

# **Municipality of North Cowichan**

## **Regular Council**

### **REVISED 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**

**6 - 91**

Recommendation:

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

**3.2 October 16, 2019 - Special Council**

**92 - 93**

Recommendation:

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

**3.3 October 16, 2019 - Regular Council**

**94 - 98**

Recommendation:

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

**3.4 October 21, 2019 - Special Council**

**99 - 100**

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) 101 - 118

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) 119 - 120

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 121 - 185

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 186 - 217

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)** 218 - 239
- 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)** 240 - 245
- 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)** 246 - 265
- 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) 266 - 280

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:

**That Council give first and second reading to "Zoning Amendment Bylaw (Reduction of Setbacks in Agricultural Zones), No. 3767, 2019"; and**

**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**

**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 281 - 286

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 support 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  
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 287 - 290

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

### 11.1 *Community Emergency Preparedness Fund Grant Application*

291 - 298

Purpose: To seek Council endorsement of an application to the Union of BC Municipalities' (UBCM) Community Emergency Preparedness Fund for \$25,000 in funding to purchase equipment and supply training for the Sprinkler Protection Unit program.

Recommendation:

That Council support an application to the Union of British Columbia Municipalities' Emergency Preparedness Fund for the Volunteer & Composite Fire Departments Equipment and Training funding stream for \$25,000 to assist in purchasing an extra hose, sprinklers and equipment to outfit the Wildfire Sprinkler Protection Unit trailer and to provide the necessary training; and

Direct staff to sign an Approval Agreement including terms and conditions of the grant awarded and manage the funds received if the application for the Volunteer & Composite Fire Departments Equipment and Training funding stream for \$25,000 is successful.

### 11.2 *Cowichan Valley Regional District Board Appointments*

299 - 300

Purpose: To reaffirm the Cowichan Valley Regional District Board appointments.

Recommendation:

That Council select one of the following options:

Option 1:

That Council re-affirm Mayor Siebring, Councillor Marsh and Councillor Toporowski as the Cowichan Valley Regional District Board appointees for the remainder of the Council term;

And That Council reaffirm Councillor Justice as Alternate #1, Councillor Manhas as Alternate #2, and Councillor Sawrie as Alternate #3 for the remainder of the Council term; or

Option 2:

That Council re-affirm Mayor Siebring, Councillor Marsh and Councillor Toporowski as the Cowichan Valley Regional District Board appointees for a further one year period, to expire December 31, 2020;

And That Council reaffirm Councillor Justice as Alternate #1, Councillor Manhas as Alternate #2, and Councillor Sawrie as Alternate #3 for a further one year period, to expire December 31, 2020.

## 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 1, 3 and 4, 2019, 6:00 p.m.  
Cowichan Performing Arts Centre - Theatre  
2687 James Street  
Duncan, BC**

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

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

## **1.     CALL TO ORDER**

There being a quorum present, Mayor Siebring called the October 1, 2019 Special Council meeting to order at 6:00 p.m.

## **2.     APPROVAL OF AGENDA**

It was moved and seconded:

**That Council approve the October 1, 2019 Council agenda as circulated.**

**CARRIED**

## **3.     PUBLIC HEARING**

**3.1     "Rezoning Application No. ZB000064 for "Zoning Amendment Bylaw No. 3761, 2019"**

**3.1.1 Mayor Siebring to call the Public Hearing to order and explain the Public Hearing process**

Mayor Siebring called the public hearing to order at 6:00 p.m. for Rezoning Application No. ZB000064 for Bylaw 3761 (Motorsport Circuit).

Mayor Siebring provided an explanation of the public hearing process.

Mayor Siebring pointed out the locations of the public hearing binders that were available for viewing by the public throughout the duration of the Hearing. He advised that the binders contained written submissions received during the period August 21, 2019 (when Council gave first and second readings to Bylaw 3761) through to 12:00 noon on October 1, 2019. He also conveyed that during that time, the public hearing binders were also made available for viewing by the public at Municipal Hall.

The Mayor then advised that any written submissions received during the public hearing would also form part of the public hearing record and at the conclusion of the hearing all submissions would be retained in the vault at Municipal Hall for permanent retention.

Mayor Siebring also conveyed that no further verbal or written presentations could be received by any member of Council following the closure of the public hearing.

**3.1.2 Corporate Officer to provide a summary of correspondence received (as of Tuesday, October 1, 2019 at noon) as well as acceptance of any petitions or late correspondence**

The Corporate Officer noted that prior to the hearing there were 35 submissions received prior to 1st and 2nd reading (22 in support, 10 opposed, and 3 with concerns) and 157 submission received after 1st and 2nd reading (1023 in support as outlined below, 129 opposed, and 8 with concerns). Copies have all been circulated to Council in advance.

1023 In support, broken out as follows:

- 20 Submissions received through the Public Meetings email
- A Large Submission from VIMC that included the following:
  - 29 Letters of Support from Residents near the circuit and living in Sahtlam
  - 78 Letters of Support from Residents living in North Cowichan
  - 59 Letters of Support from Residents living in Cowichan Valley
  - 37 Letters of Support from Residents living outside of Cowichan Valley
  - 800 signatures from a 2017 On-line petition from Residents living in Sahtlam, North Cowichan, Cowichan Valley and outside of Cowichan

The Corporate Officer then read into the record 3 late submissions from the following individuals:

- Neil Dirom, from North Cowichan in support of the application;

- John Scull, Ph.D, 3291 Renita Ridge Road, North Cowichan, opposed to the application; and
- Jan Dwyer, 5839 Banks Road, North Cowichan, opposed to the application.

**3.1.3 Director of Planning to introduce the application and provide an overview of his October 1, 2019 staff report**

The Director of Planning introduced the application, which included:

- Clarification of the properties involved in the application;
- Why rezoning is necessary;
- Explanation of permitted uses under the proposed rezoning;
- Review of the draft bylaw;
- Review of amendments to the applicant's commitments since the August 21, 2019 Council meeting, as detailed in the applicant's letter of September 25, 2019;
- Clarification that if the proposed bylaw were to receive third reading, the applicant's commitments would need to be secured by a restrictive covenant prior to adoption of the bylaw, approval from the Ministry of Transportation and Infrastructure would be required due to the proximity of the properties to a provincial highway; and that development and building permits would also be required before development on the lands can proceed.

The Director of Planning answered numerous questions from Council, which are summarized as follows:

- Under the amended commitments, go-kart use will be subject to the same noise restrictions as any other vehicle;
- Bylaw reference to "including but not limited to" under permitted uses is not meant to be vague or provide latitude for additional uses to be added, but merely a best attempt to capture the intent;
- There is no named maximum number of days per year for go-karting (application stipulates minimum of 6 days);
- Monitoring stations can be moved to other sites, subject to mutual agreement between VIMC and North Cowichan;
- Ministry of Transportation would need to approve the bylaw as the subject properties are located within 800m of a controlled access provincial highway;
- Approvals for bridge construction on Menzies Creek would be required from Ministry of Forests, Lands, Natural Resource Operations and Rural Development, likely the Department of Fishers and Oceans, and also the Municipality through the development permit process pertaining to riparian areas;

- Although the facility is often referred to as a race track, the applicant has advised North Cowichan they have no intention of racing vehicles in the conventional sense at this facility, with the exception of go-karts;
- Facility can only operate on up to two statutory holidays per year (with the exception of Christmas and Boxing Day) for the purpose of hosting international events;
- Enforcement of sound limits is still anticipated to be complaint driven, similar to most bylaw enforcement actions;
- The operators of the facility will also be doing their own noise monitoring to compare with Municipal monitoring in order to differentiate from other traffic noises;
- Each noise violation would be fined separately - there is no proscribed minimum or maximum time between violations;
- If the \$25,000 bond is depleted, the applicant will deliver further letters of credit to replenish. This stipulation shall be included in the covenant;
- The go-kart definition includes go-kart racing;
- The motor vehicle testing facility definition does not allow racing, and therefore no covenant is required in this regard.

#### **3.1.4 Presentation by the Applicant**

Council received a presentation from the following individuals who represented VIMC:

Mark Holland, Holland Planning Innovations (Planner). Key points included the following:

- Purposes of rezoning:
  - To support significant investment in expansion.
  - To resolve outstanding issues of zoning and sound impacts of Phases 1 and 2.
  - To secure significant community benefits, including protecting natural lands, trails, infrastructure and financial support.
- Phase 1 has provided \$1.5 million annual contributions to the local economy as follows: \$158,000/year in municipal taxes, 124 construction jobs, and 21 jobs in operations.
- Phase 2 is anticipated to create 200 construction jobs, 30 full time operations jobs, an estimated \$4.5 million into the local economy and an estimated \$400,000/year in municipal taxes.
- Various consultations and interactions with First Nations have been occurring since 2017.

- Climate action planning includes:
  - Acknowledgement of North Cowichan's commitment to action on climate change.
  - Contracting of Cowichan Energy Alternatives Society for emissions baseline and climate action plan.
  - An operating target of being the first climate neutral training circuit in North America.
  - The circuit's vehicle companies are leading progress on zero emissions vehicles, with BMW, Porsche, Audi, Mercedes and other launching mainstream zero emission vehicles.
- Wildfire interface considerations:
  - Public concern expressed in relation to fire hazard as development area is within OCP "Extreme Fire Hazard zone".
  - Assessment and interface plan completed May/June 2019.
  - Risk of wildfire initiating and spreading from existing motorsport circuit is low.
  - Risk management recommendations:
    - Maintain road access to entire property for rapid response.
    - Additional staff training for responding to vehicle fires and initial attack of any vegetation fire.
    - Review procedures and prepare written fire response plan for a variety of fire scenarios on site.
  - Phase 2 development reduces fire risk due to track standards, borders, implementation of firesmart guidelines and enhanced fire responses capacity.
- Community Engagement:
  - The circuit supports the community, and the community supports the circuit.
  - The applicant has made numerous adjustments to its original proposal in response to community input.
  - Heavy industry is necessary to provide employment and services to residents, but also presents a tradeoff between the benefits to the entire municipality versus a few nearby. The Drinkwater industrial area was zoned heavy industry many decades ago.
  - The proposed rezoning meets numerous North Cowichan policies including preservation of rural character, lands and habitats; enhancing



public trails; growing the Municipal industrial base; supporting environmentally responsible and lower impact industry; supporting climate action and clean vehicles; and supporting municipal infrastructure.

- To support rezoning is to support solutions to past concerns.

Kira Kristenson, Madrone Consultants (Archaeologist). Key points included the following:

- Preliminary Field Reconnaissance (PFR) of the property was conducted on August 21, 2019 by two Madrone archaeologists, accompanied by Cowichan Tribes representative Irvin Canute, biologist Sarah Bonar, and Chris Erb and Brent Brownsell of SupErb Construction.
- As currently proposed, the VIMC expansion has low potential to impact archeological deposits.
- It is their recommendation that a member of Cowichan Tribes be present to monitor construction of the Bridge Crossing #3 as the archeological potential of land near the east bank is assessed as low to moderate.

Council asked Ms. Kristenson several clarifying questions, the answers to which are summarized as follows:

- Culturally Modified Trees (CMT) are only protected if they pre-date 1846, and in their assessment none were found.
- It is anticipated that any accepted recommendations would be secured as part of the approval process and development agreements, whether in covenant or in other forms.
- An archaeological overview was performed to assess archaeological potential and it was determined that an Archaeological Impact Assessment (IAI) was not necessary.

Sarah Bonar, Aquaparian Consultants (Environmental Consultant). Key points included the following:

- The project has been redesigned to limit environmental impacts as far as possible, including retaining and reforesting all areas outside of the development footprint.
- Reforestation to include repair of previous owner's logging damage to Bing's Creek, with 74% of parcel to be reforested/revegetated after construction of Phase 2.
- Groundwater management to include:
  - stormwater being detained, retained and infiltrated into the ground.
  - runoff to be filtered with separators and bioswales to remove contaminants.
- The site will be encircled with a wildlife fence, with the circuit to be fully video monitored and controlled when in use.

- The four stream crossings will be clear-span bridges to maintain existing stream beds and flows and will allow fish passage if fish do access these upper reaches.
- Bing's Creek corridor will be offered to the Municipality, with Uplands (A4) area offered for preservation and use as trails, as well as financial support for construction of trails to link to Mt. Prevost.
- Following constructions and reforestation, the development footprint will be limited to only 11.3 hectares (26% of the Phase 2 parcel).
- The Phase 2 parcel comprises 2.7% of the Bing's Creek watershed area.
- The development footprint area of Phase 2 is 0.7% of the Bing's Creek watershed area.

Council asked Ms. Bonar several clarifying questions, the answers to which are summarized as follows:

- Even if the application is approved, a development permit cannot be issued without federal and provincial approvals. The Department of Fisheries and Oceans have indicated they have no objections, but final approval is still pending from the Ministry of Forests, Lands, Natural Resources and Rural Operations.
- No high-octane fuel and no fuel with lead will be used at the track.
- It is not possible to provide an accurate estimate of the exact number of trees which will be taken out as part of Phase 2 constructions, but the net impact of Phase 2 following reforestation will be 6.1 hectares out of a total of 221 hectares.
- Only the areas required to build the circuit are to be cleared, with the rest to be retained as forest. As well, the damaged area from Bings Creek would be re-treed. The initial disturbance area is 31.5 hectares or 73% of the Phase 2 parcel, and 13.1 hectares would be revegetated or reforested.
- The Bings Creek and A4 areas will be untouched, with lay down construction areas and anything not needed for functionality of the track to be reforested.
- A small area would be landscaped around the buildings in the southeast corner, along with a 2 meter strip of grass along the site of the actual circuit (part of the stormwater filtration system and for safety reasons). The landscaped areas and grass areas would add up to 1.2 hectares.

Jeff Tomlinson and Jim Bechanan, JEA Engineering (Engineering). Key points included the following:

- Domestic water and fire water to be supplied by the Drinkwater Road water system.
- Sewage disposal will be via on-site systems.

- Storm water management will be controlled with a combination of sub-surface and surface infrastructure.
- Storm water quality will be controlled with sumps/oil interceptors and vegetated bioswales depending on risk and circuit design requirements.
- Individual servicing details will be provided during the design stage.

Ben Coulson, RDWI Consultants (Sound Engineer). Key points included the following:

- Noise monitoring indicates the track produces levels similar to existing ambient community noise due to highway traffic.
- Noise assessment is consistent with historical and expected track operations and is appropriate.
- Proposed noise level limits based on CVRD bylaw (**L20** 59 DBA, **Leq** 59 dBA, **Lmax** 79dBA) are appropriate and consistent with local jurisdictions; use appropriate and accepted scientific parameters that reflect community response; and are achievable by the facility.
- Proposed mitigation will help reduce sound levels from the track, but details have not yet been finalized (red line on diagram presented is potential for a wall; green lines are berms).

Council asked Mr. Coulson several clarifying questions, the answers to which are summarized as follows:

- The Navcon Peer Review relied upon reports produced and subsequent conversations with staff. A lot of the conclusions are observations made based on extreme comparisons (background sound to high instantaneous levels), which is an inappropriate comparison. As well, the suggestion that the **Leq** is an inappropriate parameter is surprising, as it has been used for 40 years and is the most widely used for assessing community noise throughout the world.
- The Navcon Peer Review identified that measurements in the community did not match modelled results, and are therefore not a validated model. However, models used do not always represent reality in an absolute sense. There are some adjustments the model cannot account for which happen in reality, and those adjustments can be made based on measurements to adjust for those factors. It is conventional throughout the industry to approach modelling in this manner.
- Sound is subjective. Being able to hear a sound means it is audible, but it does not necessarily mean that it is intrusive. Having sound limits does not mean that someone will never hear the facility. There is no noise standard that guarantees inaudibility, and that is not the intent of those standards. There has to be balance between audibility and what is an acceptable sound limit to not cause intrusion.

- There are no generic standards that apply to racetracks or motor sport facilities –they are usually reviewed on a case by case basis.

The Mayor invited **Elder Robert George** of Cowichan Tribes to provide his comments prior to hearing from registered speakers.

- Elder George was speaking on his own behalf, and urged Council to keep the mountain in its current state. The mountain carries their stories and it is their Garden of Eden.
- His family has been protecting these lands for many years; he is the fifth generation of his family trying to do so. His people go out to harvest medicines, but as soon as 100 acres are taken out, 100 acres of medicine are gone.
- They have not had much success with colonization and corporations, and they have lost quite a few battles. He is speaking here on his own behalf to keep the mountain natural.
- He has a medicine staff that has four feathers representing the four cultures of people -- the white culture, red culture, yellow culture and black cultures, all coming together as one. It is a symbol of the virtues to be reminded of: forgiveness, love, justice, and peace. It is to remind everyone of how to work together, and conduct business in a respectable, kind, loving way. He hopes the day comes in the future where business is done that way. Maybe his grandkids will be standing here someday saying the same thing, but he hopes not.

### **3.1.5 Mayor to call for submissions from the public on the proposed site specific zoning amendment**

The Mayor then invited submissions for the first time from registered speakers on the proposed site specific zoning amendment. He asked speakers to state their name, address, and whether they were in favour or opposed to the application, along with the reasons.

**Kryshelle Langford**, 60 Sahtlam Avenue East, Lake Cowichan, delivered a letter on behalf of **Haley Ketch**, Mina Drive, North Cowichan:

- The Corporate Officer read out the letter which indicated that the August 21, 2019 email to Council was not written by her and she is requesting that it be withdrawn.

**Vicki Walker**, 3921 Corey Road, North Cowichan, spoke in **favour**:

- She lives under two miles from motor circuit and does not find the noise excessively loud, disruptive, or annoying.
- She is proud to have a facility like this in her neighbourhood, and is grateful for the contributions VIMC makes to the community and the taxes they pay.

**Scott Yanko**, 1243 Margaret Place, North Cowichan, spoke in **favour**:

- As a resident and business manager of a well-known organization that has been a member of this community for almost 40 years, his organization cannot operate successfully without support from the community, residents, governing members and support through corporate partnerships such as the one they have with VIMC.
- VIMC and GAIN group have become one of his organization's biggest supporters by holding functions at their facilities, and have supported other groups in the valley.
- VIMC has brought touch of class and diversification to this community by giving people one more reason to visit.

**Ashley Quesnel**, on behalf of **Kirsten Quesnel**, 5920 Clements Road, Sahtlam, spoke in **favour**:

- She can hear the circuit, but believes VIMC deserves a chance.
- VIMC contributes to the community in more ways than average person, and is located where other loud operations are carried out; but for shorter hours.
- VIMC is not a disturbance to her or her family.

**Leah Malone**, 4955 Cowichan Lake Road, Sahtlam spoke in **favour**:

- She has lived in Sahtlam for 10 years, and in the Valley for 20 years. Although she is not an environmentalist, archeologist or sound engineer, her quality of life has not been depleted.
- She is a community member, and VIMC is a forward-thinking supporter.

A friend of **Dean Mellroy** (name of speaker not provided), of 4920 Cowichan Lake Road S., Sahtlam, spoke in **favour**:

- Dean had to step out, but he used to live in Sahtlam and supports the application.

**Dorothy Alexander**, 911 Arbutus Avenue, North Cowichan, spoke in **favour**:

- Spoke on behalf of the 80 members of the Vancouver Island Karting Association.
- 15 acres of original 46 acres of Phase 1 (in zone C8) has been zoned for go kart racing since May 2011.
- SNA indicated karting would not be subject to noise limits, but Association neither asked for, nor expected, to be exempt.
- The national accepted standards are 82 decibels, and well below the 95 decibel limit for the track.

- The Association would be subject to all the same restrictions applied to the circuit.
- If the proposed rezoning is not passed, the majority of the property remains heavy industrial with no noise limits.
- When asked by the Mayor whether the Association could abide by the proposed maximum 79 dbA limit, Ms. Alexander responded yes - their standards are 82 decibels measured 30 metres from the rear axel.

**Daryl Judge**, 3711 Cowichan Lake Road, North Cowichan, spoke in **favour**:

- Has lived here for 49 years, and his property is right at the Tansor cutoff road leading to the Cowichan Lake Highway.
- He hears vehicles and all industrial activity starting from 7:00 a.m., and carrying on beyond 5:00 p.m.
- He can hear the track from his location, but it is not annoying and is just part of the noise in that area.

**Matt Williamson**, 4675 Westwood Road, Sahtlam, spoke in **favour**:

- He lives two minutes from the track and cannot hear it over the highway, gun range, or other noises – it is much better than noise from a plane.
- The noise issue will be moot as all cars in the circuit become electric.
- He uses the track and bought a house there because of the track.

The Chair asked for a 15 minute recess at 9:05 p.m.

The Public Hearing resumed at 9:20 p.m.

**Jaxon Vaccher**, 2459 Liggett Road, Mill Bay, spoke in **favour**:

- He is a former employee of the VIMC and current resident of the Valley.
- In July 2017, he created an online petition to show support for VIMC expecting 200- 300 signatures. When the petition was closed last year, there were approximately 800 people who signed that petition who are based in the Valley and who support the circuit.
- The Mayor asked Mr. Vaccher whether he created the petition as part of his role with VIMC, to which Mr. Vaccher confirmed he was not employed by VIMC at that time.

**Peter Watts**, 2575 Partridge Road, Mill Bay, spoke in **favour**:

- Mr. Watts works in hospitality and is currently the Manager of Microtel Inn and Suites in Ladysmith.
- He feels the rezoning will benefit families as an attraction and for job opportunities, and will benefit all accommodation providers.

**Karen Bresler**, 1107 McKenzie Drive, North Cowichan, spoke in **favour**:

- She has a law firm with a focus on real estate and family law, and is a Director of Duncan Cowichan Chamber of Commerce.
- The majority of her clients view the Valley as unattractive due to lack of jobs. The circuit's application offers an opportunity to attract businesses, encourage spending in local businesses and tourism, while respecting the environment with the measures to be put in place.
- The expansion application offers an opportunity to grow and move successfully into the future.

**Sarah Stipkala**, Hilton Road, North Cowichan, spoke in **favour**:

- She is a long term resident who owns two properties near Mr. Prevost, and has not been impacted by noise.
- VIMC's community involvement and raising money for charities allows them to give back.
- The Cowichan Valley is lucky to have them.

**Brent Clancy**, 33 Pine Street, Lake Cowichan, spoke in **favour**:

- He is President of Lake Cowichan District Chamber of Commerce.
- Expansion brings economic development, as well as people coming from outside of the area to spend money and look at business ventures.
- VIMC has supported the Chamber with numerous events including the Christmas parade, summer parade and Cowichan Lake stewardship.
- He understands noise concerns, but VIMC is doing everything it can to address those concerns.
- Not expanding and having the land go to a different industry would be detrimental to the area as other businesses are not likely to put in similar self-imposed restrictions.

**Cheri Mactier**, 640 Trans-Canada Highway, North Cowichan, spoke in **favour**:

- She is a Director with the Ladysmith Chamber of Commerce.
- VIMC operates year round attracting people from the island, the mainland and abroad. With visitors travelling through Ladysmith, opportunities to attract business and exposure are enhanced.
- The facility has provided an attractive community venue to support events and for use by non-profit organizations.
- Expansion would have positive economic impact on region.

**Paul McGregor**, 3055 Oak Street, Chemainus, North Cowichan, spoke in **favour**:

- He is President of the Chemainus Chamber of Commerce.
- VIMC has a willingness to work with and not against governments by revising their plans and limiting hours of operation.
- VIMC has invested much into the facility and the community. They will continue to bring economic development.

**Julie Scurr**, 2896 Drinkwater Road, North Cowichan, spoke in **favour**:

- Chair of Business Advocacy Committee of Duncan Cowichan Chamber of Commerce.
- Speaking to economic and tourism aspects of business, the track has brought in significant construction and direct operational spending, and employs 21 full time staff.
- The visitors' centre sees visitors from the Eyrie asking for information about restaurants, wineries and attractions.
- When VIMC previously hosted a car launch event, hundreds of media featured Cowichan, increasing its exposure around the world.
- VIMC has invested in the community, including \$200,000 to non-profit organizations, and is a key visitor attraction.

**Aimee Sherwood**, 3575 Seaview Road, North Cowichan, spoke in **favour**:

- She is speaking on behalf of Cowichan District Hospital Foundation.
- VIMC have made regular donations to CDH Foundation, which have been allocated to the new hospital building fund.

**Fred Oud**, along with **Sheri Patterson**, c/o 7380 Trans-Canada Highway., spoke in **favour**:

- He is past president of the Cowichan Exhibition and is on the Board of Directors.
- Diversity creates interest in the community, and can create a world class operation to allow more people to visit.
- More jobs for residents and extra taxes will benefit those living in North Cowichan.
- The applicant has proven to be a good neighbor by supporting local businesses, managing environmental impact, giving Bing's Creek land to the Municipality and being committed to reducing noise levels.
- Over 50 local business have been supported by helping them survive, creating spinoff jobs and strengthening the tax base.
- Over 80 non-profits have been supported with \$250,000 in donations.



- These actions speak to the commitment the applicant has for the area.

**Lynn Ross**, on behalf of **Jack Peake**, 105C - 540 Al Wilson Grove, Duncan, spoke in **favour**:

- Jack Peake is former Mayor of Lake Cowichan, and former Chair of the CVRD.
- He supports the application for economic reasons due to the downward trend in the forestry sector.
- Loss of jobs and tax revenue make it difficult for local governments to meet their needs.
- VIMC supports worthwhile causes in the community and has donated large sums of money to many groups since it opened, as well as bringing tourism dollars that every community seeks.
- Rezoning not only benefits North Cowichan, but the whole Valley.

**Matt Delange**, 3721 Drinkwater Road, North Cowichan, spoke in **favour**:

- He was born and raised in the Valley, and lives on Kingsview Road in the properties.
- As current general manager of Surespan with 15 years' experience, and having built many bridges, he feels this is one of the most concise and comprehensive reports and best environmental plans for that area, as well as the plan for rainwater capture in light of the zoning.
- Difficult times are ahead due to the Teal Jones shutdown, Catalyst having to lay workers off, and the Western Forest Products' strike.
- He recommends North Cowichan look at all options and at a diversified portfolio of moving forward with expansion to help the Valley be stronger from a financial and environment standpoint.
- This is the best option on the table for that land for longevity of the Valley and to take care of environmental concerns.

**Ken Wright**, 6357 Cowichan Valley Highway, North Cowichan, spoke in **favour**:

- He is a professional geoscientist, and manager of Duncan Paving. He has lived here for 20 years.
- VIMC is a very large employer for Duncan Paving, not just in doing the circuit, but other investments GAIN group has made around town.
- It provides a lot of employment for their workers, and the expansion will provide 30 paving jobs for 3 months. Duncan Paving has also utilized the track for driver training.
- The circuit adds a new layer of fun and tourism for the Valley, and a safe place to drive cars at speed.

- In the short term, noise is an issue, but high end cars supplied to GAIN (Porsche, a few others) are going electric, which will be seen more and more over next 10 years. Noise is an issue, but it will be going away.
- He understands why people are concerned, as it is not as much about the volume as the sound of it.

**Mary**, on behalf of **Bruce Muir**, Elmsworth Construction, 7-5815 Banks, North Cowichan, spoke in **favour**:

- VIMC is a good neighbor and he has no issues with the facility.
- When on his property, he hears traffic noise on the highway and Surespan. He does not enjoy those noises, but understands his property is in a heavy industrial area.
- He is happy to learn VIMC purchased other land, as that property could have been purchased and used for any number of industrial uses.
- Under I2 zoning, there are no restrictions on noise or hours of operation. VIMC are being extremely responsive to both of these issues.
- He hikes Bing's Creek trail, which is amazingly beautiful, and his understanding is that VIMC is giving that land to North Cowichan, as well as preserving the land for wildlife habitat. These are huge wins for the community.
- He has been a business owner for many years, and many are struggling. VIMC needs to be welcomed to the Valley and given full support.
- VIMC is putting in thousands of jobs, and taxpayers liked them are needed. They have proven themselves to be responsible, and have listened to neighbours' concerns.

**Michael Ruge**, on behalf of Elly Ruge, Cowichan Auto Repair, North Cowichan, spoke in **favour**:

- He relayed a story of guests sitting out on his deck at 10:30 at night, and, upon hearing a noise, they assumed it was noise from the circuit, even though it had been closed for hours.
- Unless people are sitting at the track monitoring it to know if that noise came from there, he hopes people don't just guess and assume things.
- A number of businesses are pro for the track that don't want to speak out because of speaking on social media and alienating people. Businesses want to move to the community and don't want the controversy.

**Paul Jordan**, 462 Point Ideal Road, Lake Cowichan, spoke in **favour**:

- Resident of Lake Cowichan and Director of Lake Cowichan Chamber of Commerce, and was Co-Chair of Lake Cowichan's 75th anniversary celebrations.

- He interacted with VIMC two weeks ago when they were running a very large hot rod show. He contacted them to see if VIMC could assist, and they allowed 50 cars to drive around the circuit, enabling them to have a much greater registration and successful event. This is just one illustration of ways in which VIMC has benefitted the community in Lake Cowichan.
- On personal note, he spent an entire afternoon going through SNA's website and Facebook, and I was struck by the passion with which they feel for their argument against the circuit. The three particular concerns were environmental, economic, and noise.
- It boils down to noise and the concerns of a group of neighbours whose lives have been impacted by noise vs. the opportunity for future to embrace a world class facility which will bring economic benefits.

**Duck Paterson**, 1125-b Walken Road, Ladysmith, spoke in **favour**:

- The motorsport circuit is not just a local entity, but one which reaches beyond North Cowichan boundaries, and benefits all of the central island population.
- They are involved in community events and charities, are members of the Ladysmith Chamber and supported Ladysmith Days, Show & Shine, Cops for Cancer, and other events.
- Community involvement is very important, but the benefit of the circuit to entire area is very large - people spending money, sleeping here, eating here, shopping here. Hopefully when people see how beautiful it is here, they will be investing here, and that's what he wants to see too.
- He gave an example of a couple who have gone to the circuit many times who visited Ladysmith. They went downtown and fell in love with Travellers' Hotel, which has been run down for 12 years. They bought it, hired locals to start working on things, went through red tape, and received rezoning. Early in the New Year, they will be starting their \$3 million renovation to this iconic landmark - saving the hotel and retaining heritage. Once complete, it will employ 18-21 people. They have since also bought a house on a piece of property in Area H.
- Even though this is a local issue, he believes in the big picture and looking into the future, and the need to look at economics of the entire area. If North Cowichan prospers, it filters down to business and families in entire area.

**Helmut Blatiken**, speaking for **Chaim Sisson**, 3366 Limerick Road, North Cowichan, spoke in **opposition**:

- Climate protection is currently the biggest challenge and is everyone's business, both on a small and large scale.
- He understands the enthusiasts, but operation of the circuit means an additional burden that is not necessary for the common good. Approval for expansion of the operation would send a false signal to accomplishments of

our biggest challenge – to reduce greenhouse gas emissions. We need to move away from internal combustion engines.

- For him, the biggest question is: where does the sound have to be measured? Contamination has to be measured at property line, not one or two kilometres away, and noise is contamination.
- Regarding climate change, give concerns of environmental damage which cannot be compensated by short term profit. Future generations will have to pay the price.

**Galen Armstrong**, 5984 Castley Road, North Cowichan, spoke in **opposition**:

- They are Sahtlam residents, that live 2 km from circuit. They hear it regularly and it is annoying.
- More than that, it is about paving over forested land, in an already struggling watershed and moving the economy towards land-intensive recreation catering to an elite group instead of making choices that reflect the climate crises we are in.
- They hope Council will make the right choice for watershed health and for their children.

**Erika Verlinden**, 5984 Castley Road, North Cowichan, spoke in **opposition**:

- She urged Council to leave a legacy of environmental, social and First Nations responsibility by saying no to the application.
- Expansion only benefits a few -- the mega rich, VIMC and a few people employed in construction -- all at the expense of the Sahtlam soundscape, potential archaeological sites, historical and sacred connection of Mt. Prevost.
- Please do not allow burning of fossil fuels for fun - it is counter to what's needed get through the climate crisis.

**Marilyn Palmer**, 1444 Maple Bay Road, North Cowichan, spoke in **opposition**:

- She has on occasion heard the track from her house. In preparing to speak, she read all the documents, the GAIN group submission, and those written by SNA, and all other referees responses. She discussed this application with urban planning and design professionals, and relied on her four decades as an architect.
- While the community has many unanswered questions, the most important two questions when asked to decide on land use: is there a need, and is this the best location for that proposed use.
- As an aside, charity donations are irrelevant to land use - this is a land use issue, and must be evaluated on basis of that concept.

- The GAIN group has not demonstrated a quantifiable, valid or supported response to either of the questions of demand or location, either in past or part of this application.
- They have created a highly divisive mess in the community. There have been lots of opinions and some errors in judgments, but no professional economic analysis, no business cases, no land valuation studies, and no projections of future economic impacts. Other Chambers' presentations were full of speculations, but she has yet to hear any real analysis that demonstrates those impacts are reliable and valid.
- Given these, how can we right the wrongs done that have created this conflict?

**Icel Dobell**, 7901 Stoneyhill Hill, North Cowichan, spoke in **opposition**:

- She would like to limit her comments to expansion impact on the forest, people in the forest, animals, bats and birds.
- Racing cars means different things to different people - to some fun, to others noise pollution. Every year, well over 100,000 people (locals and tourists) seek peace and quiet to walk or bike in the internationally acclaimed North Cowichan forests. We are not talking about right vs. wrong, but two different experiences.
- The sound of a race car may be music to some ears, whereas that same noise in the forest to humans and animals may sound like a one ton mosquito driving through one's brain.
- This past year, hundreds of people reached out to Council about the forests. Council listened and committed to highest values for management of forest.
- There are higher values that cannot be bought and morally should never be sold such as the quiet of the forests, which also happen to be of significant worth to community.
- VIMC submitted an environmental impact assessment. In it, there is no proof that increased noise will not negatively change the environment in the surrounding forest, driving some animals and people away.
- Facility operation noise is outside the scope of study, so they didn't study it. Unless there is proof to the contrary, we must assume there is a negative impact.
- VIMC has not provided our community or Council with the facts necessary to make an informed decision on racetrack expansion.

**Paul Rickard**, 4053 Lanchester Road, North Cowichan, spoke in **opposition**:

- He is a Charter Member of Cowichan Stewardship Roundtable, past president of that organization and former member of technical team advising for the Cowichan Chinook rebuilding plan.

- This is a land use decision. The land use concerns are the watershed for Menzies Creek, which blends into Bing's Creek and for the strong increase that will result in burning hydrocarbons with premium plus gasolines. They don't burn regular gas, and they do contain lead.
- You are looking at careful plans of a complete rebuilding of the last operating watershed. Plans of extensive culverting/ditching, redirecting surface flows and removing best functioning natural watershed in North Cowichan. It does affect the ecosystems and fish in those creeks.
- In a time of climate change emergency, acknowledged by watershed management board, everything needs to be done to look at unnecessary fossil fuel burning and huge amount of tire wear.

