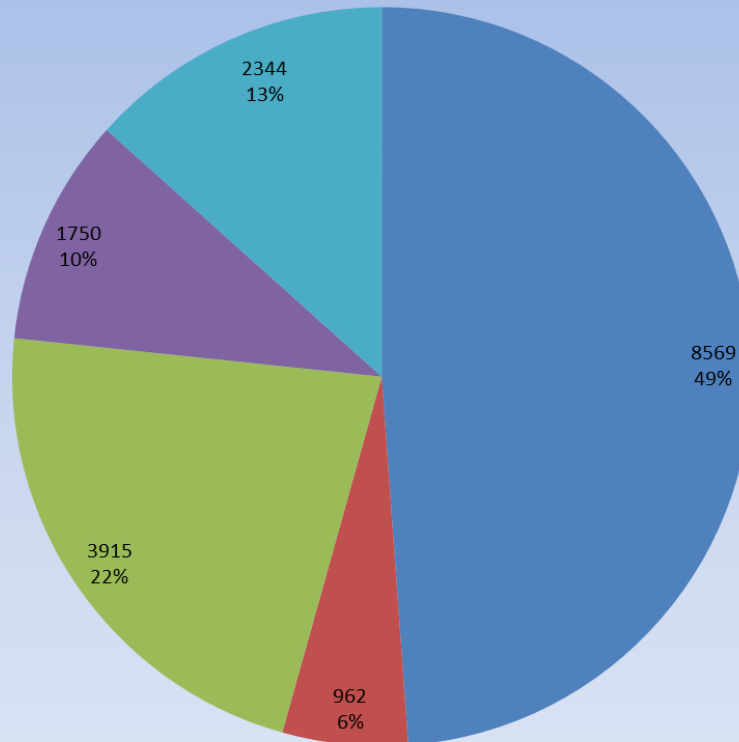
Crime Statistics for 2019.07.01 to 2019.09.30- 2019 Quarter # 3											
	Oct to Dec 2018	Jan to Mar 2019	Apr to Jun 2019	Jul to Sep 2019	Range - Low	Range - High	YTD (Cal) Previous	YTD (Cal) Current	% Change	Clr. Rate Prev Qrt	Clr. Rate Curr Qrt
Crimes Against the Person											
Arson (1629,2110)	0	4	3	4	2	5	9	8	-11%	0%	25%
Assaults (1410,1430,1440,1460,1470,1480)	109	132	173	171	81	126	327	309	-6%	72%	77%
Robbery (1610)	8	2	4	4	2	6	6	6	0%	25%	100%
Sex Offences (1310 to 1385)	23	29	23	22	9	20	66	46	-30%	30%	50%
Weapons Offences (1420,1450,1455,1457,3375,3310,3320,3330,3380)	33	35	46	54	21	36	94	81	-14%	72%	69%
Crimes Against Property											
B&E - Bus. (2120 - 1)	64	55	55	37	25	50	106	103	-3%	4%	14%
B&E - Res. (2120 - 2)	36	31	40	33	25	48	89	73	-18%	18%	18%
B&E - Oth. (2120 - 3)	19	37	19	20	16	33	58	58	0%	0%	10%
Theft of Motor Vehicle (2135)	26	22	25	38	17	27	68	48	-29%	16%	16%
Theft from Vehicle (2132,2142)	88	114	147	138	67	153	464	259	-44%	3%	2%
Other Theft O/5000 (2130)	9	6	5	26	0	13	33	10	-70%	0%	4%
Other Theft U/5000 (2140)	117	127	178	180	107	158	417	313	-25%	11%	8%
Shoplifting (2133,2143)	141	132	155	119	100	137	417	285	-32%	51%	43%
Mischief to Property (2170)	158	307	321	380	145	259	563	632	12%	38%	27%
Traffic Offences											
Non-Fatal Crashes Resulting in Injury (8130-2)	42	31	44	39	34	49	107	77	-28%	N/A	N/A
Crashes Resulting in Fatality (8130-1)	0	0	0	0	0	1	3	0	-100%	N/A	N/A
24 hr. Susp. (8120-40, 50) * 24 Hr Susp also present on Impaired Op MV files.	5	6	7	5	2	7	15	13	-13%	N/A	N/A
Impaired Op MV / IRP (9230-2, 3, 30, 9240-1, 2, 9250-1, 8120-41, 45)	32	64	101	102	15	51	95	163	72%	N/A	N/A
Other Offences & Occurrences											
Cause Disturbance (3430)	80	162	244	250	88	178	224	400	79%	26%	40%
Drug Possession (4110,4120,4130,4911,4912,4913,4914,4150,4160)	51	96	138	165	46	88	205	224	9%	26%	28%
Drug Trafficking (4210,4220,4230,4921,4922,4923,4924,4925,4926,4250,4260)	14	43	55	53	0	22	18	96	433%	4%	11%
Drug Production (4410,4420,4430,4952,4953,4961,4450,4460)	0	0	1	1	0	5	7	1	-86%	0%	0%
Breach of Peace (8350)	75	102	98	114	62	114	213	205	-4%	N/A	N/A

If there is any discrepancy between the data shown within this report and the data released by E Division Headquarters, the latter shall prevail.

Distribution of calls for service

The chart below illustrates where our calls for service have come from within our Detachment area. We have a total of 60 RCMP Officers working when we are at full strength. You can see below that from July 1st to September 30th, 2019, approximately **49%** of the calls we responded to were in the Municipality of North Cowichan. That **22%** came from within the City of Duncan, **10%** came from the Provincial (CVRD) area and **13%** came from First Nations Lands. A small number, **6%** originated from people coming to the office directly.

**North Cowichan/Duncan Detachment
January 1, 2019 to September 30, 2019
17,540 Files**



■ North Cowichan 31 Officers funded** ■ Detachment ■ City of Duncan *** ■ CVRD *** ■ First Nations Reserves ***

Footnotes:

** 3 Municipally funded officers are dedicated to traffic enforcement.

*** These areas are policed collectively by 24 Provincially funded Officers

July to September 2019	3rd Quarter File Count	% of North Cowichan's Total Files	% of Detachment's Total Files
Chemainus	390	12%	6%
Crofton	206	6%	3%
Maple Bay	344	10%	6%
Other North Cowichan	1,995	59%	32%
Detachment - files not specific to an area	426	13%	7%
Total North Cowichan*	3,361	100%	55%

(*including Detachment files and files not specific to an area)

Quarter Top Files for North Cowichan

	Chemainus:	Number of Files
1	TRAFFIC-OTHER MOVING	46
2	SUSPICIOUS PERSON/VEHICLE/OCCURRENCE	22
3	FALSE ALARMS	21
4	THEFT-OTHER UNDER \$5000	16
5	THEFT FROM MOTOR VEHICLE UNDER \$5000	15
	Crofton	
1	TRAFFIC-OTHER MOVING	16
2	911-FALSE/ABANDONED	15
3	THEFT-OTHER UNDER \$5000	11
4	ASSAULT-COMMON	10
5	THEFT FROM MOTOR VEHICLE UNDER \$5000	9
	Maple Bay	
1	FALSE ALARMS	26
2	SUSPICIOUS PERSON/VEHICLE/OCCURRENCE	24
3	THEFT FROM MOTOR VEHICLE UNDER \$5000	24
4	THEFT-OTHER UNDER \$5000	18
5	UNSPECIFIED ASSISTANCE	16
	Other North Cowichan	
1	SUSPICIOUS PERSON/VEHICLE/OCCURRENCE	118
2	CAUSE DISTURBANCE	118
3	MENTAL HEALTH ACT	102
4	UNSPECIFIED ASSISTANCE	94
5	MISCHIEF-ENJOY PROPERTY	94

General Duty Staffing Analysis (GDSA)

A General Duty Staffing Analysis is continuing at North Cowichan/Duncan Detachment and remains on-going.

The graph below illustrates how the 12 hour shift of a uniformed patrol constable is broken down into different activities. The types of activities that comprise Calls for Service (CFS), Officer Initiated (OI), Out of Service (OOS), and Proactive time are defined in the table following the pie chart.

The amount of time uniformed patrol constables have in their shift for proactive activities remains the same in the 3rd quarter of 2019. The below pie chart shows the amount of Proactive time from **July to September 2019** to be **10%**, which equates to **6 minutes per hour** for Proactive activities in a uniformed patrol constable's 12 hour work day.

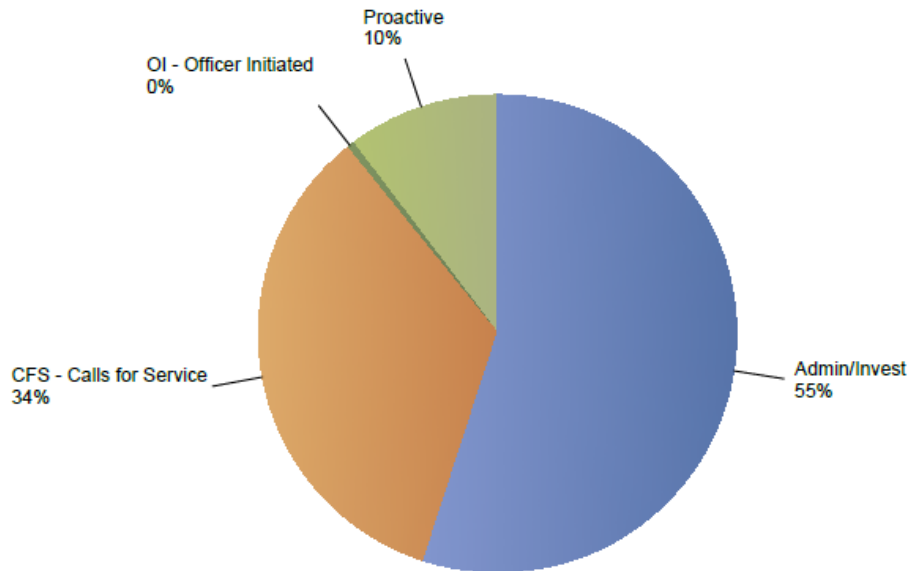
North Cowichan

2019-Jul-01 to 2019-Sep-30

Graphs represents reportable Detachment CAD transactions.

Detachment Overview

Based on watches; A, B, C, D



One percentage point is equivalent to 7.2 minutes. From July to September 2019, during each 12 hour shift, a uniformed patrol constable spent an average of 4 hours and 12 minutes on Calls for Service, 6 hours and 36 minutes on Out of Service Activities, leaving a total of 1 hour and 12 minutes for Proactive activities during their 12 hour shift.

<i>CFS - Call for Service</i>	DP - Dispatched ER - Enroute IP - In Progress OS - On Scene PT - Prisoner Transport TR - Prisoner Transport OS / RW - Report Writing while On Scene while on a file. CU - Cover Unit while on a file	
<i>OOS - Out of Service (formerly non-call for service)</i>	61 - Break 62 - Meals CT - Court CU - Cover Unit (while not on a file) CW - Car Wash DS - Document Service DT - Detachment ES - Escort Duties HQ - Headquarters (Green Timbers) IN - Followup Investigation MT - Meeting	NA - Not Available OC - On Call (Backup) OT - Other Transport OV - Out of Vehicle RW - Report Writing (while not on a file) SD - Special Duty ST - Station Relief SV - Surveillance TN - Training TV - Travel VM - Vehicle Maintenance 90 - Sign On - (Moved from Proactive Feb 01/16)
<i>Proactive</i>	90 - Sign On BC - Bar Check EF - Enforcement (Street Checks) FP - Foot Patrol IS - In Service OA - Out and Available PS - Person Stop RB - Road Block SB - Standby TS - Traffic Stop	
<i>Officer Initiated</i>	All CFS-type activities that occur against an ONVIEW or Officer Initiated File activity.	

Detachment Front Counter:

Number of persons attending front counter for assistance –	July, August, September 2019	3,157
Average number of persons attending per weekday –	July, August, September 2019	50
Total number of phone calls received by front counter –	July, August, September 2019	4,667
Average number of phone calls received per weekday –	July, August, September 2019	74

Detachment Performance Plan Initiatives

Police Community Relations

Alongside the General Duty Detachment members, the Traffic and Community Engagement (TRACE) members will be working hard to increase their visibility throughout the Cowichan Valley, not only to deter crime, but to become more approachable by community members.

Members will continue to focus on the following and the results for the Quarter are as follows;

1. Foot Patrols.....	1,038
2. Bike Patrols.....	31
3. Bar Walks.....	135
4. School Zone Patrols/Liaison.....	208
5. Chemainus Patrols.....	273
6. Business Walks.....	81

Coffee with a Cop took place on September 13th in Cowichan Bay. There was a great number of residents who had a coffee and conversations with members of 'A' Watch.

Reduce Crimes Against Persons/Vulnerable Persons

The Vulnerable Persons Unit will continue to focus on ensuring compliance not only with domestic violence occurrences, but to review and ensure established investigative standards are adhered to on all occurrences involving vulnerable persons (ie. Youth, individuals with disabilities, etc).

An Interagency Case Assessment Team (ICAT) is a partnership of local agencies (Police, child welfare, health, social service, victim support and other anti-violence agencies) to create a risk management plan to enhance interventions for victims, as well as monitoring, management and support for offenders in high risk Domestic Violence cases.

The Unit continues with the pilot project 'Car 60' program. The program provides a mobile unit, consisting of a uniformed police officer and a psychiatric nurse (Crisis Response Team), engaging with individuals with mental health or substance use issues. The program offers on-site support,

crisis intervention and referrals to appropriate services. The unit has taken over the majority of the Car 60 patrols in order to maintain a consistent approach building trust for clients/community.

The role of the Vulnerable Persons Unit includes the following;

1. Conduct Inter-Agency Case Assessment (ICAT) Team Files
2. Unit Review of All Sexual Assault/Sexual Interference Occurrences
3. Education Seminars to RCMP Officers regarding Crimes Against Persons
4. Review of all Mental Health Act occurrences.

For the Quarter, we took part in four (4) ICAT Team Files.

Many Police occurrences involve individuals who are in some form of mental crisis. Our officers have been highly trained on how to deal with these clients in a supportive manner. In order to increase the detachments expertise and ensure better consistency in assisting at these calls for service, we are looking at adding a second position (Constable) to our Vulnerable Persons Unit.

Reduce Substance Abuse

Consistently we have seen that the topic of substance abuse arises. This has been made a priority by all members of the detachment given its severity to affect all types of criminal activity. The Detachment Performance Plan includes our “Hot Spot” patrols by the membership. These are identified by Detachment personnel as being areas that are at high risk for criminal activity. Officers are urged to patrol, interact, investigate and address issues in order to stop the illegal behaviour from occurring.

The Detachment focus to reduce substance abuse is as follows;

1. Increase in Drug Projects and Drug Search Warrants
2. Increase in Hot Spot Patrols
3. Increase in Confidential Informants at the Detachment

The North Cowichan/Duncan RCMP Detachment continues to work closely with Island Health and the Community Action Team regarding the community’s social and economic issues. The RCMP urge the community to report Criminal Activity and never to assume that others have reported it.

For the Quarter, the Detachment conducted **4710** Hot Spot Patrols throughout the Cowichan Valley in an effort to reduce criminal activity and be more visible in the community.

Substance Abuse remains a topic of discussion at many meetings. October 1st saw the start of the Corridor Safety Office as part of the Safer Working Group. Professional Security Company, By-Law Officers and police will be working in collaboration in efforts to clean up the area between Boys Road and Beverly Road. In addition to being a deterrent to crime, the aspect is to try and get individuals help where they need it. The positive community efforts has already been noticed and remarked on by the residents.

File # 2019-16312

On September 11th, 2019 North Cowichan/Duncan RCMP Street Crime Unit executed a search warrant at a local Duncan hotel near Alexander Street. Investigators located suspected fentanyl/heroin, methamphetamine, scales, over \$2500 dollars in cash and other drug trafficking paraphernalia. A brass knuckled knife and numerous stolen retail items were also seized during the search.

A 31 year old woman from Ontario was arrested at the scene and is scheduled to make her first appearance in court in December.

“This particular business has been the subject of substantial police investigations over the past several years causing a strain on the area residents and police resources.” says Cpl. Trevor MARCH, NCO i/c of the Street Crime Unit. ***“RCMP investigators will continue targeted enforcement as well as engaging local and provincial partners to ensure these issues come to an end.”***

Enhance Road Safety and Community Education

The North Cowichan/Duncan RCMP Detachment continues with its initiatives for Traffic Safety.

Our Detachment Officers strive to educate the users of Cowichan roadways by conducting enforcement and awareness campaigns, in addition to conducting criminal investigations and responding to other calls for service. There are three dedicated traffic resources at the Detachment; all are funded by the Municipality of North Cowichan.

For the fiscal year 2018/19 Detachment Performance Plan, we have committed to work on the following;

1. Distracted Driving Campaigns
2. Halalt First Nation Traffic Safety Campaigns
3. School Visitation Programs
4. Positive Ticketing Campaigns
5. Impaired Driving Campaigns
6. Speed Enforcement Campaigns

Positive Ticketing Campaign

Doing the right thing has its rewards! From July 2, 2019, to September 10, 2019, the North Cowichan/Duncan RCMP-GRC took part in a Positive Ticketing Campaign. The initiative ran through the summer and has been geared at highlighting good deeds, habits, and actions of the youth in our community. Youth were given a positive ticket along with a coupon for a free treat if they were caught doing the right thing. Approximately 150 positive tickets were issued making it a great year.

“Most of the tickets were issued for wearing a bike helmet while cycling, several for helping a parent or a sibling with a task, or making a variety of good choices”, said Cpl. Jean Gelderblom, NCO Traffic and Community Engagement Unit.

“Overall it’s been a very well received program with great feedback from community

members”, said Cpl. Gelderblom.

Many of our community based initiatives, such as positive ticketing, would not be possible without the ongoing support from our Community Policing Advisory Committee, Cowichan Community Policing and Crime Prevention Staff and Volunteers. The North Cowichan/Duncan RCMP were also pleased to partner with the Municipality of North Cowichan, The Big Scoop, and Dairy Queen for this initiative.

The following table is an overview of alcohol and traffic related enforcement by North Cowichan/Duncan Detachment officers during July, August and September 2019:

North Cowichan/Duncan Detachment Quarterly Traffic Statistics 3rd Quarter 2019					
	Municipality of North Cowichan	City of Duncan	Other Areas	Total Detachment Area	Year to Date Detachment
24 hour Suspension by Alcohol	2	0	1	3	13
24 hour Suspension by Drug	3	1	2	6	27
Immediate Roadside Prohibition	23	7	15	45	104
Prohibited Drivers (Prov & CC)	11	5	10	26	65
Vehicle Impounds	30	10	21	61	151
Violation Tickets (VTs)	207	85	9	301	850
Written Warnings	146	87	5	238	715
Distracted Driving (VTs & Warnings)	30	15	0	45	149

Traffic External Support:

We enjoy the support of two Provincial Traffic units who work across the southern part of Vancouver Island; South Island Traffic Services, who are based in Chemainus, as well as, the Nanaimo Integrated Road Safety Unit (IRSU). South Island Traffic Services and Nanaimo IRSU have provided the below reports on their enforcement activity in our Detachment area. This is enforcement that we receive at no additional policing cost.

Nanaimo Integrated Road Safety Unit Statistics for North Cowichan/Duncan Area

3rd Quarter 2019					
				Total Quarter	Year to Date
Driver License Infractions				25	76
Moving Infractions				31	63
Intersection Infractions				3	6
Seatbelt Infractions				1	23
Speed-Related Infractions				44	188
Vehicle-Related Infractions				12	42
Impaired Drug/Alcohol Infractions				4	13
Testing Infractions				4	12
Other Infractions				3	4
Other Non Motor Vehicle Offences				0	0
Total Monthly Infractions					
Total Quarterly Infractions/Year to Date				127	427

South Island Traffic Services Statistics for North Cowichan/Duncan Detachment Area		
Traffic Enforcement Statistics		
3rd Quarter 2019		
	Total Quarter	Year to Date
Speed Infractions - Violation Tickets	194	873
Speed Infractions - Warnings	4	13
Selt Belt Infractions - Violation Tickets	20	130
Intersection Infractions - Violation Tickets	24	169
Distracted Driving Infractions - Violation Tickets	13	47
Distracted Driving Infractions - Warnings	0	3
Other Infractions - Violation Tickets	83	390
Other Infractions - Warnings	42	165
Impaired Drug/Alcohol Infractions (Immediate Roadside Suspensions, 24 hour suspensions)	4	31
Total Monthly Infractions - Warnings	46	181
Total Monthly Infractions - Violation Tickets	334	1609
Total Quarterly/Year to Date Infractions	380	1790

During the quarter, the following Campaigns took place:

- two (2) traffic campaigns in Halalt First Nation Territory
- five (5) Distracted Driving campaigns
- two (2) School programs
- seven (7) Impaired Driving campaigns
- one (1) Speed Enforcement campaign

Build and Maintain Positive Relations Between RCMP and First Nations

The North Cowichan/Duncan RCMP Detachment recognizes the need for a strong relationship with our indigenous partners in the Cowichan Valley. The unit has been working very closely with Cowichan Tribes in strengthening community partnerships.

The Detachment focus for the RCMP to strengthen these relations is as follows;

1. Increase in RCMP Participation at Indigenous Events
2. Increase RCMP Interaction with Indigenous Youth
3. Increase in Foot Patrols to deter Substance Abuse and Illegal Camps
4. Increased Interaction with Businesses to Deter Crime

For the Quarter, the Detachment conducted the following:

- Attended eleven (11) Indigenous Events
- Interacted with Indigenous Youth/attended Youth Events nine (9) times
- Conducted ninety-eight (98) foot patrols to deter substance abuse/illegal camps

Reduce Property Crime

One of our Crime Reduction Strategies is to identify Priority Offenders; persons who habitually and continually commit crime as a means of feeding their unlawful lifestyle. We work together with Crown, Probation, Corrections and other community partners to formally identify priority offenders and engage them with “pro-active” curfew and probation checks to encourage compliance with court conditions and curtail criminal activity.

The Detachment has been working much closer with the Warmland Restorative Justice Society. New processes are being put into place to ensure matters are dealt with in a more timely fashion.

The Detachment Priorities to Reduce Property Crime are as follows;

1. Restorative Justice Referrals
2. Priority Offender Designations
3. Curfew Checks

For the Quarter, members conducted one hundred and ninety-five (195) Curfew Checks and the following to ensure individuals with specific Court Orders are complying with their conditions, two-hundred and one (201) Street Checks and there was one Restorative Justice Referral.

Three (3) additional Priority Offenders were designated by the Detachment for the Quarter. We have been seeing some successes in apprehending several priority offenders recently whom had outstanding warrants for their arrest.

The Detachment has been in discussions with several box stores regarding Loss Prevention as a result of the large number of “Shoplifting” occurrences that is reported to Police. We are looking at changes that can be made in order to address these issues and make better use of resources.

Employee Wellness Initiative

The Detachment is continuing with the Employee Wellness Initiative.

Cst Dayne Lyons is North Cowichan/Duncan Detachment's representative on this year's Tour de Rock. Dayne put forth tremendous effort and was an excellent ambassador for the Tour this year. A huge thank you to the Cowichan Valley in support of the Canadian Cancer Society.



Human Resources Status Report:

Established regular R.C.M.P. Officer Total: **60**

- **32** Municipality of North Cowichan - **24** Provincial - **4** First Nation's Community Policing

Recent news was very welcome There have been several arriving members during this period;

- Cst Caitlin Specht from Depot
- Cst Bryce Wilkinson from Depot
- Cst Cellan Greene from Depot

Other members are expected soon;

- Cst David Starr from St Albert, Alberta
- Cst Genifer Thiessen from Depot

- Cst Margo Eberle from Depot
- Cst Lynn MacKenzie from Maskwacis Detachment, Alberta
- Cst Wes Richens from Shawnigan Lake

There has been one recent departure;

- Cst Darren Maizis to Nunavut
Regrettably, the Criminal Analyst that was hired, recently tendered her resignation. The search to fill the job is again underway.

Prisoner Statistics:

Reflected in the chart below is the breakdown of prisoners arrested in the various Detachment areas for the quarter:

North Cowichan/Duncan Detachment Prisoner Statistics 3rd Quarter									
2019					2018				
	Municipal	Provincial	Duncan	Qtrter Total		Municipal	Provincial	Duncan	Total
July	62	50	48	160	July	68	86	29	183
August	61	63	34	158	August	48	67	30	145
September	47	34	38	119	September	41	60	39	140
Quarter Total	170	147	120	437	Quarter Total	157	213	98	468
Year to Date Total	445	480	337	1262	Year to Date Total	446	597	331	1374

Despite increased file counts, prisoner counts are lower than last year's counts.

Cowichan Community Policing and Crime Prevention Volunteer Programs and Services

The Program Manager was absent for the months of July and August and the stats to the office are reflective of that. The office was also closed on days when a volunteer was not available. Activities were reduced during this time and some unfortunately did not happen (such as involvement with Summer Festival and Cowichan Exhibition)

The “**My Dog is home Chilling**” car magnets and education program was well received by the public and almost 500 decals were distributed. We are doing an evaluation of the project to determine viability for next year.

Lock it or Lose it was a project started in May for **Autotheft prevention** month. We did give out 8 of 10 clubs for vehicles on the list, over 10 years old and without passive immobilizers

- did spot the target contest and distributed 5 motion sensor lights
- promoted 9pm project
- volunteers have been issuing Lock out Auto Crime notices

- info posted on CPCP FB page
- distributing "Bait car" window clings (123)
- distributing "Nothing to steal" sign (79)
- have signage for malls/garages – Lock out Auto Crime

Number of Block Watch Groups: NUMBER OF CAPTAINS/CO's - 188

Number of Participants: NUMBER OF PARTICIPATING AND ACTIVE HOUSEHOLDS. 2,454

Note: in 2018 there were 61 Captains and 1,423 participating households. That is a 75% increase in participating households

Another super busy year with Block Watch. Social issues have been challenging in the communities. Areas where established Block Watches were already in place have fared well however are seeing crime creeping in. The advent of social media, although a quick way to communicate with residents, often also spreads fear and increases perceptions of fear and crime is on the increase. Do the calls for police service indicate that? Not necessarily.

Emphasis for September **Speedwatch** was to focus on the school zones. The School PAC volunteers reactivated at Bench School and once again, we have extended the offer to other schools. ICBC will be working with Halalt as part of their road safety initiatives.

We are catching up on backlog, especially for home security checks and presentations for Block Watch and volunteer recruitment and hope to finish the year strong.

For 2019, we have received forty (40) calls for animals in hot cars down from last year (forty-six).

Area Breakdown;

North Cowichan	–	19
First Nations	–	10
City of Duncan	–	8
CVRD	-	3

Cowichan Community Policing Volunteer Programs 3rd Quarter 2019

	July	August	September	Quarter Total	Year to Date Total
CPO Visitations/Contacts	258	286	395	939	3,664
Lock Out Auto Crime Audits	0	0	1,146	1,146	8,424
Number of Notices Issued	0	0	4	4	45
Speed Watch Vehicles Checked	3,002	5,200	7,469	15,671	43,754
% of Speeders >10km posted limit	16%	27%	18%	20%	31%
Mileage on Patrol (COP Jeep)	0	0	0	0	0
Safety Presentations	0	0	3	3	28
Total Volunteer Hours	192	181	214	587	2,012
Number of Active Volunteers	15	13	18		

Cowichan Valley Regional Victim Services:

Victim Services in the North Cowichan/Duncan Detachment responds to critical incidents/crisis intervention call outs from police on a 24 hour, 7 day a week basis. Victim Services provide initial defusing, stabilization and act as a liaison between victims and emergency personnel, providing an invaluable service to the public and police alike.

Cowichan Valley Regional Victim Services 3rd Quarter 2019					
	July	August	September	Quarter Total	Year to Date Total
New Clients	104	90	93	287	838
Females	82	67	68	217	646
Males	22	23	25	70	191
Calls For Service Attendance	11	4	9	24	75
Referrals By Area					
North Cowichan	46	43	32	121	395
Duncan	16	11	17	44	104
Cowichan Tribes/FNP	6	14	11	31	89
Provincial Areas	10	8	3	21	81
Total	78	76	63	217	669
Brief Service Files	2	5	3	10	31

Earlier this year, the RCMP contracted out E-Comm to provide receiving and dispatching of complaints to Police. There has been some service issues raised by the public (long wait times, dropped calls, etc).

In the event a member of the public has concerns about any aspect of the call-taking and dispatch services provided by E-Comm, please feel free to direct them to our organization and we will follow up directly with the complainant (see methods of contact below).

ecomm911.ca

Under the 'contact us' tab at the top of the homepage, there is a link to our online public enquiry form. A member of our e-comm will action and/or respond to public enquiries within two business days.

People are also welcome to email talktoecomm@ecomm911.ca.

Below are speaking points for frontline officers/staff:

- E-Comm is the organization responsible for providing emergency and non-emergency call-taking and dispatch services for RCMP. If you have questions or concerns about your 9-1-1 or non-emergency call or the service E-Comm provided, you can reach out to them directly through their online public enquiry form on their website ecomm911.ca (under the 'contact us' tab) or by emailing talktoecomm@ecomm911.ca.
- 9-1-1 lines have priority over non-emergency lines. This means that sudden influxes of emergency calls for a high priority event can result in longer wait times on the non-emergency line as call-takers assist people requiring immediate help from police.
- If you hear a recorded message advising your call will be answered as soon as possible, it is because all call-takers are on other calls. Please remain on the line to speak to a call-taker, who will answer as soon as possible. Do not hang up and dial 9-1-1 unless you have a serious emergency or there is a crime in progress.
- Your calls are important both to E-Comm and our police agency and we appreciate your patience as you wait on the line to be answered. Call takers are working as fast and efficiently as possible and are answering all calls in the order they come in.
- E-Comm is aware that some callers are experiencing extended wait times on non-emergency and is working on improving the caller experience through increased recruitment and other measures.
- Non-emergency lines tend to experience higher call volume during late afternoon and especially around rush hour. If possible, try to report your non-emergency situation during off-peak hours to limit wait times (early morning or late night timeframes tend to be less busy).

Respectfully submitted,

**Inspector Chris Bear
OIC North Cowichan/Duncan Detachment**



The Corporation of the District of North Cowichan
**Zoning Amendment Bylaw (Cannabis Sales – 2900 Drinkwater
Road), 2019**

Bylaw 3748

The Council of The Corporation of The District of North Cowichan enacts as follows:

**1 Section 40.5 [Cannabis Sales Prohibited] of Zoning Bylaw 1997, No. 2950, is
repealed and the following substituted:**

Cannabis Sales

40.5 The sale, distribution or trade of cannabis and its derivatives is prohibited in all
zones, except for

- (a) distribution by an approved cannabis production facility in accordance with
the terms and conditions of its licence under section 8 (1) of the *Cannabis
Regulations*; and
- (b) retail cannabis sales (one storefront) is permitted at 2900 Drinkwater Road
(PID: 027-069-630).

READ a first time on June 5, 2019

READ a second time on June 19, 2019

CONSIDERED at a Public Hearing on August 21, 2019

READ a third time on August 21, 2019

APPROVED BY the Ministry of Transportation and Infrastructure on August 27, 2019

RECONSIDERED third reading and confirmed on September 4, 2019

ABANDONED on

CORPORATE OFFICER

PRESIDING MEMBER



**LIQUOR
DISTRIBUTION
BRANCH**

October 31, 2019

Mayor and Council
Municipality of North Cowichan
7030 Trans-Canada Highway,
Duncan, BC V9L 6A1

Dear Mayor and Council:

Re: BC Cannabis Store Retail Store Application

This letter is to inform you that The Liquor Distribution Branch (LDB) is withdrawing its application for a cannabis retail store at 2900 Drinkwater Road (Bylaw 3748) – Cowichan Commons, which is scheduled for Council's consideration of final adoption at the November 6th Regular Council Meeting.

The LDB has appreciated the opportunity to work with the municipality to bring our application to this point, and are grateful to staff in the planning department for their assistance in helping us to navigate the Municipality's process as well as the time and consideration of Council to date.

Please feel free to reach out should you have any questions. I can be reached directly at **1-778-874-0430**, or by email at kerri.lore@bclddb.com

Yours Sincerely,

Kerri Lore
Director, Policy – Corporate Strategic Services
BC Liquor Distribution Branch

Report

Date November 6, 2019

File: ZB00064

To Council

From Ted Swabey, Chief Administrative Officer

Endorsed:



Subject Reconsideration of Zoning Amendment Bylaw No. 3761, 2019

Purpose

To provide Council with information, options and a recommendation on the reconsideration of "Zoning Amendment Bylaw No. 3761, 2019" ("Bylaw No. 3761"), a bylaw to rezone three properties at Cowichan Valley Highway and Drinkwater Road to a new comprehensive development zone.

Background

On October 4, 2019 Council voted 5-2 to deny third reading of Bylaw No. 3761, (Attachment A) following a lengthy public hearing.

Under Section 131 of the *Community Charter* the Mayor may require Council to reconsider a resolution and vote again on a matter that was already the subject of a vote. On October 25, 2019, Mayor Siebring gave notice to the Corporate Officer and Council exercising his authority under Section 131 requiring that Council reconsider third reading of Bylaw No. 3761 (Attachment B). As a result, third reading of Bylaw No. 3761 will be before Council at the November 6, 2019 meeting for reconsideration of third reading.

Discussion

Zoning Amendment Application Status:

The zoning amendment application associated with Bylaw No. 3761 was presented in a staff report at the August 21, 2019 Council meeting (Attachment C). Various commitments offered by the applicant as part of the application were identified in the report, but were subsequently amended by the applicant in a letter dated September 25, 2019 (Attachment D) and summarized in a second staff report (Attachment E). At the October 1-4 public hearing for Bylaw No. 3761, additional commitments were made by the applicant, including:

- an archaeological monitor present during the entire construction of the project;
- the \$600,000 contribution towards habitat and environmental enhancement and trail construction to Mount Prevost can also be used to study elk herd impacts;
- granting an option for the sale of the A4 zone lands (north of the proposed Phase 2 expansion) to North Cowichan.

In his memo to the Corporate Officer, Mayor Siebring advised that his reason for having Council reconsider Bylaw No. 3761 is that there is information available relevant to Council's consideration of the bylaw that was not available prior to the close at the public hearing on October 4, 2019 being the following:

- October 15, 2019 Letter from Lorenzo G. Oss-Cech, Hutchinson Oss-Cech Marlatt (Attachment F)
- October 25, 2019 letter from R. Conway, Director of Planning and Building (Attachment G)
- October 29, 2019 letter from Lorenzo G. Oss-Cech, Hutchinson Oss-Cech Marlatt (Attachment H)
- October 30, 2019 letter from Mayor Siebring to Chief Seymour (Attachment I)
- October 30, 2019 letter from Sean Hern, Farris LLP (Attachment J)

Since Council's decision to defeat third reading of Bylaw No. 3761, VIMC has also advised that, instead of granting an option to North Cowichan to purchase the A4 lands, it is prepared to transfer the A4 lands to North Cowichan or Cowichan Tribes, at no cost, for environmental and cultural protection purposes. All of the commitments made by VIMC in association with its zoning amendment application, as well as the commitments referenced above, are part of the proposal before Council and would be secured by a covenant should Council decide to grant third reading to Bylaw No. 3761.

Procedural Considerations:

Zoning bylaw amendment procedures require that Council not receive new information regarding a bylaw under consideration following the close of the public hearing and before Council's decision to adopt or defeat the bylaw. By receiving new information and not holding a public hearing, any further decision by Council regarding Bylaw No. 3761 could be quashed by the Courts if challenged.

Zoning bylaw amendment procedures require that the principles of procedural fairness are followed. One such principle commonly enforced by the Courts is that the public is given the opportunity to review and comment on the same information available to Council. As Council has received additional new information following the public hearing, Council is strongly advised to undertake another public hearing before reconsidering Bylaw No. 3761. A second public hearing would protect against a procedural challenge to Council's decision, whatever that may be. It would also provide the public an opportunity to comment on the new information received since the close of the first public hearing.

Options

1. That reconsideration of third reading of Bylaw No. 3761 be deferred until after a further public hearing has been held, and that staff be directed to schedule a public hearing and give notice in accordance with the requirements of the *Local Government Act*, with the public hearing to be held at the Cowichan Performing Arts Centre.
2. That a further public hearing not be held prior to reconsideration of third reading of Bylaw No. 3761, and the following motion be considered:

"That Council give third reading to "Zoning Amendment Bylaw No. 3761, 2019" - a bylaw to rezone three properties at Cowichan Valley Highway and Drinkwater Road to a new Comprehensive Development Zone and direct staff to work with the municipal solicitor to prepare the legal documentation to secure the written commitment made by VIMC in their September 25, 2019 letter and the additional commitments/agreements made by VIMC at the public hearing."

Recommendation

That reconsideration of third reading of Bylaw No. 3761 be deferred until after a further public hearing has been held, and that staff be directed to schedule a public hearing and give notice in accordance with the requirements of the *Local Government Act*, with the public hearing to be held at the Cowichan Performing Arts Centre.

Attachments: (10)

Attachment A – Zoning Amendment Bylaw No. 3761

Attachment B - Mayor's Memo to Corporate Officer

Attachment C – August 21, 2019 Staff Report

Attachment D – September 25, 2019 Amended Commitment Letter

Attachment E – October 1, 2019 Staff Report

Attachment F – October 15, 2019 Letter from Lorenzo G. Oss-Cech, Hutchinson Oss-Cech Marlatt

Attachment G – October 25, 2019 Letter from Director of Planning and Building

Attachment H – October 29, 2019 Letter from Lorenzo G. Oss-Cech, Hutchinson Oss-Cech Marlatt

Attachment I – October 30, 2019 Letter from Mayor Siebring to Chief Seymour

Attachment J – October 30, 2019 Letter from Sean Hern, Farris LLP



The Corporation of the District of North Cowichan
Zoning Amendment Bylaw (Motorsport Circuit), 2019
Bylaw 3761

The Council of The Corporation of The District of North Cowichan enacts as follows:

1. ***This Bylaw may be cited as "Zoning Amendment Bylaw No. 3761, 2019".***
2. ***Section 12 of Zoning Bylaw 1997, No. 2950 is amended by adding the following definitions:***

"go-kart use" means the use of buildings, structures, or land for the maintenance, repair, operation and racing of go-karts.

"motor vehicle testing and driver training facility" means the use of land for a motorsport circuit and off-road circuit that hosts a variety of motor vehicle driving programs in different configurations with different groups, including but not limited to

- (a) motor vehicles driving the circuit to achieve and improve lap times;
- (b) motor vehicles practicing emergency braking, lane changes, cornering and other procedures including some at high speed;
- (c) multiple motor vehicles using the facility simultaneously including during club or manufacturer activities to achieve and improve their driving skills;
- (d) facilities and repair areas to change settings of motor vehicles, change tires, conduct minor maintenance and repairs, and set up motor vehicles;
- (e) club with restaurant, office, retail store, the sale of food and beverages, change rooms and ancillary amenities;
- (f) parking, off-street parking, covered parking, maintenance, warehouse and storage facilities.

"motor vehicle presentation centre" means the use of a building, structure or land for the display, storage and sales of motor vehicles, motor vehicle parts, accessories and merchandise, including ancillary offices and facilities.

"motion picture and television filming" means the filming and production of motion pictures or television shows or series.

3. ***Zoning Bylaw 1997, No 2950, is amended in section 43 [Zones] by adding***
"Motorsport Circuit Comprehensive Development Zone (CD21)".
4. ***Zoning Bylaw 1997, No 2950, is amended by adding the following section after 80.20:***

Motorsport Circuit Comprehensive Development Zone (CD21)

Permitted Uses

- 80.21** (1) The permitted uses in the CD21 zone are as follows:

- Accessory Building
- Accessory Fueling Installation
- Accessory Restaurant
- Accessory Use
- Assembly Hall
- Fitness Centre/Gymnasium
- Go-kart Use
- Motion Picture and Television Filming
- Motor Vehicle Autobody Repair
- Motor Vehicle Parts and Accessories Sales
- Motor Vehicle Presentation Centre
- Motor Vehicle Repairs
- Motor Vehicle Sales
- Motor Vehicle Storage Yard
- Motor Vehicle Testing and Driver Training Facility
- Recreation Area
- Warehouse

Minimum Lot Size

- (2) The minimum lot size for the CD21 zone is 2.5 ha.

Minimum Frontage

- (3) The minimum permitted frontage for the CD21 zone is 30 m (98.43').

Maximum Lot Coverage

- (4) The maximum permitted lot coverage for the CD21 zone is 50% of the lot area.

Maximum Floor Space Ratio of All Buildings and Structures

- (5) The maximum permitted floor space ratio for the CD21 zone is 0.5:1.

Minimum Setbacks

- (6) The minimum setbacks for all buildings are as follows:

Front yard - 6 m (19.7'); 18 m (59') from an arterial highway

Side yard - 3m (9.8')

Rear yard - 6m (19.7')

Maximum Building Height

- (7) The maximum building height for the CD21 zone is 15 m (49.2').

5. ***Schedule "C" of Zoning Bylaw 1997, No 2950 is amended by reclassifying, to Motorsport Circuit Comprehensive Development Zone (CD21), the lands shown as the "Subject Properties" (PIDs: 009-751-297; 029-201-675; 014-104-067), and outlined in bold on the Schedule attached to and forming part of this bylaw.***
-

READ a first time on August 21, 2019

READ a second time on August 21, 2019

CONSIDERED at a Public Hearing on October 1, 3 and 4, 2019

READ a third time on

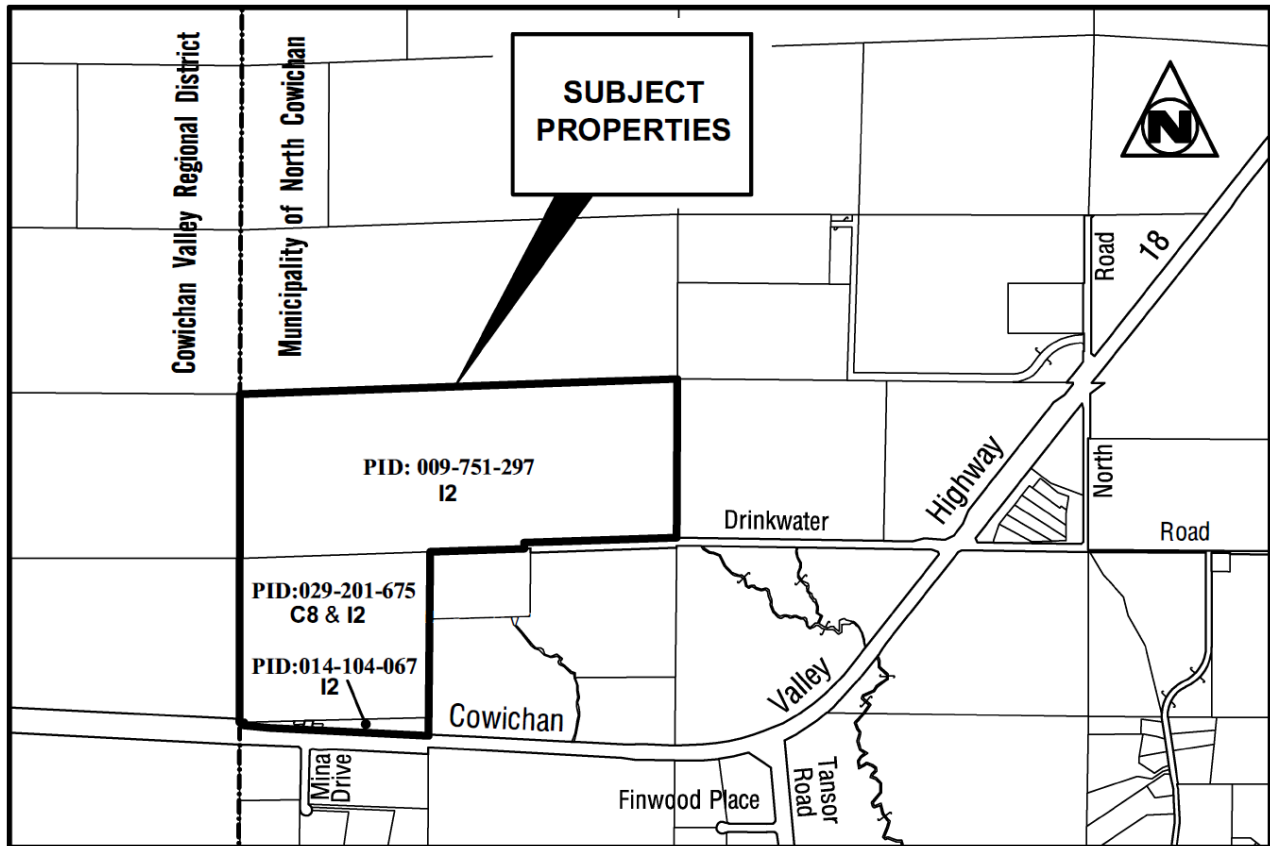
APPROVED by Ministry of Transportation and Infrastructure on

ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Schedule



Memo

Date October 25, 2019

To Karen Robertson, Corporate Officer

From Al Siebring, Mayor

Subject Section 131 of the Community Charter

Please be advised that per Section 131 of the Community Charter, this email will serve as notice that I am initiating a reconsideration of the motion on 3rd reading of (Bylaw #), to wit:

"That Council give third reading to "Zoning Amendment Bylaw No. 3761, 2019" - a bylaw to rezone three properties at Cowichan Valley Highway and Drinkwater Road to a new Comprehensive Development Zone and direct staff to work with the municipal solicitor to prepare the legal documentation to secure the written commitment made by VIMC in their September 25, 2019 letter and the additional commitments/agreements made by VIMC at the public hearing. "

Please be further advised that - given the new (financial) information contained in the October 15, 2019 "demand letter" from *Hutchinson-Oss-Cech-Marlatt* - it is my intention to have the actual vote on reconsideration postponed until after the scheduling and holding of a second public hearing on this matter.

