

Municipality of North Cowichan

Regular Council

AGENDA

Wednesday, December 2, 2020, 1:30 p.m.
Electronically

Pages

1. CALL TO ORDER

This meeting, though electronic, is open to the public and all representations to Council form part of the public record. At this time, due to the COVID-19 Pandemic, public access to Council Chambers is not permitted, however, this meeting may be viewed on the District's lived stream webcast at www.northcowichan.ca/agendas.

2. APPROVAL OF AGENDA

2.1. Approval of Consent Agenda

6 - 38

Purpose: To adopt all recommendations appearing on the Consent Agenda in one motion. Any item may be moved out at the request of any Council member for discussion or debate, before the agenda is approved. Items removed from the Consent Agenda will be placed under New Business.

Recommendation:

That the Consent Agenda be approved.

2.2. Approval of Regular Agenda

Recommendation:

That Council adopt the agenda, as circulated [or as amended].

3. ADOPTION OF MINUTES

3.1. Regular Council meeting held November 18, 2020 for adoption

39 - 44

Recommendation:

That Council adopt the minutes of the Regular Council meeting held November 18, 2020.

4. MAYOR'S REPORT

5. DELEGATIONS AND PRESENTATIONS

5.1. Cowichan Green Community

45 - 64

Purpose: To consider the Cowichan Green Community's request for a longer-term lease for 2431 Beverly Street and to amend their lease to include the installation of a commercial kitchen, warehouse space, and connect to municipal water and sewer.

6. PUBLIC INPUT

Public Input submissions sent to Agenda@northcowichan.ca by 5:00 p.m. on December 1, 2020 will be circulated to Council by way of an Addendum at 6:00 p.m. on December 1, 2020, and can be viewed by visiting www.northcowichan.ca/agendas.

7. BYLAWS

7.1. **Housing Agreement Bylaw and Leases for Willow Street and Sherman Road Affordable Housing Projects** 65 - 160

Purpose: To introduce the leases for the planned affordable housing projects at 9800 Willow Street and 3191 Sherman Road and adoption of Housing Agreement Bylaw 2020, No. 3805.

Recommendation:

1. That Council adopt Housing Agreement Bylaw 2020, No. 3805.
2. That Council approve the lease with CLT0003 Community Society (Inc. No. SS0070806) for the affordable housing 3191 Sherman Rd site for a term of 99 years at a lease rate of \$10 and authorize the Corporate Officer to sign the lease and forms to register the lease on title.
3. That Council approve the lease with CLT0003 Community Society (Inc. No. SS0070806) for the affordable housing site at 9800 Willow St for a term of 99 years at a lease rate of \$10 and authorize the Corporate Officer to sign the lease and forms to register the lease on title.

7.2. **Parks and Public Places Regulation Amendment Bylaw, 2020 No. 3806 for adoption** 161 - 161

Purpose: To consider adoption of Parks and Public Places Regulation Amendment Bylaw, 2020 No. 3806, which received first three readings at the November 18, 2020 Regular Council meeting, and if adopted will align with the Respectful Spaces Bylaw.

Recommendation:

That Council adopt Parks and Public Places Regulation Amendment Bylaw, 2020, No. 3806.

7.3. **Municipal Ticket Information System Amendment Bylaw, 2020 No. 3807 for adoption** 162 - 163

Purpose: To consider adoption of Municipal Ticket Information System Amendment Bylaw, 2020 No. 3807, which received first three readings at the November 18, 2020 Regular Council meeting, and if adopted will add fines associated with the Respectful Spaces Bylaw.

Recommendation:

That Council adopt Municipal Ticket Information System Amendment Bylaw, 2020, No. 3807.

- 7.4. Controlled Substance Bylaw No. 3803, 2020 for first three readings** 164 - 196
- To introduce Controlled Substance Bylaw No. 3803, 2020 so that Council may consider replacing Nuisance (Controlled Substance) Bylaw No. 3246, 2006 with Bylaw No. 3803 to modernize the language and update regulations to ensure they are relevant and enforceable.
- Recommendation:
That Council gives first, second and third readings to Controlled Substance Bylaw No. 3803, 2020.
- 7.5. Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020 for first three readings** 197 - 206
- Purpose: To introduce Bylaw No. 3804 so that Council may consider establishing a process for imposing costs that may be recovered and applied as property taxes when a property owner has failed to mitigate a nuisance on their property.
- Recommendation:
That Council gives first, second and third readings to Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020.
- 7.6. Zoning Amendment Application No. ZB000132 (Lot 7 Wellburn Place) for first two readings** 207 - 218
- Purpose: To introduce Bylaw No. 3809, which proposes a site-specific zoning amendment for Lot 7 at Wellburn Place, to permit a second detached dwelling unit in addition to a principal single family dwelling in the Rural Residential (R1) zone.
- Recommendation:
That Council give first and second readings to Zoning Amendment Bylaw No. 3809, 2020 to permit a second residential dwelling building on Lot 7 of Wellburn Place;
- And that a public hearing be scheduled for Bylaw No. 3809 in accordance with the *Local Government Act*.

8. REPORTS

- 8.1. Temporary Mobile Home Permit Application for 5855 Menzies Road** 219 - 233
- Purpose: To consider issuance of a Temporary Mobile Home Permit (TMHP) for 5855 Menzies Road to allow a mobile home to be placed on the property in addition to the principal single family dwelling.
- Recommendation:
That Temporary Mobile Home Application No. TTP00079 be approved and a permit be issued for a temporary mobile home located at 5855 Menzies Road, and that Council authorizes that the maximum width of the mobile home not to exceed 8.54 metres.

8.2. 2021 Schedule for Council and Committee of the Whole Meetings

234 - 238

Purpose: To present the 2021 Council, Public Hearing and Committee of the Whole meeting schedule for Council's consideration.

Recommendation:

1. That Council schedule regular Committee of the Whole meetings on the second Tuesday of each month in 2021, commencing at 6:00 p.m., with the exception of the September 2021 meeting, which shall be held on the first Tuesday (September 7, 2021) at 6:00 p.m.
2. That Council reschedule the following regular Council meetings:
 - first meeting in January from 1:30 p.m. on Wednesday, January 6, 2021, to 1:30 p.m. on Wednesday, January 13, 2021;
 - the first meeting in February from 1:30 p.m. on Wednesday, February 3, 2021, to 1:30 p.m. on Tuesday, February 2, 2021; and
 - the second meeting in September from 1:30 p.m. on Wednesday, September 15, 2021, to 1:30 p.m. on Wednesday, September 22, 2021
3. That Council cancel the July 7, 2021, and August 4, 2021, Regular Council meetings.
4. That Council approve the "2021 North Cowichan Council, Public Hearing and COW Schedule" as presented, and that public notice be provided in accordance with section 5 of the Council Procedure Bylaw.

8.3. RCMP Office Supervisor/Police Support Services position

239 - 243

Purpose: To consider the recommendation made by the Committee of the Whole on November 24, 2020.

Recommendation:

That Council direct staff to include a RCMP Office Supervisor/Police Support Services position in the 2021 Budget effective January 1, 2021.

9. NOTICES OF MOTIONS

10. UNFINISHED AND POSTPONED BUSINESS

11. NEW BUSINESS

11.1. Affordable Housing

244 - 248

Purpose: So that Councillor Douglas may move the motion he introduced and gave notice on at the November 18, 2020 regular meeting.

Recommendation:

That Council direct staff to work with the Cowichan Housing Association to develop an affordable housing policy and implementation strategy.

12. QUESTION PERIOD

A 10-minute recess to be provided to give the public an opportunity to submit their questions by email to QP@northcowichan.ca regarding the business discussed at this meeting. Questions will be read out in the order they are received.

13. CLOSED SESSION

Recommendation:

That Council close the December 2, 2020 Regular Council meeting at ___ p.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)(e) - disposition or expropriation of land or improvements, which the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- 90(1)(m) - a matter that, under another enactment, that being section 16(1)(a)(iii) of the *Freedom of Information and Protection of Privacy Act* related to intergovernmental relations or negotiations with an aboriginal government, is such that the public may be excluded from the meeting; and
- 90(2)(b) - the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

13.1. Minutes from the November 18, 2020 Council Closed meeting for adoption

13.2. Closed under Section 90(1)(e) land disposition and 90(1)(m) FOIPPA s. 16 - relations with an aboriginal government

13.3. Closed under section 90(1)(m) FOIPPA s. 16 - relations with an aboriginal government and 90(2)(b) negotiations

13.4. Closed under section 90(1)(e) land disposition

13.5. Closed under section 90(1)(e) land disposition

13.6. Closed under section 90(1)(e) land disposition

13.7. Closed under section 90(1)(c) personnel

14. RISE AND REPORT

15. ADJOURNMENT

Municipality of North Cowichan

Consent Agenda

December 2, 2020

CONSENT AGENDA groups correspondence received by Council, which may require a response or action, into one agenda item called the consent agenda (Roberts Rules of Order calls it a “consent calendar”). This allows

Council to publicly acknowledge receipt of those items in a unanimously agreed to vote instead of filing multiple motions. Any item may be moved out of the consent agenda at the request of any Council member, before approval of the agenda. Items removed from the Consent Agenda will be placed under New Business.

Pages

1. Draft Committee Minutes

- 1.1. OCP Advisory Group and OCP Community Ambassador Team draft minutes for information 1

Recommendation:

That the following minutes be received for information purposes only:

- October 28, 2020 OCP Advisory Group Minutes
- October 22, 2020 OCP Community Ambassador Team Minutes
- October 20, 2020 OCP Community Ambassador Team Minutes

2. Correspondence

Recommendation:

That the following correspondence is received for information purposes only:

- 2.1. November 14, 2020 email from a resident regarding the use of municipal flag poles 8
- 2.2. November 14, 2020 email from a resident regarding a request to purchase a building for the Neighborhood House in Chemainus 9
- 2.3. November 16, 2020 email from the Canadian Federation of Independent Business regarding the internal review of the development application for 3137 Henry Road 10
- 2.4. November 16, 2020 email from a resident regarding signage and bylaw compliance officers hours to enforce parking on Kaspa Road near Mount Tzouhalem on weekends 13
- 2.5. November 18, 2020 email from the Office of the Lieutenant Governor announcing the British Columbia Reconciliation Award (Note: Nominations Close - January 15, 2021) 14

2.6.	November 19, 2020 email from a Sooke resident asking why people continue to follow the restrictions put in place in relation to COVID-19	22
2.7.	November 19, 2020 email from a resident regarding the use of the alternative approval process for Crofton Fire Hall	25
2.8.	November 20, 2020 email from a resident regarding Council's decision to appeal the court decision in relation to the race track	28
2.9.	November 22, 2020 email from a resident regarding Council's decision to deny the Motorsport Track's request for expansion	29
2.10.	November 23, 2020 email from a resident inquiring why North Cowichan was not included in the Capital Regional District's Speculation Tax Plan	30

Municipality of North Cowichan Official Community Plan Advisory Group MINUTES

**October 28, 2020, 5:00 p.m.
Electronically**

Members Present

Caitlin Kenny, Chair
Brielle Varasteh
Cam Campbell
Chris Crowther
Ender McDuff
Bernie Jones
Mona Kaiser
Sandy McPherson
David Messier
Nick Neisingh
Tim Openshaw
Shannon Waters

Consultant

Suzy Lunn

Staff Present

Rob Conway, Director, Planning and Building
Megan Jordan, Manager, Communications and Public Engagement
Chris Hutton, Community Planning Coordinator
Mairi Campeau, Community Planner

1. CALL TO ORDER

There being a quorum present, the Chair called the meeting to order at 5:04 p.m.

2. APPROVAL OF AGENDA

IT WAS MOVED AND SECONDED:

That the Official Community Plan Advisory Group approve the agenda as circulated.

CARRIED

3. ADOPTION OF MINUTES

3.1 Official Community Plan Advisory Group Minutes

IT WAS MOVED AND SECONDED:

That the minutes of the OCP Advisory Group meeting held June 5, 2020, be adopted.

CARRIED

4. BUSINESS

4.1 Welcome and Introductions

Name and brief intro.

4.2 Project Schedule Update

A presentation was provided to the advisory group followed by a discussion.

4.3 Vision and Goals Survey and Update

A presentation was provided to the advisory group followed by a discussion.

IT WAS MOVED AND SECONDED:

That the OCP Advisory Group advises Council to accept the draft principles, draft goals and draft vision statement. DEFEATED

The OCP Advisory Group did not want to approve the motion as they have comments – continued in housekeeping section.

4.4 Draft Principles, Goals and Vision Statement

Discussion occurred with Section 4.3.

4.5 Community Character Framework

A presentation was provided to the advisory group, followed by a discussion.

4.6 Stakeholder Management Update

A brief presentation and updated was provided to the advisory group.

4.7 Housekeeping, Wrap Up and Next Steps

As the motion was defeated, the advisory group discussed an updated motion.

IT WAS MOVED AND SECONDED:

That the OCP Advisory Group advises Council that the draft Vision statement, goals and Principles are generally accepted, trusting that comments received from Advisory Group members are taken into consideration and further iterations will be presented to the OCP AG for comment. DEFEATED

IT WAS MOVED AND SECONDED:

That this meeting recess at 7:45 p.m. and reconvene at 5:00 p.m. on November 5 to review the updated draft of vision, principles and goals. CARRIED

The meeting reconvened on November 5, 2020 at 5:00 p.m.

A brief presentation was provided showing the updates to the goals, principles and vision report with a discussion that followed.

IT WAS MOVED AND SECONDED:

That the OCP Advisory Group advises to Council that they accept the revised version of the Goals, Principles and Vision report.

CARRIED

5. NEW BUSINESS

None.

6. ADJOURNMENT

The meeting ended at 6:05 p.m. on November 5, 2020

Signed by Chair

Certified by Recording Secretary

DRAFT

Municipality of North Cowichan Official Community Plan Community Ambassador Teams MINUTES

**October 22, 2020, 5:00 p.m.
Electronically**

Members Present Lisa Hudson, Chair
Wendy MacPherson
Marita Judson
Craig Meredith
Sheila Kitson
Cam Campbell
Caitlin Kenny
Andrew Wilson
Laura Funk
Rhiannon Snaith
David Messier
Cindy Lise

Staff Present Megan Jordan, Manager of Communications
Chris Hutton, Community Planning Coordinator
Mairi Bosomworth, Community Planner
Anthony Price, Planning Technician

1. CALL TO ORDER

There being a quorum present, the Chair called the meeting to order at 5:04 p.m.

2. APPROVAL OF AGENDA

IT WAS MOVED AND SECONDED:

That the Official Community Plan Community Ambassador Teams approved the agenda as circulated.

CARRIED

3. BUSINESS

3.1 Part One - Conference session with all attendees

3.1.1 Welcome

Name and brief intro.

3.1.2 Introducing Community Character and Values Engagement

A presentation was provided to the teams followed by a discussion.

3.1.3 Presenting Community Character Framework

A presentation was provided to the teams followed by a discussion.

3.1.4 Present example survey/workbook exercise

The survey tool and workbook have not yet been finalized.

3.1.5 Discuss proposed role of Ambassadors

A presentation was provided regarding the role and expectation of the Ambassadors.

3.2 Part Two - Breakout with each community

The teams broke out into four groups, representing each Community Ambassador Team, led by a member of the Planning department. Each team was asked the same questions, identified below.

3.2.1 Is this the right area for your community?

3.2.2 Is this the right name for your community?

3.2.3 Discussion of Engagement Framework and Engagement Exercise Questions

3.2.4 Can you tell us your top 3 (natural, built, cultural/heritage) landmarks in your community?

3.2.5 Are there any questions we should not be asking?

3.3 Part Three - Conference session with all attendees

3.3.1 Wrap Up and Next Steps

Summaries of each breakout occurred and the teams then had an opportunity to ask staff any questions they may have.

4. NEW BUSINESS

None.

5. ADJOURNMENT

The meeting ended at 7:03 p.m.

Signed by Chair

Certified by Recording Secretary

Municipality of North Cowichan

Official Community Plan Community Ambassador Teams

MINUTES

October 20, 2020, 5:00 p.m.
Electronically

Members Present

Gregg Perry, Chair
Sandy McPherson
Sheryl Sametz
Christina Godbolt
Tim Openshaw
Dave Jackson
Ender McDuff
Margo Young
Carreen Unguran
Nancy Dower
Brielle Varasteh
Tom Andrews
Ken Brown
Mona Kaiser

Staff Present

Megan Jordan, Manager of Communications
Chris Hutton, Community Planning Coordinator
Mairi Bosomworth, Community Planner
Anthony Price, Planning Technician

1. CALL TO ORDER

There being a quorum present, the Chair called the meeting to order at 5:05 p.m.

2. APPROVAL OF AGENDA

IT WAS MOVED AND SECONDED:

That the Official Community Plan Community Ambassador Teams approve the agenda as circulated.

CARRIED

3. BUSINESS

3.1 Part One - Conference session with all attendees

3.1.1 Welcome

Name and brief intro.

3.1.2 Introducing Community Character and Values Engagement

A presentation was provided to the teams followed by a discussion.

3.1.3 Presenting Community Character Framework

A presentation was provided to the teams followed by a discussion.

3.1.4 Present example survey/workbook exercise

The survey tool and workbook have not yet been finalized.

3.1.5 Discuss proposed role of Ambassadors

A presentation was provided regarding the role and expectation of the Ambassadors.

3.2 Part Two - Breakout with each community

The teams broke out into four groups, representing each Community Ambassador Team, led by a member from the Planning department. Each team was asked the same questions identified below.

3.2.1 Is this the right area for your community?

3.2.2 Is this the right name for your community?

3.2.3 Discussion of Engagement Framework and Engagement Exercise Questions

3.2.4 Can you tell us your top 3 (natural, built, cultural/heritage) landmarks in your community?

3.2.5 Are there any questions we should not be asking?

3.3 Part Three - Conference session with all attendees

3.3.1 Wrap Up and Next Steps

Summaries of each breakout occurred and the teams then had an opportunity to ask staff any questions they may have.

4. NEW BUSINESS

None.

5. ADJOURNMENT

The meeting ended at 7:02 p.m.

Signed by Chair

Certified by Recording Secretary

-----Original Message-----

From: [REDACTED] FIPPA s. 22(1)

Sent: Saturday, November 14, 2020 1:53 PM

To: duncan@duncan.ca

Subject: Flag poles underused

Dear Mayors and Councillors:

For years I've noticed various flag poles around Duncan and North Cowichan that have no flags on them. I believe these bare, unused poles could proudly fly flags of Canada, B.C., North Cowichan, Duncan, or various other charitable or patriotic groups such as the Legion, Scouts, Canadian Cancer Society, Heart and Stroke Society etc.

I urge our councils to consider drafting a policy or bylaw encouraging local businesses and landowners to hoist flags on their poles, or have our municipalities raise those flags in community character and national spirit.

Our policies could also encourage other cities and towns to do the same.

Yours most truly,

[REDACTED], FIPPA s. 22(1)

Duncan, B.C.,

[REDACTED] FIPPA s. 22(1)

-----Original Message-----

From: [REDACTED] FIPPA s. 22(1)

Sent: Saturday, November 14, 2020 8:36 AM

To: Council <council@northcowichan.ca>

Subject: Neighborhood house Chemainus

I read in the newspaper that neighborhood house in Chemainus is requesting tax payer funds to purchase a building. I think this is a terrible idea. This organization has a free store provides food to eight homeless and computer access. Funds would be better spent purchasing st joe's property adjacent to the ball park as a community centre for the town rather than for a few. The catholic diocese is taking offers but to date hasn't been sold. Your consideration is appreciated

Sent from my iPhone

From: Brendan Rolfe
Sent: Monday, November 16, 2020 11:06 AM
To: Al Siebring ; Council
Cc: ronna-rae.leonard.mla@leg.bc.ca; Rob Conway
Subject: CFIB Member Letter - Time Sensitive: Development Application, Expedited Internal Review Request
Importance: High

Good morning Mayor and Council,

Please find attached a letter written on behalf of our member, Ms. April Miller, owner of Versatile Technologies in Chemainus. Ms. Miller has a development application filed with the Municipality which requires internal review. The application requires review before the Christmas break in December due to restrictions imposed by the Agricultural Land Committee. Should it not receive review by then, and ultimately approval, the employment of 20-25 Chemainus residents will be severed.

We understand the need for due diligence and that a queue likely exists, however, given the potential impact to many workers, should the queue be lengthy, we respectfully request expedition of the internal review of the development application.

Please note that I have copied individuals whom I believe have stake in this issue, and would value their support:

Mrs. Ronna-Rae Leonard, MLA Courtenay – Comox
Mr. Rob Conway, Director Planning & Building, North Cowichan

November 16, 2020

Mayor Al Siebring & Council
Municipality of North Cowichan
7030 Trans-Canada Hwy
Duncan, BC V9L 6A1

**Subject: 3137 Henry Road, Chemainus – Development Application, Expedited Review Request
(Identifier # 003-923-665)**

Dear Mayor & Council,

As you may know, the Canadian Federation of Independent Business (CFIB) is a non-profit, non-partisan business association. With 110,000 members across Canada including 10,000 in British Columbia, we are the largest organization exclusively representing the interests of small and medium-sized independent businesses to all levels of government.

We write you today on behalf of our member, April Miller, owner of Versatile Technologies, at 3137 Henry Road in Chemainus. Since the passing of her husband in 2013, Ms. Miller has assumed the business, and with it, many of the challenges it was facing regarding Agriculture Land Reserve (ALR) compliance and municipal zoning regulations. Ms. Miller has performed an impressive volume of work in order to put Versatile's affairs in order, however, she has run into a road block; she requires approval of her development application before December 31, 2020, otherwise her business will be shut down and her two commercial tenants, with whom she shares her land, will too. If this occurs 20-25 employees will lose their jobs. We request an urgent review and approval of Ms. Miller's application.

Since being granted permission by the court in 2015, she has taken substantive action to address issues identified by the Agricultural Land Commission and the Municipality of North Cowichan:

- Satisfying all of the ALC 2012 compliance requirements;
- Removal of more than 50 pieces of equipment and tons of materials from the property;
- Complying an Agricultural Capability Study with soil samples (Class 4T,5T,7);
- Revitalizing the soils, starting crop production and initiating a Farm Plan;
- Remediating more than 3 acres of soil by removing asphalt;
- Re-envisioning the business and growing connections with the agricultural and aquaculture sectors and indigenous communities who are her clients;
- Applying for non-farm use of the existing buildings (2018), was unsuccessful in 2020

It is also worth noting that the land borders other Industrial zoned lands and our member tells us that they have done everything possible to demonstrate how this decision will not impact agriculture, but has the potential to significantly impact small business and employees in the region.

At the time of writing this letter Ms. Miller has only 14 days for the application to be reviewed and approved. Given what is at stake, we respectfully request expedition of the internal review process of the development application to receive first reading by Council before the holiday break in early December.

We thank you for your time and consideration. Please don't hesitate to contact us at 604.684.5325 with further questions.

Sincerely,



Brendan Rolfe
Manager, Western Canada, Business Resources
Canadian Federation of Independent Business



Samantha Howard
Senior Director of British Columbia & Yukon
Canadian Federation of Independent Business

CC: Ronna-Rae Leonard, MLA - Courtenay-Comox

From: [REDACTED] FIPPA s. 22(1)
Sent: Monday, November 16, 2020 1:18 PM
To: Council <council@northcowichan.ca>
Subject: mt Tzouhalem Parking

Hello

Over the last few weeks I have noticed the public parking on Kaspas Rd near Mt Tzouhalem has been changed.

It seems that the residences near the top of Kaspas road have been given special parking privileges compared to the taxpayers on the lower part of Kaspas, Salish and Chippewa roads. During the week, Kaspas Road residences park on their driveways and not on the public roads and yet on the weekends, this road is blocked off so that they can park on the public roadway (which they don't do) leaving the road empty. I also see that North Cowichan has given out a couple of their barricades to a home owner on lower Kaspas to block parking in front of his residence. This has not fixed the issue but only moved it to another area causing the other residences grief. North Cowichan has also hired a couple of traffic control people to control who drives into the parking lot on the weekends and one of them parked his truck completely on the sidewalk so hikers had to walk on the street to get around him. These two trucks sit idling for hours at a time (so much for being green Green)

I would like to have Salish blocked off also as I am sure I pay the same mill rate in taxes as the people on Kaspas and I should be entitled to the same privilege as they receive.

There are a couple of solutions to this parking scenario that I propose.

- Have North Cowichan paint around curbs at the entrances to the residences so that the visitors can see where they can legally park. Then have a Bylaw officer drive by a couple of times on weekends and enforce the parking.
- Install signs allowing parking on one side of the street on weekends and have the bylaw officer enforce it.

I look forward to your response

[REDACTED] FIPPA s. 22(1)

From: Brownridge, Jerymy FIN:EX <Jerymy.Brownridge@gov.bc.ca>
Sent: Wednesday, November 18, 2020 12:36 PM
To: Council <council@northcowichan.ca>
Subject: Announcing the British Columbia Reconciliation Award

Hello,

It is my great privilege to share with you a letter from the Honourable Janet Austin, Lieutenant Governor of British Columbia, and Judith Sayers, President, Nuuchahnulth Tribal Council, and BC Achievement Foundation Board Member, announcing the launch of the British Columbia Reconciliation Award.

On behalf of the Office of the Lieutenant Governor of British Columbia, I sincerely hope this initiative inspires well deserved recognition of individuals or organizations from your network or community.

Sincerely,

Jerymy Brownridge
Private Secretary and Executive Director
Office of the Lieutenant Governor



**British Columbia
Reconciliation Award**

November 18, 2020

Christopher Justice
Councillor
District of North Cowichan
7030 Trans-Canada Highway
Duncan, BC V9L 6A1

Dear Councillor:

The Office of the Lieutenant Governor of British Columbia, in partnership with the [BC Achievement Foundation](#), is honoured to announce the launch of the British Columbia Reconciliation Award, recognizing individuals, groups and organizations who have demonstrated exceptional leadership, integrity, respect and commitment to furthering reconciliation or inspired others to continue reconciliation efforts.

This award celebrates the promise of a shared path to reconciliation through the incredible work of leaders from all over British Columbia, whose commitment to recognizing past injustices and healing those wounds will lead us all to a brighter future. A selection committee for the BC Reconciliation Award will include representation by Indigenous Elders, BC First Nations leadership and government partners.

The Honourable Janet Austin, Lieutenant Governor of British Columbia, is deeply committed to strengthening the ever-evolving relationship between the Crown and Indigenous peoples. This commitment includes her participation in the actions that further reconciliation and her support of endeavours that promote truth and understanding, including this new award.

The BC Achievement Foundation has several established programs honouring excellence and inspiring achievement throughout British Columbia, including the Indigenous Business Award and the Fulmer Award in First Nations Art. It is the hope of Judith Sayers, BC Achievement Foundation board member, that this award will not only recognize the truths of past wrongs but will also showcase examples of how to make things right, and inspire others to follow.

Consider your community and the efforts of the Elders, leaders, and neighbours who strive to further reconciliation. The nominations process is open to any individuals and organizations of Indigenous and non-Indigenous identity who have shown exemplary dedication to asserting truth and reconciliation initiatives. We encourage you to nominate those brightest among us.

Reconciliation must take root in our hearts, within families, between generations, and throughout our communities. We look forward to supporting this award and its deeply meaningful goal of building our relationships with each other across cultures and social barriers.

As leaders in our province, we humbly ask you to help spread the word in your community to nominate an individual or organization today using the BC Reconciliation Award nomination form on the [BC Community Achievement Foundation website](#). The nomination period will close on January 15, 2021.

Please find attached a graphic for sharing on social media, a package of resources for nominating, and information about the BC Reconciliation Award.

Sincerely,



The Honourable Janet Austin
Lieutenant Governor of British Columbia



Judith Sayers
President, Nuu-chah-nulth Tribal Council
BC Achievement Foundation Board Member



The Office of the Lieutenant Governor of British Columbia, in partnership with the BC Achievement Foundation, is pleased to announce the launch of the British Columbia Reconciliation Award. This award recognizes individuals, groups and organizations who have demonstrated exceptional leadership, integrity, respect and commitment to furthering reconciliation with Indigenous peoples in the province of British Columbia, or inspired others to continue reconciliation efforts.

The Honourable Janet Austin, Lieutenant Governor of British Columbia, has made Reconciliation one of the key themes of her mandate. This includes participation in promotion of public awareness of the ongoing journey of reconciliation.

“As the Crown’s representative in British Columbia, I have a responsibility to show leadership in furthering the cause of reconciliation. I am deeply honoured for this opportunity to recognize the exemplary individuals and organizations who advance reconciliation in our province,” said Austin. “Reconciliation must take root in our hearts, within families, between generations, and throughout our communities. I look forward to supporting this award and its deeply meaningful goal of building our relationships with each other across cultures and social barriers.”

The BC Achievement Foundation has several established programs honouring excellence and inspiring achievement throughout British Columbia, including the Indigenous Business Award and the Fulmer Award in First Nations Art.

"Reconciliation builds relationships and bridges the gap between two worlds through the efforts of both Indigenous and non-Indigenous peoples. By recognizing the truths of past wrongs and showcasing examples of how to make things right, others will be inspired to follow," said BC Achievement Foundation board member Judith Sayers. "The British Columbia Reconciliation Award will celebrate innovative and empowering ways to embark on this journey, designed and decided by Indigenous peoples, allowing them to thrive while making the world a better place."

The British Columbia Reconciliation Award draws inspiration from the work of the Honourable Steven Point, 28th Lieutenant Governor of British Columbia, and a founder of the Award. His hand-carved red cedar canoe, Shxwtitostel, currently on display at the BC Legislature buildings, was created as a symbol of reconciliation, with the understanding that “we are all in the same canoe” and must “paddle together” to move forward.

“It is a very proud moment for me to witness the launch of the British Columbia Reconciliation Award,” said Point. “Our world and its issues are not apart from us but rather are a part of who

we are. We must not stand by and observe the world but rather take steps to bring positive change.”

A selection committee for the British Columbia Reconciliation Award will include representation by Indigenous Elders, BC First Nations leadership and government partners.

Nomination forms are now available on the BC Achievement Foundation website, bcachievement.com. The nomination period will be open until January 15, 2021.



Overview

The British Columbia Reconciliation Award was created to recognize individuals, groups and organizations who have demonstrated exceptional leadership, integrity, respect and commitment to furthering [Truth and Reconciliation](#) in the Province of BC; and/or inspired others to do so.

Why Nominate

The Award program provides an opportunity to publicly acknowledge the work of those individuals, groups and organizations committed to furthering the [Principles of Reconciliation](#).

Any person, group or organization may submit nominations for the Award except current members of the selection committee, or members of their immediate family.

Who is Eligible

- Any British Columbian (or former long-term resident) or British Columbia-based group/organization that has demonstrated an exceptional commitment to advancing the principles of reconciliation in British Columbia is eligible to receive the Award.
- A person who is a member of the judiciary is *not eligible* for the Award.
- A person who is an elected federal, provincial or municipal representative is eligible to receive the Award while that person remains (is) in office.
- Chiefs or other members of a governing body of an Indigenous nation are eligible to receive the Award.
- There is no age requirement for the Award. Nominations of any individual under the age of 19 shall be accompanied by the permission of a parent or guardian.
- A person may receive the Award posthumously only if the selection committee has recommended the nomination to the Lieutenant Governor before their passing.
- A person, group or organization may not nominate themselves (i.e. self-nominations are not eligible).

Selection of Awardees

A selection committee for the British Columbia Reconciliation Award will include representation by Indigenous Elders, BC First Nations leadership, and the Ministry of Indigenous Relations and Reconciliation.

Recognition of Awardees

The British Columbia Reconciliation Award is awarded by the Lieutenant Governor on the recommendation of the selection committee. Unless the Lieutenant Governor directs otherwise, the Awards shall be presented to the recipients as arranged by the Office of the Lieutenant



Governor. This may occur in community, or at other locations, to be determined during the year of the awards. Awardees may receive a certificate signed and presented by the Lieutenant Governor and a recognition piece.

Dates to Remember

- November 12, 2020 – Nominations OPEN
- January 15, 2021 – Nominations CLOSE

All nominations must be submitted online by January 15, 2021 (all materials must be received by 11:59pm).

How to Nominate/Apply

A completed nomination must include:

- A nomination form completed in full and signed by the nominator.
- A minimum of two signed testimonial letters from two separate individuals, other than the nominator. The letters must be signed by the testimonial writer and include his/her contact information (address, telephone number and email).

Submission of additional materials such as a biography, curriculum vitae, newspaper articles, video or recorded testimonials, links to YouTube videos, photos, etc., *is optional*. **A maximum of five items (10 pages total and five minutes of video) will be accepted.** All materials must be submitted electronically.

Visit [Resources](#) to download the guide for the British Columbia Reconciliation Award program, "Tips for a Compelling Nomination".

Please note:

- Incomplete nominations are ineligible for consideration.
- If more than one nomination is submitted for the same nominee, only the first nomination received will be considered.
- Nominations are valid for **three years** including the first year of nomination and two subsequent years and should be updated annually by request of the nominator.
- Nominations are kept confidential between the nominator and BC Achievement.
- Nominees are notified **only** if selected for an award.



1. What should be said in a testimonial letter?

A testimonial letter should: include details about how the nominee has demonstrated exceptional leadership, integrity, respect and commitment to furthering reconciliation with Indigenous peoples in the province of BC and/or inspired others to continue reconciliation efforts; indicate the relationship between the writer and the nominee and the length of the relationship; describe the outcomes of the work the nominee has done to advance the principles of reconciliation and how the nominee's work has specifically impacted youth and/or Indigenous Elders.

2. To whom should the testimonial letter be addressed?

Letters should be addressed to the selection committee. All letters must be signed by the writer and include his/her contact information.

3. Can more than two testimonial letters be submitted?

Other testimonial letters may be submitted as 'additional materials'. A maximum of five items i.e. additional materials (10 pages total and five minutes of video) will be accepted. These five items may also include biography, curriculum vitae, newspaper articles, video or recorded testimonials, links to YouTube videos, photos etc.

4. Are congratulatory letters from other programs accepted in the nomination package?

Other congratulatory letters may be included as additional materials, but they may not serve as testimonials letters. Testimonial letters must be current and be specific to the nomination of the British Columbia Reconciliation Award.

5. Is a nomination considered for more than one year?

Submitted nominations begin a three-year program during which time the information can be reviewed by up to three juries. Nominators are given the opportunity to update their nomination each year prior to review by the selection committee.

6. Should the nominator tell the nominee about the nomination?

It is up to the discretion of the nominator whether or not to inform the nominee about the nomination.

7. When are the awardees notified and where are the names of the awardees published?

Awardees will be notified following the deliberations of the selection committee by BC Achievement. Their names will be announced through the Lieutenant Governor's and BC Achievement's respective media channels.



Tips for Submitting a Compelling Nomination

The British Columbia Reconciliation Award was created to recognize individuals, groups and organizations who have demonstrated exceptional leadership, integrity, respect and commitment to furthering [Truth and Reconciliation](#) in the Province of British Columbia; and/or inspired others to do so. Each nomination must include a nomination form completed in full and signed by the nominator and a minimum of **two signed testimonial letters** from two separate individuals, other than the nominator.

To make a testimonial letter stand out, it should:

- Include details and concrete examples about how the nominee has demonstrated exceptional leadership, integrity, respect and commitment to furthering reconciliation with Indigenous peoples in the province of BC and/or inspired others to continue reconciliation efforts;
- Indicate the relationship between the writer and the nominee and the length of the relationship;
- Describe the outcomes of the work the nominee has done to advance the [Principles of Reconciliation](#) and how the nominee's work has specifically impacted youth and/or Indigenous Elders; and
- Be current and written specifically for the British Columbia Reconciliation Award program.

A compelling testimonial letter may also include other details such as:

- How things were in the community prior to the nominee's efforts;
- The sustainability of their contribution/s;
- How their efforts have positively impacted the community or province;
- Any extraordinary circumstances or challenges the nominee has faced (i.e. provide biographical or historical context, if helpful); and
- Why the jury should select this submission above the others.