**Martha Lescher**, Duncan, spoke in **opposition**:

- This is very important to many residents, as well as investors far removed. She thanked Council for asking many knowledgeable organizations to contribute referrals.
- She would like to challenge the claim that GAIN is offering economic benefit. It owns VIMC, Villa Eyrie, what used to be Sahtlam Lodge and has their eye on other interests in the Valley.
- At one time, the community was built around a single industry - forestry. People who worked in forest harvesting had enough to support a family and purchase a home.
- Even with that affluence, when lumber barons pulled out, the community suffered to rebuild. Is it healthy for community to become so dependent on one business? What influence will it hold when it pays so much in taxes, has access to vast resources which they use to promote their best interests?
- GAIN is an investment group whose bottom line is profit, and already have a controversial reputation. They pay low wages for hard work, demand undue loyalty from their employees who otherwise suffer consequences as seen at the Ramada. Employees stand to gain nothing of long term value. Is this the best picture for economic growth?
- She is not saying we don't need taxes, employment or donations - the Valley is a desirable place to live. The Duncan Chamber said that small businesses are the backbone of Island communities – she urges the Mayor to broaden the vision of how we build economic wealth in community.

**Paul Rossmo**, 4063 Cowichan Valley Highway, North Cowichan, spoke in **favour**:

- He is the General Manager of VIMC.
- Similar to North Cowichan, current staff of VIMC were not directly to blame for poor communications in the beginning.

- Reducing sound levels and lessening impact to the community - all through this time Council moved forward with positive engagement.
- He has attended most Council meetings, and no actions that were taken were ever good enough. Detractors were relentless, even when they lost the lawsuit; even when costs awarded by the court were waived by VIMC and the Municipality - they posted on social media as if they had won.
- VIMC took the high road, but the postings got worse - abuse, including bullying of himself and his staff. He withdrew from those discussions.
- Here is what he faces: photos of cars that have never been to the circuit; asking their helicopter not to fly over farms (VIMC does not have a helicopter, but one came once in 2018, and has not been back since). Posts blaming VIMC for tire marks; posts calling on their membership to write to Council to create buzz, insinuating that Council can be bribed. This doesn't include references to his disability.
- Council needs to know what the truth is and what is not.

**Dan Woodley**, 6187 Marsh Road, North Cowichan, spoke in **favour**:

- He is a full time employee of VIMC, and his job is tour team leader- he organizes scenic tours and driving programs.
- He first became familiar with circuit through hockey. After his first visit, he had to be involved. He met so many amazing customers having the time of their lives. He is proud to say he works for VIMC.
- This expansion remains a great opportunity for North Cowichan and the surrounding area. This is his job and his passion that he shares with everyone through the gates. Let's continue to expand and grow.

**Bradlei Borjeau**, 6096 Sterling Drive, North Cowichan, spoke in **favour**:

- The first time he went to VIMC it was for an open house because he had interest in the circuit.
- He heard complaints about sound and went to the open house to hear from those people about what their experience was.
- Because of that trip, he got a job at the circuit as a part-time instructor. He has a background in performance driving and teaching high end use sports.
- His passion is teaching driving and he takes that very seriously. He is now lead instructor there, and he is the one that interacts with people who take their programs.
- His passion is to teach them performance driving, but the skills he teaches at the track might make a difference for them on the road and makes them better drivers. Because he cares about people's health and safety, he feels that he makes a difference.

- He relayed story of a woman who was initially reluctant to drive, but later on thanked him as she had been in terrible car accident before, landing her in hospital for 6 months and having to relearn to walk. That one day completely increased her confidence in driving. That's what he does there, and that's how he pays North Cowichan taxes.

**Christina Wallace**, 6630 Forestry Road, Mesachie Lake, spoke in **favour**:

- She became part of the food and beverage team at VIMC this past May, and is bartender.
- Before she joined the circuit, she was stay at home mom, formerly a bylaw officer in a hamlet on the northwest-passage in the Arctic. She was diagnosed with PTSD.
- Her job at the motorsport circuit is her happy place. The expansion would give her year-round work and creates jobs for others.
- There's a five star restaurant in the plans, and she's looking forward to using her staff discount there.

**Sean Hern**, 648 Battery Street, Victoria, spoke in **favour**:

- He was the lawyer retained with VIMC, who argued the case in Victoria in relation to the jurisdictional issues and removing the Municipality zoning issues out of the lawsuit.
- He wanted to note there is some inflation between the issues relating to track as it operates today and what is the decision before Council, which is rezoning application and expansion.
- This Council was elected into office with the track in place. If Council turns down rezoning, the track will still be there and has all the use it is entitled to with no mechanism to add the things that are currently on the table - restrictions around the time it can operate, noise mitigation, controls around sound - there is no ability or power to retroactively impose those.
- This rezoning process is an opportunity for this Council to reach back into the existing track and add those restrictions. This is important for people who are the detractors as it currently is - this is the opportunity to make it a better tack.
- The decision before you is not track or no track. The issue is track or better track. It is important not to confuse those two issues.

**Cathy Gilbert**, 240 McKinstry Road, Duncan, spoke in **opposition**:

- She is not an expert - she is a community member, parent and grandparent.
- The earth is what we all have in common - we share this planet. It is a planet on fire. We have a short time to mitigate damage to the planet.



- Every individual thing we do matters, and everything includes this expansion proposal - she believes it will have impacts on species in this area. It will be a problem of not only those neighbours, but across the Valley.
- She hadn't heard there had been greater economic spinoffs for small business. The opportunities for people who live in Cowichan Valley are restricted by cost. One in four children live in poverty - using the track at a few hundred dollars isn't something most can do. It does sound fun.
- If we have to look at significant gains, not sure what they are -- but she is very concerned with environmental impacts: the actual space, emissions from cars, switchover will not happen right away. Our planet's problem is imminent. People flying here is also worse for the planet.
- She is hoping this Council will choose to make a great decision for this community and the world.

**Gail Mitchell, #8 - 3194 Gibbins Road, North Cowichan, spoke in **opposition**:**

- She is co-president of Cowichan Valley Naturalists.
- Council will have received their letter - they stand with several other groups and ask that Council decline this application.
- Personally, she wants to emphasize, whether we like it or not, times are changing, faster than anticipated, and we cannot ignore this.
- VIMC is a business that has persuaded many that it would be good for the Valley. She personally finds this debatable, and short sighted, when you consider how fossil fuels are being used in this activity.
- Cowichan Valley has been promoted as a place of serenity, to slow down and savour life. She has watched the speed fanatics' trailers going into the gate and watched those highway usable vehicles rev their engines, but this grandmother is not intimidated by revving the engines.
- Those who have the power to make decisions for the community must be courageous and support the call for action. The first step is to recognize the climate emergency -- the next step is to take action.
- If this application is approved, it means we're not listening, and the earlier decision of recognition is really worthless.

**Susan Kaufmann, 4371 Sunrise Road, Duncan, spoke in **opposition**:**

- She understands we are here about a rezoning application and development permit will come later.
- Mr. Conway talked about the clubhouse and circuit and whether it was actually a permitted use under I2, and she believes that was the focus. It was not decided, so she wonders why North Cowichan did not seek a legal opinion.

- With respect to definitions, some definitions are defined, but not all. The definitions in permitted uses are law, and if those are not clear to you tonight or to the public, she wonders how you can move forward.
- She heard there are only going to be street legal vehicles, but that is not defined within this bylaw - nothing says only street legal vehicles.
- She has heard about economic benefits of this organization moving forward, but she only sees 50 jobs for 100 hectares of land. She heard from Surespan, who have 105 employees for 11 hectares. She is trying to gauge the economic benefit for the community. Yes, there are benefits for short term, but what about long term - what is the real gain?
- She is disappointed in some of the Chambers of Commerce - a lot of people are providing good economic value and creating/drawing thousands of people in our Valley. They are saying if we don't approve, it is going to wreck the economy. She doesn't think that's true.
- She would like to see VIMC put money into making improvements for the sound, as an act of good faith to do those improvements on Phase 1. As a resident of Sahtlam, she doesn't have confidence that will be the case moving forward.

**Paulina Kee**, 3228 Gibbins Road, Duncan, spoke in **opposition**:

- Lots of new information here and she would like to acknowledge the scientists/ecologists/biologists, and thank the Municipality for acknowledging we are facing a climate emergency and are committed to an action strategy.
- Her concern with expansion, in light of climate crisis, is that we have no idea what the future holds. We need to build resilience, and the highest aim is to be towards long term resilience.
- She is concerned regarding the disruption it will cause to the post-disturbance ecosystem recovery, which is just beginning to take place with the wooded areas and elk population - it will be a setback to further recovery.
- Her other concern is mental health of the community. There is a mental health crisis in the community that is growing. Children are growing up in the area, and their brains are still developing. More research is needed on mental health and cumulative noise disturbance (for example, baby shark song played at low volume could drive someone insane, but some people like it).
- After listening to members of Cowichan Tribes and many members of the community thanking VIMC for support, she would like to see the mountain kept as is and have the request to preserve the plant medicines be honoured.

The Mayor stated that as there were still several speakers who wanted to speak, he recommended that the Public Hearing be recessed and reconvened on Thursday, October 3, 2019 at 6:00 p.m. at the Cowichan Performing Arts Centre Theatre at which

time Council would continue to hear the remaining registered speakers and then hear submissions from the floor.

It was moved and seconded:

**That the Public Hearing be recessed at 10:58 p.m. and be reconvened on Thursday, October 3, 2019 at 6:00 p.m. at the Cowichan Performing Arts Centre Theatre.**

**CARRIED**

The Corporate Officer noted that the Public Meetings email in-box would be available to accept written submissions until 12:00 noon on Thursday, October 3, 2019.

**Municipality of North Cowichan  
Special Council – Public Hearing  
MINUTES  
October 3, 2019, 6:00 p.m.  
Cowichan Performing Arts Centre - Theatre  
2687 James Street  
Duncan, BC**

Members Present	Mayor Al Siebring Councillor Rob Douglas Councillor Christopher Justice Councillor Tek Manhas Councillor Kate Marsh Councillor Rosalie Sawrie Councillor Debra Toporowski
Staff Present	Ted Swabey, Chief Administrative Officer (CAO) Sarah Nixon, General Manager, Corporate Services Ernie Mansueti, General Manager, Community Services David Conway, Director of Engineering Rob Conway, Director of Planning Natasha Horsman, Manager, Communications and Public Engagement Karen Robertson, Corporate Officer Nelda Richardson, Deputy Corporate Officer Megan Jordan, Acting, Manager, Communications and Public Engagement Laura Westwick, Recording Secretary

**RECONVENE THE PUBLIC HEARING**

Mayor Siebring reconvened the Public Hearing at 6:02 p.m. for Rezoning Application No. ZB000064 for Bylaw 3761 (Motorsport Circuit).

Mayor Siebring once again provided an explanation of the public hearing process and pointed out the locations of the public hearing binders which he noted were available for viewing by the public throughout the duration of the Hearing. He advised that the binders contained written submissions received during the period August 21, 2019 (when

Council gave first and second readings to Bylaw 3761) through to 12:00 noon on October 3, 2019. He also conveyed that during that time, the public hearing binders were also made available for viewing by the public at Municipal Hall.

The Mayor then advised that any written submissions received during the public hearing would also form part of the public hearing record and at the conclusion of the hearing all submissions would be retained in the vault at Municipal Hall for permanent retention.

The Mayor asked the Corporate Officer to provide an overview of the correspondence received.

The Corporate Officer noted that:

- After the recess of the Public Hearing on October 1, 2019, further submissions were received and copies of all correspondence received as of noon today have been forwarded to Council and added to the Public Hearing binder. No further petitions were received.
- The Public Hearing binder has been available for public viewing until 4:30 pm at Municipal Hall and 3 copies are in the Theatre lobby for viewing and will be available throughout the hearing.
- Two late pieces of correspondence were received which are being photocopied for Council for review this evening and copies will be placed in the public hearing binder for members of the public to view.
  - Watercourse impact summary memo submitted by Aquaparian Environmental Consulting; and
  - Letter from Jan Dwyer.

The Mayor then called upon **Jarred Williams Qwustenuxun** of Cowichan Tribes to speak.

- He was here last Tuesday until the very end. He heard something over and over - money and economic growth. Those must be really important to people here.
- People are talking about the new possibilities this wonderful track will have and that new visitors will be here. That's what we want - we need more people, apparently.
- He also heard that everything is really loud - highway is loud, all things loud. He heard it's OK to be loud. Other things are loud too.
- He lives just up the road from here and walks through all this land, and has for generations. He walks with his three sons and they ask why are there no more trees. What happened to the other river they used to go to? What should he say to them?
- When they go to bath holes near where there was almost a noise park, he doesn't want to hear race cars. It was the same for them, less than 2 km away. It was made into an off-road park, and was really loud, and it was all about

how it's OK to be loud, as it's out in the woods. The Tribe had to acquire that land so that their sacred areas were not being interrupted and everyone worked so they would be able to use that land. There is a bath hole there - he goes there and brings his sons. He shows them who they are there.

- He heard Tuesday of low archeological significance. Archeology is study of a culture through remains that exist within the fossil record. He was there with his chief. They are not in the record -- they are on the land, out there hunting, walking, harvesting. They don't leave anything on the ground because that's what they were asked to do for generations.
- He hears everyone call it Mt. Prevost, but who is that? Why did he get to name this place? It is a Garden of Eden to their people - that's where their first man landed and walked all the way down here. It is a very sacred place.
- Somena, the long house down by the white bridge, is not where it used to be. When the railway was put here, they moved it. It was over by where the Forest Museum is now. He doesn't see any reserve land there.
- At the highway between the old village and the mountain, what is called Bing's Creek now - he used to go up into hills, to the holes, to the sacred area. This is area where young men become men.
- These are very sacred things and he doesn't see a lot of his people here, and people are asking him about that. They are only 4% of the population. The average income is of an aboriginal person is \$19,000 a year. They hunt up there, and he was eating deer from there last Tuesday, made in a traditional pit oven with relatives, very close to where this new race track would be. Won't it chase away the deer, the elk? What happens in the ocean when those really big ships come -- all the whales, salmon and herring leave, because it is way too loud. Now it is going to be loud up there, too. How are they supposed to eat, if they don't have any money and if there are no more elk? They are actually robbing the food out of their people's mouths.
- They don't think about that - they think about economic growth and how it is that growth going to help their tribe. They have only approximately 5,000 members and 5,000 acres of land. One acre each. North Cowichan has roughly almost 2 acres to each individual, and they have 48,000 acres. Maybe they need to leave a little bit for these animals so they can eat.
- He is the chef to the elders - he sees the elders every single day, hears them every day, and they are not nearly as well behaved as he is - they are mean, they get upset, they don't hold back. An elder was at a large climate symposium in Victoria as week ago. In 30 years there won't be enough water to run their river; and in 60 years there will be no cedar trees. Why are we in such a rush? Who are we without cedar, river? The salmon are gone. He used to go fishing and get hundreds, but now he catches one a night. Now everything is upside down. All he heard about was money.

- He has so many of relatives that have asked him to come here and tell what is happening -- they don't have food or water, and now they won't have cedar. This is a chance to come together, be one, and work together to help everybody. They have a racetrack. Does there have to be another 100 acres?

The Mayor then called upon speakers who were registered to speak on October 1 but did not have the opportunity to speak on that date.

**Judith Appleby**, 1033 Islay Street, Duncan, spoke in **opposition**:

- She is a former Sahtlam resident, who lived near the Sathlam fire hall.
- She is not a sound expert, but does take exception to several things said by the VIMC sound expert. In particular, his saying he walked around the neighbourhood and trusted his own ears that there is no noise problem.
- The race track has affected her life. From 2016 to 2017, she was dealing with a difficult family situation. Their escape was their verandah, a decompression zone. Whether sitting surrounded by trees and wildflower meadows, listening to breezes, while dreaming of time when life a little easier. They would sometimes sit with tea and a book.
- This was not without interruptions - they are 200 m from Old Lake Cowichan Road. There are tractors and chainsaws; small aircraft practicing. Here she can agree that noise is subjective.
- Two things they never heard were the highway or industrial park. When the racetrack opened and was making that noise, she checked for dirt bikes, but that wasn't it.
- A couple months before she found out about VIMC, noise didn't happen every day - it was dependent on cars and wind direction. When it did, the verandah was no longer a decompression zone and the garden was not peaceful. They were assaulted with the sound of engines revving, over and over again, for hours at a time. It was a noise they could hear not only from the verandah, but in the house with the stereo on.
- She understands noise is amplified due to elevation from the highway. Expansion will take it up higher on Mt. Prevost, carrying the noise further. She urges Council not to let that happen.

The Mayor then called upon two additional members from Cowichan Tribes to speak.

**Presentation by Darren George, Councillor for Cowichan Tribes**

- He feels it is very important at this time to talk of land structure, and would like to thank North Cowichan for giving him the opportunity to speak.
- He does have concerns. He has been a Sahtlam resident for 35 years and his ancestors have lived there all their lives. He has had a really had a hard time in the last 25 years watching development grow.

- Sahtlam members came to see him about what is happening with the race tracks. At the time that was happening, it was uncertain what was going to happen, so he is glad this is an open place to make some change and make something right for development of that property.
- They are really worried what is happening with the environment, and the elk that are of concern to the needs of his community. When he drives on the highway, he sees them getting less and less. Are they moving because of development? Is that creating a new surrounding? We don't know. We may want to find out first before new development.
- His ancestors used to say they would go up to the mountains to refresh their hearts and minds, but now they can't. He doesn't wish for bad development, but for good development for all the right reasons.

### **Presentation by Lucy Thomas**

- She is a Cowichan band member and survivor of many life experiences. She stands here tonight a little nervous, as she is not a political person.
- At first, she didn't want to speak - it was not her place, she doesn't live there, she doesn't know what's going on, and doesn't have the history. Then took she took a step back, and remembered that this is unceded territory of the Coast Salish people. She is very passionate about helping her people, and she speaks from the heart.
- She went around asking a lot of people, as she didn't want to speak in her own words. Somebody told her that the race track is for rich people; that they don't live here, and then they go home. She didn't like hearing that they were not from here.
- They were not consulted, and were not at the table. She recalls talking about their fish 40 years ago. When she was 8 years old, they had hundreds of fish, enough food for the year. Today they are lucky to get 5 fish. Even commercial fisherman are complaining and standing with them.
- We are talking about land that belongs to animals. First nations were put on earth to look after the land, and only took what they needed; built their homes and tents; then packed up and left. They were told to pray to the elk when they go hunting; pray to the fish; pray to the cedars when take branches off. When you leave, take what you need but don't get greedy. They use those trees and the eagles in all their ceremonies. She is speaking for them, as they can't speak for themselves. We are taking their homes away.
- With respect to burial grounds, how often is it heard that they dig up and come across some of their old bones. Some keep digging and don't tell anybody. Those are their ancestors in those grounds. They have no real burial ground -- wherever they were, that's where it was. That's why you can find them all over this Island.

- In their winter ceremonies, they are encouraged to go up the mountains, to be one with mother earth, talk to trees and birds. If someone is having trouble in their heart, that's where they go. When things are crashing in at home, they go for a walk with their grandchildren. They let the leaves and branches take away all negative things. When they come home, they feel better.
- She has really bad allergies. She went in to the long house and they gave her a medicine. It was good for 15 years. Because of all the logging and building, they can't find one herb. Now she has to take the white man pill every day. That herb is gone - only they know what it looks like and they can't find it on the island. That should tell how much things are being taken away. It might not seem important to others that medicine worked, but it worked for everything.
- The rivers were their highway. That was how they got to visit people and fought their wars. They don't think about stuff like that when building - they think of money, of profit, of fun, of big toys. She is on committees for the homeless, and when she looks at that place, she thinks why couldn't they build something for the homeless if they wanted to spend money. There are people in poverty, not just hers, who are working and living in poverty, yet they want a racetrack. She can't understand what a racetrack would do.
- She prays hard to say the right words. She is not political, but she does speak passionately about first nations concerns and issues.

The Mayor then continued to call for speakers who previously registered on October 1, 2019 but had not yet had the opportunity to speak.

**Peter Rusland**, 5807 Banks Road, North Cowichan, spoke in **opposition**:

- He believes his property value will be adversely affected by the track. The track is a gated exclusive playground for wealthy folks.
- The other night, he heard person after person speak in favour - most either worked there, played there, have connections to it, or were paid by VIMC somehow. His agenda is not money or votes or anything else. His agenda is about protecting our community, and the elders share those thoughts.
- This track has divided his community. He wants everyone to get along, although not everyone will agree. Council's job is to figure out how to make that happen.
- He is glad there is finally a public hearing on this - perhaps there should have been one several years ago. He still doesn't know why and how that site was sold for millions by North Cowichan with no public input.
- We now have opportunity for input, but some of current councilors were on that former council when this happened. Lingering questions remain about how GAIN gets its money - it behooves Council to ask about this project.



- There are so many questions about this project, and this is Council's golden opportunity to say no and do the right thing as it relates to noise, pollution, devaluing property values, climate crisis.
- We are considering a race track, not a hospital, or housing -- just say no.

**Keith Williams**, 207 - 1715 Pritchard Road, Cowichan Bay, spoke in **opposition**:

- He has friends and acquaintances on both sides, and is amazed that the amount of goodwill towards a go kart club could turn into his nightmare.
- It is a playground we are talking about - they are not setting up a solar energy farm, not milling lumber or manufacturing - it is an elite playground.
- He doesn't like the numbers game he sees and how many people he sees on that side speaking - he didn't know this was a referendum.
- To his friends who are in support, they mentioned problems with noise from logging, gun ranges - those people are not applying for a zoning change.
- With climate change talk, has this not been a part of this application? Councillor Marsh was wondering why she could hear it from Maple Bay. With every bit of elevation, the noise is elevated and magnify exponentially. If there is nothing about elevation in this application, that is a serious omission. Are you going to talk climate talk, or walk the walk.
- General consensus was that the former Mayor and Council were naïve or negligent to approve the application. This Council has a chance to put an end to the quagmire.
- With the existing track, a lot of the things people say it has brought to valley won't be diminished - they can still test cars, still test electric cars, and be progressive.

**Elodie Roger**, 980 Grandview Street, North Cowichan, spoke in **opposition**:

- She is speaking as part of Somenos Marsh Management Society, who was asked to be one of the referral agencies for this decision.
- She reviewed the Phase 2 documents provided; she dug into the data of what has been provided and not, and also walked the lands.
- Bings and Menzies Creeks are extremely vulnerable right now. They have the highest level of metal concentrations and non-metal concentrations in watersheds, and summers are longer and drier.
- No data was provided on wildlife migration and the significance of those for people here and for Cowichan Tribes.
- She hopes that Councilors are able to make a decision. The state of that watershed is one of the healthiest on the west coast, and means a lot to many people here.

- One of the reasons she decided to stay here was to see how passionate and involved everyone is with issues related to the water. When different groups and the community coming together, putting agendas aside, and focusing on water - this is what she's proud of.
- As many of have said already, words need to be followed by actions, and more data is needed.

**Tom Sparrow**, 1282 Cherry Point Road, Cowichan Bay, spoke in **favour**:

- From a professional perspective, he has been overseeing infrastructure projects such as schools, highways, airports, hospitals and border crossings, across Canada.
- He commends VIMC and GAIN from a professional perspective on the work they have done.
- He knows many in the room are concerned with environmental impact and carbon emissions, but from a professional perspective, the work they have done is admirable, and the investment to make sure they are trying to meet the needs of this community and the Island.
- From a personal perspective, he lives on Cherry Point Road, and has driven the circuit on three separate occasions getting his Level 1 to 3 certifications, to learn to drive better.
- He takes his vehicle and gets gas at Superstore - it is not a race car. It is a car that can be driven on highway and he very much enjoys learning how to better operate his vehicle.
- They have done an amazing job, and he compliments them on the investment they are making on this Island and the community, the economic diversity and support of this Island and the province.
- He is very disappointed in that some of the comments that have arisen are not very fair to the people who are investing into this opportunity. He wants to thank them for the patience they have had and the support they are getting for ensuring we are creating diversity.
- When asked by Councillor Marsh as to Mr. Sparrow's professional background and experience, he indicated his current position is that of Chief Project Officer; that he holds three graduate degrees in public administration, sciences and in business administration, in addition to his project management certification. Mr. Sparrow also provided examples of numerous projects he has worked on over the past 35 years, located both on the Island and across Canada.

**Lia Versaevel**, 9904 Maple Street, North Cowichan, spoke in **opposition**:

- She appreciates the work Council is doing, and the time and dedication given to this project.

- In 2017 she had the opportunity to lease a carriage house on Clements Road, which was on five acres of property in Sahtlam. She speaks from some experience, having lived there for one year.
- Her background is in conflict analysis, and she tries to see the perspective of both sides. She tries to imagine what the proponents are thinking --she is sure they are seeing this facility as already built, done deal, but she does not. She doesn't think it is any secret that she doesn't agree with Phase 1. We need to look at this as more than a piece of paper.
- She also has experience as a science teacher, and when she looks at this area, she thinks of a number of things. This is elevated property, not waterfront, not ocean level - we are talking about the side of a mountain. We cannot separate land from water or air -- all of these things are interconnected, as are the people and every other living thing within this system.
- She lives and works here in North Cowichan, and was thrilled when she came to Council a couple months ago and they agreed to work from this point forward for the planet. She urges them to continue.

**Paul Fletcher**, on behalf of **Arthur Thomas Rimmer, MD**, 162 Jubilee Street, Duncan, spoke in **opposition**:

- He has resided at 6181 Green Road and has concerns regarding the proposed expansion.
- This facility, while enjoyed by some, developed at significant cost to the environment, and those living nearby.
- He has followed the expansion and listened carefully to the presentations by the proponent, and was impressed by VIMC's efforts to mitigate some of the impacts. He also acknowledges significant support from some members and VIMC's contribution to the economy.
- The track has caused significant disruption to many in Sahtlam and a significant division within the community. None of this is acknowledged by VIMC. He is saddened by the angry discourse and personal attacks by VIMC at some of their critics.
- The track is here to stay, and the proponents have yet to address noise and disruption by the existing facility. Expansion will exacerbate these problems. The proposed site will climb mountains, cross two streams, and noise will undoubtedly worsen.
- As a family physician with patients and members directly affected, he has concern about the impact the proposed expansion will have.
- He is a father of two and the state of world we'll be leaving is part of our legacy, as well as the legacy of Council and Mayor. We need to ask if this is what we plan to leave for future citizens and the environment.

**Dan Ferguson**, 4064 Vaux Road, Glenora, spoke in **opposition**:

- He lives right by the gun club. He doesn't mind the gun club, or people hunting in a safe manner.
- The track bothers him, and it chased him off his porch on Sunday morning.
- All the information heard about how the sound doesn't travel, how noise is subjective -- noise by definition is an unwanted sound, and that track is noise.
- He lives in that paradise, and he doesn't want to listen to cars. He doesn't hear anything else in the industrial park, the sawmills, or the Surespan yard, but he hears that track.
- This represents a lot of what's wrong with our culture, such as embracing internal combustion engines. He hears about electric cars, so why not take the gas engines off and open a track for electric? There is an opportunity for the Cowichan Valley to embrace the future of clean air and not the future of toxicity.
- He has been called a liar on Facebook page. When you can hear it from Glenora, he is not a liar. Council needs to say no.

**Garry Bruce**, 1027 Vista Avenue, Duncan, spoke in **opposition**:

- He is a Councillor with City of Duncan.
- He has lived in Duncan area for 70 plus years, and his heart goes out to the people of Sahtlam.
- He can't imagine setting up a household, buying property, moving out to the area or surrounding areas, enjoying the peace and quiet of that neighbourhood, and then having this thing flopped in the middle of that after years of quiet and just a wonderful way of to life.
- He and his wife spend a bit of time with good friends who live on Sahtlam Road. He is on City Council in Duncan, and one of the things he is learning is that as Council members they have to protect the people in their neighbourhoods, and so does North Cowichan Council - they have to make sure what they do is win-win. He is tired of win-lose programs.
- With the showing of people here, coming out and expressing their thoughts on this thing, it would be interesting to see how the first part of this track got put in place.
- On another point, the cars that are running on this track are street legal, but if you take a Honda and wind it up to 7,000 or 8,000 RPM and pop the headers off, it is still a street legal car, but it will roar like an Indy car.
- He really feels badly for the people of Sahtlam to have to live through this.

**Brian Thacker**, 5644 Menzie Road, North Cowichan, spoke in **opposition**:

- Listening the other night, there are many people who are in support that don't live in the area that hear the noise. This reinforces the notion that the one with the most money has the biggest club. GAIN spends a lot of money.
- The sound expert had very little to say about the real world - it is not just about decibels. The independent peer review by Navcon should have more weight than it was given.
- He has the same concerns with Phase 2 as with Phase 1 noise assessment - it should be taken into consideration. Aside from the environment, it is noise.
- When the track opened, he was forced to listen to the drone of noise. For the first time in 40 years, when on Menzies Road, he thought: does he have sell his house to relieve himself of the noise?
- These people took no precautions and made no attempt to mitigate the noise created. They simply treated Sahtlam people like country hicks when the complaints came.
- He does know things about noise. He started Surespan, and they try to respect the noise they emit. They make conscientious efforts to keep the noise down. He personally builds sound walls, which they ship all over Canada and US.
- GAIN has made no attempt to deal with Phase 1. For Phase 2, there are pretty lines on a map, but no time or money - simply words.
- He was disappointed reading how "pro" North Cowichan is to passing this law through. He is astounded the zoning application can go forward and not address the sound from Phase 1.
- Going up higher will increase the noise. It is not the 59 decibels - it is the drone.

**Gerry Hawkes**, Westview Street, North Cowichan, spoke in **favour**:

- He was born in Duncan, and has lived and worked in Valley all his life.
- He is a proud member of the Vancouver Island Karting Association. Karting is family club, from ages 8 to 85. He likes to see the positive interactions between parents, sons and daughters.
- Trucks and cars go down the highway, and have to keep sound to minimum. That is part of our rules.
- All other sports are supported financially, which is a good thing. The motor sport community can't get permission to build a track, never mind being paid for by taxpayers.
- The kart club was told 10 years ago by the Regional District when it bought land at Shawnigan to build a kart track that it as a really good idea, but it was

not in the right place. They were told to go to an industrial area near a highway. That's where this is.

The Mayor then invited submissions for the first time from members of the public who had not previously registered to speak.

**Dr. Brenda Bernhardt**, 6829 Forestry Road, Mesachie Lake, spoke in **opposition**:

- Noise is not just irritating. It is known to have a direct human health impacts.
- Occupational Health and Safety Regulations state that workers are not to be exposed to 85 decibels of daily noise. The track would be allowed 79 decibels for 3 minutes, 4 times an hour throughout the entire day, with 59 decibels allowed constantly.
- Studies have shown chronic exposure to noise levels above 55 decibels and increased risk of stroke and heart attack. Aircraft noise impacts development of reading skills in children, as well as numerous other health concerns.
- Wildlife face more problems than us. They are more dependent on sound, making them easier prey, and they become inefficient at hunting. High intensity sounds induce fear and forces them to abandon habitats. Aircraft noise is responsible for decrease in reproduction activity of animals.
- Proceedings in National Academy of Sciences found clear connection between noise pollutions and abnormal levels of stress hormones, lower survival rates in bluebirds, and similar results to post traumatic stress in humans.
- Bird diversity and abundance has been shown to decline as a result of chronic noise; road noise is also shown to impair foraging efficiency of bats and alter communications in frogs and invertebrates. A September 2015 research article in 'Global Change Biology' determined anthropogenic (human caused) noise impairs foraging, which has direct consequences for animal survival and reproductive success."
- We are in the midst of a climate crisis; an emergency.

**Sandy McPherson**, 5734 Van Koy Road, North Cowichan, spoke in **opposition**:

- She can hear the track 3 kms away, and will speak of consumption of fossil fuels from a different perspective.
- Vehicle tires and brake pads are biggest source of microplastic pollution in rivers and oceans. Tires are made from approximately 20% rubber, 80% plastics and chemicals, and carbon black is rated by World Health Organization to be a carcinogen.
- It takes about 23 litres of oil to make one tire, or 92 litres per car. How many tires do these cars go through?
- Up to 10% of tire wear becomes airborne particles that can drift up to 5km. This is not assisted by filters and swails, and stormwater runoff.

- According to EUNOMIA Research Group in UK, tires pushed to peak abrasion release maximum particles into the environment, air and water.
- According to International Journal of Research and Public Health, normal wear equals over 1 kg per tire, or 4 kgs per vehicle.
- Brake pads have the same issue, but stopping at 30 miles per hour emits two times more than at 20 miles per hour. How much wear does a brake pad take at over 100 mph?
- The road surface, asphalt, another fossil fuel, takes wear and tear, releasing particulate matter into air and into water.
- Electric cars are not the solution because of the issues cited with brake pads and tires.
- In acknowledging the air shed, water shed, climate crisis and reconciliation, she asks that Council strongly refuse this application. It is within Council's purview to downzone this land and allow nature to regenerate.

**Ashley Quesnel**, 5920 Clements Road, Sahtlam, spoke in **favour**:

- She personally has no objection to circuit. It is not a problem to her, and there is no outraging sound.
- Her home is on a hill, quite close to circuit, and she doesn't hear much noise from circuit.
- This is bringing great opportunities to the Valley, including jobs, fundraising, tax dollars and revenue. The circuit should be able to stay where is.
- She personally doesn't understand if there is such sacred land there to be protected, why was it up for purchase?
- So many of these problems could be resolved if people work with circuit staff instead of against them.

**Sierra Courtemanche**, 5894 Cassidy Road, Ladysmith, spoke in **opposition**:

- The heart resonates at the same frequency as the earth. Right now we are in climate crisis; we have not been listening.
- The current policy of this zoned area does not support the health and wellbeing of the community.
- She has heard concern for the environment and also about being able to sustain families through economy. We have acknowledged that we are in a climate crisis, and the youth are asking us to acknowledge this, which means we have to change behaviours.
- She works with children, and she had to go outside of current policies which keep children in cemented boxes away from nature; to go and educate herself on land in forest; how to reconnect them. We too need to get ready to shake up and change our behaviours.

- We don't need to have fun by destroying the earth. Try to create spaces that reconnect us - that creates safety. If we can acknowledge a climate crisis and if we can acknowledge truth and reconciliation, first we have to create space so we can listen.
- She is glad people have spoken up here. This is a unifying thing, and people that have solutions are here. She has heard a clear no, very clearly.
- She also would like to acknowledge that anti-indigenous racism is tied to values, and our current education system is disconnected to that.

**John Steven**, 111 McKinstry Road, Duncan, spoke in **opposition**:

- If we surveyed everyone, we would learn it is commonly accepted that each person has the right to peaceful enjoyment free from harm.
- We have heard arguments in favour of the track, due to some people's pleasure and profit. Some people are opposed due to loss of property values; arguments about the loudness of the track and decibels recorded.
- Loudness is only one quality of sound and is not enough to describe the harm done. Some people used the word subjective. It makes no more sense to ask an engineer to assess harm than to ask a land surveyor to diagnose an illness.
- In a just and civil society, if one person is in favour and another opposed, it is not a split decision. They should be weighed equally.

**Dr. Stephen Faulkner**, 162 Jubilee Street, Duncan, spoke in **opposition**:

- Has lived in valley for 38 years, and congratulates racetrack committee for their well-planned campaign to expand their operation. The fact that they were unable to get Phase 1 approved without public input is a testament to their tactics.
- As a young doctor, he stood on this stage and made exactly the same arguments that the committee are giving us now, trying to convince people why an airport was needed, located adjacent to where expanded racetrack is planned.
- While he was very disappointed at the public opposition and they never got the airport, the world did not end, and business continued along. People continued living in a friendly peaceful community. He is now a little wiser, and glad we don't have an airport.
- Putting the business case aside, he has walked the land and this expansion would be double the size of current rack, and at higher elevation. Sound will project across entire valley, and on frosty days with thermal inversion the sound on the track will amplify even more. Sahtlam neighbours' complaints will pale in comparison with complaints from across the Valley.