A handwritten signature in blue ink, appearing to be "Al Siebring", written over a horizontal line.

Al Siebring
Mayor

cc: Nelda Richardson, Deputy Corporate Officer, District of the Corporation of
 North Cowichan

 Ted Swabey, Chief Administrative Officer, District of the Corporation of North Cowichan

Report

Date August 21, 2019

File: ZB000064

To Council

From Rob Conway, Director of Planning

Endorsed:



Subject Zoning Amendment Application No. ZB000064 (VIMC)

Purpose

To provide Council with information, analysis and a recommendation regarding an application to rezone three properties at Cowichan Valley Highway and Drinkwater Road to a new comprehensive development zone.

Background

Vancouver Island Motorsport Circuit (VIMC) operates a motor vehicle testing and driver training facility consisting of a paved motor vehicle circuit and clubhouse at 4063 Cowichan Valley Highway. The property on which the facility is located is "split zoned" with a portion of the site zoned Industrial Heavy (I2) and a portion zoned Commercial Recreational (C8). Development and building permits were issued for the facility in 2014/2015 and construction of the facility was substantially completed in 2016.

The owner of the VIMC has purchased land north of the 4063 Cowichan Valley Highway site with the intention of building a second motor vehicle circuit and associated works ("Phase 2") and has applied for a zoning amendment and a development permit to facilitate the expansion.

The I2 zoning that applies to much of the existing facility had previously been interpreted as allowing a motor vehicle circuit and clubhouse as a permitted use such that the existing facility was approved as compliant with Zoning Bylaw No. 2950. However, as the I2 zone does not explicitly permit "motor vehicle circuit facility" or a similar-type use, the applicant wishes to confirm conclusively that a motor vehicle circuit and related uses are permitted on the subject lands. The zoning application is intended to expressly define the uses that can occur on the subject lands and to establish zoning for the lands that is expressly aligned with the current and intended use of the subject lands as a motor vehicle circuit facility and related uses.

The rezoning application that is the subject of this report was originally submitted in July, 2017. After conducting public open houses in the spring and fall of 2018, the applicant amended the Phase 2 development plan and rezoning application to address issues and concerns identified by the public during the community consultation process. One noteworthy feature of the amendments made by the applicant is to the design of the proposed motor vehicle circuit. The applicant has changed the design of the four proposed crossings of Menzies Creek from crossings based on the installation of culverts in the creek to crossings based on pre-constructed bridge spans that will be placed over top of the creek. This approach is expected to have less impact on the creek and riparian zone adjacent to it, and will require less alteration to the landscape.

This report is primarily intended to provide a summary and analysis of the rezoning application as it currently stands, and provide options and recommendations for Council's consideration.

Discussion

Site Context:

The company that operates the VIMC facility owns five parcels of land (Table 1) located approximately north of the Cowichan Valley Highway and west of Drinkwater Road (See Attachment 1).

Table 1

Property Identification Number	Property Size	Zoning
023-918-217	8.6 ha. (21.25 ac.)	A4
009-751-327	43.04 ha. (106.36 ac.)	A4
009-751-297 (Section 4)	42.47 ha. (104.93 ac.)	I2
029-201-675 (Parcel A)	18.74 ha. (46.30 ac.)	I2 & C8
014-104-067 (Lot 3)	1.04 ha. (2.58 ac.)	I2

The proposed zoning amendment only applies to the three southerly parcels that are zoned I2 and C8 (See Attachment 2). The application does not propose any zoning change to the two northerly parcels that are zoned A4. The lands that are proposed for rezoning (PIDs 009-751-297, 029-201-675 and 014-104-067) are collectively referred to in this report as the "subject lands".

The subject lands are on the lower slope of Mount Prevost, on the Municipality of North Cowichan's western boundary, abutting land that is within Electoral E of the Cowichan Valley Regional District. They are comprised of (1) an 18.74 ha. parcel where the existing motor vehicle circuit and clubhouse are situated, (2) a 1.03 hectare parcel between the Cowichan Valley Highway and the existing facility that is primarily used for storm water management, a water storage pond and a highway buffer, and (3) a vacant 42.47 ha. parcel north of the existing facility where the Phase 2 expansion is proposed.

Land uses in the vicinity of the subject lands include:

- Heavy industrial uses to the east and south, including a waste transfer station, soil and landscape material processing, concrete and asphalt batch plants, sawmilling, storage yards, aggregate mining and processing as well as other light and heavy industrial uses;
- Forestry and resource uses to the north and west;
- Agricultural uses (vineyards) to the north-east; and
- Rural residential uses to the south and south-west, including the Mina Drive neighbourhood and the community of Sahtlam.

Proposed Development:

The rezoning application proposes an amendment to Zoning Bylaw 2950 that, if adopted, would change the zoning designation on the subject lands from I2 and C8 to a new comprehensive development zone (CD21). The zoning amendment itself does not authorize development on the subject lands, and development and building permits would be required before development on the lands can proceed. Although the zoning amendment that is requested in the application primarily requests a change to the list of uses permitted on the subject lands, the applicant has provided a detailed design of the Phase 2 expansion plans and a number of reports and technical documents in support of the application. Materials provided by the applicant include engineering designs of the motor vehicle circuit expansion, a sound impact assessment, a geotechnical assessment, land use servicing reports, an environmental impact assessment, a fire interface plan and a traffic impact assessment.

A list of application support documents is provided in Attachment 3, with the documents available on the Municipality of North Cowichan's website at:

<https://www.northcowichan.ca/EN/main/community/current-topics/vancouver-island-motorsport-circuit/vimc-related-records.html>

The Phase 2 expansion is expected to include a new 5.0 km paved motor vehicle circuit, an off-road motor vehicle circuit, a new clubhouse structure, and buildings for maintaining, repairing and storing motor vehicles. A plan showing the proposed development and existing facility is provided in Attachment 4. Descriptions of the Phase 2 design and development approach are provided in the support documents and the reader is directed to those documents for a detailed description of the proposed expansion.

Community Amenities and Applicant's Commitments:

The applicant has provided a letter (Attachment 5) that outlines a number of commitments associated with the rezoning application that are intended to respond to community concerns about noise and potential environmental impacts and other issues identified in the applicant's community consultation process. The commitment letter also identifies community amenities offered in association with the rezoning application. Among the commitments are:

- Restrictions on the hours of operation;
- Restrictions on operating on statutory holidays;
- Restrictions on maximum permitted sound output;
- The installation and maintenance of sound monitoring stations;
- A procedure for enforcing violations of the maximum permitted sound thresholds should they be exceeded;
- The transfer of land to the Municipality for a water storage reservoir;
- Funding for the construction of a water storage the reservoir, with an ability to partially recoup from future users;
- A lease over the A4 zoned lands (north of subject lands) for a hiking trail;
- The offer of the use of the facility (on commercially reasonable terms) to the Vancouver Island Karting Association for up to 6 events per year;
- The transfer of lands adjacent to Bings Creek to the Municipality;

- The transfer of \$600,000 to the Municipality for environmental and habitat enhancement and for construction of a trail up Mount Prevost;
- Improvements to Drinkwater Road

The applicant's commitment with respect to limiting noise associated with the motorsport circuit facility is based on the Cowichan Valley Regional District's Noise Control Bylaw No. 3723. Bylaw No. 3723 specifies a maximum standard for "continuous sound" of 60 decibels, measured at the point of reception. The Bylaw defines "continuous noise" to be any noise other than construction noise that continues for a period or periods of totalling 3 minutes or more in any 15 minute period. The applicant is proposing a comparable standard (with some exceptions) with a maximum standard of 59 decibels (59 dB LA_{20, 15min}).

Details regarding the applicant's commitments are set-out in the applicant's commitment letter and the reader should refer to that document regarding the specific commitments.

Should the application advance, the applicant's commitments, including the commitment for bridge crossings, will be secured by a covenant prior to consideration of bylaw adoption.

Policy Context – Official Community Plan:

The Official Community Plan (Bylaw No. 3450) includes the subject lands within the "South End Industrial" designation. The OCP does not contain specific policies regarding this designation, but Section 2.4.6 of the OCP includes a number of policies applicable to industrial designations through-out the Plan area. Policies considered relevant to the subject application include:

- 2.4.6.1 *The Municipality will promote a healthy industrial sector.***
 - (d) *The Municipality will encourage and attract new and emerging forms of industrial enterprise to the community.***
- 2.4.6.3 *Ensure availability of industrially zoned land.***
 - (a) *The Municipality will encourage the infill and maximum use of existing industrial land ...***
- 2.4.6.4 *The Municipality supports sensitive integration of industry into the community.***
 - b) *Industrially zoned lands are designated as a Development Permit Area to maintain orderly and attractive industrial development and to reduce conflict with adjacent land uses.***

Economic Development objectives and polices are outlined in Section 2.4 of the OCP. This section of the Plan acknowledges that the local economy continues to shift away from resource-based industry to new and emerging sectors. The Plan promotes supporting and sustaining existing job opportunities but also actively seeking new opportunities. It also recognizes that lifestyle and access to the natural environment are economic assets for the region and that economic development opportunities need to be balanced with sustainable development practices. This is clearly articulated in the stated objective of, "Establishing a welcoming atmosphere for economic development in North Cowichan while maintaining a high quality of life and high environmental quality" (s. 2.4.1).

Economic development polices considered relevant to the rezoning application include:

2.4.1.1 *The Municipality will exercise leadership for economic development in North Cowichan.*

- a) *Based on North Cowichan's many assets, including quality of life, the Municipality will pursue strategic business attraction and development opportunities to diversify the local economy.***
- b) *The Municipality will ensure that local permitting is transparent and timely, with a solution-based, customer driven philosophy.***

2.4.1.3 *The Municipality will link economic development with Community Planning.*

- c) *The Municipality commits to developing clear and predictable land use policies that will result in consistent decision-making and improved certainty of investors.***
- j) *The Municipality will make land available for commercial and industrial purposes in a manner consistent with good planning practices and with the goals of the OCP.***

2.4.1.4 *The Municipality will balance economic growth with other community priorities.*

- a) *The Municipality will communicate openly with prospective investors and the community about how economic development initiatives are balanced with other Community priorities.***

Policy Context – Zoning Bylaw:

A zoning map referencing the subject lands is provided in Attachment 6.

The Commercial Rural Recreation Zone (C8) that applies to 6.07 ha. of the subject lands permits the following uses:

Accessory Dwelling Unit; Amusement Park; Archery Range; Drive-in Theatre; Microlite Aircraft and Glider Landing Strips; Mobile Food Service; Racetrack; Recreational Facility; Shooting Range.

The Industrial Heavy Zone (I2) applies to the remaining 56.18 ha. of the subject lands. It permits the following uses:

Accessory Office; Accessory Dwelling Unit; Accessory Restaurant; Autobody Repair; Dry-cleaning Plant or Laundry; Cannabis Production Facility; Commercial Cardlock Facility; Custom Workshop; Fitness Centre/Gymnasium; Food and Beverage Processing; Fueling Installations; Laboratory; Industrial Use; Machine Shop; Mini-Warehousing; Mobile Food Service; Motor Vehicle Repair; Motor Vehicle Sales and Repair; Recycling Depot; Repair Shop; Resource Use; Retail Lumber and Building Supply Yard; Retail of Motor Vehicle Parts and Accessories; Service Industry; Sign Shop; Temporary Trailer; Tools and Equipment Sales Rentals and Services; Trade School, Truck Depot; Truck Trailer and Heavy Equipment Sales, Rentals and Services; Veterinary Clinic; Warehouse; Wholesale; Automobile Wrecking and Salvage Yard; Bulk Storage of Flammable and Combustible Liquids; Boat Terminals and Dock; Helicopter Landing Pad; Municipal/Regional Government Office; Pier, Wharf and Related Facility; Private Airplane Landing Strip; Railway Yard; Recycling Industrial Use; Sawmill, Pulpmill and Planing Mill, Slaughterhouse, Works Yard.

Copies of the C8 and I2 zones are provided in Attachment 7.

Draft Zoning Amendment Bylaw No. 3761:

Zoning Amendment Bylaw No. 3761 (Attachment 8) has been drafted with the intention of capturing what has been requested in the rezoning application. If adopted, the amendment bylaw would create a new "CD21" zone that is specific to the subject lands. Uses presently permitted on the lands by the C8 and I2 zones would be replaced by a new list of CD21 permitted uses:

Accessory Building; Accessory Fueling Installation; Accessory Restaurant; Accessory Use; Assembly Hall; Fitness Centre/Gymnasium; Go-Kart Use; Motion Picture and Television Filming; Motor Vehicle Autobody Repair, Motor Vehicle Parts and Accessories Sales; Motor Vehicle Presentation Centre; Motor Vehicle Repairs; Motor Vehicle Sales; Motor Vehicle Storage Yard; Motor Vehicle Testing and Training Facility; Recreation Area; Warehouse.

The list of CD21 permitted uses does not include a number of uses previously permitted on the subject lands (e.g., Racetrack, Shooting Range, Helicopter Landing Pad, Private Airplane Landing Strip and Sawmill, Pulpmill and Planing Mill).

As some of the uses proposed for the CD21 Zone are new uses that are not defined in Zoning Bylaw 2950, Zoning Amendment Bylaw No. 3761 will also add the following definitions:

"motor vehicle and driver training facility" means the use of land for a motorsport circuit and off-road circuit that hosts a variety of motor vehicle driving programs in different configurations with different groups, including but not limited to (a) motor vehicles driving the circuit to achieve and improve lap times; (b) motor vehicles practicing emergency braking, lane changes, cornering and other procedures including some at high speed; (c) multiple motor vehicles using the facility simultaneously including during club or manufacturers activities to achieve and improve their driving skills; (d) facilities and repair areas to change settings of motor vehicles, change tires, conduct minor maintenance and repairs, and set up motor vehicles ; (e) club with restaurant, office, retail store, the sale of food and beverages, change rooms and ancillary amenities; (f) parking, off-street parking, covered parking, maintenance, warehouse and storage facilities.

"motor vehicle presentation centre" means the use of a building or structure or land for the display, storage and sale of motor vehicles, motor vehicle parts, accessories and merchandise, including ancillary offices and facilities.

"motion picture and television filming" means the filming and production of motion pictures or television shows or series.

"go-kart use" means the use of buildings, structures, or land for the maintenance, repair, operation and racing of go-karts.

Development regulation in the CD21 zone are comparable to what currently exist in the I2 zone. A comparison of the regulations is summarized in Table 2.

Table 2

Zoning Regulation:	I2 Zone	C8 Zone	Proposed CD21 Zone
Minimum Lot Size	1.6 ha.	4.0 ha.	2.5 ha.
Minimum Frontage	90 m.	150 m.	30 m.
Maximum Lot Coverage	50%	30%	50%
Minimum Setbacks	8.0 m. front/0 m. side and rear/ 46 m. when abutting another zone/18 m from arterial Highway	30 m. front, side and rear	6 m. front, 3 m. side, 6 m. rear./ 18 metre from Arterial Highway
Maximum Permitted Height	None identified 1.04 ha. (2.58 ac.)	12.0 m.	15.0 m.
Max. Floor Space Ratio	None identified	None identified	0.5:1

Planning Department Comments:

Land Use Considerations:

Much of the subject lands are presently zoned Industrial Heavy (I2). The I2 zone is where the Municipality has generally permitted commercial and industrial uses that generate or have the potential to generate excessive noise, odour or other nuisance that are unsightly or otherwise objectionable to nearby non-commercial/industrial uses. Examples of such uses in the I2 zone are mills for primary wood processing, slaughterhouses and auto wrecking yards. By clustering such uses together in a zoning district, the overall impact of nuisance generating activities can be better contained and managed, and the community will have a better understanding where such activities can be expected.

The I2 zone accommodates traditional industrial activities such as the manufacture of goods, warehousing, distribution and raw material processing. It also permits uses that are more commercial or service-oriented such as fitness centres, veterinary clinics and government offices. Transportation uses that are potentially disruptive are also included in the I2 zone (Helicopter landing pad, private airplane landing strip, railway yard).

"Motor vehicle and driver training facility" and other principal and accessory uses proposed in the CD21 zone are not inconsistent with an industrial designation. As such a facility will inevitably emit noise and impose some level of impact on surrounding properties, industrially designated lands would seem an appropriate location for activities of this nature.

Noise impacts from the existing VIMC facility have been an ongoing issue for some residents of North Cowichan and the Regional District. This rezoning application provided an opportunity and process for noise mitigation measures to be publicly discussed. In support of the rezoning application the applicant has committed to a number of measures that are intended to reduce the impact that noise from the facility is having on residents in the area. The measures include sound attenuation structures, a systematic sound monitoring program, establishment of maximum permitted offsite sound levels, and restrictions on hours and days of operation. While the noise concerns are unlikely to be fully resolved through the zoning amendment process, the applicant's commitments would establish an enforceable baseline standard for noise levels and would provide the public with greater certainty over the level of noise to be expected, and some recourse should that agreed-upon standard be exceeded. The baseline standard for acceptable noise levels is consistent with levels permitted by the Cowichan Valley Regional District under its noise regulation bylaw applicable in the Sahtlam area.

Compliance with OCP Policy:

Protecting the industrial land base and optimizing its use is a stated objective of the OCP (2.4.6.3). Industrial activities often require large parcels to conduct operations and the amount of employment and economic activity resulting from any particular industrial business can vary considerably. The subject lands and adjacent industrially designated lands have been zoned for industrial use for decades, but much of it has remained vacant or has been used for low level industrial uses. The current and proposed VIMC facilities involve substantial capital investments in site and infrastructure improvements and are expected to generate ongoing direct and indirect economic benefits for the local economy in the form of jobs and spending associated with the operation of the facility. It should also be noted that VIMC's commitment to provide land and funding for a new water supply reservoir is expected to promote the more intensive use of industrially zoned lands in the area as it will become easier for property owners to comply with building code requirements for fire protection and eliminate the need for land intensive on-site water storage.

A pervasive theme throughout the economic development and industrial land use sections of the OCP is the desire to balance economic development opportunities with protection of the natural environment while maintaining the quality of life that residents of North Cowichan and the region so highly value. It is apparent from the extensive site assessment and design work undertaken for Phase 2 and the commitments made to address issues that the proponent has gone to considerable effort and expense to identify and address community concerns in the application and balance competing OCP objectives and policy.

Communications and Engagement:

On November 1 2017, Council passed a resolution directing staff to refer the subject rezoning application and OCP amendment application (since withdrawn) to the City of Duncan, the Cowichan Valley Regional District, Cowichan Tribes, School District 79, the Sahtlam Neighbourhood Association and the Environmental Advisory Committee. The application referral has not yet been sent, largely because the application was amended significantly and only recently has there been enough certainty about the application that it can be accurately described to the referral agencies. Now that there is a specific bylaw to comment on, staff propose that the application referral proceed but that Council reconsider the list of referral agencies. As a referral to the School District is no longer required because the OCP amendment application has been withdrawn, it is recommended that the application and draft bylaw be referred to the City of Duncan, the CVRD, Cowichan Tribes, and the Sahtlam Neighbourhood Association in accordance with standard practice. It is further recommended that a 30 day referral response time be given, which is the standard referral response timeframe given for rezoning applications.

Should Council grant first and second reading to Zoning Amendment Bylaw No. 3761, a public hearing would be scheduled to allow the public an opportunity to provide input on the proposed Zoning Bylaw amendment. Prior to the hearing, adjacent owners and occupiers of land would be notified and notice would be published in the local newspaper, as required by the *Local Government Act*.

Conclusion and Recommendation:

Staff consider the rezoning application and proposed zoning amendment bylaw to be generally compliant with applicable Municipal policy and are supportive of the proposed zoning amendment and associated covenant for that reason.

The extent of the assessment, planning and design work for Phase 2 well exceeds what is typical for a land use application demonstrates sincere efforts to address issues and concerns raised during the course of the application review while still achieving the intended use of the lands and to balance community values with economic interests. In order to determine if community values have been adequately addressed, it is necessary to hear from the community and now that the detailed information regarding the proposed Phase 2 expansion is now compiled and the proposed zoning amendment bylaw and commitments from the applicant are documented and available for review, the application has progressed to the stage in the application process where it can be presented to the public at a public hearing. Staff's recommendation is to approve first and second reading of Zoning Amendment Bylaw No. 3761, refer the application and zoning amendment bylaw to select agencies and organizations, and that a public hearing be scheduled.

Options

Option 1 (Staff Recommendation):

1. That Council approve first and second reading of Zoning Amendment Bylaw No. 3761 to rezone three properties at Cowichan Valley Highway and Drinkwater Road (PIDs 009-751-297, 029-201-675 & 014, 104-067) from I2 and C8 to a new CD21 zone;

2. That referrals be sent to the City of Duncan, the Cowichan Valley Regional District, Cowichan Tribes and the Sahtlam Neighbourhood Association and referral agencies be given a minimum of 30 calendar days to provide a response before a public hearing is held;
3. That a Public Hearing be scheduled for Zoning Amendment Bylaw No. 3761 and notification issued in accordance with the requirements of the *Local Government Act*.

Option 2 (Alternate Recommendation):

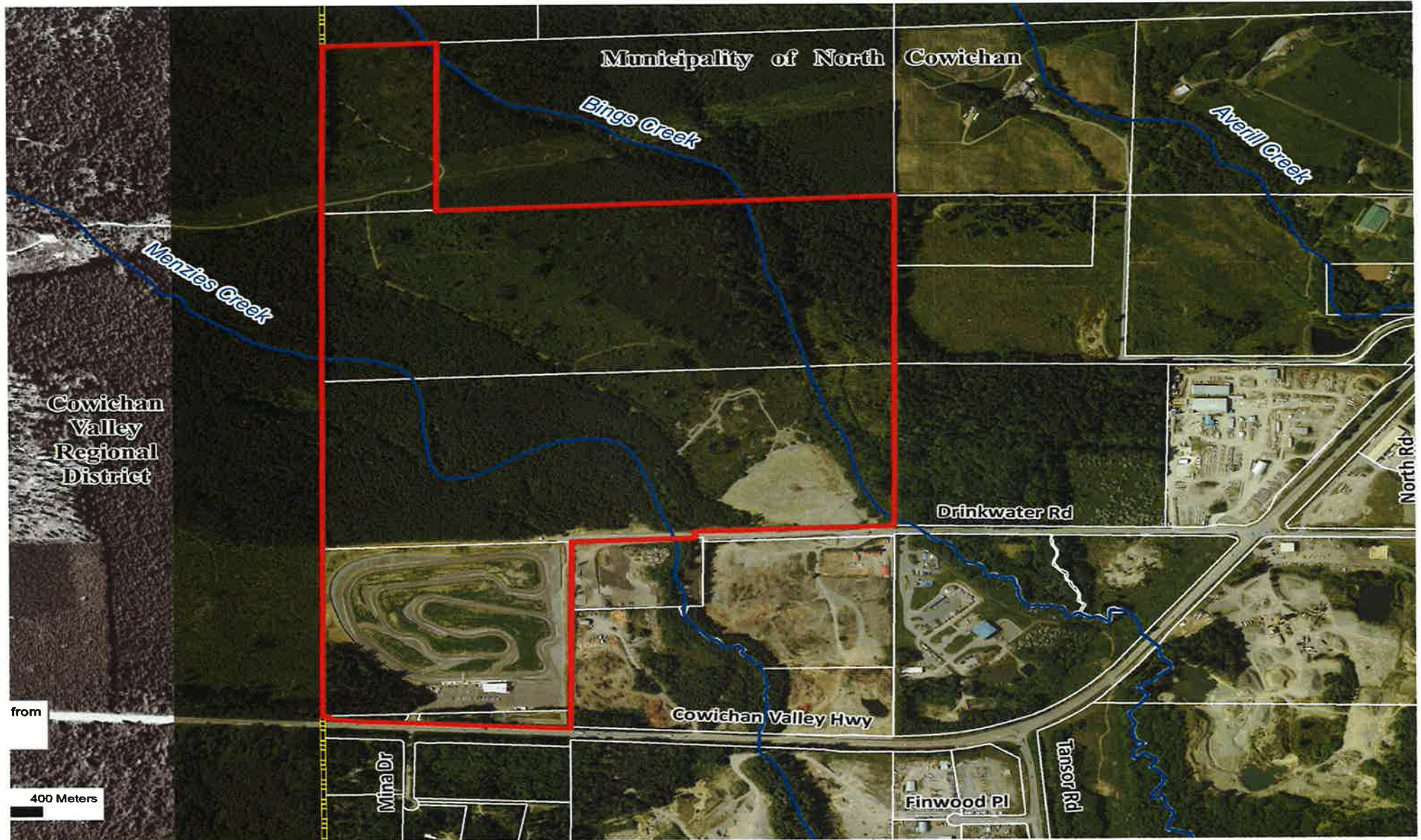
That Council deny Zoning Amendment Application ZB000064 to rezone three properties at Cowichan Valley Highway and Drinkwater Road (PIDs 009-751-297, 029-201-675 & 014, 104-067) from I2 and C8 to a new CD21 zone.

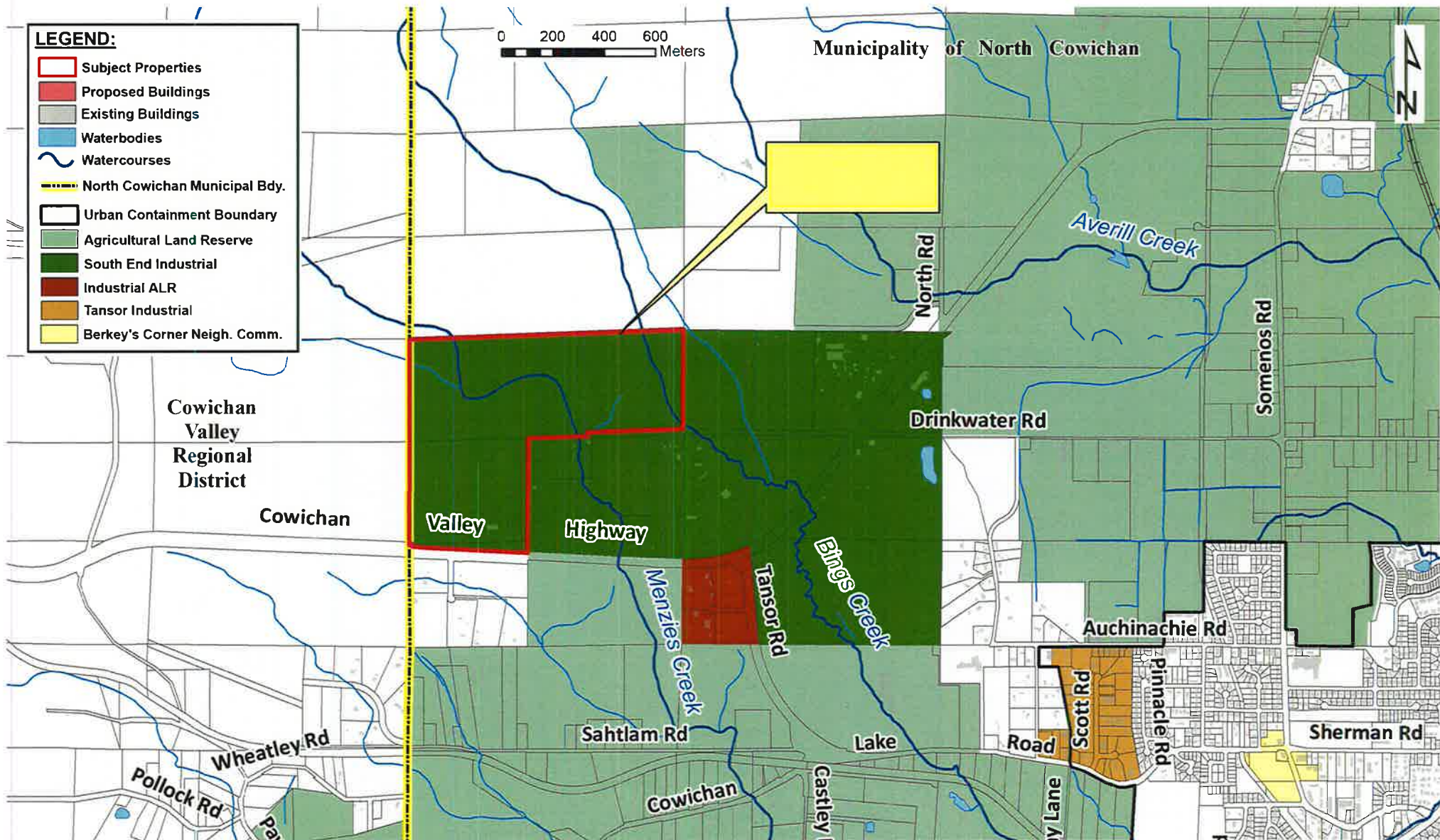
Recommendation

- 1. That Council approve first and second reading of Zoning Amendment Bylaw No. 3761 to rezone three properties at Cowichan Valley Highway and Drinkwater Road (PIDs 009-751-297, 029-201-675 & 014, 104-067) from I2 and C8 to a new CD21 zone;**
- 2. That referrals be sent to the City of Duncan, the Cowichan Valley Regional District, Cowichan Tribes and the Sahtlam Neighbourhood Association and referral agencies be given a minimum of 30 calendar days to provide a response before a public hearing is held; and**
- 3. That a Public Hearing be scheduled for Zoning Amendment Bylaw No. 3761 and notification issued in accordance with the requirements of the *Local Government Act*.**

Attachments:

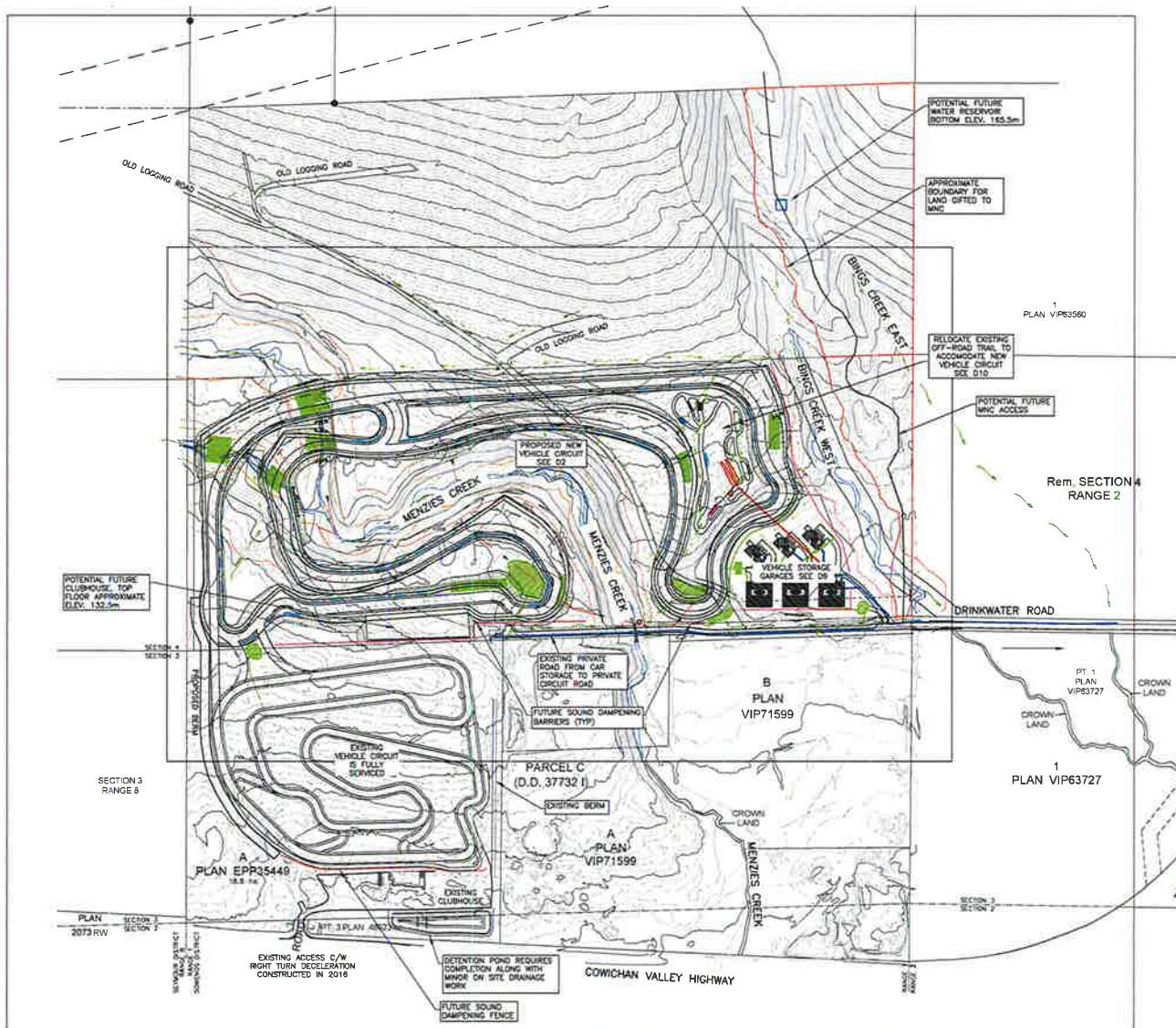
1. Map of VIMC Lands
2. Map of VIMC Lands Proposed for Rezoning
3. List of Application Support Documents
4. Phase 2 Development Plan
5. Applicant's Commitment Letter
6. Zoning Map
7. C8 and I2 Zone
8. Draft Zoning Amendment Bylaw No. 3761





VIMC Rezoning Application (ZB000064) – Application Support Documents

	Document	Prepared By:	Date
1.	Rezoning Application and Community Consultation Report	Applicant	January, 2019
2.	Letter withdrawing OCP Amendment Application	Applicant	April 3, 2019
3.	Civil Design of VIMC Phase 2	Tilke GmbH & Co. KG Engineers and Architects	October 2, 2018
4.	Revised Sound Impact Assessment	BeSB GMBH Acoustical Consulting	October 2, 2018
5	Letter re: Measuring Noise Impact in Neighbourhood	BeSB GMBH Acoustical Consulting	October 2, 2018
6.	Potential Noise Mitigation Measures	RWDI	September 24, 2018
7.	Geotechnical Assessment Letter	Ryzuk Geotechnical	September 21, 2018
8.	VIMC Phase 2 Design Drawing	J.E. Anderson and Associates	June 13, 2018
9.	Storm Water and Rain Water Management Report	J.E. Anderson and Associates	June 13, 2019
10.	Sewage Disposal Assurance Letter	J.E. Anderson and Associates	June 14, 2019
11.	Building Servicing Report	J.E. Anderson and Associates	June 14, 2019
12.	Environmental Impact Assessment Report	Aquaparian Environmental Consulting	Revised June 18, 2019
13.	Traffic Impact Assessment	Watt Consulting Group	June 20, 2019
14.	VIMC Environmental Initiatives Summary	Applicant	May 9, 2019
15.	Third Party Review of Environmental Impact Assessment	Golder Associates Ltd.	April 26, 2019
16.	Response to Third Party Review of Environmental Impact Assessment	Aquaparian Environmental Consulting	May 27, 2019
17.	Fire Interface Plan	Econ Consulting	June 18, 2019
18.	Summary of Applicant's Commitments	Applicant	August 6, 2019
19.	VIMC Responses to Community Values and Concerns	Applicant	July, 2019
20.	Summary Application Changes	Applicant	No Date
21.	Summary of Economic Benefits	Applicant	No Date
22.	Summary of Support to Local Businesses and Organizations	Applicant	No Date



This information has been provided subject to the federal Copyright Act and in accordance with the provincial Freedom of Information and Protection of Privacy Act.

DRAWING LIST	
NO.	DESCRIPTION
01	LARGE SCALE SITE PLAN
02	CIRCUIT DRAINAGE SITE PLAN
03	SITE CLEARING PLAN
04	RE-VEGETATION PLAN
05	SOUTH MENZIES CREEK CROSSING - PLAN AND SECTIONS
06	SOUTH MENZIES CREEK CROSSING - CULVERT PROFILE AND CALCULATIONS
07	NORTH MENZIES CREEK CROSSING - PLAN AND SECTIONS
08	NORTH MENZIES CREEK CROSSING - CULVERT PROFILE AND CALCULATIONS
09	CAR STORAGE AREA SERVING PLAN
10	OFF-ROAD TRAIL SERVING PLAN

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Attachment 4 - Phase 2 Development Plan - ZB000064

LEGAL DESCRIPTION								LEGEND				DRAWN	DATE	PROJECT	1909988 ONTARIO LTD.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																											
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JEA J.E. ANDERSON & ASSOCIATES
SURVEYORS -- ENGINEERS
1A - 3411 SHENTON ROAD, NANAIMO, B.C. V9T 2H1
TEL: 250 - 758 - 4631 FAX: 250 - 758 - 4660
E-MAIL: nanaimo@jeanderson.com



/ ADDRESS

4063 Cowichan Valley Hwy
Cowichan, BC V9L 6K4, Canada

/ TELEPHONE

tf: +1844.856.0122

/ ONLINE

islandmotorsportcircuit.com
info@islandmotorsportcircuit.com

August 6, 2019

Municipality of North Cowichan
7030 Trans-Canada Highway
Duncan, BC, V9L 6A1

Attention: Mr. Rob Conway, MCIP, RPP
Director of Planning

**Re: Comprehensive Development Rezoning Application –
Vancouver Island Motorsport Circuit**

Please accept this letter as evidence of our commitments in support of our application for a comprehensive development rezoning (the "Comprehensive Development Application") as follows:

1. We commit to comply with the following requirements in relation to the operation of the motorsport and the off-road circuit, as presently constructed or as expanded from time to time (including the expansion contemplated under the Comprehensive Development Application):
 - (a) To restrict their hours of operation on days other than statutory holidays to 9:00 a.m. to 5:00 p.m. on Mondays to Saturdays and to 11:00 a.m. to 5:00 p.m. on Sundays;
 - (b) To not operate them on statutory holidays;
 - (c) To not operate them in a manner that exceeds 59 dB LA_{20,15min} when received at sound monitors of a type acceptable to North Cowichan and us, acting reasonably, located off the subject lands at four sites (the "Offsite Sound Monitors"), with one site being at or near 6278 Mina Drive, North Cowichan,



/ ADDRESS

4063 Cowichan Valley Hwy
Cowichan, BC V9L 6K4, Canada

/ TELEPHONE

tf: +1.844.856.0122

/ ONLINE

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info@islandmotorsportcircuit.com

British Columbia and the other three sites being at locations acceptable to North Cowichan and us, acting reasonably;

- (d) In conjunction with North Cowichan, to install and maintain in good and accurate operating condition, including through replacement whenever necessary, the Offsite Sound Monitors;
- (e) To install and maintain in good and accurate operating condition, including through replacement whenever necessary, sound monitors of a type acceptable to North Cowichan and us, acting reasonably, located on the subject lands (the "Onsite Sound Monitors") 15 m from the shoulder of the driving surface of the Circuit in 2 locations acceptable to North Cowichan and us, acting reasonably;
- (f) To maintain the Offsite Sound Monitors and the Onsite Sound Monitors as time synced; and,
- (g) To provide to North Cowichan, in real time, all noise measurements from the Offsite Sound Monitors and the Onsite Sound Monitors in a format that is readily capable of review for compliance with item (c) above.

As a condition of the approval of the Comprehensive Development Application, we agree to register against title to the subject lands a covenant under section 219 of the *Land Title Act* securing its commitments as set out above. We also agree that the covenant shall include a provision that imposes on it the obligation to make a monetary payment to North Cowichan in the amount of \$5,000.00 in the event of a breach by us of the requirement set out in



/ ADDRESS

4063 Cowichan Valley Hwy
Cowichan, BC V9L 6K4, Canada

/ TELEPHONE

tel: +1.844.856.0122

/ ONLINE

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info@islandmotorsportcircuit.com

item 1(c) above. In support of this provision, we will deliver to North Cowichan an irrevocable standby letter of credit in a form satisfactory to North Cowichan in the amount of \$25,000.00 to be drawn down by North Cowichan to satisfy any amount payable under the covenant.

We also agree that the covenant shall include provisions in relation to the requirements of item 1(c) above that require us to advise all operators of vehicles on the motorsport or off-road circuit of the sound limit under that item, to immediately warn the operator of any vehicle on the motorsport or off-road circuit that is involved in an exceedance of the sound limit under that item, to immediately remove from the motorsport or off-road circuit any vehicle that is involved in a second exceedance of the sound limit under that item on the same day, to immediately remove from the motorsport or off-road circuit the operator of any vehicle who is involved in a third exceedance of the sound limit under that item on the same day, and to consider, acting reasonably, refusing access to the motorsport or off-road circuit to any vehicle or operator involved in 5 or more exceedances of the sound limit under that item in a one year period.

Item 1(c) above will not apply to:

- (a) The A4/I2 Lands, the Lease Lands, and/or the Bings Creek Lands;
- (b) Any Vancouver Island Karting Association event under Item 2(c) below; and
- (c) Up to six days per calendar year for special events, subject to us giving North Cowichan a minimum of two months written notice of the dates and times of a proposed event and us using our best efforts to



/ ADDRESS

4063 Cowichan Valley Hwy
Cowichan, BC V9L 6K4, Canada

/ TELEPHONE

tel: +1.844.856.0122

/ ONLINE

islandmotorsportcircuit.com
info@islandmotorsportcircuit.com

not operate on those days in a manner that exceeds 59 dB LA_{20, 15min} when received at the Offsite Sound Monitors.

For the purposes of the special event days, up to three of those days, when used for special events for vehicle manufacturers, will also be exempt from Items 1(a) and (b) above, except that the hours of operation on those days shall be limited to 9:00 a.m. to 5:00 p.m., and we shall use its best efforts to not hold such events on Sundays (except between 11:00 a.m. and 5:00 p.m.) and statutory holidays.