Submission of additional materials such as a biography, curriculum vitae, newspaper articles, video or recorded testimonials, links to YouTube videos, photos, etc., *is optional* but strongly recommended to give context and texture to the nomination. **A maximum of five items i.e. additional materials (10 pages total and five minutes of video) will be accepted.**

Note:

- Be concise. When describing a nominee, keep explanations clear and to the point.
- Strong nominations often use descriptive words to describe the nominees such as: advocate, leader, innovator, trailblazer, mentor, supporter, commitment, dedication, recognition, determination, exemplary, admired, motivated, passionate, inspirational, extraordinary, resourceful, persevering, tireless, resilient.
- Proofread all documents before submitting them.

From: [REDACTED] FIPPA s. 22(1)

Sent: Thursday, November 19, 2020 9:00 AM

To: pgrove@islandstrust.bc.ca; office@tofino.ca; corporateservices@tofino.ca; info@ucluelet.ca; mnoel@ucluelet.ca; afortune@ucluelet.ca; rarnott@comox.ca; mayor@courtenay.ca; mayor.baird@cumberland.ca; councillor.brown@cumberland.ca; mayor.council@nanaimo.ca; mayor@duncan.ca; rod.peters@lakecowichan.ca; Council <council@northcowichan.ca>; town council@ladysmith.ca; admin@sidney.ca; mayor.adams@campbellriver.ca
Cc: wsorichta@courtenay.ca; parksandrecreation@nanaimo.ca; councillor.moglove@campbellriver.ca; councillor.babchuk@campbellriver.ca; councillor.kerr@campbellriver.ca

Subject: Re: Island Health and Vancouver Island Specific Return to Normal Procedures & Adoption of the Great Barrington Declaration Focused Protection for B.C.

I guess when the CBC reports it to the Country, it is no longer a secret [Winking smile]

<https://www.cbc.ca/news/SOMNIA-1.5804848>

5.3 million exemptions is best guess

The CBSA calculated a total of 5.3 million quarantine-exempt entries, but said the number is only an estimate because the federal government didn't start to track everyone in that group until July 31.

The Public Health Agency of Canada (PHAC) said that before July 31 the CBSA collected data on quarantine-exempt travellers crossing the border for statistical purposes, but only when it had the "operational capacity" to do so.

From: [REDACTED] FIPPA s. 22(1)

Sent: Sunday, 8 November, 2020 9:46 PM

To: pgrove@islandstrust.bc.ca; office@tofino.ca; corporateservices@tofino.ca; info@ucluelet.ca; mnoel@ucluelet.ca; afortune@ucluelet.ca; rarnott@comox.ca; mayor@courtenay.ca; mayor.baird@cumberland.ca; councillor.brown@cumberland.ca; mayor.council@nanaimo.ca; mayor@duncan.ca; rod.peters@lakecowichan.ca; council@northcowichan.ca; town council@ladysmith.ca; admin@sidney.ca; mayor.adams@campbellriver.ca
Cc: wsorichta@courtenay.ca; parksandrecreation@nanaimo.ca; councillor.moglove@campbellriver.ca; councillor.babchuk@campbellriver.ca; councillor.kerr@campbellriver.ca

Subject: Island Health and Vancouver Island Specific Return to Normal Procedures & Adoption of the Great Barrington Declaration Focused Protection for B.C.

Dear Mayors of Vancouver Island, City Council, to include District Councilors,

Attached is the document sent to Premier John Horgan, my MLA for Langford-Juan De Fuca on 4 November 2020, via Canada Post, received at his Langford office 6 November 2020. I have also received confirmation Dr. Henry's office received her copy same date.

Mayors of Vancouver Island, and City Councilors, to include District Councilors, I have known since early April 2020 from a friend within the PMO circle, that approximately 99% of Canadians have a "firewall" and are immune to the SARS-CoV-2 virus. The infinitesimal number of Canadians, including in BC who are testing positive for COVID 19, many are false positives, and some are naturally infected achieving herd immunity. We have both immunity, in which people cannot even contract or be infected by the SARS-CoV-2 virus (firewall), and herd immunity happening in our country.

The six (6) people who have died as a "result of complications related to COVID 19" on Vancouver Island, while tragic, were in the median age of 78 on Vancouver Island (85 in BC), in very poor health, in Long Term Old Age homes that had outbreaks.

I have been work from home, and training at the local Recreation Centre since May 2020 when our facilities opened back up. From May to Labour Day weekend, our Island had literally thousands of visitors from around the world and the U.S. here visiting this summer. For every one (1) U.S. license plate that a local Sooke Resident "Shamed them" on one of our local SOOKE TRASHY Facebook Group Accounts, hundreds more had rented cars, SUV's, Vans, Trucks at Vancouver, Abbotsford and Victoria airport with BC Rental Car Plates, they did not have a clue who was here. We have had international natural herd immunity going on, and where I live in Sooke, most of the people serving them did not have any "Fake Masks" on until only recently (November 2020). We have no COVID 19 pandemic going on where I live and it had nothing to do with physical distancing, facial coverings, or washing our hands raw!

As well as being a professional soldier for 30 years with the CAF, I am still a Coach and a former professional athlete in Olympic & Off Road Triathlon, and Swimming for the Canadian Forces and Canada. I, [REDACTED], swam with, biked with, hiked with, partied with, ate with dozens and dozens of people from around our planet, who all said the same thing. "No COVID 19 pandemic where they live, but a lot of news media claiming there was a pandemic". I fact checked a few families I kept in touch with after the summer when the "Fake news" reported that their country was going through a "Second Wave" or "Second Lock Downs" or "Surge of cases". They were laughing with me on the telephone on speaker phone: "[REDACTED]", did you see or hear that on the television set?!? Be careful not to watch too much of that fake news on the TV"! Most of them thought it was funny to come to Vancouver Island and realize where we live too, no pandemic, only on the fake news!

On my several trips to Salt Springs Island this summer on the Crofton to Vesuvius Ferry by bike (I park my Jeep in Crofton), I was horrified at the devastating damage the loss of tourism did in that area, as an example. I spoke with several business owners I have know for year,s they are

devastated by the COVID 19 damage to their businesses. I have been buying my hand made soap with Goats Milk and Hemp from ECO-REALTY COOP on Salt Springs for over a decade now at their Saturday Farmers Market location. It was horrible to be there on a Saturday this summer to see it like the Ghost Town it was. Many of the SSI Vineyards and Cideries were a sprinkling of normal, and week days awfully quiet. I have been going to SSI since 1996!

We need to put a stop to this madness over a virus 99% of us are actually immune to and give something like FOCUSED PROTECTION a shot. Most of the world has gone back to normal, but Canadian media is still playing up the COVID 19 pandemic for readership and are the reason for most of the fear-mongering, mental & physical health concerns in our country and in our Province. There is no COVID 19 Pandemic in Canada, BC, and certainly not on Vancouver Island for certain!

China, and especially Wuhan City, where the SARS-CoV-2 patient zero was first found with Pneumonia in December 2019, no vaccine, no lock downs, no restrictions, with a local waterpark with a 15,000 person capacity that makes West Edmonton Mall Waterpark look like a Playground Spray Park, packed with people everyday, no physical distancing, no masks, no fear! Why are we doing this to ourselves exactly?

<https://www.cnn.com/2020/08/18/asia/wuhan-water-park-party-intl-hnk/index.html>

Respectfully,

[REDACTED], Master Corporal (Retired), CD, C.P.M.
[REDACTED] residence

FIPPA s. 22(1)

-----Original Message-----

From: [REDACTED] FIPPA s. 22(1)
Sent: Thursday, November 19, 2020 2:38 PM
To: Info <Info@northcowichan.ca>
Subject: Re: Council Matters for November 18, 2020

Instead of using the AAP for the capital work required on the Crofton Firehall, council should plan on putting the question to a referendum on the ballot of the next municipal election. There is plenty of time for that to happen.

[REDACTED] FIPPA s. 22(1)

[REDACTED] FIPPA s. 22(1)

[REDACTED] FIPPA s. 22(1)

On Thu, Nov 19, 2020 at 11:21 AM Municipality of North Cowichan <info@northcowichan.ca> > wrote:

Trouble viewing this email? [Read it online](#)

Council met for about three and a half hours during our Regular Council meeting on November 18, 2020.

Council heard from three delegations. First, Heather Pritchard and Elodie Roger from the Somenos Marsh Society spoke about the importance of riparian area protection in the Somenos watershed – especially in the context of the Official Community Plan (OCP) Update. Council decided to have the Somenos Marsh Society's presentation sent to the Environmental Advisory Committee, once operational, and to MODUS, the consultants for the OCP project. Next, Cody Wicks spoke to Council regarding the Regenerative Land Stewards' request to utilize public land (on a long-term basis) in support of their collective farming idea to create value in agriculture, ecology, affordable housing, sustainable development, and more.

During the last delegation, Inspector Chris Bear presented the Third Quarter Report for the North Cowichan/Duncan RCMP, covering the period of July to October 2020. During this time there were 5,424 calls for service, which is down 12% from the same period in 2019. There were 38 mental health apprehensions in North Cowichan and the detachment saw a large increase for check well-being calls. Due to the pandemic, fewer summer festivals and gatherings were held that would have required calls for police service, however, summer was busy at the detachment as RCMP training and staffing actions resumed. The full report is on pages 36-54 of

the agenda.

Inspector Bear also noted that the Cowichan Valley Regional District has issued an expression of interest for community policing services. Historically the Cowichan Community Policing Advisory Services Society (CPAC) has delivered this service; however, the Society has now dissolved. Community policing services include educational programs; events and activities to reduce crime in communities; collaboration with individuals, groups, businesses and the detachment to build awareness; and more.

Next, Council adopted the Temporary Borrowing Bylaw for the new RCMP facility that allows North Cowichan to borrow funds as needed, as opposed to taking on the full debt load and paying interest on the full amount now.

Council gave first reading to a Zoning Bylaw Amendment Application that proposes a detached second dwelling at 934 Khenipsen Road. Before considering second reading however, Council requested:

- * a second Geotechnical Report to ensure safety of the building in the event of a seismic event;
- * a plan for adequately dealing with the wastewater to ensure the system meets environmental and health standards; and
- * a statement about whether the applicants' intent is to complete all the necessary steps to obtain a building permit and undertake the required alterations, or to undergo a basic life safety review and accept a notice on title.

The full staff report can be found on pages 58-99 of the agenda.

Due to the age and poor condition of the Crofton Fire Hall, Council considered a long-term solution for upgrading or replacing the hall, which was built in 1964. In 2018, a Facility Condition Assessment was completed which advised that \$1.25 million in repairs and upgrades would be needed within the next ten years. A Seismic Assessment was completed in 2019 and recommended \$90,000 of upgrades. Additionally, the second floor addition, which was built without permits, was found to have insufficient load carrying capacity and was closed in 2019. As a result, the Crofton Fire Hall has been without an assembly space for practices and training since August 2019. Council directed staff to include \$3.5 million in the 2021-2025 Financial Plan for upgrades to the Crofton Fire Hall for demolition of the original 1964 building to replace it with a smaller 2,150 (gross) square foot addition, and associated upgrades to the truck bays built in 2002. Funding will need to be sought through elector assent, and is proposed to be done through an Alternative Approval Process like the RCMP facility.

Next, Council considered the Terms of Reference for the Environmental Advisory Committee

which is to be re-enacted. The draft terms can be found in the addendum agenda. After some discussion, Council approved the Terms of Reference, making one small change to the second bullet under Membership, changing it to: Have demonstrated experience and interest, or expertise in environmental matters affecting North Cowichan. Council appointed Councillor Marsh as Chair of the Environmental Advisory Committee, and directed staff to advertise for volunteers and bring back a report for potential appointments in January 2021.

Council passed a motion directing staff to communicate to the OCP Project consultants (MODUS) that protection of our rare ecosystems and the species that inhabit them is a priority of Council and that this should be a strong consideration in the formulation of our OCP's land use policy.

Finally, Council directed the Mayor to write a letter to the Premier if provincial travel restrictions are not announced by Dr. Bonnie Henry on Thursday, November 19, 2020.

Our next meeting will take place electronically on Wednesday, December 2, 2020, at 1:30 pm.

Thank you for reading and staying informed!

Al Siebring, Mayor

Municipality of North Cowichan

T 250.746.3117

E Mayor@northcowichan.ca

Municipality of North Cowichan

7030 Trans-Canada Hwy

Duncan British Columbia V9L 6A1

Canada

This email is intended for [REDACTED] [FIPPA s. 22\(1\)](#)

[Update your preferences](#) or [Unsubscribe](#)

-----Original Message-----

From: [REDACTED] FIPPA s. 22(1)

Sent: Friday, November 20, 2020 10:54 AM

To: Council <council@northcowichan.ca>

Subject: Race track

Dear Mayor and council

I just read in the news today , that you have decided to appeal the decisions made by the Judge regarding the race track .

I for one including a number of my friends thought you had made a grave mistake that would cost this municipality at a minimum hundreds of thousands in lost revenue but also put us in a situation that could potentially cost the tax payers millions in a law suit .

Well you lost the case and you were given the chance to redeem yourselves , but no not you and your councillors , now you going to appeal that decision.

Well if you lose you all better have jobs lined up , because all of you will be out the door quicker than you can say Trump .

What gives you the right to make decision like this that could create a situation that has the potential of causing devastating financial consequences for North Cowichan .

I hope that all of you will go home and think seriously about what your doing and the consequences it will have on not only for you , but your family and friends when you lose .

Sincerely

[REDACTED] FIPPA s. 22(1)

Sent from my iPhone

-----Original Message-----

From: [REDACTED] > FIPPA s. 22(1)

Sent: Sunday, November 22, 2020 9:03 AM

To: Council <council@northcowichan.ca>

Subject: Motorsport Track

Dear Mayor and Council,

I think there should be a reversal of the decision to deny the Motorsport Track the right to rezone and build the expansion to their facility. Council should stand behind the actions and promises made by previous councils. If they don't, how can any business make plans for their future when they know an expansion is in their plans. It is wrong to now deny them that choice at this point. Also if they win and sue North Cowichan for the amount that has been bandied about (60 Million) we will fight any decision to pass that cost onto the taxpayers!! It is not right that you listen to a noisy group of about 300 people and do not take into consideration the consequences for the rest of your tax paying citizens. We are pensioners and if our taxes doubled or tripled we would be forced out of our home. Think again and this time make the right decision that is best for the majority of people!

Appreciate your time

Sincerely

[REDACTED]

FIPPA s. 22(1)

[REDACTED]

Chemainus BC

From: [REDACTED] FIPPA s. 22(1)

Sent: Monday, November 23, 2020 1:37 PM

To: Council

Cc: [REDACTED] FIPPA s. 22(1)

Subject: Update on Speculation Tax

Nov.23/20

Dear Mayor & Council Members,

I wrote to each of you well over a year ago to ask if you knew why Cowichan was left out of the Speculation Tax Plan. At the time I received a response from one member of council indicating that they had no explanation. I subsequently wrote to our mla's office who eventually responded with the same answer but added that they were "monitoring" the situation.

I have heard nothing since but continue to watch the development activity in my own neighborhood. I have also read about proposals for some large developments in the Quamichan Lake area which cause me to again wonder why Cowichan was left out of the plan. The plan addresses the housing shortage through the annual speculation and vacancy tax, which encourages the use of empty houses for people who live & work in BC, and supports affordable housing initiatives.

Almost all of the urban areas of province are

listed: <https://www2.gov.bc.ca/gov/content/taxes/speculation-vacancy-tax>

The following CRD municipalities are taxable regions:

- Central Saanich
- Colwood
- Esquimalt
- Highlands
- Langford
- Metchosin
- North Saanich
- Oak Bay
- Saanich
- Sidney
- Sooke
- Victoria
- View Royal

Metro Vancouver Regional District

The following Metro Vancouver Regional District municipalities are taxable regions:

- Anmore
- Belcarra
- Burnaby
- Coquitlam
- Delta
- Langley (City)
- Langley (Township)
- Maple Ridge
- New Westminster
- North Vancouver (City)
- North Vancouver (District)
- Pitt Meadows
- Port Coquitlam
- Port Moody
- Richmond
- Surrey
- University Endowment Lands
- Vancouver
- West Vancouver
- White Rock

In addition to these areas, other included areas are:

Abbotsford

Chilliwack

Mission

Kelowna

W.Kelowna

Nanaimo

Lantzville

Cowichan is a bedroom community to the Capital Region District, yet has been left out of the plan. I'd appreciate any information you may have.

Sincerely,

[REDACTED]

FIPPA s. 22(1)

[REDACTED]

FIPPA s. 22(1)

Duncan, BC Canada V9L 5R4

Phone:

email:

[REDACTED]

FIPPA s. 22(1)

[REDACTED]

Municipality of North Cowichan

Regular Council

MINUTES

November 18, 2020, 1:30 p.m.
Electronically

Members Present	Mayor Al Siebring Councillor Rob Douglas arrived at 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, Deputy Chief Administrative Officer (D/CAO) Mark Frame, General Manager, Financial and Protective Services David Conway, Director, Engineering Clay Reitsma, Senior Manager, Engineering Don Stewart, Director, Parks and Recreation Rob Conway, Director, Planning and Building Shawn Cator, Director, Operations George Farkas, Director, Human Resources and Corporate Planning Jason Birch, Chief Information Officer Megan Jordan, Manager, Communications and Public Engagement Michelle Martineau, Corporate Officer Tricia Mayea, 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. CONSENT AGENDA

IT WAS MOVED AND SECONDED:

That the Consent Agenda be approved.

CARRIED

3. APPROVAL OF AGENDA

Council added one late item [Letter regarding COVID-19] to the meeting under item 12.2.

IT WAS MOVED AND SECONDED:

That Council adopt the agenda, as amended.

CARRIED

4. ADOPTION OF MINUTES

4.1 Special Council meeting held November 3, 2020 for adoption

4.2 Regular Council meeting held November 4, 2020 for adoption

4.3 Special Council meeting held November 10, 2020 for adoption

IT WAS MOVED AND SECONDED:

That Council adopt the minutes of the Special Council meetings held November 3, 2020 and November 10, 2020, and the Regular Council meeting held November 4, 2020.

CARRIED

5. MAYOR'S REPORT

Mayor Siebring provided a verbal update on meetings and activities he recently attended.

6. DELEGATIONS AND PRESENTATIONS

6.1 Somenos Marsh Wildlife Society

Heather Pritchard and Elodie Roger, from the Somenos Marsh Wildlife Society, provided a presentation regarding opportunities for riparian area restoration and protection in the Cowichan watershed that included an overview of impacts in the Somenos watershed, what science says about riparian buffer widths, and how other local governments improved riparian protection. A copy of the presentation was appended to the agenda.

IT WAS MOVED AND SECONDED:

That the Somenos Marsh Wildlife Society presentation be referred to the Official Community Plan consultant, Modus, for their consideration.

CARRIED

IT WAS MOVED AND SECONDED:

That the Somenos Marsh Wildlife Society presentation be forwarded to the Environmental Advisory Committee once its membership has been established. CARRIED

6.2 Collective Farms Pilot Project

Cody Wicks provided a presentation regarding the Regenerative Land Stewards' request to utilize public land (on a long-term basis) in support of their collective farms idea to create value in agriculture, ecology, affordable housing, mental health, community building, sustainability and regenerative growth.

6.3 3rd Quarter report for RCMP Activities

Inspector Chris Bear, North Cowichan/Duncan RCMP Detachment, reviewed the 3rd quarter report (July 2020 - Sept 2020).

7. PUBLIC INPUT

Council received no submissions via email prior to the meeting.

8. BYLAWS

8.1 Temporary Borrowing Bylaw (RCMP Facility) No. 3802 for adoption

IT WAS MOVED AND SECONDED:

That Council adopt Temporary Borrowing Bylaw (RCMP Facility) No. 3802, 2020.

CARRIED

8.2 Zoning Amendment Bylaw (Cannabis Production in the Agricultural Land Reserve), 2020, No. 3797 for adoption

IT WAS MOVED AND SECONDED:

That Council adopt Zoning Amendment Bylaw (Cannabis Production in the Agricultural Land Reserve), No. 3797, 2020. CARRIED

Councillor Douglas declared a conflict on the next item, stating the reason being that he lives in the same neighbourhood as the applicant, and he left the meeting at 2:58 p.m.

8.3 Zoning Bylaw Amendment Application No. ZB000126 (934 Khenipsen Rd.) – Proposed Detached Second Dwelling Use - Update

IT WAS MOVED AND SECONDED:

That council give first reading to Zoning Amendment Bylaw (Second Dwelling – 934 Khenipsen Road), 2020, No. 3798;

And that before council considers second reading the applicants provide the municipality with the following information:

1. a plan for ensuring the adequate safety of the building in the event of a seismic event through a second geotechnical report.
2. a plan for adequately dealing with the wastewater problems which ensures the system meets environmental and health standards.
3. a statement about whether the applicants' intent is to i) complete all the necessary steps to obtain a building permit and undertake required alterations or ii) undergo a basic life safety review and accept a notice on title.

(Opposed: Siebring, Marsh)

CARRIED

Councillor Douglas returned to the meeting at 3:30 p.m.

8.4 Respectful Spaces Bylaw Consequential Amendments

IT WAS MOVED AND SECONDED:

That Council gives first, second and third reading to Municipal Ticket Information System Amendment Bylaw, 2020, No. 3807. CARRIED

IT WAS MOVED AND SECONDED:

That Council gives first, second and third reading to Parks and Public Places Regulation Amendment Bylaw, 2020, No. 3806. CARRIED

Council, by unanimous consent, recessed at 3:39 p.m. and reconvened at 3:48 p.m.

9. REPORTS

9.1 Crofton Fire Hall Upgrade

IT WAS MOVED AND SECONDED:

1. That Staff be directed to include \$3.5 million in the 2021-2025 Financial Plan for upgrades to the Crofton Fire Hall based on Option 1, the Demolition of the original 1964 building and replacing it with a smaller 2,150 gross square foot addition, and associated upgrades to the 2002 truck bays.
2. That the Crofton Fire Hall redevelopment be financed by long term debt. CARRIED

9.2 Environmental Advisory Committee Terms of Reference

IT WAS MOVED AND SECONDED:

That Council approve the terms of reference to establish the Environmental Advisory Committee, as amended, so that the second bullet under the Membership heading reads:

- *Have demonstrated experience and interest, or expertise in environmental matters affecting North Cowichan* CARRIED

IT WAS MOVED AND SECONDED:

That Councillor Marsh be appointed as the Chair of the Environmental Advisory Committee. CARRIED

IT WAS MOVED AND SECONDED:

That staff be directed to advertise for volunteers and bring back a report to Council for appointments in January 2021. CARRIED

9.3 Council Conference Attendance Policy Amendment

IT WAS MOVED AND SECONDED:

That Council amend the "Council Conference Attendance Policy" to include the following new clause under Section 3:

"7. Discretionary training budget

The Mayor will be allocated \$1,000 per year, and each Councillor will be allocated \$500 per year to use, at their discretion, for personal training and/or professional development in relation to their role on Council. These funds shall be used to cover any registration fees, hotel or travel costs. Any unspent funds at the end of each year will revert back to the general revenue fund.

Members of Council must use their discretionary training budget before requesting any additional training identified under Section 3.6 above (Miscellaneous seminars, conferences, and conventions)." CARRIED

10. NOTICES OF MOTIONS

10.1 Affordable Housing

Councillor Douglas introduced the following motion which he intends to move at the December 2, 2020 regular meeting for debate and consideration by Council:

"That Council direct staff to work with the Cowichan Housing Association to develop an affordable housing policy and implementation strategy."

11. UNFINISHED AND POSTPONED BUSINESS

None.

12. NEW BUSINESS

12.1 Resolution on Biodiversity Protection from Councillor Justice

IT WAS MOVED AND SECONDED:

Whereas it is Council's intention to develop a biodiversity protection strategy in 2021;

And Whereas biodiversity protection strategies developed in some neighbouring communities have land use components such as preservation of habitat areas and ensuring connectivity between habitat areas;

Now therefore be it resolved that Council directs that our planning staff communicate to the OCP consultants (Modus) that protection of our rare ecosystems and the species that inhabit them is a priority of Council and that this should be a strong consideration in the formulation of our OCP's land use policy. (Opposed: Siebring, Manhas)

CARRIED

IT WAS MOVED AND SECONDED:

That the meeting be extended until 7:00 p.m.

CARRIED

12.2 Letter to Premier regarding COVID-19

IT WAS MOVED AND SECONDED:

That the Mayor be authorized to write a letter to Premier Horgan, if necessary, urging tighter travel restrictions.

CARRIED

13. QUESTION PERIOD

Mayor Siebring called for a recess at 5:01 p.m. to allow viewers to submit questions via email on the matters discussed during the meeting. One question had been submitted in relation to item 9.3 when the meeting reconvened at 5:10 p.m.

14. CLOSED SESSION

IT WAS MOVED AND SECONDED:

That Council close the November 18, 2020 Regular Council meeting at 5:12 p.m. to the public on the basis of the following section(s) of the *Community Charter*:

- 90(1)(e) - the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- 90(1)(g) - litigation or potential litigation affecting the municipality;
- 90(1)(i) - the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and
- 90(1)(m) - a matter that, under another enactment, that being section 16(1)(a)(iii) of the *Freedom of Information and Protection of Privacy Act* related to intergovernmental relations or negotiations with an aboriginal government, is such that the public may be excluded from the meeting.

CARRIED

15. RISE AND REPORT

Council rose and reported on the following item:

2.2 Legal Opinion on the Vancouver Island Motorsport Circuit (VIMC) Decision

IT WAS MOVED AND SECONDED:

That Council authorize legal counsel to appeal the BC Supreme Court decision on the judicial review of the Vancouver Island Motorsport Circuit (VIMC) decision.

(Opposed: Manhas)

CARRIED

16. ADJOURNMENT

Council adjourned the meeting at 8:02 p.m.

Certified by Corporate Officer

Signed by Mayor

DELEGATION APPLICATION for Virtual Meeting

Personal information is collected by the Municipality of North Cowichan under the authority of s.26(c) of the Freedom of Information and Protection of Privacy Act for the purposes of processing delegation requests. Should you have any questions about the collection of this personal information, please contact Information Management Officer, (250) 746-3116; 7030 Trans-Canada Highway, Duncan, BC V9L 6A1.

Date: November 9, 2020
Name of Applicant: Judy Stafford On behalf of: Cowichan Green Community
Address: 360 Duncan Street, Duncan, BC V9L 3W4
Email: judy@cowichangreencommunity.org Phone: 250-748-8506

I/We request to appear electronically as a delegation before:

☒ Council ☐ Committee of the Whole ☐ Forestry Advisory Committee

Please provide a brief overview of your presentation, below, and attach a one-page (maximum) outline of your presentation.
Please be specific.

Cowichan Green Community leases property from North Cowichan at 2431 Beverly Street. The current lease expires July 2021. We want to secure a longer-term lease and amend the details to include installation of a commercial kitchen, warehouse space, and connect to municipal water and sewer. We would like to attend the meeting on December 2nd. We also hope to have funding announcements to share with council.

Will you be requesting a grant or financial assistance? ☐ Yes ☒ No

I confirm that I have tested my ability to participate in a Webex Online meeting: ☐ Yes ☐ No

I would like a member of the North Cowichan IT team to connect with me to confirm my configuration: ☒ Yes ☐ No

Council and Committees welcome public comments, but as a courtesy to Council and Committees who deal with lengthy agendas, we request that you present your information clearly and concisely in ten minutes or less. All delegation applications along with supporting documentation and a copy of your presentation must be submitted for Council, Committee of the Whole or the Forestry Advisory Committee to legislativeservices@northcowichan.ca at least one week before the meeting is held. If the delegation consists of more than one person, please appoint one person to speak on behalf of your group.

To test your ability to participate in a Webex meeting, start a meeting at this site:
<https://www.webex.com/test-meeting.html>

Once you join the test meeting, use these instructions to test your webcam, speakers, and microphone:
<https://help.webex.com/en-us/bzg2s7/Test-Your-Speaker-and-Microphone-in-Webex-Meetings>

For Internal use only

Funding request (if any) reviewed by General Manager, Financial and Protective Services ☐ Yes

Request approved (date) _____ Date of Meeting _____

DELEGATION PROCEDURES

"Delegation" is the term used to define the process whereby an individual or a delegation appears before Council in order to make a presentation, enter a request for action, or bring Council up to date on a project, idea, or concept, or to provide further information on an issue currently before Council for a decision. The process is governed by the rules set out in Council Procedure Bylaw No. 3602. The bylaw states that a delegation may address Council at a regular council meeting with the permission of the Mayor or Council but must not permit a delegation to address a meeting of the Council regarding a proposed bylaw in respect of which a public hearing has been held, where the public hearing is required under an enactment as a prerequisite to the adoption of the bylaw.

APPLICATION PROCEDURES

To appear as a delegation a "Delegation Application" must be filled out and submitted to Legislative Services to legislativeservices@northcowichan.ca. It must include:

- Purpose of the presentation
- Proposed action of Council/Committee (must be within the authority of the District)
- Contact details of the person who will speak on behalf of the delegation

Once the application is received staff will respond to your request as soon as possible. If you are approved as a delegation, you will be scheduled for the first available meeting date. A copy of your presentation, supporting materials, and PowerPoint presentation (if applicable) **must be submitted one week in advance of the scheduled meeting date** so that a copy of the intended presentation can be provided to Council or Committee members for review prior to the meeting so they can properly consider your presentation. For virtual meetings, Council receives no more than three (3) separate delegations at a Council meeting, which may result in your request being moved to the next available meeting date.

FINANCIAL ASSISTANCE PROCEDURES

If requesting a financial contribution, please review the [Council Policy](#) and complete the [Grant-in-Aid Application](#).

NOTE: Grant-in-aid applications must be received no later than October 15th of each year for consideration in the following year's budget during deliberations in the fall. No Grant-in-Aid funds will be disbursed to the organization until after adoption of the Financial Plan (after May 15th yearly).

MEETING PROCEDURES

It is understandable if delegates are nervous speaking in a public forum that may be televised. Remember that Council is familiar with this process and is very understanding of any nervousness and tries to set a comfortable and welcoming scenario for all. Council encourages public participation and welcomes delegations and appreciates the public coming forward to be heard.

Prior to Meeting Date

Staff will confirm the date and time of the meeting you are scheduled to attend. Delegations must test their webcam, speakers, and microphone, and ability to participate in a Webex meeting at least two (2) days prior to the meeting (see page one for testing links).

During Meeting

- Delegations must join the virtual meeting at least 5 minutes prior to the start of the meeting as it is not possible to predict the exact time the delegation will be heard. Once you have joined the meeting you should turn your video and audio feeds off until addressed by the Mayor.
- Delegations will have a maximum of **ten (10) minutes** for the verbal or visual presentation; please do not go over time.
- Electronic Council and Committee meetings are held through the Webex virtual meeting platform and are live streamed. When the Mayor or Chair calls you, please turn your audio and video feeds on and introduce yourself by speaking in a clear voice.
- At the end of your presentation, clearly and succinctly summarize any requests being made to the Council or Committee. *Council or Committee members may ask questions if they feel clarification is necessary.*

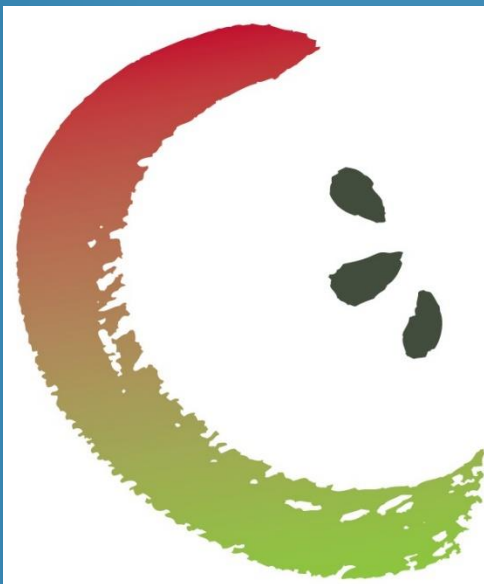
Meeting Protocol

Please use the following forms of address, not first names, regardless of how well you know the members:

- The Mayor should be addressed as "Mayor <last name>" or as "Mr. Mayor" or "His Worship"
- The Councillors should be addressed as "Councillor <last name> "
- Staff should be addressed either by title, e.g., "Chief Administrative Officer, Director of Planning and Building," or by name, e.g., Mr. Smith, Ms. Jones
- All delegations and responses to Council or staff or Committee members are addressed through the Mayor or the Chair, e.g. "Mayor Siebring, in response to the Council member who just spoke, ..."

Note: Council often does not make final decisions for requests at the meeting. Typically requests are referred to staff or another Committee for review, report, and recommendations to Council.

Thank you for taking the time to prepare for your delegation with Council. Your participation in our local government is greatly appreciated. - North Cowichan Mayor and Council. 46



COWICHAN GREEN COMMUNITY

North Cowichan Presentation – Dec 2, 2020

Funders and Partners:



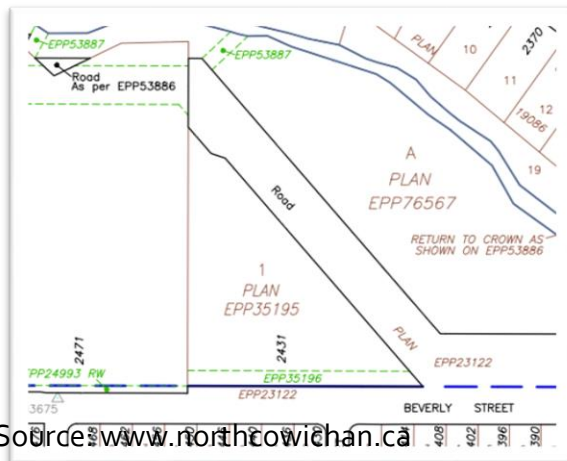
Outline

- Site History: 2431 Beverly St.
- Related Policies
- 2020 and the Garden Education Center
- Looking Forward....



History

- Former farmland purchased by North Cowichan for dyke in 2009
- Resulting property at 2431 Beverly, a brownfield site
- CGC has a License of Occupation with North Cowichan since 2015
- Funded mainly with grants for job creation, community building, and food security.



History

2015

- Property fenced and well drilled
- Start of seed production

2016

- Incubator Seed Farm model adapted to suit community needs

2017

- Portable Classroom donated by SD 79 for office space



History

2018

- Agricultural Equipment Library established with support from North Cowichan



2019

- Ross Wristen Inclusion Garden added
- Small greenhouse built



Related Local Municipality Plans: 2015 University Village Sustainable Local Area Plan

- Collaboration between the Municipality of North Cowichan and City of Duncan
- Based on North Cowichan's 2011 OCP and Duncan's 2007 OCP
- Guide to balancing growth and sustainability, preserving land



Plan Area 9: Somenos Marsh

Related Local Municipal Plans: 2018 Official Community Plan

- Provide Agricultural Opportunity
- Remove economic barriers to viability of food processing and storage
- Promote importance of Agriculture to Urban residents
- Improve quality of life through Agriculture
- Remove regulatory barriers to increased food production

Strengthen the economic vitality of farming

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.

2.1.1.5 The Municipality will assist with connecting potential farmers to land.

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.

2.1.1.7 The Municipality will permit non-agricultural activities as “home occupations” on small agricultural holdings where it is necessary to enable a second income in support of the primary agricultural activity.

Promote the importance of local agriculture

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 increased agricultural and food production.

Related Local Municipal Plans: 2018 Official Community Plan

- Encourage productivity of natural environment
- Support expansion of Agri-tourism and Eco-tourism

Encourage new, and support existing, rural- and environmental-based businesses
2.4.2.1 The Municipality supports and encourages the development of new rural and environmentally based businesses, including those that enhance the productivity of the natural environment and link climate change strategies to economic opportunities.
2.4.2.2 The Municipality supports and encourages existing rural and environmentally based businesses, including those that expand on existing agri-tourism and eco-tourism opportunities.
2.4.2.3 The Municipality recognizes that a different standard for home-based businesses may be appropriate for rural areas, in terms of size and type of operations permitted.