- All acoustics studies are based on the existing track, not from a higher plateau broadcasting everywhere. Cars will be able to accelerate on longer straight runs - no studies or discussion have occurred on increased noise this will entail.
- Peace and quiet is what attracts people. We don't need more noise to attract people - they are coming already. He has an AirBnB in Glenora which attracts people from around the world, and they consistently comment on the quiet.
- Why compromise for the sake of one group? Many from the yes side were from out of town. They will support if it isn't in their back yard.

**Cat Callewardt**, 5451 Cowichan Lake Road, Paldi, spoke in **opposition**:

- Resident of valley for 58 years, most of that time in Sahtlam and Paldi. Family home is still there and the property has been in family for 100 years.
- When she was young, there was no Highway 18. Wildlife was always prevalent. She loved seeing the animals. Menzies Creek had fish and big enough pools to go for a dip on a hot day. The pools stayed all summer. Now they are all gone due to climate change and hot summers. The hydro line took out timber. A big price to nature, as fish no longer travel upstream. At least wild animals are still able to roam.
- The addition of Highway 18 came at a high cost, and it was no longer safe for animals to travel there. Some years later, she was disappointed to learn North Cowichan turned another part of their forest into industrial land, and a subsequent request for rezoning was made for a piece of this land for go kart racing. They attended hearings and spoke their peace, as they do not feel the enjoyment of a few should ruin the area for residents.
- The go kart track became even larger. Now entertaining a bigger track, and she can only guess what comes next.
- Noise drowns out the sound of nature, and it is not possible to carry on a conversation with intrusive noise. She has seen a lot of changes, and can't image the difference her father or grandfather would find - they would turn over in their graves.
- To date, nothing has been put in place to contain the noise. Some people are showing a shortage of compassion.

**Kerry Bristow Davis**, 27 - 3205 Gibbins Road, North Cowichan, spoke in **opposition**:

- He attended the hearing on Tuesday, Oct. 1, and heard all the information presented by consultants, engineers, and heard the questions asked by Councilors.
- Some citizens supported application, which helped him understand the economic benefits that would result from rezoning.

- He also liked hearing from those who are opposed to the application. The Cowichan indigenous man who spoke jolted him to take heed to his values and forced him to ask himself about being motivated or manipulated.
- Economic benefits do both --money talks. He was motivated by Mr. George because of his love for this part of Canada.
- Love for this valley reminded him of a newspaper article which talked about the luxury car market. A speaker from VIMC on Tuesday showed pictures of the luxury cars that would be driven and on show at VIMC. A Vancouver Sun headline on May 8, 2019 read: "Vaughan Palmer: Report reveals thick of money laundering in BC luxury car market".
- The Cowichan Valley must not be an engine driven to that illegal activity.

**Wendy Hill**, 4189 Cowichan Lake Road, Sahtlam, spoke in **opposition**:

- This is a passion issue. People talking about quality of life, protecting mental and emotional health, and their biggest personal investment - their homes. This is generally a quiet and peaceful neighbourhood. It is tearing people apart, and track is biggest contributor.
- Her experience is that track has not been a good neighbor. Her naïve position is to let them stay, but put up noise protection. They have not done that, but are spreading misleading misrepresentations to the community. According to one of their mailouts in her mailbox, "We have listened and responded to concerns regarding sound. We hear from many, including Sahtlam neighbours, that this is not an issue for them."
- She has never been approached, and for many it is an issue. If she goes on past behaviour, it makes her very uncomfortable what the future looks like. It is not going to get quieter.
- They donate to causes, but won't be good neighbours. Many more will be in the same boat as the local residents, scheduling outside recreation around the tracks. This is a land use issue, but specific to Sahtlam.
- One question she doesn't understand is about the \$5,000 fine - is that not a conflict of interest? Should that money be spent on sound mitigation and relief for those in noisiest area?
- She has a suggestion - if electric cars are coming, table the application and wait until this happens. This would mitigate noise and environmental concerns.
- Let's not put cart before the horse. We should not have to sell ourselves.

**Shawn Pierce**, 4375 Bingwood Creek, spoke in **favour**:

- He is one km from test track, and can also hear the gun range. He has learned to live with the gun range, and doesn't find it intrusive.

- He enjoys living in the valley. He has horses, which make a lot of noise; motorbikes, and has ability to ride around 5 acres.
- The track offers his 17 year old son an opportunity to drive properly. It also offered some great bonding time with his two sons, spending time at the track, all fancy cars, out on track, getting to drive and walk around for 3 or 4 hours - he thanks them.

**Patricia Doyle**, 3240 Moorefield Road, North Cowichan, spoke in **opposition**:

- She can attest to the noise at her daughter's home, causing many disturbed family gatherings.
- She can speak of First Nations medical fields being destroyed.
- Freeman Ford King was a park naturalist, a storyteller and prominent figure; his nature house still stands. As a young girl, he told her that we are all stewards of this land, we all need to take this responsibility seriously to do our part. Many chose careers in this field because of Mr. King.
- This is even more important here tonight. She asks Council to do the right thing - reject this proposal and allow our community to hear.

**Jacklyn Carstensen**, 6486 Diana Drive, North Cowichan, spoke in **favour**:

- In September 2018, she rented a space at VIMC for a corporate fundraising event. This event was open to the general public, and was well received.
- Throughout the preparation, staff educated her on continuous community support for non-profits to give back to community.
- As a business owner, she was thrilled to learn VIMC existed so many people will benefit from world class attraction.
- She strongly urges Council to approve for economic benefits.

**Valerie Masuda**, 6798 Somenos Road, North Cowichan, spoke in **opposition**:

- She used to live in Mill Bay, close to two little dogs. She used to leave at 9:00 a.m., and come back at 5:00 p.m., and they would bark the whole time. She would sit down with book, and then they would bark. She couldn't go out in the back yard.
- She spoke with people in the strata, at back of the lot, saying they don't hear this noise at all. She then talked to someone else who said they like dogs and it was no problem for them.
- The barking continued, and then bylaw came by. Owner paid the fine, and said "what's the problem?" So she asked her to mitigate the noise, inquiring if she could please close the front windows, and she said no - her dogs need air.

- This is a nuisance, and it is not about whether I like dogs or I like cars. The fact is, this is a nuisance and it is bothering people who live in the area, relentlessly, who have no choice but to listen.
- The track has not made any effort to mitigate. She noted that their parting remark was that if Council doesn't let Phase 2 go ahead, there will be no reforestation, no noise mitigation - these are not good neighbours.
- They are not good for the community, have not proven that they recognize people as community members, and they are not interested. She urges Council to vote no.

**Walter Slobodan**, 4925 Belvedere, Sahtlam, spoke in **opposition**:

- He was born in Duncan, raised in Lake Cowichan, and has worked in a structural engineering career. Three years ago, he moved back to Valley to enjoy the peace and quiet.
- The track is bit of a nuisance to him. The noise issue is subjective - some can live with it - but do we need another layer of noise, increasing every day? The new track configuration will allow for cars running on both the upper and lower tracks at same time. The noise will probably increase.
- He feels the economic benefits are overstated. People come to the track for a one day event, then leave town when the event is over. VIMC advertises accommodation packages at the Villa Eyrie - how much is contributed to the local economy?
- It was commented that if VIMC does not develop, zoning could have heavy industry on it. If a sawmill or value added business set up, the benefits to local economy would offset those of VIMC.
- As for future electric cars - how many vintage and sports car enthusiasts will trade in for electric? He doesn't see the noise levels dropping in the near future.

**Kathy Mercer**, 6231 Mina Drive, North Cowichan, spoke in **opposition**:

- In 2018, she appealed her property value assessment, as it was compared to a property in Sahtlam valued far above hers. It is a small size property, almost the same house. The explanation provided for the difference was that the property had been devalued by 55% due to its proximity of the track - more than half of the value of the home. Even if she wanted to sell her property, there is nothing available in the Valley for even half of what their property is currently valued at due to the track.
- Others in the area have also had property assessments devalued during 2018. What would expansion mean - further devaluation?
- They didn't lose value due to the gravel pit expansion or installation of Bings Creek facility - she doesn't smell or hear it. She didn't have low property value

with industry which previously occupied. But once put in a high performance track, values plummet.

- Residents needs to be taken into account. They are the supporters of this Valley, and of North Cowichan.

**Tracy Clark**, 5959 Clements Road, Sahtlam, spoke in **opposition**:

- The former Council's wrongdoings have put them in an unfavourable situation, struggling to find solutions and compromises.
- Robert George, the Sahtlam and various other organizations have been forthright, truthful to individuals, the community and the environment, asking Mayor and Council not to be dismissed or ignored. Council has heard their truths and is now responsible for what they hear.
- Each one knows what is right and wrong. The hardest thing and the right thing are the same thing - she asks Council to say no to the expansion.

**Mariah Wallener**, 4242 Sahtlam Road, Sahtlam, spoke in **opposition**:

- The issue before you is a land use decision, and how much money the proponent has handed out is irrelevant.
- Council is being asked to take a 100 acre parcel out of I2 heavy industrial and incorporate it into a new zone dedicated to motor sports. Motor sports need pavement and lots of it. Council have seen the plans, and they are going to need to destroy three quarters of that parcel. They might reforest it, but you have no authority to ensure that happens when all is said and done.
- Heavy industrial zoning has many uses that doesn't need a large footprint. Council could work with a developer, ask them to donate that beautiful watershed land on that property and give them a couple variances to thank them. The motorsport track cannot protect that - there is nowhere else to put the race course.
- She asked that the 100 acre parcel be left as is, and to fix the Phase 1 zoning problems if need be. If it is such a great economic boon, why do we need more? They have the racetrack, the go-kart people can use it and they are donating all this money. Why do they need another 100 acres of beautiful forest habitat that serves this community for carbon sequestration and wildlife habitat? It is an industrial zone, but there are many uses that could be put on that property and preserve the benefits to the community. She asked Council to consider that when making its decision.

**Curtis Bachelder**, 3904 Johnny Bear Road, spoke in **favour**:

- His parents moved here in the early 1970's, and never lived anywhere further than their current location. He took his first steps at the Forest Museum.

- He has two children, and is not looking to go anywhere else. He took his son to a car show at the track last year, and is proud to be raising the next generation of car lover.
- He can see the track from his window, but has never actually heard it. He knows someone that lives across the road, and they don't hate it. They enjoy going to visit, seeing the cars and participating in something they enjoy.
- He is always encouraging of something that brings an array of things to do, and the ability to do things that have never been tried or available before.

**Skye Gamble West**, 4380 Pollock Road, Sahtlam, spoke in **opposition**:

- Would like to relay a few short experiences that she has encountered regarding animals and livestock affected by noise. *[Ms. West's husband took over presentation at this point.]*
- Every time there is noise from the track, her dog cowers and runs for cover. Watching her sheep and goats, every time there is a loud noise, they lift their heads, and look in the direction of the track. If it is too loud, they move to the pasture. It is a shame they have escape.
- The other day her pet goose, in his desire to protect every chick and duck on farm, was heard screeching - the call he uses when a predator attacking. He was running around the farm, with no idea what was bothering him. He noticed every time there was a vroom from the track, he panicked. Her heart was broken by this distress. These are only a sample of stories.
- Wild animals have no one to console them. If expansion goes through, she implores Council to require far stricter noise constraints. She is among many who do not support the expansion. Council should not be romanced by the money.

**Jeremy Friesen**, 231 White Road, Duncan, spoke in **favour**:

- People are not actually here to talk about whether the track exists, or the zoning of the track. As he understands it, if Council doesn't change the zoning, there will be no recourse for any noise violations because of the industrial zoning.
- If rezoned, Council can actually do something if it is loud. Everyone arguing against noise should be on the side of rezoning.

**Julia Rylands**, 4785 Sahtlam Estates Road, Sahtlam, spoke in **opposition**:

- She has read the Wakefield Acoustics report and letter, the BeSB noise study and Navcon peer review. She will be focusing on their choice of measurement types and inappropriate comparisons.
- She is a retired scientist, and was employed by the Ministry of Defence in the early 1980's. She worked on a project that looked at the effect of noise from army vehicles on cognitive performance of the vehicle operators and

passengers, and personnel exterior to those vehicles. Those vehicles are a little noisier, but the science behind the noise measurement is very relevant.

- Even back then in 1980's, it was recognized that expressing noise as a weighted equivalent level is not adequate for assessing noise effect on the ability to concentrate, make decisions, arousal level, sleep quality and nuisance effects. Why in 2019 would one still use the measure designed for assessing hearing damage to assess nuisance impact of noise on the community?
- Many published scientific papers show intermittent noise made by cars accelerating, gearing down and decelerating has many more negative effects on humans than continuous level background noise, such as highway noise, even at higher decibels, creating more than just a nuisance.
- If considering the impact on quality of sleep -- if someone is woken up by different noise than normal background noise, even if not as loud, can create a startled response, raising adrenaline levels, heart rate and alertness. This is what is happening to first responders trying to sleep during a VIMC event. Once awakened, it is hard to go to sleep again when the environment is noisy. The serious consequences of sleep deprivation of first responders going on duty goes well beyond noise nuisance.

**Don Uhlman**, 5478 Normandy Road, North Cowichan, spoke in **favour**:

- A little over a year ago, he bought a 5 acre parcel, and is now in the midst of building a home there.
- So far, it is a nice quiet area. He does hear a lot of chainsaws on Sunday afternoon; hears the dirt bikes, quads, small farm tractors -- people looking after property, which is all fine.
- On zero occasions has he heard the motor circuit. He's not there every single minute it is running, but so far it has been very peaceful for him and his family, and he is in support of VIMC to proceed with what they plan on doing.
- It would be a great facility when it is all completed, and will bring great economic relief to the Valley.

**Jane Worton**, 3972 Sahtlam Road, North Cowichan, spoke in **opposition**:

- She does hear the track where she lives, and it provides what she would say is nuisance level sound.
- She works from home, and no longer keeps her windows open in the summer. Her kids don't nap with the windows open and it is unpleasant to work in the garden.
- A few houses down, people cannot tolerate it. The noise is incredibly loud where they live and is sometimes very problematic. She thinks it is something we all need to understand - it travels differently.

- She is speaking on behalf of neighbours. She initially supported go kart track - she thought about economic development, commuting less - but the way the track has operated and the level of noise in the community is problematic. The way it has addressed the valid concerns is completely unacceptable.
- She would like to use 10 seconds of her time to play what the track sounds like. She asked Council to imagine if their neighbours were hearing that all the time [Ms. Worton then played an audio clip].

**Nancy Dower**, 1844 Stamps Road, North Cowichan, spoke in **opposition**:

She would like to make three points.

- No economic impact assessment has been provided by VIMC. On Tuesday, many proponents said that Phase 2 would be a financial boom, but where was the data to back it up? Past history of charitable donations is no assurance it will continue.
- The official Tourism Cowichan website contains the following phrase: "Cowichan - slow down, savour life." Nowhere is the VIMC track mentioned on that website. With the intrusive roar from VIMC, marketing North Cowichan as living slow or the new Tuscany is an oxymoron.
- Mainland retirees spend, volunteer and contribute to our community. They are attracted by quiet life. An article in The Vancouver Sun indicated that in 2017, 16.5% of home buyers were from the Lower Mainland, with 4 out of 5 buying as principle residence. There were 697 homes sold in 2018. If you apply that 16.5% of sales were to lower mainlanders, 118 homes sold, with an average price of \$532,000 or \$63 million into the community in one year. The intrusive noise from VIMC will have a negative impact on this.

**Chris Davies**, 4404 Cowichan Lake Road, Sahtlam, spoke in **opposition**:

- SNA residents and local residents have taken a lot of flack regarding the noise, but how many people here can hear the track noise? The real question is - do you hear what they hear? Have you heard what they hear? How many people have taken the time or trouble to visit the badly affected properties, to hear what they hear? He can answer yes to both of those.
- He likens the noise to that of chainsaw at full revs in close proximity. He cannot have a conversation when the track is going. Add to that the devaluation of property, quality of life and mental health. VIMC wants to build another track and invite go karts. These noise levels would increase. If the cars on the existing track are running at the same time, it will be one hell of a noise. He lives in Sahtlam for the peace and quiet, open air, wildlife and his property. His property will suffer more. Is that fair or right? Some people believe in climate change, some don't. The cedar trees are dying by the thousands all over the Valley; rivers are drying up; fish and wildlife are struggling.



- Since the 1970's, we have lost 60% of the wildlife population and a million species of animals and plants are facing extinction. Thanks to climate change, and the unrelenting pursuit of economic growth and money, protected species are declining.
- Council has a duty to protect the future, to protect our forests, our rivers, our streams, our trees, wildlife, and to protect your residents and future generations.

**Morgan Steacey**, 4415 Pollock Road, Sahtlam, spoke in **opposition**:

- She built on an acreage, and it truly was a dream come true on property with sentimental value. She was so excited to find a great place to raise her daughters, and overjoyed to give them the opportunity to explore nature as so few in childhood can experience.
- Since the opening of the circuit, her family has experienced diminished quality of life. The noise outside is so intense, they had to abandon their outdoor activities. When putting her toddler down, over the white noise machine, she could hear screaming tires.
- Many noisy days, maybe more cars, more loud cars, perhaps wind in a different direction - at the end of the day, it is affecting her family. Regardless of what the sound analyst says, it is glaringly clear when vehicles are on the track. It is impossible to escape an engine going in circles, and mistaking it as traffic.
- No amount of data can say that she is not hearing what she is hearing. On Tuesday, she heard that if Phase 2 is not approved, the sound limits are taken off the table. Does that sound like a good neighbor with a desire to achieve a good result, or an organization genuinely trying to achieve sound mitigation?
- She values the community, and everyone must do their part. We live in the most beautiful spot - leave it better for the future. In her mind, the existing noise is unacceptable.
- She asks Council to please consider quality of life before agreeing to further development --people before profit. They need elected officials to give them a voice.

**Steven Holmes**, 6658 Hillcrest Road, Sahtlam, spoke in **opposition**:

- He lives approximately one mile west of the offending track, and the noise level in the first 18 months of operation was awful. He can give you chapter and verse of what it sounds like - no one can experience it unless they are there.
- The gentlemen giving the noise attenuation picked an appropriate time to make that particular summation with a quiet set of individuals driving their well muffled cars on the road.

- He is a forestry engineer, logging contractor and land developer. He has built hundreds of logging roads, and he knows what is coming. He has talked to the gentleman in question about thoughts on how to control unremitting rain and snow, the flood effect in the fall, large rafts of snow and rain and what goes with it. It knocked out 13 bridges between Prince George and Kitimat - every one is gone. He has experienced it at his house with the rate of flow.
- He has lived here since 1984, and the noise level is not pretty. If Council wants to make a decision, they need to look back on the track record. How they have conducted themselves. In his estimation, they have not been a good neighbor; they have done nothing to mitigate the noise they created, and no reason to believe they will change their way - why would they?
- When asked by the Mayor if the noise improved after 18 months, Mr. Holmes replied that the noise has not gone away and can be heard quite clearly, but the noise level (particularly attributable to cars with multiple progressive shifts, large unmuffled engines) has decreased.

**Monique Joseph**, 6158 Sumas Road, North Cowichan, spoke in **opposition**:

- She is quite scared for our heritage and culture, and forests that we aren't really trying to keep and preserve. She has watched the elk dwindle; there are less and less every year. For families who hunt and live culturally, their hands are tied.
- She lives right near where the track is, and she doesn't know how the track was put there. From her last recollection, her grandfather was fighting for Hill 60 to be preserved so Bings Creek could not be put there. That area has natural aquifers in a land where we are trying to preserve what water we have left - why have a track over it?
- They act like reforesting an area can cause a solution to the problem, but in order for animals to survive, they need a stable forest for at least 50-60 years. Replanting 80% of the trees is not going to help for the next 20 years -- only in the next 50 to 60 years, and where will we be then?
- Her only concern is - as native people, they fight to keep their land for one reason only - water. It helps them live. Without water, how long can anyone live - you cannot live very long without water. What is money going to do when there is no water there to drink.
- Recreational things are great and lovely for economics, but what about the beautiful nature and forests? We thrive on our tourism, the surfing in Tofino, Sooke -- all areas with beautiful forests. Hill 60 now is just a shame - a shadow of what it used to hold. When the rivers run dry and nothing is left to drink, what will money do for us? She would appreciate if Council can work with reconciliation to preserve the world - it is all that we have.

**Allison Rimmer**, 3878 Cowichan Lake Road, North Cowichan, read a letter in **opposition** on behalf of **Sierra Robison** of Westholme Road, North Cowichan:

- She is opposed to any expansion. Having said that, she is here to read a letter from one of the younger generation who is deeply committed to ensuring the Valley remains the jewel it is. She is remarkable young woman who organized the climate strike in Duncan.
  - Cowichan Valley has been Sierra's home for 10 years. She is 17 years old, and is a farmer, activist, permaculture teacher, Crew Director and Lead for Cowichan Valley Earth Guardians Crew, who are fighting to protect our planet, our community, our futures. Her crew planned and led the climate strike of over 1,000 people. They all walked out of schools, jobs, lives, to stand up and say they can no longer live with inaction.
  - It is not just our community that was striking- between Sept 20 and 27, there were a record 7.6 million people taking to the streets to strike for climate action. The global strike shows people we have the people power we need to create a just and regenerative future.
  - They don't want to be activists, but they are reminded every day, every time a new project is proposed, why they need to be. One of many reasons they take place is to tell politicians to step up. VIMC moved into the area in 2016 and radically changed their quiet community to one where they wear big headphones.
  - It is now proposed to triple the size of the track and log and pave 100 acres, which will be impacting an area of great cultural significance to the Quw'utsun Tribes.
  - The wildlife that depends on the habitat is now under threat and need protection to fighter to preserve the watersheds, which are impacted by climate challenge.
  - These are just a few reasons they are asking Council to say no to the racetrack expansion. Please do more research; please tell her when Council makes a decision, it will be one that most positively affects our community, other inhabitants, environment, and a healthier future and economy not based on destruction. This is an opportunity to make that choice, and recognize the power in that. She is trying hard to have hope, as this is a unique opportunity to protect ecosystems and the wellbeing and happiness of our community.

**Leanne Waters**, 6053 Sansum Drive, North Cowichan, spoke in **favour**:

- She is a member of this community and founded 100 Women Who Care. They ended up having 287 women join their organization, which is where women get together four times a year. They need a facility that could be donated, with parking and room for 287.

- With that type of number, there is nothing else in the community which can accommodate and they are very grateful to VIMC to give them their facilities to work those events.
- To this date, there are now 100 Men Who Care, and another 100 Women Who Care, and they have donated over \$500,000 back into the community. They are grateful to them for their facilities.

**Stephanie Aikenhead**, 4197 Sahtlam Road, Sahtlam, spoke in **opposition**:

- She lives approx. 800m or less directly across the highway from finish line of the VIMC track. She is passionate about the environment, habitat and animals.
- It is debilitatingly loud.
- With the VIMC noise report, she asks Council to please not interpret her hearing. Her hearing is fine and to suggest ambient noise is louder than the track is laughable. Important factors to consider - wind and elevation.
- VIMC states that all vehicles will be street legal - she would like to know if that will include the off-road circuit.
- Phase 1 needs to be fixed now, and needs to meet a noise level that gives people their lives back; to enjoy their homes and gardens. This needs to be done to their satisfaction before consideration of Phase 2.
- VIMC will tell us they have plans until the cows come home, but they have had four years to do something and nothing at all has been done. They are not good neighbours.
- She is not an expert, but throw away the noise level numbers. If you can operate the track for 12 of 15 minutes at 60 decibels or less, you can do it for all minutes - that includes go karts. They need a single number acceptable noise level.
- She is not standing up there to say she wants to see the track shut down, but she wants the track to turn the noise down. The track exists, and she is not against anything that contributes to the economy.

**Karen Doucette**, 4159 Cowichan Lake Road, North Cowichan, spoke in **opposition**:

- She appreciates the reference letters from Cowichan Tribes and the Sahtlam Neighbourhood Association.
- Her property is 2km from the track, looking at Mt. Prevost from her home and deck. She does not hear any of the other businesses in that industrial area, nor do they hear highway traffic (except maybe at 7:00 am when all else is quiet and they can hear a dump truck backing up with warning signal sound for a few seconds, or from time to time they hear a loud vehicle, or some Harleys cruising together, but it lasts for a few seconds).

- When the track is going, the noise is constant and is objectionable - whining of performance vehicles and screeching tires. Her son got married, and they had it on their property. Eighty people, every single one of them, said "I couldn't live here with that noise."
- Her daughter also got married this summer, and chose not to have the wedding on the property she grew up on - she didn't want it interrupted.
- They no longer have family gatherings on their property. They were in their house this Saturday and Sunday, and had the windows and doors closed with the television on. They could hear the track.
- They don't mind noise, and are pretty tolerant. They bought their first home in Crofton, and lived 2 km from the pulp mill. It never made the kind of noise that this track has made.
- They have asked nicely and sent letters to the track since 2016 to be good neighbours and turn it down. They like the track, and they like cars. But they shouldn't have to listen to noise for 8 hours a day.
- When they lived in Croton for 8 years, the pulp mill once had a big ash fallout - black ash all over their freshly painted home, their white car - the neighbourhood was covered. Before anyone phoned, the mill was out there doing something about it.
- They came here on Tuesday night, and heard if they don't get the expansion, they won't turn it down at all. How is that being a good neighbor?

**John Applebee**, 1033 Islay, Duncan, spoke in **opposition**:

- The noise issue started since the first days of the track, and if they cared about the community they could have done something at that time.
- It is about 200 yards from their door. One issue is the purported economic value. They were gifted on Tuesday with a large number of business associations who united in their opinion that North Cowichan should take one for team, and accept the track so that business would flow. It won't.
- The forestry community over the years has produced wood products to wide market. The track itself simply appeals to a miniscule subgroup. Forest companies reinvested in the community, in facilities, in employees - he doesn't see the track providing specialized skills that go behind the development of that facility. It is just not there.
- He thinks people will find that economic opportunities are like picking up apples already fallen from a tree.

**Dan Woodley**, speaking on his own behalf and on behalf of **Sheila and Frank Ryan**, 8041 Lindsay Drive, North Cowichan, spoke in **favour**:

- As taxpayers of North Cowichan, they want to support the application.

- There is a need for expanding the tax base and employment opportunities. Participants in this sport and their families support local business.
- They saw just last week the Catalyst Mill laid off 70 people. Diversifying the community has never been more real.
- The issue for noise abatement -- with engineering, this problem is solvable. The noise levels of everyday living - planes, traffic - are part of the reality of daily living today.
- He has lived here for 27 years and counting, and lives 3.9 km from the circuit. He feels honoured to have the opportunity to work there. With this expansion, he hopes that people in the community, for whom this could be a dream job for them, get the same opportunity.

**Paulina Kee**, 3228 Gibbins Road, North Cowichan, spoke in **opposition**:

- A gentlemen earlier spoke about 1984 - that book was a warning, not a model to live by.
- She spoke on Tuesday opposing the expansion, and since then has studied the plans a bit more --the plans looked really seductive. After looking again, she is still opposed. She urges Council and the Mayor to consider the following:
  - Four crossings are planned over Menzies Creek. These are permanent crossings and a disruption to the ecosystem. They must leave it as is instead of adding permanent crossings to allow pollution to impact their environment.
  - Health is what truly brings our community wealth. The negative effects of expansion will ripple out including wiping out traditional food supplies and plant medicines, clean water, health issues, mental wellness, cancer, and respiratory health. We must do everything we can to support health of all residents who work and live in the community whether support or not.
  - A few years ago, she met a teenager from China who was visiting the valley. They had gone to see her old farm. The grass had gone to seed, and he hadn't ever seen anything like that. He said where he is growing up, there is no grass. We have grass, we have clean water and clean air - we mustn't risk it to expand a motor circuit.
  - The other night, someone called it a death by a thousand cuts, which means a slow death by torture of many small wounds -- not lethal on its own, but cumulative. This is what is happening in this world.

**Bruce Cates**, 620 Arbutus Road, spoke in **opposition**:

- The question to be asked is who are we? Are we the Province of Canada? Are we slow down and savour? Are we award-winning climate action plans? Are

we eco-tourism? Or, are we noise and pollution and watershed destruction?  
How do we define ourselves? Who do we want to be?

The Chair asked for a recess at 9:00 p.m.

The Public Hearing resumed at 9:22 p.m.

**Gary Broulard**, Cowichan Bay, spoke in **opposition**:

- Animals are not represented. First and foremost are the elk - they are a protected species, and even Cowichan Tribes can't hunt those in their territory because the population has been knocked down. You will not allow this expansion to go through, to destroy their kitchens, drinking water - it is not a choice. They are being told it is going to happen.
- He sees some of his tribespeople here and it is great to know their voices are being heard. What did you do last time as the track was unacceptable? How did you rectify that? This is supposed to be a time of reconciliation - they said no the first time, and are saying no again. It is about time Council listened.

**Christina Wallace**, speaking on behalf of **Kimberley Knight and Robert Ketch** of 4360 Pollock Road, Sahtlam, spoke in **favour**:

- Ms. Wallace read out a letter from Kimberley Knight and Robert Ketch as follows:
  - They are writing in support of the VIMC proposed expansion.
  - They have owned property on Pollock Road since 2001 prior to the construction of VIMC, and they continue to reside in the heart of Sahtlam.
  - The circuit does not impact their family or quality of life. Part of the reason to live in rural Cowichan Valley is so his kids have access to motor sports, ATV, dirt and mountain biking. They are proud that there is a facility that supports cars. They enjoy attending at VIMC, and his family also supports hunting, fishing, and all the great things that make the Island a great place to live.
  - They are aware of the huge support the circuit brings to the Valley with their fundraising activities, sponsorship and property taxes.
  - Although they cannot formally speak for their in-laws who live next door, they can say from their experience and discussion that they are in support of what VIMC brings to the Valley.
  - In their opinion, VIMC enhances the Valley and they support its effort to grow.

**Dean Gamble West**, 4380 Pollock Road, Sahtlam, spoke in **opposition**:

- He is in opposition, along with most of his neighbours. He is grateful and applauds Council for having open public consultation, which is a step that was blatantly absent in the original process - he does not know why the

public was not consulted. GAIN knew there would be heavy opposition to get the facility and permits. Once a facility is built, it is much easier to ask forgiveness than permission.

- He moved to Sahtlam in 2014 to a quiet neighbourhood and hobby farm. A year later, he was told of the track being built and most said it was a surprise. He wasn't sure of the impact, but he knew they would hear it.
- It is a constant annoyance to them and the animals. They had only heard the noise and anguish of neighbours, and it severely impacts their quality of life. As part of this community, they need to support their neighbours.
- GAIN is not a good corporate neighbour - it is hard to believe they will do what they say when there is no trust.
- It is an important decision to make, and it will be difficult. The previous administration left a mess for this Council to clean up.
- Voluntary compliance with noise levels would restore some of the trust. Give the residents a sample of what they are to endure - they don't know what 59 or 79 decibels sounds like - these are just arbitrary numbers.
- Please consider a period of voluntary compliance before granting zoning changes for the good of the community.

**Keith Williams**, Pritchard Road, Cowichan Bay, spoke in **opposition**:

- He owned property on Old Cowichan Lake Road. He treasured the property, but started going crazy - he was coming to work angry and miserable. They did sell, took a loss, and moved into downtown Duncan to rent for a year, and they are now in Cowichan Bay.
- He has nothing against the people who use the track and want to continue to use it - he has friends who do, and who are passionate. His problem is with the application - it is crappy, full of holes, red herrings and bad statistics.
- He is not sure whether to be amused by Mr. Holland's paradox - he managed to turn all this logging, paving and noisemaking into a green initiative.
- He was not impressed with the environmental expert who stated the finished project will only occupy 0.7% of the Bings Creek watershed. The Fukushima occupied an even smaller percentage of the Japanese coastline. It takes one linear foot of a watershed to ruin it. Those kinds of statistics don't represent a solid application. He feels bad for the people who love the track - they are not represented well.
- In all seriousness, if he were sitting on Council, he would not want to make himself a climate change hypocrite.

**Mark Primmer**, Chemainus, spoke in **opposition**:

- He is the owner of Well Bread Bakery in Chemainus.



- There is nothing surprising about the VIMC supporters here. He was in the washroom with a friend, and one guy was wearing one of those little yellow flowers, his friend asked "what time are your guys here till tonight?", and he replied "we are paid until 11:00".
- He is not paid - he is here of his own free will. To the hired guns, to the young bucks who say he doesn't hear anything; to those who worked at VIMC and hardly hear anything - if they had a house worth \$400,000 and now worth \$300,000, don't say they wouldn't be hurt. Don't come as hired guns and say these guys are great.
- What a good time it is to be consultant - endorsements from consultants are like praise from your mother - they are still stretching truth, and sometimes they are lying.
- The sound expert was trying to say the experience of sound is subjective, and he gave us his own impressions of noise - a biblical description of the noise of condors while attending a day at the race track. It sounds subjective.
- According to the paid biologist, their plan is to clear 76 hectares of land, but they will reforest the area afterwards.
- Speakers testified regarding economic benefits. His business is doing well, and the millionaires from here or elsewhere are only behaving as expected - when the focus is on what they earn, not what it costs us.
- He was moved by the wisdom of Jarred Williams and Robert George. He hopes Council is not tone deaf.

**Brent Fraser**, 5222 Heritage Road, North Cowichan, spoke in **opposition**:

- How do the majority of Valley citizens feel about this project? Proposed expansion is a revenue generator, but for how many people for how long? Professional studies have been done claiming there is no significant noise impact from track, but many residents would disagree.
- VIMC is a good corporate citizen, but why are they pushing so hard for something with limited benefit and use? Is it part of a larger plan? Do we want revenue at any price? It deserves careful scrutiny.
- He believes it is not a stretch to say high performance driving is for a small percentage in the Valley - what is not to like. But you usually don't get something for nothing, which should raise red flags. Be careful when everything comes your way.
- He doesn't trust VIMC or its affiliate GAIN, and he doesn't support the expansion. They don't align with his values and he urges Council to reject.

**Gordon MacKay**, 1810 Koksilah Road, Cowichan Bay, spoke in **opposition**:

- His concerns are numerous. Even though he is in Cowichan Bay, he is concerned for the quality of life of the residents around the facility.

- He works in the horticulture industry, and he doesn't see that in this plan or a horticulture consultant on the proponents' panel of professionals. Tree retention, tree assessment, tree protection - what does that mean? You take these down, you lose wildlife, habitat is lost - it is pretty straight forward.
- He urges Council to think about that, because he built his place where a lot of trees were taken down - it is not easy at all to bring them back, and it is hard to get habitat to come back.
- Bringing the forest down for a racetrack is sheer madness. Removing trees is not the easiest thing, and there is no guarantee the trees being replaced are going to survive. He urges Council to decline this proposal.