2. In further support of the Comprehensive Development Application, we commit to provide to North Cowichan the following amenities:
 - (a) To transfer to North Cowichan a portion of our lands that are currently zoned A4 and I2, as set out in the plan attached as Schedule "A" to this letter (the "A4/I2 Lands") for use as a site for a water storage reservoir of up to 500,000 gallon capacity, and all ancillary and related controls, piping, and appurtenances (the "Water Reservoir"), including use for access to the Water Reservoir, and for use as park, subject to a covenant under section 219 of the Land Title Act agreeable to North Cowichan and us, acting reasonably, recognizing the impact of the use of the subject lands for the motorsport or off-road circuit in accordance with all applicable requirements;
 - (b) To offer, for nominal consideration on reasonable commercial terms, to North Cowichan or the Cowichan Trail Stewardship Society a lease of the



/ ADDRESS

4063 Cowichan Valley Hwy
Cowichan, BC V9L 6K4, Canada

/ TELEPHONE

tel: +1844.856.0122

/ ONLINE

islandmotorsportcircuit.com
info@islandmotorsportcircuit.com

remainder of our lands zoned A4 (the "Lease Lands");

- (c) To make the motorsport circuit available to the Vancouver Island Karting Association for its use for a minimum of 6 events a year, on commercially reasonable terms to be negotiated between us and the Vancouver Island Karting Association (including the requirement that the Vancouver Island Karting Association make best efforts to ensure that its events comply with item 1(c) above), subject to us giving North Cowichan a minimum of two months written notice of a proposed event, and subject to North Cowichan giving written approval for the event;
- (d) To transfer to North Cowichan a corridor of our land along Bings Creek, including its tributaries, acceptable to North Cowichan, which corridors shall at least consist of the riparian zone for Bings Creek and its tributaries, as determined by a Qualified Environmental Professional, which corridor shall be generally as set out in the plan attached as Schedule "A" to this letter (the "Bings Creek Lands");
- (e) To make a cash contribution to North Cowichan of \$600,000.00 for:
 - (i) Environmental and habitat enhancement projects for streams and other waterbodies (e.g., the construction of a water storage facility to provide summer flows for Bings Creek); and,
 - (ii) The construction of a trail up Mount Prevost.



/ ADDRESS

4063 Cowichan Valley Hwy
Cowichan, BC V9L 6K4, Canada

/ TELEPHONE

tel: +1844.856.0122

/ ONLINE

islandmotorsportcircuit.com
info@islandmotorsportcircuit.com

As a condition of the approval of the Comprehensive Development Application, we agree to register against title to the subject lands a covenant under section 219 of the *Land Title Act* securing its commitments as set out above.

3. In further support of the Comprehensive Development Application, we commit to the following in relation to the provision of services:

- (a) To construct, to the satisfaction of North Cowichan, the Water Reservoir; and,
- (b) To construct, to the satisfaction of North Cowichan, Drinkwater Road from Highway 18 to its end bordering on the Development Lands to North Cowichan's Industrial Road Standard (R6), including all required culverting and drainage works.

As a condition of the approval of the Comprehensive Development Application, we agree to enter into a binding agreement with North Cowichan securing our commitments as set out above, subject to us being entitled to consideration of a development cost charge frontender agreement or development cost charge credits, if either is applicable, or alternatively being entitled to a latecomer agreement pursuant to sections 507 and 508 of the *Local Government Act* under which agreement we would be reimbursed for all or part of the costs of the excess or extended services provided by us, which reimbursement would be from properties benefitting from the services when those properties connect to or commence using the services.

4. Lastly, in support of the Comprehensive Development Application, we commit to provide to North Cowichan, as soon as practicable, the following:

6

ONCE SOMETHING IS A PASSION,
THE MOTIVATION IS THERE.



/ ADDRESS

4063 Cowichan Valley Hwy
Cowichan, BC V9L 6K4, Canada

/ TELEPHONE

tf: +1.844.856.0122

/ ONLINE

islandmotorsportcircuit.com
info@islandmotorsportcircuit.com

- (a) Written confirmation of all required approvals in principle of all creek crossings by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development and the Department of Fisheries and Oceans;
- (b) An acceptable wildfire hazard risk assessment for the Development Lands;
- (c) An acceptable geotechnical overview assessment for the Development Lands; and,
- (d) An acceptable visual impact/landscape assessment for the Development Lands.

We trust that our commitments set out above demonstrate our sincere intention and desire to be a valuable contributor to the success of North Cowichan and its community members.

On behalf of the landowner,

Yours truly,

A handwritten signature in black ink, appearing to read "Mark Holland", with a stylized, flowing script.

Mark Holland, RPP

Holland Planning Innovations Inc



/ ADDRESS

4063 Cowichan Valley Hwy
Cowichan, BC V9L 6K4, Canada

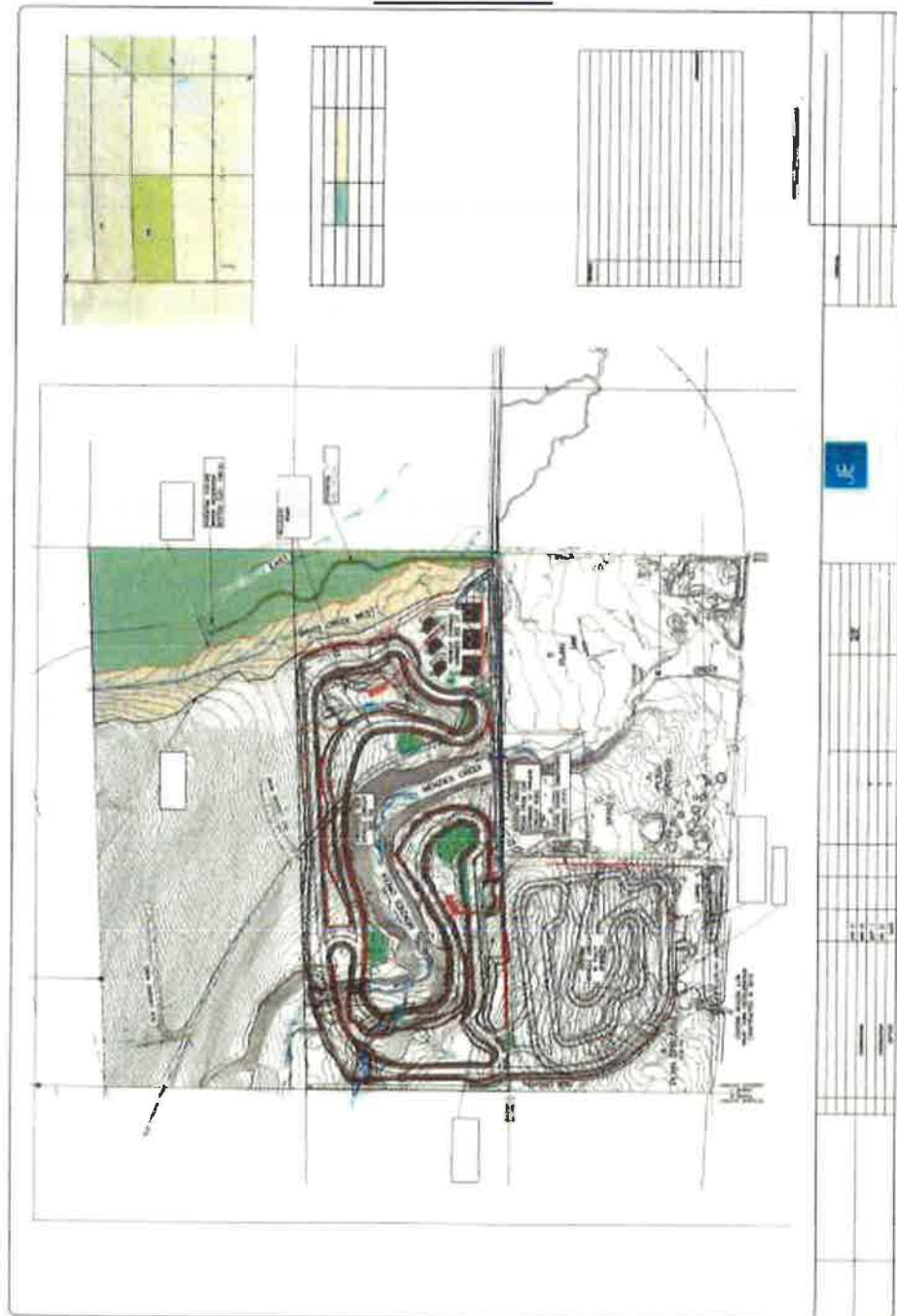
/ TELEPHONE

tf: +1.844.856.0122

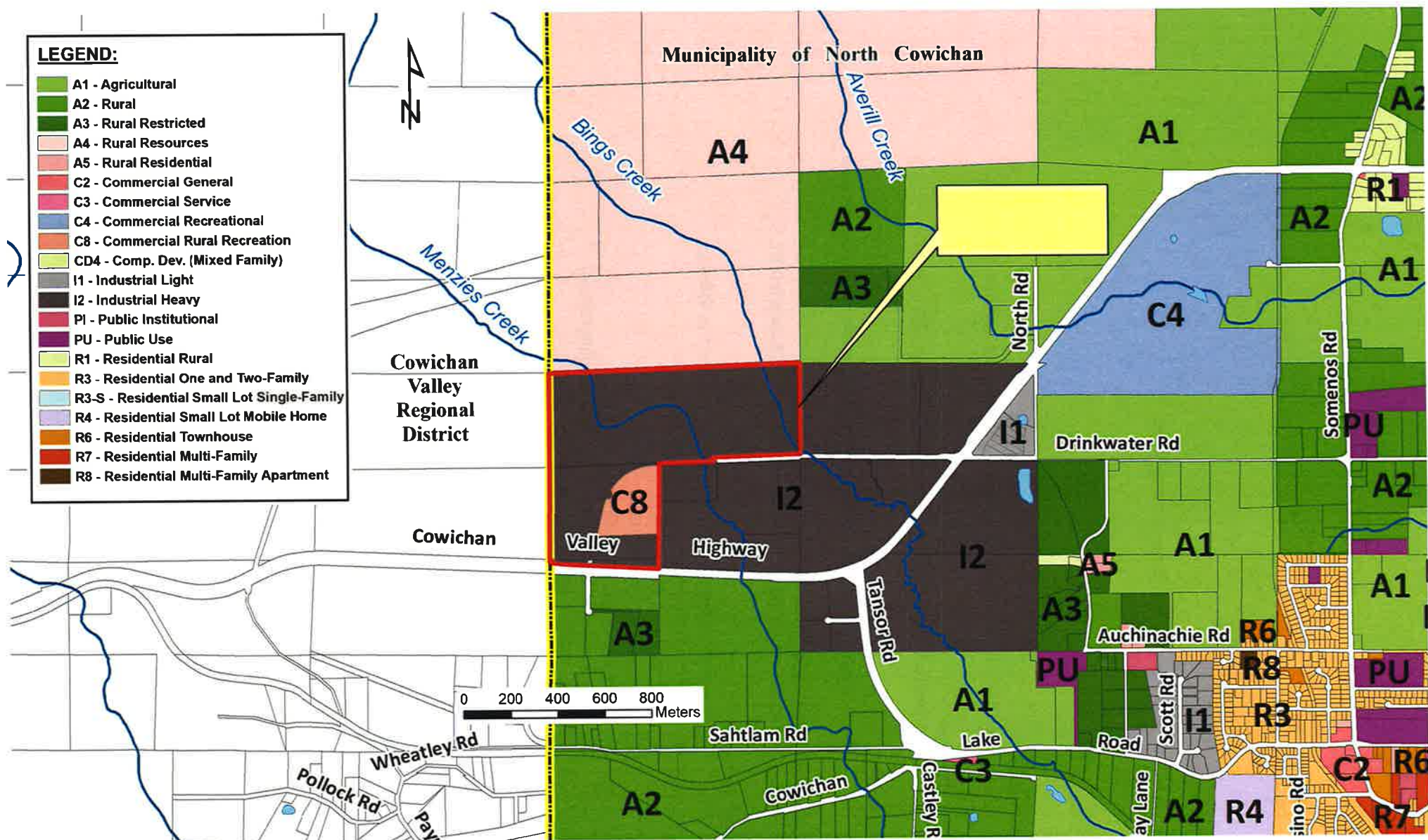
/ ONLINE

islandmotorsportcircuit.com
info@islandmotorsportcircuit.com

SCHEDULE "A"



ONCE SOMETHING IS A PASSION,
THE MOTIVATION IS THERE.



Page 1 of 2
Commercial Rural Recreation Zone (C8)

Permitted Uses

- 74** (1) The permitted uses for the C8 zone are as follows:
- Accessory Dwelling Unit
 - Amusement Park
 - Archery Range
 - Drive-in Theatre
 - Microlite Aircraft and Glider Landing Strips
 - Mobile Food Service
 - Racetrack
 - Recreational Facility
 - Shooting Range [BL3657]

Minimum Lot Size

- (2) The minimum permitted lot size for the C8 zone is 4 hectares (9.88 acres).

Minimum Frontage

- (3) The minimum permitted frontage for the C8 zone is 150 m (492.13').

Maximum Lot Coverage

- (4) The maximum permitted lot coverage for the C8 zone is 30% of the lot area.

Maximum Floor Space Ratio of All Buildings and Structures

- (5) The maximum permitted floor space ratio for the C8 zone is 0.5:1.

Minimum Setbacks

- (6) The minimum permitted setbacks for the C8 zone are as follows:
- (a) Principal Buildings
 - Yard, Front, 30 m (98.43')
 - Yard, Side, 30 m (98.43')
 - Yard, Rear, 30 m (98.43')
 - (b) Accessory Buildings and Structures (Excluding Fences)
 - Yard, Front, 8.0 m (26.25')
 - Yard, Side, 5.0 m (16.4')
 - Yard, Rear, 5.0 m (16.4')

Maximum Building Height

- (7) The maximum permitted building heights for the C8 zone are as follows:
- (a) Principal Building, 12.0 m (39.37')
 - (b) Accessory Building, 12.0 m (39.37')

Page 2 of 2
Industrial Heavy Zone (I2)

Permitted Uses

- 77** (1) The permitted uses for the I2 zone are as follows:
- All Industrial Light Zone (I1) Permitted Uses
 - Automobile Wrecking or Salvage Yard
 - Bulk Storage of Flammable and Combustible Liquids
 - Boat Terminals and Dock
 - Cannabis Production Facility
 - Helicopter Landing Pad
 - Mobile Food Service
 - Municipal/Regional Government Offices
 - Pier, Wharf, and Related Facility
 - Private Airplane Landing Strip
 - Railway Yard
 - Recycling Industrial Use
 - Sawmills, Pulpmills, and Planing Mills
 - Slaughterhouse
 - Temporary Mobile Home (subject to the Temporary Mobile Home Permit Bylaw)
 - Works Yard [BL2996, BL3000, BL3457, BL3467, BL3512, BL3657, BL3741, BL3754]

Minimum Lot Size

- (2) The minimum permitted lot size for the I2 zone is 16,000 m² (3.95 acres).

Minimum Frontage

- (3) The minimum permitted frontage for the I2 zone is 90 m (295.27').

Maximum Lot Coverage

- (4) The maximum permitted lot coverage for the I2 zone is 50% of the lot area.

Minimum Setbacks

- (5) The minimum permitted setbacks for the I2 zone are as follows:
- (a) Principal Buildings
 - Yard, Front, 8.0 m (26.25'); 46 m (150.91') when abutting any Other Zone
 - Yard, Side, 0 m; 46 m (150.91') when abutting any Other Zone
 - Yard, Rear, 0 m; 46 m (150.91') when abutting any Other Zone
 - (b) Accessory Buildings and Structures (Excluding Fences)
 - Yard, Front, 8.0 m (26.25'); 46 m (150.91') when abutting any Other Zone
 - Yard, Side, 0 m; 46 m (150.91') when abutting any Other Zone
 - Yard, Rear, 0 m; 46 m (150.91') when abutting any Other Zone
 - (c) Despite the foregoing, the minimum permitted setback for any Lot Line which abuts an Arterial Highway is 18 m (59.05').
 - (d) Slaughterhouses
 - Yard, Front, 92 m (301.84')
 - Yard, Side, 92 m (301.84')
 - Yard, Rear, 92 m (301.84')



The Corporation of the District of North Cowichan
Zoning Amendment Bylaw (Motorsport Circuit), 2019
Bylaw 3761

The Council of The Corporation of The District of North Cowichan enacts as follows:

1. ***This Bylaw may be cited as "Zoning Amendment Bylaw No. 3761, 2019".***
2. ***Section 12 of Zoning Bylaw 1997, No. 2950 is amended by adding the following definitions:***

"go-kart use" means the use of buildings, structures, or land for the maintenance, repair, operation and racing of go-karts.

"motor vehicle testing and driver training facility" means the use of land for a motorsport circuit and off-road circuit that hosts a variety of motor vehicle driving programs in different configurations with different groups, including but not limited to

- (a) motor vehicles driving the circuit to achieve and improve lap times;
- (b) motor vehicles practicing emergency braking, lane changes, cornering and other procedures including some at high speed;
- (c) multiple motor vehicles using the facility simultaneously including during club or manufacturer activities to achieve and improve their driving skills;
- (d) facilities and repair areas to change settings of motor vehicles, change tires, conduct minor maintenance and repairs, and set up motor vehicles;
- (e) club with restaurant, office, retail store, the sale of food and beverages, change rooms and ancillary amenities;
- (f) parking, off-street parking, covered parking, maintenance, warehouse and storage facilities.

"motor vehicle presentation centre" means the use of a building, structure or land for the display, storage and sales of motor vehicles, motor vehicle parts, accessories and merchandise, including ancillary offices and facilities.

"motion picture and television filming" means the filming and production of motion pictures or television shows or series.

3. ***Zoning Bylaw 1997, No 2950, is amended in section 43 [Zones] by adding "Motorsport Circuit Comprehensive Development Zone (CD21)".***
4. ***Zoning Bylaw 1997, No 2950, is amended by adding the following section after 80.20:***

Motorsport Circuit Comprehensive Development Zone (CD21)

Permitted Uses

- 80.21** (1) The permitted uses in the CD21 zone are as follows:

- Accessory Building
- Accessory Fueling Installation
- Accessory Restaurant
- Accessory Use
- Assembly Hall
- Fitness Centre/Gymnasium
- Go-kart Use
- Motion Picture and Television Filming
- Motor Vehicle Autobody Repair
- Motor Vehicle Parts and Accessories Sales
- Motor Vehicle Presentation Centre
- Motor Vehicle Repairs
- Motor Vehicle Sales
- Motor Vehicle Storage Yard
- Motor Vehicle Testing and Driver Training Facility
- Recreation Area
- Warehouse

Minimum Lot Size

- (2) The minimum lot size for the CD21 zone is 2.5 ha.

Minimum Frontage

- (3) The minimum permitted frontage for the CD21 zone is 30 m (98.43').

Maximum Lot Coverage

- (4) The maximum permitted lot coverage for the CD21 zone is 50% of the lot area.

Maximum Floor Space Ratio of All Buildings and Structures

- (5) The maximum permitted floor space ratio for the CD21 zone is 0.5:1.

Minimum Setbacks

- (6) The minimum setbacks for all buildings are as follows:

Front yard - 6 m (19.7'); 18 m (59') from an arterial highway

Side yard - 3m (9.8')

Rear yard - 6m (19.7')

Maximum Building Height

- (7) The maximum building height for the CD21 zone is 15 m (49.2').

5. ***Schedule "C" of Zoning Bylaw 1997, No 2950 is amended by reclassifying, to Motorsport Circuit Comprehensive Development Zone (CD21), the lands shown as the "Subject Properties" (PIDs: 009-751-297; 029-201-675; 014-104-067), and outlined in bold on the Schedule attached to and forming part of this bylaw.***
-

READ a first time on

READ a second time on

CONSIDERED at a Public Hearing on

READ a third time on

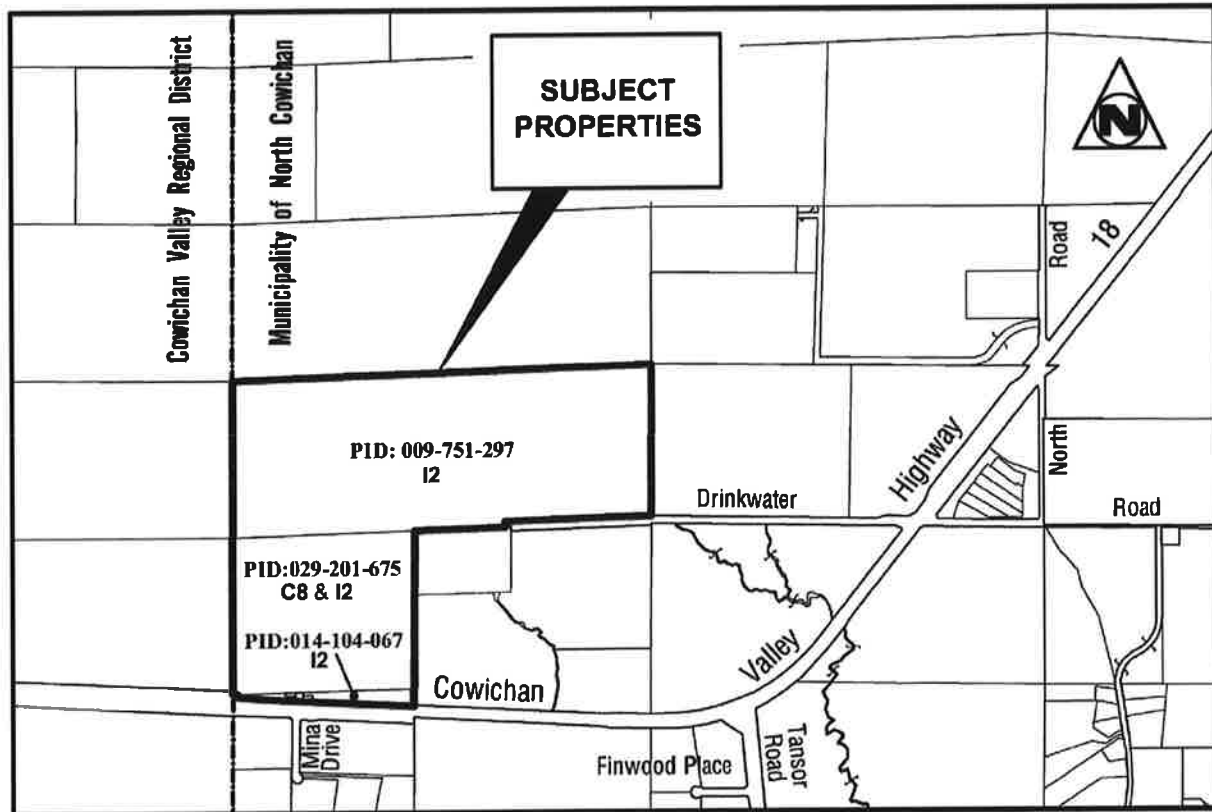
APPROVED by Ministry of Transportation and Infrastructure on

ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Schedule



September 25th, 2019

Municipality of North Cowichan
7030 Trans-Canada Highway
Duncan, BC V9L 6A1

Attention: Mr. Rob Conway, MCIP, RPP
Director of Planning

Re: Comprehensive Development Rezoning Application –
Vancouver Island Motorsport Circuit

Please accept this letter as evidence of our commitments in support of our application for a comprehensive development rezoning (the "Comprehensive Development Application"). Please note that we have updated our commitments to address concerns raised with respect to the Comprehensive Development Application during Council's consideration of 1st and 2nd reading of the proposed bylaw. Our revised commitments are as follows:

1. We commit to comply with the following requirements in relation to the operation of the motorsport and the off-road circuit, as presently constructed or as expanded from time to time (including the expansion contemplated under the Comprehensive Development Application):

- (a) To restrict their hours of operation to 9:00 a.m. to 5:00 p.m. on Mondays to Saturdays and to 11:00 a.m. to 5:00 p.m. on Sundays;
- (b) To not operate them on statutory holidays, other than where the operation is solely for a special international event for vehicle manufacturers, and where we have given written notice to North Cowichan of such operation at least a month in advance, and in no event to operate them on Christmas Day or Boxing Day or for more than two statutory holidays in a calendar year;
- (c) To not operate them in a manner that exceeds 59 dB LA_{20, 15min}, 59 dB LA_{Eq, 15min}, or 79 dB LA_{Max}, when received at any location within North Cowichan, other than the A4/I2 Lands, the Lease Lands, the Bings Creek Lands, (all as defined below), and/or any lands zoned Heavy Industry (I2) Zone under North Cowichan's zoning bylaw;
- (d) In conjunction with North Cowichan;
 - (i) to install sound monitors of a type acceptable to North Cowichan and us, acting reasonably, (the "Offsite Sound Monitors"), at three sites located off the subject lands, with one site being near 6278 Mina Drive, North Cowichan, British Columbia and the other three sites being at locations acceptable to North Cowichan and us, acting reasonably;
 - (ii) to engage a third party sound monitoring consultant, the cost of which is to be shared by North Cowichan and us, to monitor, maintain in good and accurate working condition, and replace the Offsite Sound Monitors whenever necessary;
- (e) To maintain the Offsite Sound Monitors as time synced; and,
- (f) To provide to North Cowichan, in real time, all noise measurements from the Offsite Sound Monitors in a format that is readily capable of review for compliance with item (c) above.

As a condition of the approval of the Comprehensive Development Application, we agree to register against title to the subject lands a covenant under section 219 of the *Land Title Act* securing our commitments as set out above. We also agree that the covenant shall include a provision that imposes on us the obligation to make a monetary payment to North Cowichan in the amount of \$5,000.00 in the event of a breach by us of the requirement set out in item 1(c) above. In support of this provision, we will deliver to North Cowichan an irrevocable standby letter of credit in a form satisfactory to North Cowichan in the amount of \$25,000.00 to be drawn down by North Cowichan to satisfy any amount payable under the covenant, and will deliver to North Cowichan further letters of credit upon the depletion of any previously provided letter of credit. We also agree that the covenant shall include provisions in relation to the requirements of item 1(c) above that require us to advise all operators of vehicles on the motorsport or off-road circuit of the sound limit under that item, to immediately warn the operator of any vehicle on the motorsport or off-road circuit that is involved in an exceedance of the sound limit under that item, to immediately remove from the motorsport or off-road circuit any vehicle that is involved in a second exceedance of the sound limit under that item on the same day, to immediately remove from the motorsport or off-road circuit the operator of any vehicle who is involved in a third exceedance of the sound limit under that item on the same day, and to consider, acting reasonably, refusing access to the motorsport or off-road circuit to any vehicle or operator involved in 5 or more exceedances of the sound limit under that item in a one year period.

2. In further support of the Comprehensive Development Application, we commit to provide to North Cowichan the following amenities:

(a) To transfer to North Cowichan a portion of our lands that are currently zoned A4 and I2, demarcated as "A" in the plan attached as Schedule "A" to this letter (the "A4/I2 Lands") for use as a site for a water storage reservoir of up to 500,000 gallon capacity, and all ancillary and related controls, piping, and appurtenances (the "Water Reservoir"), including use for access to the Water Reservoir, and for use as park, subject to a covenant under section 219 of the *Land Title Act* agreeable to North Cowichan and us, acting reasonably, recognizing the impact of the use of the subject lands for the motorsport or off-road circuit in accordance with all applicable requirements;

(b) To offer, for nominal consideration a licence, on reasonable terms, to North Cowichan or the Cowichan Trail Stewardship Society a portion of the lands demarcated as "B" in the plan attached as Schedule "A" to this letter (the "Lease Lands");

(c) To make the motorsport circuit available to the Vancouver Island Karting Association for its use for a minimum of 6 events a year, on commercially reasonable terms to be negotiated between us and the Vancouver Island Karting Association (including the requirement that the Vancouver Island Karting Association ensure that its events comply with item 1(c) above), subject to us giving North Cowichan reasonable notice of a proposed event, and subject to North Cowichan giving written approval for the event;

(d) To transfer to North Cowichan a corridor of our land along Bings Creek, including its tributaries, acceptable to North Cowichan, which corridors shall at least consist of the riparian zone for Bings Creek and its tributaries, as determined by a Qualified Environmental Professional, which corridor shall be generally as set out in the plan attached as Schedule "A" to this letter (the "Bings Creek Lands");

(e) To make a cash contribution to North Cowichan of \$600,000.00 for:

(i) Environmental and habitat enhancement projects for streams and other waterbodies (e.g., the construction of a water storage facility to provide summer flows for Bings Creek); and,

(ii) The construction of a trail up Mount Prevost.

As a condition of the approval of the Comprehensive Development Application, we agree to register against title to the subject lands a covenant under section 219 of the *Land Title Act* securing its commitments as set out above.

3. In further support of the Comprehensive Development Application, we commit to the following in relation to the provision of services:

- (a) To construct, to the satisfaction of North Cowichan, the Water Reservoir at a time that both we and North Cowichan deem it necessary; and,
- (b) To construct, to the satisfaction of North Cowichan, Drinkwater Road from Highway 18 to its end bordering on the Development Lands to North Cowichan's Industrial Road Standard (R6), including all required culverting and drainage works.

As a condition of the approval of the Comprehensive Development Application, we agree to enter into a binding agreement with North Cowichan securing our commitments as set out above, subject to us being entitled to consideration of a development cost charge frontender agreement or development cost charge credits, if either is applicable, or alternatively being entitled to a latecomer agreement pursuant to sections 507 and 508 of the *Local Government Act* under which agreement we would be reimbursed for all or part of the costs of the excess or extended services provided by us, which reimbursement would be from properties benefitting from the services when those properties connect to or commence using the services.

4. Lastly, in support of the Comprehensive Development Application, we commit to provide to North Cowichan, as soon as practicable, the following:

- (a) Written confirmation of all required approvals in principle of all creek crossings by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development and the Department of Fisheries and Oceans;
- (b) An acceptable wildfire hazard risk assessment for the Development Lands;
- (c) An acceptable geotechnical overview assessment for the Development Lands; and,
- (d) An acceptable visual impact/landscape assessment for the Development Lands.

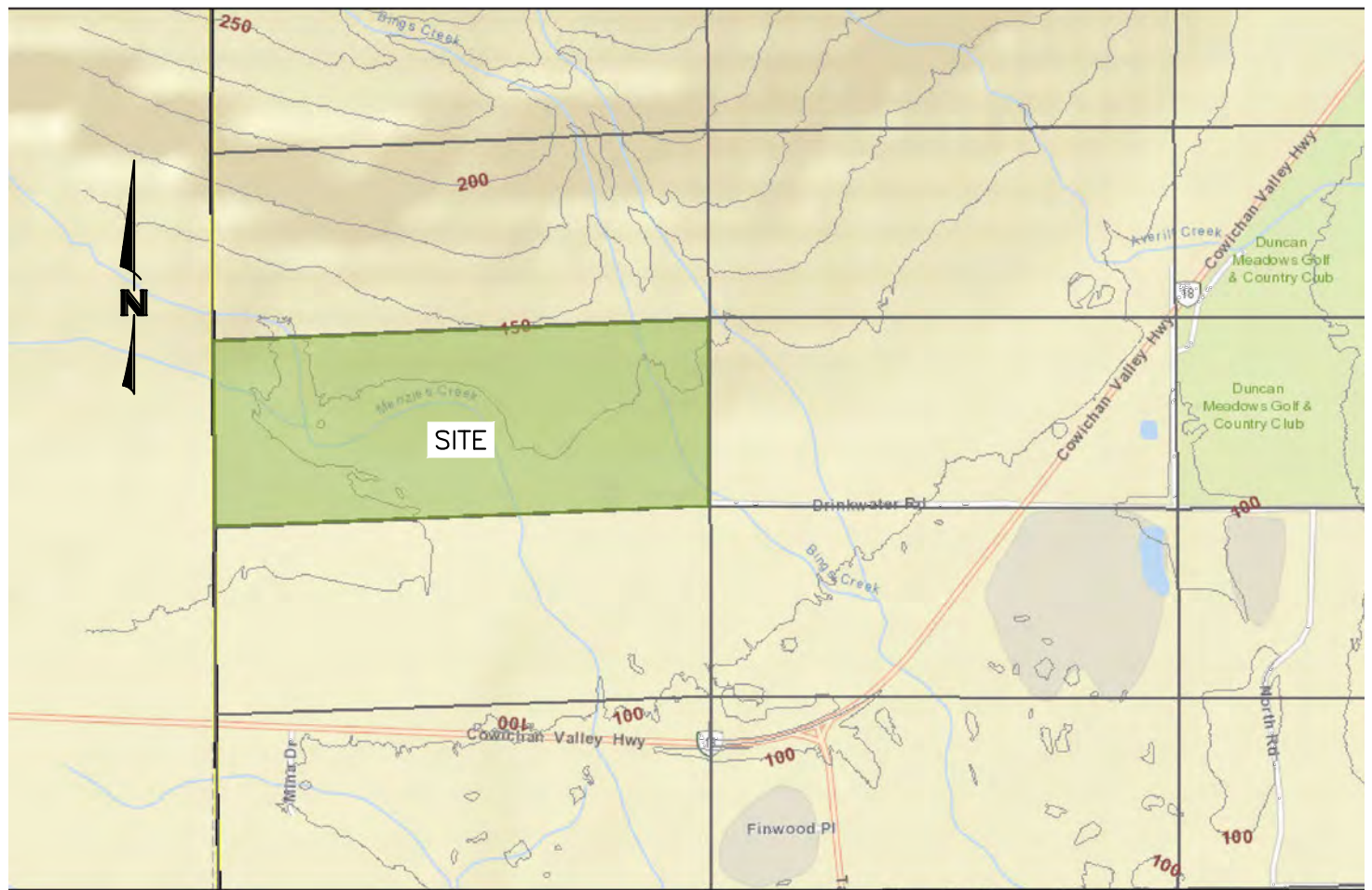
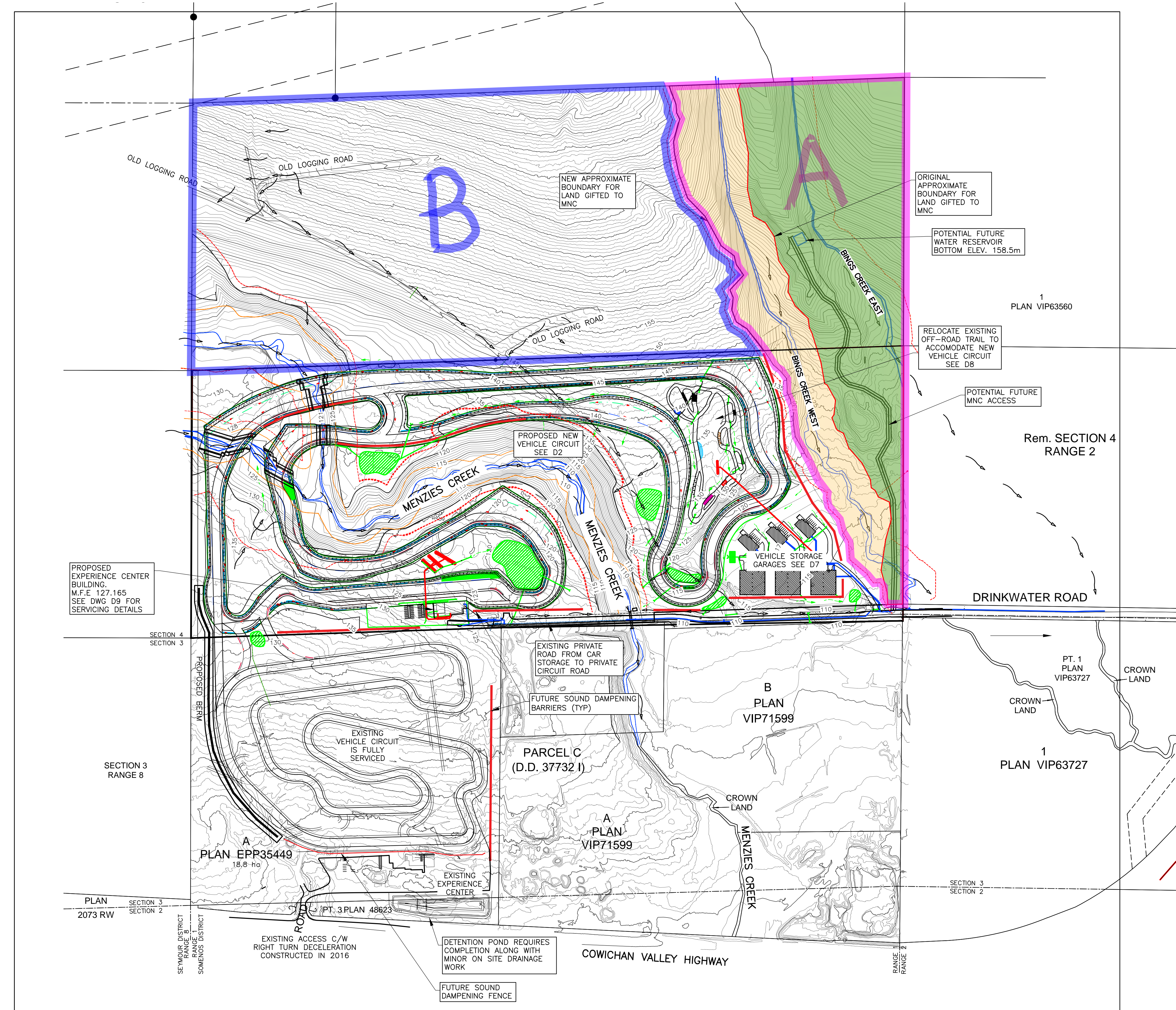
We trust that our commitments set out above demonstrate our sincere intention and desire to be a valuable contributor to the success of North Cowichan and its community members.

Yours truly,

Vancouver Island Motorsport Circuit

A handwritten signature in black ink, appearing to read "Sylvester Chuang", is written over the printed name.

Sylvester Chuang, per Vancouver Island Motorsport Circuit



LOCATION PLAN
NTS

AREA TO BE GIFTED TO MUNICIPALITY			
	OLD AREA	NEW AREA INCLUDING CREEK	PERCENTAGE INCREASE
SHADED AREA			
PHASE 2 SECTION	2.46 ha	4.81 ha	95%
NORTHERN SECTION	8.26 ha	11.92 ha	44%
TOTAL AREA	10.72 ha	16.73 ha	56%

DRAWING LIST	
DRAWING NUMBER	DRAWING NAME
D1	LARGE SCALE SITE PLAN
D2	CIRCUIT SITE PLAN
D3	SITE CLEARING PLAN
D4	RE-VEGETATION PLAN
D5	SOUTH MENZIES CREEK BRIDGE CROSSINGS - PLAN VIEW
D6	NORTH MENZIES CREEK BRIDGE CROSSINGS - PLAN VIEW
D7	CAR STORAGE AREA - SITE SERVICING PLAN
D8	OFF-ROAD TRAIL - SERVICING PLAN
D9	PROPOSED EXPERIENCE CENTER - SITE SERVICING PLAN
SK1	HEROLD ENGINEERING - GAIN PHASE 2 BRIDGES - PRELIMINARY GENERAL ARRANGMENT
SK2	HEROLD ENGINEERING - GAIN PHASE 2 BRIDGES - BRIDGE 1
SK3	HEROLD ENGINEERING - GAIN PHASE 2 BRIDGES - BRIDGE 2
SK4	HEROLD ENGINEERING - GAIN PHASE 2 BRIDGES - BRIDGE 3
SK5	HEROLD ENGINEERING - GAIN PHASE 2 BRIDGES - BRIDGE 4

LEGAL DESCRIPTION							LEGEND									
							LAMP STANDARD	◊ LS	◆ LS	CLEANOUT	◊	◊	DITCH	↗	↘	
								POLE(Hydro, Tel.)	◊ PP	◆ PP	CATCHBASIN	◻	◻	METER	⊙	⊙
								U/G WIRING	— UGH —		MANHOLE	○	●	FLUSH VALVE	○+C	●+C
PROJECT DATUM	ELEVATIONS ARE GEODETIC AND TO NAD83	4	ISSUED FOR REVIEW	JUN 13/19				GAS	— GAS —		SERVICE RISER	○	●	VALVE	ss	●+C
		3	ISSUED FOR COORDINATION	APR 23/19												
		2	ISSUED FOR DP	SEPT 21/18				WATER	— W —		MOUNTABLE CURB	—MC—		REDUCER	▷	▷
		1	ISSUED FOR COORDINATION	JUL 6/18				SEWER	— S —		NON-MOUNT. CURB	—NMC—		HYDRANT	△	△
		NO.	REVISION DESCRIPTION	DATE	CHECK	APPR.	DRAIN	— D —		EDGE ASPHALT	—A—		AIR VALVE	⊙	⊙	

JEA J.E. ANDERSON & ASSOCIATES
SURVEYORS -- ENGINEERS

1A - 3411 SHENTON ROAD, NANAIMO, B.C. V9T 2H1
TEL: 250 - 758 - 4631 FAX: 250 - 758 - 4660
E-MAIL : nanaimo@jeanderson.com

JURISDICTION	MUNICIPALITY OF NORTH COWICHAN
FULL SIZE	1:3000 HORZ.
SCALE	N/A VERT.
DESIGN	JB
DRAWN	KG

CLIENT	1909988 ONTARIO LTD.
PROJECT	VMC PHASE 2 DEVELOPMENT PLAN
LARGE SCALE SITE PLAN	
88804 DP D1	
MUN. FILE	SHEET 1 OF 14

Report

Date	October 1, 2019	File: ZB000064
To	Council	
From	Rob Conway, Director of Planning	Endorsed:
Subject	October 1 Public Hearing for Zoning Amendment Bylaw 3761 (Motorsport Circuit)	

Purpose

To provide additional information associated with Zoning Amendment Application ZB000064 prior to the public hearing for Bylaw 3761 on October 1, 2019.

Background

Council, at its regular meeting of August 21, 2019, considered Zoning Amendment Application ZB000064 and passed the following motions:

That Council approve first and second reading of Zoning Amendment Bylaw No. 3761 to rezone three properties at Cowichan Valley Highway and Drinkwater Road (PIDs 009-751-297, 029-201-675 & 014, 104-067) from I2 and C8 to a new CD21 zone.

That referrals be sent to the City of Duncan, the Cowichan Valley Regional District, Cowichan Tribes, the Sahtlam Neighbourhood Association, the Somenos Marsh Society, and the Cowichan Watershed Board; And That those referral agencies be given a minimum of 30 calendar days to provide a response before a public hearing is held.

That a Public Hearing be scheduled for Zoning Amendment Bylaw No. 3761 and that notification be issued in accordance with the requirements of the *Local Government Act*.

The application referrals have been distributed, the public hearing scheduled, and the hearing notifications sent.

This report is intended to update Council with respect to additional information received regarding the zoning amendment application since the August 21, 2019 Council meeting.

Discussion

Amendments to Applicant's Commitments:

The August 21 staff report included a letter from the applicant dated August 6, 2019 that listed a number of commitments made by the applicant in association with the rezoning application. In response to concerns about the initial commitments for restricting sound associated with the existing motorsport facility and proposed expansion the applicant has submitted a new commitment letter dated September 25, 2019 that amends the commitments previously. The current commitments are described in detail in the amended commitment letter (**Attachment B**). Should Council decide to

grant third reading to Bylaw 3761, a covenant would be registered against the subject lands to secure the commitments.

Note: The August 21, 2019 staff report incorrectly identified one of the applicant's commitments as allowing the motor vehicle and driver training facility to be used by the Vancouver Island Karting Association for up to 6 days per year. The actual commitment was and remains to allow the Karting Association to use the facility for a minimum of 6 days in year. It should also be noted that the applicant's commitments with respect to restricting sound levels now also apply to the go-kart use.

Application Referral Responses:

Following Council direction, Zoning Amendment Application ZB000064 and Zoning Amendment Bylaw 3761 were referred to the City of Duncan, the Cowichan Valley Regional District, Cowichan Tribes, the Sahtlam Neighbourhood Association, the Somenos Marsh Wildlife Society and the Cowichan Watershed Board. To date responses have been received from the Sahtlam Neighbourhood Association (**Attachment C**), the City of Duncan (**Attachment D**), Cowichan Tribes (**Attachment E**) and the Cowichan Valley Regional District (**Attachment F**).