2020 and the Garden Education Center

- Two programs began early 2020:
 - Inclusive Farming Program
 - A Job Creation Partnership (JCP) with WorkBC
- Provided work opportunities for several summer students from all over Canada



COVID-19 and Food Security

- Disruptions in supply chains threatened food shortages
- Gardening at all-time high
 - Many first-time gardeners
- Supplies impossible to find
 - Soil and amendments
 - Pest control
 - Seeds
 - Vegetable starts
- Fall gardening more common



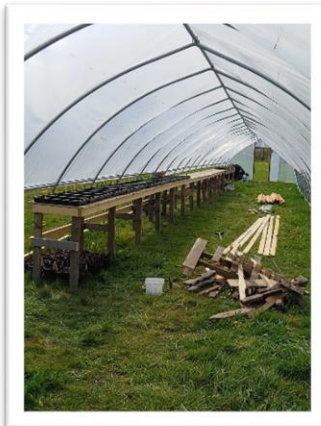
2020 – Inclusive Farming Program

- Funded until June 2021 by grants from:
 - Island Health Community Wellness
 - Victoria Foundation
- Goal of making gardening accessible to people of all abilities
- Create an inclusive space to celebrate diversity
- Weekly host to:
 - Summer camps
 - School groups
 - Volunteers
 - Seniors groups



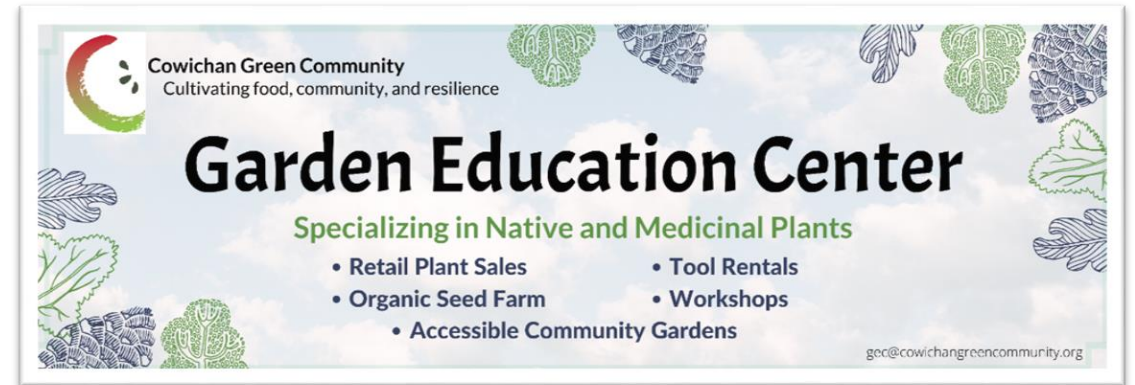
2020 – JCP Program

- Jobs for supervisor and 3 participants
- Objective of starting a retail nursery for Native and Medicinal plants
- 100' greenhouse built
- Second shed built on site for Equipment Library
- Community space created for groups



2020 and the Garden Education Center

- Complete makeover since March
 - Rebranded as Garden Education Center
 - More appealing frontage
 - Improved relationships with neighbours
- Retail space and online sales through CowOp.ca
- Building relationships within the community
 - Tour groups, school groups, volunteers, customers, etc.
- Outdoor workshops and group events



Looking Forward....

Goals:

- Become an established community space
- Become a leader in community involvement and farming education
- Improve food security by growing local food and supporting local people
- Integrate food production and processing into existing food programs



Looking Forward....

- Applied for funding to adapt site for food production
 - Food crop greenhouse
 - Cold storage
 - Kitchens and processing areas
 - Distribution space for Cow-op
- Developing school programs for farming and environmental education
 - Outdoor classroom
 - Native plant display gardens
 - Constructed Wetland



Funding

- We have applied to the following funders for support for the new kitchen:
 - Moss Foundation – \$40,000 – awarded
 - Federal Local Food Infrastructure Fund - \$220,000 – pending
 - Ministry of Agriculture - \$750,000 – pending
 - Investment Agriculture Foundation - \$120,000 – pending
 - Island Coastal Economic Trust - \$30,000 – pending

Looking Forward....

Next Steps:


- Extend License of Occupation to 10 years
- Guidance with permitting, etc.
- Hydrologic Survey
- BC Land Surveyor
- Funding support



THANK YOU



Report

Date	December 2, 2020	File: SPP00042
To	Council	
From	Rob Conway, Director, Planning and Building	Endorsed: 
Subject	Housing Agreement Bylaw and Leases for Willow Street and Sherman Road Affordable Housing Projects	

Purpose

To introduce the leases for the planned affordable housing projects at 9800 Willow Street and 3191 Sherman Road and adoption of Housing Agreement Bylaw 2020, No. 3805.

Background

On December 7, 2016, Council passed a resolution to support, in principle, entering into a 99-year lease with the Community Land Trust Foundation of BC to develop the municipally-owned properties at 9800 Willow Street in Chemainus, and 3191 Sherman Road (the "Properties"). To accommodate the affordable housing development, the Properties were rezoned by Bylaws 3645 and 3646; both adopted February 21, 2017. As well, the Duncan Curling Club's lease was recently modified to accommodate the proposed development at the Sherman Road site, and the property will be subdivided as part of the development approval process.

Discussion

The leases and housing agreements were prepared by North Cowichan's external legal counsel and have been reviewed by BC Housing. BC Housing is expected to be involved with funding the construction and operation of the affordable housing development by the Community Land Trust Foundation's CLT0003 Community Society.

The Notice of Property Disposition, required for the leases and access easement at the Sherman Road site was published in the newspaper on November 5 and 12, 2020 (Attachment 1). Key points of the proposed leases, included as Attachments 2 and 3, are as follows:

- The Lessee is CLT0003 Community Society (Inc. No. SS0070806), a society created by the Community Land Trust Foundation of BC;
- The lease term is 99-years, beginning when the lease is registered on title;
- Payment received by North Cowichan in the amount of \$10 and construction of affordable housing buildings on the Properties;
- The Sherman Road site includes 34 townhouse units, and 58 apartment units (total 92 residential units), with 19 of these being accessible and 14 reserved for woman/family shelter housing;
- The Willow Street site includes 22 residential units, with 5 of these being accessible;
- The Lessee bears all expenses and costs incurred in respect of the Properties, the affordable housing development buildings, and any improvements;

- The Lessee will construct, at its cost, the affordable housing development buildings and associated works;
- The lease includes provisions for termination on failure to construct; and,
- Use of the Properties and buildings must be for affordable rental housing for Eligible Occupants in accordance with the requirements of the Housing Agreement.

The Housing Agreement Bylaw 2020 contains the proposed housing agreement (Attachment 4). Pursuant to s. 483 of the *Local Government Act*, a bylaw is required to authorize the Housing Agreement. Key points of the proposed Housing Agreement include:

- Once constructed, each rental unit will be used and occupied as rental housing by an Eligible Household pursuant to a tenancy agreement;
- "Eligible Household" is defined as having an income of less than or equal to 80% of the median household total income for B.C. published by Statistics Canada; and,
- The monthly rent charged for a rental unit must not be greater than 30% of Household Income (as per definition of "non-market rent" in the Housing Agreement).

On November 6, 2020, Council gave first three readings to Housing Agreement Bylaw 2020, No. 3805. Members of Council also asked questions regarding tenant selection and composition for the sites. While the Housing Agreement does not include specific requirements related to tenant income levels, composition, or selection, it does stipulate that a household (individual or individuals occupying the unit) is only eligible to rent a unit if its median household income is equal to or less than 80% of the median household income for British Columbia, as published by Statistics Canada for the most recent year. B.C. median household incomes in 2018 were \$94,240 for couple families, \$47,590 for lone parent families and \$30,770 for individuals. There is also a provision in the Housing Agreement that limits the rent that can be charged for a unit, capping it at 30% of a household's monthly income, but this will only apply if the BC Housing Agreement Operating Agreement is not in effect. In order to meet BC Housing funding requirements, the allocation of housing must be a mixture of shelter (20%), housing income limits (50%), and average market rent (30%). Further information regarding tenant selection and composition has been provided by the Community Land Trust Foundation in Attachment 5.

Options

Option 1: (Recommended):

- (1) That Council adopt Housing Agreement Bylaw 2020, No. 3805.
- (2) That Council approve the lease with CLT0003 Community Society (Inc. No. SS0070806) for the affordable housing site at 3191 Sherman Rd site for a term of 99 years at an annual lease rate of \$10 and authorize the Corporate Officer to sign the lease and form required to register the lease on title.
- (3) That Council approve the lease with CLT0003 Community Society (Inc. No. SS0070806) for the affordable housing site at 9800 Willow St for a term of 99 years at an annual lease rate of \$10 and authorize the Corporate Officer to sign the lease and form required to register the lease on title.

Option 2: That Council direct staff to amend the Housing Agreement or leases by *[insert modifications]* before proceeding.

Option 3: That Council not proceed with the affordable housing projects.

Recommendation

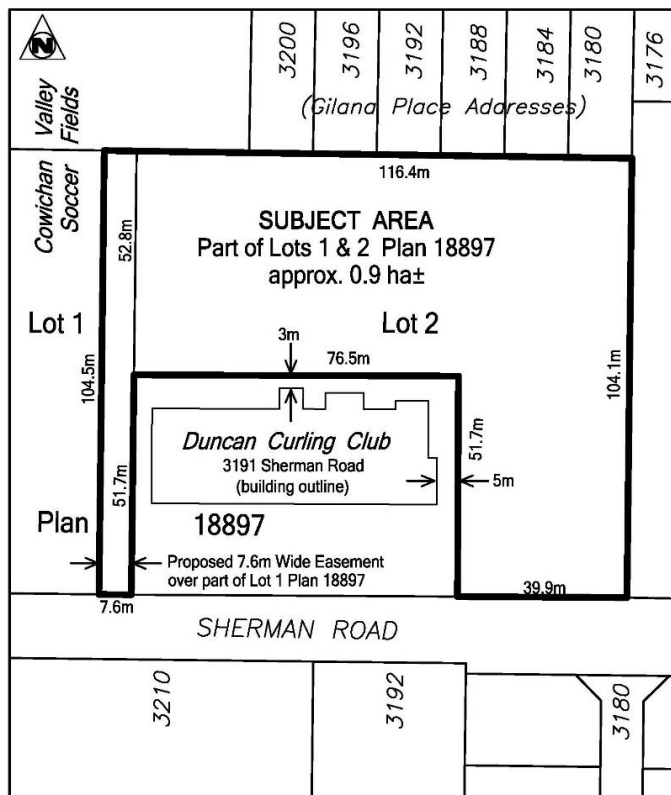
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Attachments:

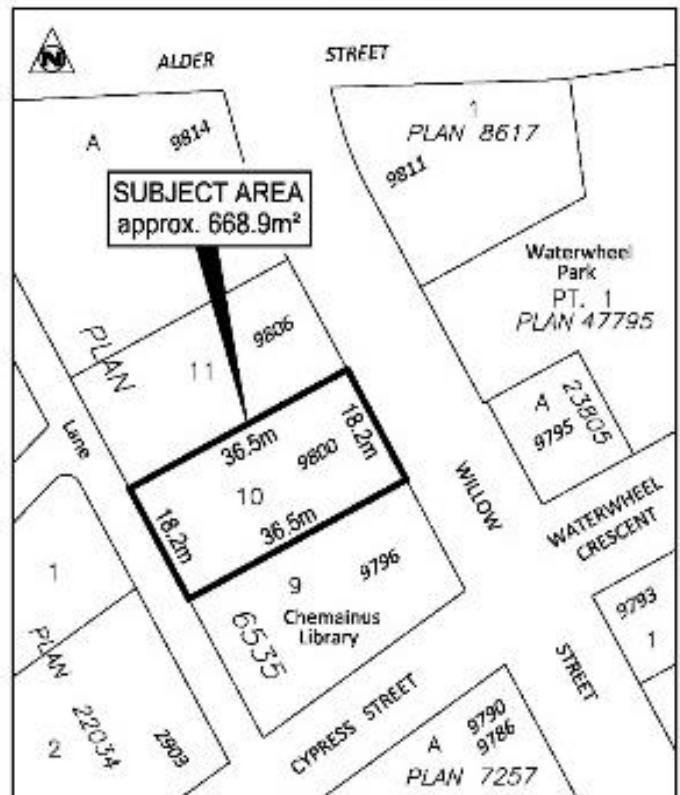
1. Notice of Property Disposition
2. Lease – 9800 Willow St
3. Lease – 3191 Sherman Rd
4. Housing Agreement Bylaw 2020, No. 3805.
5. Outline of Affordability Provisions from CLT

NOTICE OF PROPOSED PROPERTY DISPOSITION

North Cowichan gives notice, pursuant to Section 26 and 94 of the *Community Charter* that it intends to dispose of property at Sherman Road and Willow Street, Chemainus (shown as "Subject Area" in bold on the maps below) to the Community Land Trust Foundation of BC (CLT0003 Community Society) as affordable housing sites.



CurlingClubDisposition2020.dwg



LEAE – 9800 WILLOW STREET

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WHEREAS:

- A. The Lessee wishes to provide affordable housing for low to medium income households in the Cowichan region and agrees to lease the Lands for this purpose.
- B. The Lessor is the owner of the Lands and has agreed to lease to the Lessee the Lands for the Term upon the terms, conditions and provisos herein so that the Lessee may construct the Building and otherwise use, occupy and enjoy the Lands.

WITNESS that in consideration of the rents reserved and the covenants and agreements set forth below, the parties agree as follows:

THE LESSOR HEREBY DEMISES AND LEASES UNTO THE LESSEE AND THE LESSEE DOES HEREBY TAKE AND RENT THE LANDS, TO HAVE AND TO HOLD THE LANDS UNTO THE LESSEE FOR AND DURING THE TERM AS HEREIN PROVIDED.

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalized terms used in this Lease have the meanings specified in this section 1.1, unless otherwise provided in this Lease:

- (a) "Additional Rent" means all sums, costs, expenses and other amounts, if any, payable by the Lessee to the Lessor pursuant to this Lease, including, without limitation, Realty Taxes Utilities and all sums payable by way of indemnity under this Lease, but excluding Basic Rent.
- (b) "Alterations" means all alterations, changes, replacements, substitutes, additions and improvements to the Building.
- (c) "Architect" means the architect qualified as such pursuant to the laws of the Province of British Columbia who is supervising the design, construction, repair, renovation and/or reconstruction of the Building.
- (d) "Basic Rent" means ten dollars (\$10.00).
- (e) "Building" means the residential buildings to be constructed on the Lands, all as described in Schedule A or as may be approved in writing by the Lessor, together with all Alterations or repairs from time to time thereto and all improvements from time to time constructed upon or affixed or appurtenant to the Lands.
- (f) "Commencement of Construction" means the later of the date when the first building permit for the Building is issued to the Lessee by the City and the date when the Lessee's contractor commences any work on the Lands related to construction of the Building.

- (g) “Eligible Occupant” means a person who, during the time that such person is a tenant in the Building, meets the occupancy requirements of the Housing Agreement.
- (h) “General Instrument” means the Form C - *Land Title (Transfer Forms) Regulation* pursuant to the *Land Title Act* (British Columbia), and all schedules and addenda to the Form C.
- (i) “Housing Agreement” means an agreement or agreements entered into or to be entered into among the Landlord, the Tenant and the Municipality pursuant to section 483 of the *Local Government Act* (British Columbia) that relates to the occupation of the Building, which agreement will also be registered against title to the Lands as a covenant under section 219 of the *Land Title Act*.
- (j) “Lands” means all of the Lessor’s interest in the land described in the General Instrument, including every incidental right, benefit or privilege attaching to that land or running with it.
- (k) “Lease” means this Lease.
- (l) “Lease Commencement Date” means the date this Lease is registered at the Lower Mainland Land Title Office.
- (m) “Lessee” means CLT0003 Community Society (Inc. No. BC SS0070806) and includes any person to whom the Lessee assigns this Lease in accordance with the terms of this Lease
- (n) “Lessor” means The Corporation of the District of North Cowichan.
- (o) “Losses” means liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, including related professional and other fees and disbursements and costs.
- (p) “Mortgage” means a registered mortgage or registered mortgages granted by the Lessee in accordance with section 15.1 upon or in respect of the interest of the Lessee in the Lands and the Building or any part thereof and includes any deed of trust and mortgage to secure any bonds or debentures issued thereunder.
- (q) “Mortgagee” means a mortgagee or mortgagees under a Mortgage and includes any trustee for bondholders or debenture holders under a deed of trust and mortgage to secure any bonds or debentures issued thereunder.
- (r) “Municipality” means the Corporation of the District of North Cowichan.
- (s) “Permitted Encumbrances” means the charges and encumbrances, if any, registered on title to the Lands on the Lease Commencement Date, the Housing Agreement and any legal notations related to the Housing Agreement that are registered on title to the Lands and any other charges specifically approved in writing by the Lessor.
- (t) “Personnel” of a party means the elected officials and directors, officers, employees,

servants and agents of that party, as applicable.

- (u) “Prime Rate” means the floating annual percentage rate of interest established from time to time by the main branch of the Bank of Montreal located in Vancouver, British Columbia, or its successor, as the base rate that is used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as its “prime rate”.
- (v) “Realty Taxes” means all assessments for taxes, rates, duties (including school taxes, local improvement rates and other charges levied pursuant to the *Hospital Municipality Finance Act* (British Columbia), the *Municipal Finance Authority Act* (British Columbia) or otherwise) that now are or will or may be levied, rated, charged or assessed against the Lands, the Building, and all other structures, machinery, equipment, facilities and other property of any nature whatsoever located on the Lands, by any municipal, parliamentary, legislative, regional, school or other authority.
- (w) “Term” means ninety-nine (99) years commencing on the Lease Commencement Date.
- (x) “Trustee” means a trust company duly authorized to carry on business in the province of British Columbia and appointed by the Lessor for the purposes of Article 9 of this Lease.
- (y) “Utilities” means all charges, rates and levies on account of utilities, including heat, electricity, gas, telephone, television, internet and other costs and expenses of a similar nature, and, if not included in Realty Taxes, for water and garbage, recyclables and organics collection.

1.2 Legislation References

Any reference in this Lease to legislation will be deemed to include all regulations thereto, all amendments and re-enactments thereof and all successor legislation.

ARTICLE 2 - PAYMENT OF RENT

2.1 Basic Rent

The Lessee covenants and agrees with the Lessor to pay to the Lessor the Basic Rent for the Term on the Lease Commencement Date.

2.2 Net Lease

It is the intention of the Lessor and the Lessee that all expenses, costs, payments and outgoings incurred in respect of the Lands, the Building and any other improvements of the Lands or for any other matter or thing affecting the Lands, will be borne by the Lessee and unless otherwise expressly stipulated to the contrary, the Basic Rent and the

Additional Rent will be absolutely net to the Lessor and free of all abatements, set-off or deduction of any Realty Taxes, utilities and any other, expenses, costs, payments and outgoings of every nature arising from or related to the Lands, the Building or any other improvements of the Lands or for any other matter or thing affecting the Lands, and the Lessee will pay or cause to be paid all such Realty Taxes, Utilities, expenses, costs, payments and outgoings.

2.3 Interest on Amounts in Arrears

When the Basic Rent, Additional Rent or any other amount payable hereunder by the Lessee to the Lessor is in arrears, such amount will bear interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly not in advance, from the date due until paid. Notwithstanding the foregoing, this section will not apply to defaults under section 3.1.

2.4 Payments Generally

All payments by the Lessee to the Lessor of whatsoever nature required or contemplated by this Lease will be:

- (a) paid to the Lessor by the Lessee in lawful currency of Canada;
- (b) made when due under this Lease, without prior demand and without any set-off, abatement or deduction whatsoever, at the office of the Lessor or such other place as the Lessor may designate from time to time to the Lessee;
- (c) applied towards amounts then outstanding under this Lease, in such manner as the Lessor may see fit; and
- (d) deemed to be Additional Rent, in partial consideration for which this Lease has been entered into, and will be payable and recoverable as Additional Rent, such that the Lessor will have all of the rights and remedies against the Lessee for default in making any such payment that may not be expressly designated as rent, as the Lessor has for default in payment of rent.

ARTICLE 3 - PAYMENT OF TAXES

3.1 Payment of Realty Taxes

The Lessee will, during the Term, no later than the day immediately preceding the date or dates on which the Realty Taxes become due and payable, pay and discharge or cause to be paid and discharged the Realty Taxes and, if requested by the Lessor, will deliver to the Lessor for inspection receipts for payments of the Realty Taxes within fourteen (14) days of such payment. Not later than thirty (30) days following receipt of any tax assessment or notice the Lessor will deliver a copy of such assessment or notice to the

Lessee.

3.2 Delinquent Taxes

If the Lessee in any year during the Term fails to pay any Realty Taxes when due, the Lessee will pay to the Lessor, on demand, interest on the amount outstanding at the percentage rate or rates established by the Province of British Columbia or the applicable taxing authority for unpaid Realty Taxes

3.3 Right to Appeal Assessment

The Lessee will have the right from time to time to appeal, in its own or the Lessor's name, any assessment of the Lands or Building or any Realty Taxes referred to in section 3.1, provided that such appeal will be at the sole expense of the Lessee.

3.4 Payment of Utilities

The Lessee will pay for or cause to be paid during the Term when due to the providers thereof all Utilities with respect to the Lands or the Building.

3.5 Business Tax and License Fees

The Lessee will pay or cause to be paid during the Term when due every tax and permit and license fee (including penalties and interest) in respect of any and every business carried on, in or upon the Lands or Building or in respect of the use or occupancy of the Lands or Building (including by or under the Lessee and by or under every sublessee, permittee and licensee), other than such taxes as corporate income, profits or excess profit taxes assessed upon the income of the Lessee (or such sublessee, permittee and licensee), whether such taxes or permit and license fees are charged by any municipal, parliamentary, legislative, regional or other authority.

3.6 Other Taxes

The Lessee will pay when due all goods and services taxes, harmonized sales taxes, value-added taxes, sales taxes and consumption based taxes, rates, levies and assessments, including penalties and interest, that are from time to time payable by the Lessee as a result of, or that would not be payable but for, its rights and obligations contained in this Lease, including, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Lessee to the Lessor.

3.7 Pro-rating Obligations

In the first and last years of the Term, the Lessee's obligations under section 3.1 will be pro-rated according to the portion of the year included in the Term, such pro-rating to be on a per diem basis.

ARTICLE 4 - CONSTRUCTION OF BUILDING

4.1 Lessee to Construct Building

The Lessee will construct the Building, together with other facilities ancillary thereto and connected therewith, on the Lands in substantial accordance with the drawings, specifications (including materials to be used), elevations, location on the Lands and exterior decoration and design and all other documents and information upon which the issuance of the building permits by the Municipality are based and that have been approved by the Lessor. No changes will be made to such drawings, specifications, elevations, location, exterior decoration and design, other documents or information, or to the requirements of such building permits without the approval of the Lessor

4.2 Substantial Completion of Building

For the purposes of this Article 4, the Building will be deemed to have been substantially completed when the Architect has certified to, or otherwise satisfied, the Lessor that, with respect to the Building:

- (a) all work of a structural nature has been properly completed;
- (b) all building equipment and services, including elevators (if any), heating systems and air-conditioning systems (if any) and utilities have been completed, are operating properly and are available for use by tenants of the Lessee, and all lobbies, stairwells and other areas intended for the common use of tenants of the Lessee are completed except for work of a superficial nature, which is both minor in character and of a type that, owing to the likelihood of damage, may reasonably be deferred until the Building is partially or substantially occupied by tenants of the Lessee;
- (c) the Building complies with all of the Municipality's bylaws and regulations (including the Municipality's Building Bylaw);
- (d) all rentable space is completed and ready for occupancy except for work of a superficial nature that is dependent upon unascertained requirements of individual tenants of the Lessee, and work that is reasonably and customarily performed by tenants of the Lessee;
- (e) all areas are clean and all surplus building material and rubbish have been removed;
- (f) the Building is in a condition in which it can be occupied by tenants of the Lessee, and any work that is still unfinished can be completed promptly and is work the incompleteness of which will not be objectionable to a tenant of the Lessee acting reasonably;
- (g) the Building has been constructed in all respects in a good and workmanlike manner and in accordance with the drawings and specifications referenced in or approved by

Lessor under section 4.1, and in compliance with all building permits issued by the Municipality; and

- (h) a certificate of completion has been issued in respect of the Building pursuant to the *Builders Lien Act* (British Columbia).

4.3 Termination of Lease on Failure to Construct

Subject to sections 4.6 and 17.2, if Commencement of Construction has not taken place within two years of the Lease Commencement Date, or if construction of the Building is not substantially completed in accordance with the requirements of section 4.2 before the fifth anniversary of the Lease Commencement Date, the Lessor will have the option at any time thereafter to terminate this Lease, and in such event this Lease will terminate and be of no further force or effect and without any reimbursement or compensation to the Lessee, unless the Lessor consents in writing to extend the deadline for Commencement of Construction or substantial completion, as the case may be, such consent not to be unreasonably withheld.

4.4 Landscaping

Within one hundred and eighty (180) days of substantial completion of the Building, the Lessee will landscape the Lands and thereafter maintain the landscaping in accordance with landscaping plans that have been approved by the Lessor.

4.5 Alterations After Substantial Completion

After substantial completion of the Building, the Lessee will not make or permit to be made any Alterations affecting the structure of the Building or the exterior appearance of the Building without the written approval of the Lessor, which approval the Lessor will not unreasonably withhold. Without limiting the foregoing, no Alterations involving an estimated cost of more than Two Hundred Thousand Dollars (\$200,000.00) will be undertaken until the Lessee has submitted or caused to be submitted to the Lessor such drawings, specifications (including the materials to be used), elevations (where applicable), locations (where applicable), exterior decoration and design and such other documentation and information as the Lessor may request in connection with the proposed Alterations, and until all of the same have been approved in writing by the Lessor, which approval the Lessor will not unreasonably withhold. The Lessee covenants and agrees with the Lessor that, subject to section 4.6, all Alterations undertaken by or for the Lessee once begun will be prosecuted with due diligence to completion.

4.6 Unavoidable Delays

If, by reason of strike, lock-out or other labour dispute, material or labour shortage not within the control of the Lessee, fire, explosion, flood, wind, water, earthquake, act

of God or other similar circumstances beyond the reasonable control of the Lessee, the Lessee is prevented or delayed in achieving Commencement of Construction or substantial completion of the Building in accordance with section 4.2 or the repair of the Building or any part or parts of the Building which under the terms of this Lease the Lessee is required to do by a specified date or within a specified time, the date or period of time within which such work was to have been completed will be extended by the Lessor by a reasonable period of time at least equal to that of such prevention or delay, and the Lessee will not be deemed to be in default if it performs and completes the work in the manner required by the terms of this Lease within such extended period of time or within such further extended period of time as may be agreed upon from time to time between the Lessor and the Lessee.

ARTICLE 5 - BUILDERS LIENS

5.1 Builders Liens

In connection with all labour performed on or materials supplied to the Lands, including but not limited to the construction of the Building, the Lessee will comply with, and will cause any contractor hired by it to comply with, the provisions of the *Builders Lien Act* (British Columbia), and with all other statutes applicable in connection therewith and in force from time to time, including any provision or statute requiring or permitting the retention of portions of any sums payable by way of holdbacks.

5.2 Discharge of Builders Liens

If and whenever any builders lien, or other lien or claim arises or is filed against the Lands in connection with work, labour, services or materials supplied to or for the Lessee or for the cost of which the Lessee may in any way be liable, the Lessee will, within fifteen (15) days after receipt of notice of such lien or claim, procure the discharge thereof, and the discharge of any certificate of pending litigation registered in respect of any such lien or claim, by payment or giving security or in such other manner as may be required or permitted by law. If the Lessee fails to comply with the foregoing, the Lessor may pay and discharge any lien claim if, in its reasonable judgement, the Lands or the Lessor's interest in the Lands becomes liable to forfeiture or sale, or is otherwise in jeopardy. The Lessee will reimburse to the Lessor any amount paid by the Lessor in discharging a lien claim and the Lessor's reasonable expenses in connection therewith.

5.3 Notice by Lessor

Pursuant to section 3(2) of the *Builders Lien Act*, the Lessor may file in the Land Title Office a "notice of interest" in respect of the Lands and for all purposes of this Lease the construction of the Building by the Lessee will be deemed not to be done at the request of the Lessor.

ARTICLE 6 - RESTRICTIONS ON OPERATIONS AND USE

6.1 Use

The Lessee covenants and agrees with the Lessor that neither the Lands nor Building nor any part of the Lands or Building will be used for any purpose except that of affordable rental housing for Eligible Occupants in accordance with the requirements of the Housing Agreement.

6.2 No Nuisance

The Lessee will not carry on, or suffer or permit to be carried on, upon the Lands anything which would constitute a nuisance to the Lessor or to any neighbouring properties or their owners or occupants.

6.3 No Subdivision

The Lessee will not subdivide the Lands or the Building pursuant to the *Strata Property Act* (British Columbia).

6.4 Constitution

The Lessee covenants and agrees that without the prior written consent of the Lessor, it will not amend or permit its constitution to be amended or varied in any way from the constitution filed in the British Columbia Corporate Registry as of the Lease Commencement Date.

6.5 Restriction on Operating Revenue & Contracting

The Lessee covenants that:

- (a) it will not pay directly or indirectly to any of its directors or their relatives by blood or marriage (including common-law marriage) any money obtained from the operation of the Lands or the Building, without the express written consent of the Lessor;
- (b) it will not, by contract or otherwise, pay to any of its former directors or their relatives by blood or marriage (including common-law marriage), pursuant to any contract or arrangement made when the former director was a director of the Lessee, money obtained from the operation of the Lands or the Building, without the express written consent of the Lessor;
- (c) subject to sub-paragraphs (a) and (b), the Lessee may enter into bona fide arm's length contracts with occupants of the Building for the provision of services in furtherance of the good management of the Lands and the Building; and
- (d) notwithstanding the foregoing, the Lessee may reimburse its directors or occupants of

the Building for out-of-pocket expenses incurred for the proper management of the Lands or the Building but only upon the proof of such expenditure by the production of bona fide receipts.

6.6 Permitted Encumbrances

The Lessee will perform and observe all of:

- (a) the Lessee's obligations under the Housing Agreement; and
- (b) all of the Lessor's obligations of under the Permitted Encumbrances, including the Housing Agreement (but only the Lessor's obligations thereunder arising from its ownership of the Lands and not those rights of the Municipality in its regulatory capacity).

The Lessor will execute such documents as might reasonably be requested by the Lessee to enable it to comply with its obligations and to enjoy its rights in respect of the Permitted Encumbrances. The Lessee further covenants and agrees with the Lessor that if the Municipality exercises any of its rights in its regulatory capacity under the Permitted Encumbrances, such exercise will not be a breach of the Lessor's covenant for quiet enjoyment.

6.7 Lessee to Operate on a Non-Profit Basis

The Lessee will operate the Building on a non-profit basis, such that there will be no accumulation of funds in excess of those needed to operate and manage the Lands and Building in accordance with this Lease and the Housing Agreement.

ARTICLE 7 - REPAIRS AND MAINTENANCE

7.1 Lessor Not Obligated to Repair

The Lessor will not be obliged to furnish any services or facilities or to make repairs or Alterations in or to the Lands or the Building, and the Lessee hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Lands and the Building and all expenses related thereto.

7.2 Repairs by the Lessee

Reasonable wear and tear excepted, so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Building:

- (a) the Lessee at the Lessee's cost and expense will put and keep in good order and condition, or cause to be put and kept in good order and condition, the Lands and Building (and any equipment located thereon and therein), both inside and outside, including but not limited to fixtures, walls, foundations, roofs, vaults, stairways, elevators (if any) and

similar devices, heating and air conditioning equipment, sidewalks, yards and other like areas, water and sewer mains and connections, water, steam, gas and electric pipes and conduits, and all other fixtures and appurtenances to the Lands and the Building and machinery and equipment used or required in the operation thereof, whether or not enumerated herein, and will, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs and, subject to section 4.5, Alterations, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Building and any and all fixtures and equipment therein fully usable for the purposes for which the Building was constructed. Such repairs and Alterations will be in all respects to a standard at least substantially equal in quality of material and workmanship to the original work and material in the Building, and will in each case be performed only in accordance with all applicable terms and conditions of the Permitted Encumbrances;

- (b) the Lessee will not commit or suffer waste to the Lands or the Building or any part thereof;
- (c) at the expiration or earlier termination of this Lease, the Lessee will, except as otherwise expressly provided herein, surrender and deliver up the Lands with the Building, and the fixtures, appurtenances and equipment thereon and therein, or any replacements or substitution therefor, in good order and condition; and
- (d) if the Lessee does not fulfil its obligations set out in this Article 7, the Lessor, through its agents, servants, contractors and subcontractors, may, but will not be obliged to, enter (without hindrance by the Lessee) upon the Lands and the Building as required for the purpose of making any repairs necessary to put the Lands and the Building in good order and condition, provided that the Lessor will make such repairs only after giving the Lessee not less than fourteen (14) days written notice of its intention to do so, except in the case of an emergency when no notice will be required. Any costs and expenses (including overhead costs) incurred by the Lessor in making such repairs to the Lands and Building will be reimbursed to the Lessor by the Lessee on demand, together with interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly, from the date incurred until the date paid.

7.3 Removal of Ice and Snow from Sidewalks

The Lessee will keep the public sidewalk adjacent to the Lands reasonably clean from rubbish, ice and snow during the times and to the extent lawfully required of an owner and if the Lessee at any time fails to do so, the Lessor, through its agents, servants, contractors and subcontractors, may remove such rubbish, ice and snow and the Lessor will not be required to give the Lessee any notice of its intention to do so. Any costs and expenses incurred by the Lessor in removing such ice and snow will be reimbursed to the Lessor by the Lessee on demand, together with interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly,

from the date incurred until paid.

ARTICLE 8 - ADDITIONAL RENT

8.1 All Defaults in Payment as Additional Rent

If the Lessee defaults in the payment of any sums required to be paid by it pursuant to the terms of this Lease, or fails to fulfil any of its obligations under this Lease, the Lessor may (but will be under no obligation to) pay such sums or fulfil such obligations on behalf of the Lessee, and any losses, costs, charges and expenses suffered by the Lessor as a result, including sums payable by way of indemnity, whether or not expressed in this Lease to be rent, may at the option of the Lessor be treated as and deemed to be Additional Rent, in which event the Lessor will have all remedies for the collection of such sums, costs, expenses or other amounts when in arrears as are available to the Lessor for the collection of rent in arrears.

ARTICLE 9 - INSURANCE

9.1 Insurance During Construction of Building

Prior to the Commencement of Construction of the Building, and throughout the entire period of construction until substantial completion of the Building pursuant to section 4.2, the Lessee will effect or will cause its contractor or contractors to effect and maintain in full force the following insurance coverage:

- (a) wrap-up liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor may require from time to time, per occurrence, issued in the joint names of the Lessee, the Lessor, the Lessee's contractors, any subcontractors and their respective Personnel, protecting them against claims for bodily injury, death or property damage or other third party or public liability claims arising from any accident or occurrence upon, in or about the Lands from any cause, including the risks occasioned by the construction of the Building; and
- (b) all-risk course of construction insurance issued in the joint names of the Lessee, the Lessor, protecting them from all loss or damage of or to the Building and all fixtures, equipment, improvements and building materials on the Lands from time to time, both during and after construction (but which may be by different policies effected from time to time covering the risk during different phases of construction of the Building, provided that at no time will the Building be uninsured) against fire, earthquake, flood and all other perils from time to time customarily included in the usual all-risks builders' risk form of policy applicable to similar properties during construction and effected in the province of British Columbia by prudent owners, and such other perils as the Lessor may reasonably require to be insured against, to the full replacement value thereof at all times.

9.2 Commercial General Liability Insurance

The Lessee will effect and keep in force commercial general liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor may require from time to time, per occurrence, against public liability claims for bodily injury, death and property damage (including loss of use) arising from the Lessee's use and occupancy of the Lands and from any occurrence or accident on the Lands or Building. Such insurance will be written on an occurrence basis and will provide for blanket contractual liability, including liability assumed by the Lessee under this Lease. The policy will also contain a cross liability or severability of interests clause and will name the Lessor and its Personnel as additional insureds with respect to third party claims arising out of the Lessee's operations pursuant to this Lease.