**Shane Chiasson**, 5984 Cassidy Road, Ladysmith, spoke in **opposition**:

- He lives about 2km from the track, and the noise is at a nuisance level for him - unpleasant, but not extremely destructive.
- He loves cars and driving, and he gets the appeal. However, with facing a climate catastrophe, he thinks it is a pivotal time for us to reconsider the ways in which we derive our entertainment. He understands and respects the desire for this kind of facility, but he believes that it is simply unacceptable to prioritize these projects in our community when so much hangs in the balance.
- He recently moved here and settled on these lands, and feels very privileged to be here. He recently purchased land in Sahtlam on Menzies Creek, and it is a gorgeous creek - he feels an obligation to stand up and speak on behalf of the Creek as it's already suffering a lot. To think about more loss of habitat and degradation is painful.
- He would love to raise children in this community, and the future is really uncertain. He implores Council to make a decision that will benefit all as a community in the long run and the planet, and prioritize projects that will contribute to health and wellbeing of the land and community in the future.

**Lorna Jaynes**, 620 Arbutus Avenue, North Cowichan, spoke in **opposition**:

- She feels the first and highest priority is to protect the quality of life and the land, as well as humans and animals.
- The first track without community input was a disaster. It should never have been built. It is incumbent upon Council to minimize our contributions to that by protecting mountains, watersheds, and limiting carbon. All development, in addition to desecrating the land, creates carbon emissions.
- People asked for a station to be built to sell butter further afield, and thus began the development unabated, which has ruined this Valley. A new start can be made now. She hopes that it is more than just lip service.
- At time of reconciliation, it is imperative that we pay heed to the tribes who have clearly conveyed how this will affect everyone. She was brought to tears

when the young fellow spoke because she loves this Valley so much, and what is happening is painful. It needs to be protected. She urges Council to please say no.

**Brian Hindle**, 6600 Lakes Road, North Cowichan, spoke in **favour**:

- He has been in the Valley for 30 years, and there has been a sea of change as to how people live and are employed. Around 65% of economy was forest based, but it is pretty close to 25% now. It is evolving and changing.
- It is difficult for Council or the Mayor to work their way through this change. All of us are trying to go forward in a direction we think is correct. From his own experience, this area was zoned for heavy industrial, and when they moved into that area, it was zoned for it. They could pretty much put in any industrial. It is now time to start fine tuning, and this application is a part of this.
- At end of the day, jobs are being created in a whole variety of methods - warehouses, excavation, motor sports -- all these things create jobs. We no longer can rely on Catalyst to sustain us in a time of need. It has gone from employing 1200 to 700 people. How do we make up for that? It is going to be many companies, not unlike VIMC, who create jobs in a variety of ways - theirs is just one of many.

**Alison Nicholson**, 3961 Riverside Road, Shawnigan Lake, spoke in **opposition**:

- She is the Director of Area E, which includes Sahtlam. It is immediately adjacent to the motorsport facility and where people are most directly impacted.
- This application is about a Phase 2 expansion, and she appreciates this opportunity for all Area E residents to speak about the concerns they have. She is really grateful for all the caring people who have come tonight.
- The noise concerns of Sahtlam residents are very real. They are significant, and they have borne the cost of Phase 1, with impacts to mental and physical health, and financial loss.
- The decision to be made matters to the Sahtlman neighbourhood and the region. She respectfully requests Council keep the following three points top of mind when making their decision:
  - The application does not guarantee existing noise issues can and will be mitigated, nor that expansion will not add to problem.
  - Watersheds are proving to be increasingly fragile. Each time development is considered, it is critical to think of the cumulative effects on the whole watershed and whether it is needed or is the best use for the long term health of the community and ecosystems.

- This is a huge and timely opportunity to affirm to the community that we must and will fundamentally change our approach to development in light of the climate crisis underway.

**Emily Ritchie**, 670B Stebbings Road, Shawnigan Lake, spoke in **favour**:

- She first came here in search of water - to swim, the beautiful mountains outside her back yard, to jump in the water, relax and enjoy. But this is not what is in front of Council. It is whether or not to rezone an industrial use application.
- She saw the passion and hurt feelings of those not taken into consideration before the track was developed. If Council approves and creates a special tier for this motor circuit, it allows them to have that action plan and hold the company contingent on things they are promising.
- Right now in the current zoning, it is a free for all. Because of that, people are feeling so hurt. As someone coming in to buy property, she would take so much comfort in knowing there is a specific area in the regulations put in place and that we are ahead of the times in setting precedent for what should be standard.
- Driving in circles is not her thing, but she does see how much joy it brings those people who choose to do it. She urges Council to approve as it will allow us to know what is going to be industrial, what is rural, and what we have as agricultural.
- She listened to the presentation - we are not clear cutting ancient forests and cedars -- it had been clear cut by logging, as recent as 15 years ago. We have it here, and it is already started. It is upsetting, yes, but keep it where it is. Do we want to open it up where it is all over, or create a zone where we can hold accountable?

**John Yarnold**, 4195 Sahtlam Road, Sahtlam, spoke in **opposition**:

- Besides the noise, he is tired of personal attacks on members; feelings that large corporations are trying to buy favour rather than earning it; tired of acoustic tourists, cruising up and down his street and deciding it isn't noisy; tired of hearing his experience is not valid; that if he doesn't like the noise, he should move from the home he's lived in for 20 years and raised his children, his own special oasis, or was.
- He is tired of hearing from experts who cannot pronounce the name of his community; that noise is subjective, and the inference that his neighbours are too sensitive.
- He is tired of being told it could have been worse, like a plane. It is not a plane, it's a racetrack. A racetrack unlike any in the world, without consultation or mitigation of noise, within 800m of a long established neighbourhood that is now saying that nothing about it can be fixed unless we allow them to build more racetrack.

- What we have now is what happens when salesmen build racetracks - please don't let them do it again.

**Jessica Evans**, 6111 Pickle Place, spoke in **favour**:

- She was born and raised here, has been employed by VIMC, and would like to show support of the jobs and positive experiences it has given.

**Barry Hetschko**, 6013 Trillium Way, North Cowichan, spoke in **opposition**:

- His concern or question to Council is that he's not sure when this property was originally zoned industrial - 50 years ago, or in the 1950s? It is pretty archaic when a zone is over top of a wet land and two salmon bearing streams. His concern is the building over and logging of these little watersheds, which have their own problems, is not a good idea.
- His other concern is logging of the area which they said they would re-tree - he doesn't think that is going to happen. He is very concerned and is against it.

**Kate Koyote**, 3615 Gibbins Road, North Cowichan, spoke in **opposition**:

- She is not a supporter, and she doesn't want to repeat everything that has been said tonight or on Tuesday. She stands for everything that has been said tonight.
- She wanted to share a personal story. Her daughter asked her for an orange shirt the other day, as she needed it for school. She is ashamed to say that she was frustrated about having to find her a shirt instead of her just putting on her regular clothes, as she had to find the time. When she came home from school that day, she said, "Do you know why we wore orange today." I said no -- I knew it was because of residential schools, but didn't know why. She told me the story of little girl who wore her orange shirt to her first day of school, and it was taken away from her and burned. The rage and unbearable grief that went through my body when she told me that story, was unbelievable.
- Today she feels like she doesn't know what to say to her daughter, who has to write a letter to a residential school survivor who lives in our community. What does she say in her letter if this goes through if we again don't listen to the community members where that land is sacred? She was insulted by the lack of professionalism shown, specifically by the archaeologist specialist who said there's nothing there.
- She cannot imagine how many there are, only a very few in this room, who have never been able to be self determined and have never had a lack of hope in some level of their life. She is seeing we need to stand up for that - to be the community we can be and fix this now.

**Dr. Isabel Rimmer**, 4195 Sahtlam Road, Sahtlam, spoke in **opposition**:

- She is President of the Sahtlam Neighbourhood Association.

- Since 2016, she has been the pointy end of the stick regarding VIMC. Along with growing number of community members, they have worked to find solutions. She can tell you this "aint for sissies" - personal accusations, full page ads in paper, being called a nazi by VIMC executive when meeting with North Cowichan staff.
- Her community and region as a whole has supported her, and it is the cost of defending her neighbourhood. Those intimidation efforts are not just to her but to the Cowichan valley.
- She heard Mr. Holland tell us that unless Council allows the expansion to go ahead, the community would be stuck with the problem of Phase 1. Mr. Holland stated that without rezoning, we return to the challenges of the past. What are these challenges? Are they so insurmountable without rezoning? Every other facility in world builds noise mitigation.
- Mr. Holland goes on to say there will be no noise mitigation, no forest protection, no agricultural land protection, and no community benefits. He may as well have added that unless the Municipality makes a land use decision that allows them to expand, because if they don't they will do nothing to behave as good corporate citizens.
- This is a land use decision. What is the highest and best use of the land in question? Is this location appropriate? This is a proposal for race track, 2 km from muni urban containment boundary, impact last robust watershed. Is this best and highest use of this land? As one of the citizens affected by Phase 1, she would prefer to deal with what they have now than an expanded racetrack.

The Mayor conveyed to Dr. Rimmer three times that she was out of time before requesting that her microphone be shut off.

The Chair asked for a recess at 10:12 p.m.

The Public Hearing resumed at 10:18 p.m.

**Bradlei Borjeau**, on behalf of **Brooklyn Mann** of 6336 Nelson Place, spoke in **favour**:

- Mr. Borjeau first read out a letter on behalf of Ms. Mann stating as follows:
  - As a resident of North Cowichan, she is a firm supporter of the circuit. It is an asset to community; and is generous to the non-profit sector. Their recent donation to the Hospital Foundation is a reflection of their commitment to the residents and elevating the town.
  - Employment is a struggle for many right now, and this facility employs residents and attracts tourists to help stimulate the economy. It is an advantage for those who live here, especially small business sectors. In addition, the organization is a large tax contributor. As a taxpayer, she appreciates this immensely.

**Bradlei Borjeau**, North Cowichan, spoke for a second time in **favour**:

- He is an employee of the circuit and is a full time, lead driving instructor. He is not paid to be here tonight, and is here on his own time, even missing his eldest child's 17th birthday.
- He is passionate about this, and wants to hear about the people negatively affected by this. He also hopes that we can have the perspective. This is a 100 acre piece of land in our community which was logged 40 years ago -it is not old growth. He considers himself green/eco - he drives a car which uses electricity.
- We have asphalt on the island, and having another ribbon of asphalt will bring even more people - he is the one that interacts with them. It is not just the wealthy - people who live in town, on the island, from all of Canada, and expansion will bring more.
- Long term, he does personally hope that it becomes better for everyone affected.

**Peter Van den Bos**, 6895 Hillcrest Road, Sahtlam, spoke in **opposition**:

- The biggest contention is the sound issue, as it is hardest to control.
- Comparing it to the sound from the highway is unfair. It is at a lower elevation, with many banks around it to mitigate the much lower tone of road noise. For the most part, vehicles going up that road have mufflers, which put sound levels at much lower tone and fleeting. Logging trucks and momentary noise goes away.
- The track is positioned on a hillside, elevated from the highway - a disadvantage for noise. If Phase 2 expansion proceeds, it would put the track far above the south tree line, and no amount of mitigation could solve the issue. The higher they expand, the more noise pollution.
- It is not merely an issue of decibels - it is tone and continuous noise, no matter what decibel. Elevation of the track would be in perfect position for the noise to extend further to Duncan and surrounding areas, regardless of whether they appreciate the track and economic benefits or not. This is the sound that residents and visitors could only find relief from if they leave the area.
- He and his neighbours live 2 km northwest of the track - many of the trees and ups and downs of terrain still do not prevent the sound of the track in their backyard. There is no doubt that track expansion up the hill would further increase this noise.
- Some supporters suggested that the existing I2 zoning could lead to a noisy planer mill. It is his understanding that the planer mill would be inside the mill, for which sound mitigation could be accomplished. So far he has not experienced any industrial noise.

**Amy Webb**, 8061 York Avenue, North Cowichan, spoke in **opposition**:

- Where she lives, she hasn't been negatively impacted, but her parents' home in the neighbourhood has been. Phase 2 will increase that impact.
- There have been a lot of comments about industry that could be noisy or louder than a track, and she thinks they are irrelevant. Sahtlman residents purchased there, and didn't know a racetrack would be there.
- She is grateful for the opportunity to speak. This experience is a learning opportunity to hear about the greater environmental and cultural impacts. These are members of our community, not detractors. That kind of language is disheartening, and is representative of intent.
- Council has inherited this mess, but someone else said it is an opportunity to create a legacy. She asks that they choose the right one.

**Jim Peach**, 5735 Menzies Road, North Cowichan, spoke in **opposition**:

- He urges Council to say no to the expansion and not throw the residents of Sahtlam under the bus - they are good people.
- With regards to first nations, he has a whole new respect. They are the jewel of this crown, people have to stick up for them. For those folks who come in here, being native amongst all other white folk, takes a lot.

**Rupert Koyote**, 3615 Gibbins Road, North Cowichan, spoke in **opposition**:

- He has sent emails to all of Council, expressing his opinion in opposition to expansion of the track.
- There seems to be uniform impression from the business community that it supports it. The Chambers of Commerce who spoke in support -- there was no transparent process whereby businesses in the community in membership were consulted. In fact, he sent a letter to his Chamber expressing opposition. Their position was to take it forward that the Chamber was supportive. They are business members who oppose it and continue to do so.

**Cynthia Montgomery**, 1170 McKenzie Drive, North Cowichan, spoke in **opposition**:

- There is a strange disconnect between how VIMC presents itself to the Cowichan Valley. On one hand, they are very generous with aid to many groups. On the other hand, for several years, they continue to make life difficult for their immediate Sahtlam neighbours.
- A sound barrier has been promised but only as dangled carrot for approval of expanded circuit - that is not a good corporate citizen.
- The sound level would average no more than 59 decibels, similar to normal conversation. That is also the level of a barking dog in your back yard but does anyone want to listen to that every day, every month, forever? It is mentally and emotionally wearing. How will the noise not increase with expansion and more vehicles?



- She is distressed by the 100 acres of semi-mature forest that will be felled for this extension. Reforestation is not an equivalent - it takes decades for trees to sequester carbon. How do 100 acres compare to Stoney Hill or Maple Mountain reserve?
- They previously heard praise for the existing track. Rejecting the extension will not diminish benefits of this track. But it should be remembered in an economic downturn, such as is predicted, the most vulnerable industry of all is the automotive industry. It is not an industry to be relied upon for economic stability.
- She heard about the need for expansion to prevent a hypothetical planing mill from moving in. People of Cowichan Valley are one valley, one community - they work together to solve problems. Since when have they pitted one against another? Are we now to put North Cowichan against Sahtlam, forcing them to submit to an unbearable situation? That's not how we solve problems.

**Jack MacNeil**, 4190 Sahtlam Road, Sahtlam, spoke in **opposition**:

- He has been angry for four years since the decision was made to approve the racetrack. There was no public consultation, contrary to bylaw.
- He is angry his neighbours are exposed to noise. He is really angry that his daughter, an RCMP officer, has had her personal safety compromised when the track noise on occasion prevented her from having sleep before a 12 hour shift. He knows the risks of her job all too well.
- He is angry there are 100 acres of watershed that could be logged and paved. He is angry it is now an ugly moonscape. Mt. Tzouhalem is a perfect example of poor planning.
- He is very angry Council is considering a rezoning application with increasing carbon footprint. Internal combustion has no future, or in the Valley.
- Four consecutive track managers have done nothing to address concerns - just personal attacks, misinformation campaigns. The best indicator for future behaviour is past behaviour. VIMC is not as advertised.
- This is a most important decision - don't let racetrack expansion be Council's legacy.

**Kate MacNeil**, 4190 Sahtlam Road, Sahtlam, spoke in **opposition**:

- She has acquired a better understanding of the environmental discussions, stewardship activities and forgiveness displayed by Cowichan Tribes. She is resilient and determined to stand with them in light of this new threat.
- The First Nations prove to be true stewards of the land. They have lived off the land, did not abuse it, maintained healthy fish and wildlife, and have respected the land for thousands of years. Non indigenous people have screwed it up in a few hundred.

- We want to expand the racetrack on First Nations' sacred mountains. Truth, reconciliation, respect - we are a society judged by actions, not words, and talk is cheap.
- The proponents have an opportunity to make good on the promises made and to take action on those promises. As individuals, and as a culture, we have much to atone for. At a time of crisis, let us be a community example to be followed.

**Michael Haines**, 4361 Pollock Road, Sahtlam, spoke in **opposition**:

- For him and his wife, the sound of VIMC is annoying, it reduces quality of life, and reduces property value and sale ability. It is an intrusive sound over other sounds.
- Economic impact is irrelevant to him - this is a land use issue. North Cowichan made an inappropriate land use decision, and he is not sure full accountability has ever been expressed or accepted, neither by them, or GAIN.
- The Area 27 Motorsports Club near Oliver is an interesting example. How would Oliver have reacted if it were built on the side of the hill that rises up through town? It never would have happened. As it is, it has been built on land with natural buffers, hills and vineyards. The noise is mitigated by the terrain. Somehow, North Cowichan Council decided a motorsport racetrack was appropriate land use, industrial zone, with a rural population of 40,000 on a hillside overlooking a valley with no natural sound barriers. It was immediately contentious.
- North Cowichan council is stuck between a rock and a hard place - the existing track is not going away, but somehow the solution -- the way for Council to save face -- is to now change the zoning to regain some control over the noise and other issues as part of accepting expansion of the track - how is this logical?
- If we are stuck with this track, why is the zoning application tied to immediate expansion? Isn't it logical to rezone the existing track, and if approved and if VIMC lives up to conditions, only then should there be consideration for expansion with all its extra issues. Council can say no to this application while still assuring it will consider the application for rezoning the existing track.

**Mary Ann Deacon**, 1138 Knipsen Road, North Cowichan, spoke in **opposition**:

- She is concerned about the angst this issue has caused. Anyone with whom she has spoken regarding VIMC knew nothing about it prior to its use.
- Had there been a public hearing concerning this and its intentions, all this unfortunate community division and distrust could have been avoided. Parameters could have been established by Council.

- Much of the opposition is from long-time residents and those who moved here to this Valley for its natural amenities, its agricultural opportunities and rural characters - these are hugely altered. Adding to this is the recent realization of the acute climate emergency.
- She applauds Robert George for his concern, and many others opposed such as Kathy Gilbert and Marilyn Palmer. They need hard facts, rather than dreams of economic benefits.
- She hopes this is an unfortunate community lesson we have all learned.

**Jeremy Smith**, 3955 Cowichan Lake Road, North Cowichan, spoke in **opposition**:

- He has written letters to Council in the past, so he will make this short. He and his wife moved from Victoria looking for quiet country living in 2012. They farm sheep, ducks and chickens on 22 acres. They were pretty surprised when Phase 1 went in, as they never would have bought or built here if they knew the racetrack was going in.
- Due to the loss of property value, he and his wife often talk about selling and leaving their dream behind, but they feel trapped. The loss of value, even if they happen to find something comparable, it will not happen.
- They are downstream from the watershed and it affects them quite a bit. He is very emotional about this, as he is stuck, trapped. It is heartening to hear what VIMC said - \$25,000 for fines for exceeding sound limits - is that for Phase 1 as well?
- People in his community have stood up for and spoken for him, and he owes a lot to them.
- In response to Mr. Smith's question, the Mayor confirmed that the fines would be applicable to Phase 1 only if the rezoning application is approved as the application contemplates a comprehensive rezoning of all of the properties.

**Ruth Hartman**, 6455 Diana Drive, North Cowichan, spoke in **opposition**:

- As a former North Cowichan Councillor with 12 years of experience, she is someone who has been where Council is sitting.
- When elected to represent the community, Council hopes to leave a legacy of making changes viewed as positive steps. Sadly, the legacy of her time at North Cowichan, and as Deputy Mayor, is the race track, and all the controversy it has created, which she deeply regrets she was part of. It is difficult to see people who elected her to be suffering.
- She has been listening for the last few years, and then she personally experienced the noise when she rode her bike through Sahlman this spring. It is so terrible for the residents listening to this for last three years - she was gobsmacked and couldn't believe her own ears.

- Thank you for commissioning the Navcom noise study - it is the truth. When North Cowichan allowed GAIN to buy it as test track, Council thought it had all the information they needed to make a responsible decision - they thought they had considered everything - but now look at the terrible problem created and how this track has divided the community.
- Council is not in the same position she was - it must ask themselves, do they feel they have all the information necessary that, if voting in favour of this application, will it not have lasting negative repercussions for people of our community? Long after casting that vote, Council members are going to have to walk amongst those people and face the consequences. They must be certain they will not regret what they will do - a bad outcome will outweigh all the good. When casting that vote, Council should ask what they want their legacy to be.

**Martha Lescher**, 475 Chesterfield Road, Duncan, spoke for a second time in **opposition**:

- The environmental concerns have been well represented and she has compassion for those whose lives have been disrupted. She is grateful for the education the Cowichan Tribes have offered.
- She challenges that GAIN is offering economic benefit. They have an eye on other interests in the Valley; and there are risks of building community around a single industry. Just this morning, she read how rural communities in Alberta are faced with \$81 million shortfall in taxes by oil companies dissolving.
- She spoke of the GAIN investment group having a questionable reputation, with the bottom line being profit. She is glad to hear from some people who are happily employed, but there is no long term value or growth.
- A rapidly growing community needs to foster a strong secure community. Small business are the backbone of Island communities. She urges the Mayor and Council to design, finance and deliver in a way that maximizes benefits, wealth and health, and local businesses. She urged them to develop policies focused on small business advocacy, and design programs that diversify, have value added support, access critical tools and education, and other resources that may otherwise be unaffordable or inaccessible.
- Wealth must be grown from the bottom up, rather than being indebted from the top, which trickles down then disappears. The current OCP is being reviewed - why would rezoning and creating a new zone even be considered independent of that? She urges Council to say no.

**Angela Voll**, 4300 Creighton Road, Sahtlam, spoke in **opposition**:

- She wished to share her observation tonight of a tiny tired boy. His tiny decibels didn't come anywhere near the amplified ambient noise of the auditorium. His parents chose to observe their social contract before he could

disrupt the proceedings; however, their white carnations suggested they do not practice this in other aspects of their lives.

**Donna Hobson**, 6021 Payne Road, Sahtlam, spoke in **opposition**:

- She and her husband are two of the people affected by the giant mosquito - it buzzes and buzzes.
- They spend a lot of time outside, and love to garden year round. When the track is buzzing, it is all but impossible. They have lived in Cowichan Valley for 43 years, and they also support the Valley, donate local, shop local, and have done so for decades.
- They bought their home in Sahtlam in 1994 for a its rural life. It is not quiet anymore. As the track expands up the mountain, there will be more noise, not less. There is far too much uncertainty and vagueness in the proposal. She cannot support it, and she urges Mayor and Council to vote no.

**Tom Walker**, 6088 York Road, North Cowichan, spoke in **favour**:

- These lands are industrial, not parkland or municipal forest. As he sees it, this rezoning is a housekeeping process to clarify existing and new uses, and to remain as industrial zoned lands.
- Some commitments have been made by VIMC, such as donation of land for a water tower, \$600,000 to build the water tower, a lease for hiking trails in Mt. Prevost, rebuilding Drinkwater Road, building bridges not culverts over water courses, and providing a home to allow a go kart track for kids in this community.
- The major concern is sound, to which they propose the following:
  - some restriction of hours of operation; limiting use on statutory holidays; restricting maximum sound levels; providing sound monitoring stations wired into Municipal Hall; and providing for significant penalties (not just \$100 dollar ticket, but \$5,000 per crack.
- North Cowichan could receive many benefits, but he asks Council to secure those through legal means using tools such as covenants, bonding, and cash deposits.
- He is dismayed and appalled by the nasty remarks and innuendos he has heard in this valley over this issue. It has been mostly on social media, even by some of his friends. He hopes when a decision is made, it is accepted and we can move on. We have to remain as friends - after all, this is the warm land.
- On balance, he supports this proposal. Done right, this could be good for North Cowichan and this Valley. A friend said something to him that resonated - "we should work with the track, then we have a chance to fix what we don't like."

**Pete Elzinga**, 6023 Cassidy Road, Ladysmith, spoke in **opposition**:

- He has lived there since 1987, and he phoned the Municipality to talk to Rob Conway about industrial zoning. Mr. Conway couldn't tell him when it was zoned industrial, just that it was zoned after 1966. Someone should be able to tell him when it was actually rezoned - why isn't that out there? What is the zone for?
- How can people go along with this whole thing botched up when there is no explanation for people who have disappeared, gone, had severance paid, hidden under the table. It doesn't give him a lot of confidence of what is going to happen.
- He and his wife have lived here all these years. If it weren't for his grandkids, he would be gone - he can't put up with all the noise.
- He has no confidence in the Mayor and Council of North Cowichan - it is all a great big white wash job. VIMC has lied to everyone all the way through.
- In response to Mr. Elzinga's question regarding the date of rezoning, Mr. Conway confirmed that after conducting further research, it was determined that his property was rezoned to I2 in 1980 when the zoning bylaw changed from rural to industrial.

**Dr. Richard Walton**, 6606 Chisolm Trail, North Cowichan, spoke in **opposition**:

- Like the first go around, everyone is being sold a bill of goods, again. It is not what people are being told, but rather what people are not being told that concerns him.
- The reported economic spinoffs are a fantasy; comprehensive studies in a restaurant and accommodation resulted in no meaningful benefits. There is no reason to believe this will change, and VIMC has offered zero data to refute this.
- The price we are all paying is very high; the benefits are negligible for all but a few. It was Joni Mitchell who lamented that we pave paradise and put up a parking lot. What was done the first time was wrong. He asked Council not to make the same mistake and to not let the past steal the future from all of these fine people.
- Council has an obligation to the whole community, not just the privileged few. They must choose wisely and do the right thing. If Council doesn't know what to do, they should consult with their esteemed colleagues in Duncan who categorically stated the application should not be supported because they were concerned about the noise affecting their citizens.

**Sarah Chapman**, 6776 Somenos Road, North Cowichan, spoke in **opposition**:

- She lives on this planet earth; she is invested in our species' survival, and is invested in this community's survival. She owns and operates an organic farm.

She provides food that is nutritious to many of these community members sitting here tonight raising their voices, speaking truth to power.

- She wants to acknowledge the voices of the Cowichan Tribes people who were brave to come up here yet again and ask that we wake up. We make the changes that are needed in this society to survive -- that is what is at stake here. What this corporation is talking about doing is destroying a sacred place.
- She has the privilege of having a piece of paper that says she owns a piece of land at the base of Mt. Prevost. She doesn't believe in the colonial construct that she owns that land, but she is a steward of it. She is a valuable contributor to this community, and that has nothing to do with the very small amount of money she has in her bank account.
- She asks Council to please choose their survival here, to choose the health and wellbeing of our natural world - you can't eat or drink money, and money is truly meaningless when facing what is being faced here. She is doing her best to hold on to hope for humanity, but on her darkest days she finds solace in the truth that nature is resilient; that she will regenerate no matter what decisions we make as a species; and that she will survive. She also wants to make it known that this decision is being made for other species.

**Susan Kaufmann**, 4371 Sunrise Road, Sahtlam, spoke in **opposition**:

- She lives in Sahtlam, and her heart is breaking for her community. She sent an email to Mayor and Council yesterday, and did not get a reply about the actual zoning, and whether the zoning issue from Phase 1 had been resolved.
- She is overwhelmed by the outpouring of the people here who are First Nations and residents, and how this has affected them. She also heard about a lack of trust from the previous decisions made and the lack of trust for the members of the VIMC and GAIN organizations.
- She was listening to the experts and she heard things being minimized -- the effects of sound being minimized; the archeological values minimized, when the slide clearly said "low to moderate".
- For the people that support VIMC, Mr. Rossmo and the other people here, she knows you enjoy what you do when you want to, but asks them to use their hearts. Are they not affected by how this facility is impacting the lives of people that live here? It is certainly affecting her.
- It is a land use issue, and Council and the Mayor have the ability to take these concerns into consideration when they make their decision. She certainly hopes that they do.

**Lisa Aiechele**, 4410 Creighton Road, Sahtlam, spoke in **opposition**:

- She moved here on August 1, 2016. A week later, she was buying plants for her garden. When she was there, another fellow was doing work, and there was this beautiful tranquil piece of property, a nursery where abundance is everywhere, yet you could hear this droning annoying noise.
- The fellow mentioned to me, "you are new - what do you think about the track"? She had just moved from the landing strip property of the Glenora Airport, which she lived under for 10 years. Those planes never bothered her. She thought how bad could a track be. She listened to the noise, and headed home.
- A couple days later, she was experiencing this deafening noise while on her new property that was her dream. She grew up at the end of Sahtlam Road, and always wanted to go home. Buying that acreage was a dream come true, but it completely changed. It wasn't long before her life was being greatly impacted. She couldn't be outside doing chores or gardening, and had to take solace in the basement of her new house by mid-August.
- She then decided to become more vocal, writing letters and contacting other community members. She contacted the man who made mention of this to her, and his name is John Yarnold. She apologized for being so inconsiderate and ignorant to the suffering of others.
- For 10 years I lived on Glenora Road, directly across from the landing strip at Langtree Road airport. Without a shadow of a doubt, not one time in 10 years -- when putting down her babies for naps, when painting, when out in her garden, when in her pool -- not once did one plane bother her. There was a slight ambient noise, which was gone in a couple minutes. Occasionally a helicopter would shake the house.

**Maureen Webster**, 4155 Sahtlam Road, North Cowichan, spoke in **opposition**:

- She has lived there for 54 years. She has been affected in many ways, as their property is not a place of peace or a place to heal.
- She urges Council to please say no and to please assist VIMC to fix the existing issues of Phase 1.
- She really wants to thank all her neighbours for speaking out when she has not been able to speak out.

**Chris Istace**, 9890 Willow Street, North Cowichan, spoke in **opposition**:

- Things like the Chamber of Commerce, his experience with the president of the motorsport, his experience with Council, and as a business owner is all irrelevant is because of what Jarred Williams spoke to earlier - his words; that's his old way of thinking.
- He never knew before what he knows now where we understand what the land really means to us; about living in harmony. His life has truly changed,



and he is still learning. He knows that everything is connected, everything matters -- when we do not take more than we need and we leave the place better than we found it. He only knows this because we live amongst the Coast Salish - he has never seen anything so powerful. We are blessed to be living here, and we ignore that. It would be the first Council that truly listened to Cowichan Tribes, truly paid honour to big bear.

- Since the track started, he went one time and the track was deafening. It's the only time he has experienced something like that. He sees and feels what they are saying.
- He leaves with two voices that stood up and spoke - Elder Robert George spoke about how we dealt with things, his grandparents, and hopes for his future generations - and then we have a lawyer stand up from Victoria, saying we have this land now, and we're taking more land.

**Phil Boname**, 1444 Maple Bay Road, North Cowichan, spoke in **opposition**:

- He is moved by the fact that some excellent observations registered as a precursor of OCP review. Had this discourse taken place 6 years ago, he doesn't believe we would be discussing the racetrack.
- The race track was an accident, both in terms of location and especially process followed regarding approval. It did not follow the Local Government Act, and some of you are aware of the fact that some mistakes were made, and now we are paying a big price.
- With nearly 60 years in land use planning, he wanted to be heard as to why he is speaking against the motion. Council has heard excellent support with respect to the reason of indigenous values, and their obligation and responsibility to reflect those interests and values.
- They heard a great deal about the ecosystem and how important it is to preserve and enhance the environment. They heard a lot about degradation of quality of life, particularly for those who are in earshot of that activity.
- One of the things which compelled him to speak was the fact that we do not, as a community, adequately understand the enormous value from an economic standpoint of nature's asset. He cannot believe how we have turned our back on the true value, both from living and nourishment, but in terms of economic opportunity, by desecrating very important parts of the community with improper land use. This is most beautifully exemplified by the racetrack, which was a mistake. Two wrongs will not make a right.

**Gregory Eyre**, 3841 Cowichan Lake Road, North Cowichan, spoke in **opposition**:

- He has a professional background as an environmental officer and safety officer with the Department of Defence (34 years), as well as with the Department of Fishers and Oceans.

- Looking at the application, it is missing critical data. The drawings lack details, such as catch basins, whether they are lined or not lined, a mechanical water separator -- this is not acceptable.
- This is the worst geological area to have a racetrack due to ravines and water flow - gravity will take any water run on to the creek bed. It will leech into the sandy loam to get back into the creek. Each catch basin within 20-50 feet of the creek will not hold anything.
- The Department of Fisheries and Oceans has made a list of spawning chinook salmon as far up as Sahtlam. Small fry that follow the creek home would be devastated by a small spill of petroleum.
- He is more than happy to take anyone down to his property (Menzies Creek dissects his property) - to show some of the fish: cray fish, green tree frogs, amphibians - it is alive. The biggest problem in the last four years is sediment getting into the creek. This comes from clear cut areas above his place, which leach into waterways, plus additional erosion on banks of the creek, all the way down. Turbidity in the water is terrible.

**Buffy Saunders**, 4612 Vista View Place, Nanaimo, spoke in **opposition**:

- She doesn't want to repeat a lot of what has been said, but she is opposed to the application and stands behind what has already been said.
- She and her partner moved to their property five years ago for the same reasons everyone else has, to enjoy peace and solitude. Phase 1 was a huge mistake made, but they are willing to work with that and accept that it has already happened.
- In honour of the First Nations people and the sacred area, she highly respects what they have to say, honours their beliefs and their feelings around this application. Sitting through the proceedings for two nights listening to what VIMC had to say, she feels it is disrespectful to the needs and wishes of the First Nations and residents.
- She echoes their sentiments and just wants to say that in these times, it is time to change with what's going on with climate reconciliation, people's wishes, and health. If Council does not vote no, it is highly inappropriate.

**Paul Fletcher**, on behalf of **Sherry Veaulieux**, 6881 Somenos Road, North Cowichan, spoke in **opposition**:

- Mr. Fletcher read a letter from Sherry Veaulieux as follows:
  - Her home is 5 km from VIMC.
  - The elk have declined since the opening of the track. The damage that has been and will continue to be done to forestry and wildlife will be vast and devastating if this is awarded.

- She can testify that the noise of the track is apparent and loud in her neighbourhood. Their claim that it is no louder than a lawnmower is laughable. Some personal observations: the public was not allowed to field questions of the experts; she understands there is a public input limit, but to be rudely cut off is unfair.
- With today's climate change, and to help change the way we are headed with rivers, creeks and lands, the environment is in need of serious help. There is help - several non-profit organizations in the Valley are there to protect our greenways to initiate change for our lands.
- She asks that North Cowichan listen to the silent cries of our ancestors. Destruction of Mt. Prevost will result if the application is awarded to VIMC.

**Sheila Bell Irving**, Shawnigan Lake, CVRD, spoke in **opposition**:

- She has been live streaming the hearing for the last 5 hours, as she felt the community needed to be involved this time, not like the last time where it was shoved down their throats.
- She has a toxic soil dump in her community, and they had it shoved down their throats. The lawyer for VIMC is the lawyer who supported them in Shawnigan Lake.
- She is here to be the canary in the coal mine. Ideas that make money are not always the best thing. They now have 105,000 tonnes of soil; wells are at 15 times the allowable lead limit; they are afraid to bathe their children. The same things could happen, and you cannot go backwards.
- Council has to be forward thinking - they cannot approve and then go "oops". That's what they are dealing with - leaking dumps all around them, a dumping ground for Victoria, and the bylaws don't have teeth. You have to hold your ground.
- This first part of it should have never gone through - it should have been put towards the public, but it just got done.
- We are in situations where you have to do the right thing, which does not mean the economy or jobs --the right thing is habitat for elk and salmon. Our bears are starving because there is no salmon.
- They say they are going to pave over it, and it's not going to affect them - you don't think? The bulldozers, and dust from the machinery all driving through -- it is all going to affect them -it is a trickle-down system. The trickle down is going to get paved over. Please stop this.