The remaining referral agencies have been advised that responses must be submitted before the close of the public hearing in order for them to be considered by Council. Any referral responses received prior to the close of the public hearing will be provided to Council and included in the public hearing binder.

Acoustic Studies:

Much of the public discussion about the subject rezoning application has been about sound associated with the existing facility and proposed expansion and the impact of sound on the surrounding community. A number of acoustical impact assessments have been undertaken, as well as third party reviews of those assessment. In addition to the reports referenced in the August 21, 2019 staff report, the following information also now available on the Municipality's website at:

(<https://www.northcowichan.ca/EN/main/community/current-topics/vancouver-island-motorsport-circuit/vimc-related-records.html>) :

- Navcon Peer Review Report – Phase 1
- Navcon Peer Review Report – Phase 2
- SNA Ambient Noise Report
- Response to Navcon Peer Review
- Review of SNA Noise Impact Report

Options

Following the close of the public hearing, Council can consider third reading of Zoning Amendment Bylaw No. 3761. Options available include:

1. That "Zoning Amendment Bylaw No. 3761 (Motorsport Circuit), 2019" be given third reading.
2. That "Zoning Amendment Bylaw No. 3761 (Motorsport Circuit), 2019" be denied.

Registration of the restrictive covenant at the Land Titles Office and approval from the Ministry of Transportation and Infrastructure is required before adoption of the bylaw can be considered.

Recommendation

For information purposes (no recommendation).

Attachments:

Attachment A – August 21, 2019 Staff Report
Attachment B – September 25, 2019 Amended Commitment Letter
Attachment C – Sahtlam Neighbourhood Association Referral Response
Attachment D – City of Duncan Referral Response
Attachment E – Cowichan Tribes Referral Response
Attachment F – Cowichan Valley Regional District Referral Response.

James S. Hutchison†
Lorenzo G. Oss-Cech†
Barri A. Marlatt†
Dana G. Quantz
Andrew W. Tomilson
Esteban T. Kähns



Telephone: (250) 360-2500
Facsimile: (250) 360-0208
1 – 505 Fisgard Street
Victoria, British Columbia
Canada V8W 1R3

Our File: 5469001

Reply To: Lorenzo G. Oss-Cech
E-mail address: lgo@hom-law.com

Tuesday, October 15, 2019

Young Anderson
Barristers and Solicitors
1616-808 Nelson Street
Box 12147 – Nelson Square
Vancouver, BC V6Z 2H2

Via Email & Hand Delivered

Attention: Suhkbir Manhas

Re: Development Permit Application – Phase Two

I write further to the public meetings of October 1st and 3rd 2019.

It would be an understatement to say that my client is frustrated and disappointed with the outcome, which we believe to be misguided in view of the project's history.

In 2016, with the consent and knowledge of the then North Cowichan Council, the North Cowichan Municipality ("NCM") sold a large part of the subject lands to my client and provided written assurances (**without any disclaimers**) that the zoning for my client's intended use was appropriate.

My client relied on those assurances in purchasing the properties.

Furthermore, based on those assurances, my client applied for and received a development permit and building permits. It then invested over \$37 million to construct Phase One of the facility. It did so, fully intending and expecting to build Phase Two on the adjacent lands.

In addition, my client paid \$266,500.00 to build a new water line off Drinkwater Road as part of the development agreement for Phase One.

At the well-publicized opening of Phase One in June 2016, the then Mayor and several councilors attended. Phase One has been operating ever since and is a highly successful enterprise, both in isolation and as an integral component of GAIN's interrelated businesses on Vancouver Island.

Shortly after the opening, three resident households (**two from outside NCM**), mounted a campaign against the facility, claiming that it was too noisy and it did not have the proper zoning.

My client made countless attempts to address the noise concerns, by: conducting extensive testing with the top sound experts; voluntarily restricting operating hours; and removing certain types of vehicles from the circuit.

Other than the controls and restrictions imposed by my client, the operation and business has not changed from the beginning.

My client has operated within the bounds of their legal rights at all times. It has had a good relationship with NCM and has never received any violation, charge or warning from NCM's staff.

In 2017 NCM asked my client to apply to rezone the properties under one comprehensive by-law. NCM's staff believed that the rezoning would provide greater clarity and establish operating rules for the circuit to provide NCM and the public certainty in that regard. Given its good relationship with NCM and most of the community, my client, in good faith, agreed. A rezoning application was submitted for Phase One and a Phase Two configuration that extended the circuit into both the I2 and A4 lands owned by my client.

On June 5, 2017, as the rezoning application was being prepared, the same above mentioned households, opposed to the circuit, filed a lawsuit against my client and NCM seeking to close Phase One by challenging the zoning for the facility and alleging that the noise from the circuit constituted a nuisance at law.

My client nevertheless carried on with the rezoning efforts in good faith, meeting with stakeholders and interested parties, and holding an open house in April 2018, which was attended by approximately 500 people. My client listened to concerns that were expressed and revised the rezoning application to address those concerns.

In September 2018, my client filed a revised rezoning application responding to the public's comments and concerns, moving all of Phase Two into the lands already zoned I2 and proposing extensive environmental and sound mitigation measures, and offering substantial community amenities.

My client also filed a development permit application at the same time, which is permitted by the existing I2 zoning and also consistent with the rezoning, if approved. At the request of NCM my client agreed, again as a matter of good faith, that NCM could wait to issue the development permit until after the rezoning application was addressed.

Meanwhile, in September 2018, my client, and subsequently NCM, applied to dismiss the lawsuit regarding the zoning and to remove NCM as a Defendant. During that application, NCM informed the Supreme Court of British Columbia that my client was operating lawfully and that both the I2 and C8 zoning were appropriate for the operation of the circuit. On October 11 2018, that application succeeded. The zoning claims were dismissed and NCM was removed as a Defendant.

The nuisance part of the lawsuit persisted until only shortly after examinations for discovery of the plaintiffs were held in early 2019, after which the plaintiffs agreed to the dismissal of the rest of the lawsuit.

After that, they focused their attention of a new series of complaints and opposing the rezoning application. Furthermore, after the dismissal of the lawsuit, my client became aware of the involvement of two of those same plaintiffs in NCM's elections, even though they were not residents of NCM.

As part of the rezoning application, my client was asked by NCM's staff to provide a variety of concessions. Those included:

1. A limit on sound;
2. Offsite monitors to gauge the sound within the community;
3. Real time readings for the sound;
4. A \$5,000.00 penalty for each breach of the sound limits;
5. A limit on hours of operation;
6. A limit on days of operation (statutory holidays); and
7. A limit on the type of cars allowed on the track (street legal).
(the "Concessions")

In addition to the Concessions, my client was also asked:

1. To transfer to NCM a portion of the lands for use as a site for a water storage reservoir;
2. To license to NCM or the Cowichan Trail Stewardship Society a significant portion of the lands (approximately 100 acres);
3. To make the circuit available to the Vancouver Island Karting Association for its use for a minimum of 6 events a year;
4. To transfer to NCM a corridor of the land along Bings Creek (approximately 40 acres);

5. To make a further financial contribution to NCM of \$600,000.00 for environmental and habitat enhancement projects for streams and other waterbodies and/or the construction of a trail up Mount Prevost;
6. To construct, to the satisfaction of NCM a Water Reservoir at a cost of approximately \$2.5 million;
7. To construct, to NCM's satisfaction, Drinkwater Road from Highway 18; and
8. To register all of the above in a covenant.
(the "Amenities").

Despite all of the above NCM council voted (5-2) against the rezoning, evidently on the basis of late submissions from the Cowichan Tribes (who had earlier indicated support, was otherwise disinterested and refused to meet with my client).

The rejection of the rezoning was surprising to my client as it is otherwise entitled to a development permit, and the Concessions and Amenities are only available by way of rezoning.

My client is, of course, content to save the millions of dollars that the Amenities would cost and to not have any Concessions apply, but is extremely disappointed that so much time has been wasted on a fruitless rezoning process.

In particular because the public discussion of the rezoning process was used by a small group of residents as a platform to spread numerous lies about the facility and to circulate personal and racist attacks against my client's owners and staff.

My client has followed the law slavishly. It went above and beyond what is required to be a good neighbor and citizen by committing to the Concessions and agreeing to provide the Amenities.

My client has issued contracts, booked clients and has mobilized equipment to the site to commence construction of Phase Two, based on the issuance of the development permit.

By copy of this letter to NCM my client requests that NCM now move forward and issue the development permit for Phase Two.

Be advised that should the development permit be refused or some other action be taken to interfere with my client's lawful rights to establish and operate its business, my client will pursue all legal remedies available.

In the circumstances, having invested so much time and money in reliance on NCM's assurances and conduct to date, it will be left with no other choice.

I remain

Yours truly,

HUTCHISON OSS-CECH MARLATT

Per:

A handwritten signature in black ink, appearing to be 'L. Oss-Cech', written over a horizontal line.

Lorenzo G. Oss-Cech

lgo/ed

cc. North Cowichan Building Department – by hand
Clients.
Sean Hern



October 25, 2019

Prospero No: DP000155

Folio No: 29019-030

File No: 3060-20 17.24

Mark Holland
Holland Planning Innovations Inc.
mark@hollandplan.com

Dear Mr. Holland

RE: Development Permit for Vancouver Island Motor Circuit - Lot A, Drinkwater Road¹

I am writing to advise that I am obliged to deny development permit application DP0000155 on the basis that the proposed land use does not comply with Zoning Bylaw 2950.

I have not come to this conclusion lightly. I appreciate that it is your client's position that the development proposed in the application is for the same land use as under the development permit issued by North Cowichan for Phase 1 of the Vancouver Island Motor Circuit and, as such, there has been a past determination that the land use is in compliance with Zoning Bylaw 2950. However, upon careful review, I have concluded that the proposed land use is not permitted under Zoning Bylaw No. 2950. "Motor vehicle testing and driver training facility" is not listed as a permitted use in the Industrial Heavy (I-2 zone), and I have found no permitted use within the I2 zone that includes that use.

Please be advised that Section 23 of Delegation of Authority Bylaw No. 3734 allows you to have my decision to deny the development permit application reconsidered by Council. Section 23 provides as follows:

"Land use approvals – reconsideration

23 (1) The owner of land who is subject to a decision made under the delegated authority under section 22 of this bylaw is entitled to have the decision reconsidered by Council in accordance with this section.

¹ SECTION 4 RANGE 1 SOMENOS EXCEPT PLAN EPP60766. - PID: 009-751-297

(2) Where the owner wishes to have Council reconsider a decision made under the delegated authority under section 22 of this bylaw:

(a) The owner must, within 30 days of the decision having been communicated to the owner, make an application in writing to the Corporate Officer, which application must include the following:

- (i) A description of the decision sought to be reconsidered by Council;
- (ii) The date of the decision;
- (iii) The name of the delegate who made the decision;
- (iv) The grounds on which reconsideration is being requested; and,
- (v) A copy of any materials that the owner wishes Council to take into account when reconsidering the decision.

(b) Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the application for reconsideration was delivered to the Corporate Officer.

(c) The Corporate Officer must:

- (i) Place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with paragraph (b) above;
- (ii) Give notice of reconsideration of the decision in accordance with any notice requirements applicable to the original decision; and,
- (iii) Before the reconsideration of the decision by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered, and a copy of all materials submitted by the business license applicant or holder to the Corporate Officer as part of the application for reconsideration.

(d) In reconsidering the decision, the Council must consider all the material before it.

(e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the owner. Council may then hear from staff in relation to any new information raised by the owner in its submissions to Council.

(f) Council is entitled to adjourn the reconsideration of the decision; and,

(g) After hearing from staff and the owner, Council will reconsider the decision and may either confirm the decision, amend the decision, or set aside the decision and substitute the decision of Council."

A copy of Bylaw No. 3734 is enclosed for your reference.

Sincerely

A handwritten signature in blue ink, appearing to be 'Rob Conway', with a long horizontal flourish extending to the right.

Rob Conway, MCIP, RPP
Director
PLANNING AND BUILDING DEPARTMENT

James S. Hutchison†
Lorenzo G. Oss-Cech†
Barri A. Marlatt†
Dana G. Quantz
Andrew W. Tomilson
Esteban T. Kähs



Telephone: (250) 360-2500
Facsimile: (250) 360-0208
1 – 505 Fisgard Street
Victoria, British Columbia
Canada V8W 1R3

Our File: 5469001

Reply To: Lorenzo G. Oss-Cech
E-mail address: lgo@hom-law.com

Tuesday, October 29, 2019

Young Anderson
Barristers and Solicitors
1616-808 Nelson Street
Box 12147 – Nelson Square
Vancouver, BC V6Z 2H2

Via Email

Attention: Suhkbir Manhas

Re: Development Permit Application – Phase Two (the “DP”)

I write further to North Cowichan’s denial of my client’s request for the issuance of the DP.

My client is extremely disappointed with North Cowichan staff’s decision, as it is completely inconsistent with North Cowichan’s past and current positions, with respect to my client’s property.

My client purchased most of the property from North Cowichan. My client, and its financial partners, received several assurances from North Cowichan, without any form of disclaimer, that the property was zoned for use as a test facility.

My client sought and received a development permit and all associated building permits for Phase One on lands zoned I-2 and C-8. As required, the zoning was read down so that Phase One needed to be in compliance with the I-2 zoning.

Again, my client was assured that the I-2 zoning was appropriate for the intended uses. It relied on those assurances and spent almost \$40,000,000.00 to build Phase One.

The then North Cowichan council voted in favor of accepting all of the development requirements, including a new water pump and distribution system on Drinkwater road, which my client paid for as part of the permit requirements.

The DP was requested, based on the fact that the lands were identically zoned as Phase One (I-2 Heavy Industrial), which is the same zoning that covers most of the Phase One lands and the same zoning under which Phase One was approved.

We cannot understand how North Cowichan staff can simply issue a blanket denial based on zoning non-compliance, when it is clear that the intended uses for Phase Two are identical to the permitted uses under the I-2 zoning for Phase One.

You will recall that at North Cowichan staff's request, my client agreed to seek a comprehensive rezoning to clear up any uncertainties.

My Client at no time agreed, nor were told, that rezoning would be required to permit that which was already built on lands zoned I-2.

My client also, in good faith, participated in negotiating a number of conditions, within the comprehensive by-law, to address any and all public concerns from the first three (3) years of operation. To my client, and my surprise it was rejected by North Cowichan's council.

When my client requested that the DP be issued, it was denied as delineated above.

There seems to be no merit to these decisions and the basis for them smack of politics and unfortunately bad faith. In fact, North Cowichan's rejection does not even delineate what part of the DP's application does not meet compliance. At the very least, my client should be informed which specific intended uses do not comply with the I-2 zoning.

All my client wants is for North Cowichan to apply consistency and issue the DP based on the fact that it was issued a permit for Phase One, which the Municipality has said has been operating within the law for three (3) years.

We are faced with a serious inconsistency, which will have dire financial consequences for North Cowichan.

If the denial of the Development Permit is maintained, due to the intended uses allegedly being outside the ambit of the I-2 zoning, then my client is also operating Phase One in contravention of the I-2 zoning.

In that case, my client cannot continue to operate Phase One. Further, if the circuit is closed, then many of my client's interrelated business will also no longer be viable.

My client has executed a construction contract and several commitment contracts based on the DP being issued.

My client had no reason to believe that the North Cowichan's council would reject the rezoning, when it was North Cowichan that requested my client apply for such rezoning.

To date my client has never received any warning, notice or call suggesting that they are operating illegally.

I advise that patience within my client's ownership is running very thin. Should this matter land in court, by rough calculations my client's damages will exceed \$60 million. In fact, damages are presently accruing daily due to the unwarranted delays.

We urge North Cowichan's council to use common sense and recognize that most of those who spoke against the staff recommended rezoning by-law live outside North Cowichan, whereas most of those in support were voting residents from within North Cowichan.

Should you have any further question or concerns about the above noted please do not hesitate to contact me.

I remain

Yours truly,

HUTCHISON OSS-CECH MARLATT

Per:



Lorenzo G. Oss-Cech

lgo/ed

Cc. Clients
 Sean Hern

October 30, 2019

Chief William Seymour
5760 Allenby Rd
Duncan BC V9L 5J1

(sent by email: chief@cowichantribes.com)

Dear Chief Seymour

Re: Reconsideration of Zoning Amendment for Vancouver Island Motorsport Circuit (VIMC)

Thank you so much for meeting with me on Monday to discuss the pending reconsideration of the zoning amendment for VIMC to be considered by Council on November 6, 2019. As I explained, the reconsideration of this issue has arisen because of new information based on the stated liabilities associated with the previous uncertainty around zoning and land sales associated with the development of phase 1.

I understand the challenges of coordinating a Council-to-Council meeting before a new public hearing related to the VIMC rezoning application and very much appreciate your efforts to discuss the applicant's response to Cowichan Tribes Referral at the upcoming environment meeting on Friday. It has always been my belief that because we didn't have a Council-to-Council meeting that the referral response provided by Tribes was misunderstood and did not provide an opportunity to act on Tribes concerns before the public hearing.

I have attached the Council report that outlines the original community contributions offered by VIMC should the rezoning be authorized. Since the writing of this report, and with further consideration to Tribe's concerns, VIMC has offered the following additional and/or modified responses to the issues raised.

1. VIMC will have an archaeological monitor present during the entire construction of the project.
2. VIMC will include in the financial contribution of \$600,000 for habitat enhancement projects for streams and other water bodies and the construction of a trail up Mount Prevost, a provision that these funds could also be spent to study elk herd impacts.
3. VIMC would protect all of the A4 (the 102.28 ha of forested land they own immediately to the north of the property that's subject to the comprehensive rezoning application, page 86 of Attachment A) lands for cultural purposes in their natural state to be gifted to Cowichan Tribes when requested. These lands would either transfer to the Municipality immediately and be held in trust for Cowichan Tribes or be gifted immediately upon receipt of a rezoning.

The vote on reconsideration of a third reading would be placed on the November 6 Council Agenda; however, third reading could not occur until the holding of a second (new) public hearing based on the new information that has been provided. We anticipate the public hearing, if it were to occur, would be scheduled by the end of November. We will inform you of the specific public hearing date as soon as it has been scheduled and invite you to provide further input based on the additional/amended amenities (items 1 through 3) noted above that hopefully address Cowichan Tribes concerns.

Although we hope that you can provide a response before the Council meeting on November 6, the critical date for submission of new information would be before the public hearing date, when it is set. I look forward to hearing from you at your earliest convenience. Should you require any further information, please let me know.

Sincerely



Al Siebring
Mayor

mayor@northcowichan.ca

Enclosure: October 1, 2019, Council Report and attachments

cc: MNC Council
Tracy Fleming Referral Coordinator Cowichan Tribes (tracy.fleming@cowichantribes.com)
Ted Swabey, Chief Administrative Officer, Municipality of North Cowichan

Reply Attention of: Sean Hern
Direct Dial Number: 250 405 1982
Email Address: shern@farris.com

FARRIS

File No: 041125-0001

October 30, 2019

BY EMAIL

Municipality of North Cowichan
7030 Trans-Canada Highway
Duncan BC V9L 6A1

Attention: Corporate Officer
(karen.robertson@northcowichan.ca)

Dear Sirs/Mesdames:

**Re: Development Permit for Vancouver Island Motor Circuit - Lot
A, Drinkwater Road, Section 4 Range 1 Somenos Except Plan
EPP60766 - PID: 009-751-297**

We write on behalf of 1909988 Ontario Limited ("**VIMC**") the owner of the above-noted lands and the applicant in development permit application DP0000155 ("**VIMC's Development Permit Application**").

Pursuant to section 23(1) of the Delegation of Authority Bylaw 3734, VIMC hereby requests a reconsideration by Council of the decision of Rob Conway, Director of Planning, dated October 25, 2019, a copy of which is attached hereto (the "**Decision**"). In the Decision, Mr. Conway denied VIMC's Development Permit Application on the basis that the proposed land use in did not comply with Zoning Bylaw 2950.

The grounds on which reconsideration is requested are three-fold:

1. First, a decision of whether to issue a development permit is an assessment of the application in light of the municipality's Official Community Plan. It is not a land use decision, as has been made in this case by the Director of Planning. To proceed otherwise is to exceed the statutory jurisdiction delegated in respect of development permit applications. There are many examples of the court's enforcement of this constraint on municipal jurisdiction in relation to development permit applications, including: *Westfair Foods Ltd v Saanich (District)* (1997), 49 BCLR (3d) 299 (C.A.); *Rocky Point Metalcraft Ltd. v. Cowichan Valley (Regional District)*, 2012 BCSC 756; and *0742848 B.C. Ltd. v. Squamish (District)*, 2011 BCSC 747.
2. Second, the suggestion that the VIMC Development Permit Application may not comply with the I2 zoning for the purposes of the development permit application analysis is arbitrary and irrational in light of VIMC having been issued a development permit in 2015 for the adjacent I2 lands and having operated without interference on those lands in essentially an identical manner as intended for the subject lands. Moreover, as you know, North Cowichan's Planning Department repeatedly confirmed in writing to VIMC that the uses on the adjacent I2 land were consistent with *both* the I2 zoning and the C8 zoning that is present there. A copy of that correspondence is enclosed for your reference. Further, North Cowichan's

FARRIS LLP

3rd Floor - 1005 Langley Street Victoria, BC Canada V8W 1V7
Tel 250 382 1100 farris.com

October 30, 2019

- 2 -

FARRIS

lawyer filed pleadings and made submissions to the BC Supreme Court on behalf of North Cowichan to the same effect.

3. Third, and alternatively, the planned use for the subject lands is not singular, but is rather a collection of a number of different uses, and even if North Cowichan were to be concerned that some of those uses may not be consistent with the I2 zoning, many of the uses clearly are (for example, motor vehicle storage, repair, sales, servicing, driving trade school and accessory uses). Accordingly, the matter of whether the user operates in compliance with the zoning in the future is, at most, a matter of municipal enforcement and not a basis to deny the development permit application: see the case authority cited in point 1, above. VIMC is committed to using the lands in accordance with the I2 zoning. If there is a difference of opinion at some point in the future about what precisely that is, it may have to be resolved, but clearly many of the planned and potential uses are expressly and directly authorized in the I2 zone, and VIMC will make use of circuit and facilities accordingly. As a result, in the process of considering the VIMC Development Permit Application, there is no basis to presume that the owner will not use the land in a manner consistent with the current zoning.

On the basis of the above, we hereby request that the VIMC Development Permit Application be reconsidered and the requested development permit issued forthwith.

Yours truly,

FARRIS LLP

Per:

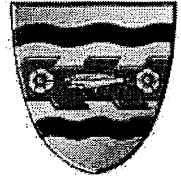


Sean Hern

Enclosures

cc. Sukhbir Manhas

Municipality of North Cowichan



7030 Trans Canada Highway, Box 278
Duncan, BC V9L 3X4

Telephone: (250) 746-3100
Fax: (250) 746-3139
www.northcowichan.ca

November 12, 2013

File: 0930-20 CVH

Mr. John D. Srebot, General Counsel
Auto World Imports
220 Steeles Avenue West
Thornhill, ON L4J 1A1

Dear Mr. Srebot

Re: Proposed Land Acquisition – Lot A, Section 3, Range 1, Somenos District, Plan EPP35449

The purpose of this letter is to clarify the Municipality's position regarding the proposed use of lands legally described as Lot A, Section 3, Range 1, Somenos District, Plan EPP35449.

The subject property is currently split-zoned I2 (Industrial Heavy Zone) and C8 (Rural Recreation Zone).

The prospective purchaser has verbally outlined their intended use of the properties as a "Recreational Testing Facility" for motor vehicles. While not specifically listed as permitted use under the *Zoning Bylaw*, No. 2950, it is the Municipality's position that the proposed "Recreational Testing Facility" would be considered a permitted use under the definitions of "Recreational Facility" (C8) and "Industrial Use" (I2) so this use is permitted on any portion of the subject property.

Secondary or accessory facilities, such as space for office and meetings, motor vehicle repair, food service, etc. are acceptable and would be permitted on any portion of the subject property. Any proposed use of the property is subject to issuance of a Development Permit as per the Municipality's *Official Community Plan Bylaw*, No. 3450, and *Zoning Bylaw*, No. 2950.

Any use of the subject property for racing, or as a "Race Track" for either go-karts or other motor vehicles must be contained to that portion of the property that has C8 zoning. Racing and "Race Track" are not permitted uses in the I2 zone.

Please feel to contact us directly if you require any additional clarification or supporting information.

Sincerely

Dave Devana
Chief Administrative Officer

devana@northcowichan.ca

pc P. Trzewik
S. Mack, Director of Planning and Development

ddnov12_2013Indt_Srebot_Highway 18

cowichan



GAIN
2546 Government Street
Victoria, BC V8T 4P7

November 4, 2015

Municipality of North Cowichan
7030 Trans-Canada Highway, Box 278
Duncan, British Columbia V9L 3X4

To Whom It May Concern,

We write with respect to our planned vehicle testing and driver training facility at 4063 Cowichan Valley Highway.

Because the property is split-zoned, and our facility design will have the driving track extending across both the I2 and C8 portions of the property, we are seeking further comfort that the activities proposed for the vehicle testing and driver training facility are compliant with local zoning. Please confirm that the following activities are permitted in both the I2 and C8 zones:

On the Driving Track:

1. Hold driving programs of up to 100 cars and drivers per day in different areas of the facility;
2. Use the track in different configurations with different groups;
3. Single vehicles driving the track with the goal to achieve and improve "fast lap" times;
4. Single vehicles practicing emergency braking, lane change, cornering, slalom and other emergency manoeuvres, some at high speed;
5. Multiple vehicles on the track simultaneously, driving during club or manufacturers activities to achieve and improve their "fast laps" however not to race each other or hold events that would be considered a race.
6. Change settings of the cars and guide the drivers to improve lap times further and further;

In the Pit Area:

7. Changing tires and conducting minor maintenance;
8. Set up work on cars to improve their lap times.

Should you have any questions, please do not hesitate to contact me. I can be reached by email at ptrzewik@gain-vi.ca or by phone at (250) 818-8038.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Trzewik', written over a faint, curved line.

Peter Trzewik

November 4, 2015

Mr. Peter Trzewik
GAIN
2546 Government Street
Victoria, BC V8T 4P7

Dear Mr. Trzewik

**Re: 4063 Cowichan Valley Highway - (Lot A, Section 3, Range 1, Somenos District,
Plan EPP35449 and Section 4, Range 1, Somenos District)**

We write to you further to your letter of November 4, 2015, in which you have requested confirmation of permitted activities on the above-noted lands owned by 1909988 ONTARIO LTD.

The Municipality of North Cowichan confirms that the eight activities (listed 1 through 8 in your letter), are permitted on the split-zoned C8 (Commercial Rural Recreation Zone) and I2 (Industrial Heavy Zone) properties as they are activities consistent with a vehicle testing facility.

We trust the above provides the information you require. If you have any questions or require any clarification please contact me as noted above.

Sincerely



Dave Devana
Chief Administrative Officer

dave.devana@northcowichan.ca

c: S. Mack, Director of Development Services



October 25, 2019

Prospero No: DP000155
Folio No: 29019-030
File No: 3060-20 17.24

Mark Holland
Holland Planning Innovations Inc.
mark@hollandplan.com

Dear Mr. Holland

RE: Development Permit for Vancouver Island Motor Circuit - Lot A, Drinkwater Road¹

I am writing to advise that I am obliged to deny development permit application DP0000155 on the basis that the proposed land use does not comply with Zoning Bylaw 2950.

I have not come to this conclusion lightly. I appreciate that it is your client's position that the development proposed in the application is for the same land use as under the development permit issued by North Cowichan for Phase 1 of the Vancouver Island Motor Circuit and, as such, there has been a past determination that the land use is in compliance with Zoning Bylaw 2950. However, upon careful review, I have concluded that the proposed land use is not permitted under Zoning Bylaw No. 2950. "Motor vehicle testing and driver training facility" is not listed as a permitted use in the Industrial Heavy (I-2 zone), and I have found no permitted use within the I2 zone that includes that use.

Please be advised that Section 23 of Delegation of Authority Bylaw No. 3734 allows you to have my decision to deny the development permit application reconsidered by Council. Section 23 provides as follows:

"Land use approvals – reconsideration

23 (1) The owner of land who is subject to a decision made under the delegated authority under section 22 of this bylaw is entitled to have the decision reconsidered by Council in accordance with this section.

¹ SECTION 4 RANGE 1 SOMENOS EXCEPT PLAN EPP60766. - PID: 009-751-297

(2) Where the owner wishes to have Council reconsider a decision made under the delegated authority under section 22 of this bylaw:

(a) The owner must, within 30 days of the decision having been communicated to the owner, make an application in writing to the Corporate Officer, which application must include the following:

- (i) A description of the decision sought to be reconsidered by Council;
- (ii) The date of the decision;
- (iii) The name of the delegate who made the decision;
- (iv) The grounds on which reconsideration is being requested; and,
- (v) A copy of any materials that the owner wishes Council to take into account when reconsidering the decision.

(b) Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the application for reconsideration was delivered to the Corporate Officer.

(c) The Corporate Officer must:

- (i) Place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with paragraph (b) above;
- (ii) Give notice of reconsideration of the decision in accordance with any notice requirements applicable to the original decision; and,
- (iii) Before the reconsideration of the decision by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered, and a copy of all materials submitted by the business license applicant or holder to the Corporate Officer as part of the application for reconsideration.

(d) In reconsidering the decision, the Council must consider all the material before it.

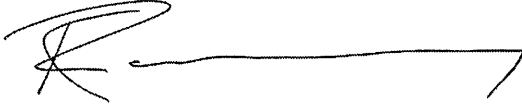
(e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the owner. Council may then hear from staff in relation to any new information raised by the owner in its submissions to Council.

(f) Council is entitled to adjourn the reconsideration of the decision; and,

(g) After hearing from staff and the owner, Council will reconsider the decision and may either confirm the decision, amend the decision, or set aside the decision and substitute the decision of Council."

A copy of Bylaw No. 3734 is enclosed for your reference.

Sincerely

A handwritten signature in black ink, appearing to be 'Rob Conway', with a long horizontal stroke extending to the right.

Rob Conway, MCIP, RPP
Director
PLANNING AND BUILDING DEPARTMENT

Report

Date November 6, 2019

File: DP000155

To Council

From Rob Conway, Director of Planning and Building

Endorsed:



Subject Reconsideration of Development Permit Application DP000155

Purpose

To provide an outline of the process for Council's reconsideration of Development Permit Application DP000155.

Background

A development permit application for the expansion of the Vancouver Island Motorsport Circuit (VIMC) at the Cowichan Valley Highway and Drinkwater Road was received by the Municipality in December, 2018. With the concurrence of the applicant, consideration of the development permit application was deferred pending a decision on a zoning amendment application for the same site. If approved, the rezoning application would have explicitly permitted "motor vehicle testing and driver training" and related uses as permitted uses on the subject land.

On October 4, 2019, Council denied Zoning Amendment Bylaw No. 3761 ("Bylaw No. 3761"). The owner's representative, in a letter dated October 15, 2019 (Attachment A), subsequently requested that a development permit for the Phase 2 expansion be issued. After reviewing the development permit application the Director of Planning and Building, who is delegated the authority to issue development permits by Council, concluded that the proposed uses of land in the Phase 2 expansion is not permitted by Zoning Bylaw No. 2950 (the "Zoning Bylaw"). In a letter dated October 25, 2019 (Attachment B), the applicant was advised that development permit application DP000155 was denied and that the decision could, upon request to the Municipality's Corporate Officer, be reconsidered by Council. On October 30, 2019, the Corporate Officer received a letter from the property owner's representative requesting reconsideration of the development permit application (Attachment C).

Discussion

Delegation of Authority Bylaw No. 3734:

Delegation of Authority Bylaw No. 3734 (Attachment D) delegates specified powers, duties and decision making authorities to designated Municipal officers and employees. Section 22 of the Bylaw delegates the authority to issue development permits that do not involve variances to Municipal Bylaws to the Director of Planning and Building. The delegated authority allows the Director to issue development permits without Council authorization, provided the permit is compliant with applicable bylaws.

Section 23 of Bylaw No. 3734 allows the owner of land that is subject to a decision made by Council's delegate to have the delegate's decision reconsidered by Council. The terms and conditions for reconsideration are provided in Section 23. In reconsidering the delegate's decision, Council may confirm the decision, amend the decision, or set the decision aside and substitute a decision of Council.

Zoning Bylaw No. 2950:

Development Permit Application DP000155 was denied because the primary use associated with development proposed in the application was not considered to be compliant with the Zoning Bylaw and the uses the Zoning Bylaw permits on the subject property. Primary uses proposed in the application include a five kilometre paved motor vehicle circuit and an off-road motor vehicle circuit. Secondary uses include a clubhouse and structures for repairing maintaining and storing motor vehicles. A plan showing the proposed development is provided in Attachment E.

The subject parcel is zoned Industrial Heavy (I2). The I2 zone (Attachment F) does not include "motor vehicle circuit", "motor vehicle testing and driver training facility", or similar-type uses that reasonably describe the uses intended for the Phase 2 expansion. In the absence a use within the zoning that permits the proposed land use, I was compelled to deny the development permit application.

The applicant and lawyers representing the property owner note that the Municipality's Planning Department previously issued a development permit for the Phase 1 motorsport circuit and contend that it is "arbitrary and irrational" to deny the Phase 2 development permit application when the I2 zoning that applies to much of Phase 1 also applies to Phase 2. While it is true that a development permit was issued for Phase 1, and a determination was made at that time that the Phase 1 motorsport circuit was a permitted use in the I2 zone, I did not authorize that permit and my analysis of the Zoning Bylaw led me to conclude that the development proposed in application DP000155 is not compliant with the applicable I2 zoning and therefore cannot be authorized by development permit.

Procedural Considerations and Recommendations:

Mayor Siebring has required, under Section 131 of the *Community Charter*, that Council's October 4, 2019 decision to deny third reading of Bylaw No. 3761 be reconsidered. It has been recommended that Council conduct a public hearing prior to reconsideration of Bylaw No. 3761. As the basis for denying application DP000155 was non-compliance with the Zoning Bylaw and the zoning issue would be resolved should Council decide to adopt Bylaw No. 3761, it is recommended that reconsideration of refusal of development permit application DP000155 be deferred until the reconsideration of Bylaw No. 3761 is concluded.

Options

1. That Council confirm the Director of Planning and Building's decision to deny Development Permit Application DP000155 due to non-compliance the Zoning Bylaw.
2. That Council set-aside the Director of Planning and Building's decision to deny Development Permit Application DP000155 due to non-compliance with the Zoning Bylaw and direct staff to process the development permit application in accordance with applicable policies, regulations and development permit guidelines.

Recommendation

That reconsideration of Development Permit Application DP000155 be deferred until Council has concluded its reconsideration of Bylaw No. 3761.

Attachments: (6)

Attachment A - October 15, 2019 Letter from Lorenzo G. Oss-Cech, Hutchinson, Oss-Cech, Marlatt

Attachment B – October 25, 2019 Letter from Director of Planning and Building

Attachment C – October 30, 2019 Letter from Sean Hern, Farris LLP

Attachment D – Delegation of Authority Bylaw No. 3734

Attachment E – Development Plan

Attachment F – I2 Zone

James S. Hutchison†
Lorenzo G. Oss-Cech†
Barri A. Marlatt†
Dana G. Quantz
Andrew W. Tomilson
Esteban T. Kähns



Telephone: (250) 360-2500
Facsimile: (250) 360-0208
1 – 505 Fisgard Street
Victoria, British Columbia
Canada V8W 1R3

Our File: 5469001

Reply To: Lorenzo G. Oss-Cech
E-mail address: lgo@hom-law.com

Tuesday, October 15, 2019

Young Anderson
Barristers and Solicitors
1616-808 Nelson Street
Box 12147 – Nelson Square
Vancouver, BC V6Z 2H2

Via Email & Hand Delivered

Attention: Suhkbir Manhas

Re: Development Permit Application – Phase Two

I write further to the public meetings of October 1st and 3rd 2019.

It would be an understatement to say that my client is frustrated and disappointed with the outcome, which we believe to be misguided in view of the project's history.

In 2016, with the consent and knowledge of the then North Cowichan Council, the North Cowichan Municipality ("NCM") sold a large part of the subject lands to my client and provided written assurances (**without any disclaimers**) that the zoning for my client's intended use was appropriate.

My client relied on those assurances in purchasing the properties.

Furthermore, based on those assurances, my client applied for and received a development permit and building permits. It then invested over \$37 million to construct Phase One of the facility. It did so, fully intending and expecting to build Phase Two on the adjacent lands.

In addition, my client paid \$266,500.00 to build a new water line off Drinkwater Road as part of the development agreement for Phase One.

At the well-publicized opening of Phase One in June 2016, the then Mayor and several councilors attended. Phase One has been operating ever since and is a highly successful enterprise, both in isolation and as an integral component of GAIN's interrelated businesses on Vancouver Island.

Shortly after the opening, three resident households (**two from outside NCM**), mounted a campaign against the facility, claiming that it was too noisy and it did not have the proper zoning.

My client made countless attempts to address the noise concerns, by: conducting extensive testing with the top sound experts; voluntarily restricting operating hours; and removing certain types of vehicles from the circuit.

Other than the controls and restrictions imposed by my client, the operation and business has not changed from the beginning.

My client has operated within the bounds of their legal rights at all times. It has had a good relationship with NCM and has never received any violation, charge or warning from NCM's staff.

In 2017 NCM asked my client to apply to rezone the properties under one comprehensive by-law. NCM's staff believed that the rezoning would provide greater clarity and establish operating rules for the circuit to provide NCM and the public certainty in that regard. Given its good relationship with NCM and most of the community, my client, in good faith, agreed. A rezoning application was submitted for Phase One and a Phase Two configuration that extended the circuit into both the I2 and A4 lands owned by my client.

On June 5, 2017, as the rezoning application was being prepared, the same above mentioned households, opposed to the circuit, filed a lawsuit against my client and NCM seeking to close Phase One by challenging the zoning for the facility and alleging that the noise from the circuit constituted a nuisance at law.

My client nevertheless carried on with the rezoning efforts in good faith, meeting with stakeholders and interested parties, and holding an open house in April 2018, which was attended by approximately 500 people. My client listened to concerns that were expressed and revised the rezoning application to address those concerns.

In September 2018, my client filed a revised rezoning application responding to the public's comments and concerns, moving all of Phase Two into the lands already zoned I2 and proposing extensive environmental and sound mitigation measures, and offering substantial community amenities.

My client also filed a development permit application at the same time, which is permitted by the existing I2 zoning and also consistent with the rezoning, if approved. At the request of NCM my client agreed, again as a matter of good faith, that NCM could wait to issue the development permit until after the rezoning application was addressed.

Meanwhile, in September 2018, my client, and subsequently NCM, applied to dismiss the lawsuit regarding the zoning and to remove NCM as a Defendant. During that application, NCM informed the Supreme Court of British Columbia that my client was operating lawfully and that both the I2 and C8 zoning were appropriate for the operation of the circuit. On October 11 2018, that application succeeded. The zoning claims were dismissed and NCM was removed as a Defendant.

The nuisance part of the lawsuit persisted until only shortly after examinations for discovery of the plaintiffs were held in early 2019, after which the plaintiffs agreed to the dismissal of the rest of the lawsuit.

After that, they focused their attention of a new series of complaints and opposing the rezoning application. Furthermore, after the dismissal of the lawsuit, my client became aware of the involvement of two of those same plaintiffs in NCM's elections, even though they were not residents of NCM.

As part of the rezoning application, my client was asked by NCM's staff to provide a variety of concessions. Those included:

1. A limit on sound;
2. Offsite monitors to gauge the sound within the community;
3. Real time readings for the sound;
4. A \$5,000.00 penalty for each breach of the sound limits;
5. A limit on hours of operation;
6. A limit on days of operation (statutory holidays); and
7. A limit on the type of cars allowed on the track (street legal).
(the "Concessions")

In addition to the Concessions, my client was also asked:

1. To transfer to NCM a portion of the lands for use as a site for a water storage reservoir;
2. To license to NCM or the Cowichan Trail Stewardship Society a significant portion of the lands (approximately 100 acres);
3. To make the circuit available to the Vancouver Island Karting Association for its use for a minimum of 6 events a year;
4. To transfer to NCM a corridor of the land along Bings Creek (approximately 40 acres);

5. To make a further financial contribution to NCM of \$600,000.00 for environmental and habitat enhancement projects for streams and other waterbodies and/or the construction of a trail up Mount Prevost;
6. To construct, to the satisfaction of NCM a Water Reservoir at a cost of approximately \$2.5 million;
7. To construct, to NCM's satisfaction, Drinkwater Road from Highway 18; and
8. To register all of the above in a covenant.
(the "Amenities").

Despite all of the above NCM council voted (5-2) against the rezoning, evidently on the basis of late submissions from the Cowichan Tribes (who had earlier indicated support, was otherwise disinterested and refused to meet with my client).

The rejection of the rezoning was surprising to my client as it is otherwise entitled to a development permit, and the Concessions and Amenities are only available by way of rezoning.

My client is, of course, content to save the millions of dollars that the Amenities would cost and to not have any Concessions apply, but is extremely disappointed that so much time has been wasted on a fruitless rezoning process.

In particular because the public discussion of the rezoning process was used by a small group of residents as a platform to spread numerous lies about the facility and to circulate personal and racist attacks against my client's owners and staff.

My client has followed the law slavishly. It went above and beyond what is required to be a good neighbor and citizen by committing to the Concessions and agreeing to provide the Amenities.

My client has issued contracts, booked clients and has mobilized equipment to the site to commence construction of Phase Two, based on the issuance of the development permit.

By copy of this letter to NCM my client requests that NCM now move forward and issue the development permit for Phase Two.

Be advised that should the development permit be refused or some other action be taken to interfere with my client's lawful rights to establish and operate its business, my client will pursue all legal remedies available.

In the circumstances, having invested so much time and money in reliance on NCM's assurances and conduct to date, it will be left with no other choice.

I remain

Yours truly,

HUTCHISON OSS-CECH MARLATT

Per:

A handwritten signature in black ink, appearing to be 'L. Oss-Cech', written over a horizontal line.

Lorenzo G. Oss-Cech

lgo/ed

cc. North Cowichan Building Department – by hand
Clients.
Sean Hern

October 25, 2019

Prospero No: DP000155
Folio No: 29019-030
File No: 3060-20 17.24

Mark Holland
Holland Planning Innovations Inc.
mark@hollandplan.com

Dear Mr. Holland

RE: Development Permit for Vancouver Island Motor Circuit - Lot A, Drinkwater Road¹

I am writing to advise that I am obliged to deny development permit application DP0000155 on the basis that the proposed land use does not comply with Zoning Bylaw 2950.

I have not come to this conclusion lightly. I appreciate that it is your client's position that the development proposed in the application is for the same land use as under the development permit issued by North Cowichan for Phase 1 of the Vancouver Island Motor Circuit and, as such, there has been a past determination that the land use is in compliance with Zoning Bylaw 2950. However, upon careful review, I have concluded that the proposed land use is not permitted under Zoning Bylaw No. 2950. "Motor vehicle testing and driver training facility" is not listed as a permitted use in the Industrial Heavy (I-2 zone), and I have found no permitted use within the I2 zone that includes that use.

Please be advised that Section 23 of Delegation of Authority Bylaw No. 3734 allows you to have my decision to deny the development permit application reconsidered by Council. Section 23 provides as follows:

"Land use approvals – reconsideration

23 (1) The owner of land who is subject to a decision made under the delegated authority under section 22 of this bylaw is entitled to have the decision reconsidered by Council in accordance with this section.

¹ SECTION 4 RANGE 1 SOMENOS EXCEPT PLAN EPP60766. - PID: 009-751-297

(2) Where the owner wishes to have Council reconsider a decision made under the delegated authority under section 22 of this bylaw:

(a) The owner must, within 30 days of the decision having been communicated to the owner, make an application in writing to the Corporate Officer, which application must include the following:

- (i) A description of the decision sought to be reconsidered by Council;
- (ii) The date of the decision;
- (iii) The name of the delegate who made the decision;
- (iv) The grounds on which reconsideration is being requested; and,
- (v) A copy of any materials that the owner wishes Council to take into account when reconsidering the decision.