9.3 All Risk Property, Pressure Vessel and Rental Income Insurance

Immediately following substantial completion of the Building and at all times thereafter during the Term, the Lessee will effect and maintain property insurance in the joint names of the Lessor and the Mortgagee (if any) as their interests may appear, to the full replacement value of the Building and fixtures on the Lands, protecting them against "All Perils" of loss or damage including flood, sewer backup and earthquake, and will include:

- (a) rental income insurance in an amount equal to the maximum annual rental income of the Building; and
- (b) boilers and pressure vessels, protecting against usual and unusual perils, including damage caused by rupture of steam pipes.

The policies described in this section 9.3 will contain a clause directing insurers to make losses payable to the Lessee, the Lessor and the Mortgagee as their interests may appear.

9.4 Insurance – Additional Provisions

The following provisions will apply to all policies of insurance which are referred to in this Article 9:

- (a) the policies will be primary and non-contributing with respect to any policy or self-insured fund otherwise held or established on behalf of the Lessor;
- (b) the stated amount of value insured under property policies will be of sufficient amount that none of the Lessee, nor the Lessor will become co-insurers with respect to any loss claimed against the insurance;
- (c) each policy will be written on a form acceptable to the Lessor and with insurers licensed to do business in the province of British Columbia and acceptable to the Lessor;

- (d) any deductible amounts applying to a claim against a policy will be of an amount approved by the Lessor;
- (e) each policy will contain a clause requiring that the insurers provide to the Lessor a minimum of sixty (60) days prior written notice of any cancellation (except for cancellation resulting from non-payment of premiums, in which case applicable statutory provisions will apply); and
- (f) all premiums and deductibles required under said policies will be paid by the Lessee to the insurers and proof of such payment will be submitted to the Lessor.

In addition to the notification obligations of the insurers required by section 9.4(e), the Lessee will provide to the Lessor a minimum of sixty (60) days prior written notice of any cancellation, lapse or material change resulting in reduction of coverage, either in whole or in part, in respect of any of the policies of insurance which are referred to in this Article 9.

9.5 Evidence of Insurance

Prior to the Lease Commencement Date the Lessee will provide the Lessor with evidence of all insurance required to be taken out pursuant to this Lease, in the form of one or more detailed certificates of insurance, in such form(s) and contents as the Lessor requests. Each certificate of insurance must identify the Lease number, policy holder and subject matter, and must not contain any disclaimer. Thereafter, and throughout the Term, forthwith upon request by the Lessor, similar evidence of renewals, extensions or replacement of such insurance will be provided in the form of such certificate(s) of insurance. In addition, if requested by the Lessor at any time, the Lessee will forthwith deliver to the Lessor a certified copy of each insurance policy requested.

9.6 Payment of Loss Under Insurance Policies

The insurance monies payable under the policies of insurance referred to in this Article 9, will, notwithstanding the terms of the policy or policies, be paid to the Trustee on behalf of the Lessee, the Lessor and the Mortgagee. The Lessee and the Lessor agree that the Trustee will, subject to section 10.5, pay for all restoration, reconstruction or replacement of the loss or damage in respect of which such insurance monies were paid to the Trustee out of such insurance monies in accordance with certificates of the Architect or such other person as the Lessee and the Lessor may agree upon and who is in charge of such restoration, reconstruction or replacement, after receiving such other certificates, evidence or opinions as the Trustee will require for the purpose of being satisfied that such restoration, reconstruction or replacement is being properly carried out. If the Lessee fails to restore, reconstruct or replace the loss or damage in respect of which the insurance monies were paid to the Trustee within a reasonable time, the Lessor will be entitled to effect such restoration, reconstruction or replacement and the Trustee will pay

such insurance monies to the Lessor in the same manner that the Trustee would have done had the Lessee effected such restoration, reconstruction or replacement.

9.7 Workers Compensation Coverage

At all times during the Term, the Lessee will, and will cause its Personnel and all others engaged in or upon any work on the Building or the Lands to, comply with the *Workers Compensation Act* (British Columbia) (the “WCA”) and the requirements and regulations of WorkSafeBC in respect of the Building and the Lands. Without limiting the generality of the foregoing, the Lessee will:

- (a) require as a condition of any agreement made with respect to construction, repair, renovation or demolition of the Building, whether with contractors, materialmen or otherwise, that there is full workers compensation insurance coverage in place in respect of all workmen, employees, servants and others engaged in or upon any work, and that all workmen, contractors or other workers require the same of their workmen and subcontractors. The Lessee will immediately notify the Lessor of any dispute involving third parties that arises in connection with obtaining and maintaining the workers compensation insurance coverage required hereby if such dispute results or may result in the required insurance coverage not being in place, and the Lessee will take all reasonable steps to ensure resolution of such dispute forthwith. The Lessee will further ensure that no amount payable pursuant to the WCA is left unpaid so as to create a lien on the Lands or the Building. If the workers compensation insurance coverage required by this section 9.7 is not in place, the Lessor will be entitled to have recourse to all remedies specified in this Lease or at law or equity; and
- (b) be deemed to be, and is hereby designated and appointed by the Lessor as, the “Prime Contractor” as that term is defined in section 118 of the WCA for the purposes of the WCA and related regulations, including the Occupational Health and Safety Regulation (the “OHS Regulation”), and the requirements and regulations of WorkSafeBC, and will in that capacity strictly comply with all requirements applicable to that designation, including without limitation those set forth in Division 3 of Part 3 of the WCA and in sections 20.2 and 20.3 of the OHS Regulation, as they may be amended from time to time. Notwithstanding the foregoing, with the prior written consent of the Lessor, a contractor hired by the Lessee to perform work on the Lands on its behalf may be designated as the Prime Contractor instead of the Lessee.

9.8 Release of Lessor from Liability for Insured Loss or Damage

The Lessee hereby releases the Lessor and its Personnel, whether or not the Lessor and its Personnel have been negligent, from any and all liability for loss or damage caused by any of the perils against which the Lessee will have insured or is obligated to insure pursuant to the terms of this Lease or any applicable law, the intent being that the Lessee’s policies of insurance will contain a waiver of subrogation in favour of the Lessor.

ARTICLE 10 - DAMAGE OR DESTRUCTION

10.1 Rent Not to Abate

Subject to the provisions of sections 10.5, the partial destruction or damage or complete destruction by fire or other casualty of the Building will not result in the termination of this Lease or entitle the Lessee to surrender possession of the Lands or the Building or to demand any abatement or reduction of the Basic Rent or Additional Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

10.2 Lessee's Obligation When Building Partially Damaged or Destroyed

Subject to the provisions of sections 10.5, the Lessee covenants and agrees with the Lessor that in the event of partial damage to or partial destruction of the Building, the Lessee will either:

- (a) replace any part of the Building damaged or destroyed with a new structure in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) in the absence of any such agreement, repair or replace such damage or destruction to a standard comparable to the standard of the structure being repaired or replaced.

10.3 Lessee's Obligations When Building Completely or Substantially Destroyed

Subject to the provisions of sections 10.5, the Lessee covenants and agrees with the Lessor that in the event of complete or substantially complete destruction of the Building, the Lessee will either:

- (a) reconstruct or replace the Building with a new structure or structures in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) in the absence of any such agreement, replace the Building with a new structure or structures comparable to the structure or structures being replaced.

10.4 Replacement, Repair or Reconstruction

Any replacement, repair or reconstruction of the Building or any part thereof pursuant to the provisions of section 10.2 or 10.3 will be made or done in compliance with section 4.5 and Article 7.

10.5 Destruction or Damage During Last Five Years of Term

- (a) In the event of the complete or substantial destruction of the Building during the last five (5) years of the Term, the Lessee may, at its option, either reconstruct or replace the

Building so destroyed or damaged in accordance with section 10.3 or decline to do so, and instead elect to terminate this Lease, provided that the Lessee makes such election within sixty (60) days after the date on which the Building was so destroyed and notifies the Lessor of its election forthwith after making it;

- (b) As soon as reasonably possible, but not later than one hundred and eighty (180) days following the date of termination of this Lease by the Lessee pursuant to section 10.5(a), the Lessee will demolish and completely remove the Building and all foundations and debris from the Lands and restore the Lands to a neat and level condition in a good and workmanlike manner. Any insurance money payable by reason of any fire or other casualty causing such destruction will, notwithstanding the provisions of Article 9, be distributed as follows:
 - (i) firstly, to reimburse the Lessee for all costs and expenses necessarily incurred by the Lessee in the demolition and removal of the Building and all foundations and debris from the Lands and the restoration of the Lands as aforesaid;
 - (ii) secondly, to pay and satisfy the Mortgage, if any;
 - (iii) thirdly, to pay the balance of the insurance monies, if any, as follows:
 - (A) to the Lessor the amount calculated as follows:

$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days in expired portion of the Term} \div \text{total days in Term}); \text{ and}$$
 - (B) to the Lessee the amount calculated as follows:

$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days remaining in the Term} \div \text{total days in Term}); \text{ and}$$
- (c) Notwithstanding anything contained herein, in the event the Lessee terminates this Lease in accordance with this section 10.5, this section 10.5 will nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as any obligations of the parties under this section 10.5 or any part thereof remains unperformed.

ARTICLE 11 - INSPECTION AND EXHIBITION BY LESSOR

11.1 Inspection by Lessor

It will be lawful for representatives of the Lessor to enter the Lands and the Building at all reasonable times during the Term in order to examine the condition thereof. If the Lessor determines that any of the repairs described in section 7.2 are required, the Lessor may give notice of such required repairs to the Lessee, and the Lessee will within

thirty (30) days after every such notice, or such longer period as provided in section 17.1(d), complete the required repairs.

11.2 Exhibition by Lessor

During the final year of the Term, the Lessor will be entitled to display upon the Lands the usual signs advertising the Lands and Building as being available for purchase or lease, provided such signs are displayed in such a manner as not to unreasonably interfere with the Lessee's use and enjoyment of the Lands and the Building and the Lessee's representatives and invitees may enter the Lands and Buildings, at reasonable times and upon reasonable notice to the Lessee, for the purposes of showing the Lands and Buildings to prospective purchasers or lessees.

ARTICLE 12 - OBSERVANCE OF GOVERNMENTAL REGULATIONS

12.1 Compliance

The Lessee covenants to competently and faithfully observe and comply with all laws, bylaws and lawful orders which apply to the Lands and the Building or the Lessee's occupation of or activities on the Lands or in the Building, and to not use or occupy or permit to be used or occupied the Lands or the Building or any part thereof for any illegal or unlawful purpose or in any manner which would result in the cancellation or threatened cancellation of any insurance, or in the refusal of any insurer to issue any insurance as requested. If any law, bylaw or lawful order is directed at or places a duty or obligation upon the Lessor, then the same will be performed and observed by the Lessee, at its cost, in the place and stead of the Lessor.

ARTICLE 13 - EXCLUSION OF LIABILITY AND INDEMNITY

13.1 Limitation of Liability and Release

Neither the Lessor nor its Personnel or contractors will be liable for, and the Lessee hereby releases the Lessor and its Personnel and contractors from all Losses, including without limitation, Losses as a result of:

- (a) any bodily injury or death caused, suffered or sustained in or about the Lands or the Building; or
- (b) any property damage or other loss or damage to the Lands or the Building, or to any property belonging to the Lessee or to any other person in or about the Lands or the Building,

unless resulting from the negligence or wilful acts of the Lessor or its Personnel or contractors, as the case may be.

13.2 Exclusion of Liability

Notwithstanding section 13.1, neither the Lessor nor its Personnel or contractors will be liable in any circumstances for:

- (a) business, economic or indirect loss or damage of any nature whatsoever, however caused, which may be suffered or sustained by the Lessee or any other person who may be in or about the Lands or the Building; or
- (b) any loss against which the Lessee is obligated to insure or has insured.

13.3 Indemnification

The Lessee will indemnify and save harmless the Lessor and its Personnel and contractors from and against all Losses which the Lessor or its Personnel or contractors may suffer or incur arising out of this Lease; provided, however, that such indemnity will not apply to the extent to which such Losses result from the respective negligence and/or wilful acts of the Lessor or its Personnel or contractors, as the case may be. Subject to the foregoing proviso, the Lessee will indemnify and save harmless the Lessor and its Personnel and contractors in respect of all Losses:

- (a) as a result of bodily injury or death, property damage or other damage arising from the conduct of any work by or any act or omission of or relating to or arising from the occupation or possession of the Lands and the Building by the Lessee or any assignee, subtenant, Personnel, contractor, invitee or licensee of the Lessee; or
- (b) suffered or incurred by the Lessor or its Personnel and contractors that arise, whether directly or indirectly, from any breach by the Lessee, its Personnel, contractors or any other person for whom the Lessee is responsible in law, of any of its covenants and obligations under this Lease.

13.4 Indemnification Survives Termination of Lease

The obligations of the Lessee to indemnify the Lessor and its Personnel and contractors will apply and continue notwithstanding the termination or expiration of this Lease.

ARTICLE 14 - SUBLETTING AND ASSIGNING

14.1 Subletting and Assigning by Lessee

The Lessee will not sublease, assign, transfer, sell or encumber the Lease or enter into any agreement for the purpose of sub-leasing, assignment, transferring, selling or encumbering the Lease, the Building or the Lands, except as expressly permitted in this Lease, or with the prior written consent of the Lessor, which consent the Lessor may arbitrarily withhold. The Lessee may sublet or grant licences or other rights to occupy

any part of the Building to Eligible Occupants.

Notwithstanding the foregoing, the Lessee may, with the written consent of the Lessor, acting reasonably, enter into agreements with one or more sub-operators in respect of some or all of the units in the Building. A sub-operator may, pursuant to such agreement, discharge duties of the Lessee hereunder, and may enter into occupancy agreements with Eligible Occupants in its own name. No agreement with any sub-operator will relieve the Lessee of any of its obligations to the Lessor hereunder.

14.2 Copies of Subleases

If requested by the Lessor, a copy of all subleases, licenses or agreements to occupy will be forwarded to the Lessor within thirty (30) days after the receipt of the request.

ARTICLE 15 - MORTGAGE

15.1 Mortgaging by Lessee

The Lessee may mortgage its leasehold interest in the Lands and the Building only with the prior written consent of the Lessor, which consent may not be unreasonably withheld. Notwithstanding any such Mortgage, the Lessee will be and remain liable for the payment of all Basic Rent and Additional Rent, and the performance of all of its obligations set out in this Lease.

ARTICLE 16 - BANKRUPTCY OF LESSEE

16.1 Bankruptcy of Lessee

Subject to the provisions of section 17.2(c), if the Lessee's interest in this Lease is at any time seized or taken in execution by any creditor of the Lessee, or if the Lessee makes a general assignment for the benefit of creditors, or institutes proceedings to subject itself to the *Winding-up and Restructuring Act* (Canada) or to be adjudicated a bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it, or files an application or petition or answer or consent seeking reorganization or readjustment of the Lessee under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada) or any law of Canada or any province thereof relating to bankruptcy or insolvency, or consents to the filing of any such application or petition, or consents to the appointment of a receiver, or if the Lessee or its directors pass any resolution authorizing the dissolution or winding-up of the Lessee, or if a receiver, interim receiver, trustee or liquidator of all or any part of the property of the Lessee is appointed or applied for by the Lessee, or if a judgment, decree or order is entered by a court of competent jurisdiction adjudging the Lessee a bankrupt or insolvent or subject to the provisions of the *Winding-up and Restructuring Act* or *Bankruptcy and Insolvency Act* or determining the proceedings for reorganization, arrangement,

adjustment, composition, liquidation, dissolution or winding-up or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency has been properly instituted, then this Lease will, at the option of the Lessor, immediately become terminated.

ARTICLE 17 - DEFAULT BY LESSEE

17.1 Re-entry on Certain Defaults by Lessee

Subject to the provisions of section 17.2, if and whenever:

- (a) Basic Rent or any part thereof is not paid on the day appointed for payment thereof; or
- (b) the Lessee defaults in payment of Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and such default continues for thirty (30) days following any specific due date on which the Lessee is to make such payment or, in the absence of such specific due date, for thirty (30) days following notice by the Lessor requiring the Lessee to pay the same; or
- (c) the Building is abandoned or remains vacant for more than thirty (30) days; or
- (d) the Lessee defaults in performing or observing any of its other covenants or obligations under this Lease, or any event occurs which by the terms of this Lease constitutes a breach hereof or confers upon the Lessor the right to re-enter or forfeit or terminate this Lease, and the Lessor has given to the Lessee notice of such default or the happening of such event, and if at the expiration of forty-five (45) days after the giving of such notice the default continues to exist, or in the case of a default which cannot with due diligence be cured within the period of forty-five (45) days aforesaid, if the Lessee does not commence the rectification of such default within the said forty-five (45) day notice period and thereafter promptly and diligently and continuously proceed with such rectification; or
- (e) this Lease expires or is forfeited or terminated pursuant to any other provision contained herein, including, without restricting the generality of the foregoing, the termination of this Lease pursuant to the provisions of sections 4.3 and 10.5,

then and in every such case, it will be lawful for the Lessor at any time thereafter without notice or demand, with or without process of law and by forced entry if necessary, to enter into and upon the Lands and the Building, or part thereof in the name of the whole, and, if this Lease has not already expired or been forfeited or terminated, to terminate this Lease by leaving upon the Lands notice in writing of such termination. If the Lessor terminates this Lease pursuant to this section 17.1, or otherwise as a result of default of the Lessee, or if the Lessee has forfeited this Lease, the Lessee will be liable

to the Lessor for the rents and all other amounts to be paid and the covenants to be performed by the Lessee up to the date of such termination or forfeiture.

17.2 Notice to and Remedies of Mortgagee

The following provisions will apply with respect to any Mortgagee:

- (a) no re-entry, termination or forfeiture of this Lease by the Lessor will be valid against the Mortgagee who has filed with the Lessor a notice of the Mortgage and specified an address for notice in accordance with Article 22, unless the Lessor has first given to the Mortgagee written notice of the default entitling the Lessor to re-enter, terminate or forfeit this Lease, specifying the nature of that default, and stating the Lessor's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default specified in the notice within a period of sixty (60) days from the date of receipt of that notice by the Mortgagee; or
 - (ii) if the default is other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and if the default cannot reasonably be cured within such sixty (60) day period, then to immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default;

and the Lessor hereby grants the Mortgagee access to the Lands and the Building for that purpose. If the default is cured within the period specified, or in the circumstances referred to in 17.2(a)(ii), if cured within a reasonable period, the Mortgagee will be entitled to continue as tenant for the balance of the Term provided that the Mortgagee attorns as tenant to the Lessor and undertakes to be bound by and to perform and observe all of the Lessee's obligations, covenants and agreements under this Lease until such Mortgagee as tenant assigns its leasehold estate as permitted by this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its personal representatives, successors and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to be bound by and to perform and observe all of the Lessee's obligations, covenants and agreements under this Lease. If the Mortgagee consists of more than one mortgagee, each having a separate charge upon the Lessee's interest in this Lease, and more than one of them wishes to cure the default specified in the notice aforesaid, then the Lessor hereby agrees to permit curing of the default specified as aforesaid by that Mortgagee that is willing to cure the default and attorn as tenant as aforesaid and whose charge ranks in priority over the charge or charges held by the other Mortgagee or Mortgagees willing to cure and attorn as aforesaid, except that in the event that any Mortgagee has commenced a foreclosure action, the provisions of section 17.2(b) will apply;

- (b) in the event the Mortgagee commences foreclosure proceedings against the Lessee, whether or not the Lessee is in default of the performance of its covenants and agreements with the Lessor under this Lease, the Lessor will not re-enter, terminate or forfeit this Lease after the commencement of foreclosure proceedings on the ground of any default entitling the Lessor to re-enter, terminate or forfeit this Lease if the Mortgagee:
- (i) has given to the Lessor notice of the foreclosure proceedings;
 - (ii) is actively prosecuting the foreclosure proceedings;
 - (iii) except for the bankruptcy or insolvency of the Lessee, which will be governed by section 17.2(c), cures the default within a period of sixty (60) days from the date of receipt of notice from the Lessor specifying the nature of the default, or if the default is other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default cannot reasonably be cured within such sixty (60) day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default; and
 - (iv) performs and observes all of the Lessee's covenants and agreements under this Lease, except for any obligation to cure the bankruptcy or insolvency of the Lessee and except for the obligations of the Lessee which the Mortgagee is exempt from fulfilling pursuant to the terms of this Lease, and without undue delay diligently prosecutes to a conclusion the foreclosure proceedings commenced by the Mortgagee, provided, however, that the curing of the default or contingency may be delayed until the date that the Mortgagee acquires the Lessee's interest in this Lease.

In the event that the Mortgagee acquires the Lessee's interest in the Lands and Building pursuant to the foreclosure proceedings, the Mortgagee will thereupon become subrogated to the rights of the Lessee under this Lease, provided it attorns to the Lessor as tenant and undertakes to be bound by and perform the covenants and agreements of this Lease until such Mortgagee as Lessee assigns its leasehold estate as permitted by this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its personal representatives, successors and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to be bound by and to perform the covenants and agreements of this Lease. If the Mortgagee consists of more than one mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default granted by this section 17.2(b) to a foreclosing Mortgagee will be deemed granted to them in the order of priority of the charges held by the foreclosing mortgagees;

- (c) if this Lease is subject to termination or forfeiture pursuant to Article 16 by reason of the bankruptcy or insolvency of the Lessee and the Mortgagee has filed with the Lessor a notice of Mortgage in favour of the Mortgagee and specified an address for notice in accordance with Article 22, the Lessor will give to the Mortgagee notice of the bankruptcy or insolvency of the Lessee entitling the Lessor to terminate or forfeit this Lease and stating the Lessor's intention to take such proceedings and requiring the Mortgagee to cure the Lessee's default under this Lease (except for the bankruptcy or insolvency of the Lessee), and the Lessee's default will be deemed to have been sufficiently cured if the Mortgagee:
- (i) takes possession and control of the Lands and Building, or cause a receiver to be appointed under the terms of the Mortgagee's charge or by a court of competent jurisdiction, which receiver will take possession and control of the Lands and Building, and the Lessor hereby grants the Mortgagee or such receiver access to the Lands and Building for that purpose;
 - (ii) cures every default under this Lease (except for the bankruptcy or insolvency of the Lessee) within a period of sixty (60) days from the date of receipt by the Mortgagee of the notice from the Lessor of the bankruptcy or insolvency of the Lessee, or if such default or defaults are other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or defaults cannot reasonably be cured within such sixty (60) day period, immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure such default or defaults; provided, however, that the curing of the default or contingency may be delayed until the Mortgagee acquires the Lessee's interest in this Lease; and
 - (iii) subject to the right of a Mortgagee to delay the curing of the default or contingency as set out in section 17.2(c)(ii), attorns as tenant to the Lessor and undertakes to observe, be bound by and perform the obligations, covenants and agreements of the Lessee under this Lease until such Mortgagee, as tenant, assigns its leasehold estate as permitted under this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its personal representatives, successors and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to observe, be bound by and perform the obligations, covenants and agreements of the Lessee under this Lease.

If the Mortgagee consists of more than one mortgagee, the right to take possession and control, to cure any default and to assume the Lease as aforesaid will be deemed granted to them in the order of the priority of their respective charges.

- (d) any re-entry, termination or forfeiture of this Lease made in accordance with the provisions of this Lease as against the Lessee will be valid and effectual against the

Lessee even though made subject to the rights of any Mortgagee to cure any default of the Lessee and to continue as tenant under this Lease; and

- (e) no entry upon the Lands or into the Building by the Mortgagee for the purpose of curing any default of the Lessee will release or impair the continuing obligations of the Lessee.

17.3 Remedies of Lessor are Cumulative

The remedies of the Lessor specified in this Lease are cumulative and are in addition to any remedies that the Lessor may have at law or equity. No remedy will be deemed to be exclusive, and the Lessor may from time to time have recourse to one or more or all of the available remedies specified herein, or at law or equity. In addition to any other remedy provided in this Lease, the Lessor will be entitled to restrain by injunction any violation or attempted or threatened violation by the Lessee of any of the covenants or agreements contained herein.

17.4 Waiver by Lessor

The failure of the Lessor to insist upon the strict performance of any covenant or agreement contained in this Lease will not waive such covenant or agreement, and the waiver by the Lessor of any breach of any covenant or agreement of the Lessee under this Lease will not constitute a waiver of such covenant or agreement in respect of any other breach. The receipt and acceptance by the Lessor of rent or other monies due hereunder with knowledge of any breach of any covenant or agreement by the Lessee will not constitute a waiver of such breach. No waiver by the Lessor will be effective unless made in writing.

ARTICLE 18 - SURRENDER OF LEASE

18.1 Surrender of Lease

At the termination or expiration of the Term, whether by forfeiture, default or lapse of time, the Lessee will surrender the Lands and Building to the Lessor in the condition in which they were required to be kept by the Lessee pursuant to the provisions of this Lease, including, without restricting the generality of the foregoing, the provisions of section 10.5(b), except as herein otherwise expressly provided.

ARTICLE 19 - QUIET ENJOYMENT, OWNERSHIP OF TENANTS' FIXTURES AND OWNERSHIP OF BUILDING

19.1 Covenant for Quiet Enjoyment

Subject to the Lessor's rights herein, and subject to the Permitted Encumbrances as extended or modified from time to time, if the Lessee pays the Rent hereby reserved and all other amounts payable hereunder, and observes and performs all of the obligations,

covenants and agreements of the Lessee herein contained, the Lessee may peaceably enjoy and possess the Lands for the Term, without any interruption or disturbance whatsoever from the Lessor or any other person, firm or corporation lawfully claiming through, from or under the Lessor, provided however that the enforcement by the Lessor, in its capacity as a local government, of its laws, bylaws and orders that touch and concern the Lands and Building will not be a breach of the Lessor's covenant set forth in this section 19.1.

19.2 Ownership of Tenant's Fixtures

The Lessee may confer upon tenants or occupants of the Building the right of property in, or the right to remove, fixtures or improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Building or the Lands. The Lessee will make good, or will cause such tenants to make good, any damage to the Building caused by any removal of the tenants' fixtures.

19.3 Ownership of Building

The Building will become the absolute property of the Lessor, free and clear of all liens, charges, encumbrances, equities or claims of any kind or nature whatsoever, save and except for the Permitted Encumbrances, upon the expiration or earlier termination of the Term or any permitted period of overholding, except as provided in Article 10, but will be deemed, as between the Lessor and the Lessee during the Term, to be the separate property of the Lessee and not of the Lessor but subject to and governed by all the provisions of this Lease, provided always that the Lessor's absolute right of property in the Building, which will arise at the expiration or earlier termination of the Term or any permitted period of overholding, will take priority over any other interest in the Building that may now or hereafter be created by the Lessee without the prior written consent of the Lessor, and provided that all dealings by the Lessee with the Building which in any way affect title thereto will be made expressly subject to this right of the Lessor and the Lessee will not assign, encumber or otherwise deal with the Building separately from any permitted dealing with the leasehold interest under this Lease, to the intent that no person will hold or enjoy any interest in this Lease acquired from the Lessee who does not at the same time hold a like interest in the Building.

ARTICLE 20 - OVERHOLDING

20.1 Overholding

The Lessee covenants and agrees with the Lessor that if the Lessee overholds and the Lessor accepts rent after the expiration of the Term, the new tenancy thereby created will be a tenancy from month to month and not a tenancy from year to year and will be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month, provided however that the monthly

Basic Rent payable by the Lessee will be the then market rental value of the Lands and the Building as determined from time to time in the bona fide opinion of the Lessor, and such monthly Basic Rent will be paid in advance. The Lessee will also pay monthly as Additional Rent one-twelfth of the then current amount described in section 3.1.

ARTICLE 21 - ENVIRONMENTAL MATTERS

21.1 Definitions

For the purposes of this Article 21:

- (a) "Contaminants" mean any pollutants, contaminants, deleterious substances, underground or aboveground tanks, asbestos materials, urea formaldehyde, dangerous substances or goods, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance which is now or hereafter prohibited, controlled or subject to Environmental Laws; and
- (b) "Environmental Laws" means any statute, law, regulation, order, bylaw, standard, guideline, permit and other lawful requirement of any governmental authority having jurisdiction over the Lands or Building, now or hereafter in force and relating in any way to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, and includes the principles of common law and equity.

21.2 Lessee's Covenants and Indemnity

The Lessee covenants and agrees as follows:

- (a) not to use or permit to be used all or any part of the Lands or Building for the sale, storage, manufacture, disposal, handling, treatment, use or any other dealing with Contaminants, without the prior written consent of the Lessor, which consent may be arbitrarily withheld;
- (b) to strictly comply, and cause all persons for whom it is at law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Lands and Building;
- (c) to promptly provide to the Lessor a copy of any environmental site investigation, assessment, audit or report relating to the Lands or Building and conducted by or for the Lessee at any time before, during or after the Term, or any renewal or extension thereof. The Lessee hereby waives the requirement for the Lessor to provide a site profile for the Lands pursuant to the *Environmental Management Act* (British Columbia), any regulations enacted pursuant thereto, or any similar or successor legislation;
- (d) to promptly provide to the Lessor on request such written authorizations as the Lessor may require from time to time to make inquiries of any governmental authorities

regarding the Lessee's compliance with Environmental Laws;

- (e) to promptly notify the Lessor in writing of the existence or release of any Contaminant on, in or under the Lands or Building or of any other occurrence or condition on the Lands or any adjacent property that could contaminate the Lands or the Building or result in the non-compliance of the Lands or Building with Environmental Laws, or subject the Lessor or Lessee to any fines, penalties, orders, investigations or proceedings under Environmental Laws;
- (f) on the expiry or earlier termination of this Lease, or at any time if requested by the Lessor or required pursuant to Environmental Laws, to remove from the Lands and Building all Contaminants, and to remediate any contamination of the Lands or any adjacent or other affected property resulting from Contaminants, in either case brought onto, used at, created upon or released from the Lands by the Lessee or any person for whom the Lessee is at law responsible. The Lessee will perform these obligations promptly at its own cost and in accordance with Environmental Laws. All such Contaminants will remain the property of the Lessee, notwithstanding any rule of law or other provision of this Lease to the contrary and notwithstanding their degree of affixation to the Lands or Building; and
- (g) without limiting the generality of Article 13, to indemnify the Lessor and its Personnel and contractors from any and all Losses (including the cost of remediation of the Lands and Building and any other affected property) arising from or in connection with:
 - (i) any breach of or non-compliance with the provisions of this Article 21 by the Lessee; or
 - (ii) the release or alleged release of any Contaminants on or from the Lands related to or as a result of the use and occupation of the Lands and Building by, or any act or omission of, the Lessee or any person for whom the Lessee is responsible at law.

The obligations of the Lessee under this Article 21 will survive the expiry or earlier termination of this Lease, and the obligations of the Lessee under this Article 21 are in addition to, and will not limit, the other obligations of the Lessee under this Lease.

ARTICLE 22 - NOTICES

22.1 Notices

All notices, demands and request which may or are required to be given pursuant to this Lease will be in writing and will be sufficiently given if served personally upon the party for which it is intended, or mailed prepaid and double registered:

- (a) in the case of the Lessor, addressed to:

7030 Trans-Canada Hwy, Duncan, BC, V9L 6A1
 Attention: Director of Planning and Building

- (b) in the case of the Lessee, addressed to:

[insert]

or at such other addresses as each of the parties may from time to time advise by notice in writing. Mortgagees will supply their respective mailing addresses to the Lessor and the Lessee. The date of receipt of any such notice, demand or request will be deemed to be the date of delivery if such notice, demand or request is served personally or if mailed as aforesaid on the fifth business day next following the date of such mailing; provided, however, that if mailed, should there be between the time of mailing and the actual receipt of the notice a mail strike, slow down of postal service or other labour dispute which affects the delivery of such notice, then such notice will be deemed to be received when actually delivered.

ARTICLE 23 - MISCELLANEOUS

23.1 Statements by Lessor

The Lessor and the Lessee will, at any time and from time to time, upon not less than thirty (30) days prior request by the other party, execute, acknowledge and deliver to the other a statement in writing certifying:

- (a) that this Lease is unmodified and in full force and effect, or if there have been modifications, the nature of such modifications and that the same are in full force and effect as modified;
- (b) the dates to which the rent and any other amounts payable under this Lease have been paid; and
- (c) that to the best of the information and belief of the maker of the statements, the Lessor and the Lessee are not in default under any provision of this Lease, or, if in default, the particulars thereof.

23.2 Time of Essence

Time will be of the essence of this Lease, save as otherwise specified herein.

23.3 Formality of Modifications

This Lease may not be modified or amended except by an instrument in writing executed by the Lessor or their successors or assigns, and by the Lessee or its successors or permitted assigns.

23.4 Captions and Headings

The captions and headings throughout this Lease are for convenience and reference only and the words and phrases contained therein will in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Lease nor in any way affect this Lease.

23.5 Enurement

It is further agreed and declared by the Lessor and the Lessee that this Lease will extend to, be binding upon and enure to the benefit of the Lessor and the Lessee, the successors and assigns of the Lessor, and the successors and permitted assigns of the Lessee.

23.6 Covenants or Conditions

All of the provisions of this Lease will be deemed and construed to be conditions as well as covenants, as though the words specifically expressing or importing covenants or conditions were used in each separate provision hereof.

23.7 References

The words “herein”, “hereby”, “hereunder” and words of similar import refer to this Lease as a whole and not to any particular Article, section or subsection in this Lease.

In this Agreement, where the word “including” is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word “including”.

23.8 Execution

By signing the General Instrument, the parties have agreed to be bound by their respective obligations contained in this Lease.

Schedule A

Describe Building

The Building will include 22 residential units, with 5 of these residential units being accessible.

LEASE – SHERMAN ROAD
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WHEREAS:

- A. The Lessee wishes to provide affordable housing for low to medium income households in the Cowichan region and agrees to lease the Lands for this purpose.
- B. The Lessor is the owner of the Lands and has agreed to lease to the Lessee the Lands for the Term upon the terms, conditions and provisos herein so that the Lessee may construct the Building and otherwise use, occupy and enjoy the Lands.

WITNESS that in consideration of the rents reserved and the covenants and agreements set forth below, the parties agree as follows:

THE LESSOR HEREBY DEMISES AND LEASES UNTO THE LESSEE AND THE LESSEE DOES HEREBY TAKE AND RENT THE LANDS, TO HAVE AND TO HOLD THE LANDS UNTO THE LESSEE FOR AND DURING THE TERM AS HEREIN PROVIDED.

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalized terms used in this Lease have the meanings specified in this section 1.1, unless otherwise provided in this Lease:

- (a) "Additional Rent" means all sums, costs, expenses and other amounts, if any, payable by the Lessee to the Lessor pursuant to this Lease, including, without limitation, Realty Taxes Utilities and all sums payable by way of indemnity under this Lease, but excluding Basic Rent.
- (b) "Adjacent Lands" means the lands adjacent to the Lands to the west legally described as:
PID: 003-809-471
Lot 1, Section 1, Range 4, Somenos District PLAN 18897
- (c) "Alterations" means all alterations, changes, replacements, substitutes, additions and improvements to the Building.
- (d) "Architect" means the architect qualified as such pursuant to the laws of the Province of British Columbia who is supervising the design, construction, repair, renovation and/or reconstruction of the Building.
- (e) "Basic Rent" means ten dollars (\$10.00).
- (f) "Building" means the residential buildings to be constructed on the Lands all as described in Schedule A or as may be approved in writing by the Lessor, together with all Alterations or repairs from time to time thereto and all improvements from time to time constructed upon or affixed or appurtenant to the Lands.