**Jane Worton**, 3972 Sahtlam Road, North Cowichan, spoke for a second time in **opposition**:

- She regrets missing three things when speaking previously:

- Cowichan Tribes and the impact of this development on their lands.
- Community impact of the circuit.
- Contributions to community groups. She appreciates those contributions have been made; however, many citizens also contribute to the community and donate their money locally.
- One of the boards she sits on was to be given a gift from the motor circuit which would have doubled the value of their annual fundraiser, but they declined it. There are more and more people who are starting to see those examples, including what has been heard tonight.
- One of her friend's husband had a disability and it was hard for him to leave home. The noise in their home is very loud, and they spent \$10,000 to put in new windows to mitigate the sound, exceeding the amount VIMC has put in. Even after that, they could still hear the sound, and were very unhappy. He passed away last year.
- She is so frustrated and unhappy that she could do nothing to help him, but Mayor and Council can. She asks that they listen to the words of Cowichan Tribes, to biologists, and to her neighbours.

**Mrs. Al Mercer**, on behalf of **Al Mercer**, 6231 Mina Drive, North Cowichan, spoke in **opposition**:

- They live directly across from Hwy 18. The noise limits from VIMC won't make things better. He used to work night shifts, and could not sleep during day when the track was in use. It is not a level of sensitivity - it is intrusive and invasive; you cannot hold a conversation without raising voices, even being just a few yards from each other.
- They have been denied the pleasure of having windows open. The consultant said that just because you hear sound, doesn't mean it is loud. If it can be heard from that distance, it must have been loud from the source.
- Airplanes and jets aren't the issue; the highway is not an issue. Highway noise comes and then goes. It doesn't keep repeating the same loud noise all day.
- The promises of noise mitigation, whether it can be effective, are of no value. Fix Phase 1 before further development. What if the expansion and noise cannot be mitigated?
- He urges Council to consider the ramifications, the damage that has already occurred, and the health and wellbeing and loss of values. Has Council considered what would become of the land if the application is not successful? For the sake of Mr. Prevost, he urges Council to deny expansion and vote no.

**Paul Fletcher**, 162 Jubilee Street, Duncan, spoke in **opposition**:

- He is President of the Somenos Marsh Wildlife Society.

- He has battled with Council many times over development issues. Sometimes they have won, and left behind a legacy of lands because they fought and stood their ground.
- This decision is about 100 acres of forest. He heard one person say a small 100 acres. A huge area of land is essentially going to be cut down 75% or 65%; 22% is going to be revegetated.
- He is very worried about that 100 acres of forest that is home to two creeks - Menzies and Bing. They are critical to the health of the watershed.
- The idea that so many things can be promised by the developer: \$600,000 cash so far for trails up Mt. Prevost; to build a water tower; water reservoir to feed water for fire protection - that would suck up a lot of money. The reservoir would be far beyond that. No one suggested any of that water would be used for Bing's Creek. There have been a lot of promises with no backing whatsoever.
- The Chambers of Commerce - how perfect it was when they lined up together, with 36 people in row speaking about the racetrack. They didn't plan anything - they just came here to say something about what they believe in. They believe it is time Council started listening to people that live here and who care about the land.

**Kate Koyote** spoke for a second time in **opposition**:

- She is trying to figure out why Council would not vote no. When she thinks about that, and looking at the complexity of it, she can appreciate their position. But what became clear to her was that VIMC left the conversation on Tuesday night with essentially a threat that noise mitigation and the other agreements put in place for Phase 1 will not be honoured if Phase 2 doesn't happen.
- She wonders if, because of that threat, there are repercussions that the public doesn't understand. Her fear is that would drive a decision, because when she listens to the community and looks at the business case, it is not strong enough to vote yes. Her concern is that a decision will be made that is not in the best interests of the community, but from place of fear or uncertainty.
- She believes that as a community they would all stand behind the fallout of a no vote, whatever that would be. Nothing is written, but she thinks it is really important that Council is not making the decision to vote yes due to repercussions from VIMC.

**Peter Rusland** spoke for a second time in **opposition**:

- He thinks Council is now getting the picture about how the community is reacting to this project, and he is very proud that so many people had the courage to speak their minds. It says a lot about the community.

- A lot of what we heard tonight falls at the feet of Council. VIMC talks about there being nothing in the first phase; no safeguards. Would they do anything if they didn't need the rezoning? They aren't doing it to be nice.
- He doesn't want decisions made based on fear. They should be based on solid strategic growth plans, so we don't have willy-nilly case-by-case things coming to Council like this. He feels there is no solid economic development plan therefore, these have to be entertained. Until those plans are in place, this will happen again and again.
- The days of chopping stuff down, polluting, and putting nature in the back seat are over. Now is the time for Council to act as a catalyst to develop the community for nearly everybody, but it has to start that way.

**Mark Primmer** spoke for a second time in **opposition**:

- His customers down at the farmer's market are overwhelmingly opposed to the track, and his sales have climbed even with his criticism of the track.
- The track was contentious from the start, and many are suspicious of those who were in office at the time. His father worked for Imperial Oil for 35 years and says he doesn't think he believes in climate change. But then they go to the lake by the cabin they have gone to all the time since they were kids, and it doesn't have fish anymore. What part of it don't people understand?
- When information changes, but behaviour is the same, what is that? It may not be possible to undo the track, but don't allow it to expand. Promises are very false.

**Stephanie Aikenhead** spoke for a second time in **opposition**:

- Everyone has heard from the Chair of the Business Advocacy Committee and Cowichan Tourism about the real estate and spinoffs from VIMC. She would like to ask where the data is and how it was gathered. It has been requested before.
- Estimates mean nothing - they advocate for the track and say it is a key attraction. Without a track, will people bypass our little town that will refuse to grow? To say we have few attractions is offensive.
- Those voices mention how few jobs are available. The Duncan Garage Café employs twice as many people as VIMC. These advocates for the track are supposed to be the voice of businesses. The totem walk brings busloads, and people will spend an entire day touring and shopping before spending the night in local accommodations.
- VIMC is catered to by the Eyrie and there is little to see, do or purchase. Alternatively, they jump back on the ferry to the mainland where they live and pay.
- Cowichan is home to extraordinary indigenous history, parks and totems, agriculture, markets, fine dining, artists and producers of tea, cheese and

produce. There are painters, jewellers, sculptors, woodcrafters and so much more. There are countless biking trails, criss-crossing Mt. Prevost and Tzouhalem, the Cowichan River foot path, Somenos Marsh, eco adventures, fly fishing, the folk festival, and the therapeutic community at Providence Farm. There are gorgeous accommodations and a peaceful wilderness - nothing speaks race track to her.

**Miyo Stevens**, 380 Brae Road, Duncan, spoke in **opposition**:

- He acknowledges they are gathered tonight on traditional unceded lands of the Cowichan people, and he knows that Mt. Prevost is a sacred place for the Cowichan people.
- It is the place of creation and he wonders what Council would decide to allow a racetrack to be on the place of creation of Christian people, Jewish people, Muslim people, or whatever belief system there is.
- What kind of people are we to desecrate a very special and sacred place for the Cowichan People and for all of us here that live in this Cowichan Valley where the Cowichan people have stewarded this land since time and memorial. Who would do that?

**George Gates**, 6755 Cowichan Lake Road, Skutz Falls, spoke in **opposition**:

- One thing that has not been addressed is the economic contribution to small business. He owns three businesses in three different areas, and is past President of the Chemainus Chamber of Commerce, and is currently on the Lake Cowichan Chamber of Commerce.
- In his business, everything is local - his meat, cheese, dairy, produce. He wants to make it clear that the economic contribution from one business to another, although small, is 100% local.
- He is a self-proclaimed expert on buying local. None of his suppliers deliver in semi-trailer trucks, as he picks up most of it himself. He has relationships on social media with other owners, such as Quist Family Farms, and could name a half dozen more.
- His point is that people are asking about the chambers of commerce and the economic spinoff, but he was never asked his opinion. Why?
- Sound is an issue, but maybe it is also to support the local economy. He is not sure if that is happening.

**Paul Fletcher** spoke for a second time in **opposition**:

- I am President of the Somenos Marsh Wildlife Society, and they were granted the request to do a referral on the VIMC proposal. They were very honoured, as they have never previously been asked in 30 years to offer comment.

- Our employee wrote a 17 page report after visiting the site, and they had only 2-3 weeks to do it. A couple experts visited the site, wrote the report, and that report is in Council's hands.
- We see a Facebook post from VIMC accusing us of making statements we never made, and that sticks in people's minds. Statements come out that aren't true, and then they get repeated.
- They wrote a 17 page report, studied the environmental third party reports, and drew their own conclusions from that report. She mentions the number of times the mitigation efforts they were making were very positive, but then she went on to provide other data about why bridges aren't that good as they will do an amount of disturbance, and so maybe don't put them in at all.
- She went on to challenge every environmental offer they made, argued all the points with valid reasons, and why the environmental work is not going to improve, as it will devalue the property significantly for ecological services. That is where you can do valuation of piece of land to see what ecological services it provides and how much those are worth. This is the critical piece of information missing on this property. The rivers and lakes are in trouble, and there is a lack of water.

**Curtis Bachelder** spoke for a second time in **opposition**:

- He has never been for or against any large project, but something that has been mentioned several times is the idea of legacy - to live with the decision and choices that are made.
- The reaction to the choice that is made today is going to carry on in the community's legacy. As a community, whether the decision is yes or no, and with all the frustration and anger, it is going to take a lot of humility and time. It will be important to stand together regardless of what happens.
- It is important to realize that the consequences of good and bad will last way longer than choices of people at the front. It is everyone's responsibility to respect each other and help each other, regardless of where we stand after it's over.

**Paul Fletcher** spoke for a third time in **opposition**:

- He would like to congratulate everyone for sitting there - it has been a long couple of days.
- He also wants to remind Council that they have received a number of referrals from Cowichan Tribes, the Watershed Board, Somenos Marsh Wildlife Society, the CVRD, the City of Duncan, and the Sahtlam Neighbourhood Association. A lot of time has been spent, and a lot of information and research has been gathered for those referrals, which Council requested from all of these groups. Those papers stand as very important points in this deliberation, and he hopes Council has read the detail. It is a long read, but it is very valuable information.



**Sandy McPherson** spoke for a second time in **opposition**:

- With respect to the wear and tear of tires, she felt it might be helpful if staff had some of the links she used to glean that information. If they would like to know more about waterborne and airborne pollution, she didn't include that in her notes, but would be happy to supply it.

**Gregory Ayre** spoke for a second time in **opposition**:

- Mr. Ayre had questions for the Mayor and Mr. Swabey regarding bonding or a performance guarantee to ensure enforcement of the applicant's proposed covenants.
- The Mayor indicated that it would be noted on the record that he is in favour of bonding.

A question and answer period ensued, and Council asked questions of Mr. Sean Hearn (in Mr. Holland's absence) and Mr. Paul Rossmo on various matters related to the application. A summary of responses is provided:

- It is Mr. Hearn's understanding that high performance vehicles will not be using super-charged fuels or fuels containing lead.
- The creeks will have bridges, not culverts.
- The water tower reservoir is a \$2.5 million commitment, and the \$600,000 payment by VIMC is to be used by the District for its purposes in respect of the marsh or other environment amenities. VIMC also confirmed that the uses for the \$600,000 could be broadened to include studies regarding the elk.
- With respect to the Cowichan Tribes referral and concerns regarding loss of habitat for the Roosevelt elk, VIMC would be agreeable to granting an option to buy the "A" lands zoned for agriculture for fair market value, if the Municipality chose to do that.
- Plans for noise attenuation will include sound mitigating berms and a 3-4 metre sound wall around the entire front part of Phase 1, in addition to operational controls and sound monitoring/penalties.
- VIMC is committed to the provincial program requiring that motor vehicles be carbon neutral by 2040; however, there could be some exemptions made to allow for use of vintage/fossil fuel cars, in accordance with whatever the provincial program provides.
- All vehicles driven on the track are street legal.
- With respect to Cowichan Tribes' request to have a monitor at every machine throughout the project so that they can spot archaeological artifacts, VIMC will need to discuss this further with operational staff in terms of what this will entail. However, they are prepared to expand the monitoring beyond Bridge #3.

- Even with the proposed expansion of the circuit, there will not be more than 12 vehicles on the circuit at one time, as that would exceed the maximum sound level. It is unclear at this time whether this restriction would be included in the covenant.
- Construction of noise mitigation in Phase 1 has not been undertaken to date due to the current zoning and enormous financial investment which would be required. The comprehensive rezoning proposed would contemplate sound mitigation as part of the business plan for expansion, which would also include Phase 1. However, VIMC has pulled off non-street legal vehicles and removed problematic members from the track, which has made a great impact on the amount of noise produced.

Council also asked questions of Mr. Conway with respect to bonding for reforestation:

- The ability to secure reforestation would be part of the development permit process.
- The *Local Government Act* allows for the requirement of bonding/security for landscaping and restoration of the natural environment.

The Mayor advised he would provide an opportunity for the public to comment on any new information.

**The Mayor called for submissions from the public for a second time and Council heard from the following speakers:**

**Gregory Eyre** spoke for a second time in **opposition**:

- He has looked into the questions of fuel, and nothing less than octane 91 (they prefer 93) can be used for performance vehicles, which is supreme.
- Biofuels cannot be used in any of the vehicles as it would destroy their engines. Something to be considered for environmental purposes.

**Keith Williams** spoke for a second time:

- He feels the exchange between Councillor Marsh and the proponent's legal representative is blackmail, which is discouraging to see.

**Dr. Isabel Rimmer** spoke for a second time in **opposition**:

- For a decision of this magnitude, it is shocking to her that the applicant does not have somebody here who can answer questions submitted by Council.
- She would like to remind Council that for everything that has been said about noise mitigation and noise limits, there is no data. The Navcom study has made it clear that study that data presented by VIMC is not worth paper it is written on.
- There is nothing in the covenant that protects their neighbourhood with respect to the noise limits. The maximum noise they can produce is 79 decibels, which is the same volume as a garbage disposal, and is 16 times the

perceived volume from what she normally heard in her backyard. This is a completely unacceptable limit. Everything that VIMC is saying about mitigation is moot based on that unacceptable limit.

**Angela Voll** spoke for a second time in **opposition**:

- Ms. Voll asked a clarifying question regarding the Province's program to require zero emissions in new cars by 2024 - fully offset or zero emissions being remitted?
- She is in full support of province's manufacturing goal, but feels this has no relevance to what they would be doing at the track as people would still be able to drive those older cars around.

**Kate Koyote** spoke for a third time in **opposition**:

- Ms. Koyote asked a clarifying question regarding the maximum number of vehicles allowed on the track at one time, and a response was provided that the 12 vehicle limit was self-imposed by the applicant due to their own noise limits.
- She feels the noise limits and fines associated with those suggests that VIMC is assuming and planning to be fined a lot, which brings her back to security and the ability to trust them.
- From a community perspective, having an assurance that there will only be a certain number of cars on the track making a certain amount of noise would be more helpful.

**Sarah Chapman** spoke for a second time in **opposition**:

- How do the fines that can be collected for this abuse on their community offset the harm done to the wonderful members of that community?

**Loren Duncan**, 5740 West Riverbottom Road, Sahtlam:

- He inquired if the maximum number of vehicles allowed at one time is 12 and how many electric and gas driven vehicles will be allowed at the same time?
- All manufacturers are putting out high performance electric cars. If the business plan is moving towards electric in the future, the number should reflect the noise - so, there could be 50 electric cars plus 6 gas cars, and still be under the noise limit, and everyone probably would be happy with that number. This is a riddle which hasn't been completely sorted out.

**Dan Ferguson** spoke for a second time in **opposition**:

- The number of cars isn't going to increase the volume of sound, but the consistency of it. It is going to be more constant, and more hell for his neighbours. They know that the constant sound is going to be greater.

**Karen Doucette** spoke for a second time in **opposition**:

- With the walls and berms that would be put up, how will those mitigate the sound for those who live at higher elevations? If that question can't be answered, then they will live with the noise they already have.
- With respect to the fines, when any good business makes up a budget or financial plan for something this big, they are going to work this into the budget as an expense to do business. This is big business, and a big company that is in it for money - good financial advisors would budget that into the plan.

**Peter Rusland** spoke for a third time in **opposition**:

- Mr. Rusland inquired about the permitted uses and disposition of the land proposed for Phase 2 if the rezoning application is denied.

Mr. Swabey confirmed that legal advice would need to be sought, but that staff could only speak to the proposed land use as presented in the application.

**Peter Van den Bos** spoke for a second time in **opposition**:

- Mr. Van den Bos inquired as to whether the proposed berms would deal with sound primarily directed to the southern direction towards the Valley, or in every direction.

Mr. Swabey confirmed that specific details regarding the design of the track have not been resolved, but the proposed sound limits will need to be taken into consideration as part of that design. At this stage, the applicant's commitment is to the sound regulations they have proposed.

**Susan Kaufman** spoke for a second time in **opposition**:

- Ms. Kaufman asked questions regarding how the entire property can be rezoned when there are unresolved issues with the zoning and current use of Phase 1 property.
- With respect to covenants, those are being discussed right now as a concept. At the time of development permits, is there a possibility those plans could be changed?

The Mayor confirmed that one of the purposes of the comprehensive rezoning is to remove any uncertainty with those issues. Mr. Swabey also clarified that any other issues to be determined as to how to move forward if the rezoning passes or fails is not under consideration at this time.

**Lindsay Sharpe**, address not provided, spoke in **opposition**:

- Information she has found on internet suggests that lead replacement fuels are more detrimental than lead-based fuel near a water base. With breaks in tires and other carcinogenic risks, how will this affect all the people in that area who have wells? It will affect the waterways and will be costly to manage.

If the applicant doesn't have money for noise mitigation now, how will they have money for all these projects?

- The fines they are going to pay and the increased allowable limits for noise will make the problem way worse for more people.
- With more cars, more tires and all the carcinogenic risks to the Valley, does that mean Sathlam should stop paying taxes? What is proposed is not ideal to a huge portion of people. They should stop paying their taxes to make it clear this isn't OK.
- She doesn't understand why this is being considered. Phase 1 can be dealt with now before Phase 2 - saying that it has to be done this way is not true. There is no due process here.

**Mariah Wallener** spoke for the second time in **opposition**:

- Mr. Conway said the zoning needs to be clarified, but what is being proposed as a solution is a list of new permitted uses. The new list of permitted uses stops them from doing things they are not to do, and lists what they are allowed to do.
- The problem with new list is that for 3½ years, they have been doing something that isn't anywhere on any permitted use in the current bylaw. If they can spend 3½ years doing something not permitted, how is the new list going to assure people that they won't do what they want?
- There is room for interpretation in "but not limited to", and she appreciates the explanation provided - but how does one decide what is reasonable use for a race track - is it not unreasonable to race other cars? Where does it end?
- The whole reason they are here is because the applicant is doing a permitted use not in the list of permitted uses. The solution is no different than what they are trying to fix.

**Peter van den Bos** spoke for a third time in **opposition**:

- None of the information which has been provided supports a bylaw change or zoning change. There's too much doubt, too many questions, and he is dissatisfied with what he is hearing. At this point, they have to step back and leave the zoning as is.

**Kate Koyote** spoke for a fourth time in **opposition**:

- She feels it would be very prudent to take a step back, to make sure due process is being followed, and deal with Phase 1.
- VIMC has an opportunity to actually demonstrate they can follow through on things and practice being good neighbours, so that the trust that people need could be developed through their actions to show that they actually are hearing what the community is saying. At the point where that is actually being addressed, we can then have another conversation about Phase 2.

**Peter Rusland** spoke for a fourth time in **opposition**:

- Whenever Council decides affects the Valley forever. He agrees that there's just too many questions.
- The developer is asking to trust them, give them the rezoning, and then they'll work out the bugs and the decibels, but he doesn't buy that. He really doesn't trust that things won't go off the rails, and once screwed up, you can't get the genie back in the bottle - trees will be gone and streams will be polluted. He urges Council to say no.

**Sheila Bell Irving**, speaking on behalf of **Greg Gerbis**, (no address provided) spoke in **opposition**:

- Would like to remind Council that the Planner previously said that no one at North Cowichan would be monitoring the noise - people would have to call to complain. It would be back on the residents again.

**Mark Primmer** spoke for a third time in **opposition**:

- The lawyer, Sean Hearn, said that this is a business and that they are not obliged, but actually they are - the outrage here is palpable. Have them go to their investors, raise a \$10 million bond, go build a wall.
- It is a negotiating tactic, and the applicant has known all along that it wanted to do Phase 2 - it is just holding this over Council's heads.

**Greg Eyre** spoke for a third time in **opposition**:

- He doesn't understand the monitoring system proposed. In Esquimalt, monitoring is done 24/7 for air and water. Anything that goes above it sounds an alarm and a message goes to operations. They act upon it immediately.
- If North Cowichan has an operations department, he imagines someone is there 24 hours a day and can deal with it - it doesn't have to be after the fact. True time, constant monitoring of any of these items is not expensive and is not a fancy technology - it is readily available and installed on every forces establishment on the Island. He would be happy to help out.

**Peter Van den Bos** spoke for a fourth time in **opposition**:

- It would be better to make no decision than the wrong decision.

**Susan Kaufman** spoke for a third time in **opposition**:

- Ms. Kaufman inquired as to whether the permitted uses described in the draft bylaw changed at all after receiving feedback on those permitted uses.

The Mayor confirmed that some changes were made to the definitions, but there were no changes to the permitted uses.

### **3.1.6 Final call for submissions**

The Mayor called for submissions from the public for a third and final time.

### **3.1.7 Adjournment of the Public Hearing**

The Mayor noted that no one in attendance wished to speak further to the application then closed the public hearing at 1:14 a.m.

## **4. CLOSED SESSION**

The Council meeting resumed at 1:15 a.m.

The Mayor advised that based on information received during the public hearing, he wanted to seek clarification from the Municipal Solicitor so asked that Council resolve to go into closed session.

It was moved and seconded:

**That Council close the meeting to the public at 1:15 a.m. under the following Section of the *Community Charter* :**

- **90(1)(I) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.**

(Opposed: Douglas; Justice)

**CARRIED**

It was moved and seconded:

**That Council rise, without report and resume the open meeting at 1:37 a.m.**

**CARRIED**

The Mayor reminded Council and the public that Council cannot receive any further public input on this matter.

## **5. BYLAWS**

### **5.1 "Zoning Amendment Bylaw No. 3761, 2019" (third reading)**

Council debated consideration of third reading to Bylaw 3761, 2019.

Reasons cited for supporting third reading included:

- The race track is good for the economy (supply of goods and services);
- GAIN provides good paying jobs and other companies such as Duncan Paving and Surespan have benefitted and would continue to benefit from the work generated by the expansion. This keeps employees employed which allows these employees to have the ability to purchase homes in the community;
- The lands are current zoned I2 (heavy industry) and if it remains unchanged, VIMC could sell the lands and heavy industrial use would be permitted without the benefit of a public hearing;
- Covenants and a noise bylaw would be put in place to protect the residents, which is currently not in existence. The covenants are contingent on approval of the rezoning;

- VIMC is prepared to donate 100 hectares back to the Municipality to be used as forest land and recreational hiking and biking trails;
- VIMC is offering \$600,000 to be used for environmental purposes;
- A new water reservoir, as committed to by VIMC, would help attract new and much needed economic activity as well as a supply for fighting fires; and
- A comprehensive noise and environmental mitigation plan is being put forward for Phase 2 which would also address the issues associated with Phase 1. This includes covenants on the land.

Reasons cited for not supporting third reading included:

- Honouring the concerns expressed by the Somenos Marsh Wildlife Society, the Cowichan Watershed Board, other experts, and several members of the public regarding environmental health and the impacts to the natural environment;
- Honouring the concerns expressed by Cowichan Tribes, including members who spoke at the public hearing warning of habitat destruction through deforestation and loss of riparian habitat and the impacts of hydrology, water quality, water quantity, and water temperature;
- Questions about approving phase 2 without first knowing that phase 1 noise mitigation is possible;
- Noise and environmental impacts on the elk, fish, and other wildlife;
- Climate action concerns since Council has acknowledged a climate emergency;
- A desire to move forward with reconciliation;
- The impact that the noise has had on residents and that the independent review by Navcon of the noise modelling study stated that the results were not realistic, misleading, and should be reassessed;
- Concerns for homeowners who live near the race track who have experienced a reduction in property values as a result of the use; and
- North Cowichan has an award winning climate action plan and this application would increase North Cowichan's community emissions, not lower them.

It was moved and seconded:

**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.**

(Opposed: Douglas; Justice; Marsh; Sawrie; Toporowski)

**DEFEATED**



**6. ADJOURNMENT**

It was moved and seconded:

**That Council adjourn the Special Council meeting at 2:27 a.m.**

**CARRIED**

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Certified by Corporate Officer  
(Minutes certified "correct" and Public Hearing  
report certified "fair and accurate")

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Signed by Mayor

# **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.

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Certified by Corporate Officer

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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.

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Certified by Corporate Officer

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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.

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Certified by Corporate Officer

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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
<b>Crimes Against the Person</b>											
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%
<b>Crimes Against Property</b>											
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%
<b>Traffic Offences</b>											
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
<b>Other Offences &amp; Occurrences</b>											
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

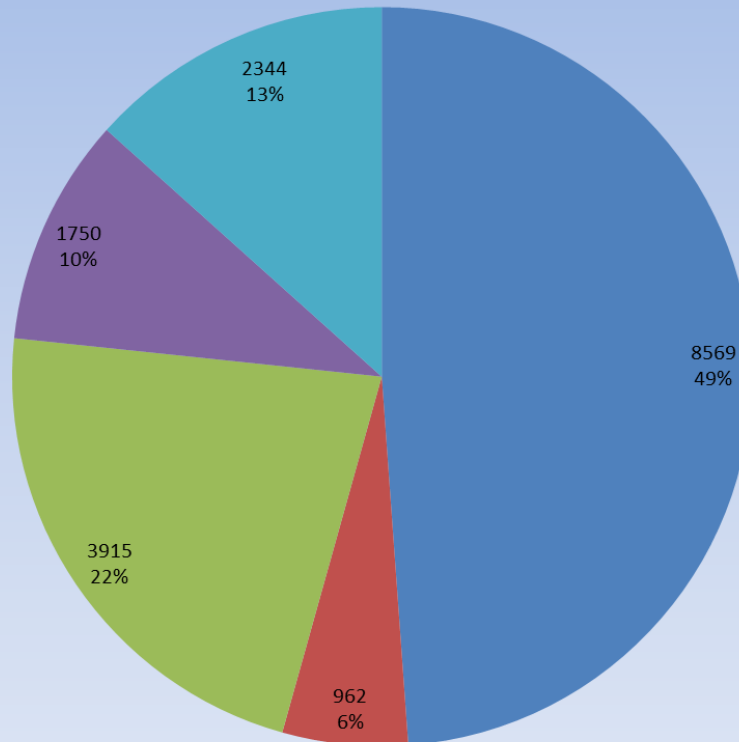
Crime Statistics for 2019.07.01 to 2019.09.30- 2019 Quarter # 3											
	Oct to Dec 2018	Jan to Mar 2019	Apr to Jun 2019	Jul to Sep 2019	Range - Low	Range - High	YTD (Cal) Previous	YTD (Cal) Current	% Change	Clr. Rate Prev Qrt	Clr. Rate Curr Qrt
<b>Crimes Against the Person</b>											
Arson (1629,2110)	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%
<b>Crimes Against Property</b>											
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%
<b>Traffic Offences</b>											
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
<b>Other Offences &amp; Occurrences</b>											
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 1<sup>st</sup> to September 30<sup>th</sup>, 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%
<b>Total North Cowichan*</b>	<b>3,361</b>	<b>100%</b>	<b>55%</b>

(\*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
	<b>Crofton</b>	
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
	<b>Maple Bay</b>	
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
	<b>Other North Cowichan</b>	
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.



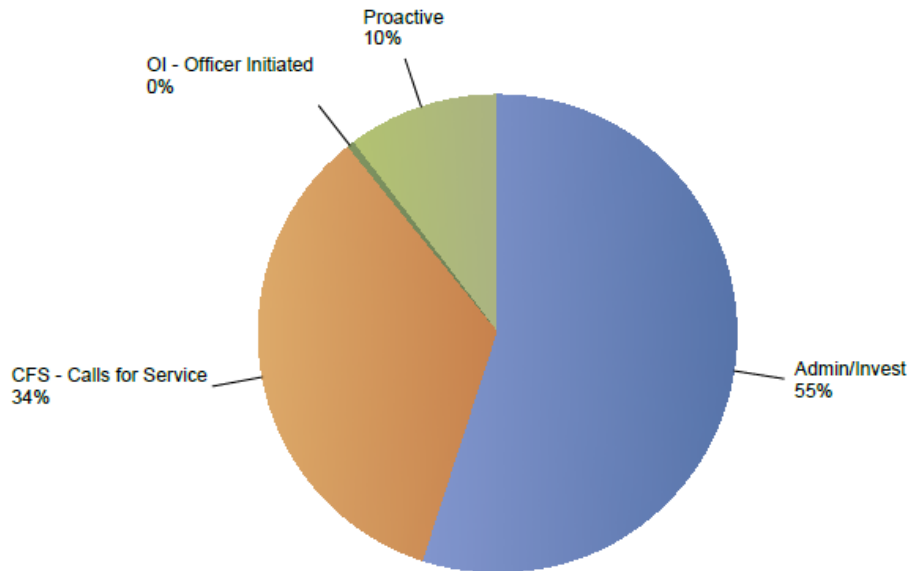
## North Cowichan

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 13<sup>th</sup> 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 1<sup>st</sup> 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
<b>Total Monthly Infractions</b>					
<b>Total Quarterly Infractions/Year to Date</b>				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
<b>Total Monthly Infractions - Warnings</b>	46	181
<b>Total Monthly Infractions - Violation Tickets</b>	334	1609
<b>Total Quarterly/Year to Date Infractions</b>	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
<b>New Clients</b>	104	90	93	287	838
<b>Females</b>	82	67	68	217	646
<b>Males</b>	22	23	25	70	191
<b>Calls For Service Attendance</b>	11	4	9	24	75
<b>Referrals By Area</b>					
<b>North Cowichan</b>	46	43	32	121	395
<b>Duncan</b>	16	11	17	44	104
<b>Cowichan Tribes/FNP</b>	6	14	11	31	89
<b>Provincial Areas</b>	10	8	3	21	81
<b>Total</b>	78	76	63	217	669
<b>Brief Service Files</b>	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](http://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](mailto: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](http://ecomm911.ca) (under the 'contact us' tab) or by emailing [talktoecomm@ecomm911.ca](mailto: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 6<sup>th</sup> 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](mailto: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

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## 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

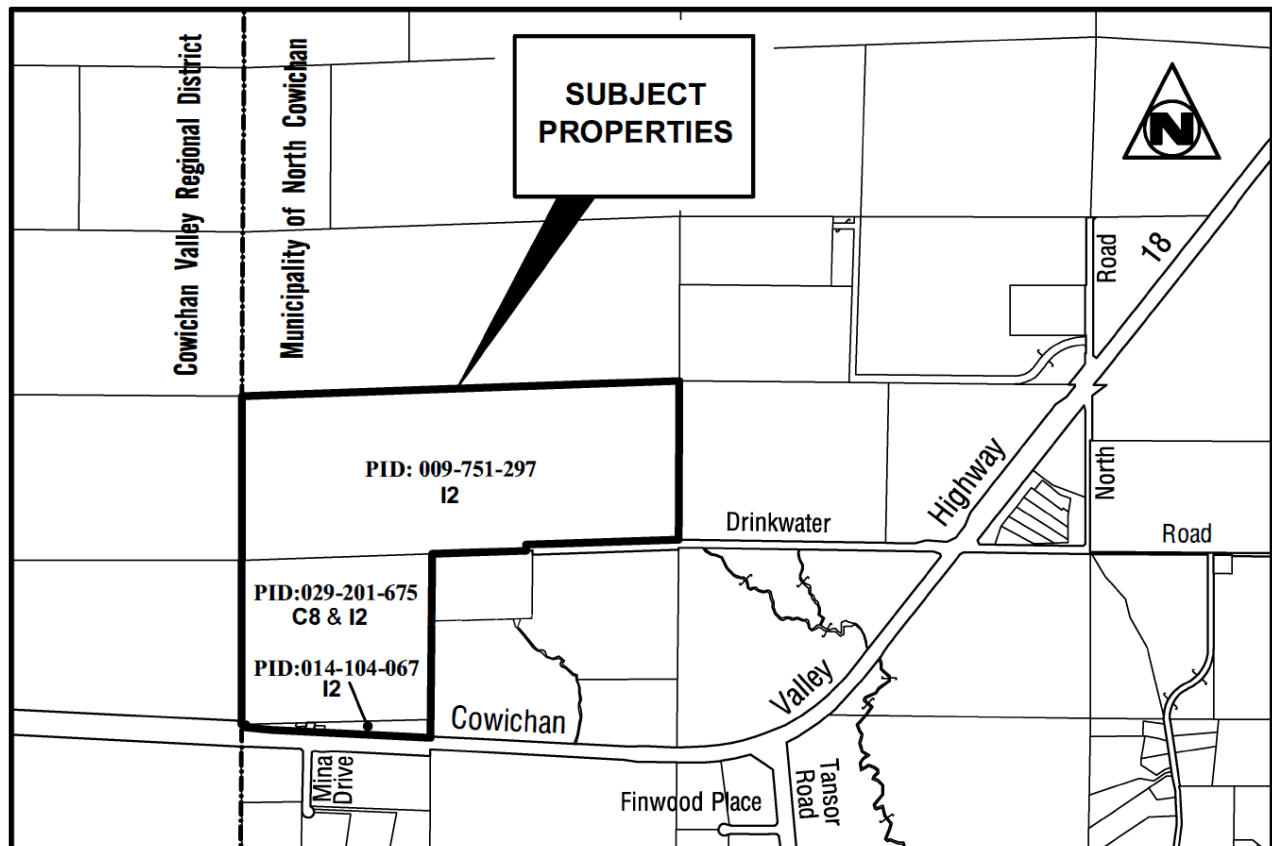
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CORPORATE OFFICER

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PRESIDING MEMBER

### Schedule



## Memo

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Date            October 25, 2019

To              Karen Robertson, Corporate Officer

From           Al Siebring, Mayor

Subject        Section 131 of the Community Charter

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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

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Date August 21, 2019

File: ZB000064

To Council

From Rob Conway, Director of Planning

Endorsed:



Subject Zoning Amendment Application No. ZB000064 (VIMC)

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### 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<sub>20, 15min</sub>).

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.