(b) Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the application for reconsideration was delivered to the Corporate Officer.

(c) The Corporate Officer must:

- (i) Place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with paragraph (b) above;
- (ii) Give notice of reconsideration of the decision in accordance with any notice requirements applicable to the original decision; and,
- (iii) Before the reconsideration of the decision by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered, and a copy of all materials submitted by the business license applicant or holder to the Corporate Officer as part of the application for reconsideration.

(d) In reconsidering the decision, the Council must consider all the material before it.

(e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the owner. Council may then hear from staff in relation to any new information raised by the owner in its submissions to Council.

(f) Council is entitled to adjourn the reconsideration of the decision; and,

(g) After hearing from staff and the owner, Council will reconsider the decision and may either confirm the decision, amend the decision, or set aside the decision and substitute the decision of Council."

A copy of Bylaw No. 3734 is enclosed for your reference.

Sincerely

A handwritten signature in blue ink, appearing to be 'Rob Conway', with a long horizontal flourish extending to the right.

Rob Conway, MCIP, RPP
Director
PLANNING AND BUILDING DEPARTMENT

Reply Attention of: Sean Hern
Direct Dial Number: 250 405 1982
Email Address: shern@farris.com

FARRIS

File No: 041125-0001

October 30, 2019

BY EMAIL

Municipality of North Cowichan
7030 Trans-Canada Highway
Duncan BC V9L 6A1

Attention: Corporate Officer
(karen.robertson@northcowichan.ca)

Dear Sirs/Mesdames:

**Re: Development Permit for Vancouver Island Motor Circuit - Lot
A, Drinkwater Road, Section 4 Range 1 Somenos Except Plan
EPP60766 - PID: 009-751-297**

We write on behalf of 1909988 Ontario Limited ("**VIMC**") the owner of the above-noted lands and the applicant in development permit application DP0000155 ("**VIMC's Development Permit Application**").

Pursuant to section 23(1) of the Delegation of Authority Bylaw 3734, VIMC hereby requests a reconsideration by Council of the decision of Rob Conway, Director of Planning, dated October 25, 2019, a copy of which is attached hereto (the "**Decision**"). In the Decision, Mr. Conway denied VIMC's Development Permit Application on the basis that the proposed land use in did not comply with Zoning Bylaw 2950.

The grounds on which reconsideration is requested are three-fold:

1. First, a decision of whether to issue a development permit is an assessment of the application in light of the municipality's Official Community Plan. It is not a land use decision, as has been made in this case by the Director of Planning. To proceed otherwise is to exceed the statutory jurisdiction delegated in respect of development permit applications. There are many examples of the court's enforcement of this constraint on municipal jurisdiction in relation to development permit applications, including: *Westfair Foods Ltd v Saanich (District)* (1997), 49 BCLR (3d) 299 (C.A.); *Rocky Point Metalcraft Ltd. v. Cowichan Valley (Regional District)*, 2012 BCSC 756; and *0742848 B.C. Ltd. v. Squamish (District)*, 2011 BCSC 747.
2. Second, the suggestion that the VIMC Development Permit Application may not comply with the I2 zoning for the purposes of the development permit application analysis is arbitrary and irrational in light of VIMC having been issued a development permit in 2015 for the adjacent I2 lands and having operated without interference on those lands in essentially an identical manner as intended for the subject lands. Moreover, as you know, North Cowichan's Planning Department repeatedly confirmed in writing to VIMC that the uses on the adjacent I2 land were consistent with *both* the I2 zoning and the C8 zoning that is present there. A copy of that correspondence is enclosed for your reference. Further, North Cowichan's

FARRIS LLP

3rd Floor - 1005 Langley Street Victoria, BC Canada V8W 1V7
Tel 250 382 1100 farris.com

October 30, 2019

- 2 -

FARRIS

lawyer filed pleadings and made submissions to the BC Supreme Court on behalf of North Cowichan to the same effect.

3. Third, and alternatively, the planned use for the subject lands is not singular, but is rather a collection of a number of different uses, and even if North Cowichan were to be concerned that some of those uses may not be consistent with the I2 zoning, many of the uses clearly are (for example, motor vehicle storage, repair, sales, servicing, driving trade school and accessory uses). Accordingly, the matter of whether the user operates in compliance with the zoning in the future is, at most, a matter of municipal enforcement and not a basis to deny the development permit application: see the case authority cited in point 1, above. VIMC is committed to using the lands in accordance with the I2 zoning. If there is a difference of opinion at some point in the future about what precisely that is, it may have to be resolved, but clearly many of the planned and potential uses are expressly and directly authorized in the I2 zone, and VIMC will make use of circuit and facilities accordingly. As a result, in the process of considering the VIMC Development Permit Application, there is no basis to presume that the owner will not use the land in a manner consistent with the current zoning.

On the basis of the above, we hereby request that the VIMC Development Permit Application be reconsidered and the requested development permit issued forthwith.

Yours truly,

FARRIS LLP

Per:

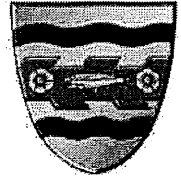


Sean Hern

Enclosures

cc. Sukhbir Manhas

Municipality of North Cowichan



7030 Trans Canada Highway, Box 278
Duncan, BC V9L 3X4

Telephone: (250) 746-3100
Fax: (250) 746-3139
www.northcowichan.ca

November 12, 2013

File: 0930-20 CVH

Mr. John D. Srebot, General Counsel
Auto World Imports
220 Steeles Avenue West
Thornhill, ON L4J 1A1

Dear Mr. Srebot

Re: Proposed Land Acquisition – Lot A, Section 3, Range 1, Somenos District, Plan EPP35449

The purpose of this letter is to clarify the Municipality's position regarding the proposed use of lands legally described as Lot A, Section 3, Range 1, Somenos District, Plan EPP35449.

The subject property is currently split-zoned I2 (Industrial Heavy Zone) and C8 (Rural Recreation Zone).

The prospective purchaser has verbally outlined their intended use of the properties as a "Recreational Testing Facility" for motor vehicles. While not specifically listed as permitted use under the *Zoning Bylaw*, No. 2950, it is the Municipality's position that the proposed "Recreational Testing Facility" would be considered a permitted use under the definitions of "Recreational Facility" (C8) and "Industrial Use" (I2) so this use is permitted on any portion of the subject property.

Secondary or accessory facilities, such as space for office and meetings, motor vehicle repair, food service, etc. are acceptable and would be permitted on any portion of the subject property. Any proposed use of the property is subject to issuance of a Development Permit as per the Municipality's *Official Community Plan Bylaw*, No. 3450, and *Zoning Bylaw*, No. 2950.

Any use of the subject property for racing, or as a "Race Track" for either go-karts or other motor vehicles must be contained to that portion of the property that has C8 zoning. Racing and "Race Track" are not permitted uses in the I2 zone.

Please feel to contact us directly if you require any additional clarification or supporting information.

Sincerely

Dave Devana
Chief Administrative Officer

devana@northcowichan.ca

pc P. Trzewik
S. Mack, Director of Planning and Development

ddnov12_2013Indt_Srebot_Highway 18

cowichan



GAIN
2546 Government Street
Victoria, BC V8T 4P7

November 4, 2015

Municipality of North Cowichan
7030 Trans-Canada Highway, Box 278
Duncan, British Columbia V9L 3X4

To Whom It May Concern,

We write with respect to our planned vehicle testing and driver training facility at 4063 Cowichan Valley Highway.

Because the property is split-zoned, and our facility design will have the driving track extending across both the I2 and C8 portions of the property, we are seeking further comfort that the activities proposed for the vehicle testing and driver training facility are compliant with local zoning. Please confirm that the following activities are permitted in both the I2 and C8 zones:

On the Driving Track:

1. Hold driving programs of up to 100 cars and drivers per day in different areas of the facility;
2. Use the track in different configurations with different groups;
3. Single vehicles driving the track with the goal to achieve and improve "fast lap" times;
4. Single vehicles practicing emergency braking, lane change, cornering, slalom and other emergency manoeuvres, some at high speed;
5. Multiple vehicles on the track simultaneously, driving during club or manufacturers activities to achieve and improve their "fast laps" however not to race each other or hold events that would be considered a race.
6. Change settings of the cars and guide the drivers to improve lap times further and further;

In the Pit Area:

7. Changing tires and conducting minor maintenance;
8. Set up work on cars to improve their lap times.

Should you have any questions, please do not hesitate to contact me. I can be reached by email at ptrzewik@gain-vi.ca or by phone at (250) 818-8038.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Trzewik', written over a faint, curved line.

Peter Trzewik

November 4, 2015

Mr. Peter Trzewik
GAIN
2546 Government Street
Victoria, BC V8T 4P7

Dear Mr. Trzewik

**Re: 4063 Cowichan Valley Highway - (Lot A, Section 3, Range 1, Somenos District,
Plan EPP35449 and Section 4, Range 1, Somenos District)**

We write to you further to your letter of November 4, 2015, in which you have requested confirmation of permitted activities on the above-noted lands owned by 1909988 ONTARIO LTD.

The Municipality of North Cowichan confirms that the eight activities (listed 1 through 8 in your letter), are permitted on the split-zoned C8 (Commercial Rural Recreation Zone) and I2 (Industrial Heavy Zone) properties as they are activities consistent with a vehicle testing facility.

We trust the above provides the information you require. If you have any questions or require any clarification please contact me as noted above.

Sincerely



Dave Devana
Chief Administrative Officer

dave.devana@northcowichan.ca

c: S. Mack, Director of Development Services



October 25, 2019

Prospero No: DP000155
Folio No: 29019-030
File No: 3060-20 17.24

Mark Holland
Holland Planning Innovations Inc.
mark@hollandplan.com

Dear Mr. Holland

RE: Development Permit for Vancouver Island Motor Circuit - Lot A, Drinkwater Road¹

I am writing to advise that I am obliged to deny development permit application DP0000155 on the basis that the proposed land use does not comply with Zoning Bylaw 2950.

I have not come to this conclusion lightly. I appreciate that it is your client's position that the development proposed in the application is for the same land use as under the development permit issued by North Cowichan for Phase 1 of the Vancouver Island Motor Circuit and, as such, there has been a past determination that the land use is in compliance with Zoning Bylaw 2950. However, upon careful review, I have concluded that the proposed land use is not permitted under Zoning Bylaw No. 2950. "Motor vehicle testing and driver training facility" is not listed as a permitted use in the Industrial Heavy (I-2 zone), and I have found no permitted use within the I2 zone that includes that use.

Please be advised that Section 23 of Delegation of Authority Bylaw No. 3734 allows you to have my decision to deny the development permit application reconsidered by Council. Section 23 provides as follows:

"Land use approvals – reconsideration

23 (1) The owner of land who is subject to a decision made under the delegated authority under section 22 of this bylaw is entitled to have the decision reconsidered by Council in accordance with this section.

¹ SECTION 4 RANGE 1 SOMENOS EXCEPT PLAN EPP60766. - PID: 009-751-297

(2) Where the owner wishes to have Council reconsider a decision made under the delegated authority under section 22 of this bylaw:

(a) The owner must, within 30 days of the decision having been communicated to the owner, make an application in writing to the Corporate Officer, which application must include the following:

- (i) A description of the decision sought to be reconsidered by Council;
- (ii) The date of the decision;
- (iii) The name of the delegate who made the decision;
- (iv) The grounds on which reconsideration is being requested; and,
- (v) A copy of any materials that the owner wishes Council to take into account when reconsidering the decision.

(b) Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the application for reconsideration was delivered to the Corporate Officer.

(c) The Corporate Officer must:

- (i) Place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with paragraph (b) above;
- (ii) Give notice of reconsideration of the decision in accordance with any notice requirements applicable to the original decision; and,
- (iii) Before the reconsideration of the decision by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered, and a copy of all materials submitted by the business license applicant or holder to the Corporate Officer as part of the application for reconsideration.

(d) In reconsidering the decision, the Council must consider all the material before it.

(e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the owner. Council may then hear from staff in relation to any new information raised by the owner in its submissions to Council.

(f) Council is entitled to adjourn the reconsideration of the decision; and,

(g) After hearing from staff and the owner, Council will reconsider the decision and may either confirm the decision, amend the decision, or set aside the decision and substitute the decision of Council."

A copy of Bylaw No. 3734 is enclosed for your reference.

Sincerely

A handwritten signature in black ink, appearing to be 'Rob Conway', with a long horizontal stroke extending to the right.

Rob Conway, MCIP, RPP
Director
PLANNING AND BUILDING DEPARTMENT



The Corporation of the District of North Cowichan

Delegation of Authority Bylaw

Bylaw 3734

A bylaw to provide for the delegation of certain powers, duties and functions, including those specifically established by an enactment, to its officers and employees

Contents

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WHEREAS Division 6 of Part 5 of the *Community Charter* empowers a municipal council, by bylaw, to delegate its powers, duties and functions, including those specifically established by an enactment, to the extent provided;

AND WHEREAS Council considers that there are a number of circumstances where delegation of certain of its powers, duties and functions would foster good government;

NOW THEREFORE, the Council of The Corporation of the District of North Cowichan enacts as follows:

Interpretation

1 (1) In this bylaw:

"Approving Officer" means the person so appointed under section 77 [*Appointment of municipal approving officers*] of the *Land Title Act*;

"Audit Committee" means the standing committee of Council established under section 170 [*Audit committee*] of the *Community Charter*;

"Chief Administrative Officer" means the municipal officer appointed under section 147 [*Chief administrative officer*] of the *Community Charter*;

"Corporate Officer" means the municipal officer appointed under section 148 [*Corporate officer*] of the *Community Charter*;

"Department Head" means the persons appointed by the Chief Administrative Officer as the Corporate Officer, the Deputy Corporate Officer, the Information Management Officer, the Municipal Forester, the Senior Manager of Engineering, and the Manager of Engineering Development and Capital Projects, and the persons appointed by the Chief Administrative Officer as a director, senior manager, or manager who reports directly to the Chief Administrative Officer or to the General Manager, Community Services, the General Manager, Development and Engineering Services, the General Manager, Financial and Protective Services, or the General Manager, Corporate Services.

"Director of Engineering" means the person so appointed by the Chief Administrative Officer;

"Director of Information Technology and GIS" means the person so appointed by the Chief Administrative Officer;

"Director of Parks and Recreation" means the person so appointed by the Chief Administrative Officer;

"Director of Planning and Building" means the person so appointed by the Chief Administrative Officer;

"General Manager, Community Services" means the person so appointed by the Chief Administrative Officer;

"General Manager, Development and Engineering Services" means the person so appointed by the Chief Administrative Officer;

"General Manager, Financial and Protective Services" means the municipal officer appointed under section 149 [*Financial officer*] of the *Community Charter*;

"General Manager, Corporate Services" means the person so appointed by the Chief Administrative Officer;

"Local Assistant to the Fire Commissioner" means a person authorized to exercise the powers of a local assistant under the *Fire Services Act*;

"Manager, Fire and Bylaw Services" means the person so appointed by the Chief Administrative Officer;

"Management Staff" means the persons appointed by the Chief Administrative Officer as the Fire Chief or Deputy Fire Chief of a municipal fire hall, the Chief Building Inspector, the Technical Services Specialist, the Business Applications Coordinator, the Senior Bylaw Compliance Officer, the Senior Environmental Specialist, the Community Planning Coordinator, the Development Planning Coordinator, the Human Resources Advisor, the Health, Safety and Disability Management Advisor, the Human Resources Coordinator, the Payroll Coordinator, the Executive Assistant, the Records and Information Management Assistant, the Administrative Assistant, the Communications and Public Engagement Coordinator, the Administrative Supervisor, the Assistant Manager of Operations, a Foreperson, the Facilities Supervisor, and all managers who report directly to a Department Head.

"Municipal Forester" means the person so appointed by the Chief Administrative Officer.

- (2) Where this bylaw delegates a power, duty or function of Council to a named position, the delegation is to the person who holds the position, and to any person who is the deputy of, or who is authorized to act for, that person.
- (3) Unless a power, duty or function of Council has been expressly delegated by this bylaw or another municipal bylaw, the powers, duties and functions of Council remain with Council.
- (4) A person to whom a power, duty or function has been delegated under this bylaw, or another bylaw, has no authority to further delegate to another person any power, duty or function that has been delegated to them by this bylaw.

Committee of the whole

- 2 Council delegates its powers to give direction to staff on matters being considered by the committee of the whole to the committee of the whole.

Municipal audit

- 3 Council delegates its powers, duties and functions under Division 2 of Part 6 of the *Community Charter* to the Audit Committee.

Parcel tax roll review panel

- 4 Council delegates its duty under section 204 (2) [*Parcel tax roll review panel*] of the *Community Charter* to the General Manager, Financial and Protective Services.

Notices

- 5 (1) Council delegates its duty to give notice under the following sections of the *Community Charter* to the Corporate Officer:

- (a) Section 26 (1) *[Notice of proposed property disposition]*;
 - (b) Section 40 (3) *[Permanent closure and removal of highway dedication]*;
 - (c) Section 59 (2) *[Powers to require and prohibit]*; and
 - (d) Section 127 (1) (b) *[Notice of council meetings]*.
- (2) Council delegates its duty to give notice under the following sections of the *Community Charter* to the General Manager, Financial and Protective Services:
- (a) Section 99 (3) *[Annual meeting on report]*; and
 - (b) Section 227 (1) *[Notice of permissive tax exemptions]*.
- (3) Council delegates its duty to give and file notices under the following sections of the *Local Government Act* to the Director of Planning and Building:
- (a) Section 466 (1) *[Notice of public hearing]*;
 - (b) Section 467 (1) *[Notice if public hearing waived]*;
 - (c) Section 494 (1) *[Public notice and hearing requirements]*;
 - (d) Section 499 (1) *[Notice to affected property owners and tenants]*;
 - (e) Section 503 (1) and (3) *[Notice of permit on land title]*; and
 - (f) Section 594 (1) *[Notice on land titles]*.

Business licenses

- 6** Council delegates its powers, duties and functions under sections 8(6), 15 and 60 of the *Community Charter* to grant, refuse, suspend, or cancel a business license to the General Manager, Financial and Protective Services.

Business licenses - reconsideration

- 7**
- (1) A business license applicant or holder that is subject to a decision made under the delegated authority under section 6 of this bylaw is entitled to have the decision reconsidered by Council in accordance with this section.
 - (2) Where a business license applicant or holder wishes to have Council reconsider a decision made under the delegated authority under section 6 of this bylaw:
 - (a) The business license applicant or holder must, within 30 days of the decision having been communicated to the business license applicant or holder, make an application in writing to the Corporate Officer, which application must include the following:
 - (i) A description of the decision sought to be reconsidered by Council;
 - (ii) The date of the decision;
 - (iii) The name of the delegate who made the decision;
 - (iv) The grounds on which reconsideration is being requested; and,
 - (v) A copy of any materials that the business license applicant or holder wishes Council to take into account when reconsidering the decision.

- (b) Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the application for reconsideration was delivered to the Corporate Officer.
- (c) The Corporate Officer must:
 - (i) Place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with paragraph (b) above; and,
 - (iii) Before the reconsideration of the decision by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered, and a copy of all materials submitted by the business license applicant or holder to the Corporate Officer as part of the application for reconsideration.
- (d) In reconsidering the decision the Council must consider all the material before it.
- (e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the business license applicant or holder. Council may then hear from staff in relation to any new information raised by the business license applicant or holder in its submissions to Council.
- (f) Council is entitled to adjourn the reconsideration of the decision; and,
- (g) After hearing from staff and the business license applicant or holder, Council will reconsider the decision and may either confirm the decision, amend the decision, or set aside the decision and substitute the decision of Council.

Outdoor burning ban

- 8 Council delegates its powers under section 8(3)(g) of the *Community Charter* to ban outdoor burning in all or part of the municipality to the Local Assistant to the Fire Commissioner, subject to a fire hazard existing, the ban being for not more than 90 days, and the public promptly being notified of the ban.

Personnel administration

- 9
 - (1) Council delegates its powers to appoint an acting Chief Administrative Officer to temporarily act on behalf of the Chief Administrative Officer in the Chief Administrative Officer's absence to the Chief Administrative Officer.
 - (2) Council delegates its powers to appoint, promote, and discipline officers (other than the Chief Administrative Officer) and employees to the Chief Administrative Officer.
 - (3) Council delegates its power to approve compensation for officers (other than the Chief Administrative Officer) and employees to the Chief Administrative Officer, subject to sufficient funds having been allocated and approved by Council under the financial plan bylaw.
 - (4) Council delegates its powers to terminate the employment of employees for cause to the Chief Administrative Officer.
 - (5) Council delegates its powers to terminate the employment of employees without cause to the Chief Administrative Officer, subject to any severance paid to the employee being in accordance with the notice provisions of any applicable employment agreement or

the common law principles applicable to payments in lieu of notice on termination of employment, and sufficient funds having been allocated and approved by Council under the financial plan bylaw.

- (6) Council delegates its powers to settle labour grievances or disputes to the Chief Administrative Officer, subject to the settlement being in accordance with common law principles and sufficient funds having been allocated and approved by Council under the financial plan bylaw to satisfy the settlement.

Agreements - procurement

- 10** (1) Council delegates its powers to enter into agreements for the purchase of works, services, or chattels having a value of not more than \$500,000.00 to the Chief Administrative Officer.
- (2) Council delegates its powers to enter into agreements for the purchase of works, services, or chattels having a value of not more than \$200,000.00 to the General Manager, Corporate Services, the General Manager, Financial and Protective Services, the General Manager, Community Services, the General Manager, Development and Engineering Services, the Director of Planning and Building, the Director of Engineering, the Director of Parks and Recreation, and the Director of Information Technology and GIS.
- (3) Council delegates its powers to enter into agreements for the purchase of works, services, or chattels having a value of not more than \$75,000.00 to Department Heads.
- (4) Council delegates its powers to enter into agreements for the purchase of works, services, or chattels having a value of not more than \$10,000.00 to Management Staff.
- (5) For the purpose of subsections (1) to (4) above, the delegated authority to enter into an agreement is subject to the agreement not requiring the approval or consent of the electors and sufficient funds having been allocated and approved by Council under the financial plan bylaw, and, without limiting the substance of the discretion delegated therein, such discretion is subject to the delegate adhering to the procurement processes endorsed by Council from time to time.

Agreements - miscellaneous

- 11** (1) Council delegates the power to enter into agreements in relation to grant monies for approved projects to the General Manager, Financial and Protective Services.
- (2) Council delegates its powers to enter into agreements for information sharing to the General Manager, Corporate Services.
- (3) Council delegates its powers to enter into agreements for boat moorage at municipally-owned or operated wharves to the General Manager, Community Services.
- (4) Council delegates its powers to enter into agreements for authorizing encroachments caused by road widening to the Director of Engineering.
- (5) Council delegates its powers to enter into agreements for the following purposes to the Director of Parks and Recreation:
 - (a) Facility use or rental agreements for municipal recreation facilities;
 - (b) Rental agreements for parks and municipal forest reserve lands, subject to the agreement being for a term of not more than 3 months; and

- (c) Health promotion and rehabilitation service agreements, subject to sufficient funds having been allocated and approved by Council under the financial plan bylaw.
- (6) Council delegates its powers to amend, renew, extend or suspend agreements previously approved and authorized by Council or under a delegated authority under this bylaw to the Chief Administrative Officer.

Settlement of claims

- 12** Council delegates its powers to settle claims, whether legal proceedings have been commenced or not, to the Chief Administrative Officer, subject to the settlement being for not more than \$50,000.00 and sufficient funds having been allocated and approved by Council under the financial plan bylaw to satisfy the settlement.

Bylaw enforcement

- 13** (1) Council delegates its powers to commence and prosecute bylaw enforcement proceedings under section 274 [*Actions by municipality*] of the *Community Charter* to the General Manager, Financial and Protective Services, subject to there being urgency in the commencement of the proceedings, and the Chief Administrative Officer reporting to Council, as soon as reasonably practicable, at a regular meeting of Council as to the commencement of the proceedings, the urgency necessitating commencement of the proceedings, and the status of the proceedings.
- (2) Council delegates its duty under section 269 (1) [*Hearing of disputes*] of the *Community Charter* to refer disputed tickets to the Provincial Court for a hearing to the General Manager, Financial and Protective Services.

Land sales

- 14** Council delegates its powers to dispose of municipal land, or an interest in municipal land, to the Chief Administrative Officer, subject to Council having first passed a resolution authorizing the disposition of the land or interest in it, and the disposition being for a price that is not less than 95% of the value set by Council in its resolution authorizing the disposition of the land or interest in it.

Land purchases

- 15** Council delegates its powers to acquire land, or interests in land, to the Chief Administrative Officer, subject to the purchase being for a municipal project approved by Council and sufficient funds having been allocated and approved by Council under the financial plan bylaw.

Registration of statutory rights-of-way and covenants

- 16** Council delegates its powers to authorize the registration of statutory rights-of-way and covenants over municipal lands that are under development to the Approving Officer.

Builders liens

- 17** Council delegates its powers to file and discharge notices of interest under the *Builders Lien Act* to the General Manager, Corporate Services.

Discharge of obsolete charges

- 18** Council delegates its powers to discharge obsolete charges and legal notations from the title to real property to the Approving Officer.

Encroachments within road rights of way

- 19** Council delegates its powers to authorize encroachments within road rights-of-way to the Chief Administrative Officer.

Temporary municipal land and street use

- 20**
- (1) Council delegates its powers to issue licenses of occupation for non-exclusive uses of municipal land to the Chief Administrative Officer, subject to the license being for a term of not more than 12 months.
 - (2) Council delegates its powers to authorize sub-leases or sub-licenses of municipal property, and to assign municipal leases and licenses, to the Chief Administrative Officer.
 - (3) Council delegates its powers to issue special event permits for temporary, non-exclusive uses of municipal land, including temporary private uses of municipal streets for parades, walk-a-thons, fundraisers, races and similar events to the General Manager, Community Services, subject to the permit being for a term of not more than 72 hours.
 - (4) Council delegates its powers to authorize the installation of additional equipment on existing telecommunications towers on municipal property to the Chief Administrative Officer.
 - (5) For the purpose of subsections (1) to (4) above, the Chief Administrative Officer or Director of Engineering may set conditions, including conditions relating to compensation, indemnification, insurance, security, machinery, equipment, times of use, and compliance with applicable laws and any restrictions on title to property to which the license or permit relates.

Municipal Forest Reserve closure

- 21** Council delegates its powers to close or restrict use of all or part of the Municipal Forest Reserve, or lands managed for forestry purposes, to the Municipal Forester, subject to the closure or restriction as to use being for not more than 30 days, the closure or restriction as to use being during active forestry operations or being necessary to protect against a danger of fire or another danger, and the public being promptly notified of the closure or restriction.

Land use approvals

- 22**
- (1) Council delegates its powers, duties and functions under sections 490 [*Development permits*] and 491 [*Development permits: specific authorities*] of the *Local Government Act*, to the Director of Planning and Building, subject to there being no variances of municipal bylaws involved.
 - (2) Council delegates its powers under section 493(1)(a) [*Temporary use permits for designated and other areas*] of the *Local Government Act* to:
 - (i) Approve temporary use permits in order to allow property owners to continue to occupy an existing dwelling while a replacement dwelling is under construction; and
 - (ii) Sign temporary use permits approved by Council, to the Director of Planning and Building.
 - (3) Council delegates its powers to require security under section 502 [*Requirement for security as a condition of land use permit*] of the *Local Government Act* in respect of

matters delegated under subsections (1) and (2) above to the Director of Planning and Building.

Land use approvals – reconsideration

- 23** (1) The owner of land who is subject to a decision made under the delegated authority under section 22 of this bylaw is entitled to have the decision reconsidered by Council in accordance with this section.
- (2) Where the owner wishes to have Council reconsider a decision made under the delegated authority under section 22 of this bylaw:
- (a) The owner must, within 30 days of the decision having been communicated to the owner, make an application in writing to the Corporate Officer, which application must include the following:
 - (i) A description of the decision sought to be reconsidered by Council;
 - (ii) The date of the decision;
 - (iii) The name of the delegate who made the decision;
 - (iv) The grounds on which reconsideration is being requested; and,
 - (v) A copy of any materials that the owner wishes Council to take into account when reconsidering the decision.
 - (b) Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the application for reconsideration was delivered to the Corporate Officer.
 - (c) The Corporate Officer must:
 - (i) Place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with paragraph (b) above;
 - (ii) Give notice of reconsideration of the decision in accordance with any notice requirements applicable to the original decision; and,
 - (iii) Before the reconsideration of the decision by Council, deliver to each Council member a copy of the materials that were considered by the delegate in making the decision that is to be reconsidered, and a copy of all materials submitted by the business license applicant or holder to the Corporate Officer as part of the application for reconsideration.
 - (d) In reconsidering the decision the Council must consider all the material before it.
 - (e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the owner. Council may then hear from staff in relation to any new information raised by the owner in its submissions to Council.
 - (f) Council is entitled to adjourn the reconsideration of the decision; and,
 - (g) After hearing from staff and the owner, Council will reconsider the decision and may either confirm the decision, amend the decision, or set aside the decision and substitute the decision of Council.

Parcel frontage exemptions

- 24** Council delegates its powers to exempt a parcel from the minimum amount of frontage on a highway required under section 512 (2) *[Minimum parcel frontage on highway]* of the *Local Government Act* to the Approving Officer.

Strata conversions

- 25** Council delegates its powers under section 242(10)(a) *[Approval for conversion of previously occupied buildings]* of the *Strata Property Act* to approve strata conversions to the Approving Officer, subject to the conversion being in relation to a two-family residential building.

Works and services agreements

- 26** Council delegates its powers to enter into agreements for works and services under section 5 of the Works and Services Bylaw 1986, as amended or replaced from time to time, to the Director of Engineering.

Excess or extended services

- 27** Council delegates its powers, duties and functions under sections 507 *[Requirements for excess or extended services]* and 508 *[Latecomer charges and cost recovery for excess or extended services]* of the *Local Government Act* to the Director of Engineering.

Petitions for local area services

- 28** Council delegates its powers to require that petitions for local area services include information in addition to that which is required under section 212 (2) *[Petition for local area service]* of the *Community Charter* to the Director of Engineering.

Severability

- 29** If any provision of this bylaw is, for any reason, found invalid by a court of competent jurisdiction, the provision must be severed and the remainder of the bylaw left enforceable and in effect.

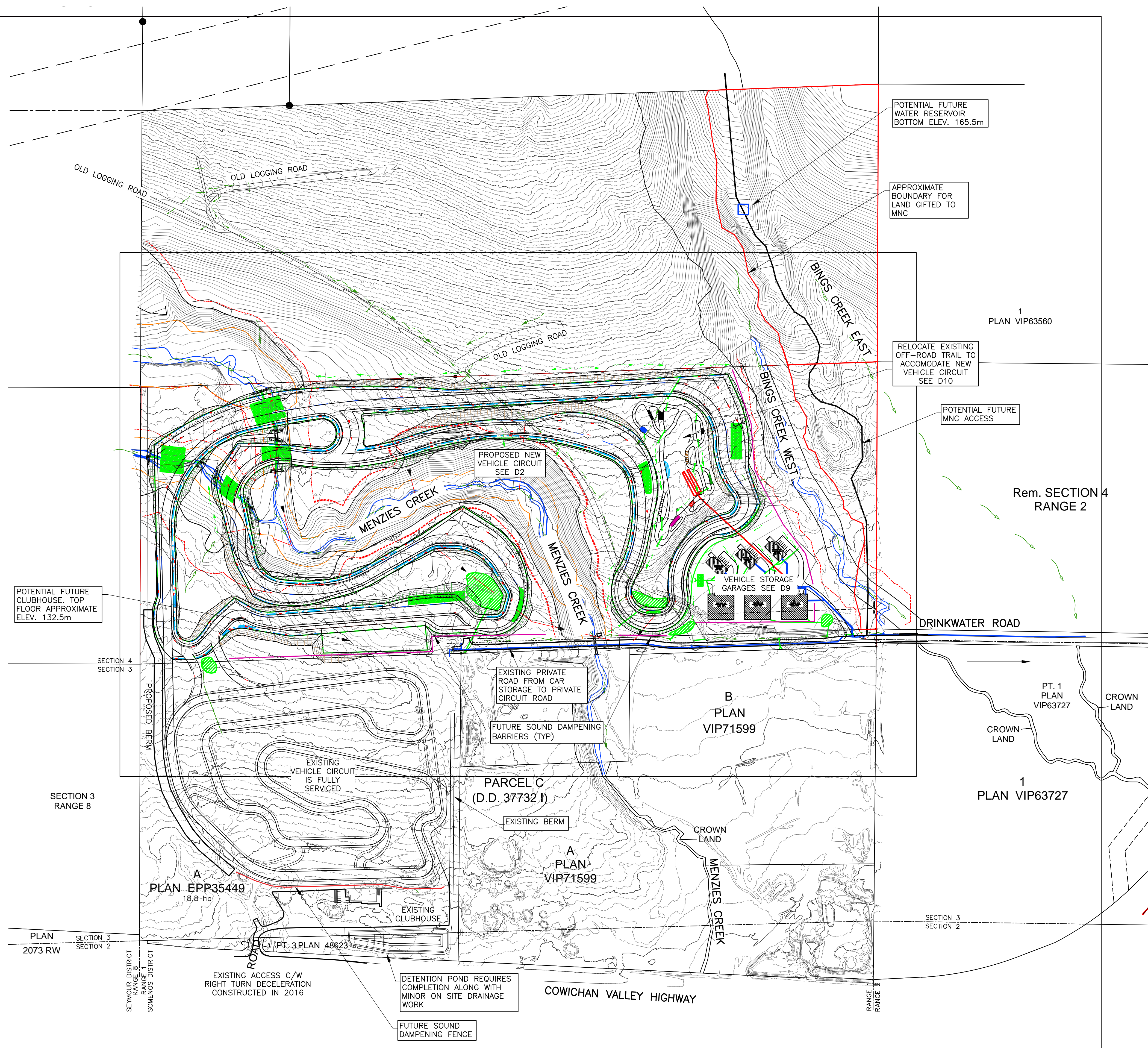
Repeal

- 30** Bylaw 3616, "Delegation of Authority Bylaw" is repealed.

Title

- 31** This bylaw may be cited as "Delegation of Authority Bylaw No. 3734, 2019".

Read a first, second and third time on September 18, 2019
Adopted on October 02, 2019



This information has been provided subject to the federal *Copyright Act* and in accordance with the provincial *Freedom of Information and Protection of Privacy Act*.

DRAWING LIST	
DRAWING NUMBER	DRAWING NAME
D1	LARGE SCALE SITE PLAN
D2	CIRCUIT DRAINAGE SITE PLAN
D3	SITE CLEARING PLAN
D4	RE-VEGETATION PLAN
D5	SOUTH MENZIES CREEK CROSSING – PLAN AND SECTIONS
D6	SOUTH MENZIES CREEK CROSSING – CULVERT PROFILE AND CALCULATIONS
D7	NORTH MENZIES CREEK CROSSING – PLAN AND SECTIONS
D8	NORTH MENZIES CREEK CROSSING – CULVERT PROFILE AND CALCULATIONS
D9	CAR STORAGE AREA SERVICING PLAN
D10	OFF-ROAD TRAIL SERVICING PLAN



Attachment 4 - Phase 2 Development Plan - ZB000064

[illegible]

Industrial Heavy Zone (I2)

Permitted Uses

- 77** (1) The permitted uses for the I2 zone are as follows:
- All Industrial Light Zone (I1) Permitted Uses
 - Automobile Wrecking or Salvage Yard
 - Bulk Storage of Flammable and Combustible Liquids
 - Boat Terminals and Dock
 - Cannabis Production Facility
 - Helicopter Landing Pad
 - Mobile Food Service
 - Municipal/Regional Government Offices
 - Pier, Wharf, and Related Facility
 - Private Airplane Landing Strip
 - Railway Yard
 - Recycling Industrial Use
 - Sawmills, Pulpmills, and Planing Mills
 - Slaughterhouse
 - Temporary Mobile Home (subject to the Temporary Mobile Home Permit Bylaw)
 - Works Yard [BL2996, BL3000, BL3457, BL3467, BL3512, BL3657, BL3741, BL3754]

Minimum Lot Size

- (2) The minimum permitted lot size for the I2 zone is 16,000 m² (3.95 acres).

Minimum Frontage

- (3) The minimum permitted frontage for the I2 zone is 90 m (295.27').

Maximum Lot Coverage

- (4) The maximum permitted lot coverage for the I2 zone is 50% of the lot area.

Minimum Setbacks

- (5) The minimum permitted setbacks for the I2 zone are as follows:
- (a) Principal Buildings
 - Yard, Front, 8.0 m (26.25'); 46 m (150.91') when abutting any Other Zone
 - Yard, Side, 0 m; 46 m (150.91') when abutting any Other Zone
 - Yard, Rear, 0 m; 46 m (150.91') when abutting any Other Zone
 - (b) Accessory Buildings and Structures (Excluding Fences)
 - Yard, Front, 8.0 m (26.25'); 46 m (150.91') when abutting any Other Zone
 - Yard, Side, 0 m; 46 m (150.91') when abutting any Other Zone
 - Yard, Rear, 0 m; 46 m (150.91') when abutting any Other Zone
 - (c) Despite the foregoing, the minimum permitted setback for any Lot Line which abuts an Arterial Highway is 18 m (59.05').
 - (d) Slaughterhouses
 - Yard, Front, 92 m (301.84')
 - Yard, Side, 92 m (301.84')
 - Yard, Rear, 92 m (301.84')

Industrial Light Zone (I1)

Permitted Uses

- 76** (1) The permitted uses for the I1 zone are as follows:
- Accessory Office
 - Accessory Dwelling Unit
 - Accessory Restaurant
 - Autobody Repair
 - Dry-cleaning Plant or Laundry
 - Cannabis Production Facility
 - Commercial Cardlock Facility
 - Custom Workshop
 - Fitness Centre/Gymnasium
 - Food and Beverage Processing
 - Fueling Installations
 - Laboratory
 - Industrial Use
 - Machine Shop
 - Mini-warehousing
 - Mobile Food Service
 - Motor Vehicle Repair
 - Motor Vehicle Sales and Repair
 - Recycling Depot
 - Repair Shop
 - Resource Use
 - Retail Lumber and Building Supply Yard
 - Retail of Motor Vehicle Parts and Accessories
 - Service Industry
 - Sign Shop
 - Storage Yard
 - Temporary Mobile Home (subject to the Temporary Mobile Home Permit Bylaw)
 - Tool and Equipment Sales, Rentals, and Services
 - Trade School
 - Truck Depot
 - Truck, Trailer, and Heavy Equipment Sales, Rentals, and Services
 - Veterinary Clinic
 - Warehouse
 - Wholesale [BL2996, BL3083, BL3512, BL3657, BL3741, BL3754]

Minimum Lot Size

- (2) The minimum permitted lot size for the I1 zone is 1,675 m² (18,030 sq. ft.).

Minimum Frontage

- (3) The minimum permitted frontage for the I1 zone is 30 m (98.43').

Maximum Lot Coverage

- (4) The maximum permitted lot coverage for the I1 zone is 50% of the lot area.

Report

Date	November 6, 2019	Prospero No. ZB000111
To	Council	Folio No. 16159-000
From	Larissa Barry-Thibodeau, Development Planner	File No. 3360-20 19.06
Subject	"Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019"	

Endorsed: 

Purpose

The purpose of this report is to provide Council with information, analysis and recommendations regarding "Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019", a bylaw to rezone the subject property located at 2903 Cypress Street in Chemainus from the Commercial General (C2) to the Urban Medium Density Comprehensive Development Zone (CD10) to regularize the existing apartment building use.

Site Context

The subject property is located at 2903 Cypress Street in Chemainus in the mixed use commercial core. It is a 0.1 Ha lot with frontage on Cypress Street (south) with vehicle access from an abutting lane (east) (see Attachment 2). The property is zoned Commercial General (C2) (see Attachment 4), is within the Chemainus Urban Containment Boundary and specifically identified as Chemainus Mixed Use / Commercial Core within the Official Community Plan (OCP). The site is predominantly flat, with a retaining wall, separating elevations between adjacent lands, along the west property line, and is developed with a 3 storey, 14-unit rental apartment building, constructed in 1969.

Land Use Context

North: Commercial General (C2) Empty Lot, Municipally Owned Future Parking Lot Site

East: Mixed Use Commercial Core Zone (CD 16) Future Supportive Housing Site, and Public Use (PU) Future Library Site

South: Commercial General (C2) Commercial Building

West: Commercial General (C2) Service Station

The neighbourhood consists of lots similar in size to the subject property, with a diversity of surrounding land uses, including commercial, mixed commercial and residential use, and public use. The property is located in downtown Chemainus, within walking distance (400 m) to services and amenities including transit, parks, shops, and trails. The parking lot adjacent to the property is expected to be developed into a District parking lot.

The Building Permit for the Apartment Building was issued in 1969, though no records of completion exist in District Files. At the time, the property was zoned R3, and the R3 zone permitted the use of apartment building. The apartment building use was subsequently removed from the R3 zone, and in the latest iteration of "Zoning Bylaw No. 2950, 1997", the property was rezoned to the Commercial General (C2) Zone, which does not permit apartments as a use.

Proposal

The applicant has applied to rezone the property from the current Commercial General (C2) zone to the Urban Medium Density Comprehensive Development Zone (CD10) to regularize the existing apartment building use. They intend to add three ground floor units in the future (Attachment 5). The applicant has provided proposed building floor plans (Attachment 6) in support of the application. Access will continue to be from the laneway to the east of the building.

Discussion

The following policies are relevant to this application.

Official Community Plan (OCP)

The Official Community Plan supports multi-family development within North Cowichan's Mixed Use / Commercial Core areas through the following policies.

Policy 2.4.1.3 *The Municipality will link economic development with community planning.*

f) The Municipality will focus efforts of redevelopment within urban centres, to support each commercial core.

The proposal formalizes the existing apartment building to allow for its continued use. This is consistent with the policy as referenced above to support the existing downtown core.

Policy 2.5.1.5 *The Municipality recognizes as a priority the need to identify and plan for appropriate densities in its growth centres.*

b) Highest density development will occur within North Cowichan's Mixed Use Commercial Core areas. The Municipality will encourage dense development close to existing amenities (e.g., parks, community centres), services and employment centres (commercial or recreational), and in proximity to transit nodes where there is also safe access to and from major roads.

This proposal formalizes higher density in the Chemainus Mixed Use Commercial Core, and is in proximity to a variety of services, amenities, and transit options.

Policy 2.5.2.1 *The Municipality recognizes the need for a variety of housing types (by size, type, tenure, density and cost) integrated into a range of neighbourhoods in all growth centres, and especially for housing types suitable for the aging population and young families.*

Policy 2.5.2.8 – *The Municipality encourages sensitive integration of increased density in growth centres through the use of multi-unit housing.*

The change in zone formalizes an existing multi-family housing site in the zoning, and it acknowledges the existing use as part of the neighbourhood fabric. The zoning provisions for height, setbacks, and density, are similar to adjacent properties to provide continuity of integration of density into a designated growth centre.

Community Amenity Contribution

Policy 2.5.1.5 *The Municipality recognizes as a priority the need to identify and plan for appropriate densities in its growth centres.*

d) The Municipality requires all new development to contribute to improved quality of life in North Cowichan. As part of development approval for commercial and higher density residential use, the Municipality will require community amenity contributions, in accordance with the legislation.

No community amenities are proposed for this regularization; therefore, the *Policy* is not satisfied. The applicant is applying to rezone from the general commercial zone to a medium density residential zone. The scale of the proposal, in staff's view, does not warrant a community amenity contribution, and is therefore not recommended.