- (g) “Commencement of Construction” means the later of the date when the first building permit for the Building is issued to the Lessee by the City and the date when the Lessee’s contractor commences any work on the Lands related to construction of the Building.
- (h) “Eligible Occupant” means a person who, during the time that such person is a tenant in the Building, meets the occupancy requirements of the Housing Agreement.
- (i) “General Instrument” means the Form C - *Land Title (Transfer Forms) Regulation* pursuant to the *Land Title Act* (British Columbia), and all schedules and addenda to the Form C.
- (j) “Housing Agreement” means an agreement or agreements entered into or to be entered into among the Landlord, the Tenant and the Municipality pursuant to section 483 of the *Local Government Act* (British Columbia) that relates to the occupation of the Building, which agreement will also be registered against title to the Lands as a covenant under section 219 of the *Land Title Act*.
- (k) “Lands” means all of the Lessor’s interest in the land described in the General Instrument, including every incidental right, benefit or privilege attaching to that land or running with it.
- (l) “Lease” means this Lease.
- (m) “Lease Commencement Date” means the date this Lease is registered at the Lower Mainland Land Title Office.
- (n) “Lessee” means CLT0003 Community Society (Inc. No. BC SS0070806) and includes any person to whom the Lessee assigns this Lease in accordance with the terms of this Lease.
- (o) “Lessee Easement” has the meaning assigned to it in section 8.1.
- (p) “Lessee Easement Area” means the West Parking Lot drive aisle located on the Adjacent Lands which is 7.6 metres east to west as outlined and labelled “Lessee Easement Area” on the West Parking Lot Plan.
- (q) “Lessor” means The Corporation of the District of North Cowichan.
- (r) “Losses” means liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, including related professional and other fees and disbursements and costs.
- (s) “Mortgage” means a registered mortgage or registered mortgages granted by the Lessee in accordance with section 16.1 upon or in respect of the interest of the Lessee in the Lands and the Building or any part thereof and includes any deed of trust and mortgage to secure any bonds or debentures issued thereunder.
- (t) “Mortgagee” means a mortgagee or mortgagees under a Mortgage and includes any

trustee for bondholders or debenture holders under a deed of trust and mortgage to secure any bonds or debentures issued thereunder.

- (u) “Municipality” means the Corporation of the District of North Cowichan.
- (v) “Permitted Encumbrances” means the charges and encumbrances, if any, registered on title to the Lands on the Lease Commencement Date, the Housing Agreement and any legal notations related to the Housing Agreement that are registered on title to the Lands and any other charges specifically approved in writing by the Lessor.
- (w) “Personnel” of a party means the elected officials and directors, officers, employees, servants and agents of that party, as applicable.
- (x) “Prime Rate” means the floating annual percentage rate of interest established from time to time by the main branch of the Bank of Montreal located in Vancouver, British Columbia, or its successor, as the base rate that is used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as its “prime rate”.
- (y) “Realty Taxes” means all assessments for taxes, rates, duties (including school taxes, local improvement rates and other charges levied pursuant to the *Hospital Municipality Finance Act* (British Columbia), the *Municipal Finance Authority Act* (British Columbia) or otherwise) that now are or will or may be levied, rated, charged or assessed against the Lands, the Building, and all other structures, machinery, equipment, facilities and other property of any nature whatsoever located on the Lands, by any municipal, parliamentary, legislative, regional, school or other authority.
- (z) “Term” means ninety-nine (99) years commencing on the Lease Commencement Date.
- (aa) “Trustee” means a trust company duly authorized to carry on business in the province of British Columbia and appointed by the Lessor for the purposes of Article 10 of this Lease.
- (bb) “Utilities” means all charges, rates and levies on account of utilities, including heat, electricity, gas, telephone, television, internet and other costs and expenses of a similar nature, and, if not included in Realty Taxes, for water and garbage, recyclables and organics collection.
- (cc) “West Parking Lot” means the parking lot and drive aisle shown on the West Parking Lot Plan which is located on the Lands and Adjacent Lands and which the Lessee is constructing concurrently with the construction of the Building.
- (dd) “West Parking Lot License Area” means the portion of the West Parking Lot comprised of the western parking stalls, extending east to west 7.6 meters from the Lessee Easement Area over the Adjacent Lands, and shown on the West Parking Lot Plan as “Parking Lot”

- (ee) “West Parking Lot Plan” means the plan attached hereto as Schedule “B” showing the West Parking Lot and the Lessee Easement Area.

1.2 Legislation References

Any reference in this Lease to legislation will be deemed to include all regulations thereto, all amendments and re-enactments thereof and all successor legislation.

ARTICLE 2 - PAYMENT OF RENT

2.1 Basic Rent

The Lessee covenants and agrees with the Lessor to pay to the Lessor the Basic Rent for the Term on the Lease Commencement Date.

2.2 Net Lease

It is the intention of the Lessor and the Lessee that all expenses, costs, payments and outgoings incurred in respect of the Lands, the Building and any other improvements of the Lands or for any other matter or thing affecting the Lands, will be borne by the Lessee and unless otherwise expressly stipulated to the contrary, the Basic Rent and the Additional Rent will be absolutely net to the Lessor and free of all abatements, set-off or deduction of any Realty Taxes, utilities and any other, expenses, costs, payments and outgoings of every nature arising from or related to the Lands, the Building or any other improvements of the Lands or for any other matter or thing affecting the Lands, and the Lessee will pay or cause to be paid all such Realty Taxes, Utilities, expenses, costs, payments and outgoings.

2.3 Interest on Amounts in Arrears

When the Basic Rent, Additional Rent or any other amount payable hereunder by the Lessee to the Lessor is in arrears, such amount will bear interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly not in advance, from the date due until paid. Notwithstanding the foregoing, this section will not apply to defaults under section 3.1.

2.4 Payments Generally

All payments by the Lessee to the Lessor of whatsoever nature required or contemplated by this Lease will be:

- (a) paid to the Lessor by the Lessee in lawful currency of Canada;

- (b) made when due under this Lease, without prior demand and without any set-off, abatement or deduction whatsoever, at the office of the Lessor or such other place as the Lessor may designate from time to time to the Lessee;
- (c) applied towards amounts then outstanding under this Lease, in such manner as the Lessor may see fit; and
- (d) deemed to be Additional Rent, in partial consideration for which this Lease has been entered into, and will be payable and recoverable as Additional Rent, such that the Lessor will have all of the rights and remedies against the Lessee for default in making any such payment that may not be expressly designated as rent, as the Lessor has for default in payment of rent.

ARTICLE 3 - PAYMENT OF TAXES

3.1 Payment of Realty Taxes

The Lessee will, during the Term, no later than the day immediately preceding the date or dates on which the Realty Taxes become due and payable, pay and discharge or cause to be paid and discharged the Realty Taxes and, if requested by the Lessor, will deliver to the Lessor for inspection receipts for payments of the Realty Taxes within fourteen (14) days of such payment. Not later than thirty (30) days following receipt of any tax assessment or notice the Lessor will deliver a copy of such assessment or notice to the Lessee.

3.2 Delinquent Taxes

If the Lessee in any year during the Term fails to pay any Realty Taxes when due, the Lessee will pay to the Lessor, on demand, interest on the amount outstanding at the percentage rate or rates established by the Province of British Columbia or the applicable taxing authority for unpaid Realty Taxes

3.3 Right to Appeal Assessment

The Lessee will have the right from time to time to appeal, in its own or the Lessor's name, any assessment of the Lands or Building or any Realty Taxes referred to in section 3.1, provided that such appeal will be at the sole expense of the Lessee.

3.4 Payment of Utilities

The Lessee will pay for or cause to be paid during the Term when due to the providers thereof all Utilities with respect to the Lands or the Building.

3.5 Business Tax and License Fees

The Lessee will pay or cause to be paid during the Term when due every tax and permit and license fee (including penalties and interest) in respect of any and every business carried on, in or upon the Lands or Building or in respect of the use or occupancy of the Lands or Building (including by or under the Lessee and by or under every sublessee, permittee and licensee), other than such taxes as corporate income, profits or excess profit taxes assessed upon the income of the Lessee (or such sublessee, permittee and licensee), whether such taxes or permit and license fees are charged by any municipal, parliamentary, legislative, regional or other authority.

3.6 Other Taxes

The Lessee will pay when due all goods and services taxes, harmonized sales taxes, value-added taxes, sales taxes and consumption based taxes, rates, levies and assessments, including penalties and interest, that are from time to time payable by the Lessee as a result of, or that would not be payable but for, its rights and obligations contained in this Lease, including, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Lessee to the Lessor.

3.7 Pro-rating Obligations

In the first and last years of the Term, the Lessee's obligations under section 3.1 will be pro-rated according to the portion of the year included in the Term, such pro-rating to be on a per diem basis.

ARTICLE 4 - CONSTRUCTION OF BUILDING

4.1 Lessee to Construct Building

The Lessee will construct the Building, together with other facilities ancillary thereto and connected therewith, on the Lands in substantial accordance with the drawings, specifications (including materials to be used), elevations, location on the Lands and exterior decoration and design and all other documents and information upon which the issuance of the building permits by the Municipality are based and that have been approved by the Lessor. No changes will be made to such drawings, specifications, elevations, location, exterior decoration and design, other documents or information, or to the requirements of such building permits without the approval of the Lessor

4.2 Substantial Completion of Building

For the purposes of this Article 4, the Building will be deemed to have been substantially completed when the Architect has certified to, or otherwise satisfied, the Lessor that, with respect to the Building:

- (a) all work of a structural nature has been properly completed;

- (b) all building equipment and services, including elevators (if any), heating systems and air-conditioning systems (if any) and utilities have been completed, are operating properly and are available for use by tenants of the Lessee, and all lobbies, stairwells and other areas intended for the common use of tenants of the Lessee are completed except for work of a superficial nature, which is both minor in character and of a type that, owing to the likelihood of damage, may reasonably be deferred until the Building is partially or substantially occupied by tenants of the Lessee;
- (c) the Building complies with all of the Municipality's bylaws and regulations (including the Municipality's Building Bylaw);
- (d) all rentable space is completed and ready for occupancy except for work of a superficial nature that is dependent upon unascertained requirements of individual tenants of the Lessee, and work that is reasonably and customarily performed by tenants of the Lessee;
- (e) all areas are clean and all surplus building material and rubbish have been removed;
- (f) the Building is in a condition in which it can be occupied by tenants of the Lessee, and any work that is still unfinished can be completed promptly and is work the incompleteness of which will not be objectionable to a tenant of the Lessee acting reasonably;
- (g) the Building has been constructed in all respects in a good and workmanlike manner and in accordance with the drawings and specifications referenced in or approved by Lessor under section 4.1, and in compliance with all building permits issued by the Municipality; and
- (h) a certificate of completion has been issued in respect of the Building pursuant to the *Builders Lien Act* (British Columbia).

4.3 Termination of Lease on Failure to Construct

Subject to sections 4.6 and 18.2, if Commencement of Construction has not taken place within two years of the Lease Commencement Date, or if construction of the Building is not substantially completed in accordance with the requirements of section 4.2 before the fifth anniversary of the Lease Commencement Date, the Lessor will have the option at any time thereafter to terminate this Lease, and in such event this Lease will terminate and be of no further force or effect and without any reimbursement or compensation to the Lessee, unless the Lessor consents in writing to extend the deadline for Commencement of Construction or substantial completion, as the case may be, such consent not to be unreasonably withheld.

4.4 Landscaping

Within one hundred and eighty (180) days of substantial completion of the Building, the Lessee will landscape the Lands and thereafter maintain the landscaping in accordance

with landscaping plans that have been approved by the Lessor.

4.5 Alterations After Substantial Completion

After substantial completion of the Building, the Lessee will not make or permit to be made any Alterations affecting the structure of the Building or the exterior appearance of the Building without the written approval of the Lessor, which approval the Lessor will not unreasonably withhold. Without limiting the foregoing, no Alterations involving an estimated cost of more than Two Hundred Thousand Dollars (\$200,000.00) will be undertaken until the Lessee has submitted or caused to be submitted to the Lessor such drawings, specifications (including the materials to be used), elevations (where applicable), locations (where applicable), exterior decoration and design and such other documentation and information as the Lessor may request in connection with the proposed Alterations, and until all of the same have been approved in writing by the Lessor, which approval the Lessor will not unreasonably withhold. The Lessee covenants and agrees with the Lessor that, subject to section 4.6, all Alterations undertaken by or for the Lessee once begun will be prosecuted with due diligence to completion.

4.6 Unavoidable Delays

If, by reason of strike, lock-out or other labour dispute, material or labour shortage not within the control of the Lessee, fire, explosion, flood, wind, water, earthquake, act of God or other similar circumstances beyond the reasonable control of the Lessee, the Lessee is prevented or delayed in achieving Commencement of Construction or substantial completion of the Building in accordance with section 4.2 or the repair of the Building or any part or parts of the Building which under the terms of this Lease the Lessee is required to do by a specified date or within a specified time, the date or period of time within which such work was to have been completed will be extended by the Lessor by a reasonable period of time at least equal to that of such prevention or delay, and the Lessee will not be deemed to be in default if it performs and completes the work in the manner required by the terms of this Lease within such extended period of time or within such further extended period of time as may be agreed upon from time to time between the Lessor and the Lessee.

ARTICLE 5 - BUILDERS LIENS

5.1 Builders Liens

In connection with all labour performed on or materials supplied to the Lands, including but not limited to the construction of the Building, the Lessee will comply with, and will cause any contractor hired by it to comply with, the provisions of the *Builders Lien Act* (British Columbia), and with all other statutes applicable in connection therewith and in force from time to time, including any provision or statute requiring or permitting the retention of portions of any sums payable by way of holdbacks.

5.2 Discharge of Builders Liens

If and whenever any builders lien, or other lien or claim arises or is filed against the Lands in connection with work, labour, services or materials supplied to or for the Lessee or for the cost of which the Lessee may in any way be liable, the Lessee will, within fifteen (15) days after receipt of notice of such lien or claim, procure the discharge thereof, and the discharge of any certificate of pending litigation registered in respect of any such lien or claim, by payment or giving security or in such other manner as may be required or permitted by law. If the Lessee fails to comply with the foregoing, the Lessor may pay and discharge any lien claim if, in its reasonable judgement, the Lands or the Lessor's interest in the Lands becomes liable to forfeiture or sale, or is otherwise in jeopardy. The Lessee will reimburse to the Lessor any amount paid by the Lessor in discharging a lien claim and the Lessor's reasonable expenses in connection therewith.

5.3 Notice by Lessor

Pursuant to section 3(2) of the *Builders Lien Act*, the Lessor may file in the Land Title Office a "notice of interest" in respect of the Lands and for all purposes of this Lease the construction of the Building by the Lessee will be deemed not to be done at the request of the Lessor.

ARTICLE 6 - RESTRICTIONS ON OPERATIONS AND USE

6.1 Use

The Lessee covenants and agrees with the Lessor that neither the Lands nor Building nor any part of the Lands or Building will be used for any purpose except that of affordable rental housing for Eligible Occupants in accordance with the requirements of the Housing Agreement.

6.2 No Nuisance

The Lessee will not carry on, or suffer or permit to be carried on, upon the Lands anything which would constitute a nuisance to the Lessor or to any neighbouring properties or their owners or occupants.

6.3 No Subdivision

The Lessee will not subdivide the Lands or the Building pursuant to the *Strata Property Act* (British Columbia).

6.4 Constitution

The Lessee covenants and agrees that without the prior written consent of the Lessor, it will not amend or permit its constitution to be amended or varied in any way from the

constitution filed in the British Columbia Corporate Registry as of the Lease Commencement Date.

6.5 Restriction on Operating Revenue & Contracting

The Lessee covenants that:

- (a) it will not pay directly or indirectly to any of its directors or their relatives by blood or marriage (including common-law marriage) any money obtained from the operation of the Lands or the Building, without the express written consent of the Lessor;
- (b) it will not, by contract or otherwise, pay to any of its former directors or their relatives by blood or marriage (including common-law marriage), pursuant to any contract or arrangement made when the former director was a director of the Lessee, money obtained from the operation of the Lands or the Building, without the express written consent of the Lessor;
- (c) subject to sub-paragraphs (a) and (b), the Lessee may enter into bona fide arm's length contracts with occupants of the Building for the provision of services in furtherance of the good management of the Lands and the Building; and
- (d) notwithstanding the foregoing, the Lessee may reimburse its directors or occupants of the Building for out-of-pocket expenses incurred for the proper management of the Lands or the Building but only upon the proof of such expenditure by the production of bona fide receipts.

6.6 Permitted Encumbrances

The Lessee will perform and observe all of:

- (a) the Lessee's obligations under the Housing Agreement; and
- (b) all of the Lessor's obligations of under the Permitted Encumbrances, including the Housing Agreement (but only the Lessor's obligations thereunder arising from its ownership of the Lands and not those rights of the Municipality in its regulatory capacity).

The Lessor will execute such documents as might reasonably be requested by the Lessee to enable it to comply with its obligations and to enjoy its rights in respect of the Permitted Encumbrances. The Lessee further covenants and agrees with the Lessor that if the Municipality exercises any of its rights in its regulatory capacity under the Permitted Encumbrances, such exercise will not be a breach of the Lessor's covenant for quiet enjoyment.

6.7 Lessee to Operate on a Non-Profit Basis

The Lessee will operate the Building on a non-profit basis, such that there will be no

accumulation of funds in excess of those needed to operate and manage the Lands and Building in accordance with this Lease and the Housing Agreement.

ARTICLE 7 - REPAIRS AND MAINTENANCE

7.1 Lessor Not Obligated to Repair

The Lessor will not be obliged to furnish any services or facilities or to make repairs or Alterations in or to the Lands or the Building, and the Lessee hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Lands and the Building and all expenses related thereto.

7.2 Repairs by the Lessee

Reasonable wear and tear excepted, so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Building:

- (a) the Lessee at the Lessee's cost and expense will put and keep in good order and condition, or cause to be put and kept in good order and condition, the Lands and Building (and any equipment located thereon and therein), both inside and outside, including but not limited to fixtures, walls, foundations, roofs, vaults, stairways, elevators (if any) and similar devices, heating and air conditioning equipment, sidewalks, yards and other like areas, water and sewer mains and connections, water, steam, gas and electric pipes and conduits, and all other fixtures and appurtenances to the Lands and the Building and machinery and equipment used or required in the operation thereof, whether or not enumerated herein, and will, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs and, subject to section 4.5, Alterations, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Building and any and all fixtures and equipment therein fully usable for the purposes for which the Building was constructed. Such repairs and Alterations will be in all respects to a standard at least substantially equal in quality of material and workmanship to the original work and material in the Building, and will in each case be performed only in accordance with all applicable terms and conditions of the Permitted Encumbrances;
- (b) the Lessee will not commit or suffer waste to the Lands or the Building or any part thereof;
- (c) at the expiration or earlier termination of this Lease, the Lessee will, except as otherwise expressly provided herein, surrender and deliver up the Lands with the Building, and the fixtures, appurtenances and equipment thereon and therein, or any replacements or substitution therefor, in good order and condition; and
- (d) if the Lessee does not fulfil its obligations set out in this Article 7, the Lessor, through its agents, servants, contractors and subcontractors, may, but will not be obliged to, enter

(without hindrance by the Lessee) upon the Lands and the Building as required for the purpose of making any repairs necessary to put the Lands and the Building in good order and condition, provided that the Lessor will make such repairs only after giving the Lessee not less than fourteen (14) days written notice of its intention to do so, except in the case of an emergency when no notice will be required. Any costs and expenses (including overhead costs) incurred by the Lessor in making such repairs to the Lands and Building will be reimbursed to the Lessor by the Lessee on demand, together with interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly, from the date incurred until the date paid.

7.3 Removal of Ice and Snow from Sidewalks

The Lessee will keep the public sidewalk adjacent to the Lands reasonably clean from rubbish, ice and snow during the times and to the extent lawfully required of an owner and if the Lessee at any time fails to do so, the Lessor, through its agents, servants, contractors and subcontractors, may remove such rubbish, ice and snow and the Lessor will not be required to give the Lessee any notice of its intention to do so. Any costs and expenses incurred by the Lessor in removing such ice and snow will be reimbursed to the Lessor by the Lessee on demand, together with interest at the Prime Rate plus three percent (3%) per annum, calculated and compounded monthly, from the date incurred until paid.

ARTICLE 8 - WEST PARKING LOT EASEMENT

8.1 Lessee Easement – The Lessor, as owner of the Adjacent Lands, hereby grants to the Lessee, as lessee of the Lands, the full and free non-exclusive right, liberty and easement (the “Lessee Easement”) for the Lessee and its successors and assigns, and their respective employees, agents, contractors, invitees, licensees (including, without the need for specific invitation or authorization, the general public), tenants, and successors and assigns, to, in common with the Lessor, at all times during the term of the Lease and from time to time hereafter, enter, be on, pass and repass over the portion of the Lessee Easement Area, with or without vehicles, to:

- (a) construct, repair, maintain, alter and replace the portion of the West Parking Lot located on the Lessee Easement Area;
- (b) make surveys and tests and establish grades and levels within the Lessee Easement Area;
- (c) store personal property (including equipment) within the Lessee Easement Area as may be necessary to exercise any of the other rights under this section;
- (d) gain access and egress to and from the Lands and the Building;
- (e) remove from the Lessee Easement Area any structure, improvement or other thing that constitutes or may constitute a danger, impairment or obstruction to those using the

Lessee Easement Area or may interfere with the exercise of any of the rights granted under this section;

- (f) trim, cut down or remove any tree, shrub, plant or other growth that may interfere with the exercise of any of the rights granted under this section; and
- (g) do all other things as may be incidental to or reasonably necessary or desirable in connection with the foregoing.

8.2 Term of Easement – The Lessee Easement will continue until the Lease is terminated, expires without being renewed, or for any reason is no longer of force or effect, at which time the Lessee Easement will expire and be of no further force and effect.

8.3 Lessor Covenants: West Parking Lot License – The Lessor hereby covenants and agrees that, on the Lessee’s request and prior to the Lessee commencing construction of the West Parking Lot, it will grant the Lessee, over the West Parking Lot License Area, a temporary license on terms substantially similar to the terms of the Lessee Easement and otherwise acceptable to the District, acting reasonably, allowing the Lessee to construct the West Parking Lot on the West Parking Lot License Area and comply with its obligations relating to the West Parking Lot License Area under this Agreement.

8.4 Lessee Covenants: West Parking Lot – The Lessee hereby covenants and agrees with the Lessor that:

- (a) it will construct the West Parking Lot in the Easement Area and the West Parking Lot License Area concurrently with the construction of the Building and the Building will not be occupied until construction of the West Parking Lot is substantially complete;
- (b) construction of the West Parking Lot will be substantially complete within 120 days of the Lessee commencing construction of the West Parking Lot;
- (c) “ARTICLE 4 – CONSTRUCTION OF BUILDING” and “ARTICLE 5 – BUILDERS LIENS” of the Lease will apply to the construction of the West Parking Lot, as if, for the purposes of those Articles, the West Parking Lot and the portion of the Adjacent Lands on which the West Parking Lot will be constructed form part of the Building and the Lands;
- (d) it will inspect, maintain, repair and replace the Lessee Easement Area, and keep it clear of snow and ice, so that the Lessee Easement Area at all times in a good and safe condition and useable as a parking lot drive aisle;
- (e) it will obtain and maintain insurance over:
 - (i) the West Parking Lot License Area during construction of the West Parking Lot, and
 - (ii) the Lessee Easement Area during and after construction of the West Parking Lot

until the Lease is terminated, expires without being renewed, or for any reason is no longer of force or effect

in accordance with “ARTICLE 10 – INSURANCE” of the Lease as if, for the purposes of that Article, the West Parking Lot formed part of the Building and the Lands; and

- (f) “ARTICLE 14 – EXCLUSION OF LIABILITY AND INDEMNITY” of the Lease will apply to:
- (i) the West Parking Lot License Area until the West Parking Lot is constructed, and
 - (ii) the Lessee Easement Area during and after the construction of the West Parking Lot until the Lease is terminated, expires without being renewed, or for any reason is no longer of force or effect

as if for the purposes of that Article, the Lessee Easement Area was a part of the Building or the Lands.

ARTICLE 9 - ADDITIONAL RENT

9.1 All Defaults in Payment as Additional Rent

If the Lessee defaults in the payment of any sums required to be paid by it pursuant to the terms of this Lease, or fails to fulfil any of its obligations under this Lease, the Lessor may (but will be under no obligation to) pay such sums or fulfil such obligations on behalf of the Lessee, and any losses, costs, charges and expenses suffered by the Lessor as a result, including sums payable by way of indemnity, whether or not expressed in this Lease to be rent, may at the option of the Lessor be treated as and deemed to be Additional Rent, in which event the Lessor will have all remedies for the collection of such sums, costs, expenses or other amounts when in arrears as are available to the Lessor for the collection of rent in arrears.

ARTICLE 10 - INSURANCE

10.1 Insurance During Construction of Building

Prior to the Commencement of Construction of the Building, and throughout the entire period of construction until substantial completion of the Building pursuant to section 4.2, the Lessee will effect or will cause its contractor or contractors to effect and maintain in full force the following insurance coverage:

- (a) wrap-up liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor may require from time to time, per occurrence, issued in the joint names of the Lessee, the Lessor, the Lessee’s contractors, any subcontractors and their respective Personnel, protecting them against claims for bodily injury, death or property damage or other third party or public liability claims arising from

any accident or occurrence upon, in or about the Lands from any cause, including the risks occasioned by the construction of the Building; and

- (b) all-risk course of construction insurance issued in the joint names of the Lessee, the Lessor, protecting them from all loss or damage of or to the Building and all fixtures, equipment, improvements and building materials on the Lands from time to time, both during and after construction (but which may be by different policies effected from time to time covering the risk during different phases of construction of the Building, provided that at no time will the Building be uninsured) against fire, earthquake, flood and all other perils from time to time customarily included in the usual all-risks builders' risk form of policy applicable to similar properties during construction and effected in the province of British Columbia by prudent owners, and such other perils as the Lessor may reasonably require to be insured against, to the full replacement value thereof at all times.

10.2 Commercial General Liability Insurance

The Lessee will effect and keep in force commercial general liability insurance with limits of not less than Five Million Dollars (\$5,000,000), or such other amount as the Lessor may require from time to time, per occurrence, against public liability claims for bodily injury, death and property damage (including loss of use) arising from the Lessee's use and occupancy of the Lands and from any occurrence or accident on the Lands or Building. Such insurance will be written on an occurrence basis and will provide for blanket contractual liability, including liability assumed by the Lessee under this Lease. The policy will also contain a cross liability or severability of interests clause and will name the Lessor and its Personnel as additional insureds with respect to third party claims arising out of the Lessee's operations pursuant to this Lease.

10.3 All Risk Property, Pressure Vessel and Rental Income Insurance

Immediately following substantial completion of the Building and at all times thereafter during the Term, the Lessee will effect and maintain property insurance in the joint names of the Lessor and the Mortgagee (if any) as their interests may appear, to the full replacement value of the Building and fixtures on the Lands, protecting them against "All Perils" of loss or damage including flood, sewer backup and earthquake, and will include:

- (a) rental income insurance in an amount equal to the maximum annual rental income of the Building; and
- (b) boilers and pressure vessels, protecting against usual and unusual perils, including damage caused by rupture of steam pipes.

The policies described in this section 10.3 will contain a clause directing insurers to make losses payable to the Lessee, the Lessor and the Mortgagee as their interests may appear.

10.4 Insurance – Additional Provisions

The following provisions will apply to all policies of insurance which are referred to in this Article 10:

- (a) the policies will be primary and non-contributing with respect to any policy or self-insured fund otherwise held or established on behalf of the Lessor;
- (b) the stated amount of value insured under property policies will be of sufficient amount that none of the Lessee, nor the Lessor will become co- insurers with respect to any loss claimed against the insurance;
- (c) each policy will be written on a form acceptable to the Lessor and with insurers licensed to do business in the province of British Columbia and acceptable to the Lessor;
- (d) any deductible amounts applying to a claim against a policy will be of an amount approved by the Lessor;
- (e) each policy will contain a clause requiring that the insurers provide to the Lessor a minimum of sixty (60) days prior written notice of any cancellation (except for cancellation resulting from non-payment of premiums, in which case applicable statutory provisions will apply); and
- (f) all premiums and deductibles required under said policies will be paid by the Lessee to the insurers and proof of such payment will be submitted to the Lessor.

In addition to the notification obligations of the insurers required by section 10.4(e), the Lessee will provide to the Lessor a minimum of sixty (60) days prior written notice of any cancellation, lapse or material change resulting in reduction of coverage, either in whole or in part, in respect of any of the policies of insurance which are referred to in this Article 10.

10.5 Evidence of Insurance

Prior to the Lease Commencement Date the Lessee will provide the Lessor with evidence of all insurance required to be taken out pursuant to this Lease, in the form of one or more detailed certificates of insurance, in such form(s) and contents as the Lessor requests. Each certificate of insurance must identify the Lease number, policy holder and subject matter, and must not contain any disclaimer. Thereafter, and throughout the Term, forthwith upon request by the Lessor, similar evidence of renewals, extensions or replacement of such insurance will be provided in the form of such certificate(s) of insurance. In addition, if requested by the Lessor at any time, the Lessee will forthwith deliver to the Lessor a certified copy of each insurance policy requested.

10.6 Payment of Loss Under Insurance Policies

The insurance monies payable under the policies of insurance referred to in this Article 10, will, notwithstanding the terms of the policy or policies, be paid to the Trustee on behalf of the Lessee, the Lessor and the Mortgagee. The Lessee and the Lessor agree that the Trustee will, subject to section 11.5, pay for all restoration, reconstruction or replacement of the loss or damage in respect of which such insurance monies were paid to the Trustee out of such insurance monies in accordance with certificates of the Architect or such other person as the Lessee and the Lessor may agree upon and who is in charge of such restoration, reconstruction or replacement, after receiving such other certificates, evidence or opinions as the Trustee will require for the purpose of being satisfied that such restoration, reconstruction or replacement is being properly carried out. If the Lessee fails to restore, reconstruct or replace the loss or damage in respect of which the insurance monies were paid to the Trustee within a reasonable time, the Lessor will be entitled to effect such restoration, reconstruction or replacement and the Trustee will pay such insurance monies to the Lessor in the same manner that the Trustee would have done had the Lessee effected such restoration, reconstruction or replacement.

10.7 Workers Compensation Coverage

At all times during the Term, the Lessee will, and will cause its Personnel and all others engaged in or upon any work on the Building or the Lands to, comply with the *Workers Compensation Act* (British Columbia) (the “WCA”) and the requirements and regulations of WorkSafeBC in respect of the Building and the Lands. Without limiting the generality of the foregoing, the Lessee will:

- (a) require as a condition of any agreement made with respect to construction, repair, renovation or demolition of the Building, whether with contractors, materialmen or otherwise, that there is full workers compensation insurance coverage in place in respect of all workmen, employees, servants and others engaged in or upon any work, and that all workmen, contractors or other workers require the same of their workmen and subcontractors. The Lessee will immediately notify the Lessor of any dispute involving third parties that arises in connection with obtaining and maintaining the workers compensation insurance coverage required hereby if such dispute results or may result in the required insurance coverage not being in place, and the Lessee will take all reasonable steps to ensure resolution of such dispute forthwith. The Lessee will further ensure that no amount payable pursuant to the WCA is left unpaid so as to create a lien on the Lands or the Building. If the workers compensation insurance coverage required by this section 10.7 is not in place, the Lessor will be entitled to have recourse to all remedies specified in this Lease or at law or equity; and
- (b) be deemed to be, and is hereby designated and appointed by the Lessor as, the “Prime Contractor” as that term is defined in section 118 of the WCA for the purposes of the WCA and related regulations, including the Occupational Health and Safety Regulation

(the “OHS Regulation”), and the requirements and regulations of WorkSafeBC, and will in that capacity strictly comply with all requirements applicable to that designation, including without limitation those set forth in Division 3 of Part 3 of the WCA and in sections 20.2 and 20.3 of the OHS Regulation, as they may be amended from time to time. Notwithstanding the foregoing, with the prior written consent of the Lessor, a contractor hired by the Lessee to perform work on the Lands on its behalf may be designated as the Prime Contractor instead of the Lessee.

10.8 Release of Lessor from Liability for Insured Loss or Damage

The Lessee hereby releases the Lessor and its Personnel, whether or not the Lessor and its Personnel have been negligent, from any and all liability for loss or damage caused by any of the perils against which the Lessee will have insured or is obligated to insure pursuant to the terms of this Lease or any applicable law, the intent being that the Lessee’s policies of insurance will contain a waiver of subrogation in favour of the Lessor.

ARTICLE 11 - DAMAGE OR DESTRUCTION

11.1 Rent Not to Abate

Subject to the provisions of sections 11.5, the partial destruction or damage or complete destruction by fire or other casualty of the Building will not result in the termination of this Lease or entitle the Lessee to surrender possession of the Lands or the Building or to demand any abatement or reduction of the Basic Rent or Additional Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

11.2 Lessee’s Obligation When Building Partially Damaged or Destroyed

Subject to the provisions of sections 11.5, the Lessee covenants and agrees with the Lessor that in the event of partial damage to or partial destruction of the Building, the Lessee will either:

- (a) replace any part of the Building damaged or destroyed with a new structure in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) in the absence of any such agreement, repair or replace such damage or destruction to a standard comparable to the standard of the structure being repaired or replaced.

11.3 Lessee’s Obligations When Building Completely or Substantially Destroyed

Subject to the provisions of sections 11.5, the Lessee covenants and agrees with the Lessor that in the event of complete or substantially complete destruction of the Building, the Lessee will either:

- (a) reconstruct or replace the Building with a new structure or structures in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) in the absence of any such agreement, replace the Building with a new structure or structures comparable to the structure or structures being replaced.

11.4 Replacement, Repair or Reconstruction

Any replacement, repair or reconstruction of the Building or any part thereof pursuant to the provisions of section 11.2 or 11.3 will be made or done in compliance with section 4.5 and Article 7.

11.5 Destruction or Damage During Last Five Years of Term

- (a) In the event of the complete or substantial destruction of the Building during the last five (5) years of the Term, the Lessee may, at its option, either reconstruct or replace the Building so destroyed or damaged in accordance with section 11.3 or decline to do so, and instead elect to terminate this Lease, provided that the Lessee makes such election within sixty (60) days after the date on which the Building was so destroyed and notifies the Lessor of its election forthwith after making it;
- (b) As soon as reasonably possible, but not later than one hundred and eighty (180) days following the date of termination of this Lease by the Lessee pursuant to section 11.5(a), the Lessee will demolish and completely remove the Building and all foundations and debris from the Lands and restore the Lands to a neat and level condition in a good and workmanlike manner. Any insurance money payable by reason of any fire or other casualty causing such destruction will, notwithstanding the provisions of Article 10, be distributed as follows:
 - (i) firstly, to reimburse the Lessee for all costs and expenses necessarily incurred by the Lessee in the demolition and removal of the Building and all foundations and debris from the Lands and the restoration of the Lands as aforesaid;
 - (ii) secondly, to pay and satisfy the Mortgage, if any;
 - (iii) thirdly, to pay the balance of the insurance monies, if any, as follows:
 - (A) to the Lessor the amount calculated as follows:

$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days in expired portion of the Term} \div \text{total days in Term}); \text{ and}$$
 - (B) to the Lessee the amount calculated as follows:

$$\text{amount payable} = (\text{balance of insurance monies}) \times (\text{days remaining in the Term} \div \text{total days in Term}); \text{ and}$$

- (c) Notwithstanding anything contained herein, in the event the Lessee terminates this Lease in accordance with this section 11.5, this section 11.5 will nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as any obligations of the parties under this section 11.5 or any part thereof remains unperformed.

ARTICLE 12 - INSPECTION AND EXHIBITION BY LESSOR

12.1 Inspection by Lessor

It will be lawful for representatives of the Lessor to enter the Lands and the Building at all reasonable times during the Term in order to examine the condition thereof. If the Lessor determines that any of the repairs described in section 7.2 are required, the Lessor may give notice of such required repairs to the Lessee, and the Lessee will within thirty (30) days after every such notice, or such longer period as provided in section 18.1(d), complete the required repairs.

12.2 Exhibition by Lessor

During the final year of the Term, the Lessor will be entitled to display upon the Lands the usual signs advertising the Lands and Building as being available for purchase or lease, provided such signs are displayed in such a manner as not to unreasonably interfere with the Lessee's use and enjoyment of the Lands and the Building and the Lessee's representatives and invitees may enter the Lands and Buildings, at reasonable times and upon reasonable notice to the Lessee, for the purposes of showing the Lands and Buildings to prospective purchasers or lessees.