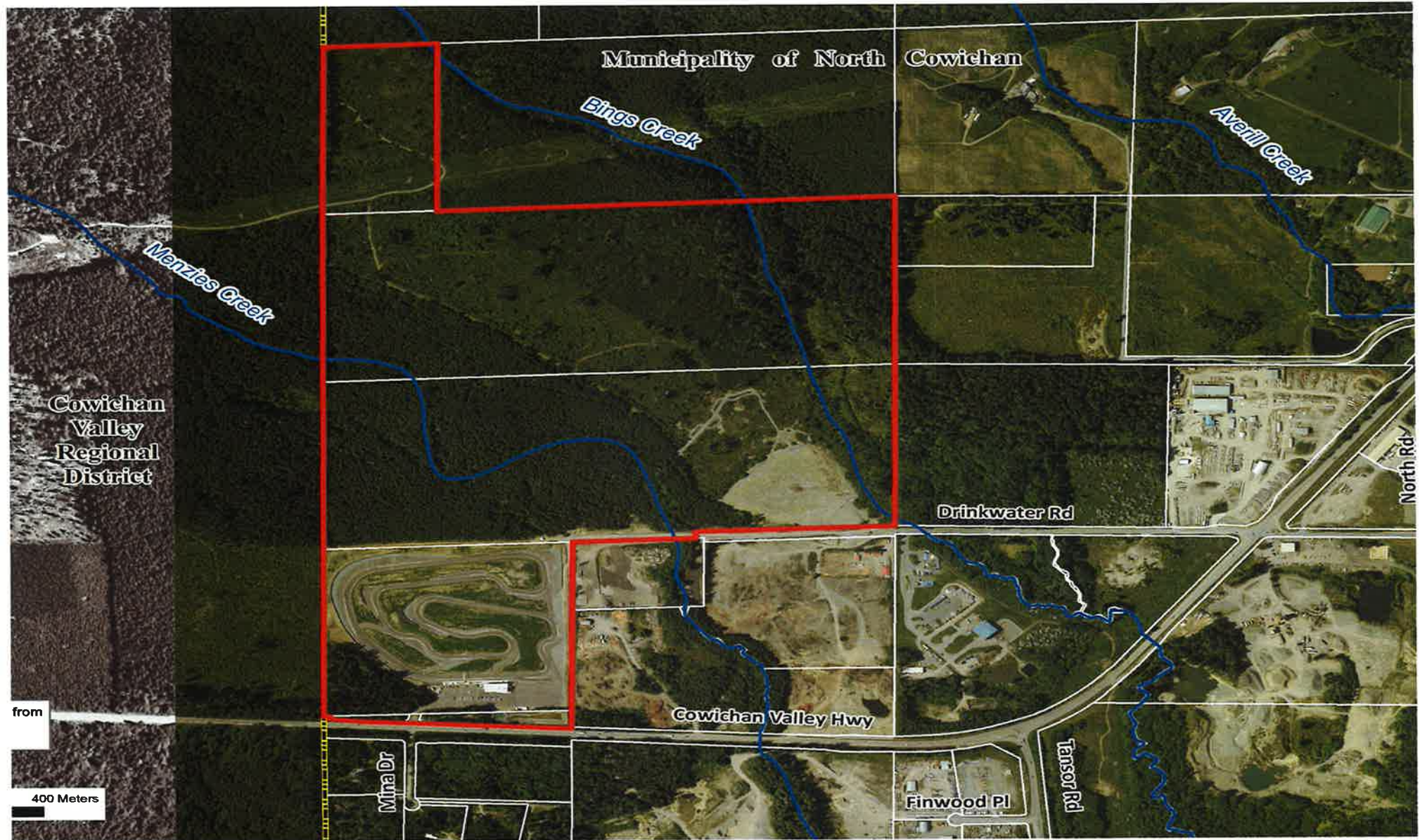
**Recommendation**

- 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*.**

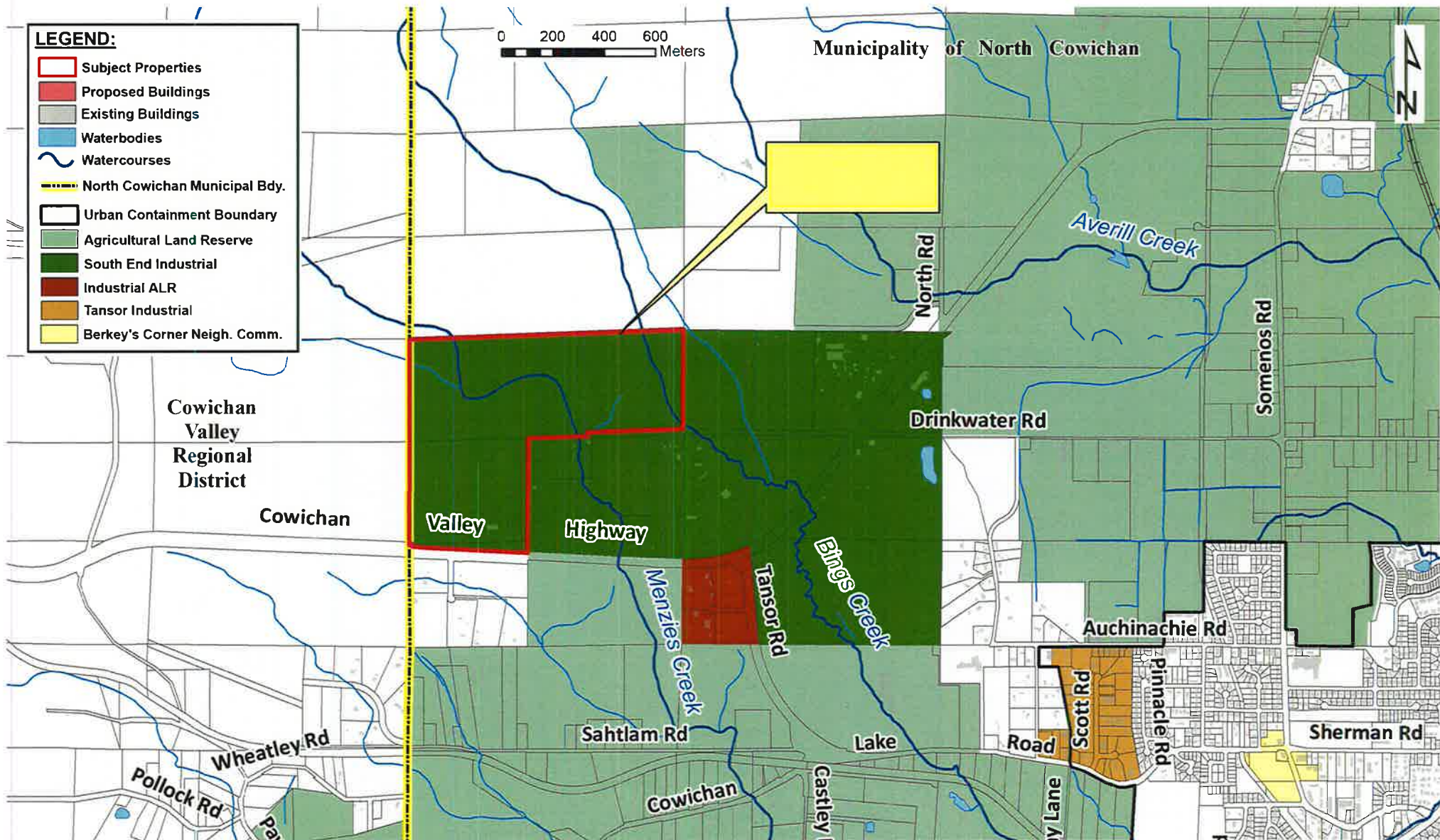
Attachments:

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





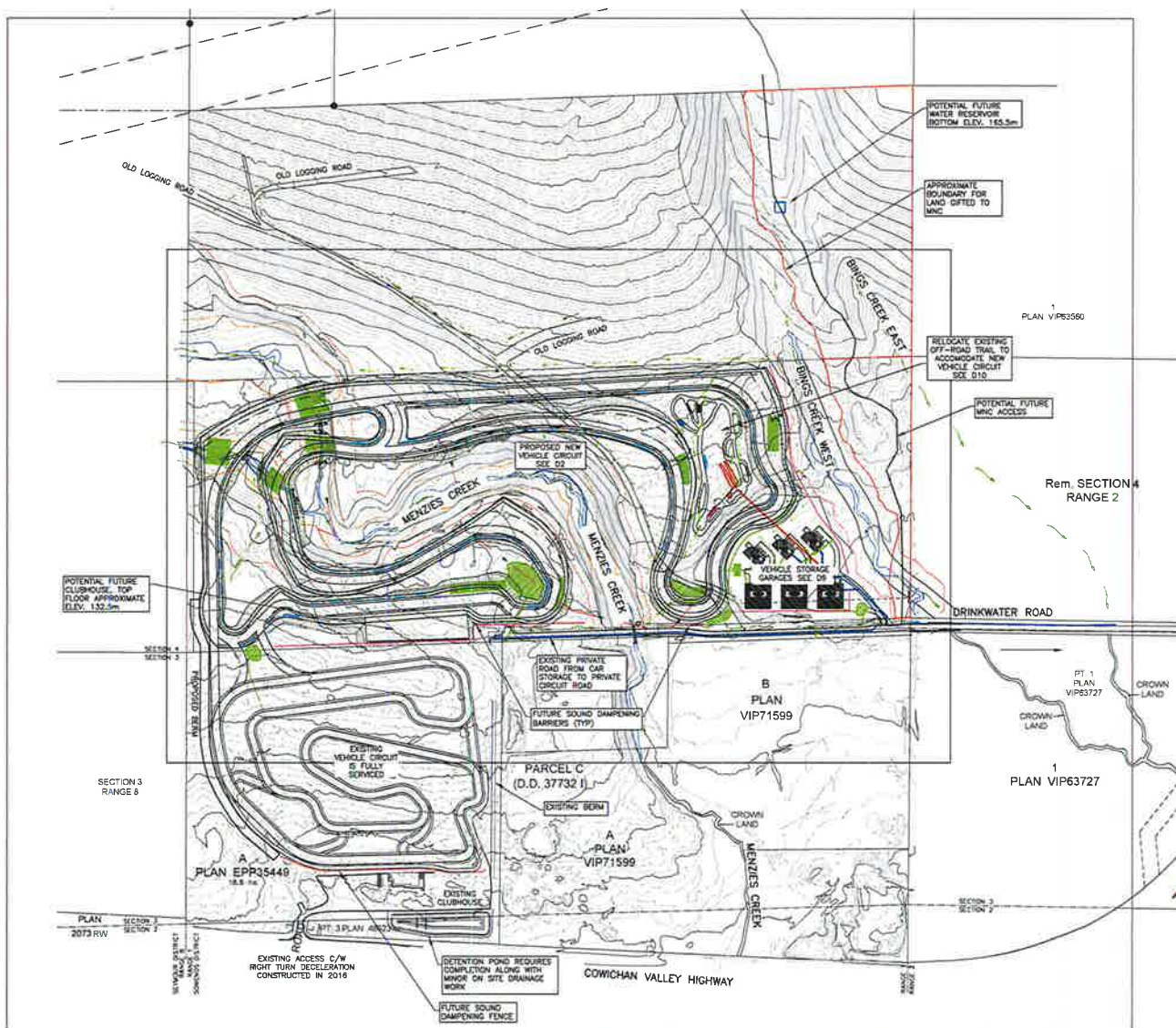




**VIMC Rezoning Application (ZB000064) – Application Support Documents**

	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	
DRAWING NUMBER	DRAWING NAME
01	LARGE SCALE SITE PLAN
02	CIRCUL DRAINAGE SITE PLAN
03	SITE CLEANING PLAN
04	RE-VEGETATION PLAN
05	SOUTH MOJOS CREEK CROSSING - PLAN AND SECTIONS
06	SOUTH MOJOS CREEK CROSSING - CULVERT PROFILE AND CALCULATION
07	NORTH MOJOS CREEK CROSSINGS - PLAN AND SECTIONS
08	NORTH MOJOS CREEK CROSSINGS - CULVERT PROFILE AND CALCULATION
09	OFF STORAGE AREA SERVING PLAN
10	OFF-ROAD TRAIL SERVING PLAN

Age Group	Percentage
18-24	12
25-34	10
35-44	8
45-54	6
55-64	4
65-74	3
75-84	2
85+	1

Attachment 4 - Phase 2 Development Plan - ZB000064

[illegible]



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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<sub>20,15min</sub> 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,



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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



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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



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not operate on those days in a manner that exceeds 59 dB LA<sub>20, 15min</sub> 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





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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.



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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.



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- (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", written in a cursive style.

**Mark Holland, RPP**

Holland Planning Innovations Inc



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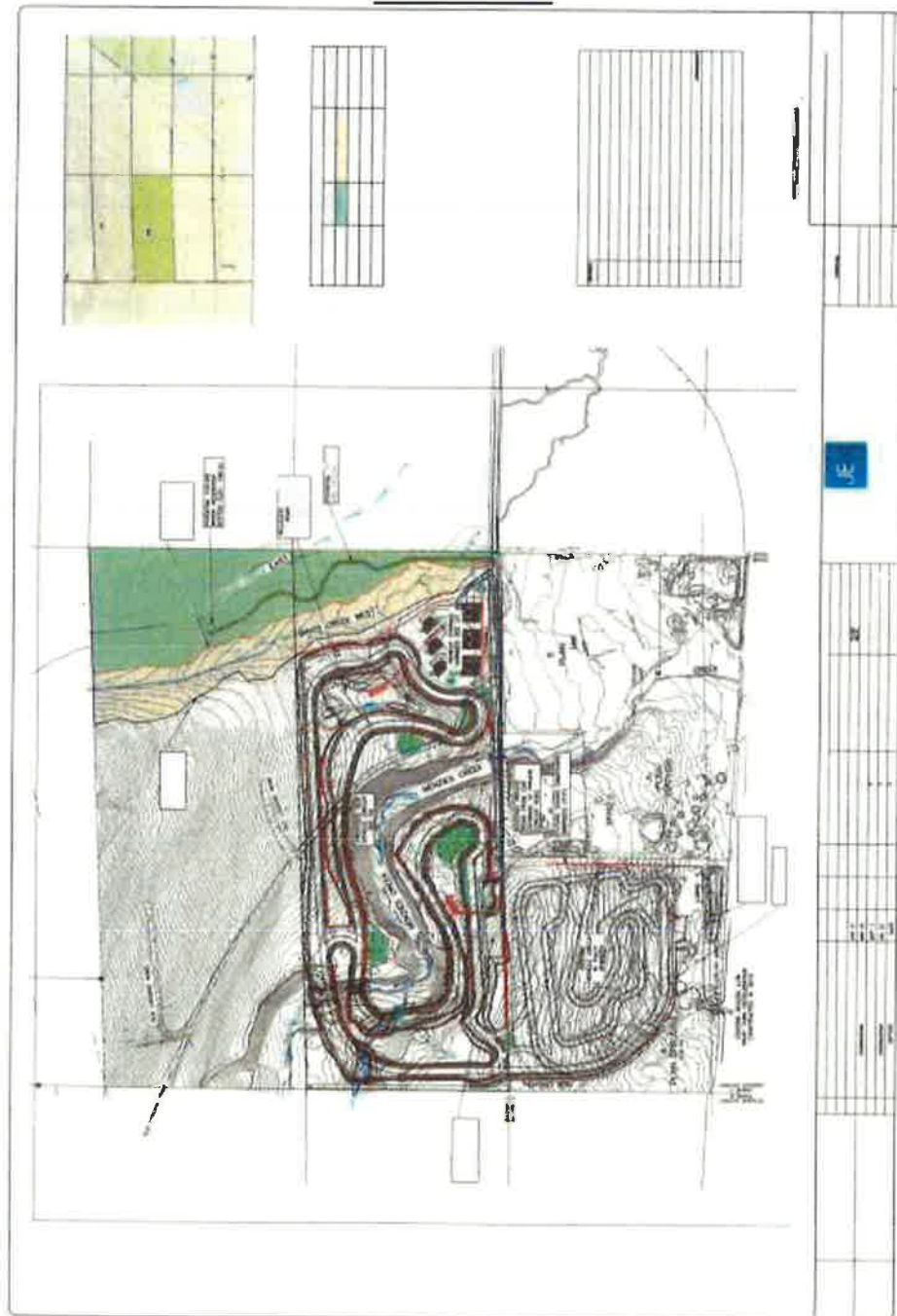
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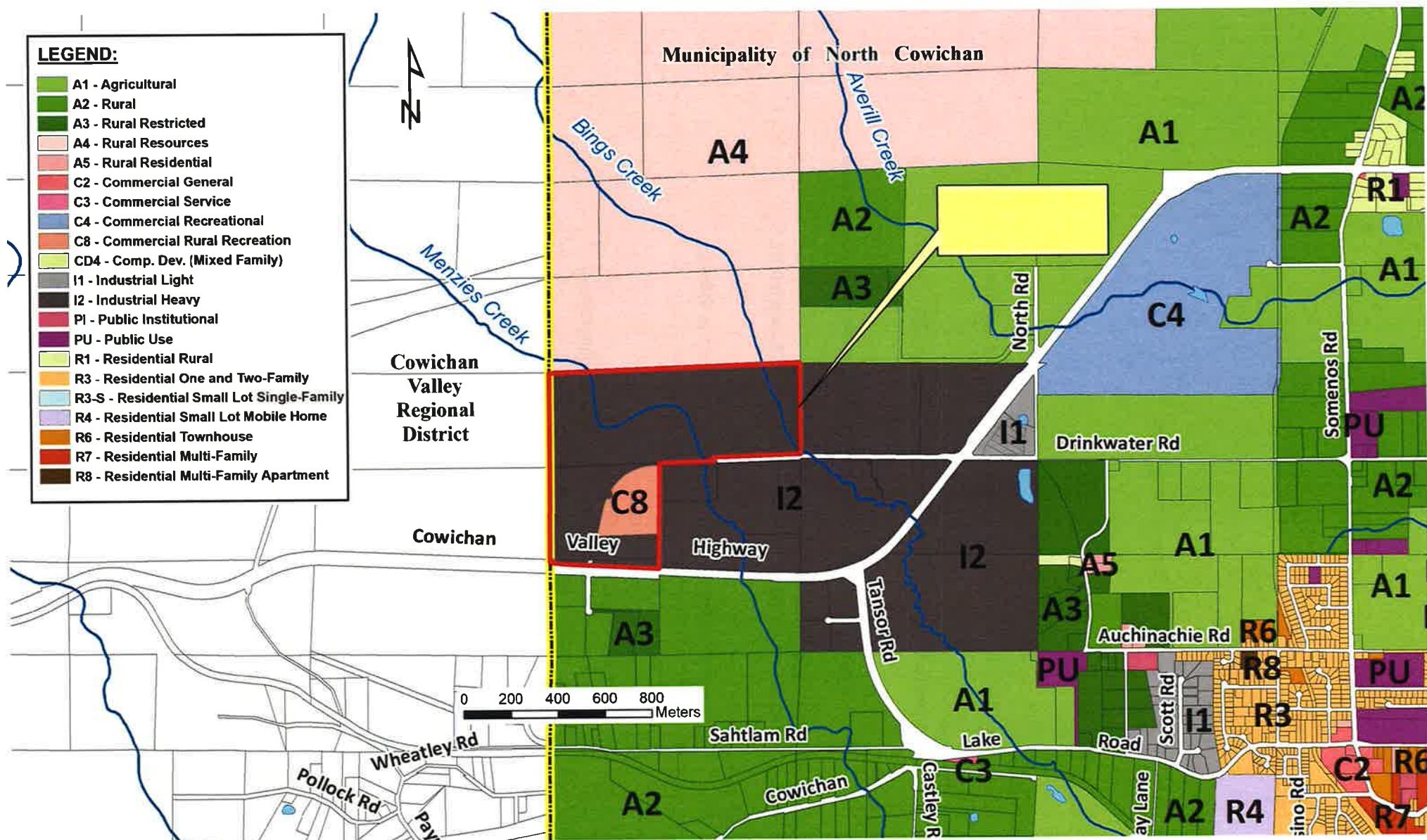
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**SCHEDULE "A"**



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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 m<sup>2</sup> (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

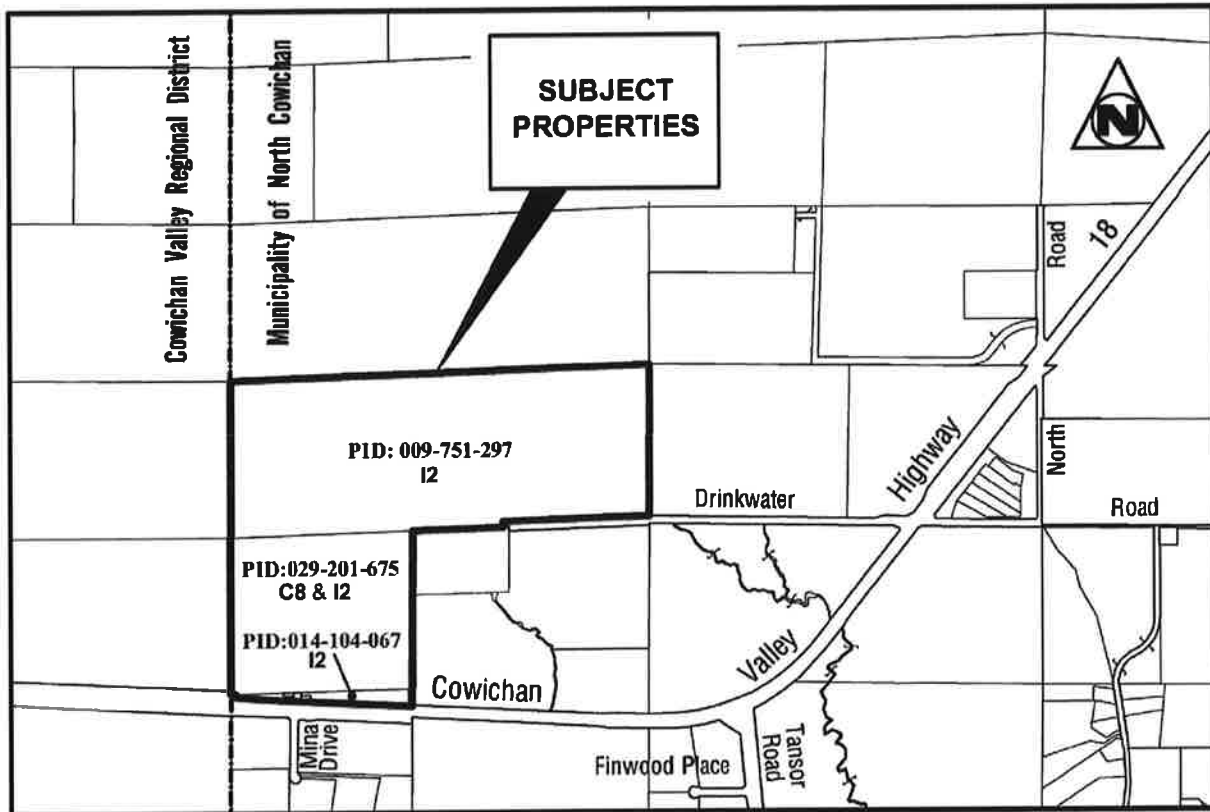
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CORPORATE OFFICER

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PRESIDING MEMBER

**Schedule**



September 25<sup>th</sup>, 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 1<sup>st</sup> and 2<sup>nd</sup> 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<sub>20, 15min</sub>, 59 dB LA<sub>Eq, 15min</sub>, or 79 dB LA<sub>Max</sub>, 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.

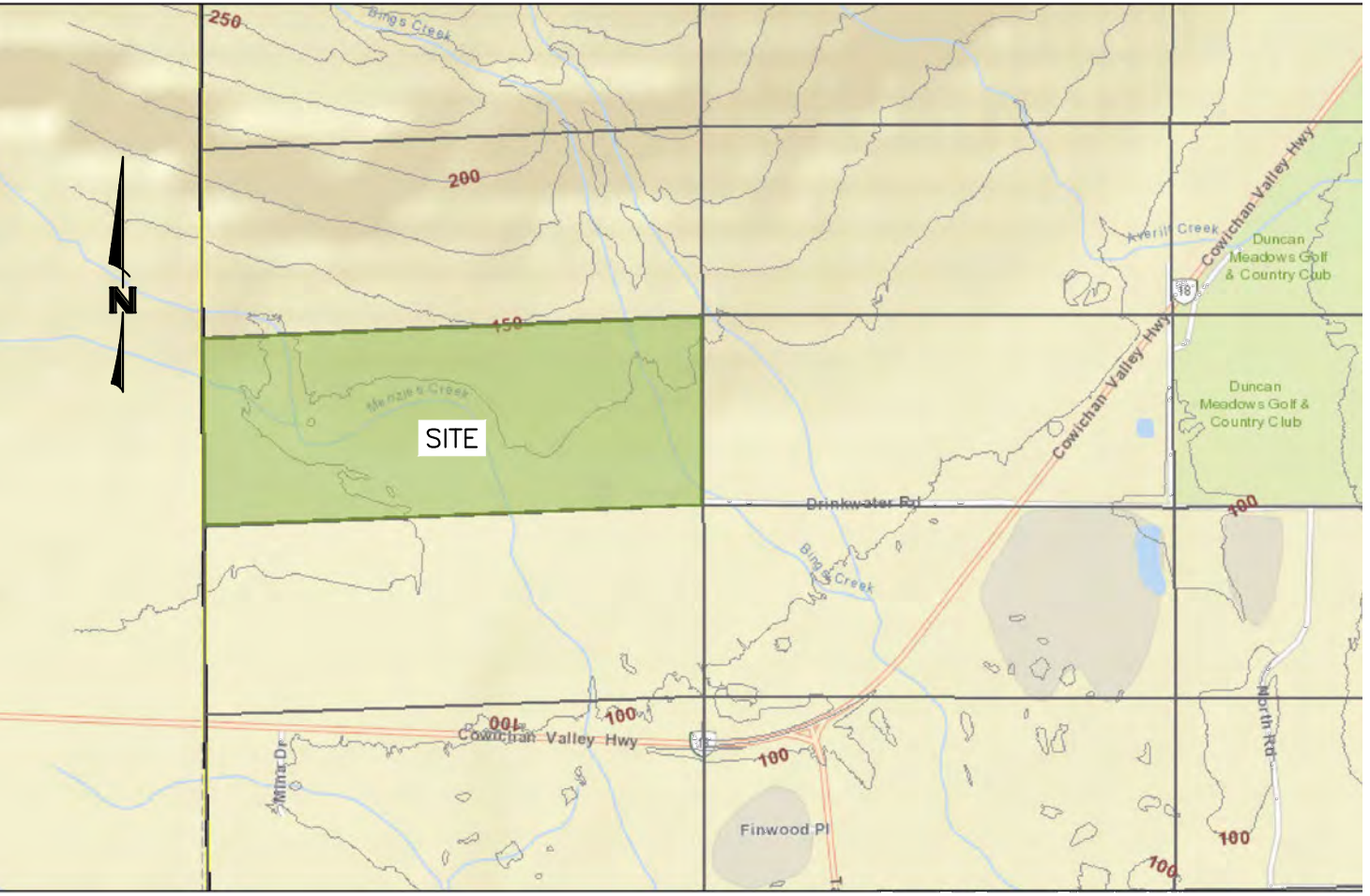
Yours truly,

Vancouver Island Motorsport Circuit

A handwritten signature in black ink, appearing to read "Sylvester Chuang".

Sylvester Chuang, per Vancouver Island Motorsport Circuit



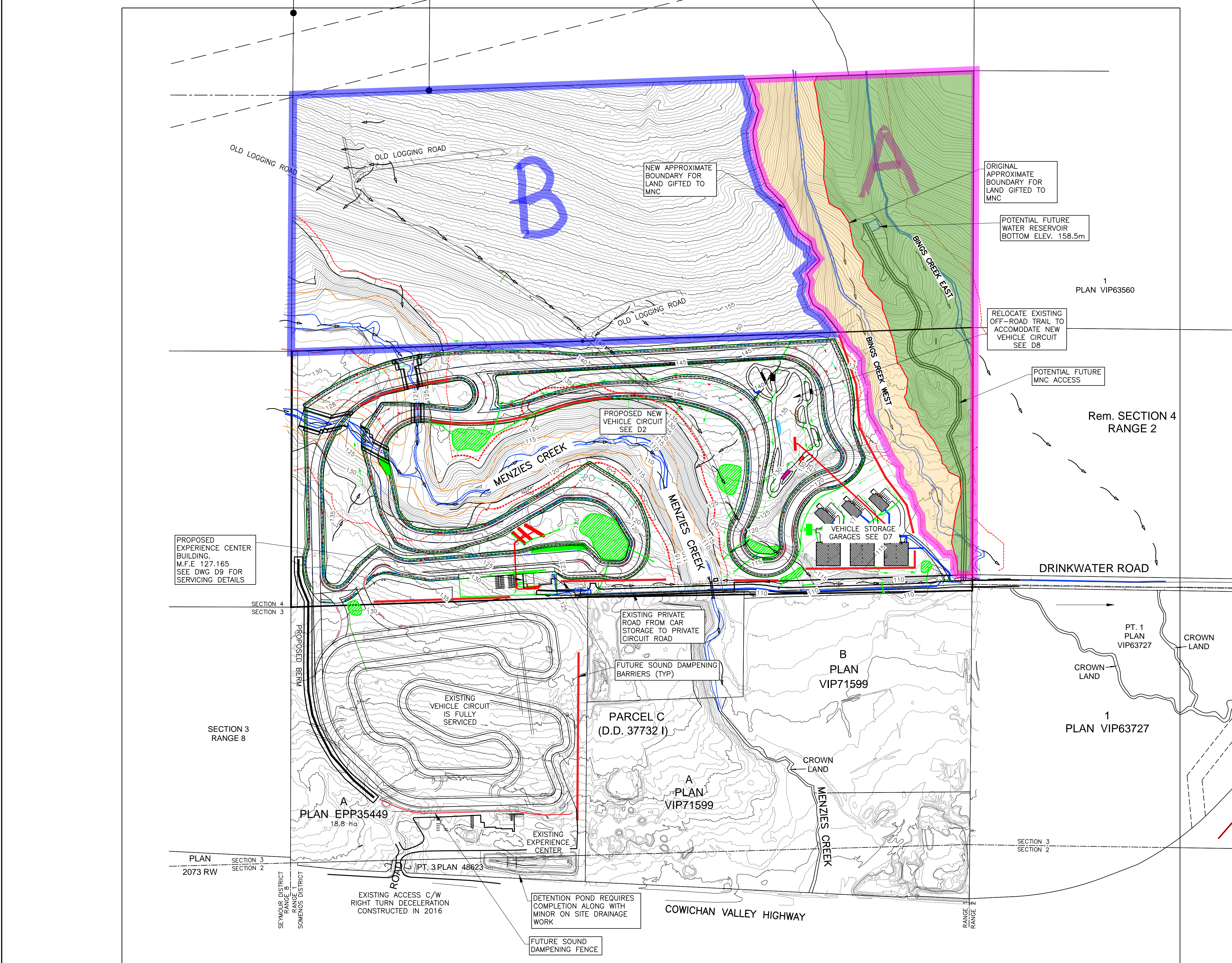


LOCATION PLAN  
NTS

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

1:3000 0 60 180m



LEGAL DESCRIPTION		PROJECT DATUM		LEGEND	
ELEVATIONS ARE GEODETIC AND TO NAD83		ELEVATIONS ARE GEODETIC AND TO NAD83		LEGEND	
4 ISSUED FOR REVIEW JUN 13/19		3 ISSUED FOR COORDINATION APR 23/19		2 ISSUED FOR DP SEPT 21/18	
1 ISSUED FOR COORDINATION JUL 6/18		NO. REVISION DESCRIPTION DATE CHECK APPR.		DRAIN	
				LAMP STANDARD	
				CLEANOUT	
				CATCHBASIN	
				MANHOLE	
				SERVICE RISER	
				MOUNTABLE CURB	
				NON-MOUNT. CURB	
				EDGE ASPHALT	
				DITCH	
				METER	
				FLUSH VALVE	
				VALVE	
				REDUCER	
				HYDRANT	
				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. SCALES: N/A VERT.	CLIENT	1909988 ONTARIO LTD.
	PROJECT	VMC PHASE 2 DEVELOPMENT PLAN
	LARGE SCALE SITE PLAN	
	DESIGN: JB	
DRAWN: KG	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**

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I write further to the public meetings of October 1<sup>st</sup> and 3<sup>rd</sup> 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 Road<sup>1</sup>**

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.

<sup>1</sup> 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<sup>†</sup>  
Lorenzo G. Oss-Cech<sup>†</sup>  
Barri A. Marlatt<sup>†</sup>  
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”)**

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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:

A handwritten signature in black ink, appearing to be 'L. Oss-Cech', with a large, sweeping loop at the end.

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](mailto:mayor@northcowichan.ca)

Enclosure: October 1, 2019, Council Report and attachments

cc: MNC Council  
Tracy Fleming Referral Coordinator Cowichan Tribes ([tracy.fleming@cowichantribes.com](mailto: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](mailto: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:

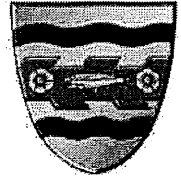


Sean Hern

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](http://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](mailto: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](mailto: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](mailto: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 Road<sup>1</sup>**

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.

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<sup>1</sup> 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.

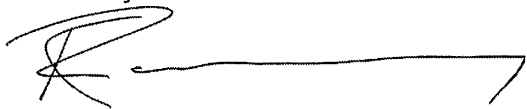
(e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the owner. Council may then hear from staff in relation to any new information raised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

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## 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. Kåhs



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 1<sup>st</sup> and 3<sup>rd</sup> 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 Road<sup>1</sup>**

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.

---

<sup>1</sup> 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](mailto: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:

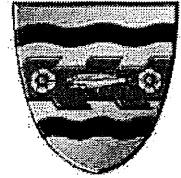


Sean Hern

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](http://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](mailto: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](mailto: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](mailto: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 Road<sup>1</sup>**

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.

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<sup>1</sup> 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.

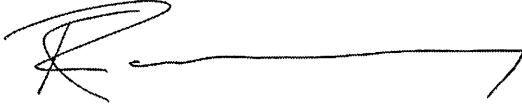
(e) At the meeting at which Council is to reconsider the decision, Council will first hear from staff in relation to the subject matter of the decision and in relation to the decision itself, and will then hear from the owner. Council may then hear from staff in relation to any new information raised 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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<b>26</b>	Works and services agreements
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<b>31</b>	Title

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.