Development Costs Charges

Policy 2.5.2.3 (c) *The Municipality will seek to offset the added costs of providing new affordable housing (e.g., by reducing parking requirements and reduced development cost charges).*

Policy 3.2.3.7 *The Municipality expects growth to be responsible for paying for services required to accommodate it.*

The applicant has requested that the District waive Development Cost Charges for the future buildout of three units. While there is some support for the reduction of associated Development Cost Charges within the OCP, there is also language which sets an expectation that new development shall pay for the services it requires. There is no qualification of the term affordable housing in the OCP, and the District has not established parameters for consideration, nor a bylaw, under which to waive Development Cost Charges, as required by Section 563 of the *Local Government Act*. The former Revitalization Program Bylaw (Bylaw 3635) established parameters for waiving Development Cost Charges, but expired March 29, 2019, therefore Council has no current bylaw under which to consider waiving these fees.

Council's Strategic Plan

The proposal is consistent with Council's Strategic Priority to provide housing choices for all.

Chemainus Town Centre Revitalization Plan

The subject property falls within the Chemainus Town Centre Revitalization Plan area. The plan provides direction to pursue a variety of housing forms to support downtown revitalization. The plan does not specifically reference plans for Cypress Street, and labels the property as existing residential, despite its status as a commercially zoned (C2) property.

Climate Energy and Action Plan (CAEP)

The Climate Energy and Action (CAEP) Plan identifies north western Chemainus (downtown) as one of the best candidates for future housing density and amenity development in North Cowichan.

"Zoning Bylaw No. 2950, 1997"

Implications of rezoning to the Urban Medium Density Comprehensive Development Zone (CD10) include increased setbacks, and reduction in permitted uses from the present General Commercial (C2) Zone. The CD10 Zone is a residential zone, while the General Commercial (C2) Zone permits a variety of commercial uses with some residential options.

Development Variance Permit (Parking and Principal Access Points)

An increase in the number of dwelling units will require the provision of additional parking stalls. Pursuant to "Cash in Lieu of Parking (Chemainus) Bylaw 1995", if the applicant cannot provide the additional spaces on site, they are required to contribute \$8000.00 per required space to the *Cash-in-Lieu of Parking Fund* prior to the issuance of a Building Permit.

The applicant may request a variance to Section 20.1 of "Zoning Bylaw No. 2950, 1997" to increase the number of permitted small-car stalls, as a way to increase the total number of parking stalls they are able to provide.

Additionally, Section 80.10 (12) of "Zoning Bylaw No. 2950, 1997" requires that individual access be provided to each ground floor dwelling unit; as the building is existing, the proposed renovations on the lowest floor cannot comply with this section of the bylaw, likely resulting in a future variance request to this section of the "Zoning Bylaw No. 2950, 1997".

Conclusion

In conclusion, the proposed "Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019" is supported by staff for the following reasons: it regularizes existing multi-family housing, currently used primarily by seniors; it regularizes its use as part of the existing neighbourhood fabric since 1969; it formalizes a denser form of development near to existing services and amenities; it is sensitive to permitted heights and setbacks of the existing neighbourhood, and it allows for future expansion of the existing use.

Communications and Engagement

Should Council support the application proceeding to provide 1st and 2nd reading to "Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019", the application will proceed to the Public Hearing stage, at which time the general public will be provided an opportunity to have input on the proposed amendment(s) to "Zoning Bylaw No. 2950, 1997". Neighbouring properties within a 60 m radius of the subject property will be notified of this application and advertisements will be placed in the local newspaper as per the requirements of the *Local Government Act*.

The applicant has advised their intent to contact the surrounding neighbours regarding the project. The Chemainus Residents Association was notified of the application by staff.

Options

Recommended Option:

Option 1: That Council give first and second readings to "Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019" - a bylaw to regularize an existing apartment building use at 2903 Cypress Street; and,

That a Public Hearing for "Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019" be scheduled as required by the *Local Government Act*.

Other Options:

Option 2: That "Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019" for 2903 Cypress Street be denied.

Implications

Should Council deny the application, the applicant would be restricted to the current lawful non-conforming use and the permitted uses in the Commercial General (C2) Zone.

Should Council ultimately approve the rezoning application and "Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019", the apartment use would be consistent with zoning. The applicant would require a building permit to increase the number of dwelling units in the building, and would be required to address the parking and access requirements at that time.

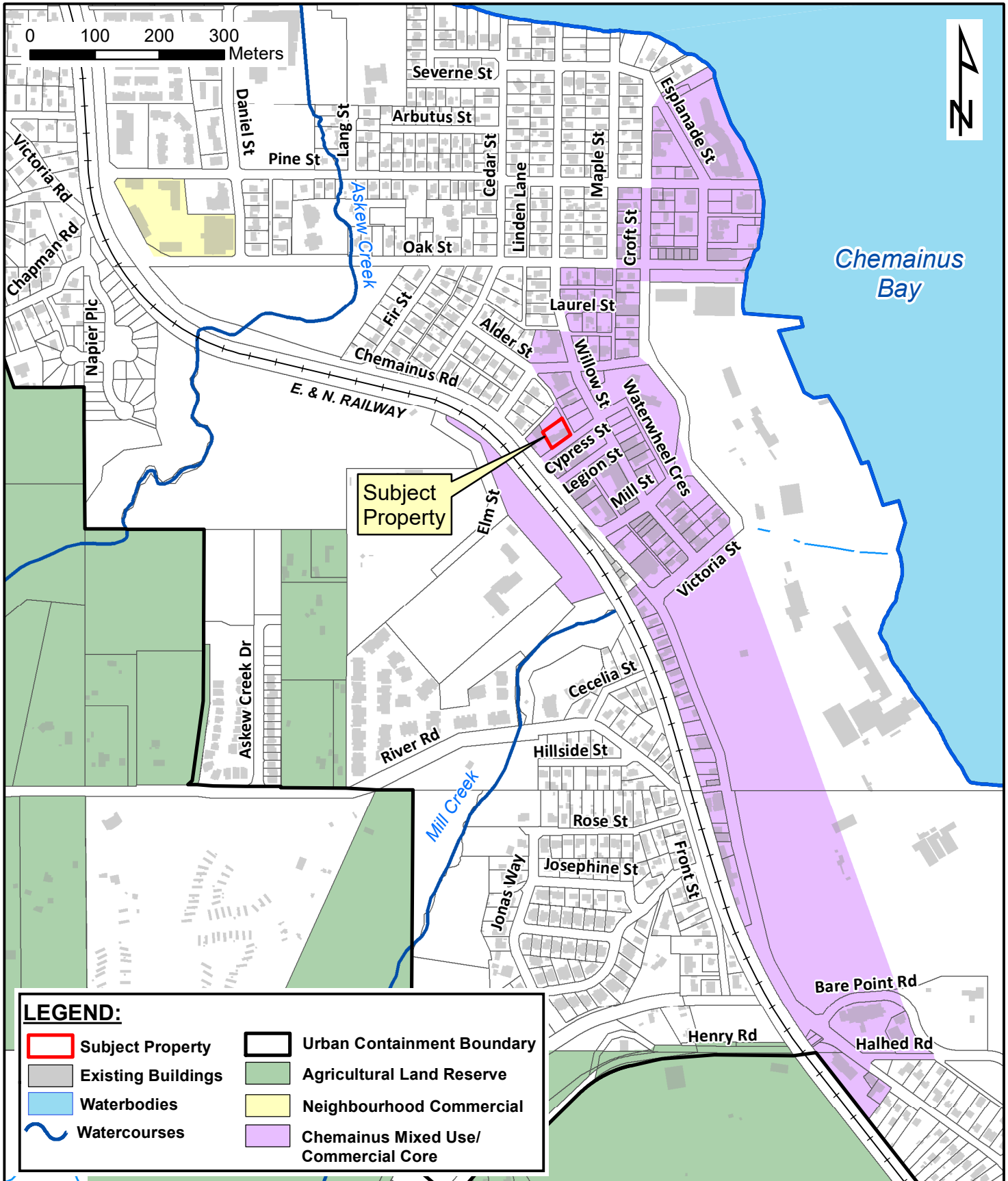
Recommendation

That Council give first and second readings to “Zoning Amendment Bylaw (CD10 - 2903 Cypress Street), No. 3752, 2019” - a bylaw to regularize the existing apartment building use at 2903 Cypress Street; and,

That a Public Hearing for “Zoning Amendment Bylaw (CD10-2903 Cypress Street), No. 3752, 2019” be scheduled as required by the *Local Government Act*.

Attachments:

- Attachment 1– Location Map
- Attachment 2 – Aerial Photo
- Attachment 3 – Zoning Map
- Attachment 4 – Site Photos
- Attachment 5 – Letter of Rationale
- Attachment 6 – Development Concept
- Attachment 7 – CD10 Proposed Zone
- Attachment 8 – C2 Current Zone
- Attachment 9 – Proposed Bylaw 3765



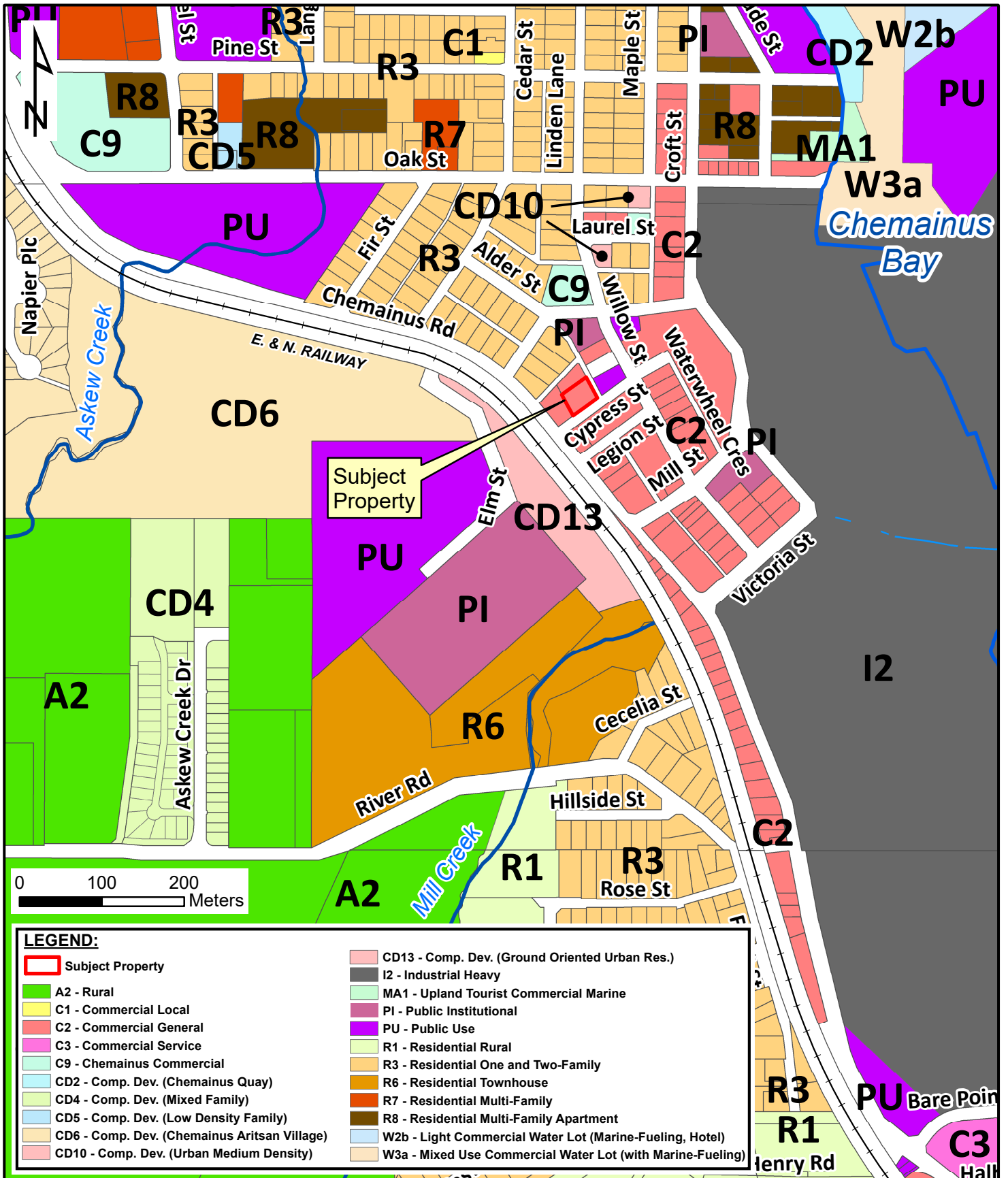


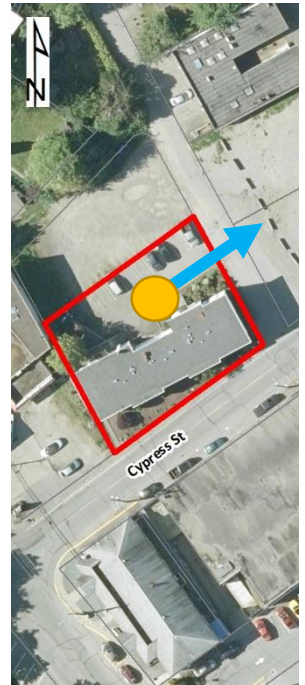
ORTHOPHOTO MAP

(Orthophoto is from 2017 aerial photography)

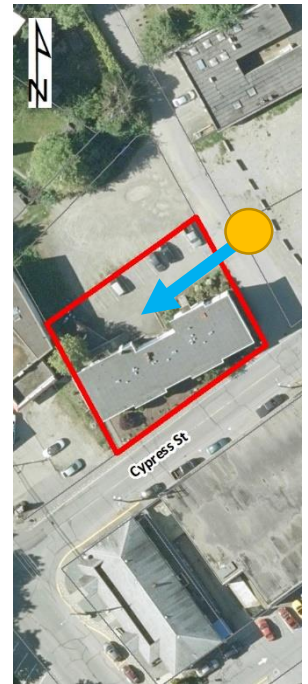
2903 Cypress Street

DATE:	May 27, 2019
TYPE:	Rezoning
FILE#:	ZB000111

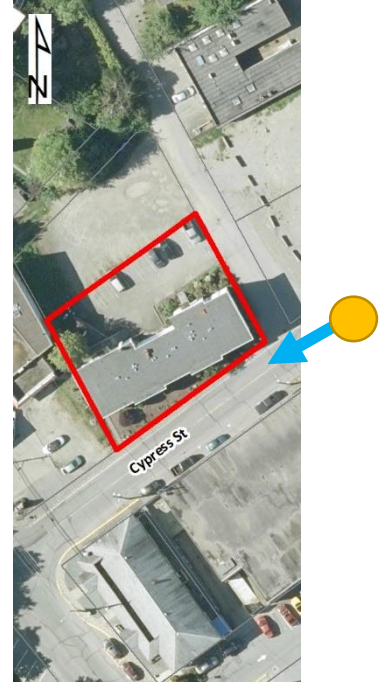




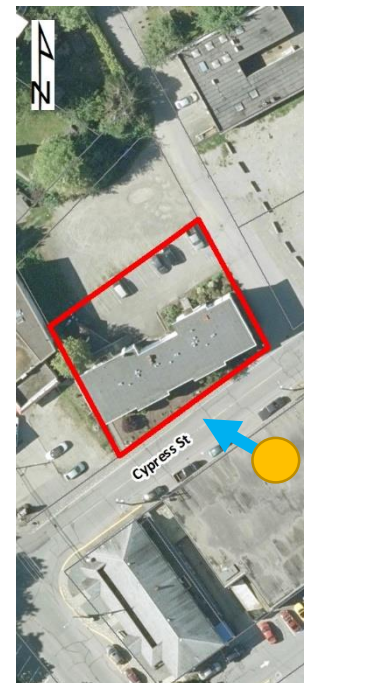
Facing east, from parking lot, looking toward library and affordable housing sites.



Facing west, from parking lot, looking toward existing building and adjacent service station.



Facing east, from Cypress Street, with laneway and parking lot visible. (Google Street View, 2014)



Facing northwest, from Cypress Street.



Facing west along Cypress Street with adjacent commercial and public use properties.



Facing southeast from laneway, showing building access points. (Google Street View, 2014)

Tim & Patti Openshaw

~~January 14, 2019~~
 T.O.
 April 10th 2019

North Cowichan Planning Department

P.O. Box 278

Duncan, BC V9L 3X4



Re: 2903 Cypress Street, Chemainus, BC

Further to my application for a zoning amendment, according to the information we have and provided by the planning department of North Cowichan, in 1968 two lots were amalgamated to create the current lot in order for the Normandie Apartments to be built. Records do not indicate at what time either the zoning was changed or allowable uses were changed. It now falls into a legal non-conforming use under the current C-2 zoning.

Given the history of the building and the objectives of the OCP I would think that there would be support to transfer the lot to the appropriate ~~R8 Residential Multi-Family Apartment Zone~~. My plan is to create three more units on the lower floor of the building where there are currently 2 units. On both the main and upper floors there are six units (each floor).

APPLICANT AMENDED TO PROPOSE CD10 URBAN MEDIUM DENSITY
 COMPREHENSIVE DEVELOPMENT ZONE

In addition, given the fact that it was built and will continue to operate as affordable seniors housing, that a parking variance may be considered. At this time about half the residents own a vehicle and given its downtown location and mounting financial pressures of our seniors, this trend will likely continue. In fact, at peak times during the summer the parking is often used by non-residents.

Further, in light of some of the objectives of the OCP and every other level of government, I would ask that should my rezoning application be approved, that both the parking variance and development cost charges be waived.

Let's all work together to meet the municipalities long term objectives.

Sincerely,

Tim Openshaw

NOTE:
GREAT CARE AND EFFORT HAS BEEN TAKEN IN THE MAKING OF THIS DESIGN.
3D DIRON DESIGN & DRAFTING SERVICES CANNOT ASSUME ANY RESPONSIBILITY
FOR DAMAGE AS A RESULT OF ERRORS OR OMISSIONS. IT IS RECOMMENDED
THAT THE OWNER AND/OR BUILDER CONSULT A LOCAL ENGINEER AND CHECK
WITH YOUR LOCAL BUILDING OFFICIALS PRIOR TO THE START OF CONSTRUCTION.

BEFORE ORDERING OR CUTTING TRUSSES/BEAMS/POSTS
ACCURATE FINAL DIMENSION HAVE TO BE TAKEN ON SITE

DRAWING TO BE READ IN CONJUNCTION WITH
STRUCTURAL/MECHANICAL & ELECTRICAL DRAWINGS

ALL PRODUCTS USED MUST BE INSTALLED
TO MANUFACTURER'S SPECIFICATION & LAYOUT

ALL DIMENSIONS HAVE TO BE CONFIRMED ON SITE

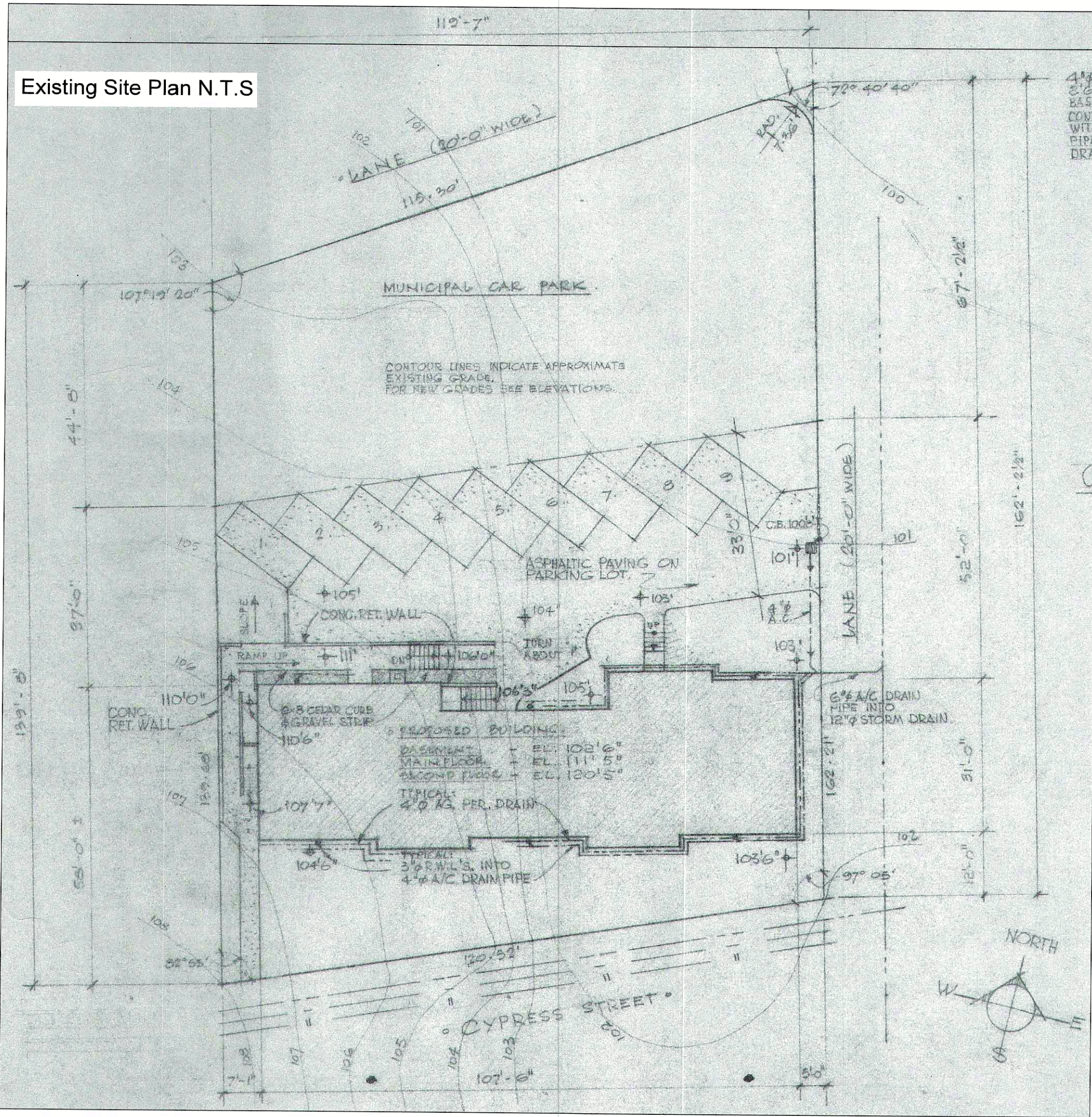
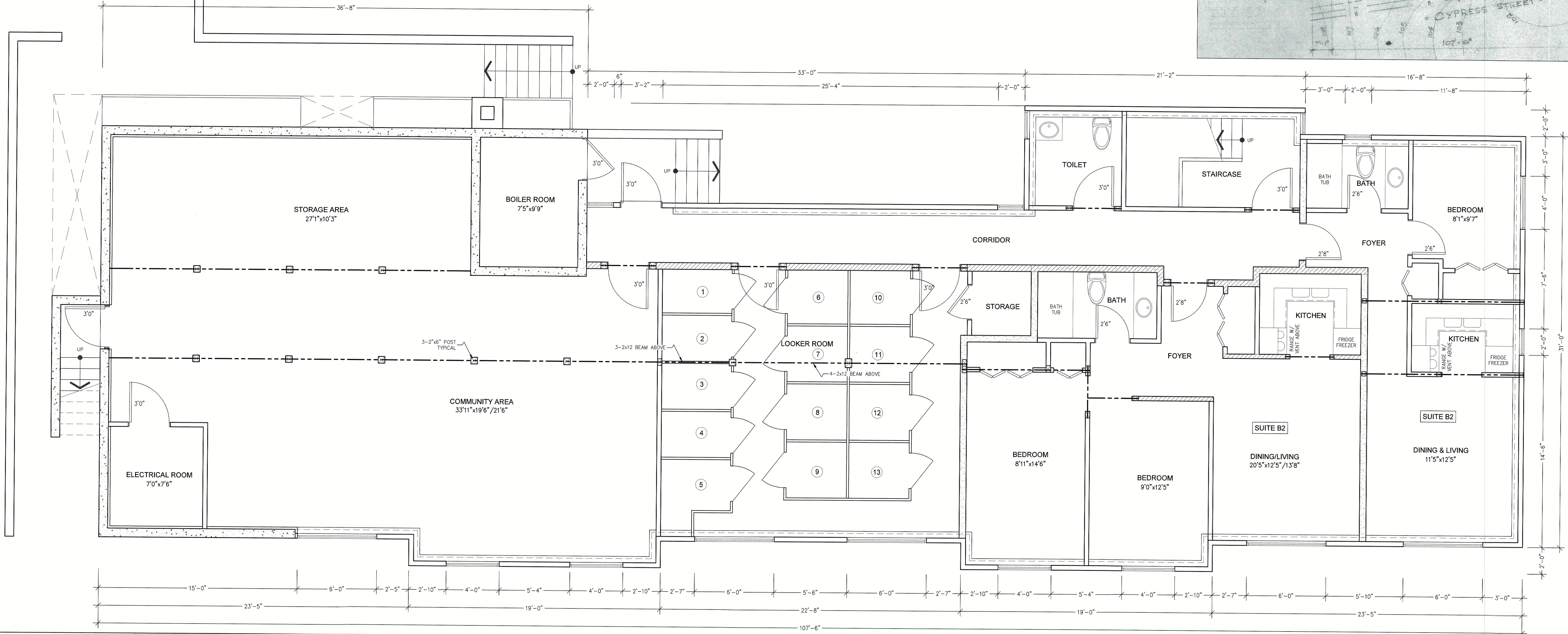
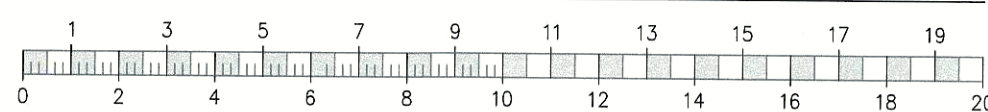
LEGEND

- LOAD BEARING WALL
- SOUNDPROOF WALL
- BEAM ABOVE
- POINT LOAD
SOLID WOOD OR BUILT-UP POST
- FULL HEIGHT FOUNDATION WALL

EXISTING - BASEMENT FLOOR PLAN

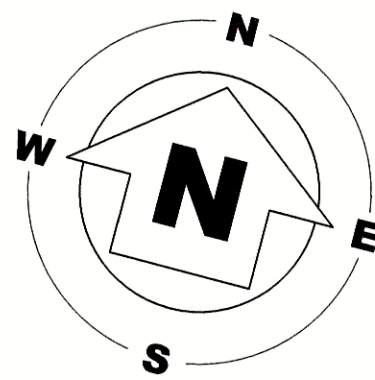
SCALE 1/4" = 1'-0"

SCALE BAR

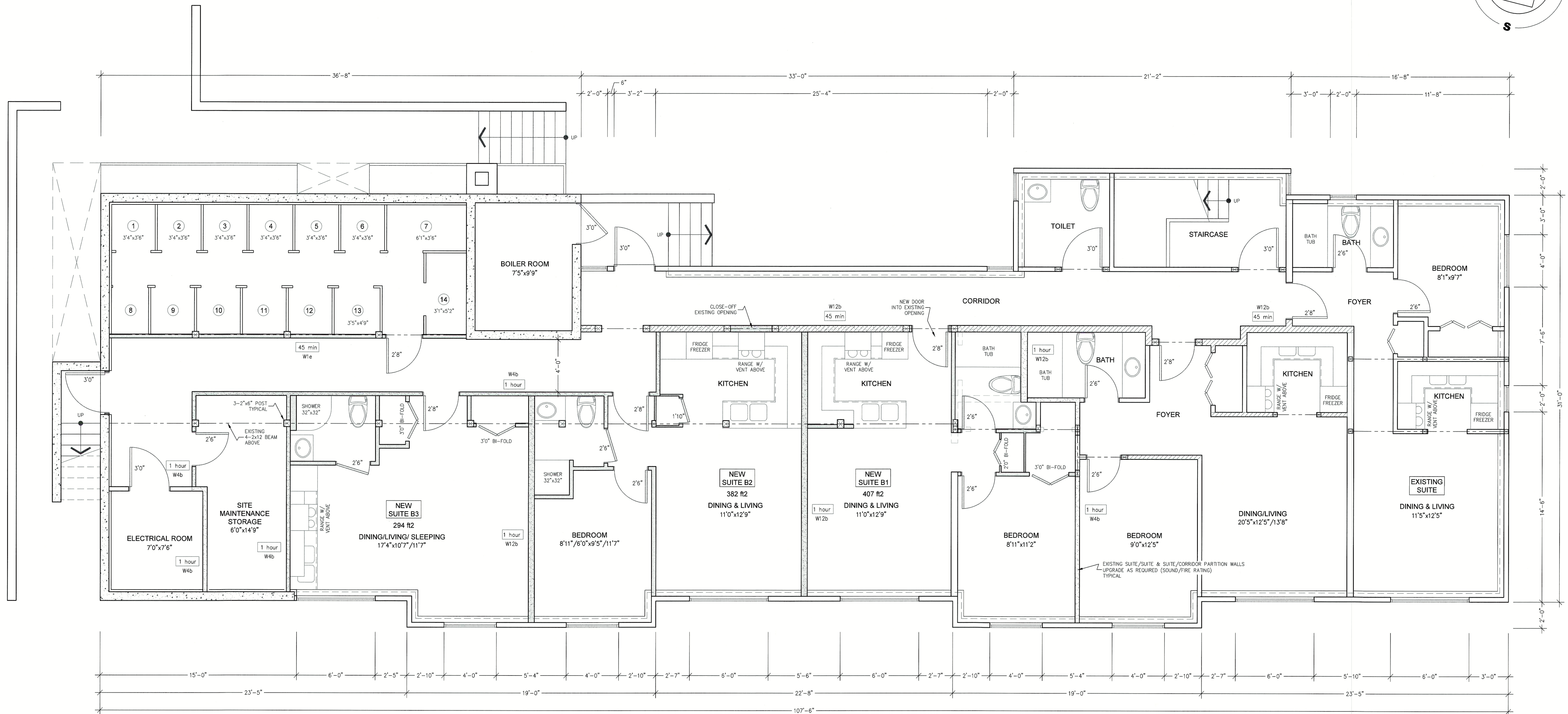
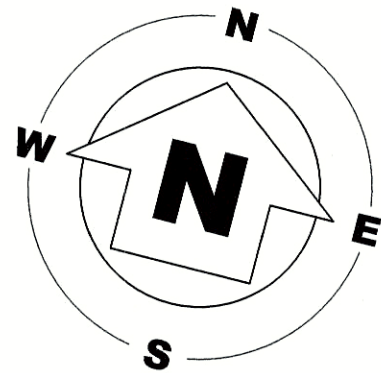


CONSTRUCTION NOTES

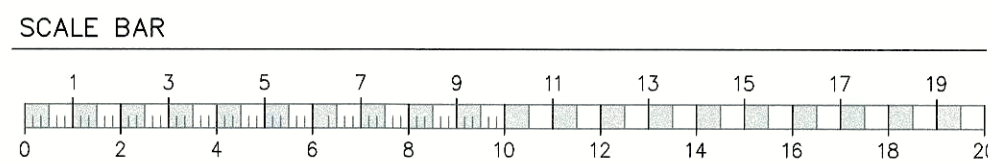
(UNLESS OTHERWISE NOTED)
* ALL CONSTRUCTION TO CONFORM TO THE 2018 BRITISH COLUMBIA BUILDING
CODES AND ALL OTHER CODES AND LOCAL AUTHORITIES HAVING JURISDICTION



April 2019		Development Permit
NO	DATE	REVISION/ISSUE
<div>3D</div> <div>Diron Design & Drafting Services</div> <div>915 Island Highway Sayward BC V0P 1R0</div> <div>Tel. 1250 282 3695 3djens@gmail.com web:3djens.com</div>		
<div>Additional Suites to Existing Building</div> <div>2903 Cypress Street</div> <div>Chemainus, BC</div> <div>Existing – Basement Floor Plan</div> <div>Existing – Site Plan</div>		
Owner Tim Openshaw 1-246-0630		Date Plotted: 07.04.2019
Designed JD	Drawn: JD	Job No. #A1910
		Dwg of 1 2
Scale: as Shown		Sheet No. A01



NEW/PROPOSED - BASEMENT FLOOR PLAN
SCALE 1/4" = 1'-0"



LEGEND	
	LOAD BEARING WALL
	SOUNDPROOF WALL EXISTING WALL
	NEW WALL
	FILL IN EXISTING WALL
	DEMOLISH EXISTING WALL
	NEW BEAM ABOVE
	POINT LOAD
	SOLID WOOD OR BUILT-UP POST
	EXISTING BEAM ABOVE
	FULL HEIGHT FOUNDATION WALL

SPECIFICATIONS

- 1 hour**
INTERIOR WALLS (W12b) - 1 hour F.R.R.
NEW SUITE/SUITE - SUITE/EXISTING CORRIDOR SEPARATION
2x6 STUDS @ 16" OR 24" o.c. STAGGERED
3.5" ROXUL NOISE INSULATION BATTS ON ONE SIDE
RESILIENT METAL CHANNELS ON ON SIDE @ 24" o.c.
2 LAYER OF 5/8" TYPE "X" GYPSUM BOARD ON
RESILIENT METAL CHANNEL SIDE
1 LAYER OF 5/8" TYPE "X" ON OTHER SIDE
(W12b) 56 STC RATING - 1 H F.R.R.
- 1 hour**
INTERIOR WALLS (W4b) - 1 hour F.R.R.
NEW SUITES/CORRIDOR SEPARATION
2x4 STUDS @ 24" o.c.
3.5" ROXUL NOISE INSULATION BATTS ON ONE SIDE
RESILIENT METAL CHANNELS ON ON SIDE @ 24" o.c.
2 LAYER OF 5/8" TYPE "X" GYPSUM BOARD ON
RESILIENT METAL CHANNEL SIDE
1 LAYER OF 5/8" TYPE "X" ON OTHER SIDE
(W4) 54 STC RATING - 1 hour F.R.R.
- 45 min**
INTERIOR WALLS (W1e) - 45 min F.R.R.
CORRIDOR/STORAGE
2x4 STUDS @ 16" OR 24" o.c.
1 LAYER OF 1/2" TYPE "X" GYPSUM
BOARD EACH SIDE
(W1e) 32 STC RATING - 45 min F.R.R.

- INTERIOR WALL 2x4/2x6**
STUDS 16" o.c.
3" NOISE INSULATION BATTS TO CONSTRUCTOR'S SPEC.
1/2" OR 5/8" GYPSUM BOARD EACH SIDE
- INTERIOR WALLS 2x4/2x6 - WET AREA**
STUDS @ 16" o.c.
3" NOISE INSULATION BATTS ONE SIDE
1 LAYER 1/2" TYPE "X" PLASTERBOARD DRY SIDE
1 LAYER GREEN OR CEMENT BOARD AS REQ'D

BEFORE ORDERING OR CUTTING TRUSSES/BEAMS/POSTS ACCURATE FINAL DIMENSION HAVE TO BE TAKEN ON SITE
DRAWING TO BE READ IN CONJUNCTION WITH STRUCTURAL/MECHANICAL & ELECTRICAL DRAWINGS
ALL PRODUCTS USED MUST BE INSTALLED TO MANUFACTURER'S SPECIFICATION & LAYOUT
ALL DIMENSIONS HAVE TO BE CONFIRMED ON SITE

NOTE:
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April 2019		Development Permit
NO	DATE	REVISION/ISSUE
<div>3D</div> <div>Diron Design & Drafting Services</div> <div>915 Island Highway Sayward BC V0P 1R0</div> <div>Tel. 1250 282 3695 3djens@gmail.com web:3djens.com</div>		
<div>Additional Suites to Existing Building</div> <div>2903 Cypress Street</div> <div>Chemainus, BC</div> <div>New/Proposed – Basement Floor Plan</div>		
Owner Tim Openshaw 1-250-246-0630		Date Plotted: 07.04.2019
Designed JD	Drawn: JD	Job No. #A1910
Scale: as Shown		Dwg of 2 2
		Sheet No. A02

Urban Medium Density Comprehensive Development Zone (CD10) [BL3619, BL3672]

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 m² (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 from any lot line is 1.5 m (4.92').

Maximum Building Height

- (6) The maximum height of a principal building is 12 m (39.37').
- (6.1) Despite section 80.10 (6), the maximum height of a principal building on 6472 Paddle Road (PID: 005-949-416) is 13 m (42.65').

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 units designated as visitor parking.
- (8.1) Despite sections 21 (1) and 80.10 (8), parking spaces must be provided on 6472 Paddle Road (PID: 005-949-416) as follows:
- (a) 1.25 parking spaces per dwelling unit, and
 - (b) an additional 15% of the total number of units designated as visitor parking.

Conditions of Use

- (9) The conditions of use for the CD10 zone are as follows:
- (a) no fences over 1.2 m in height are permitted in any yard that abuts public property, a highway or a lane;
 - (b) no fences over 1.8 m in height 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. [BL3693]
- (10) Where a lot abuts a lane, driveway access to a garage must be from the lane. [BL3693]

- (11) [Repealed; BL3693]
- (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.
- (13) At least 240 m² of 6472 Paddle Road (PID: 005-949-416) must be designated and developed as an outdoor amenity space for residents.

Commercial General Zone (C2)

Permitted Uses

- 69 (1) The permitted uses for the C2 zone are as follows:
- Accessory Dwelling Unit
 - Appliance and Small Equipment Repair
 - Bed and Breakfast
 - Bus Depot
 - Car Wash
 - Club
 - Commercial Cardlock Facility
 - Commercial School
 - Dry Cleaner
 - Entertainment Use
 - Financial Institution
 - Fitness Centre/Gymnasium
 - Funeral Parlour
 - Hairdresser
 - Home-Based Business
 - Hotel
 - Laundromat
 - Medical Laboratory
 - Mini-Warehousing
 - Mixed-use Building
 - Mobile Food Service
 - Night Club
 - Nursery
 - Office
 - Parking Use
 - Pub
 - Restaurant
 - Retail Lumber and Building Supply Yard
 - Retail of Motor Vehicle Parts and Accessories
 - Retail Store
 - Service Station
 - Single-Family Dwelling (subject to the provision of the R3 zone)
 - Tool Rental
 - Veterinary Clinic
 - Wholesale Store [BL3150, BL3657]

Minimum Lot Size

- (2) The minimum permitted lot size for the C2 zone is 560 m² (6,028 sq. ft.).

Minimum Frontage

- (3) The minimum permitted frontage for the C2 zone is 15 m (49.21').

Maximum Lot Coverage

- (4) The maximum permitted lot coverage for the C2 zone is 100% of the lot area, except such area as required for off-street parking and loading facilities, landscaping requirements, and fencing and highway setbacks.

Minimum Setbacks

- (5) There are no minimum setbacks for the C2 zone except:
 - (a) where the lot abuts residentially zoned land that yard which abuts the residentially zoned land shall be 3.0 m (9.84') in depth; and
 - (b) where the lot abuts an arterial highway the yard, front, shall be 4.5 m (15') in depth.

Maximum Building Height

- (6) The maximum permitted building heights for the C2 zone are as follows:
 - (a) Principal Building, 12.0 m (39.37')
 - (b) Accessory Building, 5.0 m (16.4')



The Corporation of the District of North Cowichan

Bylaw No. 3765

Zoning Amendment Bylaw (2903 Cypress Street), 2019

The Council of The Corporation of The District of North Cowichan enacts as follows:

1 Title

This Bylaw may be cited as "Zoning Amendment Bylaw No. 3765, 2019."

2 Administration

Zoning Bylaw 1997, No. 2950 is amended as follows:

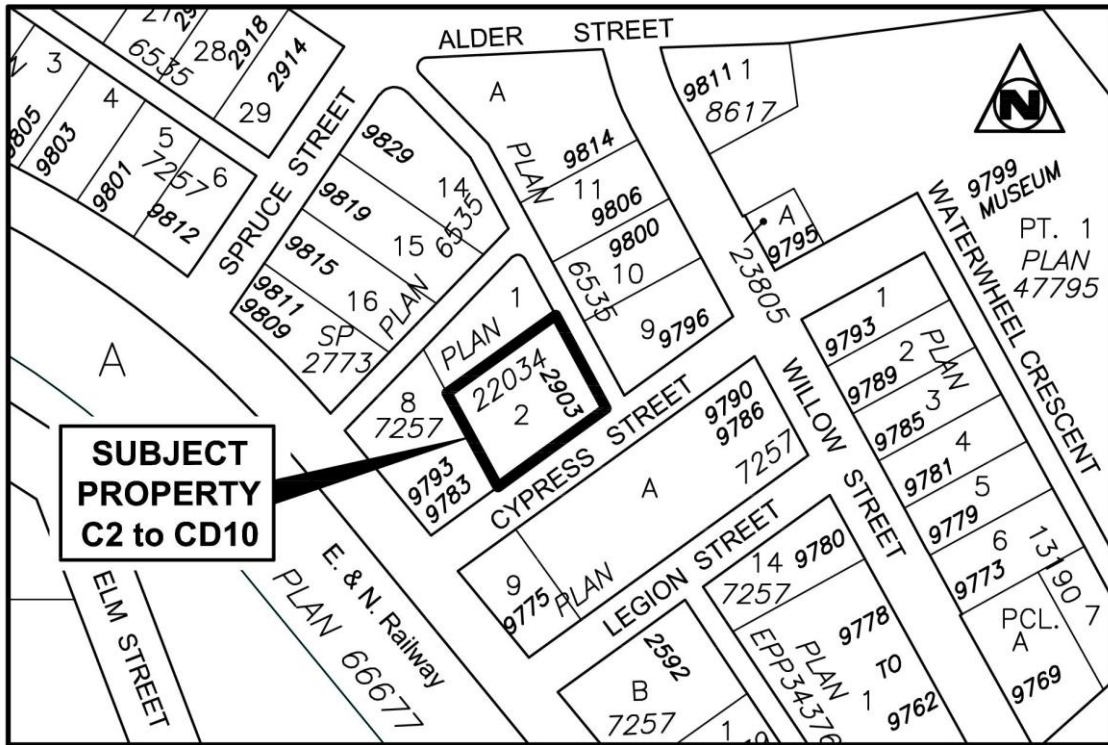
- 2.1 ***Schedule "C" of "Zoning Bylaw 1997", 2950, is amended by reclassifying from Commercial General Zone (C2) to Urban Medium Density Comprehensive Development Zone (CD10), 2903 Cypress Street (PID 003-290-000), shown as the "Subject Property" and outlined in bold on the Schedule attached to and forming part of this bylaw.***

READ a first time on
READ a second time on
CONSIDERED at a Public Hearing on
READ a third time on
ADOPTED on


CORPORATE OFFICER

PRESIDING MEMBER

Schedule



Report

Date	November 6, 2019	File: ZB000120
To	Council	
From	Larissa Barry-Thibodeau, Development Planner	Endorsed: 
Subject	"Zoning Amendment Bylaw (Keeping of Farm Animals & Poultry), No. 3758, 2019"	

Purpose

The purpose of this report is to provide Council with information, analysis, and a recommendation to update "Zoning Bylaw 1997, No. 2950" to include general regulations pertaining to the keeping of farm animals and poultry, and regulations for kennels.

Background

"Animal Responsibility Bylaw No. 3740, 2019", was adopted by Council on May 1, 2019. In that process, regulations pertaining to number of permitted animals, minimum lot sizes, and setbacks for the keeping of farm animals and poultry from repealed "Animal Control Bylaw 1995" were removed. This report recommends a comprehensive zoning amendment bylaw to replace and relocate regulations from repealed "Animal Control Bylaw 1995" in "Zoning Bylaw, No. 2950, 1997".

Discussion

As noted, a gap in regulation exists for the keeping of farm animals, poultry, and kennels. Previously, the keeping of animals including farm animals and poultry was permitted in all zones, but limited by the provisions of "Animal Control Bylaw 1995" for minimum lot size, number of permitted animals, and setback provisions. Kennels were permitted but only on lots greater than 8093 m² (2 acres). These regulations were removed in the adoption "Animal Responsibility Bylaw No. 3740, 2019".