ARTICLE 13 - OBSERVANCE OF GOVERNMENTAL REGULATIONS

13.1 Compliance

The Lessee covenants to competently and faithfully observe and comply with all laws, bylaws and lawful orders which apply to the Lands and the Building or the Lessee's occupation of or activities on the Lands or in the Building, and to not use or occupy or permit to be used or occupied the Lands or the Building or any part thereof for any illegal or unlawful purpose or in any manner which would result in the cancellation or threatened cancellation of any insurance, or in the refusal of any insurer to issue any insurance as requested. If any law, bylaw or lawful order is directed at or places a duty or obligation upon the Lessor, then the same will be performed and observed by the Lessee, at its cost, in the place and stead of the Lessor.

ARTICLE 14 - EXCLUSION OF LIABILITY AND INDEMNITY

14.1 Limitation of Liability and Release

Neither the Lessor nor its Personnel or contractors will be liable for, and the Lessee hereby releases the Lessor and its Personnel and contractors from all Losses, including without limitation, Losses as a result of:

- (a) any bodily injury or death caused, suffered or sustained in or about the Lands or the Building; or
- (b) any property damage or other loss or damage to the Lands or the Building, or to any property belonging to the Lessee or to any other person in or about the Lands or the Building,

unless resulting from the negligence or wilful acts of the Lessor or its Personnel or contractors, as the case may be.

14.2 Exclusion of Liability

Notwithstanding section 14.1, neither the Lessor nor its Personnel or contractors will be liable in any circumstances for:

- (a) business, economic or indirect loss or damage of any nature whatsoever, however caused, which may be suffered or sustained by the Lessee or any other person who may be in or about the Lands or the Building; or
- (b) any loss against which the Lessee is obligated to insure or has insured.

14.3 Indemnification

The Lessee will indemnify and save harmless the Lessor and its Personnel and contractors from and against all Losses which the Lessor or its Personnel or contractors may suffer or incur arising out of this Lease; provided, however, that such indemnity will not apply to the extent to which such Losses result from the respective negligence and/or wilful acts of the Lessor or its Personnel or contractors, as the case may be. Subject to the foregoing proviso, the Lessee will indemnify and save harmless the Lessor and its Personnel and contractors in respect of all Losses:

- (a) as a result of bodily injury or death, property damage or other damage arising from the conduct of any work by or any act or omission of or relating to or arising from the occupation or possession of the Lands and the Building by the Lessee or any assignee, subtenant, Personnel, contractor, invitee or licensee of the Lessee; or
- (b) suffered or incurred by the Lessor or its Personnel and contractors that arise, whether directly or indirectly, from any breach by the Lessee, its Personnel, contractors or any other person for whom the Lessee is responsible in law, of any of its covenants and obligations under this Lease.

14.4 Indemnification Survives Termination of Lease

The obligations of the Lessee to indemnify the Lessor and its Personnel and contractors will apply and continue notwithstanding the termination or expiration of this Lease.

ARTICLE 15 - SUBLETTING AND ASSIGNING

15.1 Subletting and Assigning by Lessee

The Lessee will not sublease, assign, transfer, sell or encumber the Lease or enter into any agreement for the purpose of sub-leasing, assignment, transferring, selling or encumbering the Lease, the Building or the Lands, except as expressly permitted in this Lease, or with the prior written consent of the Lessor, which consent the Lessor may arbitrarily withhold. The Lessee may sublet or grant licences or other rights to occupy any part of the Building to Eligible Occupants.

Notwithstanding the foregoing, the Lessee may, with the written consent of the Lessor, acting reasonably, enter into agreements with one or more sub-operators in respect of some or all of the units in the Building. A sub-operator may, pursuant to such agreement, discharge duties of the Lessee hereunder, and may enter into occupancy agreements with Eligible Occupants in its own name. No agreement with any sub-operator will relieve the Lessee of any of its obligations to the Lessor hereunder.

15.2 Copies of Subleases

If requested by the Lessor, a copy of all subleases, licenses or agreements to occupy will be forwarded to the Lessor within thirty (30) days after the receipt of the request.

ARTICLE 16 - MORTGAGE

16.1 Mortgaging by Lessee

The Lessee may mortgage its leasehold interest in the Lands and the Building only with the prior written consent of the Lessor, which consent may not be unreasonably withheld. Notwithstanding any such Mortgage, the Lessee will be and remain liable for the payment of all Basic Rent and Additional Rent, and the performance of all of its obligations set out in this Lease.

ARTICLE 17 - BANKRUPTCY OF LESSEE

17.1 Bankruptcy of Lessee

Subject to the provisions of section 18.2(c), if the Lessee's interest in this Lease is at any time seized or taken in execution by any creditor of the Lessee, or if the Lessee makes a general assignment for the benefit of creditors, or institutes proceedings to subject

itself to the *Winding-up and Restructuring Act* (Canada) or to be adjudicated a bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it, or files an application or petition or answer or consent seeking reorganization or readjustment of the Lessee under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada) or any law of Canada or any province thereof relating to bankruptcy or insolvency, or consents to the filing of any such application or petition, or consents to the appointment of a receiver, or if the Lessee or its directors pass any resolution authorizing the dissolution or winding-up of the Lessee, or if a receiver, interim receiver, trustee or liquidator of all or any part of the property of the Lessee is appointed or applied for by the Lessee, or if a judgment, decree or order is entered by a court of competent jurisdiction adjudging the Lessee a bankrupt or insolvent or subject to the provisions of the *Winding-up and Restructuring Act* or *Bankruptcy and Insolvency Act* or determining the proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding-up or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency has been properly instituted, then this Lease will, at the option of the Lessor, immediately become terminated.

ARTICLE 18 - DEFAULT BY LESSEE

18.1 Re-entry on Certain Defaults by Lessee

Subject to the provisions of section 18.2, if and whenever:

- (a) Basic Rent or any part thereof is not paid on the day appointed for payment thereof; or
- (b) the Lessee defaults in payment of Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and such default continues for thirty (30) days following any specific due date on which the Lessee is to make such payment or, in the absence of such specific due date, for thirty (30) days following notice by the Lessor requiring the Lessee to pay the same; or
- (c) the Building is abandoned or remains vacant for more than thirty (30) days; or
- (d) the Lessee defaults in performing or observing any of its other covenants or obligations under this Lease, or any event occurs which by the terms of this Lease constitutes a breach hereof or confers upon the Lessor the right to re-enter or forfeit or terminate this Lease, and the Lessor has given to the Lessee notice of such default or the happening of such event, and if at the expiration of forty-five (45) days after the giving of such notice the default continues to exist, or in the case of a default which cannot with due diligence be cured within the period of forty-five (45) days aforesaid, if the Lessee does not commence the rectification of such default within the said forty-five (45) day

notice period and thereafter promptly and diligently and continuously proceed with such rectification; or

- (e) this Lease expires or is forfeited or terminated pursuant to any other provision contained herein, including, without restricting the generality of the foregoing, the termination of this Lease pursuant to the provisions of sections 4.3 and 11.5,

then and in every such case, it will be lawful for the Lessor at any time thereafter without notice or demand, with or without process of law and by forced entry if necessary, to enter into and upon the Lands and the Building, or part thereof in the name of the whole, and, if this Lease has not already expired or been forfeited or terminated, to terminate this Lease by leaving upon the Lands notice in writing of such termination. If the Lessor terminates this Lease pursuant to this section 18.1, or otherwise as a result of default of the Lessee, or if the Lessee has forfeited this Lease, the Lessee will be liable to the Lessor for the rents and all other amounts to be paid and the covenants to be performed by the Lessee up to the date of such termination or forfeiture.

18.2 Notice to and Remedies of Mortgagee

The following provisions will apply with respect to any Mortgagee:

- (a) no re-entry, termination or forfeiture of this Lease by the Lessor will be valid against the Mortgagee who has filed with the Lessor a notice of the Mortgage and specified an address for notice in accordance with Article 23, unless the Lessor has first given to the Mortgagee written notice of the default entitling the Lessor to re-enter, terminate or forfeit this Lease, specifying the nature of that default, and stating the Lessor's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default specified in the notice within a period of sixty (60) days from the date of receipt of that notice by the Mortgagee; or
 - (ii) if the default is other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and if the default cannot reasonably be cured within such sixty (60) day period, then to immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default;

and the Lessor hereby grants the Mortgagee access to the Lands and the Building for that purpose. If the default is cured within the period specified, or in the circumstances referred to in 18.2(a)(ii), if cured within a reasonable period, the Mortgagee will be entitled to continue as tenant for the balance of the Term provided that the Mortgagee attorns as tenant to the Lessor and undertakes to be bound by and to perform and observe all of the Lessee's obligations, covenants and agreements under this Lease until such Mortgagee as tenant assigns its leasehold estate as permitted by this Lease and delivers to the Lessor an agreement from the assignee which is enforceable

and binding on the assignee and its personal representatives, successors and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to be bound by and to perform and observe all of the Lessee's obligations, covenants and agreements under this Lease. If the Mortgagee consists of more than one mortgagee, each having a separate charge upon the Lessee's interest in this Lease, and more than one of them wishes to cure the default specified in the notice aforesaid, then the Lessor hereby agrees to permit curing of the default specified as aforesaid by that Mortgagee that is willing to cure the default and attorn as tenant as aforesaid and whose charge ranks in priority over the charge or charges held by the other Mortgagee or Mortgagees willing to cure and attorn as aforesaid, except that in the event that any Mortgagee has commenced a foreclosure action, the provisions of section 18.2(b) will apply;

- (b) in the event the Mortgagee commences foreclosure proceedings against the Lessee, whether or not the Lessee is in default of the performance of its covenants and agreements with the Lessor under this Lease, the Lessor will not re-enter, terminate or forfeit this Lease after the commencement of foreclosure proceedings on the ground of any default entitling the Lessor to re-enter, terminate or forfeit this Lease if the Mortgagee:
 - (i) has given to the Lessor notice of the foreclosure proceedings;
 - (ii) is actively prosecuting the foreclosure proceedings;
 - (iii) except for the bankruptcy or insolvency of the Lessee, which will be governed by section 18.2(c), cures the default within a period of sixty (60) days from the date of receipt of notice from the Lessor specifying the nature of the default, or if the default is other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default cannot reasonably be cured within such sixty (60) day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default; and
 - (iv) performs and observes all of the Lessee's covenants and agreements under this Lease, except for any obligation to cure the bankruptcy or insolvency of the Lessee and except for the obligations of the Lessee which the Mortgagee is exempt from fulfilling pursuant to the terms of this Lease, and without undue delay diligently prosecutes to a conclusion the foreclosure proceedings commenced by the Mortgagee

provided, however, that the curing of the default or contingency may be delayed until the date that the Mortgagee acquires the Lessee's interest in this Lease. In the event that the Mortgagee acquires the Lessee's interest in the Lands and Building pursuant to the foreclosure proceedings, the Mortgagee will thereupon

become subrogated to the rights of the Lessee under this Lease, provided it attorns to the Lessor as tenant and undertakes to be bound by and perform the covenants and agreements of this Lease until such Mortgagee as Lessee assigns its leasehold estate as permitted by this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its personal representatives, successors and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to be bound by and to perform the covenants and agreements of this Lease. If the Mortgagee consists of more than one mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default granted by this section 18.2(b) to a foreclosing Mortgagee will be deemed granted to them in the order of priority of the charges held by the foreclosing mortgagees;

- (c) if this Lease is subject to termination or forfeiture pursuant to Article 17 by reason of the bankruptcy or insolvency of the Lessee and the Mortgagee has filed with the Lessor a notice of Mortgage in favour of the Mortgagee and specified an address for notice in accordance with Article 23, the Lessor will give to the Mortgagee notice of the bankruptcy or insolvency of the Lessee entitling the Lessor to terminate or forfeit this Lease and stating the Lessor's intention to take such proceedings and requiring the Mortgagee to cure the Lessee's default under this Lease (except for the bankruptcy or insolvency of the Lessee), and the Lessee's default will be deemed to have been sufficiently cured if the Mortgagee:
 - (i) takes possession and control of the Lands and Building, or cause a receiver to be appointed under the terms of the Mortgagee's charge or by a court of competent jurisdiction, which receiver will take possession and control of the Lands and Building, and the Lessor hereby grants the Mortgagee or such receiver access to the Lands and Building for that purpose;
 - (ii) cures every default under this Lease (except for the bankruptcy or insolvency of the Lessee) within a period of sixty (60) days from the date of receipt by the Mortgagee of the notice from the Lessor of the bankruptcy or insolvency of the Lessee, or if such default or defaults are other than the failure to pay Basic Rent or Additional Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or defaults cannot reasonably be cured within such sixty (60) day period, immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure such default or defaults; provided, however, that the curing of the default or contingency may be delayed until the Mortgagee acquires the Lessee's interest in this Lease; and
 - (iii) subject to the right of a Mortgagee to delay the curing of the default or contingency as set out in section 18.2(c)(ii), attorns as tenant to the Lessor and undertakes to observe, be bound by and perform the obligations, covenants and

agreements of the Lessee under this Lease until such Mortgagee, as tenant, assigns its leasehold estate as permitted under this Lease and delivers to the Lessor an agreement from the assignee which is enforceable and binding on the assignee and its personal representatives, successors and assigns as of the date of the assignment and by which the assignee agrees with the Lessor to attorn as tenant to the Lessor and to observe, be bound by and perform the obligations, covenants and agreements of the Lessee under this Lease.

If the Mortgagee consists of more than one mortgagee, the right to take possession and control, to cure any default and to assume the Lease as aforesaid will be deemed granted to them in the order of the priority of their respective charges.

- (d) any re-entry, termination or forfeiture of this Lease made in accordance with the provisions of this Lease as against the Lessee will be valid and effectual against the Lessee even though made subject to the rights of any Mortgagee to cure any default of the Lessee and to continue as tenant under this Lease; and
- (e) no entry upon the Lands or into the Building by the Mortgagee for the purpose of curing any default of the Lessee will release or impair the continuing obligations of the Lessee.

18.3 Remedies of Lessor are Cumulative

The remedies of the Lessor specified in this Lease are cumulative and are in addition to any remedies that the Lessor may have at law or equity. No remedy will be deemed to be exclusive, and the Lessor may from time to time have recourse to one or more or all of the available remedies specified herein, or at law or equity. In addition to any other remedy provided in this Lease, the Lessor will be entitled to restrain by injunction any violation or attempted or threatened violation by the Lessee of any of the covenants or agreements contained herein.

18.4 Waiver by Lessor

The failure of the Lessor to insist upon the strict performance of any covenant or agreement contained in this Lease will not waive such covenant or agreement, and the waiver by the Lessor of any breach of any covenant or agreement of the Lessee under this Lease will not constitute a waiver of such covenant or agreement in respect of any other breach. The receipt and acceptance by the Lessor of rent or other monies due hereunder with knowledge of any breach of any covenant or agreement by the Lessee will not constitute a waiver of such breach. No waiver by the Lessor will be effective unless made in writing.

ARTICLE 19 - SURRENDER OF LEASE

19.1 Surrender of Lease

At the termination or expiration of the Term, whether by forfeiture, default or lapse of time, the Lessee will surrender the Lands and Building to the Lessor in the condition in which they were required to be kept by the Lessee pursuant to the provisions of this Lease, including, without restricting the generality of the foregoing, the provisions of section 11.5(b), except as herein otherwise expressly provided.

ARTICLE 20 - QUIET ENJOYMENT, OWNERSHIP OF TENANTS' FIXTURES AND OWNERSHIP OF BUILDING

20.1 Covenant for Quiet Enjoyment

Subject to the Lessor's rights herein, and subject to the Permitted Encumbrances as extended or modified from time to time, if the Lessee pays the Rent hereby reserved and all other amounts payable hereunder, and observes and performs all of the obligations, covenants and agreements of the Lessee herein contained, the Lessee may peaceably enjoy and possess the Lands for the Term, without any interruption or disturbance whatsoever from the Lessor or any other person, firm or corporation lawfully claiming through, from or under the Lessor, provided however that the enforcement by the Lessor, in its capacity as a local government, of its laws, bylaws and orders that touch and concern the Lands and Building will not be a breach of the Lessor's covenant set forth in this section 20.1.

20.2 Ownership of Tenant's Fixtures

The Lessee may confer upon tenants or occupants of the Building the right of property in, or the right to remove, fixtures or improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Building or the Lands. The Lessee will make good, or will cause such tenants to make good, any damage to the Building caused by any removal of the tenants' fixtures.

20.3 Ownership of Building

The Building will become the absolute property of the Lessor, free and clear of all liens, charges, encumbrances, equities or claims of any kind or nature whatsoever, save and except for the Permitted Encumbrances, upon the expiration or earlier termination of the Term or any permitted period of overholding, except as provided in Article 11, but will be deemed, as between the Lessor and the Lessee during the Term, to be the separate property of the Lessee and not of the Lessor but subject to and governed by all the provisions of this Lease, provided always that the Lessor's absolute right of property in the Building, which will arise at the expiration or earlier termination of the Term or any permitted period of overholding, will take priority over any other interest in the Building that may now or hereafter be created by the Lessee without the prior written consent of the Lessor, and provided that all dealings by the Lessee with the Building which in any way affect title thereto will be made expressly subject to this right

of the Lessor and the Lessee will not assign, encumber or otherwise deal with the Building separately from any permitted dealing with the leasehold interest under this Lease, to the intent that no person will hold or enjoy any interest in this Lease acquired from the Lessee who does not at the same time hold a like interest in the Building.

ARTICLE 21 - OVERHOLDING

21.1 Overholding

The Lessee covenants and agrees with the Lessor that if the Lessee overholds and the Lessor accepts rent after the expiration of the Term, the new tenancy thereby created will be a tenancy from month to month and not a tenancy from year to year and will be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month, provided however that the monthly Basic Rent payable by the Lessee will be the then market rental value of the Lands and the Building as determined from time to time in the bona fide opinion of the Lessor, and such monthly Basic Rent will be paid in advance. The Lessee will also pay monthly as Additional Rent one-twelfth of the then current amount described in section 3.1.

ARTICLE 22 - ENVIRONMENTAL MATTERS

22.1 Definitions

For the purposes of this Article 22:

- (a) "Contaminants" mean any pollutants, contaminants, deleterious substances, underground or aboveground tanks, asbestos materials, urea formaldehyde, dangerous substances or goods, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance which is now or hereafter prohibited, controlled or subject to Environmental Laws; and
- (b) "Environmental Laws" means any statute, law, regulation, order, bylaw, standard, guideline, permit and other lawful requirement of any governmental authority having jurisdiction over the Lands or Building, now or hereafter in force and relating in any way to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, and includes the principles of common law and equity.

22.2 Lessee's Covenants and Indemnity

The Lessee covenants and agrees as follows:

- (a) not to use or permit to be used all or any part of the Lands or Building for the sale, storage, manufacture, disposal, handling, treatment, use or any other dealing with Contaminants, without the prior written consent of the Lessor, which consent may be arbitrarily

withheld;

- (b) to strictly comply, and cause all persons for whom it is at law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Lands and Building;
- (c) to promptly provide to the Lessor a copy of any environmental site investigation, assessment, audit or report relating to the Lands or Building and conducted by or for the Lessee at any time before, during or after the Term, or any renewal or extension thereof. The Lessee hereby waives the requirement for the Lessor to provide a site profile for the Lands pursuant to the *Environmental Management Act* (British Columbia), any regulations enacted pursuant thereto, or any similar or successor legislation;
- (d) to promptly provide to the Lessor on request such written authorizations as the Lessor may require from time to time to make inquiries of any governmental authorities regarding the Lessee's compliance with Environmental Laws;
- (e) to promptly notify the Lessor in writing of the existence or release of any Contaminant on, in or under the Lands or Building or of any other occurrence or condition on the Lands or any adjacent property that could contaminate the Lands or the Building or result in the non-compliance of the Lands or Building with Environmental Laws, or subject the Lessor or Lessee to any fines, penalties, orders, investigations or proceedings under Environmental Laws;
- (f) on the expiry or earlier termination of this Lease, or at any time if requested by the Lessor or required pursuant to Environmental Laws, to remove from the Lands and Building all Contaminants, and to remediate any contamination of the Lands or any adjacent or other affected property resulting from Contaminants, in either case brought onto, used at, created upon or released from the Lands by the Lessee or any person for whom the Lessee is at law responsible. The Lessee will perform these obligations promptly at its own cost and in accordance with Environmental Laws. All such Contaminants will remain the property of the Lessee, notwithstanding any rule of law or other provision of this Lease to the contrary and notwithstanding their degree of affixation to the Lands or Building; and
- (g) without limiting the generality of Article 14, to indemnify the Lessor and its Personnel and contractors from any and all Losses (including the cost of remediation of the Lands and Building and any other affected property) arising from or in connection with:
 - (i) any breach of or non-compliance with the provisions of this Article 22 by the Lessee; or
 - (ii) the release or alleged release of any Contaminants on or from the Lands related to or as a result of the use and occupation of the Lands and Building by, or any act or omission of, the Lessee or any person for whom the Lessee is responsible at law.

The obligations of the Lessee under this Article 22 will survive the expiry or earlier termination of this Lease, and the obligations of the Lessee under this Article 22 are in addition to, and will not limit, the other obligations of the Lessee under this Lease.

ARTICLE 23 - NOTICES

23.1 Notices

All notices, demands and request which may or are required to be given pursuant to this Lease will be in writing and will be sufficiently given if served personally upon the party for which it is intended, or mailed prepaid and double registered:

- (a) in the case of the Lessor, addressed to:

7030 Trans-Canada Hwy, Duncan, BC, V9L 6A1
Attention: Director of Planning and
Building

- (b) in the case of the Lessee, addressed to:

[insert]

or at such other addresses as each of the parties may from time to time advise by notice in writing. Mortgagees will supply their respective mailing addresses to the Lessor and the Lessee. The date of receipt of any such notice, demand or request will be deemed to be the date of delivery if such notice, demand or request is served personally or if mailed as aforesaid on the fifth business day next following the date of such mailing; provided, however, that if mailed, should there be between the time of mailing and the actual receipt of the notice a mail strike, slow down of postal service or other labour dispute which affects the delivery of such notice, then such notice will be deemed to be received when actually delivered.

ARTICLE 24 - MISCELLANEOUS

24.1 Statements by Lessor

The Lessor and the Lessee will, at any time and from time to time, upon not less than thirty (30) days prior request by the other party, execute, acknowledge and deliver to the other a statement in writing certifying:

- (a) that this Lease is unmodified and in full force and effect, or if there have been modifications, the nature of such modifications and that the same are in full force and effect as modified;
- (b) the dates to which the rent and any other amounts payable under this Lease have been

paid; and

- (c) that to the best of the information and belief of the maker of the statements, the Lessor and the Lessee are not in default under any provision of this Lease, or, if in default, the particulars thereof.

24.2 Time of Essence

Time will be of the essence of this Lease, save as otherwise specified herein.

24.3 Formality of Modifications

This Lease may not be modified or amended except by an instrument in writing executed by the Lessor or their successors or assigns, and by the Lessee or its successors or permitted assigns.

24.4 Captions and Headings

The captions and headings throughout this Lease are for convenience and reference only and the words and phrases contained therein will in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Lease nor in any way affect this Lease.

24.5 Enurement

It is further agreed and declared by the Lessor and the Lessee that this Lease will extend to, be binding upon and enure to the benefit of the Lessor and the Lessee, the successors and assigns of the Lessor, and the successors and permitted assigns of the Lessee.

24.6 Covenants or Conditions

All of the provisions of this Lease will be deemed and construed to be conditions as well as covenants, as though the words specifically expressing or importing covenants or conditions were used in each separate provision hereof.

24.7 References

The words "herein", "hereby", "hereunder" and words of similar import refer to this Lease as a whole and not to any particular Article, section or subsection in this Lease.

In this Agreement, where the word "including" is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word "including".

24.8 Execution

By signing the General Instrument, the parties have agreed to be bound by their respective obligations contained in this Lease.

Schedule A

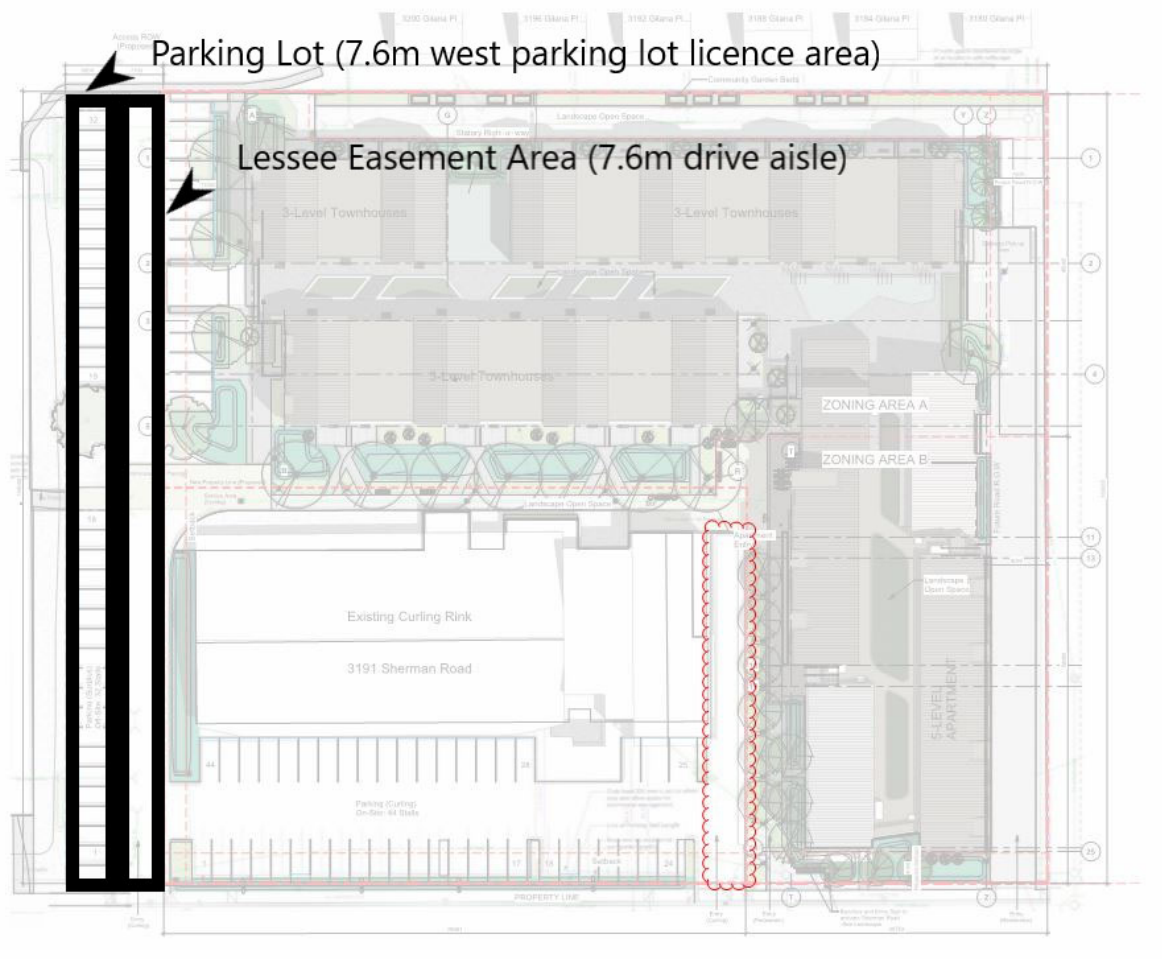
Describe Building

The Buildings will include 34 townhouse units, and 58 apartment units (total 92 residential units).

Of the 92 residential units, 19 of these will be accessible units.

Schedule B

West Parking Lot Plan





The Corporation of the District of North Cowichan

Housing Agreement Bylaw 2020

Bylaw 3805

WHEREAS a lessee of the lands within the Corporation of the District of North Cowichan, legally described as 1) Part of Lot 2, section 1, range 4, Somenos District, Plan 18897 (PID: 003-809-510), and 2) Lot 10, section 17, range 5, Chemainus District, Plan 6535 (PID: 005-858-071) (collectively, the "Lands") wishes to lease the Lands from the District and use the Lands to provide affordable housing for low to medium income households in the Cowichan region;

AND WHEREAS in connection with such lease, the District wishes to register against title to the Lands the section 219 covenant and Housing Agreement attached as Schedule A (the "Housing Agreement");

NOW THEREFORE the Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:

Citation

- 1** This Bylaw may be cited for all purposes as "Housing Agreement Bylaw 2020, No. 3805".
- 2** North Cowichan is authorized to enter into the Housing Agreement, substantially in the form attached as Schedule A.
- 3** The Corporate Officer is authorized to sign and file in the Land Title Office a notice of the Housing Agreement, as required by section 483 of the *Local Government Act*.

READ a first time on November 4, 2020
READ a second time on November 4, 2020
READ a third time on November 4, 2020
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Schedule A

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT – HOUSING AGREEMENT

(Section 219, *Land Title Act*)
(Section 483, *Local Government Act*)

THIS AGREEMENT is dated for reference _____ 2020 is

BETWEEN:

CLT0003 COMMUNITY SOCIETY (Inc. No. BC SS0070806)
220-1651 Commercial Drive, Vancouver BC V5L 3Y3

(the “**Society**”)

AND:

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN 7030 Trans-
Canada Hwy, Duncan, BC V9L 6A1

(in its capacity as a municipality, the “**District**”)

AND:

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN 7030 Trans-
Canada Hwy, Duncan, BC V9L 6A1

(in its capacity as owner of the Lands, the “**Owner**”)

WHEREAS:

- A. The Owner is the registered owner of the property situated, lying and being in the _____ of _____, in the Province of British Columbia, described in Item 2 of the Form C attached hereto (the “**Lands**”);
- B. The Society has leased the Lands from the Owner pursuant to a lease registered against title to the Lands in the land title office under no. _____ (the “**Lease**”);
- C. The Society intends to develop on the Lands a residential building (the “**Building**”) and associated parking (the “**Development**”);
- D. As a condition of securing financing for construction and operation of the Development, the Society intends to enter into an operating agreement with BC Housing;
- E. Section 483 of the *Local Government Act* permits the District to enter into housing agreements for the provision of affordable housing, which may include, without limitation, terms and conditions in respect of the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units and rent which may be charged for housing units;
- F. Section 219 of the *Land Title Act* states that a covenant in favour of a municipality may be registered as

a charge against title to land and is enforceable against the covenantor and its successors in title even if the covenant is not annexed to land owned by the municipality and that such covenant may be of a positive or negative nature in respect of the use of, construction on, and subdivision of land;

- G. As a condition of the Development Permit being issued to facilitate the development of the Lands in the manner aforesaid, the Society has agreed to enter into this Agreement with the District and assume all of the obligations of the Owner under this Agreement while the Lease is in force; and
- H. The District has agreed to execute this Agreement in its capacity as Owner of the Lands for the purpose of facilitating its registration in the LTO in accordance with the Land Title Act and the requirements of the LTO.

NOW THIS AGREEMENT WITNESSES that for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge and agree to and will not be denied, the Society the District and the Owner covenant and agree as follows:

Article I. INTERPRETATION

Section 1.01 Definitions

In this Agreement, the following terms have the following meanings:

- (a) **“Agreement”** means this Section 219 Covenant – Housing Agreement together with all schedules, attachments and priority agreements attached hereto;
- (b) **“BC Housing”** means British Columbia Housing Management Commission, an agency of the Province of British Columbia, or its successor in function;
- (c) **“BC Housing Operating Agreement”** means an operating agreement in respect of the operation and rental of the Rental Units between the Society and BC Housing, as it may be amended or replaced from time to time;
- (d) **“Building”** has the meaning given to it in Recital C.
- (e) **“Building Code”** means the British Columbia Building Code established by the British Columbia Building Code Regulation, B.C. Reg. 264/2012, or as may be amended, replaced, restated, or re-enacted from time to time;
- (f) **“Development”** has the meaning given in Recital C.
- (g) **“Development Permit”** means Development Permit No. _____ issued by the District authorizing development on the Lands, as amended from time to time;
- (h) **“Dwelling Unit”** means one or more rooms which constitute a single, self-contained living unit including sanitary facilities, sleeping facilities and only one kitchen;
- (i) **“Eligible Household”** means a Household having a Household Income that is equal to or less than 80% of the median household total income for British Columbia published by Statistics Canada, or its successor in function, for the most recent census year provided that if Statistics Canada, or its successor in function, discontinues publication of the median total income of households for the British Columbia, **“Eligible Household”** shall be defined in reference to such other income threshold as approved by the District in writing from time to time;

- (j) **“Household”** means all of the individuals that occupy or propose to occupy a Rental Unit as permanent residence;
- (k) **“Household Income”** means the aggregate of annual gross income from all sources of each individual comprising a Household, based on the most recent tax returns filed with the Canada Revenue Agency;
- (l) **“Land Title Act”** means the *Land Title Act*, R.S.B.C., 1996, c. 250, as amended, replaced, restated, or re-enacted from time to time;
- (m) **“Land Title Office”** means the Victoria Land Title Office;
- (n) **“Lands”** has the meaning ascribed thereto in Recital A;
- (o) **“Lease”** has the meaning ascribed thereto in Recital B;
- (p) **“Local Government Act”** means the *Local Government Act*, R.S.B.C. 2015, c. 1, as amended, replaced, restated, or re-enacted from time to time;
- (q) **“Losses”** means any and all damages, losses, debts, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (r) **“Municipal Personnel”** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors, and volunteers of the District from time to time;
- (s) **“Non-Market Rent”** means monthly rent for a Rental Unit that is no greater than 1/12th of 30% of the Household Income of an Eligible Household occupying such Rental Unit;
- (t) **“Non-Profit Housing Co-operative”** means a housing co-operative pursuant to the *Cooperative Association Act (British Columbia)* whose purposes include provision of affordable housing to low and moderate income households, and whose constating documents prevent remuneration of directors and provide for disposition of assets on dissolution or windup to an organization with similar purposes and restrictions;
- (u) **“Occupancy Permit”** means a permit issued by the District authorizing the use and occupation of a building, structure, or part of a building or structure in accordance with the Corporation of the District of North Cowichan Building Bylaw 2003, Bylaw 3172;
- (v) **“Operator”** has the meaning ascribed thereto in Section 3.03(b);
- (w) **“Rental Housing”** means a dwelling unit that is rented, and which is not occupied by the registered or beneficial owner of the same, but which is made available by such owner to individual third parties at arm’s length, for use as residential rental accommodation on a month-to-month or longer basis in accordance with:
 - (i) this Agreement,
 - (ii) reasonably prudent landlord-tenant practice for rental residential accommodation,
 - (iii) and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia; and for certainty, includes a Dwelling Unit occupied

as part of a Non-Profit Housing Co-operative;

- (x) **“Rental Parking Area”** means the portion of the Development for the parking of motor vehicles, including drive-aisles and access-ways, by occupants, tenants, and invitees of the Rental Units, which includes the Required Stalls;
- (y) **“Rental Units”** means the Dwelling Units constructed and designated as rental units pursuant to section 3.01(c) of this Agreement;
- (z) **“Required Stalls”** means the parking stalls constructed in the Rental Parking Area in accordance with the Development Permit;
- (aa) **“Residential Tenancy Act”** means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as amended, replaced, restated, or re-enacted from time to time;
- (bb) **“Society’s Personnel”** means any and all of the Society’s directors, officers, employees, agents, nominees, tenants, permittees, contractors, subcontractors, or any other person for whom the Society is legally responsible;
- (cc) **“Subdivide”** means to divide, apportion, consolidate or subdivide the Lands, or the ownership or right to possession or occupation of the Lands into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, S.B.C 1998, c 43, or otherwise, and includes the creation, conversion, organization or development of "cooperative interests" or "shared interest in land" as defined in the *Real Estate Development Marketing Act*, S.B.C. 2004, c 41;
- (dd) **“Tenancy Agreement”** means a written tenancy agreement, lease or license or other written agreement granting rights to occupy a Rental Unit, including, without limitation, a co-operative occupancy agreement; and
- (ee) **“Tenancy Default”** has the meaning ascribed to it in Section 3.04 (c).