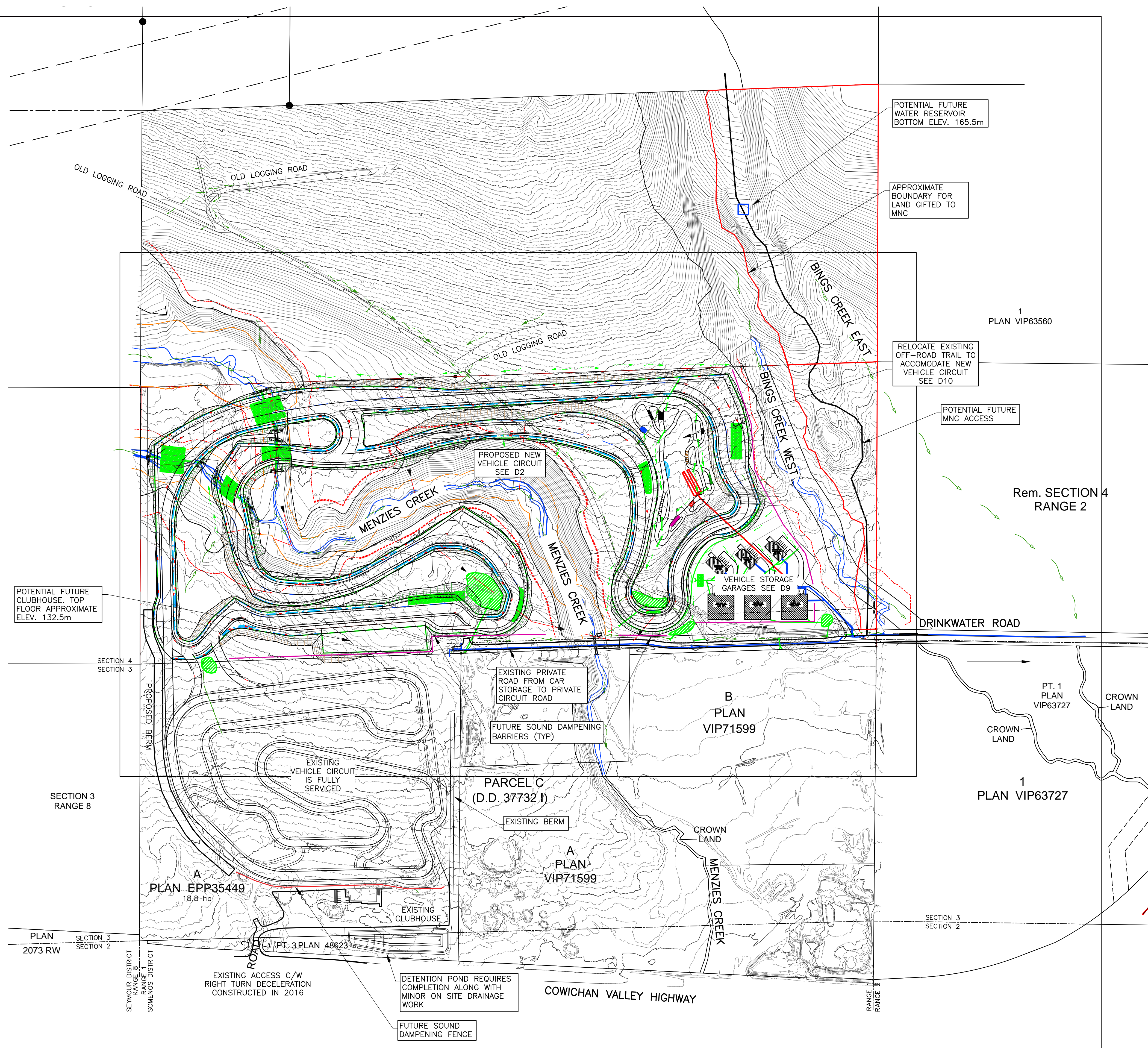
### **Title**

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

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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

LEGAL DESCRIPTION						LEGEND			<div><div>JEA</div><div>J.E. ANDERSON &amp; ASSOCIATES SURVEYORS -- ENGINEERS</div></div> <div>1A -- 3411 SHENTON ROAD, NANAIMO, B.C. V9T 2H1 TEL: 250 -- 758 -- 4631 FAX: 250 -- 758 -- 4660 E-MAIL : nanaimo@jeanderson.com</div>	JURISDICTION MUNICIPALITY OF NORTH COWICHAN	PROJECT VIMC PHASE 2 DEVELOPMENT PLAN	
						LAMP STANDARD    * LS    * LP	CLEANOUT    ○    ●	DITCH    ————→————→		FULL SIZE SCALES: 1:3000 HORZ. N/A VERT.	LARGE SCALE SITE PLAN	
						POLE(Hydro, Tel.)    ◇ PP    ◆ PP	METER    ⊠    ⊞	METER    ⊕    ⊗				
						U/G WIRING    --- UGH ---	MANHOLE    ○    ●	FLUSH VALVE    ◯HC    ⦿HC				
PROJECT DATUM	ELEVATIONS ARE GEODETIC AND TO NAD83											
		2	ISSUED FOR DP	SEPT 21/18								
		1	ISSUED FOR COORDINATION	JUL 6/18								
		NO.	REVISION DESCRIPTION	DATE	CHECK	APPR.						



## 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 m<sup>2</sup> (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 m<sup>2</sup> (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.

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### 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 1<sup>st</sup> and 2<sup>nd</sup> 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.

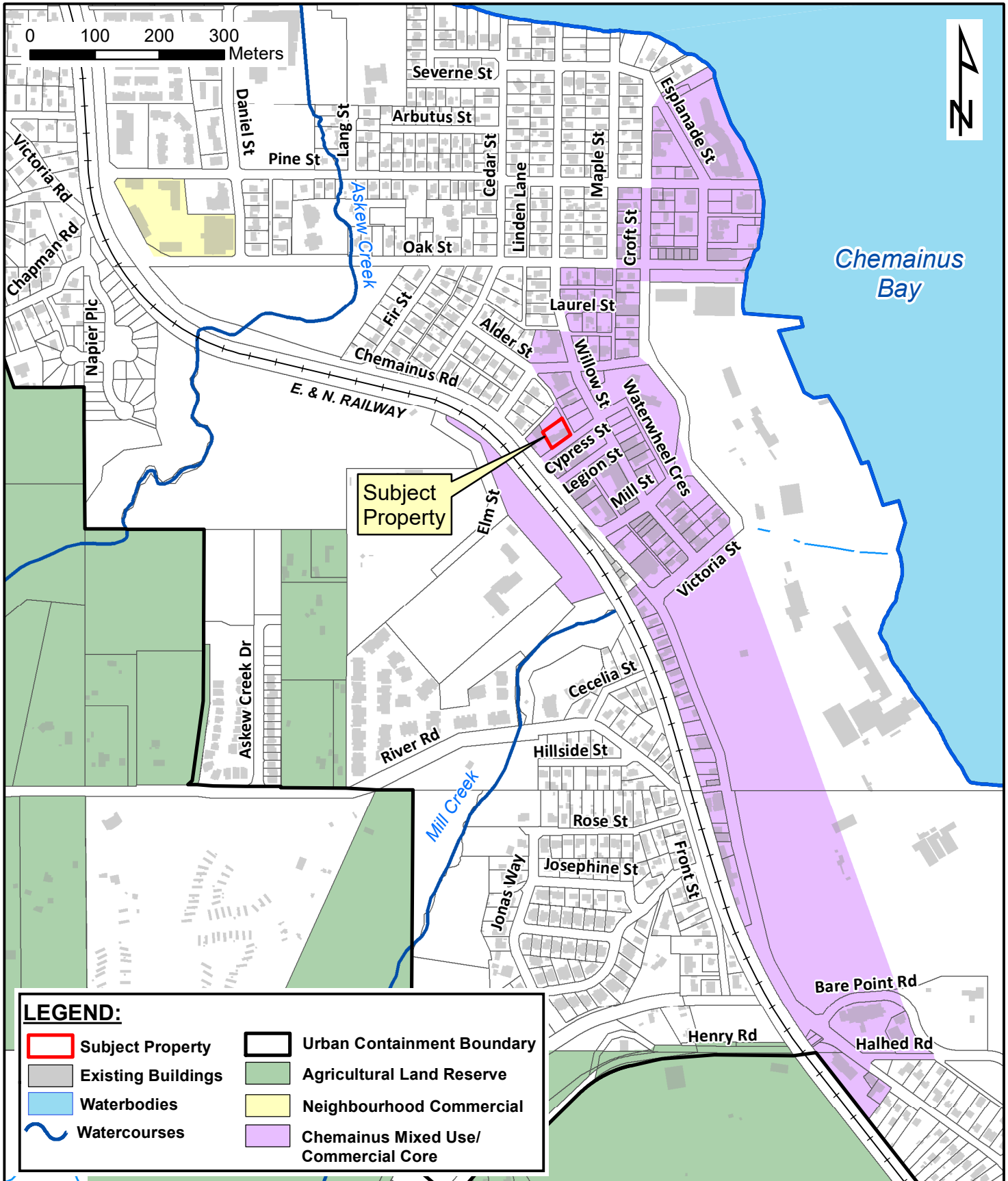
## Recommendation

**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:

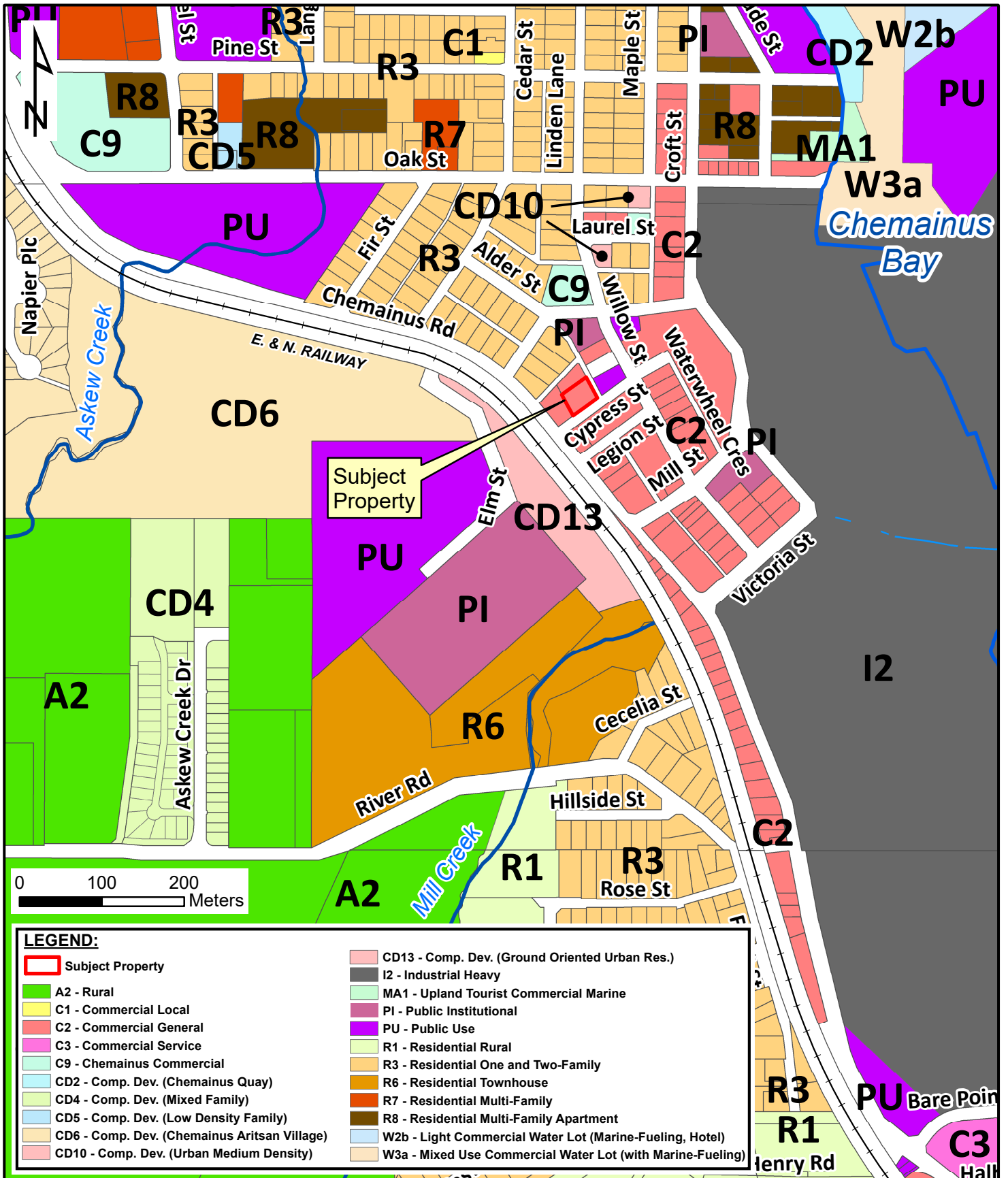
- Attachment 1– Location Map
- Attachment 2 – Aerial Photo
- Attachment 3 – Zoning Map
- Attachment 4 – Site Photos
- Attachment 5 – Letter of Rationale
- Attachment 6 – Development Concept
- Attachment 7 – CD10 Proposed Zone
- Attachment 8 – C2 Current Zone
- Attachment 9 – Proposed Bylaw 3765



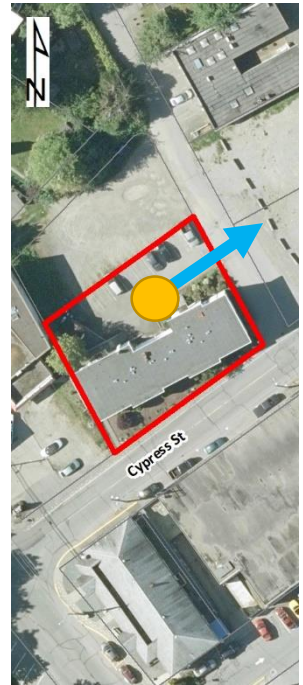




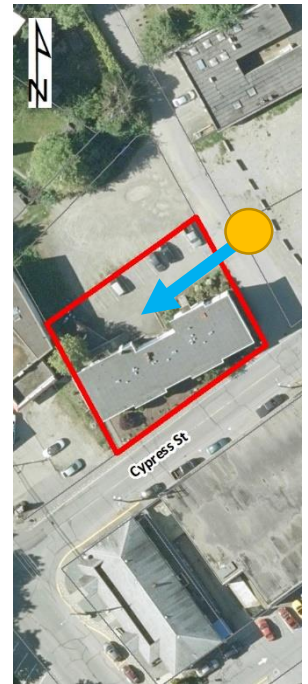
	<b>ORTHOPHOTO MAP</b>		DATE:	May 27, 2019
	( Orthophoto is from 2017 aerial photography)		TYPE:	Rezoning
	2903 Cypress Street		FILE#:	ZB000111





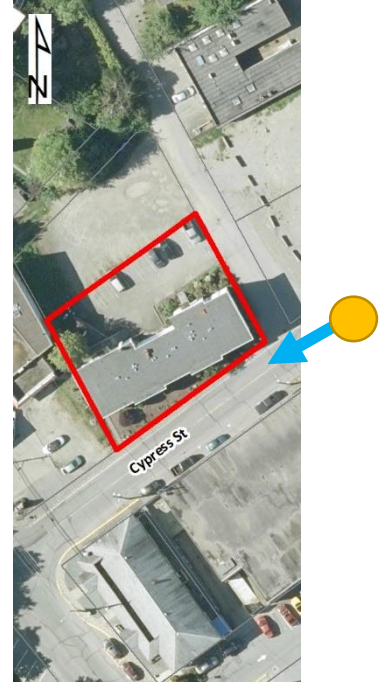


Facing east, from parking lot, looking toward library and affordable housing sites.



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 10<sup>th</sup> 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

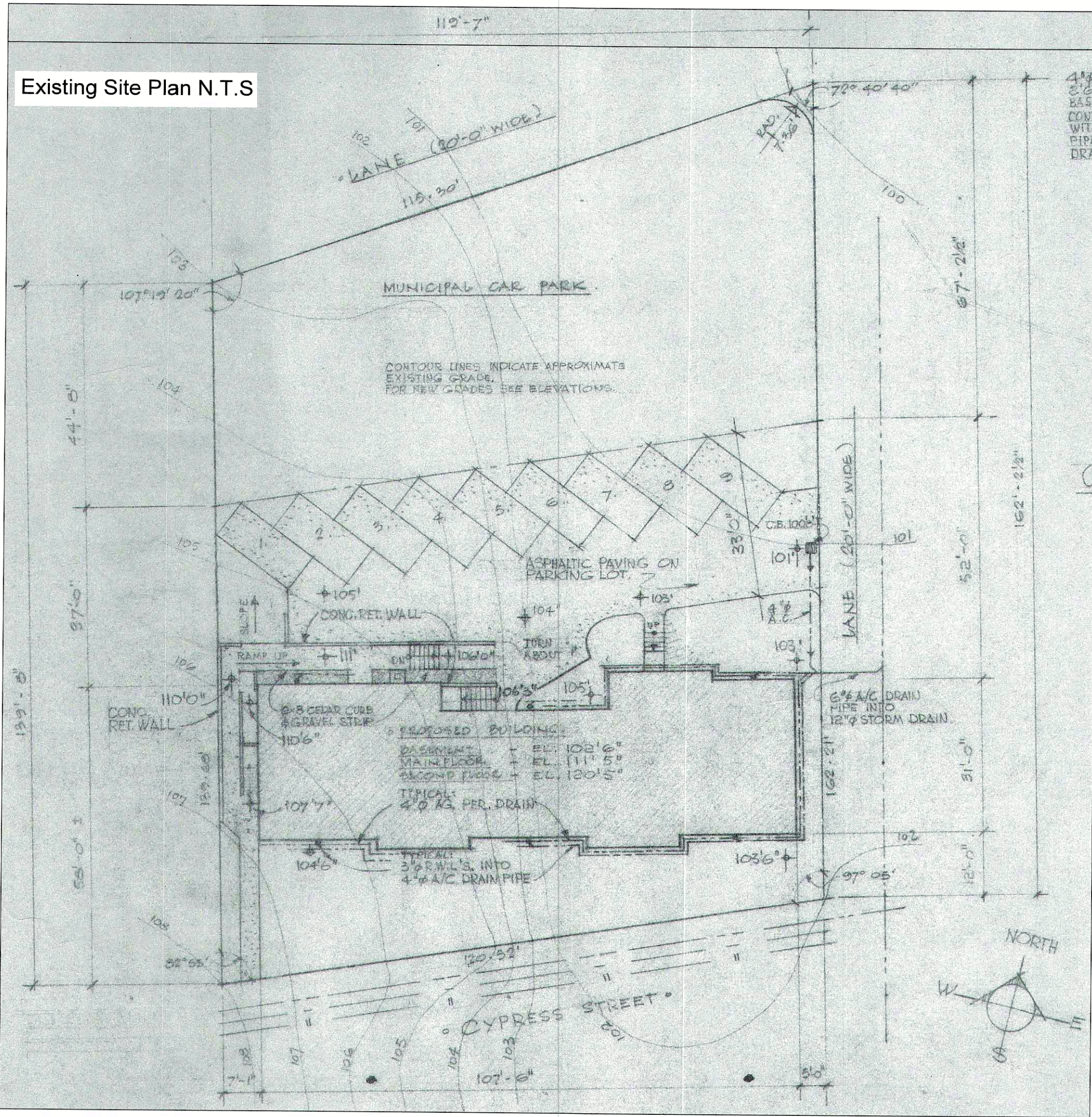
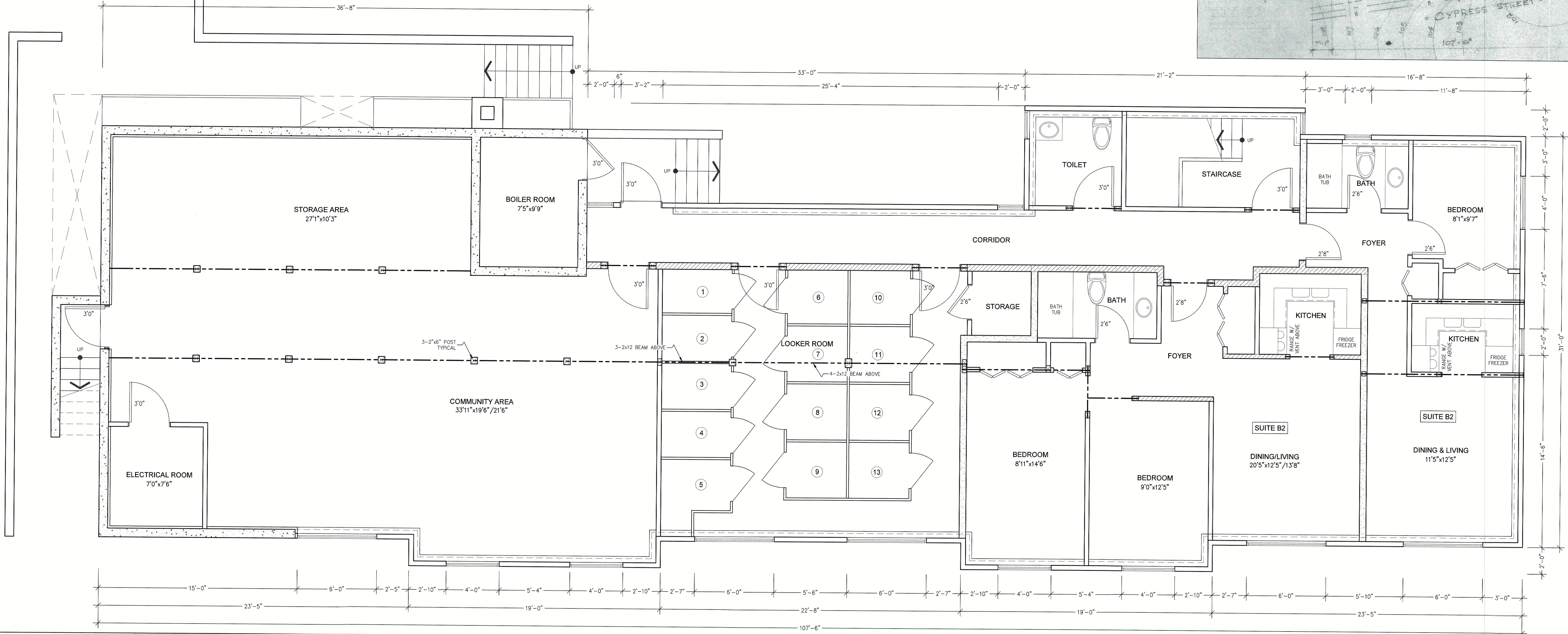
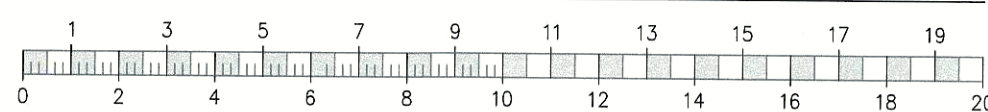
LEGEND

- LOAD BEARING WALL
- SOUNDPROOF WALL
- BEAM ABOVE
- POINT LOAD  
SOLID WOOD OR BUILT-UP POST
- FULL HEIGHT FOUNDATION WALL

EXISTING - BASEMENT FLOOR PLAN

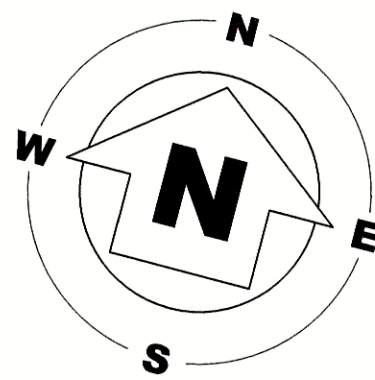
SCALE 1/4" = 1'-0"

SCALE BAR



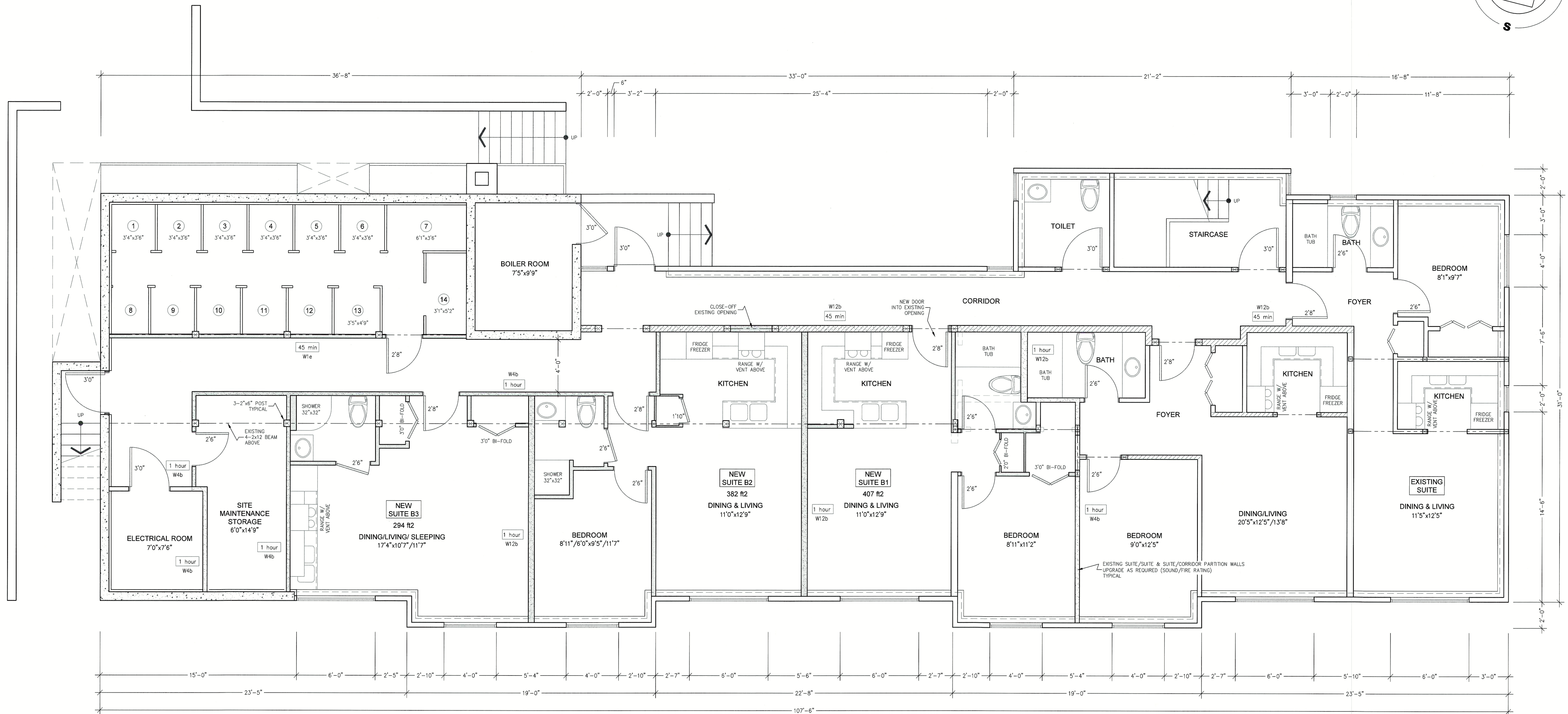
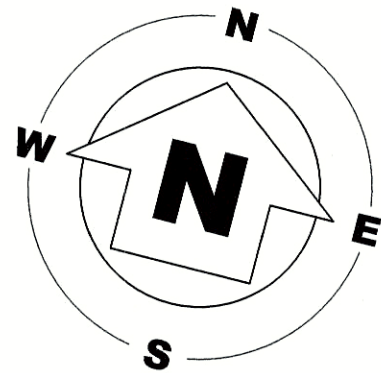
CONSTRUCTION NOTES

(UNLESS OTHERWISE NOTED)  
\* ALL CONSTRUCTION TO CONFORM TO THE 2018 BRITISH COLUMBIA BUILDING  
CODES AND ALL OTHER CODES AND LOCAL AUTHORITIES HAVING JURISDICTION

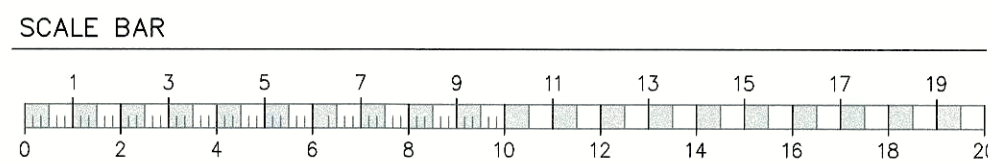


April 2019		Development Permit
NO	DATE	REVISION/ISSUE
<div>3D</div> <div>Diron Design &amp; Drafting Services</div> <div>915 Island Highway</div> <div>Sayward BC V0P 1R0</div> <div>Tel. 1250 282 3695 3djens@gmail.com web:3djens.com</div>		
Additional Suites to Existing Building		
2903 Cypress Street		
Chemainus, BC		
Existing – Basement Floor Plan		
Existing – Site Plan		
Owner		Date Plotted:
Tim Openshaw 1-250-246-0630		07.04.2019
Designed JD	Drawn: JD	Job No. #A1910
		Dwg of 1 of 2
Scale:		Sheet No.
as Shown		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
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April 2019		Development Permit
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<div>3D</div> <div>Diron Design &amp; 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	Job No.  #A1910
Designed JD	Drawn: JD	Dwg      of 2            2
Scale:  as Shown	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 m<sup>2</sup> (7,534.74 sq. ft.)

**Minimum Frontage**

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

**Density**

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

**Setback Requirements**

- (5) The minimum permitted setbacks for a principal building within the CD10 zone 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 m<sup>2</sup> 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 m<sup>2</sup> (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


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PRESIDING MEMBER

## 2



# 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 m<sup>2</sup> (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 m<sup>2</sup> (1.98 ac) in area.
- (2) The keeping of farm animals and poultry is not permitted on a lot less than 8000 m<sup>2</sup> (1.98 ac) in area, except as follows:
- (a) on a lot greater than 1675 m<sup>2</sup> (0.41 ac) in area but less than 4000 m<sup>2</sup> (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 m<sup>2</sup> (0.99 ac) in area but less than 8000 m<sup>2</sup> (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 m<sup>2</sup> (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 m<sup>2</sup> (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 m<sup>2</sup> (1.98 ac) in area, except as follows:
- (1) on a lot greater than 1675 m<sup>2</sup> (0.41 ac) in area but less than 4000 m<sup>2</sup> (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 m<sup>2</sup> (0.99 ac) in area but less than 8000 m<sup>2</sup> (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 m<sup>2</sup> (1.98 ac) in area.
- (2) The keeping of farm animals and poultry is not permitted on a lot less than 8000 m<sup>2</sup> (1.98 ac) in area, except as follows:
- (a) on a lot greater than 1675 m<sup>2</sup> (0.41 ac) in area but less than 4000 m<sup>2</sup> (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 m<sup>2</sup> (0.99 ac) in area but less than 8000 m<sup>2</sup> (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 m<sup>2</sup> (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 m<sup>2</sup> (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.**

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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

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CORPORATE OFFICER

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PRESIDING MEMBER

# Report

Date November 6, 2019

To Council

From Larissa Barry-Thibodeau, Development Planner

Subject "Zoning Amendment Bylaw (1038 Herd Road), No. 3766, 2019"

Prospero No. ZB000118  
Folio No. 08694-002  
File No. 3360-20 19.13

Endorsed:



## 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 m<sup>2</sup> (676 ft<sup>2</sup>) 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 m<sup>2</sup> (676 ft<sup>2</sup>) 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 m<sup>2</sup> (676 ft<sup>2</sup>) 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 views and demonstrating servicing feasibility, have reasonably been met with this proposal.



## Communications and Engagement

Should Council choose to provide 1<sup>st</sup> and 2<sup>nd</sup> 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.