The relevant regulations from the former "Animal Control Bylaw 1995" can be see in Attachment 1, and have been adapted for consolidation with "Zoning Bylaw, No. 2950, 1997". In addition, the proposed changes include defining farm animals and poultry, and differentiating kennel use from other types of uses for minimum setback requirements. "Zoning Amendment Bylaw (Keeping of Farm Animals & Poultry), No. 3758, 2019" can be reviewed in Attachment 2.

Proposed Changes to Definitions

The following definitions for farm animals and poultry are proposed to be added:

1. "farm animals" means domesticated cows, donkeys, horses, mules, llamas, emus, ostriches, swine, sheep, or goats, and other animals usually associated with farming, but not necessarily used solely for agricultural purposes.
2. "poultry" means chickens, turkeys, ducks, geese and pigeons."

Proposed Changes to General Regulations (Permitted in All Zones)

The following changes to the general regulations section of "Zoning Bylaw No. 2950, 1997", limits the keeping of farm animals, poultry, and rabbits, on all lots, by re-assigning minimum lots sizes for keeping of animals, and re-assigning setback requirements for structures for farm animals, poultry, and rabbits.

Keeping of Farm Animals and Poultry

- 48.1 (1) The keeping of farm animals and poultry is permitted on a lot greater than 8000 m² (1.98 ac) in area.
- (2) The keeping of farm animals and poultry is not permitted on a lot less than 8000 m² (1.98 ac) in area, except as follows:
- (a) on a lot greater than 1675 m² (0.41 ac) in area but less than 4000 m² (0.99 ac) in area, a total of not more than 12 rabbits or poultry, but for clarity this does not include roosters;
 - (b) on a lot equal to or greater than 4000 m² (0.99 ac) in area but less than 8000 m² (1.98 ac) in area, a total of not more than 12 rabbits or poultry and a total of not more than 2 farm animals.
- (3) Any structure to house farm animals, or poultry must be set back at least 15 m from any lot line.
- (4) Any structure used for the storage of manure must be set back at least 15 m from any lot line.
- (5) Notwithstanding the foregoing, where the minimum setback requirements from all lot boundaries of the zone in which the structure is located are greater than 15 m, the greater setback requirements apply.

Proposed Changes to Kennel Use (Setbacks and Lot Size)

The following setbacks for kennels are proposed for the A1 and A2 Zones, consistent with the current setbacks for 'All Other Principal Buildings' in the associated zone:

Agricultural (A1) Zone

1. A kennel shall be located no closer than 46 m (150.91') from any lot line in the Agricultural Zone (A1).
2. A kennel must not be located on a lot less than 8000 m² (1.98 acres) in area.

Rural (A2) Zone

1. A kennel shall be located no closer than 30 m (98. 43') from any lot line in the Rural Zone (A2).
2. A kennel must not be located on a lot less than 8000 m² (1.98 acres) in area.

Analysis

When "Animal Control Bylaw 1995" was repealed, regulations pertaining to number of permitted animals, minimum lot sizes, and setbacks for the keeping of farm animals, kennels, and poultry were not included in "Animal Responsibility Bylaw No. 3740, 2019".

While parameters for the regulations of farm animals, poultry, and kennels, will be considered as part of the OCP and Zoning Bylaw review, staff recommend that the former regulations from "Animal Control Bylaw 1995" be re-instated as an interim measure to mitigate nuisance and noise complaints, to provide regulations to the public consistent with the District's past practice, and to differentiate setbacks for kennels from other uses, which is consistent with other jurisdictions.

Options

Staff Recommendation:

That Council give first and second reading to "Zoning Amendment Bylaw (Keeping of Farm Animals & Poultry), No. 3758, 2019" in order to regulate the keeping of farm animals and poultry, and to establish setbacks specific to kennels; and,

That a Public Hearing be scheduled and notification given, as per the requirements of the *Local Government Act*.

Alternate Recommendation:

Option 2: That no amendments to "Zoning Bylaw No. 2950, 1997" to regulate the keeping of farm animals, poultry, and kennels be pursued at this time, and consideration of these issues be deferred to the OCP and Zoning Bylaw review.

Recommendation

That Council give first and second reading to "Zoning Amendment Bylaw (Keeping of Farm Animals & Poultry), No. 3758, 2019" in order to regulate the keeping of farm animals and poultry, and to establish setbacks specific to kennels; and,

That a Public Hearing be scheduled and notification given, as per the requirements of the *Local Government Act*.

Attachment(s):

1. Animal Control Bylaw, 1995, Excerpts
2. Proposed Bylaw No. 3758



The Corporation of the District of North Cowichan

A Bylaw to Regulate the Keeping of Dogs and Other Animals

Bylaw 2856

...

- 19** A dog kennel must not be located on a lot less than 2 ac in area.

...

Keeping of animals

- 46** No person shall keep any farm animals, exotic animals, or poultry on any lot in the municipality that is less than 8000 m² (1.98 ac) in area, except as follows:
- (1) on a lot greater than 1675 m² (0.41 ac) in area but less than 4000 m² (0.99 ac) in area, a total of not more than 12 rabbits or poultry;
 - (2) on a lot equal to or greater than 4000 m² (0.99 ac) in area but less than 8000 m² (1.98 ac) in area, a total of not more than 12 rabbits or poultry and a total of not more than 2 farm animals or 2 exotic animals.
- 47**
- (1) Any structure or enclosure to house farm animals, exotic animals, or poultry shall be set back at least 15 m from any lot line.
 - (2) Any structure used for the storage of manure shall be set back at least 15 m from any lot line.
 - (3) Notwithstanding the foregoing, where the minimum setback requirements from all lot boundaries of the zone in which the structure or enclosure is located are greater than 15 m the greater minimum setback requirements shall be applied.



The Corporation of the District of North Cowichan

Bylaw No. 3758

Zoning Amendment Bylaw (Keeping of Farm Animals & Poultry), 2019

The Council of The Corporation of The District of North Cowichan enacts as follows:

1 Zoning Bylaw 1997, No. 2950 is amended as follows:

(a) Section 12 [definitions] is amended by adding the following definitions:

"farm animals" means domesticated cows, donkeys, horses, mules, llamas, emus, ostriches, swine, sheep, or goats, and other animals usually associated with farming, but not necessarily used solely for agricultural purposes;" **and**

"poultry" means chickens, turkeys, ducks, geese and pigeons;"

(b) Section 48 (4) is repealed.

(c) Section 48.1 [Keeping of Farm Animals and Poultry] is added:

- "48.1** (1) The keeping of farm animals and poultry is permitted on a lot greater than 8000 m² (1.98 ac) in area.
- (2) The keeping of farm animals and poultry is not permitted on a lot less than 8000 m² (1.98 ac) in area, except as follows:
- (a) on a lot greater than 1675 m² (0.41 ac) in area but less than 4000 m² (0.99 ac) in area, a total of not more than 12 rabbits or poultry, but for clarity this does not include roosters;
- (b) on a lot equal to or greater than 4000 m² (0.99 ac) in area but less than 8000 m² (1.98 ac) in area, a total of not more than 12 rabbits or poultry and a total of not more than 2 farm animals.
- (3) Any structure to house farm animals, or poultry must be set back at least 15 m from any lot line.
- (4) Any structure used for the storage of manure must be set back at least 15 m from any lot line.
- (5) Notwithstanding the foregoing, where the minimum setback requirements from all lot boundaries of the zone in which the structure is located are greater than 15 m, the greater setback requirements apply."

(d) Section 51 (6) [minimum setbacks in the Agricultural (A1) Zone] is amended by adding the following:

"(g) Kennel
Yard, Front, 46 m (150.91')
Yard, Side, 46 m (150.91')
Yard, Rear, 46 m (150.91')".

(e) Section 51 (8) [conditions of use in the Agricultural (A1) Zone] is amended by adding the following:

"(g) A kennel must not be located on a lot less than 8000 m² (1.98 acres) in area."

(f) Section 52 (6) [minimum setbacks in the Rural (A2) Zone] is amended by adding the following:

"(f) Kennel
Yard, Front, 30 m (98.43')
Yard, Side, 30 m (98.43')
Yard, Rear, 30 m (98.43')".

(g) Section 52 (8) [conditions of use in the Rural (A2) Zone] is amended by adding the following:

"(g) A kennel must not be located on a lot less than 8000 m² (1.98 acres) in area."

(h) Section 56 (8) (e) [conditions of use in the Residential Rural (R1) Zone] is repealed.

(i) Section 58 (8) (f) [conditions of use in the Residential One and Two Family (R3) Zone] is repealed.

READ a first time on
READ a second time on
CONSIDERED at a Public Hearing on
READ a third time on
APPROVED by Ministry of Transportation and Infrastructure on
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Report

Date November 6, 2019

Prospero No. ZB000118

To Council

Folio No. 08694-002

From Larissa Barry-Thibodeau, Development Planner

File No. 3360-20 19.13

Endorsed:



Subject "Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019"

Purpose

The purpose of this report is to provide Council with information, analysis and recommendations regarding a site-specific zoning bylaw amendment application for 1038 Herd Road. A Bylaw to amend the Residential Rural Zone (R1) to permit two residential buildings, with a maximum of two dwelling units for the purpose of short-term accommodation (Bed and Breakfast).

Background

On April 17, 2019, Council denied a zoning amendment application to permit two detached residential buildings, with a maximum of two dwelling units, at 1038 Herd Road. Prior to the meeting, new information was made available to staff which confirmed the presence of an unauthorized secondary suite (second kitchen) in the existing single-family dwelling. "Zoning Bylaw No. 2950, 1997" does not permit two kitchens in a single-family dwelling. The kitchen has since been removed bringing the single-family dwelling into compliance with the R1 zone. The applicant is re-applying to request permission for their original proposal which is to permit a second, detached residential building to the rear of the property for the purpose of short-term accommodation rental (Bed and Breakfast).

Site Context

The subject property is a 0.43 Ha (1.08 acre) lot located at 1038 Herd Road. The Rural Residential (R1) parcel (see Attachment 7) is developed with a single family dwelling, accessory building, and Quonset hut accessory building. Site photos are included in Attachment 4.

Land Use Context

Direction	Land Use	Zone
North	Single-Family Dwelling	A5 (Rural Residential Zone)
South	Single-Family Dwelling	R1 (Residential Rural Zone)
East	Single-Family Dwelling	R1 (Residential Rural Zone)
West	Single-Family Dwelling	R1 (Residential Rural Zone)

The surrounding neighbourhood generally consists of one and two storey rural residential homes on properties of about 0.4 ha (1 acre) and larger in size.

Proposal

The applicant is proposing to regularize an unlawfully converted 63 m² (676 ft²) accessory building on the property to serve as a residential building for a Bed and Breakfast, while retaining the principal single-family dwelling (Attachment 5). The existing access is to be shared by both the principal dwelling and the accessory building. The applicant has provided a current BCLS prepared site plan and confirmation of septic capacity in support of this application.

The Residential Rural (R1) Zone permits a two-family residence, which is defined as two (2) dwelling units within one (1) residential building. With this application, the applicant requests permission for two (2) dwelling units within two (2) residential buildings, i.e., an existing single-family dwelling and the proposed second 63 m² (676 ft²) building, to allow for the permitted use of Bed and Breakfast to be operated in a separate residential building.

Discussion

Official Community Plan

The following policy considerations are relevant to this application:

HOUSING & SERVICES in RURAL AREAS:

- Policy 2.1.5.1 *The Municipality will discourage any relaxation of subdivision and zoning standards that have the effect of increasing net density in rural areas ...*
- Policy 2.1.5.5 *All rezoning applications in rural areas are required to consider policy 2.1.5.6.*
- Policy 2.1.5.6 *The Municipality may consider rezoning applications in rural areas to allow additional residential units if all the following provisions are met:*
- i) *The proposal demonstrates how the applicant will produce, complement or expand rural economic development activity ... and incorporate provision for the long-term security of the land (e.g., through an Agriculture Land Reserve (ALR) designation or a covenant on use); and*
 - ii) *Rural views from public areas will be maintained*
 - iii) *Any adjacent agricultural or other resource use (e.g., forestry, gravel removal) will be appropriately buffered from the residential units; and*
 - iv) *The extension of municipal services is not anticipated or, should service extension be required, the proposed development will cover the full cost of installing, maintaining and operating the additional services; and ...*

Staff are satisfied that this application is consistent with these guidelines, as the proposal complements rural economic activity, does not impact rural views, and will not impact agricultural activity as the subject property is not adjacent to agricultural lands. Further, the accepted septic filing demonstrates capacity to support the proposed use, such that service extension is not anticipated.

Policy 2.5.2.5 *The Municipality will ensure that new residential development respects and complements the character of the surrounding neighbourhood.*

While this proposal does not increase the number of permitted dwelling units in this neighbourhood, the proposal could impact the form and character of this neighbourhood comprised of mixed one and two storey residences.

This proposal demonstrates sensitive and appropriate scaled design/siting as it is:

- a) Located in an existing 63 m² (676 ft²) accessory building.
- b) Located to the rear of the 0.43 (1.08 acre) Subject Property, behind the existing single-family dwelling.
- c) Largely obscured from public view by the existing single-family dwelling.
- d) Located at a distance of approximately 40 m (131 ft) to the closest neighbouring residence.

Zoning Bylaw – R1 (Residential Rural) Uses

The R1 zoning provisions permit two-family dwellings (i.e. duplexes, secondary suites). No increase in the number of dwelling units is proposed, the permitted density is reallocated from one detached residential building to two. Bed and Breakfast is a permitted use in a residential building in the R1 zone.

The proposal meets setback, lot coverage, permitted use, parking, and building height requirements of the Residential Rural (R1) Zone.

Servicing and Infrastructure

Adequate septic service for the proposal has been demonstrated to be feasible by a Registered Onsite Wastewater Practitioner.

Building Permit

A Building Permit application has been submitted for the interior renovations to the accessory building, subject to a successful zoning amendment application.

Analysis & Conclusion

This proposal is generally consistent with the policies of the Official Community Plan (OCP) for the development of additional residential units in rural areas, as well as for sensitive and appropriate building siting. While the applicant has stated the intent of operating a Bed and Breakfast, should they be successful in their application, they could also use the building as a second dwelling unit for long term occupancy.

It is the opinion of staff that the balance of policies in support of maintaining the allowable number of dwelling units and permitted uses, providing complementary economic activity options in rural areas, and potential alternative housing options, and at the same time preserving rural viewscales and demonstrating servicing feasibility, have reasonably been met with this proposal.

Communications and Engagement

Should Council choose to provide 1st and 2nd readings to “Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019”, the application will proceed to the Public Hearing stage, at which time the general public will be provided with an opportunity to have input on “Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019”. Neighbouring properties within a 60 m radius of the subject property will be notified of this application and advertisements will be placed in the local newspaper, as per the requirement of the *Local Government Act*.

The Maple Bay Community Association was notified of this proposal.

Options

Staff Recommendation:

That Council give first and second reading to “Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019” in order to permit two residential buildings, with a maximum of two dwelling units; and

That a Public Hearing be scheduled for “Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019” and notification be issued in accordance with the requirements of the *Local Government Act*.

Alternate Recommendation:

Option 2: That Council deny “Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019” to permit a second residential building at 1038 Herd Road.

Implications

If Council denies “Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019”, the applicant could develop within the existing provisions of the R1 Zone. For example, the applicants could maintain an office/studio space with washrooms, but no cooking facilities in the accessory building. They could not operate a Bed and Breakfast in it, nor have a kitchen. They would be permitted to operate a Bed and Breakfast in the existing residence with the proper permits in place.

If Council adopts “Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019”, the applicant would be permitted to have a dwelling unit in the accessory building. They could operate this dwelling unit as short-term accommodation, but could also use the building as a second residence for long term occupancy.

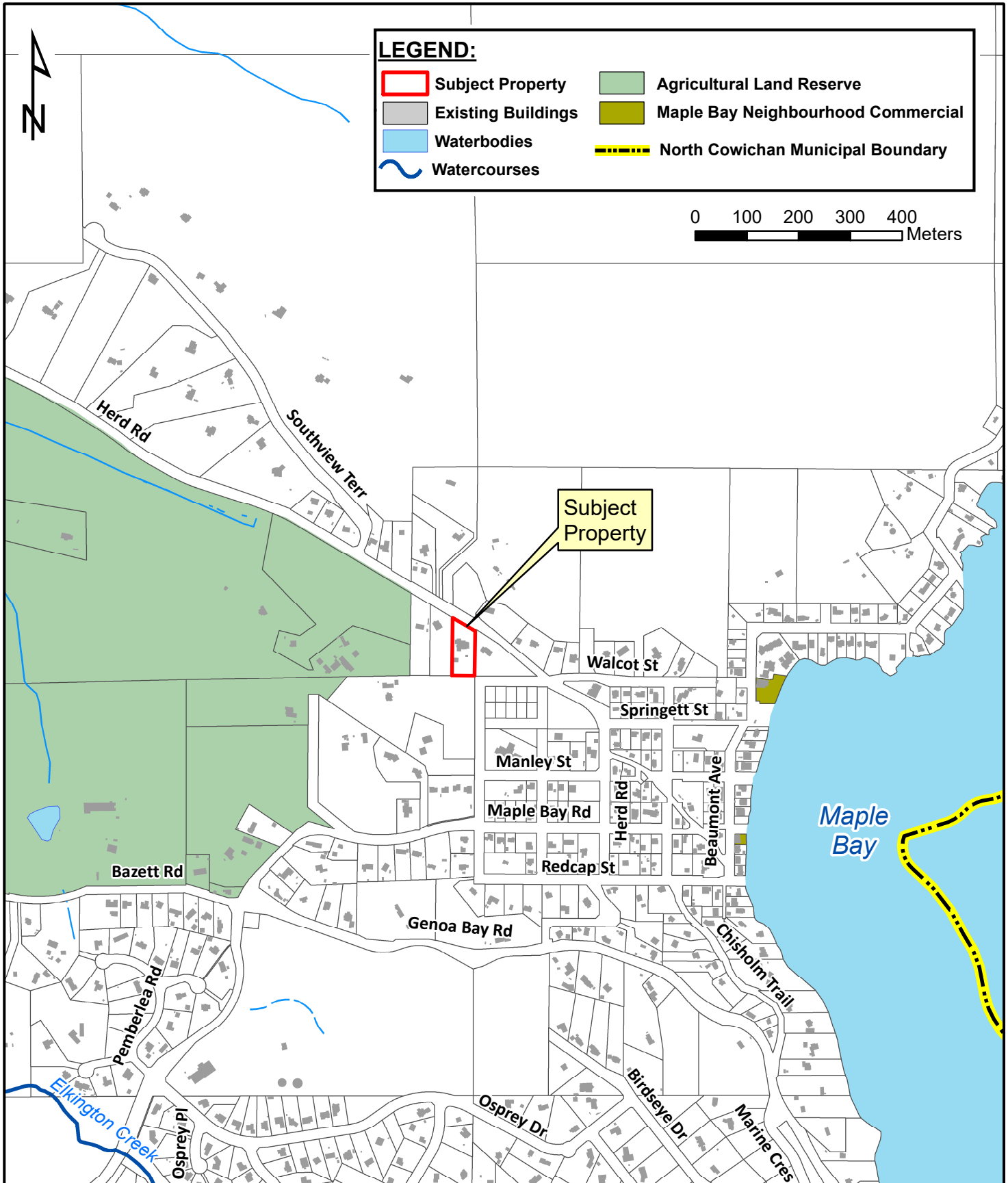
Recommendation

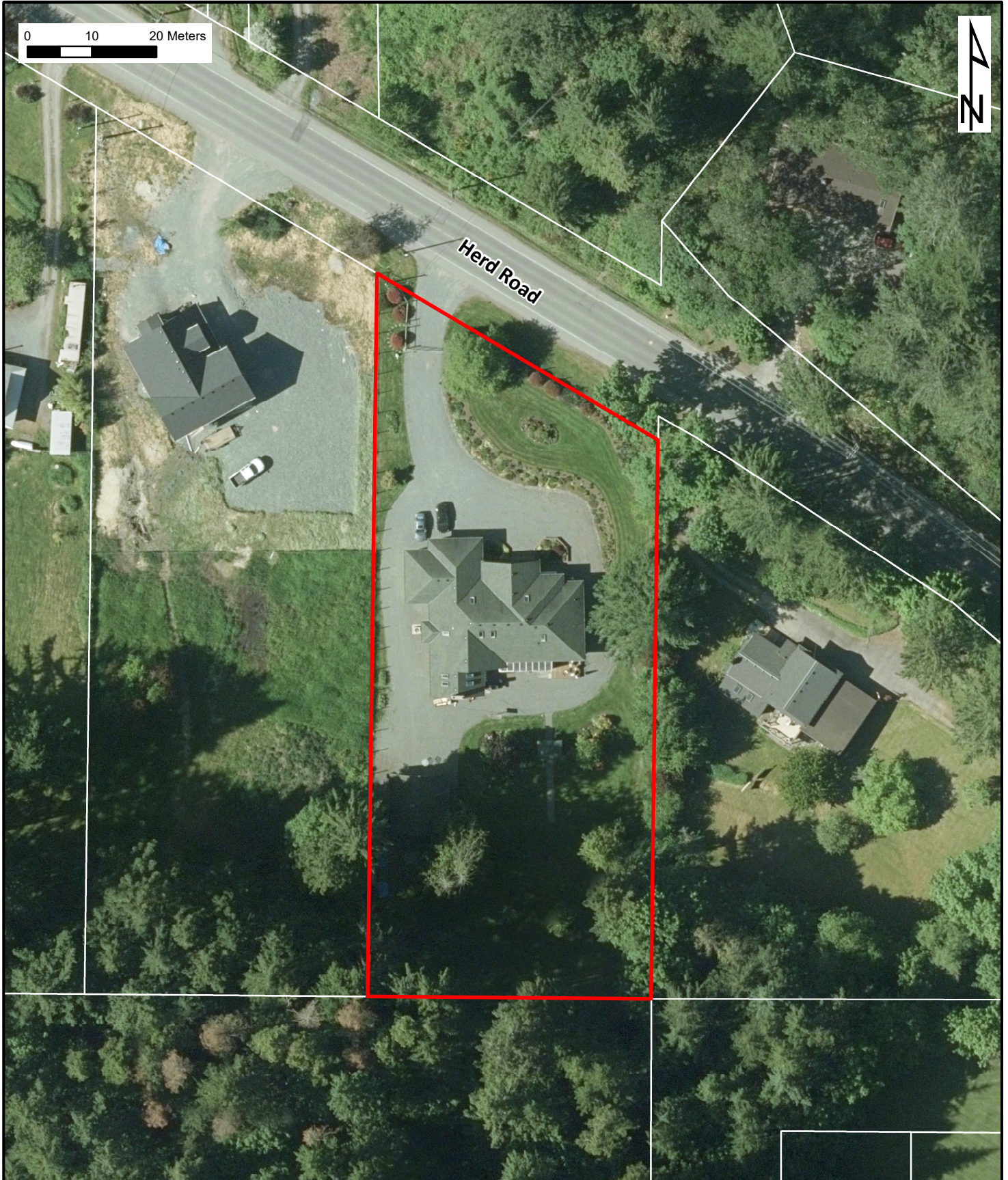
That Council give first and second reading to "Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019" in order to permit two residential buildings, with a maximum of two dwelling units; and,

That a Public Hearing be scheduled for "Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019" and notification be issued in accordance with the requirements of the Local Government Act.

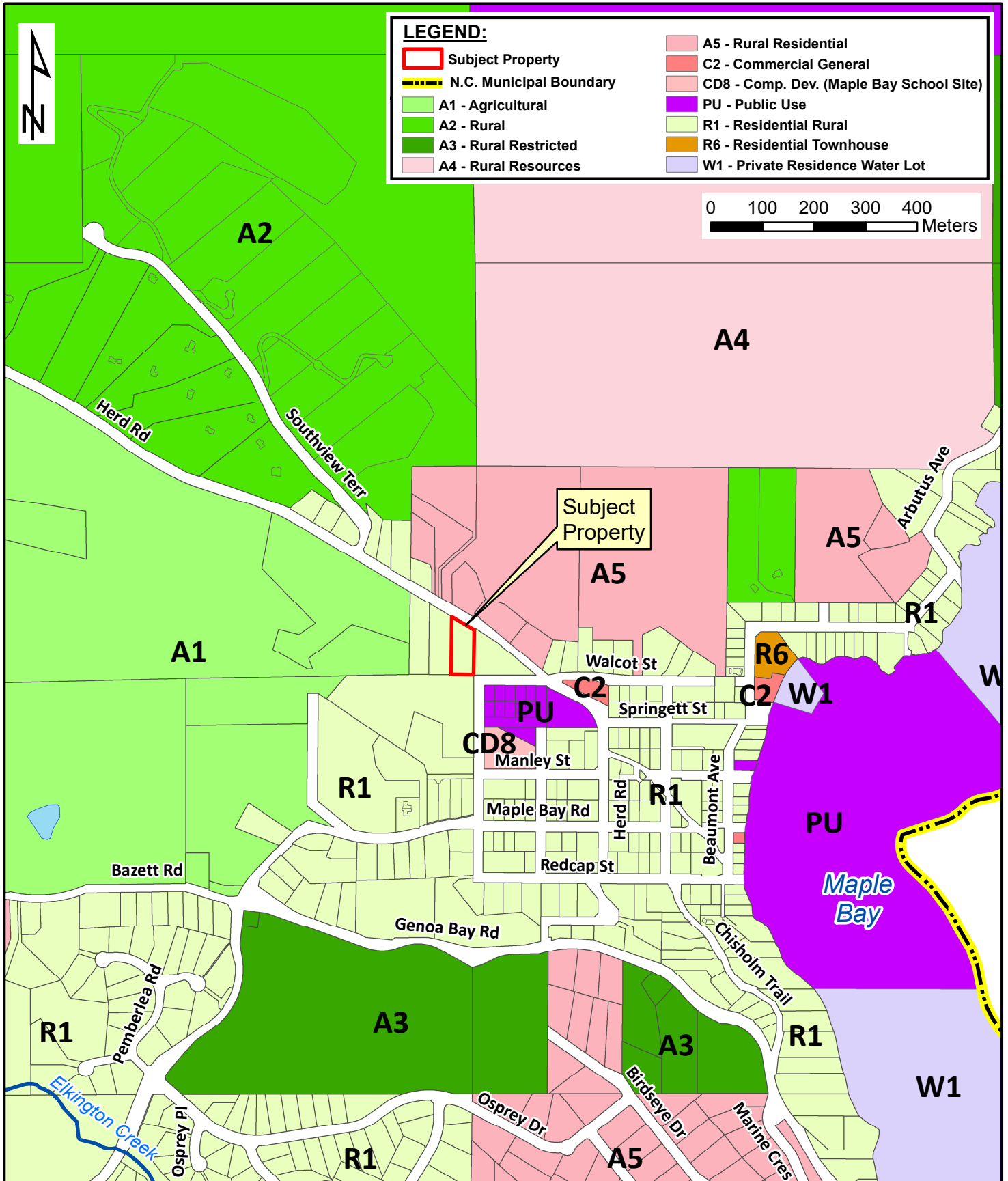
Attachments:

1. Location Map
2. Orthophoto
3. Zoning
4. Site Photos
5. Rationale
6. Site Plan
7. Rural Residential Zone (R1)
8. Proposed Bylaw No. 3766

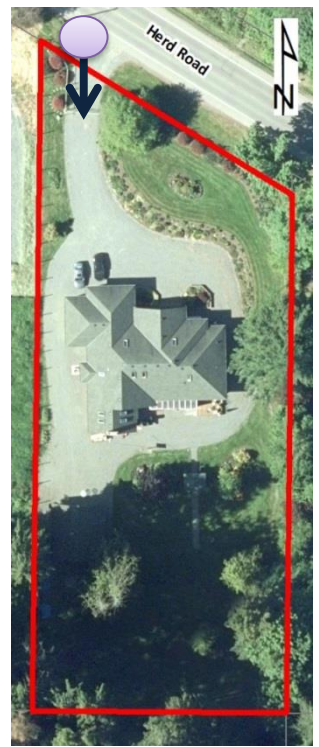




	ORTHOPHOTO MAP (Orthophoto is from 2017 aerial photography)	DATE: October 1, 2019
	1038 Herd Road	TYPE: Zoning Amendment
		FILE#: ZB000118



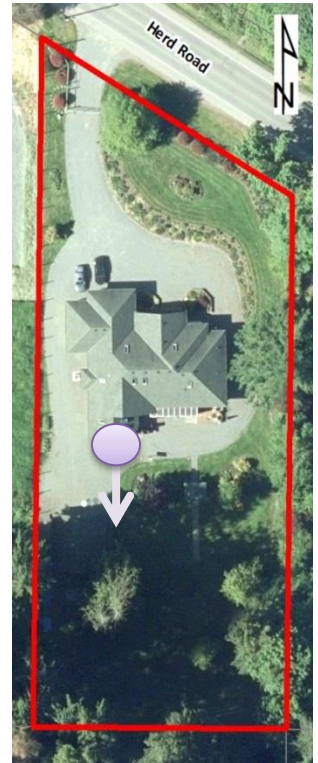
	ZONING MAP		DATE:	October 1, 2019
	1038 Herd Road		TYPE:	Zoning Amendment
			FILE#:	ZB000118



Principal residence and shared driveway access with neighbour's principal dwelling oriented closest to the front property line. Accessory building is located behind.



Accessory building with parking area for proposed short term accommodation.



Accessory building for proposed short term accommodation.

**1038 Herd Rd
Duncan B.C.
V9L 5W9
Phone 778-455-2181
Fax 778-455-5000
Cell 250-734-3801**

**Municipality of North Cowichan
Development Services
7030 Trans-Canada Highway
Duncan, BC, V9L6A1**

16 September 2019

Dear Sir or Madame

Re: Rational Letter for Zoning Amendment

**Ref: A: Rationale Letter dated 5 Dec 2018 (attached)
B: Your letter dated April 29, 2019
C. Council Meeting April 17, 2019
D. Zoning Amendment Application dated Dec 7, 2018
E: My letter of 17 June 2019 (attached)
F: Your letter of September 10, 2019 (attached)**

The planning amendment for the property is to allow the conversion of the 2 car garage (accessory building) to a carriage house for accommodation usage.

Background

A previously rezoning application (Ref D) was denied at Reference B because our property had purportedly a secondary suite installed. In fact the property had a second kitchen installed which is allowed by BC Building Code but not authorized by North Cowichan bylaws. The second kitchen has been decommissioned and the residence is now effectively a single family dwelling. (Ref F refers)

Current Situation

The auxiliary building is presently nearing completion as a studio/office under permit. My letter at Ref E (attached) explains the current situation. The second kitchen has been decommissioned as confirmed at Ref F. We are now making application to amend the zoning to allow the building to be used as an accommodation. Septic upgrades will be undertaken once the rezoning application is approved.

Sincerely

Neil Sorsdahl

REF: A.

1038 Herd Rd
Duncan B.C.
V9L 5W9
Phone 778-455-2181
Fax 778-455-5000
Cell 250-734-3801

5 December 2018

Municipality of North Cowichan
7030 Trans-Canada Highway
Duncan, BC
V9L 6A1

Rationale Letter – Rezoning 1038 Herd Rd

The property above was purchased in May 2017 by my wife, son and myself as a retirement property. The property had a detached 2 car garage/workshop which we considered could be used as a mortgage helper if converted to an accommodation space. The unit was of little use to us as a garage as we already had 3 car garage in the main house.

Some changes were made to the unit to convert it to an accommodation without permit which was identified in May 2018 as being not in compliance and all work stopped as of that date. It was also identified at that time that the previous owner had not completed the garage/workshop and further inspections were required. These have now been completed.

We have been in discussion with the development services to ascertain the requirements to complete this project and have identified issues to be resolved to do so.

The Project

The present structure (2 car garage/workshop) is being converted to a studio which does not require rezoning but will be constructed to a level where it could be used for accommodation (with permit). There is no change to the present footprint on the property, just a change of usage of the building. To make the building usable as an accommodation the property will need to be rezoned to allow 2 residential buildings on the property. Permit guidelines have been established with the planning department and a building permit will be issued once this zoning amendment is submitted. The building will not be used for accommodation until rezoning is approved.

I operated a Bed and Breakfast for the past 16 years in Nanaimo prior to moving to Maple Bay. This area is a superb tourist area and having more accommodation for tourists in this area would be beneficial not only to us but for the local community as well.

Neil Sorsdahl

April 29, 2019

Prospero No: ZB000103

Folio No: 08694-002

File: 3360-20 18.29

Neil Sorsdahl
1038 Herd Road
DUNCAN BC V9L 5W9

Dear Mr. Sorsdahl

Re: Zoning Amendment Bylaw No. 3743 for 1038 Herd Road¹

This is to advise that the Municipal Council, at its April 17, 2019 Regular Council meeting passed the following motion regarding your Zoning Bylaw Amendment application:

It was moved, seconded and carried that Council deny Zoning Amendment Bylaw No. 3743 (1038 Herd Road) to permit a second residential building at 1038 Herd Road.

As Council did not support your application, please follow up with the Building Department no later than May 29, 2019 to determine next steps in regularizing or decommissioning the unpermitted secondary suite in the basement, concluding your Building Permit application for the accessory building in the rear of the property, and regularizing your Quonset Hut.

Please contact me directly at 250-746-3260 or by email to larissa.barrythibodeau@northcowichan.ca if you have any questions.

Sincerely



Larissa Barry-Thibodeau, B.A.
Planning Technician
Development and Engineering Services Division | Planning Department

/fb

¹ LOT B SECTION 8 RANGE 4 COMIAKEN PLAN VIP61806 - PID: 023-168-501

REF: E

1038 Herd Rd
Duncan B.C.
V9L 5W9
Phone 778-455-2181

June 17, 2019

Council Members of
Municipality of North Cowichan
7030 Trans-Canada Highway
Duncan, BC V9L6A1

References: A. Zoning Amendment Bylaw No. 3743 for 1038 Herd Rd
B. Your letter dated April 29, 2019
C. Council Meeting April 17, 2019
D. Zoning Amendment Application dated Dec 7, 2018

Dear Sirs and Madame's:

My request to rezone at Reference D to allow a second residential building at 1038 Herd Rd was denied at Reference C and officially communicated to me at reference B. During the meeting on April 17 I was asked to choose if I wanted to go ahead with the rezoning or regularize my secondary suite. Having chosen to regularize the secondary suite at that moment made it obvious to you that I could not be rezoned, and thus the denial.

As a result of the denying of my rezoning request, Reference B indicated to me that I must regularize or decommission my secondary suite in the basement. Discussions with your building inspector has resulted in my inability to regularize the secondary suite. The previous owner of the building designed and constructed the house to accommodate his paraplegic son which included ramps and wide doors throughout the house. To regularize the secondary suite would include installing a separate heating system, fire door, fire and smoke sensor changes, a second exit, to name a few. This makes the regularization of the secondary suite untenable. I have undertaken to decommission the kitchen and return the home to a single family dwelling.

The public hearing on April 17 provided public input into the rezoning that would not affect the approval of the application. Had I chosen to decommission the kitchen at that time I can only assume that I would have been approved. I respectfully request that a second review of my request be considered given the investigation and information provided to me by your building inspector.

Thank you.

Sincerely


Neil R Sorsdahl

September 10, 2019

Folio No. 08694-002
File No. CIB00614

SORSDAHL, NEIL R
SORSDAHL, LESLIE C
1038 HERD RD
DUNCAN BC V9L 5W9

Dear Mr. Sorsdahl

Re: LT B SEC 8 RGE 4 COM PL VIP61806 - 1038 HERD RD

As discussed, this letter is to confirm the removal of the 220-volt power supply and domestic cooking range from the lower floor kitchen area. The building no longer contains two domestic cooking facilities. The building is a single tenancy (single-family dwelling).

I have received and saved a copy of the *electrical permit application* and *final inspection report* that you have supplied.

I have also added a photo of the cabinet that has replaced the range to our records.

Sincerely



Lane Killick
Chief Building Inspector R.B.O.
DEVELOPMENT SERVICES | Building Department

**B. C. LAND SURVEYOR'S
CERTIFICATE OF LOCATION FOR**

**LOT B, SECTION 8, RANGE 4,
COMIAKEN DISTRICT,
PLAN VIP61806.**

Note: Lot B lies within the Corporation of the District of North Cowichan and is Zoned R-1. Bylaw setback requirements are as follows:

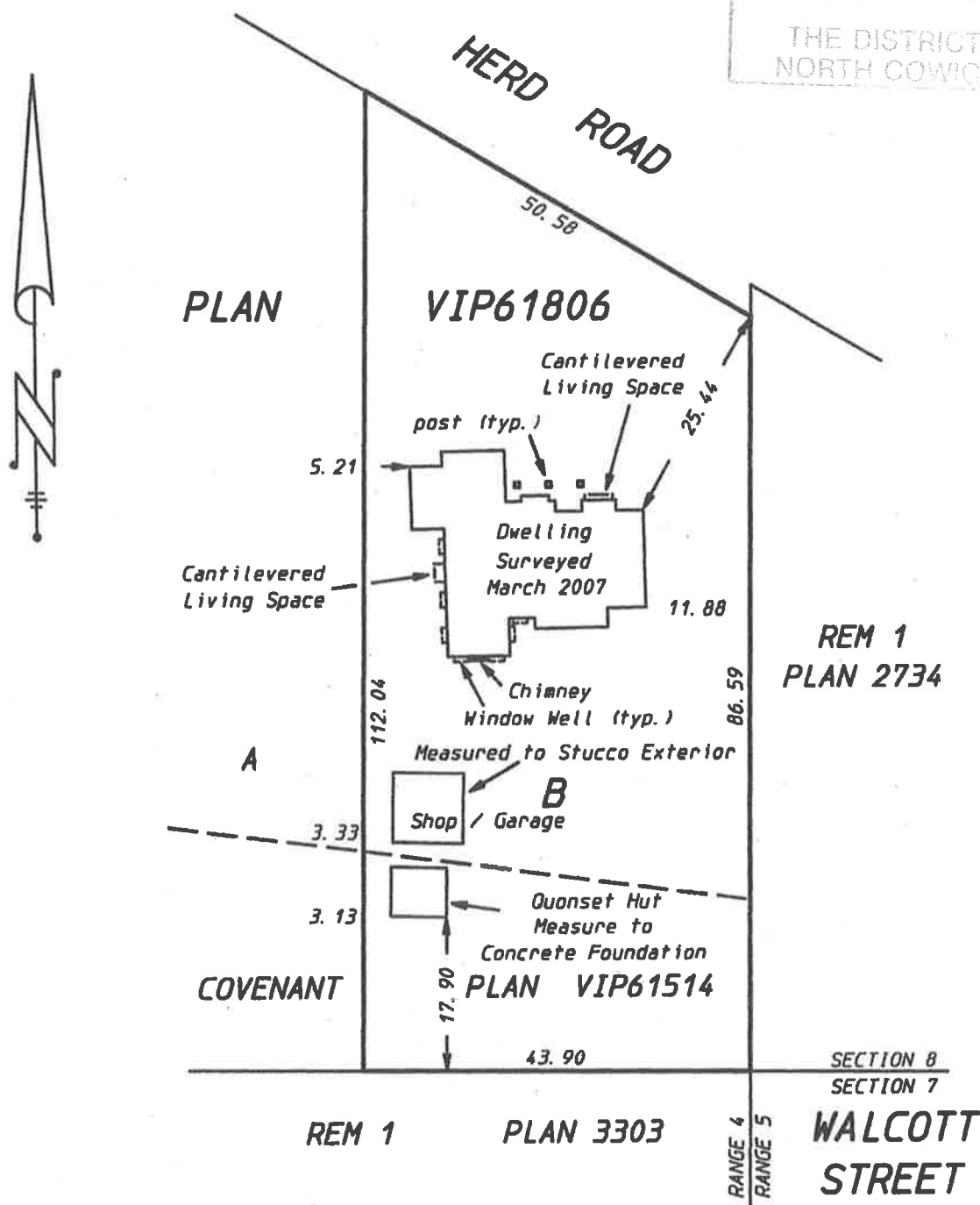
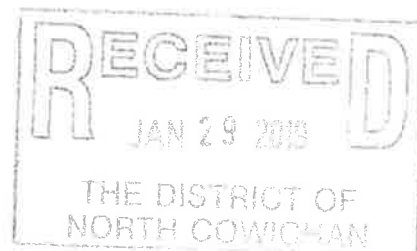
Principal Buildings		Accessory Buildings	
Front	6.0 m	Front	6.0 m
Side	3.0 m	Side	3.0 m
Rear	8.0 m	Rear	3.0 m

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.

SCALE 1 : 750



All distances are in metres.



All clearance distances are shown to 1/75 accuracy of plus or minus 0.05 metres.

Residential Rural Zone (R1)

Permitted Uses

- 56 (1) The permitted uses for the R1 zone are as follows:
- Agriculture
 - Assisted Living
 - Bed and Breakfast
 - Community Care Facility
 - Home-based Business
 - Modular Home
 - Single-Family Dwelling
 - Supportive Housing
 - Temporary Trailer (subject to "Temporary Trailer Permit Bylaw 1976", No. 1685)
 - Two-Family Dwelling [BL3302, BL3367]

Minimum Lot Size

- (2) The minimum permitted lot size for the R1 zone is 1,675 m² (18,029 sq. ft.).

Minimum Frontage

- (3) The minimum permitted frontage for the R1 zone is 30.0 m (98.43').

Density

- (4) The maximum permitted density for the R1 zone is as follows:
- (a) The number of residential buildings shall not exceed one.
 - (b) Despite the foregoing, the placement of a temporary trailer may also be permitted on lots larger than 0.81 ha (two acres) subject to "Temporary Trailer Permit Bylaw 1976", No. 1685.
 - (c) The maximum permitted floor space ratio for the R1 zone is 0.5:1. [BL3383]
 - (d) Despite section 56 (4) (a), a maximum of 2 residential buildings, with a total combined maximum of 2 dwelling units, is permitted on 9272 Cottonwood Road (PID: 006-038-000). [BL3642]
 - (e) Despite section 56 (4) (a), a maximum of 2 residential buildings, with a total combined maximum of 2 dwelling units, is permitted on 1217 Barnes Road (PID: 003-134-814). [BL3666]

Maximum Lot Coverage

- (5) The maximum permitted lot coverage of the R1 zone is 30% of the lot area.

Minimum Setbacks

- (6) The minimum permitted setbacks for the R1 zone are as follows:
- (a) Principal Buildings
 - Yard, Front, 6.0 m (19.68')
 - Yard, Side, 3.0 m (9.84')
 - Yard, Rear, 8.0 m (26.25')
 - (b) Accessory Buildings and Structures (Excluding Fences)
 - Yard, Front, 6.0 m (19.68')
 - Yard, Side, 3.0 m (9.84')
 - Yard, Rear, 3.0 m (9.84')
- (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 R1 zone are as follows:
 - (a) Principal Buildings, 9.0 m (29.53')
 - (b) Accessory Buildings, 5.0 m (16.40')

Conditions of Use

- (8) The conditions of use for the R1 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 six sleeping units.
 - (e) Agriculture use shall be subject to "Animal Control Bylaw, 1995", No. 2856.
 - (f) Assisted Living, Supportive Housing, and Community Care Facilities may be permitted provided that the number of residents does not exceed ten, including resident staff,
 - (ii) the use is within a single-family dwelling unit only,
 - (iii) valid health permits for septic systems or on-site wastewater treatment systems are obtained, where no municipal sewer is available. [BL3302]
 - (g) 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 m² (1076.4 sq. ft.); and
 - (iii) the retail sales are clearly ancillary to the farm use. [BL3083]
 - (h) [Repealed. BL3367]



The Corporation of the District of North Cowichan

Bylaw No. 3766

Zoning Amendment Bylaw (1038 Herd Road), 2019

The Council of The Corporation of The District of North Cowichan enacts as follows:

1 Title

This Bylaw may be cited as "Zoning Amendment Bylaw No. 3766 (1038 Herd Road), 2019."