Section 1.02 Interpretation.

In this Agreement:

- (a) any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires;
- (b) wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa as the context or the parties so require;
- (c) the term “enactment” has the meaning given to it under the *Interpretation Act*, R.S.B.C 1996, c 238, on the reference date of this Agreement;
- (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced from time to time, unless otherwise expressly provided;

- (f) the captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof; and
- (g) references to the or this “Agreement” and the words “hereof”, “herein” and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a designated Recital, Article, Section, subsection or other subdivision is a reference to the designated Recital, Article, Section, subsection or subdivision hereof.

Article II. PERPETUAL AGREEMENT AND LAND TITLE OFFICE NOTICE

Section 2.01 This Agreement will be perpetual.

Section 2.02 The Owner acknowledges that the District will file in the Land Title Office on title to the Lands this Agreement and a notice in respect of this Agreement (collectively, the “**Notice**”) and any amendments made thereto from time to time in accordance with Section 7.07.

Article III. RESTRICTIONS ON AND CONDITIONS OF USE, OCCUPATION AND SUBDIVISION

Section 3.01 The Owner covenants and agrees that:

- (a) the Lands and all buildings situate thereon will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) it will construct and maintain the Building in accordance with the B.C. Building Code, the Development Permit, all bylaws of the District and any building permit issued pursuant thereto, and the requirements of this Agreement;
- (c) once constructed, each Dwelling Unit in the Building will be a Rental Unit and will be used and occupied as Rental Housing by an Eligible Household pursuant to a Tenancy Agreement;
- (d) it will construct and maintain the Rental Parking Area in accordance with the B.C. Building Code, the Development Permit, all bylaws of the District and any building permit issued pursuant thereto, and the requirements of this Agreement;
- (e) once constructed, the parking stalls in the Rental Parking Area will be the Required Stalls and will be made available for the sole benefit and use of the residents, visitors, and invitees of the Rental Units and will be allocated in accordance with the Development Permit;
- (f) it will not suffer, cause, or permit the Lands nor any part of the Building or Development to be Subdivided; and
- (g) it will not suffer, cause or permit the Lease or any interest in and to the Lands, any portion of the Building or Development, to be sold, leased (excepting Tenancy Agreements with individuals), or otherwise transferred unless the transferee(s) of the Lease or the interest, prior to and as a condition of completing of such transfer, enters into an assumption agreement satisfactory to the District whereby such transferee agrees to be and thereafter remain bound by each and every term and condition of this Agreement that is applicable to the Owner.

Section 3.02 The parties acknowledge that the Owner intends to enter into an Operating Agreement with BC Housing which may include terms and conditions regarding the operation and rental of the Rental Units that

conflict with the terms of this Agreement. Accordingly, while an Operating Agreement between BC Housing and the Owner is in effect, sections 3.03 and 3.04 of this Agreement will not apply to the Rental Units. For clarity, if there is no Operating Agreement in effect or if an Operating Agreement is terminated for any reason, sections 3.03 and 3.04 of this Agreement will apply to the Rental Units.

Section 3.03 The Owner covenants and agrees that:

- (a) the monthly rent charged for a Rental Unit shall not exceed Non-Market Rent;
- (b) it will not do, nor allow a tenant, resident or other occupant of or visitor to any Rental Unit to do, anything or enter into any arrangement with any person that prevents or could prevent the Required Stalls from being available for the tenants, residents or other occupant of or visitors to the Rental Units, as applicable; provided that it is acknowledged by the District that up to two of the Required Stalls may be assigned for the exclusive use of a resident, tenant, or other occupant of any one Rental Unit as determined by the Owner from time to time; and
- (c) when selecting occupants for a Rental Unit, it will give priority to Households with at least one member whose current permanent residence is located within in the District.

Section 3.04 The Owner covenants and agrees that:

- (a) it will forthwith deliver a certified true copy of every Tenancy Agreement (or the Tenancy Agreement for the Rental Unit Specified by the District) to the District upon demand from time to time;
- (b) every Tenancy Agreement between the Owner and a Household shall include a term:
 - (i) requiring the tenant thereunder and each permitted occupant of the Rental Unit to comply with this Agreement;
 - (ii) entitling the Owner to terminate the Tenancy Agreement if the following terms are breached:
 - i. the Rental Unit remains vacant for three consecutive months or longer, notwithstanding the timely payment of rent;
 - ii. the Household occupying the Rental Unit subject to such Tenancy Agreement fails to be an Eligible Household; and
 - iii. the tenant thereunder subleases the Rental Unit subject to the Tenancy Agreement or assigns the Tenancy Agreement in whole or in part, without the Owner's consent(subsection i., ii. and iii. each constitute a **"Tenancy Default"**);
- (c) in the event of a Tenancy Default, it will terminate the relevant Tenancy Agreement by providing notice to the tenant that ends the tenancy on the earliest date possible permitted under the *Residential Tenancy Act* or other applicable legislation, and will cause the tenant to vacate by that date;
- (d) a Tenancy Agreement will identify all occupants of the Rental Unit and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing in the Rental Unit; and
- (e) it will not consent to the subletting of a Rental Unit or assignment of a Tenancy Agreement, except if the assignment is to an Eligible Household and the assignee does not pay any amount to the assignor in consideration of such assignment.

Section 3.05 The Owner covenants and agrees that:

- (a) the Rental Units shall be operated and managed by a housing society, non-profit housing corporation, Non-Profit Housing Co-operative, or other entity approved by the District in writing (the “**Operator**”), and the Owner shall cause the Operator to comply with and fulfil all of the Owner’s obligations under this Agreement in relation to the Rental Units, and, for clarity, the Owner’s engagement of an Operator will not relieve the Owner from any of the Owner’s obligations under this agreement nor any restrictions or requirements of this Agreement;
- (b) unless and until the District consents otherwise in writing by way of an amendment to this Agreement on request of the Owner, it will keep and maintain the Development, including without limitation the Building, Rental Units and the Required Stalls, in good repair and in a safe, clean, neat and tidy condition, reasonable wear and tear excepted, and fit for human habitation and consistent with the general standards required by the *Residential Tenancy Act* (if applicable) and all other applicable statutes, regulations, bylaws, and rules in effect from time to time for residential rental units of similar age and character in the District from time to time and will comply with the same, including health and safety standards applicable to the Development; provided that, subject to and in accordance with Section 532 of the *Local Government Act*, if the Development or any part thereof is damaged or destroyed by any means whatsoever including fire, the Owner will promptly restore, repair, and replace the same whenever and as often as damage occurs to at least as good a state and condition as existed before such damage occurred and in accordance with the provisions of this Agreement relevant to the initial construction of the Development;
- (c) upon issuance of an Occupancy Permit for the Building, it will post and will at all times maintain, and update from time to time as applicable, signage at the main entrance to the Building which signage clearly sets out the then current name and contact information for the Operator for means of contact for residents and other persons; and
- (d) it will not demolish the Development or any portion thereof without the prior written consent of the District and, in any case, without a demolition permit therefor issued by the District in the District’s sole discretion, and following any such demolition it will construct a replacement Development on the Lands in accordance with Section 3.01 and use and occupy any replacement Development or portion thereof in compliance with this Agreement to the same extent and in the same manner as this Agreement applies to the original Development or portion thereof.

Article IV. OCCUPANCY RESTRICTION ON THE LANDS

Section 4.01 The Owner covenants and agrees with the District in respect of the use of the Lands and the Development that:

- (a) the Development will not be used or occupied except in accordance with the following:
 - i) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, any building, structure or part of any building or structure on the Lands, aside from the Building, and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit for any building, structure, or part of any building or structure on the Lands, aside from the Building, until such time as the Owner applies for an Occupancy Permit for the Building; and
 - ii) the District will be under no obligation to issue any Occupancy Permit permitting the use and occupation of any building, structure or any part of a building or structure on the Lands, aside

from the Building, notwithstanding completion of construction of such building, structure or part of a building or structure, until such time as an Occupancy Permit has been issued for the Building; and

- (b) without limiting the general scope of Article VI, the Owner does hereby waive, remise, and release absolutely any and all claims against the District and Municipal Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this Section 4.01.

Article V. RECORD KEEPING

Section 5.01 The Owner will keep accurate records pertaining to the use and occupancy of the Building and the amenity areas within the Development, such records to be to the satisfaction of the District, including without limitation, a copy of the BC Housing Operating Agreement and amendments thereto. At the request of the District, from time to time, the Owner will make such records available for inspection and copying by the District and, if required by the District, accompanied by a statutory declaration in form satisfactory to the District. The District will comply with all applicable statutory obligations with respect to privacy of such information.

Article VI. INSURANCE, INDEMNITY AND RELEASE

Section 6.01 The Owner will insure, or cause to be insured, the Building and all parts thereof, to the full replacement cost against perils normally insured against in the District by reasonable and prudent owners of similar subdivided parcels, premises and lands.

Section 6.02 The Owner hereby agrees to indemnify and save harmless the District and the Municipal Personnel from and against any and all Losses which the District and the Municipal Personnel, or any of them, may suffer, incur, or be put to, arising, whether directly or indirectly, out of this Agreement, including without limitation:

- (a) a breach of any covenant or condition of this Agreement by the Owner or the Owner's Personnel;
- (b) the use or occupancy of any Rental Unit or any part of the Building;
- (c) any negligent act or omission or willful misconduct of the Owner or any of the Society's Personnel in connection with the performance and observance of the obligations of the Owner under this Agreement;
- (d) any negligent act or omission or willful misconduct of the Operator or any of the Operator's personnel in connection with the performance and observance of the obligations of the Owner under this Agreement;
- (e) any claim of contribution made by third parties in respect of damage for which the Owner has released the District and the Municipal Personnel under this Agreement; and
- (f) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands, the Development or any Rental Unit, or the enforcement of any Tenancy Agreement relating to a Rental Unit.

Section 6.03 The Owner hereby releases the District and the Municipal Personnel from any and against all Losses that may arise or accrue to or be suffered or incurred by the Owner:

- (a) in relation to the existence of this Agreement or any default of the Owner under or in respect of this Agreement;

- (b) in relation to the exercise by the District of any of its rights under this Agreement or an enactment;
- (c) by reason of the District or Municipal Personnel:
 - (i) reviewing, accepting, or approving the design, specifications, materials, and methods of the Owner's construction upon the Lands;
 - (ii) withholding any permit pursuant to or due to this Agreement; or
 - (iii) exercising any of its rights under the *Local Government Act*, bylaws, or any other right of the District under this Agreement;
- (d) in relation to the construction, maintenance, repair, replacement, ownership, lease, license, operation, financing or management of the Lands, the Development or any part thereof, including the Rental Units; or
- (e) that otherwise arise out of or would not have been incurred but for, this Agreement.

Section 6.04 The Owner covenants and agrees with the District that, in addition to any other remedies available to the District under this Agreement or at law or equity, if the Owner defaults under the terms of this Agreement, including without limitation omitting, failing or neglecting to carry out any of its obligations contained in this Agreement and doing or carrying out an act contrary to the Owner's obligations contained in this Agreement:

- (a) the Owner shall rectify such default within 10 days' of receipt of written notice of such default to the Owner by the District;
- (b) if the Owner fails to cure such default to the satisfaction of the District within the required time frame specified in Section 6.04(a) or if the District, in case of emergency, does not consider that it has time to deliver the notice referred to in Section 6.04(a), the District may, but is under no obligation to, enter onto the Lands and rectify such default to the extent considered necessary by the District;
- (c) if the Owner fails to take such positive action as the District considers necessary to rectify any default as provided for herein, the District may apply to court for a mandatory or prohibitive order requiring the Owner to take such action; and
- (d) the Owner shall pay to the District on demand the aggregate of the District's costs of rectifying any default of the Owner under this Agreement together with any other fees, costs, and other amounts the Owner may owe to the District from time to time pursuant to or arising from this Agreement, plus a sum equal to 15% of the collective amount of such fees, costs, and other monies on account of the District's overhead costs, and if the Owner fails to pay such amounts to the District within 30 days from the date the Owner receives any such demand from the District, any and all arrears will bear interest from the date of demand to the date of payment at the prime rate of the Bank of Nova Scotia plus 3% per annum.

Section 6.05 Survival of Release and Indemnities. This Article VI will remain effective, and will survive any modification of, or partial release or release of the covenants created by this Agreement, and the termination of this Agreement, whether by fulfillment of the covenants contained in this Agreement or otherwise.

Article VII. GENERAL PROVISIONS

Section 7.01 No Obligations of Owner. Until the Lease is terminated, surrendered or otherwise of no force or effect:

- (a) the Society assumes all obligations, rights, responsibilities and liability of the “Owner” under this Agreement, and
- (b) the Owner has no obligation or responsibility under this Agreement whatsoever.

Section 7.02 Registration & Priority. The Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement is registered as a covenant under section 219 of the *Land Title Act* against title to the Lands in priority to the Lease and all charges and encumbrances registered or pending registration against title to the Lands save and except those in favour of the District or specifically approved in advance in writing by the District, and that a notice under section 483(5) of the *Local Government Act* is filed on the title to the Lands as a legal notation, and that, as a result, this Agreement is binding on all persons who acquire an interest in the land affected by this Agreement.

Section 7.03 Legislation. Any reference to a law or statute herein includes and is a reference to such law or statute and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any law or statute or applicable regulation amending, replacing, or superseding any of the same.

Section 7.04 Time. Time shall be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that part may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time shall be Pacific Standard Time.

Section 7.05 No Effect on Rights. Nothing contained or implied herein will prejudice the rights and powers of the District in the exercise of its functions under any public and private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and this Agreement does not impose on the District any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement, nor does this Agreement relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.

Section 7.06 Benefit of District. The District is a party to this Agreement for the purpose only of receiving the covenants, promises and agreements as provided in the terms of this Agreement and is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Lands, the Development or any portion thereof and the District may at any time execute a release for the discharge of the Notice of this Agreement without liability to anyone for doing so, and without obtaining the consent of the Owner.

Section 7.07 Agreement Runs with the Lands. Following the filing of the *Notice* in the Land Title Office of this Agreement and, if applicable, any amendments thereto, will be binding on all persons who acquire an interest in the land affected by this Agreement, as amended if applicable, and any parcel from which it is subdivided by any means and any parcel into which it is consolidated. It is further expressly agreed that this Agreement may be modified or amended from time to time, by consent of the Owner and a bylaw duly passed by the Municipal Council and thereafter if an amendment is signed by the District, the Owner, and, if required, the Society.

Section 7.08 Housing Agreement/Section 219 Covenant. The Owner acknowledges and agrees that this Agreement constitutes both a covenant under Section 219 of the *Land Title Act* and a housing agreement under Section 483 of the *Local Government Act*.

Section 7.09 Enurement. This Agreement will enure to the benefit of and be binding upon the parties hereto

and their respective successors and permitted assigns.

Section 7.10 Further Assurances. The parties will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

Section 7.11 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia.

Section 7.12 Severability. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

Section 7.13 Waiver. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

Section 7.14 No Fiduciary Relationship. Nothing contained in this Agreement will be deemed in any way, or for any purpose, to constitute the District a partner, agent or legal representative of the Owner in the conduct of any business or otherwise, or a member of a joint venture or joint enterprise with the Owner, or to create any fiduciary relationship between the District and the Owner.

Section 7.15 Joint and Several. If the Owner consists of more than one person, firm, or corporation, from time to time, the Owner's obligations under this Agreement shall be joint and several.

Section 7.16 Survival. Notwithstanding anything contained herein, the Owner covenants and agrees that the obligations of the Owner, including without limitation those set out in Article VI, shall survive termination or release of this Agreement.

Section 7.17 Notice. Whenever it is required or desired that either party will deliver or serve a notice on the other, delivery or service will be deemed to be satisfactory if and deemed to have occurred when:

- (a) the Corporate Officer of the District, and a clerk or a director of the Society, if applicable, has been served personally, on the date of service; or
- (b) mailed by prepaid registered mail, on the date received or on the sixth day after receipt of mailing by any Canada Post office, whichever is the earlier, so long as the notice is mailed to, in the case of the District, the address provided in this Agreement and addressed to the Corporate Officer, or in the case of the Owner, or its successor in title, at the address noted on the Certificate of Title for the Lands, or to whatever address a party may from time to time provide to the other party.

Section 7.18 Society's Representations and Warranties. The Society represents and warrants to and covenants and agrees with the District that:

- (a) the Society has the full and complete power, authority, and capacity to enter into, execute, and deliver this Agreement and to bind its interest in the Lands with the interests in lands created hereby;
- (b) upon execution and delivery of this Agreement and the filing of the Notice, the interests in land created hereby will encumber the Society's interest in the Lands;
- (c) this Agreement will be fully and completely binding upon the Society in accordance with its terms and the Society will perform all of its obligations, and the obligations of the Owner while the Lease is in force,

under this Agreement in accordance with its terms; and

- (d) the foregoing representations, warranties, covenants, and agreements will have force and effect notwithstanding any knowledge on the part of the District whether actual or constructive concerning the status of the Society with regard to the Lands or any other matter whatsoever.

Section 7.19 By executing and delivering this Agreement the Society intends to create both a contract and a deed executed and delivered under seal.

Section 7.20 Counterparts. This Agreement may be executed and delivered by the parties hereto in one or more counterparts, each of which will be an original.

IN WITNESS WHEREOF, each of the parties has duly executed this Agreement on the Forms C and D to which this Agreement is attached and which form part of this Agreement, effective as of the date first written above.

November 10, 2020

Chris Hutton
Municipality of North Cowichan

Re: Affordable Housing Developments at 9800 Willow Street and 3919 Sherman Road

Dear Chris Hutton:

The intention of this letter is to provide an update as to next steps for the affordable housing developments planned for 9800 Willow Street (Willow Street) and 3919 Sherman Road (Sherman Road). This update also includes details regarding what is to be encompassed in future legal agreements and how Community Land Trust (CLT) will calculate affordability.

Timeline

The following table includes the estimated dates for upcoming key milestones for both Willow Street and Sherman Road.

Milestone	Estimated Date(s)
Pre-Development Financing from BC Housing	November 2020
Development Permit	December 2020
Building Permit	January to April 2021
Final Project Approval from BC Housing	June 2021
Construction Start	June 2021
Operating Agreement between CLT and BC Housing	June 2021
Sub - Lease with Cowichan Women Against Violence Society	June 2021
Construction End	June 2023

Scope of Housing Agreements and Future Agreements

The Housing Agreements for Willow Street and Sherman Road represents CLT's overarching obligations to the Corporation of the District of North Cowichan (the District). The Housing Agreement states: "As a condition of securing financing for construction and operation of the Development, the Society intends to enter into an operating agreement with BC Housing." CLT will enter into said 60-year Operating Agreement with BC Housing prior to starting construction.

The Operating Agreement commits CLT to specific calculations for determining housing rents for its duration. Rents will be in line with the affordability requirements outlined in BC Housing's Community Housing Fund (see section below). BC Housing has provided this project with an "A" letter status to indicate their commitment to financing both Willow Street and Sherman Road. As BC Housing is financing the project, CLT is already committed to the levels of affordability required by the

BC Housing Community Housing Fund.

CLT is also committed to preserving approximately 12 units of Sherman Road for the Cowichan Women Against Violence Society. CLT intends to formalize this agreement via a sub-lease with Cowichan Women Against Violence Society in June 2021.

Affordability

Projects funded under the BC Housing Community Housing Fund are required to meet the following affordability mix: 20% Deep Subsidy (Shelter), 50% Rent Geared to Income (Housing Income Limit; HILs), and 30% Affordable Market.

Shelter rate units have set rents per unit type and does not vary across BC.

For HILs units, rents are based on local Housing Income Limits (the maximum income a household may have) as determined by BC Housing. Under the Vancouver Island Planning Area, there are HILs rates specific to Duncan-North Cowichan. For 2021, the Housing Income Limit range for Duncan-North Cowichan is \$32,000 (for a 1 bedroom) to \$62,000 (for a 3 bedroom). Housing Income Limits are updated on an annual basis. If a household falls within the Housing Income Limit, their rent is then calculated to be 30% of their household income.

For Affordable Market, BC Housing requires that units are rented at no less than CMHC average market rents. Rents are based on CMHC on local average rents. At the time of move-in, households demonstrate that rent does not exceed 30% of their income.

The following Affordability Chart provides an example of how these rents would look based on current rates (2021 HILs and 2019 CMHC Average Rents). Please note that HILs rates and CMHC are likely to rise on an annual basis, so while the mechanism for determining affordability will remain constant, the example rents themselves are subject to change. Please note that the HILs rents are calculated on the basis that the average income of tenants in these units falls at 70% of the applicable Housing Income Limit as per Community Housing Fund program requirements.

2020/2021 Example Affordability Chart						
Sherman Road						
	Shelter		HILS		CMHC Average Rent	
Home Type	Rent	# of Homes	Rent	# of Homes	Rent	# of Homes
Studio	\$375	8	\$560	16	\$661	0
1 BR	\$375	2	\$560	7	\$766	0
2 BR	\$570	2	\$700	4	\$972	2
3 BR	\$660	6	\$1,085	2	\$1,300	9
3 BR Townhomes	\$660	0	\$1,085	17	\$1,300	17
Total Number of Homes		18		46		28
Willow Street						
	Shelter		HILS		CMHC Average Rent	
Home Type	Rent	# of Homes	Rent	# of Homes	Rent	# of Homes
Studio	\$375	5	\$560	10	\$661	0
1 BR	\$375	0	\$560	1	\$766	6
2 BR	\$570	0	\$700	0	\$972	0
3 BR	\$660	0	\$1,085	0	\$1,300	0
3 BR Townhomes	\$660	0	\$1,085	0	\$1,300	0
Total Number of Homes		5		11		

More information on BC Housing's Community Housing Fund can be found here:
<https://www.bchousing.org/projects-partners/Building-BC/CHF>

Please feel welcome to be in touch if you have any questions.

Kind regards,



Kendall Andison
 Junior Development Manager
 Community Land Trust



The Corporation of the District of North Cowichan
Parks and Public Places Regulation Amendment Bylaw, 2020

Bylaw No. 3806

WHEREAS the Council of the District of North Cowichan has adopted the Parks and Public Places Regulation Bylaw No. 3626;

AND WHEREAS the Council of The District of North Cowichan would like to amend the Parks and Public Places Regulation Bylaw No. 3626;

NOW THEREFORE The Council of The Corporation of The District of North Cowichan in open meeting enacts as follows:

Title

- 1 This bylaw may be cited as "Parks and Public Places Regulation Amendment Bylaw, 2020, No. 3806".

Amendment

- 2 The Parks and Public Places Regulation Bylaw No. 3626 is hereby amended by deleting subsection 6(2) and substituting the following:

(2) Every person within a park or recreation facility must observe and obey all rules of behaviour and conduct as set out in this Bylaw and the Respectful Spaces Bylaw including, without limitation, all signs and posted notices.

READ a first time on November 18, 2020

READ a second time on November 18, 2020

READ a third time on November 18, 2020

ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER



The Corporation of the District of North Cowichan
Municipal Ticket Information System Amendment Bylaw, 2020

Bylaw No. 3807

WHEREAS the Council of the District of North Cowichan has adopted the Municipal Ticket Information System Bylaw No. 3464;

AND WHEREAS the Council of The District of North Cowichan would like to amend the Municipal Ticket Information System Bylaw No. 3464;

NOW THEREFORE The Council of The Corporation of The District of North Cowichan in open meeting enacts as follows:

Title

- 1 This bylaw may be cited as "Municipal Ticket Information System Amendment Bylaw, 2020, No. 3807".

Amendment

- 2 Schedule 1 of the Municipal Ticket Information System Bylaw No. 3464 is hereby amended by adding the following in Columns 1 and 2:

Respectful Spaces Bylaw No. 3796, 2020

Manager of Fire and Bylaw Services

- 3 Schedule 2 of the Municipal Ticket Information System Bylaw No. 3464 is hereby amended by inserting the following as a section:

Section 21 - Respectful Spaces Bylaw No. 3796, 2020


<i>Item</i>	<i>Column 1</i> Offence	<i>Column 2</i> Section	<i>Column 3</i> Fine
<i>1</i>	<i>Commit or engage in Inappropriate Behaviour in a Municipal Facility</i>	<i>6(2)</i>	<i>\$1000</i>
<i>2</i>	<i>Commit or engage in Inappropriate Behaviour in a space in which Municipal Services are provided</i>	<i>6(3)</i>	<i>\$1000</i>

READ a first time on November 18, 2020
READ a second time on November 18, 2020
READ a third time on November 18, 2020
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Report

Date	December 2, 2020	File:
To	Council	
From	Michelle Martineau, Manager, Legislative Services	Endorsed: 
Subject	Controlled Substance Bylaw No. 3803, 2020 for first three readings	

Purpose

To introduce Controlled Substance Bylaw No. 3803, 2020 so that Council may consider replacing Nuisance (Controlled Substance) Bylaw No. 3246, 2006 with Bylaw No. 3803 to modernize the language and update regulations to ensure they are relevant and enforceable.

Background

The existing Nuisance (Controlled Substance) Bylaw No. 3246, which was adopted on February 21, 2007, has had few revisions since it was adopted in 2007. The amendments that have been made have been minor in nature and include:

- Inclusion of fees for property inspections (\$500) and compliance failure (\$1,000) in Fees Bylaw No. 3470 in 2012
- Amending the definition of "Inspector" to replace Bylaw Enforcement Officer with Bylaw Compliance Officer in 2014
- Amending the definition of "Building Inspector" in 2015
- Addition of section 12.1 Standard of Proof in 2016

The modernization of this bylaw was identified as a project for Legislative Services in the 2020 Business Plan. Currently when a property owner or occupant fails to comply following receipt of a letter from staff, a remedial action request is presented to Council for authorization to send a remedial action requirement to the property owner to complete the work (typically within 30 days). If that work is not undertaken, a second letter is sent to the property owner giving them notice that within 14 days, the District will enter onto the property to complete the work if not completed by that deadline and charge the costs back to the property owner. If that debt is not paid, it is added to property taxes.

Discussion

Sections 8, 63 and 64 of the *Community Charter* authorizes Council to regulate, prohibit and impose requirements in relation to the protection of persons and property, nuisances, disturbances and other objectionable situations, and buildings and other structures under Controlled Substance Bylaw No. 3803, 2020. However, section 9(1)(a) requires that the District consult with the regional health board or medical health officer before the adoption of the bylaw.

The review and modernization of Nuisance (Controlled Substance) Bylaw No. 3246, 2006 ("Bylaw 3246") aligns with Council's objective for ***relevant and responsive bylaws and Council policies to be in place***

that are enforceable. Legislative Services staff worked with Bylaw Services and the municipal solicitor to ensure that all requirements and prohibitions within the bylaw were consistent with the current legislation and are enforceable by bylaw enforcement officers.

The current bylaw, Bylaw 3246, is dated and does not account for the decriminalization of the personal production of cannabis and imposed a duty on landlords to inspect their premises which could be construed as an infringement on the provincial landlord-tenant regime. It also contains defined terms which were not used in the bylaw and a reference to a repealed statute.

The proposed bylaw, Controlled Substance Bylaw No. 3803, 2020 ("Bylaw 3803"), contains the same focus on health and safety as Bylaw 3246 but is updated to reflect the decriminalization of personal production of cannabis and address most issues identified by Bylaw Services, such as:

- the restrictiveness of the use of the term "amphetamines" which would exclude new products that appear like Fentanyl
- regulating services outside the municipality's authority (i.e. electricity and natural gas)

Regulations have been expanded or added for clarity and provide authority to specific positions to enter onto properties to conduct inspections, post notices, carry out remedial work, or discontinue services. Attachment 3 provides a comparison between Bylaw 3246 and Bylaw 3803 and summarizes what is new in Bylaw 3803. In addition to improved/modernized language in Bylaw 3803, the bylaw has been re-organized and clearly defines each of the sections in a logical order.

Options

Option 1 (Recommended): **Give the bylaw first three readings as presented.**

That Council gives first, second and third readings to Controlled Substance Bylaw No. 3803, 2020.

Option 2: **Give the bylaw first and second readings and identify and changes to be made to the bylaw prior to third reading.**

- (i) That Council gives first and second readings to Controlled Substance Bylaw No. 3803, 2020.
- (ii) That section [identify number] of Controlled Substance Bylaw No. 3803, 2020 be amended by [identify what is to be changed]
- (iii) That Council gives third reading as amended to Controlled Substance Bylaw No. 3803, 2020.

Implications

Bylaw 3803 provides Inspectors with the authority to enter non-compliant properties to complete remediation work without first obtaining approval from Council. This change will speed up the process for dealing with violations.

In compliance with section 9(1)(a) of the *Community Charter*, a copy of the bylaw has been forwarded to Dr. Shannon Waters, the Medical Health Officer for the Cowichan Valley Region, as part of the consultation process. If Dr. Waters has any concerns with the bylaw, an amendment may be required. Before the bylaw can be adopted, it must be deposited with the Minister of Health.

Once the bylaw has been deposited with the Minister of Health, amendments to the following bylaws will be drafted for Council to consider:

- (1) Municipal Ticket Information System Bylaw to include offence violations and fines
- (2) Fees and Charges Bylaw to update administrative fees and costs consistent with the applicable sections in Bylaw 3803

Recommendation

That Council gives first, second and third readings to Controlled Substance Bylaw No. 3803, 2020.

Attachments:

- (1) Controlled Substance Bylaw No. 3803, 2020
- (2) Nuisance (Controlled Substance) Bylaw No. 3246, 2006
- (3) Bylaw Concordance



The Corporation of the District of North Cowichan

Controlled Substance Bylaw

BYLAW NO.3803

A Bylaw to Regulate, Prohibit and Impose Requirements Respecting Health and Safety on Property

Contents

- 1 Citation
- 2 Severability
- 3 Definitions
- 4 General Prohibitions
- 5 Powers of Inspectors
- 6 Special Safety Inspections
- 7 Requirements for Re-Occupancy
- 8 Discontinuation of Water Service
- 9 Owner Obligations Respecting Tenancies
- 10 Owner's Responsibility
- 11 Offence and Penalty
- 12 Failure to Comply
- 13 Schedules
- 14 Repeal
- Schedule A
- Schedule B
- Schedule C
- Schedule D

WHEREAS sections 8(1)(g), (h), (i) and (l) of the *Community Charter*, SBC 2003, c. 26 provide that Council may, by bylaw, regulate, prohibit and impose requirements in relation to the health, safety or protection of persons or property in relation to matters referred to in section 63 [*protection of persons and property*]; the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [*nuisances, disturbances and other objectionable situations*]; public health; and buildings and other structures, respectively;

AND WHEREAS the Council of the Corporation of the District of North Cowichan wishes to enact a bylaw to regulate, prohibit and impose requirements respecting health and safety matters on property;

AND WHEREAS structural alterations and the alteration of plumbing, heating, air conditioning, electrical wiring and equipment, gas piping and fittings, appliances and accessories, and the growth of mould and use or presence of toxic chemicals in buildings results in risks to the health and safety of occupiers, neighbours, emergency responders and inspectors;

AND WHEREAS properties used for the production of Controlled Substances are particularly susceptible to the above risks to health and safety;

AND WHEREAS inspection and bylaw enforcement with respect to properties used for the production of Controlled Substances present unique risks and costs to the Corporation of the District of North Cowichan and its staff or agents;

NOW THEREFORE, the Council of the Corporation of the District of North Cowichan enacts in open meeting as follows:

Part 1: Citation

1.1 This Bylaw may be cited as the “Controlled Substance Bylaw No. 3803, 2020”.

Part 2: Severability

2.1 If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Bylaw.

Part 3: Definitions

3.1 In this Bylaw:

AUTHORIZED GROW OPERATION means a Parcel used for the cultivation, growth, storage or production of cannabis with the authority of a valid permit issued by the federal or provincial government agency having jurisdiction over the cultivation, growth, storage or production of cannabis or otherwise in accordance with the laws of Canada;

BUILDING means any structure or portion of a structure used or intended for supporting or sheltering any use or occupancy and, in the case of a Building with multiple units or occupancies, means any portion of a Building held or used as a separate unit;

BUILDING BYLAW means the Corporation of the District of North Cowichan Bylaw 3172, Building Bylaw 2003;

BUILDING CODE means the British Columbia Building Code;

BUILDING INSPECTOR means the person appointed as the District's Chief Building Inspector, and every inspector or safety officer appointed by the District, Province or Technical Safety BC to inspect buildings or structures, in relation to building, plumbing, gas or electrical standards or other components;

BYLAW ENFORCEMENT OFFICER means a person appointed by the District as a Bylaw Enforcement Officer;

CHIEF ADMINISTRATIVE OFFICER means the person appointed as the District's Chief Administrative Officer;

DISTRICT means the Corporation of the District of North Cowichan;

CONTROLLED SUBSTANCE means a "controlled substance" as defined and described in Schedules I, II, III, IV or V of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19;

COUNCIL means the Council of the District;

ELECTRICAL CODE means the British Columbia Electrical Code;

FIRE CHIEF means the person appointed to be the Fire Chief for North Cowichan and includes that person's delegate;

FIRE CODE means the British Columbia Fire Code;

DIRECTOR OF PLANNING AND BUILDING means the person appointed as the District's Director of Planning and Building and includes that person's delegate;

DIRECTOR OF ENGINEERING means the person appointed as the District's Director of Engineering and includes that person's delegate;

HAZARDOUS CONDITION means:

- (a) any real or potential risk of fire;
- (b) any real or potential risk to the health or safety of persons or property;
- (c) any Unauthorized Alteration; or
- (d) repairs needed to a Building in accordance with the Building Code or Fire Code;

HAZARDOUS CONDITION REQUIREMENT LIST means a list of Hazardous Conditions present on a Parcel, and any work required to address or remove those

Hazardous Conditions, as prepared or compiled by the Building Inspector following an inspection or Special Safety Inspection, and which may be in the form of Schedule "A";

HAZARDOUS SUBSTANCE means a substance in a concentration in excess of that listed in WorkSafe BC's Table of Exposure Limits for Chemical and Biological Substances, as amended from time to time;

INSPECTOR means:

- (a) the Fire Chief;
- (b) the Manager of Fire and Bylaw Services;
- (c) the Chief Building Inspector;
- (d) a Building and Plumbing Inspector;
- (e) a Peace Officer;
- (f) the Director of Planning and Building;
- (g) the Director of Engineering;
- (h) the Manager of Operations;
- (i) a Bylaw Enforcement Officer; or
- (j) the deputy of any person, officer or employee referred to in paragraphs (a) to (j);

MANAGER OF FIRE AND BYLAW SERVICES means the person appointed as the District's Manager of Fire and Bylaw Services and includes that person's delegate;

MANAGER OF OPERATIONS means the person appointed as the District's Manager of Operations and includes that person's delegate;

MOULD REMEDIATION GUIDELINES means s.9.0 of the Canadian Construction Association's Standard Construction Document CCA 82-2004: *Mould Guidelines for the Canadian Construction Industry*;

OCCUPIER means a person occupying a property within the District and includes the registered Owner of the property where the Owner is the person occupying or where the property is unoccupied;

OWNER includes the registered owner in fee simple of real property and those persons defined as "owner" in the *Community Charter*;

PARCEL includes land and any improvements located thereon;

QUALIFIED CONTRACTOR means an individual or a corporation certified by the Institute of Inspection Cleaning and Restoration Certification or other qualified professionals as approved by the District;

QUALIFIED ENVIRONMENTAL PROFESSIONAL means an individual or corporation certified by the Canadian Board of Registered Occupational Hygienists or the American Board of Industrial Hygiene or other qualified professionals as approved by the District;

REMEDIATION ACTION PLAN means the plan prepared by the Qualified Environmental Professional under Part 6.3 of this Bylaw;

SPECIAL SAFETY INSPECTION means an inspection coordinated by the Inspector with any municipal departments, provincial or federal authorities, and independent professionals or contractors as may be necessary for the purpose of determining the presence of any Hazardous Conditions on a Parcel;

UNAUTHORIZED ALTERATION means any change made to the structural, gas, plumbing, ventilation, mechanical, electrical, or other components of a Building that requires a permit, but for which no permit has been issued pursuant to the Building Bylaw or another enactment;

UNAUTHORIZED DRUG PRODUCTION FACILITY means a Parcel used for the cultivation, growth, storage or production of a Controlled Substance without authority of a valid permit issued by the federal or provincial government agency having jurisdiction over the Controlled Substance(s) being cultivated, grown, stored or produced;

UTILITY means a lawful provider of an electrical, water or natural gas service from a distribution system to consumers.