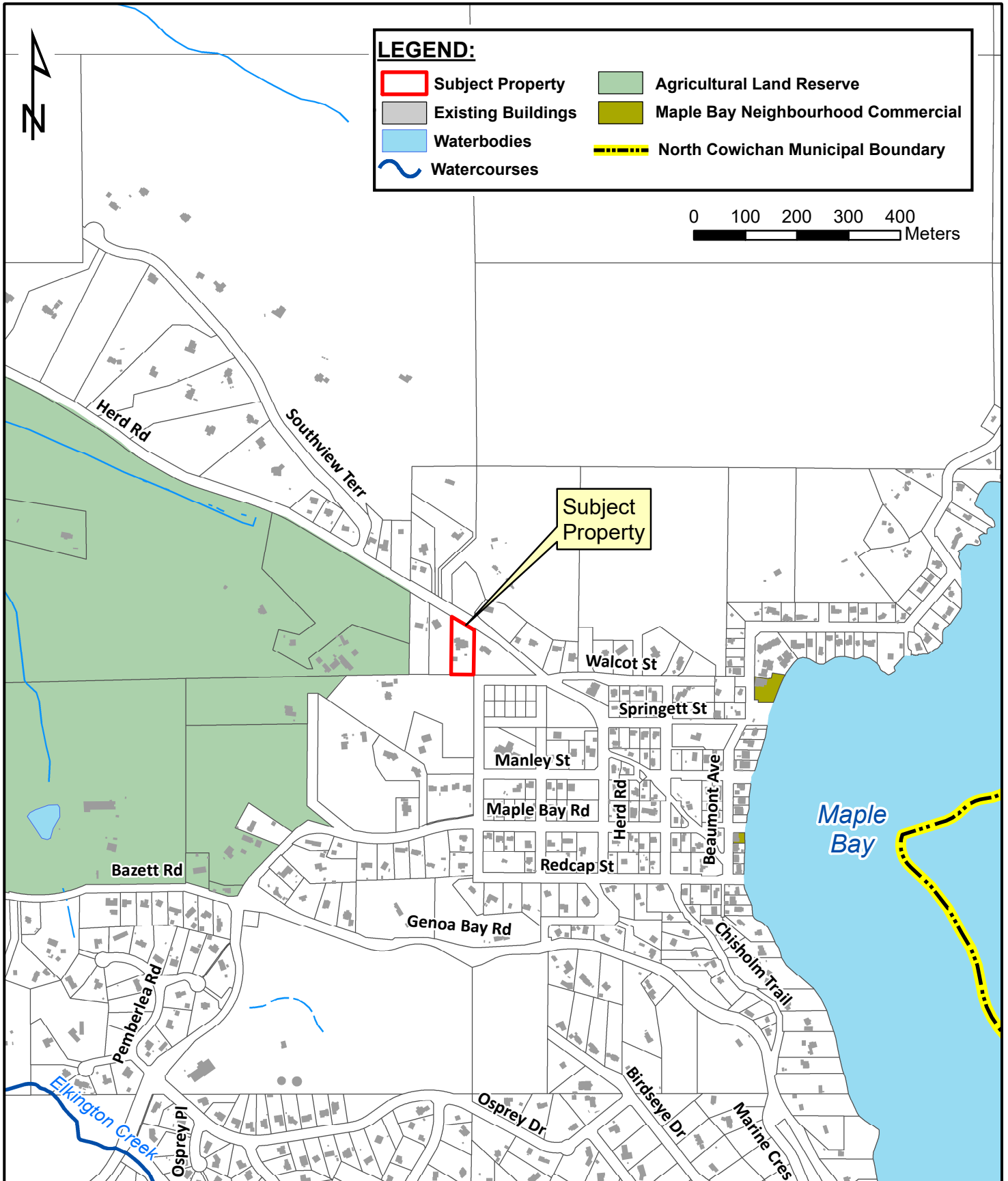
## Recommendation


***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.***

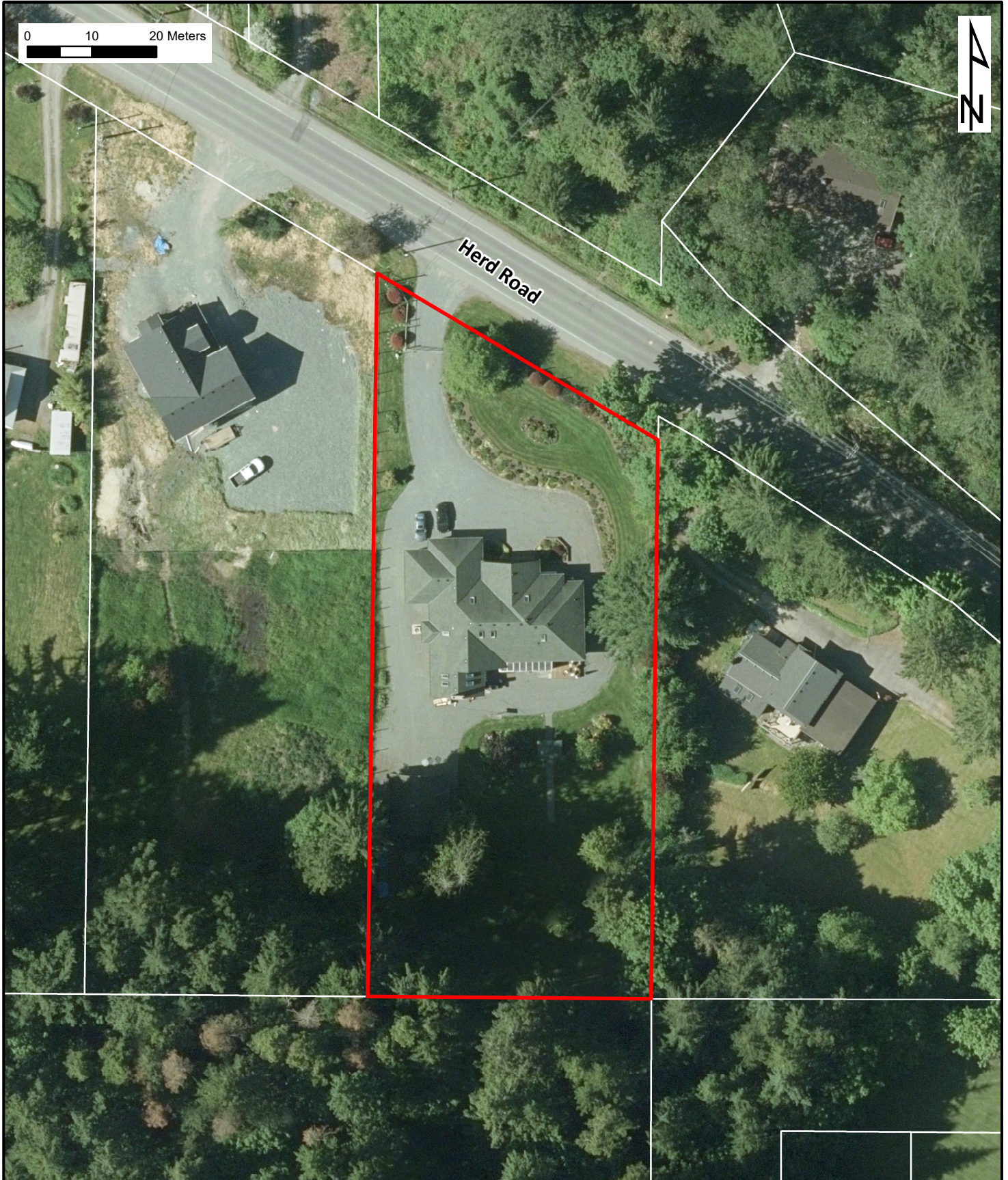
Attachments:

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



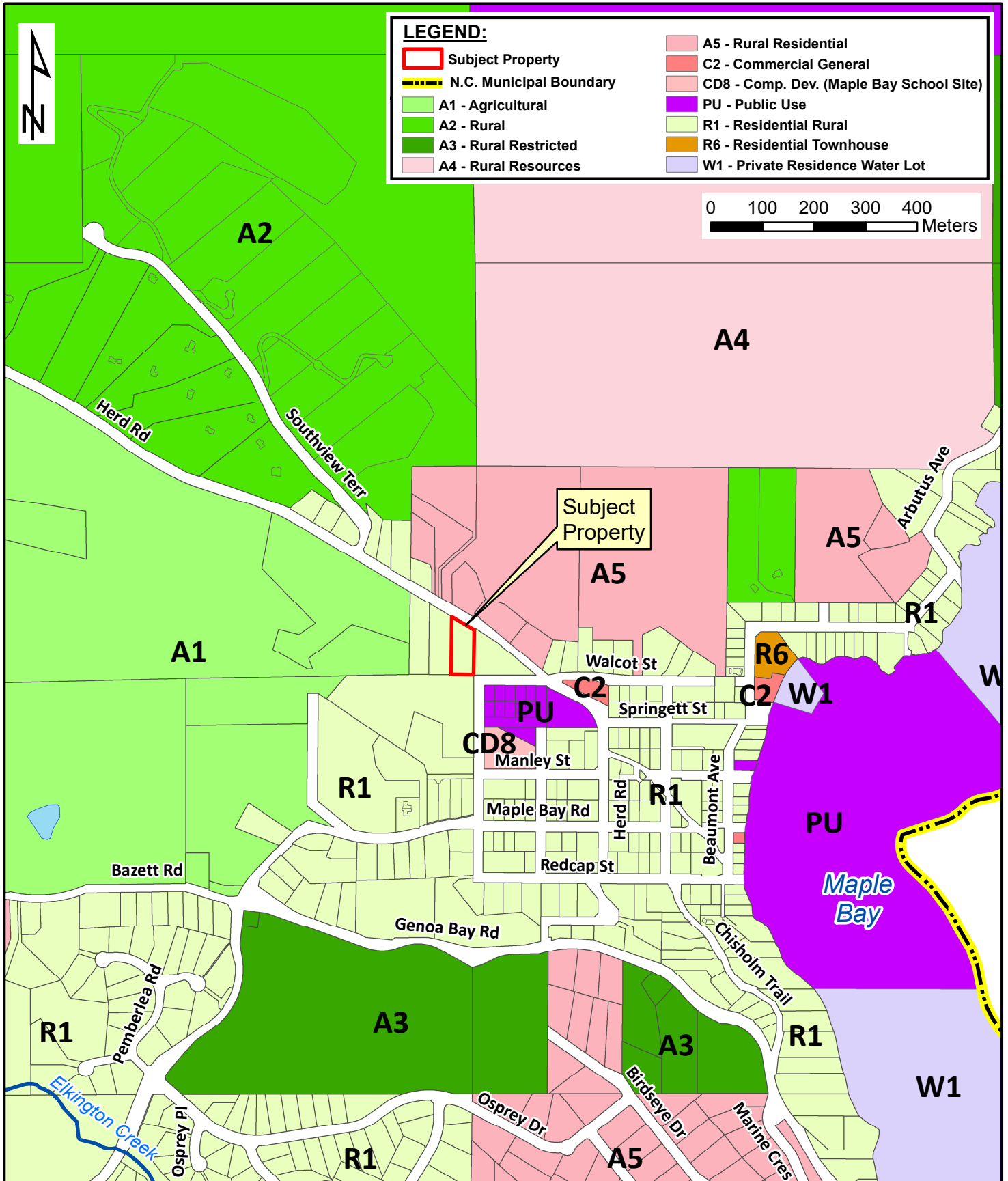
	<b>LOCATION MAP</b>		DATE:	October 1, 2019
	1038 Herd Road		TYPE:	Zoning Amendment
			FILE#:	ZB000118



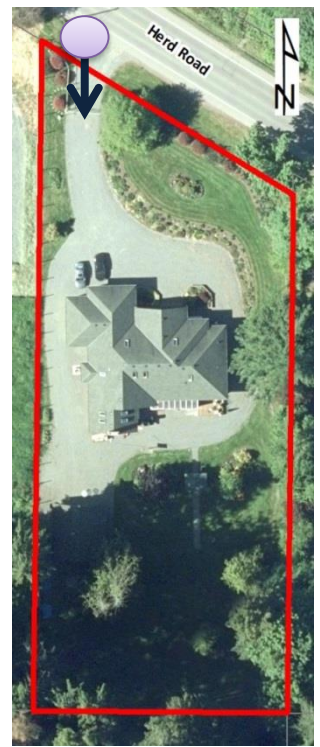


	<b>ORTHOPHOTO MAP</b> ( Orthophoto is from 2017 aerial photography)	<b>DATE:</b> October 1, 2019
	1038 Herd Road	<b>TYPE:</b> Zoning Amendment
		<b>FILE#:</b> ZB000118





	<b>ZONING MAP</b>		DATE:	October 1, 2019
	1038 Herd Road		TYPE:	Zoning Amendment
			FILE#:	ZB000118

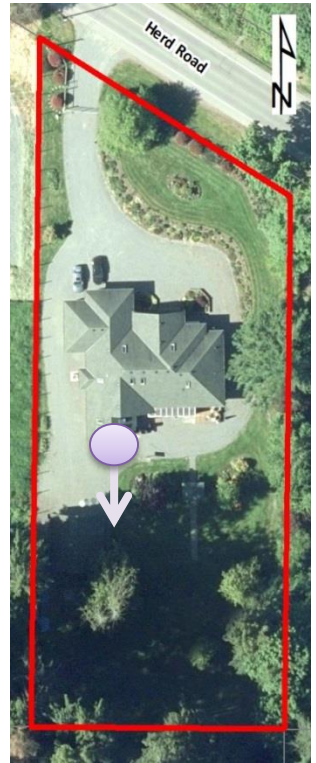


Principal residence and shared driveway access with neighbour's principal dwelling oriented closest to the front property line. Accessory building is located behind.



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 Road<sup>1</sup>**

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](mailto: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

<sup>1</sup> 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:

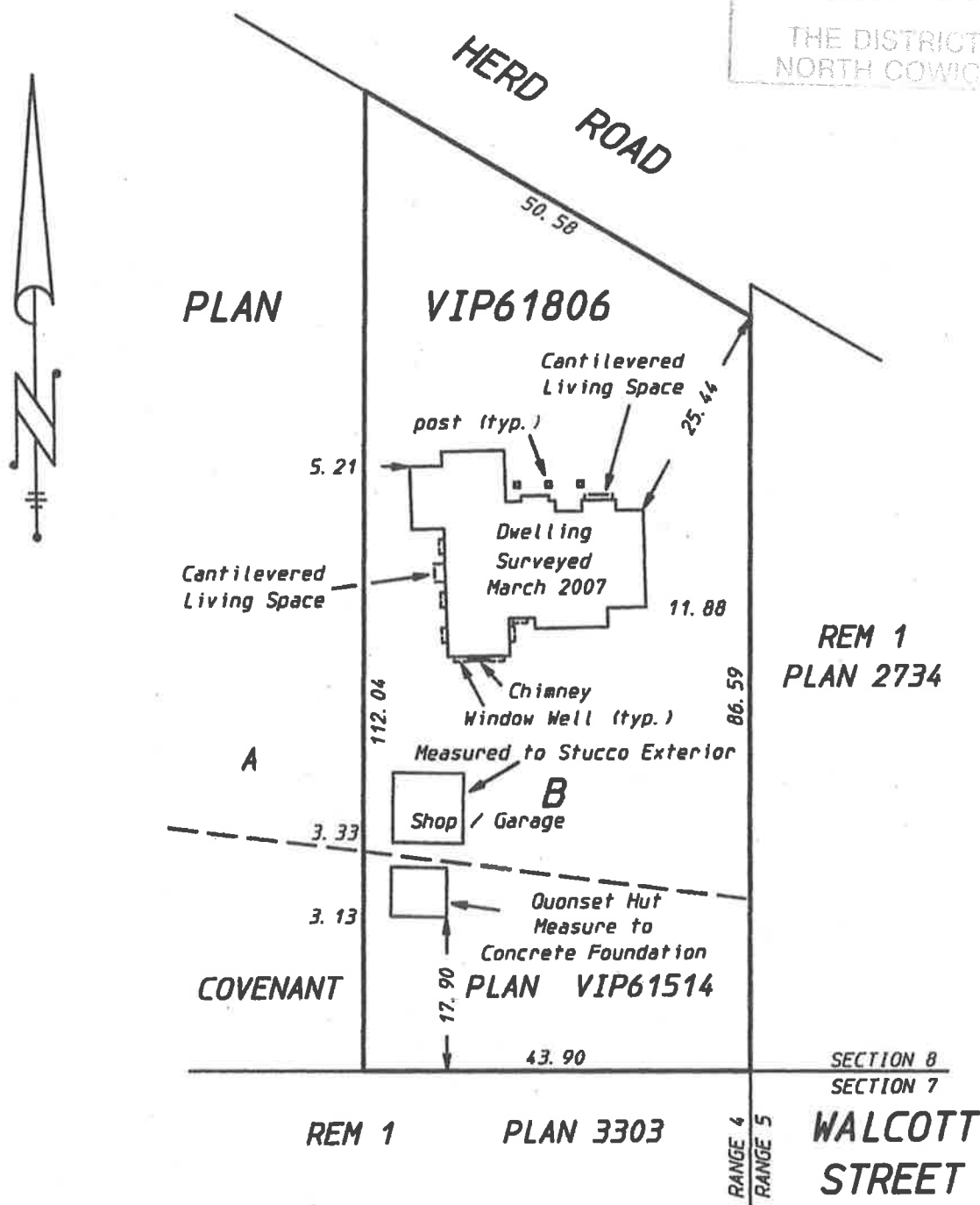
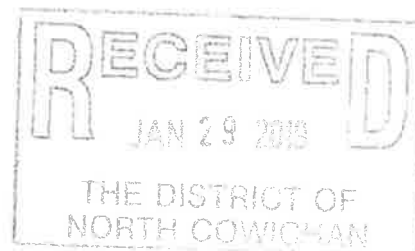
Principal Buildings		Accessory Buildings	
Front	6.0 m	Front	6.0 m
Side	3.0 m	Side	3.0 m
Rear	8.0 m	Rear	3.0 m

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 261 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 m<sup>2</sup> (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 m<sup>2</sup> (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

## 2



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 1<sup>st</sup> and 2<sup>nd</sup> 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)
<b>Agriculture Zone (A1)</b>	<b>All Other Principal Buildings</b> Front, Side, and Rear-46 m (150.91')	<b>No</b>
	<b>Slaughterhouse</b> Front, Side, and Rear-92 m (301.84')	
<b>Rural Zone (A2)</b>	<b>All Other Principal Buildings</b> Front, Side, and Rear-30m (98.42')	<b>No</b>
<b>Rural Restricted Zone (A3)</b>	<b>All Other Principal Buildings</b> Front, and Rear-30m (98.42') Side-15m (49.21')	<b>No</b>

#### 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	
<b>Principal Farm Buildings, Animal Containment, and Storages</b>			
<i>Greenhouse (nursery, specialty wood &amp; 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	
<b>Accessory buildings, structures and facilities</b>			
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	
<b>Marketing, Processing, and Product Preparation Structures and Facilities</b>			
<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	
<b>Waste and Chemical Handling</b>			
<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	
<b>Medical Marihuana Production Facilities (MMPF)</b>			
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.		
<p>* Range in setback distance allows for <u>reductions</u> 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.</p> <p>** Field storage for more than 2 weeks.</p> <p>*** Local government zoning or development permit area criteria usually stipulate the “minimum setback” distance - which is the closest to the object a building or <i>structure</i> 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”.</p> <p>**** <i>Seasonal feeding areas</i> are predominately covered by productive vegetation during the growing season.</p>			

Local Government	Setback Requirements for Farm Uses
<b>Cowichan Valley Regional District</b>	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
<b>Comox Valley Regional District</b>	7.5 m front and rear; 7.5 m side abutting a road and 3.5 m side not abutting a road
<b>District of Central Saanich</b>	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.
<b>District of North Saanich</b>	7.6 m front, rear, side
<b>Regional District of Nanaimo</b>	30 m Intensive Agriculture front, rear, side; 8 m front, rear, side other Ag. Buildings
<b>District of Sooke</b>	Intensive Agriculture 30 m front, rear, side; Non-Intensive Farm Building or Structure 15 m front, rear, side
<b>Village of Pemberton</b>	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)
<b>Permitted Uses</b>	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

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## 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:**

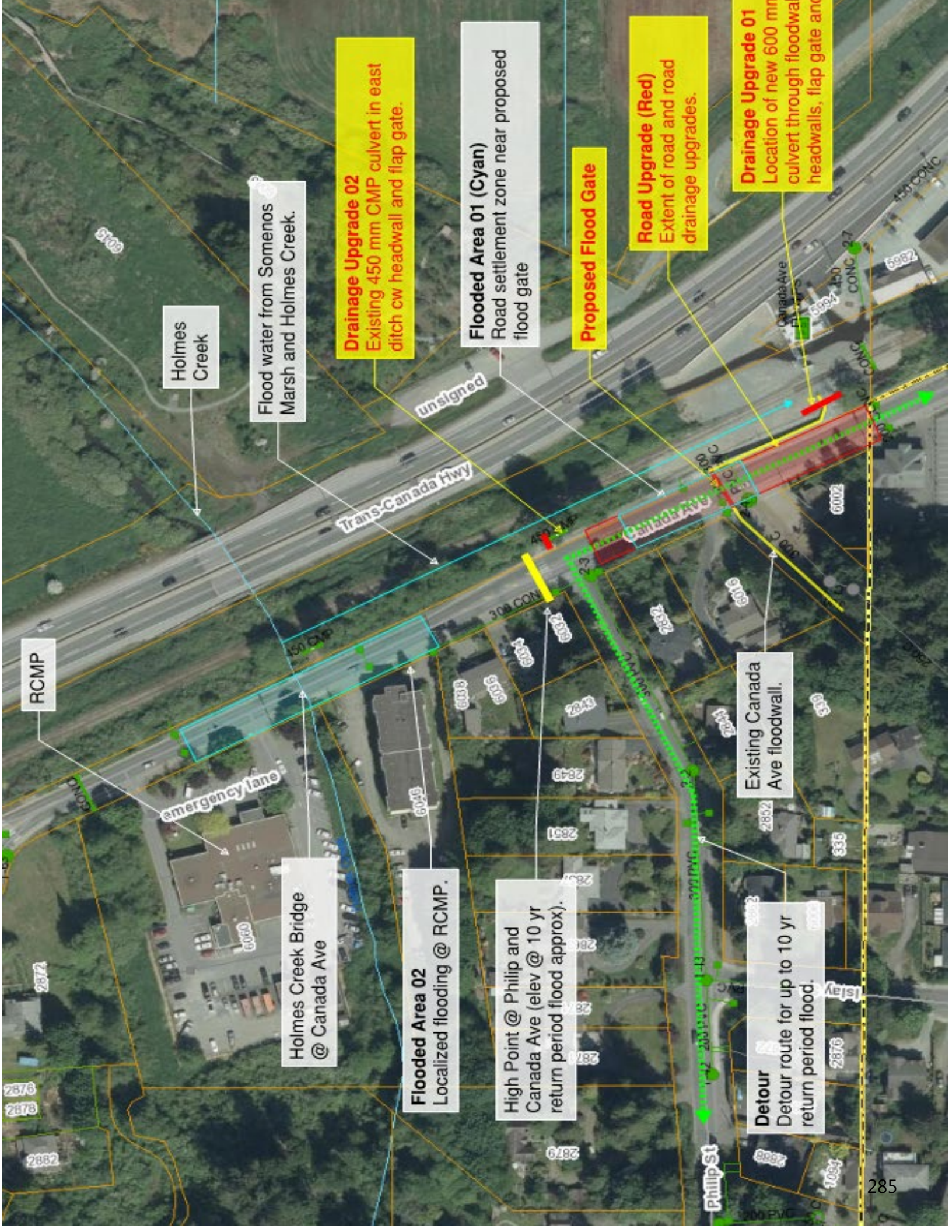
- 1) Supports an application to the Union of British Columbia Municipalities' Community Emergency Preparedness Fund for \$750,000 for the *Canada Ave Flood Gate, Road and Drainage Upgrade Project*; and**
- 2) Direct staff to cancel the *Canada Ave Road Upgrade Project* and adjust the budgets for 2020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





1081



Exit Street View



© 2018 Google  
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# **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**

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Certified by Corporate Officer

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Signed by Mayor

# Report

Date November 6, 2019  
To Council  
From Martin Drakeley, Manager of Fire and Bylaw Services  
Subject Community Emergency Preparedness Fund Grant Application

File:

Endorsed:



## Purpose

To seek Council endorsement of an application to the Union of BC Municipalities' (UBCM) Community Emergency Preparedness Fund for \$25,000 in funding to purchase equipment and supply training for the Sprinkler Protection Unit program.

## Background

This funding stream from the UBCM is to build the resiliency of volunteer and composite fire departments throughout the Province for the purchase of new or replacement equipment, and to facilitate the delivery of training and exercises. Eligible applicants are all local governments (municipalities and regional districts), First Nations (bands and Treaty First Nations), in BC.

## Discussion

The North Cowichan Fire Department (NCFD) and Municipal Forester have partnered to provide North Cowichan with a Wildfire Sprinkler Protection Unit. The trailer was purchased with NCFD funds and using existing Forestry Department equipment to create a trailer that can be used District wide by NCFD firefighters in the event of a wildland interface fire. This would be only the 3<sup>rd</sup> unit in the valley, with Lake Cowichan and Cowichan Valley Regional District (CVRD) each providing the service as of this past summer and Mill Bay currently in the process of completing their trailer unit.

## Implications

North Cowichan's trailer unit will provide sprinkler protection for up to 35 homes at once, and when deployed will attempt to increase the humidity in the area surrounding the affected homes to lessen the chance of ignition of combustibles by wildfire. Currently all NCFD members have training in structural protection for deployment province wide in the event of a state of emergency called either by the Province or the Fire Commissioner. We also have five (5) Sprinkler Protection Specialists who will deliver specific training to the members of the department. This grant will help subsidize the extra hose, sprinklers and equipment required for outfitting the trailer to its fullest capacity and yearly training required to keep the NCFD members current.

## Recommendation

### That Council:

- 1. Support an application to the Union of British Columbia Municipalities' Emergency Preparedness Fund for the Volunteer & Composite Fire Departments Equipment and Training funding stream for \$25,000 to assist in purchasing an extra hose, sprinklers and equipment to outfit the Wildfire Sprinkler Protection Unit trailer and to provide the necessary training; and**
- 2. Direct staff to sign an Approval Agreement including terms and conditions of the grant awarded and manage the funds received if the application for the Volunteer & Composite Fire Departments Equipment and Training funding stream for \$25,000 is successful.**

Attachments: (1)

Attachment 'A' – Community Emergency Preparedness Fund, Volunteer & Composite Fire Departments Equipment & Training, 2019 Program & Application Guide (October 2019)

# Community Emergency Preparedness Fund

## Volunteer & Composite Fire Departments Equipment & Training

### 2019 Program & Application Guide (October 2019)

#### 1. Introduction

The [Community Emergency Preparedness Fund](#) (CEPF) is a suite of funding programs intended to enhance the resiliency of local governments, First Nations and communities in responding to emergencies. Funding is provided by the Province of BC and is administered by Union of BC Municipalities (UBCM).

Starting in May 2019, the funding streams include:

- Indigenous cultural safety and cultural humility training
- Emergency operations centres and training
- Emergency support services
- Evacuation route planning
- Flood risk assessment, flood mapping and flood mitigation planning
- Structural flood mitigation
- Volunteer and composite fire departments equipment and training

#### Background

Fire departments provide fire protection services in designated areas. Fire departments may be structured differently but all firefighters in BC are required to meet minimum training standards.

*Updated October 2019* - Volunteer fire departments are those that have no paid staff, except paid on-call volunteers.

Composite fire departments are those that have a mix of paid staff and unpaid volunteers.

#### Volunteer & Composite Fire Departments Equipment & Training Funding Stream

The intent of this funding stream is to build the resiliency of volunteer and composite fire departments through the purchase of new or replacement equipment and to facilitate the delivery of training. Ongoing operational costs and the purchase of major fire apparatus are not eligible.

#### 2. Eligible Applicants (Updated July 2019)

Eligible applicants are:

- Local governments (municipalities or regional districts) in BC
- First Nations (bands and Treaty First Nations) in BC
- Legally incorporated society-run fire departments in BC that are in good standing
- Improvement Districts in BC

Eligible applicants can submit one application per intake, including regional applications or participation as a partnering applicant in a regional application.



### 3. Eligible Projects

To qualify for funding, applicants must demonstrate the extent to which proposed project(s) will build the resiliency of volunteer and composite fire departments.

In addition, to qualify for funding, projects must:

- Facilitate training or purchase of equipment for volunteer or composite fire departments
- Be a new project (retroactive funding is not available)
- Be capable of completion by the applicant within one year from the date of grant approval
- Align with the [Structure Firefighters Competency & Training Playbook \(May 2015\)](#)

#### Regional Projects

Funding requests from two or more eligible applicants for regional projects may be submitted as a single application for eligible, collaborative projects. In this case, the maximum funding available would be based on the number of eligible applicants included in the application. It is expected that regional projects will demonstrate cost-efficiencies in the total grant request.

The primary applicant submitting the application for a regional project is required to submit a resolution or motion as outlined in Section 6 of this guide. Each partnering applicant is required to submit a resolution or motion that clearly states their approval for the primary applicant to apply for, receive, and manage the grant funding on their behalf.

### 4. Eligible & Ineligible Costs & Activities (Updated August 2019)

#### Eligible Costs & Activities

Eligible costs are direct costs that are approved by the CEPF Evaluation Committee, properly and reasonably incurred, and paid by the applicant to carry out eligible activities. Eligible costs can only be incurred from the date of application submission until the final report is submitted.

Eligible activities must be cost-effective and may include:

- Purchase of new or replacement equipment to enhance the ability of eligible fire departments to meet the needs of the community and Playbook standards. This may include:
  - Equipment required to support response to structural fire (other than major fire apparatus)
  - Equipment required to support response to interface fires such as: hoses, pumps, bladders and approved wildland firefighting personal protective equipment
- Training to enhance the ability of eligible fire departments to meet the needs of the community and Playbook standards. This may include:
  - Delivery of training to firefighters including instructor costs, travel, tuition and course fees
  - Cross training for wildland fires limited to courses such as: S-100 Basic Fire Suppression & Safety, S-185 Fire Entrapment Avoidance & Safety, and ICS-100 Introduction to Incident Command System
  - Fire-related training props to assist with in-house training, including live burn training structures

The following expenditures are also eligible provided that they relate directly to the eligible activities identified above:

- Consultant costs
- Incremental applicant staff and administration costs
- Public information costs

## Ineligible Costs & Activities

Any activity that is not outlined above or is not directly connected to activities approved in the application by the CEPF Evaluation Committee is not eligible for grant funding. This includes:

- Purchase of major capital items, major fire apparatus or vehicles
- Routine or ongoing operating costs (i.e. heating and lighting; security; software subscriptions or other subscription fees)
- Use of a fire department during an emergency
- Training offered through the [Provincial Emergency Management Training Program](#)
- Major capital improvements or renovations to existing facilities and/or construction of new, permanent facilities (excluding live burn training structures)
- Costs related to developing or submitting the application package

## 5. Grant Maximum (Updated July 2019)

The Volunteer & Composite Fire Departments Equipment & Training funding stream can contribute a maximum of 100% of the cost of eligible activities to a maximum of \$25,000.00.

However, due to the number of fire departments that may be under their jurisdiction, regional districts can apply for a maximum of \$25,000.00 for each fire department that they have established a service area for in a single application.

In order to ensure transparency and accountability in the expenditure of public funds, all other grant contributions for eligible portions of the project must be declared and, depending on the total value, may decrease the value of the grant.

## 6. Application Requirements & Process (Updated July 2019)

### Application Deadline

The application deadline is **November 15, 2019**. Applicants will be advised of the status of their application within 90 days of the application deadline.

### Required Application Contents

All applicants are required to submit:

- Completed Application Form
- Detailed budget for each component identified in the application. This must clearly identify the CEPF funding request, applicant contribution, and/or other grant funding.
- For regional projects only: resolution or motion from each partnering applicant that clearly states their approval for the primary applicant to apply for, receive and manage the grant funding on their behalf.

**Resolutions or motions from partnering applicants must include the language above**

If the applicant is a local government, First Nation or improvement district, the following must also be submitted:

- Local government Council or Board resolution, Band Council resolution or Treaty First Nation resolution, or improvement district Trustee resolution, indicating support for the current proposed activities and willingness to provide overall grant management

If the applicant is a legally incorporated society-run fire department, they must also submit:

- Board of Directors motion indicating support for the current proposed activities and willingness to provide overall grant management
- Current Certificate of Good Standing
- Up to 3 letters of support from local organizations or agencies (local government, Band office, Chamber of Commerce, etc.)

### **Submission of Applications**

Applications should be submitted as Word or PDF files. If you choose to submit your application by e-mail, hard copies do not need to follow.

All applications should be submitted to:

Local Government Program Services, Union of BC Municipalities

E-mail: [cepf@ubcm.ca](mailto:cepf@ubcm.ca)

Mail: 525 Government Street, Victoria, BC, V8V 0A8

### **Review of Applications**

UBCM will perform a preliminary review of applications to ensure the required application elements (identified above) have been submitted and to ensure that basic eligibility criteria have been met. Only complete application packages will be reviewed.

Following this, the CEPF Evaluation Committee will assess and score all eligible applications. Higher application review scores will be given to projects that:

- Clearly demonstrate how the proposed project will build the resiliency of volunteer and/or composite fire departments
- Support eligible fire departments with limited resources that impede the ability to purchase essential equipment and/or provide training
- Provide training to specifically address the mental wellbeing of eligible fire department staff and volunteers
- Demonstrate transferability or mutual aid between local governments or First Nations in BC;
- Include in-kind or cash contributions to the project from the eligible applicant, partnering applicant(s), community partners or other grant funding
- Are cost-effective

Point values and weighting have been established within each of these scoring criteria. Only those applications that meet a minimum threshold point value will be considered for funding. The CEPF Evaluation Committee will consider the provincial and regional distribution of all proposed projects. Funding decisions will be made on a provincial priority basis.

All application materials will be shared with the Province of BC

## **7. Grant Management & Applicant Responsibilities**

Grants are awarded to eligible applicants only and, as such, the applicant is responsible for completion of the project as approved and for meeting reporting requirements.

Applicants are also responsible for proper fiscal management, including maintaining acceptable accounting records for the project. UBCM reserves the right to audit these records.

## **Notice of Funding Decision**

All applicants will receive written notice of funding decisions. Approved applicants will receive an Approval Agreement, which will include the terms and conditions of any grant that is awarded, and that is required to be signed and returned to UBCM. Grants are paid at the completion of the project and only when the final report requirements have been met.

Please note that in cases where revisions are required to an application, or an application has been approved in principle only, the applicant has 30 days from the date of the written notice of the status of the application to complete the application requirements. Applications that are not completed within 30 days may be closed.

## **Changes to Approved Projects**

Approved grants are specific to the project as identified in the application, and grant funds are not transferable to other projects. Approval from the CEPF Evaluation Committee will be required for any significant variation from the approved project.

To propose changes to an approved project, approved applicants are required to submit:

- Revised application package, including updated, signed application form, updated budget and an updated resolution
- Written rationale for proposed changes to activities and/or expenditures

The revised application package will then be reviewed by the CEPF Evaluation Committee at the next scheduled meeting.

Applicants are responsible for any costs above the approved grant unless a revised application is submitted and approved prior to work being undertaken.

## **Extensions to Project End Date**

All approved activities are required to be completed within one year of approval. Under exceptional circumstances, an extension beyond this date may be requested in writing and is subject to approval by the CEPF Evaluation Committee.

## **8. Final Report Requirements & Process**

All funded activities must be completed within one year of notification of funding approval and the final report is due within 30 days of project completion.

Applicants are required to submit an electronic copy of the complete final report, including the following:

- Completed Final Report Form
- Financial summary
- Copies of any training or capacity building materials that were produced with grant funding.
- Optional: photos and/or media directly related to the funded project

## **Submission of Final Reports**

All final reports should be submitted to:

Local Government Program Services, Union of BC Municipalities

E-mail: [cepf@ubcm.ca](mailto:cepf@ubcm.ca)

Mail: 525 Government Street, Victoria, BC, V8V 0A8

All final report materials will be shared with the Province of BC.

## **9. Additional Information**

For enquiries about the application process or general enquiries about the program, please contact:

Union of BC Municipalities  
525 Government Street  
Victoria, BC, V8V 0A8

E-mail: [cepf@ubcm.ca](mailto:cepf@ubcm.ca)

Phone: (250) 387-4470

# Report

Date November 6, 2019

File: 0400-60 CVRD

To Council

From Karen Robertson, Corporate Officer

Endorsed:



Subject CVRD Board Appointments

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## Purpose

To reaffirm the Cowichan Valley Regional District Board appointments.

## Background

Under Section 784 (1) and 786 (1) of the *Local Government Act*, Council must appoint from amongst its members representatives to the Cowichan Valley Regional District Board. In the case of North Cowichan that number is three.

Board members can be appointed for the entire term of Council, or for a specified period time as directed by Council.

## Discussion

At the November 7, 2019 Inaugural meeting, Council passed a motion appointing Mayor Siebring, Councillor Douglas, and Councillor Marsh as appointees to the Cowichan Valley Regional District Board and appointed Councillor Toporowski as Alternate #1, Councillor Justice as Alternate #2, and Councillor Manhas as Alternate #3.

Subsequent to that decision, Councillor Douglas withdrew his name (at his request) and on November 21, 2019 Council passed a motion to rescind the appointment of Councillor Douglas as a Director to the CVRD Board and appoint Councillor Toporowski to replace him as a Director to the CVRD, for a term to end October 31, 2019. Council also amended the Alternate appointments to reflect Councillor Justice as Alternate #1, Councillor Manhas as Alternate #2, and Councillor Sawrie as Alternate #3.

As those appointments have now expired, Council must reappoint the Council members and alternates prior to the next Board meeting which is scheduled for November 13, 2019. Of note, Council can extend the appointments for the entire term of Council, or has the option to revisit them annually.



## Options

Depending on the length of time that Council wishes to appoint the members to the Board, the following options are presented for Council's consideration.

### Option 1:

That Council re-affirm Mayor Siebring, Councillor Marsh and Councillor Toporowski as the Cowichan Valley Regional District Board appointees for the remainder of the Council term;

And That Council reaffirm Councillor Justice as Alternate #1, Councillor Manhas as Alternate #2, and Councillor Sawrie as Alternate #3 for the remainder of the Council term.

### Option 2:

That Council re-affirm Mayor Siebring, Councillor Marsh and Councillor Toporowski as the Cowichan Valley Regional District Board appointees for a further one year period, to expire December 31, 2020;

And That Council reaffirm Councillor Justice as Alternate #1, Councillor Manhas as Alternate #2, and Councillor Sawrie as Alternate #3 for a further one year period, to expire December 31, 2020.

## Recommendation

**That Council select one of the following options:**

### Option 1:

**That Council re-affirm Mayor Siebring, Councillor Marsh and Councillor Toporowski as the Cowichan Valley Regional District Board appointees for the remainder of the Council term;**

**And That Council reaffirm Councillor Justice as Alternate #1, Councillor Manhas as Alternate #2, and Councillor Sawrie as Alternate #3 for the remainder of the Council term; or**

### Option 2:

**That Council re-affirm Mayor Siebring, Councillor Marsh and Councillor Toporowski as the Cowichan Valley Regional District Board appointees for a further one year period, to expire December 31, 2020;**

**And That Council reaffirm Councillor Justice as Alternate #1, Councillor Manhas as Alternate #2, and Councillor Sawrie as Alternate #3 for a further one year period, to expire December 31, 2020**