2 Administration

Zoning Bylaw 1997, No. 2950 is amended as follows:

2.1 ***Section 56 (4) [Density in the Residential Rural (R1) Zone], is amended by adding the following paragraph.***

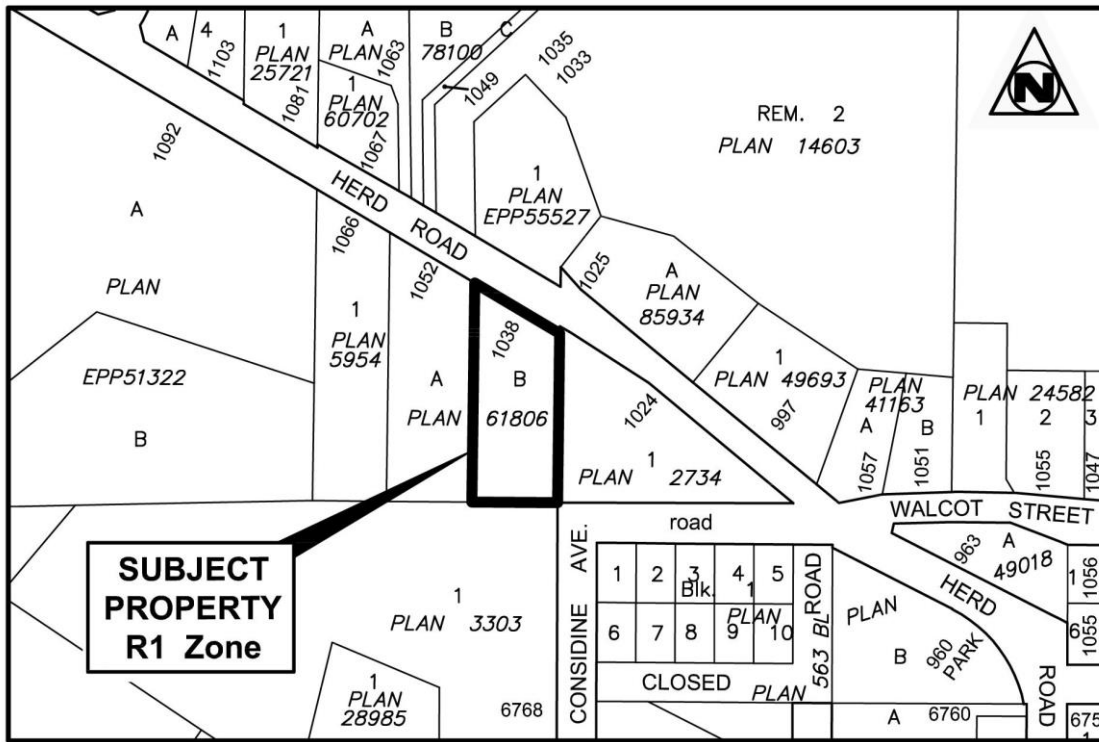
2.1.1 Despite Section 56 (4) (a), a maximum of 2 residential buildings, with a total combined maximum of 2 dwelling units, is permitted on 1038 Herd Road (PID: 023-168-501).

READ a first time on
READ a second time on
CONSIDERED at a Public Hearing on
READ a third time on
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Schedule



Date November 6, 2019

File: ZB000119

To Council

From Larissa Barry-Thibodeau, Development Planner

Endorsed:



Subject Setbacks for All Other Principal Buildings on Agricultural Lands

Purpose

To provide Council with proposed changes and an amendment zoning bylaw for side, rear, and front yard setbacks for farm uses in all other principal buildings, other than residential buildings, on agricultural lands.

Background

At its regular meeting on September 4, 2019, Council directed staff to prepare an amendment to "Zoning Bylaw No. 2950, 1997" to reduce front, rear, and side yard setbacks for 'all Other Principal Buildings' in Agricultural Zones (A1, A2, and A3) (Attachment 1). The following zoning amendment is presented for Council's consideration for first and second reading.

Communication and Engagement

This proposal was initially referred to the Ministry of Agriculture for comment. Should Council approve 1st and 2nd reading of "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019", and in absence of an Agricultural Advisory Committee, Staff recommend that external referrals be sent to the following local non-government organizations: the BC Young Agrarians, the Cowichan Agricultural Society, and the Cowichan Green Community.

Options

The following options are available to Council.

Staff recommendation:

Option 1:

1. That Council approve first and second reading of "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019"; and,
2. That referrals be sent to the BC Young Agrarians, the Cowichan Agricultural Society, and the Cowichan Green Community, and that referral agencies be given a minimum of 30 calendar days to provide a response before a public hearing is held; and,
3. That a Public Hearing be scheduled for "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019" and notification issued in accordance with the requirements of the *Local Government Act*.

Alternate recommendations:

Option 2:

1. That Council approve first and second reading of "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019"; and,
2. That a Public Hearing be scheduled for "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019" and notification issued in accordance with the requirements of the *Local Government Act*.

Option 3:

That the proposed "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019" be abandoned, and that the issue of setbacks for farm uses in all other principal buildings, other than residential buildings, on agricultural lands be considered as part of the OCP and Zoning Bylaw review process.

Recommendation

- 1. That Council give first and second reading to "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019"; and,**
- 2. That referrals be sent to the BC Young Agrarians, the Cowichan Agricultural Society, and the Cowichan Green Community, and that referral agencies be given a minimum of 30 calendar days to provide a response before a public hearing is held; and,**
- 3. That a Public Hearing be scheduled for Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019", and notification issued in accordance with the requirements of the *Local Government Act*.**

Attachments:

1. Bylaw No. 3767
2. Staff Report-September 6, 2019



The Corporation of the District of North Cowichan

Bylaw No. 3767

Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), 2019

The Council of The Corporation of The District of North Cowichan enacts as follows:

1 Title

This Bylaw may be cited as "Zoning Amendment Bylaw No. 3767 (Reduction of Setbacks in Agricultural Zones), 2019."

2 Administration

Zoning Bylaw 1997, No. 2950 is amended as follows:

2.1 *Section 51 (6) (d) [All Other Principal Buildings in the A1 Zone] is repealed and the following substituted:*

"(d) All Other Principal Buildings
Yard, Front, 25 m (82.02')
Yard, Side, 15 m (49.21')
Yard, Rear, 15 m (49.21')"
Yard, Abutting Residentially Zoned Property, 30 m (98.42')

2.2 *Section 52 (6) (c) [All Other Principal Buildings in the A2 Zone] is repealed and the following substituted:*

"(c) All Other Principal Buildings
Yard, Front, 25 m (82.02')
Yard, Side, 15 m (49.21')
Yard, Rear, 15 m (49.21')".
Yard, Abutting Residentially Zoned Property, 30 m (98.42')

2.3 *Section 53 (6) (b) [All Other Principal Buildings in the A3 Zone] is is repealed and the following substituted:*

"(c) All Other Principal Buildings
Yard, Front, 25 m (82.02')
Yard, Side, 15 m (49.21')
Yard, Rear, 15 m (49.21')".

READ a first time on
READ a second time on
CONSIDERED at a Public Hearing on
READ a third time on
APPROVED by Ministry of Transportation and Infrastructure on
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Report

Date September 4, 2019

File: SPP00067

To Council

From Larissa Barry-Thibodeau, Development Planner

Endorsed:



Subject Setbacks for All Other Principal Buildings on Agricultural Lands

Purpose

To provide Council with information, analysis, and recommendations for side, rear, and front yard setbacks for farm uses in All Other Principal Buildings, other than residential buildings, on agricultural lands.

Background

At its meeting on May 15, 2019, in response to concerns raised by a local resident, Council requested that Staff provide a report to explore the implications of reducing setbacks requirements for ancillary buildings from 46 meters to 25 meters. Staff note that All Other Principal Buildings, not 'ancillary buildings', are subject to the 46 m meter front, rear, and side yard setback in the Agricultural (A1) Zone. Therefore the purpose of this report is to provide Council with information, analysis, and recommendations on setbacks for farm uses in 'All Other Principal Buildings' on agricultural lands (A1, A2, and A3).

Discussion

Community Context

One quarter of the Municipality's land area is designated as Agriculture Land Reserve (ALR), and there are also a large number of parcels in agricultural zones which are not in the ALR but are zoned to permit agricultural uses. The Strategic Agricultural Plan (2001) indicates the most common farm size in North Cowichan (63%) is between 0.4 ha to 8.0 ha (1-20 acres), and of the 6,250 hectares in the ALR, 75% is actively farmed. Agricultural sector growth has increased over the last 20 years by 14.5% (farm gate sales, adjusted for inflation) while over the same period the area farmed has decreased (SAP, 2001, p. 2-4). The Climate Action and Energy Plan (2011) provides additional comment, and states that the most recent State of the Industry Report [at the time] indicates a trend towards smaller, more intensive and organic farms along with a livestock industry in decline (due to rising input costs, reduced processing capacity and increased regulations). Both plans identify small farm holdings as an important part of North Cowichan's agricultural base.

More recent regional data from the 2016 Census confirms the trends above, indicating that the number of farms, and farmland in use in hectares has declined in the Cowichan Valley Region District as a whole, however the number of employees has increased, as well as total farm receipts (Agriculture in Brief-Cowichan Valley, 2016). It should be noted however, "the accuracy of data for total farms in operation and farm size could be compromised by non-reporting, and that direct sales at farm gates and at farmers' markets are not tracked, resulting in the potential for an incomplete picture of total farm receipts" (CVRD State of the Environment, 2014, p. 8). As mentioned, this data is not specific to the Municipality of North Cowichan, but indicates more recent regional trends.

Zoning Bylaw

Zoning Bylaw 2950 permits Agriculture in seven zones (A1, A2, A3, R1, R3, C7, CD7) and Agricultural Storage, in three zones (A1, A2, & A3). The focus of this report are the A1, A2, and A3 zones which have the largest number of additional permitted uses related to agriculture (ATTACHMENT 4) and the storage of agricultural products, and the most restrictive setbacks.

"Agriculture" means the use of land, buildings and structures: (a) to raise livestock, (b) to grow, rear, produce, and harvest agricultural products, (c) to process crops grown on the land, (d) to store or repair farm equipment used on the land, (e) to sell agricultural products, (f) for aquaculture, (g) for horticulture, (h) for mariculture, and (i) for silviculture, but does not include the operation of feedlots, fur farms, piggeries, poultry farms, or mushroom farms.

The latter uses, excluded from the definition of agriculture under (i), are permitted only in the Agricultural (A1) Zone, and on any other parcel in the Agricultural Land Reserve, regardless of zoning. Noted above, buildings used for agriculture on A1, A2, and A3 properties, which include greenhouses, barns to store crops, poultry barns, etc., are subject to more extensive setbacks than residential uses (between 30-46 meters depending on the zone). Slaughterhouses are the most restricted farm use in terms of siting and are subject to 92 meter setbacks.

Ministry of Agriculture's Guide for Bylaw Development in Farming Areas

North Cowichan's setback requirements for buildings for farm uses are generally inconsistent with the *Ministry of Agriculture's Guide for Bylaw Development in Farming Areas*, which sets out maximum setback requirements and also differentiates between different types of farm uses. More intensive agriculture uses such as facilities to grow mushroom, poultry, game, livestock, and milking facilities have recommended maximum setbacks of between 15-30 m, while greenhouses, barns for tractors/crop storage, and riding rings have recommended maximum setbacks of between 4.5-7.5 m (ATTACHMENT 1). The Ministry of Agriculture has provided comments in support of the proposal to reduce setback requirements, and highlight that reductions for slaughterhouses also be addressed (ATTACHMENT 3).

Setback requirements for Cowichan Valley Regional District, Comox Valley Regional District, District of Sooke, District of North and Central Saanich, and Village of Pemberton were reviewed for the purpose of this research, as they are jurisdictions with significant amounts of farmland. In general, the District of North Cowichan's setback regulations are more stringent for farm uses than comparative jurisdictions, particularly for side and rear yard requirements (ATTACHMENT 2).

Table 1. Setbacks Requirements in Agricultural Zones

Agricultural Zones	Setback Requirements for Farm Uses	Consistent with MOA Guide (See ATTACHMENT 1)
Agriculture Zone (A1)	All Other Principal Buildings Front, Side, and Rear-46 m (150.91') Slaughterhouse Front, Side, and Rear-92 m (301.84')	No
Rural Zone (A2)	All Other Principal Buildings Front, Side, and Rear-30m (98.42')	No
Rural Restricted Zone (A3)	All Other Principal Buildings Front, and Rear-30m (98.42') Side-15m (49.21')	No

Official Community Plan

The following Objectives, Policy Directions/Commitments, and Policies lend support to reducing barriers to farming on agricultural lands.

2.1.1 Agriculture

Objective: Sustain and increase agricultural activity through policies that support and strengthen the role of agriculture in North Cowichan's social and economic fabric, enhance food security through greater support for farmers, and protect the agricultural land base.

Policy Direction/Commitment: The Municipality will protect the agricultural land base, strengthen the economic vitality of farming, and promote the importance of local agriculture.

2.1.1.4 The Municipality will take a regional approach to protecting, enhancing and supporting agriculture, working with other jurisdictions to resolve common issues that interfere with the economic vitality of farming. Such issues include drainage problems and the need for irrigation water to promote food production.

2.1.1.6 The Municipality will work to remove barriers to economic viability for farmers by supporting direct marketing opportunities, innovations in agricultural product development, and the development of food processing and/or storage at a commercial scale.

2.1.1.8 It is a municipal priority that North Cowichan's urban residents understand the contributions of agriculture to North Cowichan's quality of life, and that we ensure that the Municipality understands the concerns of farmers.

2.1.1.9 As part of its commitment to food security, the Municipality will strive to reduce regulatory barriers to increase agricultural and food production.

2.4.2 Rural and Environmental-Based Economic Opportunities

Objective: Encourage and promote economic activities that support the values of the rural and natural environment

Policy Direction/Commitment: The Municipality will encourage new, and support existing, rural- and environmental-based businesses.

Strategic Agricultural Plan (SAP)

Goals: Support and Enhance the Small Farm Sector; Reduce Costs and Regulatory Barriers.

The SAP emphasizes the importance of smaller agricultural parcels in the Cowichan Valley, between 0.4-8 hectares in size, and identifies buffering/urban edge planning as key to lessening the conflicts between urban and non-urban land uses. Setbacks for permitted agricultural uses are not specifically identified in the SAP, however the plan emphasizes reducing regulatory barriers for farm enterprise.

Council's Strategic Plan

Council has stated that it will act to maintain and strength North Cowichan as an economically thriving and sustainable community of unique and inclusive towns and neighbourhoods; preserving our agricultural rural countryside, and stewarding healthy forests, rivers, and lakes. Council has stated that it will take action to support small scale innovative agriculture, as well as continued action to encourage the use of arable land.

Climate Action and Energy Plan (CAEP)

The CAEP recommends that an Agricultural Development Centre be established for the purpose of training farmers, making farmland available, and producing and selling local food. The CAEP identifies establishing a local food initiative to encourage more organic and local food sales, and highlight that local good production and consumption can generate significant GHG emission reductions. The 33% reduction in GHG emissions to 2007 levels by 2020 is linked to increases in farming and farm production, specific actions include designating 23% more farmland area, as well as increasing the percentage of local food production to from a baseline of 20% to a baseline of 60%. While the Municipality cannot directly increase local food production, it can participate by reducing regulatory barriers to farming.

Conclusion

In general, the Municipality's regulations for setbacks requirements on agricultural lands are more restrictive than best practices set by the Ministry of Agriculture, and relative to regulations from neighbouring jurisdictions. The Ministry of Agriculture recommends maximum setback requirements as a strategy to all farmers to cluster farm buildings to preserve arable land. Overall, local governments have taken the approach of implementing more restrictive setback requirements for intensive agricultural uses like chicken and mushroom barns due to inherent conflicts between residential and agricultural uses. Possible implications for reducing setbacks are increased impacts on adjacent properties and increased complaints related to permitted farm uses.

In 2001, the majority of farms were between 0.4 ha- 8 ha (SAP, 2001). With the prevalence of smaller lots used for agricultural purposes in North Cowichan, we can expect that farm uses on these types of lots may be challenged to comply with present setback requirements, creating excessive regulatory barriers to farming, and unanticipated implications, such as the fragmentation of productive soils.

The Official Community Plan explicitly supports and prioritizes agriculture and farming practices, and rural economic development. The SAP provides direction to reduce regulatory barriers to provide easier access to agricultural production, particularly with respect to smaller agricultural holdings, and the CAEP provides direction to encourage local food production and farming. These objectives and goals are seen by Staff as potential outcomes of reducing setbacks requirements. Council's Strategic Plan lends support to changes which will positively impact small scale innovative agriculture, and use of arable land. The reduction of setback requirements will reduce regulatory barriers and make the placements of farm related buildings more feasible on smaller and unusually configured agricultural parcels. This reduction will be of benefit to both large scale and small scale farms.

Therefore it is the recommendation of Staff that the setback requirements for agricultural uses be reduced for front, rear, and side yard setbacks for 'All Other Principal Buildings' from 46 m for to 25 m for front, and from 46 to 15 m for side and rear yard setbacks in the A1 Zone; from 30 m to 25 m for front, and from 30 m to 15 m for side and rear yard setbacks in the A2 Zone; and from 30 m to 25 m for front, and from 30 m to 15 m for rear yard setbacks in the A3 Zone; except, that 'All Other Principal Buildings' on A1 and A2 lands abutting residentially zoned properties are subject to 30 m setbacks from the abutting property line.

Options

The following options are available to Council.

Staff recommendation:

1. That a zoning amendment bylaw be prepared to reduce front, rear, and side yard setbacks for 'All Other Principal Buildings' from 46 m for to 25 m for front, and from 46 to 15 m for side and rear yard setbacks in the A1 Zone; from 30 m to 25 m for front, and from 30 m to 15 m for side and rear yard setbacks in the A2 Zone; and from 30 m to 25 m for front, and from 30 m to 15 m for rear yard setbacks in the A3 Zone; except, that 'All Other Principal Buildings' on A1 and A2 lands abutting residentially zoned properties are subject to 30 m setbacks from the abutting property line.

Alternate recommendations:

2. That a zoning amendment bylaw be prepared to reduce front, rear, and side yard setbacks for 'All Other Principal Buildings' from 46 m to 25 m for front, and from 46 m to 15 m for side and rear yard setbacks in the A1 Zone.
3. That no amendment bylaw to the setbacks for 'All Other Principal Buildings' in agricultural zones be pursued at this time, and that the issue be considered as part of the OCP and Zoning Bylaw review.

Recommendation

That a zoning amendment bylaw be prepared to reduce front, rear, and side yard setbacks for 'All Other Principal Buildings' from 46 m for to 25 m for front, and from 46 to 15 m for side and rear yard setbacks in the A1 Zone; from 30 m to 25 m for front, and from 30 m to 15 m for side and rear yard setbacks in the A2 Zone; and from 30 m to 25 m for front, and from 30 m to 15 m for rear yard setbacks in the A3 Zone; except, that 'All Other Principal Buildings' on A1 and A2 lands abutting residentially zoned properties are subject to 30 m setbacks from the abutting property line.

Attachment(s):

1. Ministry of Agriculture Guide to Bylaw Development in Farming Areas
2. Comparative Local Government Setbacks for Agricultural Uses
3. Comments from the Ministry of Agriculture
4. Permitted Uses in A1-A2-A3 Zones

Table 1 Maximum* Setbacks for Farm Buildings, Structures, and Facilities**

Building or Facility	From Lot Lines		From Domestic Water Supply Intake
	Front and Exterior Side	Interior Side and Rear	
Principal Farm Buildings, Animal Containment, and Storages			
<i>Greenhouse (nursery, specialty wood & turf crops): including boiler room, header house, machine storage</i>	7.5 m	4.5 m	30 m
Tree, vine, field, and forage crop storage; granary	7.5 m	4.5 m	
Apiculture: Bee hive; <i>honey house</i>	7.5 m	7.5 m	
Mushroom: barn	15 – 30 m *	7.5 m	
<i>Livestock, poultry, game, or fur: barn, brooder house; fur farming shed; hatchery; livestock shelter; milking facility; stable, confined livestock area</i>	15 – 30 m *	15 – 30 m *	
Free range poultry at a density of less than one animal unit	0 m	0 m	
Medical Marihuana Production Facilities	15 - 30 m	15 - 30 m	
Accessory buildings, structures and facilities			
Incinerator; silo	30 m	30 m	30 m
Generator shed	15 m	15 m	
<i>Detention pond</i>	7.5 m	4.5 m	
Grain and hay storage; silage storage in plastic bags; straw storage (non-composting materials)	7.5 m	4.5 m	
<i>Machine storage and shelters, and accessory buildings, structures and facilities which are low risk for being potential sources of pollution</i>	4.5 m	4.5 m	
Feeding area location in <i>seasonal feeding area****</i>	n/a	n/a	
Boilers or walls with fans – all uses	15 m	15 m	
Horse riding rings and exercise yards where no feeding of animals occurs and where a vegetated buffer is provided in the form of a hedge between the ring or yard and neighbouring properties	0 m	0 m	n/a
Horse riding rings and exercise yards where no feeding of animals occurs and where no vegetated buffer is provided	4.5 m	4.5 m	n/a

Building or Facility	From Lot Lines		From Domestic Water Supply Intake
	Front and Exterior Side	Interior Side and Rear	
Marketing, Processing, and Product Preparation Structures and Facilities			
<i>Direct farm marketing</i>	7.5 m	4.5 m	30 m
<i>On-farm processing, on-farm product preparation</i>	7.5 m	7.5 m	
Winery and Cider processing facility	7.5 m	4.5 m	
<i>On-farm soil-less medium production</i>	15 m	15 m	
<i>Soil-less medium storage, wood waste storage</i>	7.5 m	7.5 m	
Waste and Chemical Handling			
<i>Agricultural liquid or solid waste storage facility; solid agricultural waste (field storage**)</i>	30 m	30 m	30 m
<i>Compost storage; on-farm composting</i>	30 m	30 m	
Chemical storage	7.5 m	7.5 m	
<i>Composting materials (non-manure storage)</i>	15 m	15 m	
Medical Marihuana Production Facilities (MMPF)			
Setbacks from Parks and Schools	150 metre maximum setback from MMPFs to Parks and Schools		
Setbacks from non-ALR Residential Uses	30 metre maximum setback from MMPFs to non-ALR Residential Uses with a buffer, or 60 metre maximum setback if a buffer is not employed.		

* Range in setback distance allows for reductions for enclosed animal facilities and for narrower walls that are oriented to lot lines. Current bylaws may have setbacks within the range and thus, could remain unchanged and be consistent with these guidelines.

** Field storage for more than 2 weeks.

*** Local government zoning or development permit area criteria usually stipulate the “minimum setback” distance - which is the closest to the object a building or *structure* may be situated. An applicant may choose to locate his feature farther back. In order to minimize the effects on farming, these guidelines give the MAXIMUM setback distance that a local government should use in its bylaws. The dimensions are referred to as – “the setback distance”.

**** *Seasonal feeding areas* are predominately covered by productive vegetation during the growing season.

Local Government	Setback Requirements for Farm Uses
Cowichan Valley Regional District	Area A and C: 15 m front, rear, side Area D: Marine, 15 m front, rear, side; Upland 30 m front and exterior side, and 15 interior side and rear, 15 m adjoining ALR Area E: 30 m front, and 15 m rear and side. Area F: 30 m front and exterior side, and 15 interior side and rear Area G: 15 m front, 7.5 rear and side Area H: 15 m front, rear, side Area I: 30 m front, 15 m rear and side
Comox Valley Regional District	7.5 m front and rear; 7.5 m side abutting a road and 3.5 m side not abutting a road
District of Central Saanich	Livestock, Manure Storage Buildings 30 m abutting a residential zone; Other Agricultural uses front 7.5 m, rear and side 1.5 m, side exterior 6 m.
District of North Saanich	7.6 m front, rear, side
Regional District of Nanaimo	30 m Intensive Agriculture front, rear, side; 8 m front, rear, side other Ag. Buildings
District of Sooke	Intensive Agriculture 30 m front, rear, side; Non-Intensive Farm Building or Structure 15 m front, rear, side
Village of Pemberton	7.5 front, rear, side



Thu 6/27/2019 4:07 PM

Pepper, Doug AGRI:EX <Doug.Pepper@gov.bc.ca>

FW: Municipality of North Cowichan -Reducing Setbacks in Agricultural Z

To Larissa Barry Thibodeau

 You replied to this message on 6/27/2019 4:29 PM.

Hello Larissa,

Myself and my colleague, Reed Bailey (Agri Land Use Planner), have both reviewed the proposed setbacks. Reed's comments below best articulate the position of AGRI.

"As described in the Report to Council titled "Setbacks for Principal Buildings on Agricultural Lands" dated July 17, 2019, the Ministry is encouraged to see that the Municipality of North Cowichan staff are recommending a reduction in the minimum setbacks for Principal Buildings for agricultural uses within the A1, A2 and A3 zones. Despite this positive change, the Ministry encourages the Municipality to consider further reductions in the minimum setbacks for Principal Buildings for agricultural uses or consider adopting maximum setbacks in line with those described in the Ministry's Guide to Bylaw Development in Farming Areas. Reducing the minimum setbacks for Principal Buildings for agricultural uses will ensure that more land is available for agricultural production on parcels where agricultural is a permitted use.

While it appears to be out of scope in the context of this particular bylaw amendment, the Ministry would nonetheless like to acknowledge the unreasonably large minimum setback (92 metres) for slaughterhouses within the A1 zone. Within the Ministry's Guide to Bylaw Development in Farming Areas, slaughterhouses are considered a type of on-farm processing building/facility where the maximum setback from front, side and rear lot lines is 7.5 metres. The Ministry encourages the Municipality to consider reducing the minimum setback for slaughterhouses within the A1 zone to better reflect the standard in the Ministry's Guide to Bylaw Development in Farming Areas."

If you have any further questions, please let me know.

Thank you,

Doug

	Agriculture Zone (A1)	Rural Zone (A2)	Rural Restricted Zone (A3)
Permitted Uses	Agricultural Exhibition and Fairground Agriculture Agricultural Storage Assisted Living Bed and Breakfast Craft Distillery Community Care Facility Feedlot Forestry Use Fur Farm Greenhouse Home-based Business Kennel Large Animal Hospital Manufactured Home Mushroom Farm Piggery Poultry Farm Riding Stable Single-Family Dwelling Slaughterhouse Supportive Housing Temporary Mobile Home Two-Family Dwelling	Accessory Dwelling Unit Agriculture Agricultural Storage Assisted Living Bed and Breakfast Community Care Facility Craft Distillery Forestry Use Greenhouse Home-based Business Kennel Manufactured Home Riding Stable Single-Family Dwelling Supportive Housing Temporary Mobile Home Two-Family Dwelling	Agriculture Agricultural Storage Assisted Living Bed and Breakfast Community Care Facility Greenhouse Home-based Business Modular Home Single-Family Dwelling Supportive Housing Temporary Mobile Home Two-Family Dwelling

Date November 6, 2019

File: 5400-65 CAN
COR1

To Council

From Clay Reitsma, M.Eng., P.Eng., Senior Manager, Engineering

Endorsed:



Subject Canada Avenue Flood Gate, Drainage and Road Upgrade Project

Purpose

The purpose of this report is to seek Council approval to potentially cancel the Canada Ave settlement repair project, defer the Canada Avenue Friendship Trail design project, and re-budget those funds to a new Canada Ave Flood Gate, Drainage and Road Upgrade Project. In addition, staff are seeking Council endorsement of an application to the Union of BC Municipalities' Community Emergency Preparedness Fund for \$750,000 in funding to offset the costs of the new project.

Background

Referring to Attachment 1, a section of Canada Avenue just north of the recently constructed Canada Avenue floodwall (Flooded Area 01) has been settling for a number of years due to the presence of a very thick peat deposit under the road. As a result, even frequently occurring winter water levels in Bings Creek and the Somenos Marsh are sufficiently high to flood a ditch along the east side of Canada Avenue, and flood the north bound lane of Canada Avenue. The flooding over the road is bad enough during heavier rainfall events to require the periodic closing of the north bound lane of Canada Avenue. Should the road continue to settle, this situation will worsen in the future. At the same time, the road in the area has excessive camber making driving in the lane uncomfortable with drivers tending to creep into the Philip Street left turn lane to avoid the affected area.

As Canada Avenue is an arterial road, Engineering staff proposed a project called the *Canada Ave Settlement Repair Project* (hereafter called the "Original Project") to raise the northbound lane to match the elevation profile of the southbound lane. The *Original Project* would prevent the road from flooding during routine rainfall events thereby allowing Canada Avenue to be kept open from the south to Philip Street, providing a bypass around the flooding that typically occurs on Canada Avenue at the RMCP building. The total project budget was \$412,500 with design starting in 2019. As well, Council directed staff to prepare designs for a complete street project from Sherman Road to Evans Street in conjunction with the City of Duncan in 2019. This work would address multi-modal transportation through the corridor and link with the City's work on Canada Avenue.

In the meantime, the Union of BC Municipalities (UBCM) announced a new flood funding intake for their Community Emergency Preparedness Fund (CEPF). The funding intake was announced in late September 2019. This program will fund up to \$750,000 of flood mitigation infrastructure at a 100% funding level.

In light of UBCM's announcement, staff took the opportunity to consider whether or not there was merit in cancelling the *Original Project*, and creating a new project that included a flood protection aspect, in order to enable the District to apply to the UBCM CEPF for co-funding. Staff ultimately made the determination that there was merit for the application despite the lack of notice.

As a result, the *Original Project* consultant selection was put on hold and a new project was conceived called the *Canada Ave Flood Gate, Road and Drainage Upgrade Project* (hereafter called the "*New Project*"). Figure 1 shows the proposed work. Attachment 2 shows the gap in the Canada Avenue floodwall where a new flood gate would be installed. Referring to Attachment 1 and 2, the *New Project* proposes to:

- 1) increase the road profile of Canada Avenue to further improve drainage and further reduce flooding;
- 2) continue to provide a bypass around flooding at the RCMP to keep Canada Avenue open from the south to Philip Street; and
- 3) further improve the 200 year flood protection for the urban core area with the construction of a new flood gate system across Canada Avenue where there is currently no protection except to install sandbags or a concrete barrier system on an adhoc basis. This is in contrast to the organized assembly of a flood wall on Lakes Road near the bridge across Somenos Creek that crews are able to deploy.

The funding application was due Friday, October 25, 2019. UBCM's deadline did not allow for time to bring this matter up with Council so staff have submitted a funding application to UBCM for \$750,000 in co-funding, with the intent of bringing this matter before Council for consideration as soon as possible. UBCM requires a Council resolution supporting the funding application and the funding for the project. Staff are proposing that the City of Duncan help fund this project, therefore, a similar report will also be prepared for Duncan Council. City of Duncan senior staff have been consulted on the funding application but we have yet to agree on a co-funding amount.

Discussion

The cost implications are summarized in Table 1. Based on the funding formula used for the Canada Ave Floodwall, staff propose that the City of Duncan fund 17.6% of the local government costs for this project. This is reflected in Table 1.

Table 1: Original Project and New Project financing.

PROJECT FINANCING					
Funding Source	Original Project		New Project		Change
	Share of Local Govt Costs	Budget	Share of Local Govt Costs	Budget	
BUDGET					
Design		\$82,500		\$151,667	\$69,167
Construction		\$330,000		\$1,764,762	\$1,434,762
Total		\$412,500		\$1,916,429	\$1,503,929
PROPOSED FUNDING SOURCES					
UBCM					
CEFP Fund		\$0		\$750,000	\$750,000
Total		\$0		\$750,000	\$750,000
North Cowichan					
2019	100.0%	\$412,500	82.4%		
2020	100.0%		82.4%	\$124,974	
2021	100.0%		82.4%	\$836,164	
Total		\$412,500		\$961,137	\$548,637
City of Duncan					
2019	0.0%	\$0	17.6%		
2020	0.0%		17.6%	\$26,693	
2021	0.0%		17.6%	\$178,598	
Total		\$0		\$205,292	\$205,292
GRAND TOTAL		\$412,500		\$1,916,429	\$1,503,929

Staff recommend that at this time Council direct staff to budget for the full project without any co-funding from UBCM or the City of Duncan. That would mean budgeting approximately \$152,000 in 2020 (carry over of the *Original Project* and the remaining \$1,760,000 in 2021. That will give some time for staff to work with the City of Duncan to confirm the amount of co-funding the City of Duncan will contribute. Further, we will know by January 25, 2020 how much, if any, UBCM funding will be awarded and can then adjust the 2021 budget accordingly. Staff assume that all of the UBCM funding will be claimed in 2021.

Options

Option 1: (Recommended): That Council direct staff to cancel the *Original Project*, and direct staff to budget for the *New Project* in 2020 and 2021 under the Roads Program.

1. The project cost is higher (\$1.9M versus \$0.4M).
2. The entire dip in Canada Avenue in the vicinity of the floodwall will be raised such that a bypass to/from Philip Street will be available up to the 10-year flood event. This will avoid the nearly annual problems with localized flooding of the north bound lane.
3. The level of flood protection that staff can provide WILL meet the 200 year flood protection requirement.

Option 2: That Council continue with the *Original Project*.

1. The project cost is lower (\$0.4M versus \$1.9M).
2. Only the northbound lane elevation will be increased meaning Canada Avenue will flood less frequently than currently, but more frequently than if the *New Project* was constructed.
3. The level of flood protection that staff can provide WILL NOT meet the 200 year flood protection requirement due to the inability to create an adhoc barrier to the height required in reasonable time.

Implications

The recommended option is consistent with Council's Strategic Priorities by maintaining the existing high level of service in the community. The expected contribution for the project is available and can be budgeted in the years needed (2020-2021) given the *New Project* provides a greater benefit to the community. Movement of people, goods and services occurs with less disruption than otherwise happens at times of the year when there is less daylight and visibility. Improves the ability to protect the intended area which will reduce the need for closures and resulting communication requirements.

Recommendation

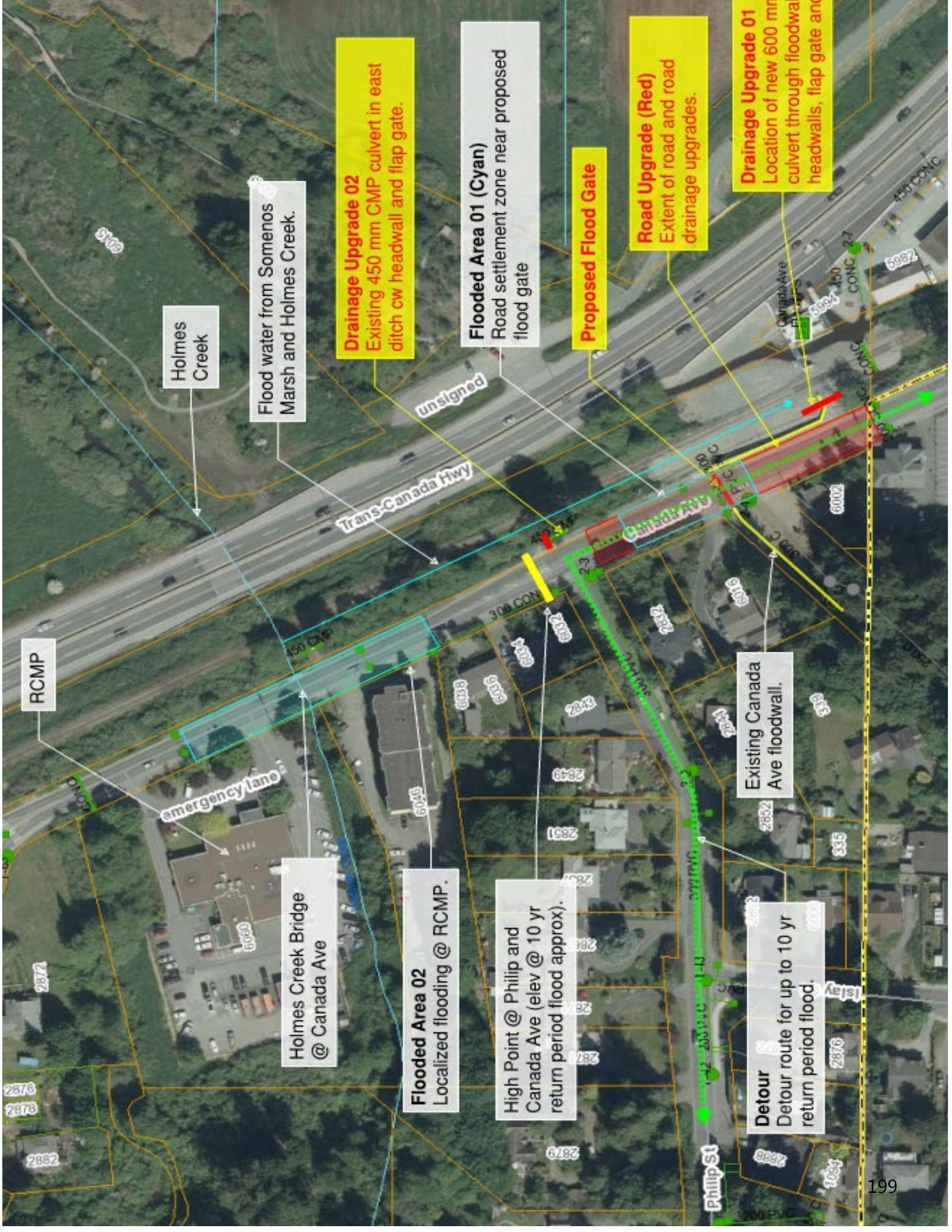
That Council:

- 1) Supports an application to the Union of British Columbia Municipalities' Community Emergency Preparedness Fund for \$750,000 for the *Canada Ave Flood Gate, Road and Drainage Upgrade Project*; and**
- 2) Direct staff to cancel the *Canada Ave Road Upgrade Project* and adjust the budgets for 2020 and 2021 for the *Canada Ave Flood Gate, Road and Drainage Upgrade Project*.**

Attachments: (2)

Attachment 1: Proposed Canada Ave Flood Gate, Road and Drainage Upgrades (the *New Project*)

Attachment 2: Photo showing the gap in the Canada Avenue floodwall where the new flood gate will be installed



RCMP

Holmes Creek

Flood water from Somenos Marsh and Holmes Creek.

Drainage Upgrade 02
Existing 450 mm CMP culvert in east ditch cw headwall and flap gate.

Flooded Area 01 (Cyan)
Road settlement zone near proposed flood gate

Proposed Flood Gate

Road Upgrade (Red)
Extent of road and road drainage upgrades.

Drainage Upgrade 01
Location of new 600 mm culvert through floodwall headwalls, flap gate and

Existing Canada Ave floodwall.

Detour
Detour route for up to 10 yr return period flood.

Flooded Area 02
Localized flooding @ RCMP.



High Point @ Philip and Canada Ave (elev @ 10 yr return period flood approx).

Holmes Creek Bridge @ Canada Ave

emergency lane



1081



Exit Street View



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Google Earth

Municipality of North Cowichan Committee of the Whole MINUTES

**October 16, 2019, 11:30 a.m.
Municipal Hall - Council Chambers**

Members Present	Councillor Kate Marsh, Chair Mayor Al Siebring Councillor Rob Douglas Councillor Christopher Justice Councillor Tek Manhas Councillor Rosalie Sawrie
Members Absent	Councillor Debra Toporowski
Staff Present	Ted Swabey, Chief Administrative Officer (CAO) Mark Frame, General Manager, Financial and Protective Services Ernie Mansueti, General Manager, Community Services Sarah Nixon, General Manager, Corporate Services David Conway, Director of Engineering Rob Conway, Director of Planning Natasha Horsman, Manager, Communications and Public Engagement Megan Jordan, Acting, Manager, Communications and Public Engagement Chris Hutton, Community Planning Coordinator Nelda Richardson, Deputy Corporate Officer Alyssa Meiner, Acting Corporate Officer

1. CALL TO ORDER

There being a quorum present, Councillor Marsh, Chair, called the meeting to order at 11:39 a.m.

2. APPROVAL OF AGENDA

It was moved and seconded:

That the October 16, 2019 Committee of the Whole agenda be adopted as circulated.

CARRIED

3. PUBLIC INPUT

Council received brief public input from Cam Campbell regarding the agenda item.

4. BUSINESS

4.1 Official Community Plan Project Objectives

The Committee heard from the Community Planning Coordinator that approximately 40 people attended the Official Community Plan (OCP) Volunteers Workshop held at Providence Farm on Saturday October 5th. The Workshop included a broad orientation in the morning, followed by team building and engagement activities in the afternoon. The Committee heard that volunteers covered what makes a great OCP, project objectives, volunteer roles, and stakeholder identification.

Highlights from the Community Planning Coordinator's presentation included the following thematic (broad theme) objectives for the project:

Growth Management - policies around the Urban Containment Boundary (UCB).

- With the approach to growth management, questions raised at the workshop included how much are we going to grow, what does that look like, and where is growth going to be allowed.
- The term 'revising' was discussed and the Committee heard a review of the Urban Containment Boundary (UCB) could include revisions.

Community Character

- The Committee heard that community character is a big objective with servicing and development challenges.
- The Committee heard that while there is a rural community ambassador team that will focus on rural areas, rural and natural character aspects will also likely be discussed and considered through the project process. Rural character is not exclusive to the rural ambassadors.

Climate Change

- There was a lot of interest in climate change, and "incorporating climate adaptation, mitigation and resilience" which is the language from North Cowichan's Climate Action and Energy Plan (CAEP).
- The Committee heard staff are communicating and cooperating with the CVRD (regional approach) and acknowledging green infrastructure and environmentally sensitive areas.

Employment and Economy

- The volunteers recognized that North Cowichan is part of a regional economy.
- The Committee discussed language used, OCP objectives versus Project Objectives, and the need to show mindfulness around these topics and language as part of consultation and create room for that conversation.
- The Committee asked about the term 'healthy employment' and heard from staff that OCPs typically focus on "where we're going". In this case, healthy employment stems from wage and affordability (i.e. secure employment with livable income).

- The Committee heard from the Director of Planning that North Cowichan is attempting to capture concepts of 'complete community' and this was previously captured in the current OCP as Smart Growth.
- The Committee supported including "complete communities" as an additional objective for the Project.

The Committee then reviewed the following procedural objectives, as set out in the Community Planning Coordinator's presentation, noting inconsistencies with the report on the agenda:

1. Prioritize Urgent Issues (not included in report)

2. Inter-Governmental Engagement

3. First Nations Engagement

The Committee heard from staff that First Nations need to self-determine if and how they wish to be engaged, and that the Mayor sent letters to local First Nations seeking direction on whether and how they wish to be engaged.

4. Achievable and Adaptable Outcomes

The Committee heard this objective includes properly defined and achievable deliverables. If the OCP is expected to provide a panacea to all society's ills, this is set up for failure. There is a need to establish realistic and achievable deliverables.

The Committee asked questions about resolving conflicts with competing policies in an OCP and heard from the Director of Planning that an OCP will not solve all issues and it is the role of Council to resolve issues. An OCP should be readable and flexible enough to allow Council to apply discretion in their decision making. An OCP should provide a sense of general intent.

5. Vetted Deliverables

The Committee heard deliverables will be vetted first through the OCP Community Ambassador Groups, OCP Advisory Group, and project steering committee, before going to Council.

6. Creating an Accessible Plain Language Plan and Planning Process

The Committee clarified that the proposed project objectives will include objectives discussed at today's meeting, and thanked staff for their work on the workshop over the weekend.

It was moved and seconded:

That Council support the proposed project objectives outlined in the October 16, 2019 report by the Community Planning Coordinator so that the OCP Project Plan can advance.

CARRIED

5. NEW BUSINESS

None.

6. QUESTION PERIOD

The Committee received questions from Cam Campbell and Marilyn Palmer regarding business considered at this meeting.

7. ADJOURNMENT

It was moved and seconded:

That the October 16, 2019 Committee of the Whole meeting be adjourned at 12:39 p.m.

CARRIED

Certified by Corporate Officer

Signed by Mayor