- 3.2 All references to a bylaw or enactment in this Bylaw refer to that bylaw or enactment as amended or replaced from time to time.

Part 4: General Prohibitions

- 4.1 No person may:

- (a) disconnect or bypass a meter installed for the purpose of measuring consumption of electricity, water or natural gas from an electrical, water or natural gas distribution system, except where such disconnection or bypass has been specifically permitted or required by the District, the applicable Utility, or a government authority;

- (b) divert or install exhaust vents from clothes dryers, hot water tanks, furnaces, or fireplaces so that they exhaust into or within a Building;
- (c) construct or install any obstruction of an exit or access to an exit required under the Building Code;
- (d) alter an electrical system without a permit and approval from the British Columbia Safety Authority;
- (e) bring in or allow a Hazardous Substance to accumulate on any Parcel or in any Building;
- (f) undertake an Unauthorized Alteration to a Building;
- (g) use water from the District's water distribution system in an Unauthorized Drug Production Facility;
- (h) cause or permit a Building to become subject to a visible accumulation of mould on the interior of any window, interior wall or other structural component of the Building;
- (i) interfere with or obstruct the Building Inspector, the Fire Chief, the Director of Engineering, or the Manager of Operations from posting a notice referred to in Part 6.4 or Part 8;
- (j) interfere or obstruct the entry of an Inspector;
- (k) remove, alter, cover or mutilate a notice posted under Part 6.4 or Part 8; or
- (l) use or occupy a Parcel until the Building Inspector or Fire Chief has removed the notice posted under Part 6.4.

Part 5: Powers of Inspectors

- 5.1 Subject to the provisions of the *Community Charter*, an Inspector may enter onto a Parcel, including the interior of a Building, in order to:
- (a) inspect and determine whether all regulations, prohibitions and requirements under this Bylaw are being met;
 - (b) coordinate and carry out a Special Safety Inspection under Part 6 of this Bylaw;
 - (c) inspect, disconnect or remove a water service connection pursuant to Part 8 of this Bylaw; or
 - (d) take action authorized under Part 12 of this Bylaw.

Part 6: Special Safety Inspections

6.1 Where:

- (a) an Inspector has reasonable grounds to believe that a Hazardous Condition exists on a Parcel, or
- (b) a Parcel was used for the purpose of carrying on an Unauthorized Drug Production Facility, or
- (c) a Parcel that was used for the purpose of carrying on an Authorized Grow Operation ceases to be used for that purpose

the Inspector may require the Owner to undertake a Special Safety Inspection.

6.2 Where a Building Inspector has reasonable grounds to believe that a Hazardous Condition exists on a Parcel which affects the structural integrity of a Building on the Parcel, the Inspector may include in the Hazardous Condition Requirement List a requirement that the Owner must obtain a report from a qualified professional engineer certifying that the Building is safe for occupancy and complies with the Building Code.

6.3 Where the Inspector has reasonable grounds to believe that a Hazardous Condition existing on a Parcel results from a Hazardous Substance or mould, the Inspector may include in the Hazardous Condition Requirement List any or all of the following requirements:

- (a) that the Owner must retain a Qualified Environmental Professional to carry out an assessment of all Hazardous Conditions on the Parcel, including but not limited to the presence of Hazardous Substances and mould, and provide a Remediation Action Plan in response to those Hazardous Conditions which must be prepared before any articles or materials have been removed from the Parcel and no actions may be taken that might prevent a comprehensive assessment of potential Hazardous Conditions on the Parcel;
- (b) that the Owner must retain a Qualified Contractor to carry out all remedial measures identified in the Remediation Action Plan;
- (c) that the Owner must retain a Qualified Environmental Professional to verify that all remedial measures identified in the Remediation Action Plan have been completed and the Parcel is safe to re-occupy; and
- (d) that the Owner must provide a certificate in the form prescribed in Schedule "B" from a Qualified Environmental Professional certifying that the Parcel has been remediated in accordance with the Remediation Action Plan and that the Parcel meets the requirements of this Bylaw and is safe to re-occupy.

- 6.4 If the Building Inspector or Fire Chief has reasonable grounds to believe that a Hazardous Condition exists on a Parcel, the Building Inspector or Fire Chief may post a notice in the form of Schedule "C" to this Bylaw in a conspicuous place at the entrances to that Parcel, and deliver to the Owner a notice that the Parcel is unsafe and that no person shall enter or occupy the Parcel.

Part 7: Requirements for Re-Occupancy

- 7.1 Where the Inspector has required the Owner to undertake a Special Safety Inspection under Part 6.1, no person may enter or occupy the Parcel subject to such inspection requirement until:
- (a) a Special Safety Inspection of the Parcel has been conducted and the Building Inspector has issued a Hazardous Condition Requirement List;
 - (b) the Owner has obtained all permits, approvals or authorizations required to carry out any work identified in the Hazardous Condition Requirement List;
 - (c) the Owner has carried out or caused to be carried out all work identified in the Hazardous Condition Requirement List;
 - (d) the Building Inspector has inspected the Parcel and determined that the work required in the Hazardous Condition Requirement List has been completed in accordance with all requirements of this Bylaw, the Building Bylaw, the Building Code, the Fire Code and all other applicable enactments and that no apparent Hazardous Condition remains in, on or at the Parcel;
 - (e) the Inspector has removed any notices under Part 6.4 of this Bylaw and, where necessary, has issued a new occupancy permit for the Building pursuant to the Building Bylaw; and
 - (f) the Owner has paid all fees imposed by *Fees and Charges Bylaw No. 3784, 2020*, as amended or replaced from time to time.

Part 8: Discontinuation of Water Service

- 8.1 The District may discontinue providing water service to a Parcel if such water is being used for or in relation to an Unauthorized Drug Production Facility, provided that:
- (a) the District gives the Owner and Occupier of the Parcel 7 days written notice of an opportunity to make written representations to Council with respect to the proposed discontinuance of water service; and
 - (b) after the persons affected have had an opportunity to make representations to Council, the District must give the Owner and Occupier of the Parcel an additional 7 days written notice of the discontinuance of the water service.

- 8.2 Despite anything in this Bylaw, where the Director of Engineering or the Manager of Operations reasonably considers that there is a risk of backflow or contamination to the District's water distribution system from a Parcel, and there is no apparent mechanism to prevent that backflow or contamination, then:
- (a) the Director of Engineering or the Manager of Operations may post a notice in the form of Schedule "D" to this Bylaw in a conspicuous place at the entrance to that Parcel;
 - (b) the District may discontinue the provision of water to the Parcel immediately, until such time as a mechanism to prevent backflow and contamination is installed, inspected by a certified backflow tester, and approved by the District; and
 - (c) the Owner may make representations to Council in connection with the discontinuance of the provision of water hereunder at the next regularly scheduled meeting of Council.

Part 9: Owner Obligations Respecting Tenancies

- 9.1 Every Owner of a Parcel or Building that has been rented or leased to or is occupied by a third party and who becomes aware of a contravention of this Bylaw upon that Parcel or in that Building must:
- (a) within 24 hours of the discovery of this contravention, deliver written notice to the Building Inspector of the particulars of the contravention; and
 - (b) within 60 days of the delivery of the notice, take such action as may be necessary to bring the Parcel or Building into compliance with this Bylaw.

Part 10: Owner's Responsibility

- 10.1 No action of the District, including without limitation:
- (a) the removal of a notice posted under this Bylaw;
 - (b) the issuance of an approval under this Bylaw;
 - (c) the acceptance or review of plans, drawings or specifications or supporting documents submitted under this Bylaw; or
 - (d) any inspections made by or on behalf of the District
- will in any way relieve the Owner from full and complete responsibility to perform work required or contemplated under this Bylaw or the Building Code and all other applicable enactments, nor do they constitute in any way a representation, warranty, assurance or statement that the Building Code, this Bylaw, or any other applicable codes, standards or enactments have been complied with.

- 10.2 It is the full and complete responsibility of the Owner to carry out any work required pursuant to this Bylaw in compliance with this Bylaw and all other applicable codes, standards and enactments, including the Building Code.
- 10.3 When a Qualified Environmental Professional, engineer, or architect provides certification or other documentation to the District under this Bylaw that work required by or contemplated by this Bylaw substantially conforms to the requirements of this Bylaw, the health and safety requirements of the Building Code, Electrical Code, Fire Code, or any other health and safety requirements established by applicable enactments, the District may rely completely on this documentation as evidence of conformity with those requirements.

Part 11: Offence and Penalty

- 11.1 Any person who:
- (a) contravenes or violates any provision of this Bylaw;
 - (b) allows any act or thing to be done in contravention or violation of this Bylaw;
 - (c) fails or neglects to do anything required to be done by this Bylaw; or
 - (d) makes any false or misleading statement, commits an offence, and where the offence is a continuing one, each day the offence is continued constitutes a separate offence.
- 11.2 Upon being convicted of an offence under this Bylaw, a person shall be liable to pay a fine of not less than \$5,000 and not more than \$10,000.

Part 12: Failure to Comply

- 12.1 If an Owner or Occupier of a Parcel fails to comply with a requirement of the District under this Bylaw or another safety enactment, the District may, within the time specified in the order or notice, enter on the Parcel and take such action as may be required to correct the default, including to remediate the Parcel or to have the Parcel attain a standard specified in any safety enactment, at the expense of the Owner or Occupier who has failed to comply, and may recover the costs incurred as a debt.
- 12.2 If the Owner has failed to pay the cost to the District incurred under Part 12.1 before the 31st day of December in the year that the corrective action was taken, the service costs must be added to and form part of the taxes payable on the property as taxes in arrears.

Part 13: Schedules

13.1 The following schedules are included in and form part of this Bylaw:

- Schedule "A" – Hazardous Condition Requirement List
- Schedule "B" – Certification Form
- Schedule "C" – Do Not Enter or Occupy Notice
- Schedule "D" – Water Shut-Off Notice

Part 14: Repeal

14.1 District Bylaw 3246, Nuisance (Controlled Substance) Bylaw, 2006, is hereby repealed.

READ a first time on
READ a second time on
READ a third time on
DEPOSITED WITH THE MINISTER OF HEALTH on
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

SCHEDULE A
Hazardous Condition Requirement List

Re: _____ (the "Property")

Pursuant to the _____ Bylaw No. _____, 2020 (the "Bylaw") a Special Safety Inspection has been carried out on the above Property, and the Property has been posted with a Notice that it may not be entered or occupied due to hazardous conditions and/or unauthorized alterations on the Property.

No person is permitted to enter or occupy the Property until this Notice has been removed. If you wish to reoccupy the Property, you are required to perform the following works, and provide the following certifications, as indicated:

- ☐ Provide evidence from the following utility providers that the Property has been properly connected to the following utilities:
- ☐ Gas;
- ☐ Water; and
- ☐ Electricity;
- ☐ Vent all furnace/hot water tank/gas appliances in accordance with the applicable code;
- ☐ Provide/Restore all items as required under the Building Code and identified by the Building Inspector;
- ☐ Bring all electrical panels and circuits up to standards as required by the British Columbia Safety Authority;
- ☐ Provide a report from a qualified professional engineer certifying that the building is safe for occupancy and complies with the Building Code;
- ☐ Provide a certificate report in the form prescribed in Schedule "B" of the Bylaw, from a Qualified Environmental Professional, certifying that the Property has been remediated; and
- ☐ You are required to obtain an approval from the District prior to performing any of the above works that may require a permit under the District's Bylaws.

Until the above requirements above have been completed, and the Building Inspector has re-inspected the Property and removed the Notice, the Bylaw prohibits occupancy of the Property by any person.

We enclose a copy of the Bylaw for your reference. If you have any questions concerning the regulations in the Bylaw, please call the District's Chief Building Inspector at (250) ____-____.

SCHEDULE B
Certification Form

TO: **The Corporation of the District of North Cowichan**

FROM: _____ *[insert name and address of qualified environmental professional]*

RE: Premises located at: _____ *[insert address]*

This is to certify that in accordance with the _____ Bylaw No. _____, 2020 the professional identified in this certification:

- (1) Is a Qualified Environmental Professional under the Safe Premises Bylaw, with the following degrees, qualifications, and professional affiliations:

- (2) Has completed an inspection of the premises on _____ *[insert date]*; and

- (3) The premises have been remediated in accordance with the Remediation Action Plan prepared for these premises by _____ on _____, and all hazardous substances and moulds, are now within safe levels for occupancy, and are in accordance with the _____ Bylaw No. _____, 2020.

The undersigned professional may be contacted at:

_____ *[insert business telephone number and email]*

CERTIFIED AS OF _____ *[insert date]*

[Signature of Qualified Environmental Professional]

SCHEDULE C

MUNICIPALITY OF NORTH COWICHAN

Planning & Building Department

[Address]

Phone: (250) ____ - ____

Fire & Bylaw Services

[Address]

Phone: (250) ____ - ____

DO NOT ENTER OR OCCUPY

Property Location: _____

TAKE NOTICE THAT these premises have been found to contain unauthorized alterations and/or are in a hazardous condition.

Pursuant to _____ Bylaw No. _____, 2020, no person may enter or occupy these premises until cleaning, remediation and/or repairs have been completed in compliance with that Bylaw and the Building Inspector has confirmed that a satisfactory occupancy inspection has been completed.

It is an offence to remove or deface this notice.

Any inquiries should be directed to the Chief Building Inspector at (250) ____ - ____ or Fire Chief at (250) ____ - ____.

Date

Chief Building Inspector and/or Fire Chief

SCHEDULE D

MUNICIPALITY OF NORTH COWICHAN

Engineering Department
[Address]
Phone: (250) ____ - ____

Operations Department
[Address]
Phone: (250) ____ - ____

WATER SERVICE SHUT OFF NOTICE

Property Location: _____

TAKE NOTICE THAT these premises have been reasonably considered to have a risk of backflow or contamination to the District's water distribution system from an Unauthorized Drug Production facility. Pursuant to _____ Bylaw No. _____, 2020, the District has discontinued the provision of water to this parcel. No person may occupy these premises until cleaning, remediation and/or repairs have been completed in compliance with that Bylaw and the Building Inspector has confirmed that a satisfactory occupancy inspection has been completed.

It is an offence to remove or deface this notice.

Any inquiries should be directed to the Director of Engineering or the Manager of Operations at (250) ____ - ____.

Date

Director of Engineering / Manager of Operations



BYLAW NO. 3246

Nuisance (Controlled Substance) Bylaw, 2006

Adopted on February 21, 2007.

WHEREAS the Council of The Corporation of the District of North Cowichan wishes to enact a bylaw to regulate, prohibit and impose requirements respecting nuisances, noxious or offensive trades, and health and safety matters;

AND WHEREAS the alteration of plumbing, heating, air conditioning, electrical wiring and equipment, gas piping and fittings, appliances and accessories in or on controlled substance properties creates danger to occupiers and neighbours of controlled substance properties and risks to the health and safety of the occupiers and neighbours;

AND WHEREAS controlled substance properties that contravene applicable standards under the Building Code, British Columbia Fire Code, Health Act, Safety Standards Act or other applicable enactments, including North Cowichan bylaw requirements create risks to the health and safety of occupiers, and reduce the value of neighboring properties;

AND WHEREAS the Council has consulted with the Medical Health Officer, deposited this bylaw with the Minister of Health, and given Notice pursuant to section 59 of the *Community Charter*;

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

Interpretation

1 In this bylaw:

“amphetamines” include dextroamphetamines and methamphetamines;

“alteration” means a change made to structural, mechanical or electrical components of a building that has not been made with a permit under the authority of North Cowichan’s “Building Bylaw 2003”;

“building” means a structure or construction for a use or occupancy;

“Building Code” means the British Columbia Building Code 1998;

“Building Inspector” means the Chief Building Inspector for North Cowichan, and every Building Inspector appointed by North Cowichan;

“controlled substances” means a “controlled substance” as defined or described in Schedules I, II and III of the *Controlled Drugs and Substances Act*, but does not include a controlled substance permitted under that *Act*;

“controlled substance property” means

- (a) a parcel contaminated by or that contains trace amounts of chemical or biological materials used in or produced by the trade or manufacture of a controlled substance, or
- (b) a building modified to trade or manufacture a controlled substance, or
- (c) a property which has or is being used for the ingestion, use, sharing, sale, trade or barter of a controlled substance, which no longer meets the applicable standard under the *Building Code*, *British Columbia Electrical Code*, *British Columbia Fire Code*, *Health Act* or other applicable acts, regulations and bylaws.

“dangerous goods” means those products or substances regulated by the *Transportation of Dangerous Goods Act*;

“Fire Chief” means a person whom Council appoints as Fire Chief for each fire hall in North Cowichan and every person designated by Council by name of office or otherwise to act in the place of the Fire Chief;

“flammable and combustible liquid” means a substance classified under the *British Columbia Fire Code*;

“grow operation” means the cultivation of marijuana plants or mushrooms that are controlled substances or the production of amphetamines;

“hazardous conditions” means

- (a) a real or potential risk of fire,
- (b) a real or potential risk to the health or safety of persons or property,
- (c) unapproved building, plumbing or electrical modifications,
- (d) an installation, contrary to the *BC Electrical Code*, of unapproved lighting devices, including, but not limited to, fluorescent lamps, metal halide bulbs and high pressure sodium lamps, or
- (e) repairs needed to the property, arising or resulting from the use or contamination of a property as a controlled substance property;

“Inspector” means

- (a) a North Cowichan firefighter,
- (b) a Building Inspector,
- (c) a member of the Royal Canadian Mounted Police,

- (d) the Director of Engineering and Operations,
- (e) the Bylaw Enforcement Officer,
- (f) a health, gas, or electrical inspector,
- (g) the deputy of a person, officer and employee referred in paragraphs (a) to (e), or
- (h) other persons designated by Council by name of office or otherwise to act in the place of a person, officer or employee referred to in paragraphs (a) to (f);

“owner” includes the lessee, licensee, tenant, caretaker, user or other occupier of a building or part of a building, or agent of the owner;

“parcel” includes any improvement on a parcel;

“pesticide” means a substance or mixture, including a chemical, used to destroy, prevent, repel or mitigate fungi or animal pests or microorganisms such as bacteria or viruses, and includes herbicides, fungicides, or other substances used to control pests, and plant regulators, defoliants or desiccants;

“professional cleaner” means an individual or corporation experienced and qualified in removing contaminants from buildings, including pesticides, fertilizers or chemicals used to manufacture amphetamines or to grow controlled substances, moulds or fungi;

“re-occupancy permit” means written authorization from the Building Inspector to re-occupy a building or part of a building following an order to cease occupancy because of a hazardous condition;

“special safety inspection” means an inspection coordinated with other such departments, jurisdictions, and contractors as is necessary to ascertain hazardous conditions or to issue orders for violations of the *Building Code*, *British Columbia Electrical Code*, *British Columbia Fire Code*, *Health Act*, *this or another bylaw*, or other enactments;

“tenancy agreement” means an agreement, whether written or oral, express or implied, having a predetermined expiry date or not, between a landlord and tenant respecting possession of premises.

Building and Safety Standards

2 No person may do the following:

- (a) disconnect a meter from an electrical, natural gas or water distribution system, unless lawfully authorized;
- (b) divert an electrical or water distribution system such that consumption is not registered by a meter;
- (c) divert or install exhaust vents for hot water tanks or furnaces that exhaust into or within a building contrary to the *Building Code*;

- (d) install within a building unauthorized lighting devices, including, but not limited to, fluorescent lamps, metal halide bulbs and high pressure sodium lamps, contrary to the *British Columbia Electrical Code*;
- (e) store or use dangerous goods in a building in quantities greater than permitted under the *British Columbia Fire Code*;
- (f) construct or install any obstruction of an exit or an access to an exit required under the *Building Code* or other enactment, or remove fire stopping that is provided or required under an enactment to contain the spread of fire within a building;
- (g) alter a structure or building in a way that facilitates the manufacture or growth of a controlled substance, or for the purpose of establishing or operating a grow-operation;
- (h) cause or allow a building to be used to produce, store, or house amphetamines.
- (i) exhaust noxious, offensive or hazardous vapors to the outside of a building.

Health

- 3 No person may cause or allow a building or parcel that has been used to cultivate marijuana, grow mushrooms or produce amphetamines to become subject to the
- (a) growth of mould or fungus, or
 - (b) accumulation of pesticides, or chemicals.

Noxious or Offensive Trade

- 4 No person may cause or allow a noxious or offensive trade in a building including the production, storage, transfer or disposal of substances that emit offensive odours, fumes or particulate matter.

Fire Protection

- 5 (1) The Local Assistant to the Fire Commissioner or the Fire Chief may do the following:
- (a) enter real property and inspect premises for conditions that may cause a fire, increase the danger of a fire or increase the danger to persons or property from a fire;
 - (b) take measures to prevent and suppress fires, including the demolition of buildings and other structures to prevent the spreading of fires;
 - (c) order an owner or occupier of real property to remove or reduce a thing or condition that person considers a fire hazard or increases the danger of fire;
 - (d) exercise some or all of the powers of the Fire Commissioner under section 25 of the *Fire Services Act*;
 - (e) order every occupier of a controlled substance property to vacate the property

until the removal of the “Unsafe - Do Not Enter or Occupy” notice posted by an Inspector under section 12(3).

- (2) Every owner or occupier of real property must comply with any action directed by the Fire Chief or other authorized person, for the purpose of removing or reducing a fire hazard.

Landlord Duties

- 6 Every owner or agent of a building or part of a building subject to a tenancy agreement must
 - (a) inspect the premises at least once every two months to ensure compliance with this bylaw, and
 - (b) where discovery of a contravention of this bylaw is made
 - (i) deliver written notice to the Chief Building Inspector of the particulars of the contravention, within 48 hours of discovering the contravention, and
 - (ii) subject to the Residential Tenancy Act, take such action as may be necessary to bring the premises into compliance with this bylaw, within 60 days of the delivery of the notice.

Discontinuation of Service

- 7
 - (1) North Cowichan may discontinue providing water service to real property if the water is being used for, or in relation to, a grow operation.
 - (2) Water service must not be disconnected under the previous subsection until North Cowichan has given the owner and occupier 7 days’ written notice of an opportunity to make representations to the Council regarding the proposed discontinuance, and after Council has considered any such representations, has given the owner and occupier 7 days’ written notice that the water service will be disconnected.

Remediation Requirements

- 8
 - (1) If a building has been used for a grow operation, the owner of the building must, within 30 days after the grow operation has been removed, subject to the *Residential Tenancy Act*,
 - (a) either remove and dispose of all carpets and curtains in the building, or have all carpets and curtains in the building cleaned by a professional cleaner,
 - (b) have all walls and ceilings in the building cleaned and disinfected by a professional cleaner,
 - (c) have all countertops and cabinets cleaned and disinfected by a professional cleaner, and
 - (d) have all forced air ducts and electric heaters cleaned by a professional duct cleaning company or a professional cleaner.

- (2) If, as a result of using a building or parcel as a grow operation,
 - (a) the supply of electricity, water or natural gas has been disconnected by North Cowichan or any other lawful authority,
 - (b) unauthorized alterations or repairs have been made to structural, electrical, water or gas systems, equipment, appliances or other accessories of any kind, or
 - (c) a hazardous condition exists, then

the supply of electricity, water or natural gas must not be permanently reconnected and the building or parcel must not be entered, except by authorized personnel, occupied or used until
 - (d) the owner or occupant has applied to a Building Inspector for a special safety inspection,
 - (e) a special safety inspection of the building or parcel has been carried out to ensure compliance with all health and safety requirements of North Cowichan's Bylaws and applicable provincial enactments,
 - (f) the owner or occupant has obtained all necessary permits, approvals, inspections, or authorizations required to carry out remedial work,
 - (g) all work necessary to bring the property or building into compliance is completed to the satisfaction of a Building Inspector and all other lawful authorities,
 - (h) the owner or occupant has paid all fees and service costs imposed under section 11 of this bylaw and other relevant North Cowichan bylaws,
 - (i) the Building Inspector has issued a re-occupancy permit for the property, and
 - (j) the Building Inspector has removed the "Unsafe - Do Not Enter or Occupy" order posted under section 12 of this bylaw.
- (3) North Cowichan may deliver to the owner and occupier of the building a letter generally in the form of Schedule "A".

Inspection and Certification Requirements

- 9 (1) After a professional cleaner has completed the requirements of section 8(1), an individual or corporation certified by the Canadian Registration Board of Occupational Hygienists, or the American Board of Industrial Hygiene must inspect the building and provide written certification in the form of Schedule "B" to the Chief Building Inspector that the requirements of section 8(1) have been satisfied and that the building is substantially free from pesticides, fertilizers, and any toxic chemicals, moulds and fungi.
- (2) Certification, in the form of Schedule "B", must be submitted to the Chief Building

Inspector within 60 days of the date of a Special Safety Inspection in which the existence of a grow operation is confirmed by the Inspector.

Occupancy

- 10** (1) After a grow operation has been removed, and until the remedial measures under section 8 have been completed and written certification provided to the Chief Building Inspector under the previous section, the building must not be occupied by any person.
- (2) Before the building is re-occupied after removal of a grow operation, the owner must notify prospective occupants, in writing, that a grow operation has been removed and that the requirements of this bylaw have been met.

Fees

- 11** (1) Every owner or occupant of a property which is used as a controlled substance property must pay North Cowichan all service costs incurred on behalf of North Cowichan including:
- (a) salaries and related personnel cost;
 - (b) costs to dismantle, remove, clean up, transport, store and dispose of the equipment, substances, materials and associated paraphernalia;
 - (c) costs to replace consumables used or replace equipment exposed to contaminants;
 - (d) costs incurred as a result of the analysis of the materials found at the property and the health and safety conditions at the property;
 - (e) costs incurred for the services of an independent contractor or agent;
 - (f) costs incurred by the Royal Canadian Mounted Police for investigation and inspection of the property, securing the property, accompanying inspectors on or into the property, or otherwise attending at the property;
 - (g) costs incurred for fire and rescue service to inspect the property, or to respond to a fire caused by an alteration made in relation to a grow operation, or the manufacture or growth of a controlled substance;
 - (h) costs incurred by North Cowichan to clean, maintain or repair its sanitary or storm sewers, water mains, roadways, sidewalks or other Municipal property in relation to impacts of a growth operation.
- (2) If the owner inspects and reports a contravention under section 6 of this bylaw, the owner shall not be liable for service costs under the previous section arising from this incident, unless the owner discovers the contravention after the Royal Canadian Mounted Police discovers the contravention.
- (3) Each time an Inspector carries out an inspection in the exercise of North Cowichan's authority to regulate, prohibit or impose requirements under this bylaw, the owner must pay North Cowichan a fee of \$500.

- (4) An additional fee of \$1,000 must be paid to North Cowichan by the owner or occupant failing to take an action ordered under this bylaw.

Notices and Inspections

- 12** (1) Subject to the *Community Charter*, an Inspector may enter a property for any of the following purposes:
- (a) to inspect and determine if regulations, prohibitions and requirements under this bylaw or another enactment are being met;
 - (b) to take actions authorized under section 14 of this bylaw or section 17 of the *Community Charter*;
 - (c) to inspect, disconnect, or remove a water service under this bylaw;
 - (d) to carry out a special safety inspection where an Inspector considers that a hazardous condition may exist.
- (2) No person may interfere with or obstruct the entry of an Inspector.
- (3) An Inspector may post a notice containing the words “Unsafe - Do Not Enter or Occupy” in a conspicuous place at the entrances of a controlled substance property.
- (4) No person may interfere with or obstruct an Inspector from posting a notice referred to in subsection 12(3), or remove, alter, cover, mutilate or deface any notice posted except with permission from the Inspector.
- (5) Neither the issuance of a building permit nor the removal of a “Unsafe - Do Not Enter” notice, nor the acceptance or review of plans, drawings or specifications or supporting documents nor any inspections made by or on behalf of North Cowichan constitute in any way a representation, warranty, assurance or statement that the Building Code, this bylaw or any other applicable codes standards or enactments have been complied with.
- (6) When a professional engineer, architect or other person provides certification or other documentation to show that the work required by this bylaw substantially conforms to the requirements of this bylaw and that the building complies with the health and safety requirements of the Building Code, BC Electrical Code, this bylaw and all other health and safety requirements established by applicable enactments, North Cowichan will rely solely on the documentation as evidence of conformity with these requirements.

Offence and Penalty

- 13** (1) Every person who contravenes a provision of this bylaw commits an offence punishable upon summary conviction and is liable to a fine not exceeding \$10,000.
- (2) If an offence is a continuing offence, each day that the offence continues constitutes a separate and distinct offence.

Default

- 14** (1) If an owner or occupier of real property fails to comply with a requirement under this bylaw or another enactment, North Cowichan may, following notice in writing, enter the real property and take such action as may be required to correct the default, and may recover the costs incurred as debt against the owner or occupier.
- (2) If the owner of property fails to pay the costs referred to in section 14(1) before the 31st day of December in the year costs were incurred, the costs may be added to and form part of the taxes on the property as taxes in arrears.

Severability

- 15** If any provision of this bylaw is found invalid by a court, the provision must be severed so the remainder of the bylaw is left in effect.

Effective Date

- 16** This bylaw takes effect January 1, 2007.

Schedules

- 17** The following Schedules are attached to, and form part of, this bylaw:

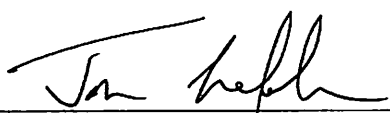
- (a) Schedule "A" - Letter to Property Owner;
- (b) Schedule "B" - Certification Form.

Bylaw readings

First reading July 19, 2006
Second reading July 19, 2006
Third reading (as amended) November 15, 2006
Adopted February 21, 2007



M. O. Ruttan, Director of Administration



J. W. Lefebure, Mayor

SCHEDULE A

LETTER TO PROPERTY OWNER

Re: Properties involving Controlled Substances Bylaw No. 3246

This letter is to notify you that the North Cowichan “Nuisance (Controlled Substance) Bylaw”, 2006” establishes regulations concerning the cleaning and remediation of buildings that have been used for marijuana grow operations, mushroom grow operations or amphetamine production.

The Royal Canadian Mounted Police has advised North Cowichan that the building at _____ was in use as marijuana grow operation [or mushroom grow operation or amphetamine production].

The bylaw requires that within 30 days after a grow operation has been removed, all carpets and curtains in the premises must be removed or cleaned, and any forced air heating ducts in the premises cleaned and disinfected. That work must be carried out by a professional cleaner with experience in removing contaminants from buildings. The professional cleaner must hold a licence to carry on business in North Cowichan.

After the cleaning is completed, a qualified professional must certify that the parcel is free from pesticides, fertilizers, toxic moulds, chemicals and fungi.

Until the cleaning and certification have been completed, section 10 of the bylaw prohibits occupancy by any person. Before occupancy, you must notify prospective occupants that the requirements of the bylaw have been satisfied.

We enclose a copy of the bylaw for your reference. If you have any questions concerning the regulations in the bylaw, please call (250) 746-3100.

SCHEDULE B
CERTIFICATION FORM

TO: The District of North Cowichan

FROM: _____
[insert name of professional cleaner]

RE: Property at _____
[insert address]

This is to certify that in accordance with section 9 of the Nuisance (Controlled Substance) Bylaw, 2006 No. 3246.

The professional identified in this certification

- (a) meets the requirements for a professional inspector under section 9 of the bylaw;
- (b) has completed an inspection of the building and parcel on _____;
- (c) the building and parcel is substantially free of any pesticides, fertilizers and toxic chemicals, moulds or fungi.

CERTIFIED AS OF _____ [insert date]

Signature of Professional Inspector

Name

Address

Telephone Number

Regulation Wording Changes between the existing and revised Controlled Substance Bylaws

Table 1: Comparisons/changes between Existing Bylaw [No. 3246] and New Bylaw [No.3803]

Description of Bylaw Regulation	Original Bylaw [Bylaw No. 3246]	New Bylaw [Bylaw No. 3803]	Comments
Disconnect meter for electricity, water, or natural gas	2(a)	4.1(a)	Expanded to allow for exceptions when permitted or required by the District and combined into a single section
Divert electrical or water distribution system	2(b)		
Divert or install exhaust vents for hot water tanks or furnaces	2(c)	4.1(b)	Expanded to include clothes dryers and fireplaces
Install unauthorized lighting devices	2(d)	4.1(d)	Wording has been simplified
Store or use dangerous goods	2(e)	4.1(e)	Wording change (dangerous goods to hazardous substance)
Obstruct an exit/access	2(f)	4.1(c)	Simplified/improved wording
Alter structure to manufacture a controlled substance	2(g)	4.1(f)	Simplified/improved wording
Store amphetamines	2(h)	-	Removed as the storage of more general term of "controlled substance" is included in the definition of "unauthorized drug production facility" and is implied under section 6.1(b)
Exhaust noxious, offensive or hazardous vapors outside	2(i)	4.1(e)	Redundant – wording in subsection 4.1(e) is sufficient to cover
Cause growth of mould/fungus as result of cultivating controlled substances	3(a)	4.1(h)	Simplified wording and combined into a single section
Accumulate pesticides or chemicals	3(b)		
Emit offensive odours, fumes or particulate matter	4	4.1(e)	Redundant – wording in subsection 4.1(e) is sufficient to cover
Powers of Local Assistant to the Fire Commissioner or the Fire Chief to enter property for inspection or take measures to prevent or suppress fires	5(1)	Part 5	The regulations in relation to fire protection are covered under the Fire Protection Bylaw and are therefore redundant. Instead this Part has been expanded to cover the powers granted to an Inspector (which includes a Fire Chief, Building Inspector, peace officer, bylaw enforcement officer, and other various Managers and Directors – see definition section for complete list) to enter onto a property in order to conduct an inspection, disconnect a service or take remedial action.
Comply with direction from Fire Chief	5(2)	-	Covered under the Fire Protection Bylaw
Landlord requirements for inspection and notification to District of contraventions	6	Part 9	Wording slightly amended and reduced the time period for notifying the Building Inspector from 48 hours to 24 hours
Discontinuance of water service	7(1)	8.1 (a) and (b)	Improved the wording for these sections
Notice requirement for discontinuance of water service	7(2)		

Regulation Wording Changes between the existing and revised Controlled Substance Bylaws

Description of Bylaw Regulation	Original Bylaw [Bylaw No. 3246]	New Bylaw [Bylaw No. 3803]	Comments
Remedial action requirements by building owner	8(1)	6.3(a)	Improved language so not to be so specific about which items are to be removed as part of remediation work
Conditions for reconnection to electricity, water or natural gas services	8(2)	Part 7	Improved language
Letter to property owner [actions required – 30 day limit]	8(3), Schedule A	6.2, Schedule A	Improved language in letter to provide clarity to property owner
Certification that requirements have been met, that building is substantially free from pesticides, fertilizers, and any toxic chemicals, moulds and fungi	9(1)	6.3(a) and (b)	Improved language/clarity
60 day limit for providing certificate following special safety inspection	9(2), Schedule B	6.3(d), Schedule B	Improved the language in both the section and certificate
Prohibition on occupation until remedial measures completed	10(1)	4.1(l)	Simplified/improved wording
Requirement to notify future occupants that a grow operation has been removed	10(2)	-	Section has been removed, not only because it would be difficult to enforce, but also because section 7.1(d) provides for an inspection after the Special Safety Inspection before the building can be re-occupied. Requiring an owner to inform prospective tenants of the former use of the property where there isn't a bona fide health and safety concerns regarding occupying a property that has been remediated could create a detrimental effect on a landlord's revenue. Safety issues will be caught by the Building Inspector on final inspection and health concerns related to hazardous substances and mould will be certified to be remediated by the QEP.
Lists of service costs incurred by District which owner must pay	11(1)	7.1(f)	Costs for when the District completes abatement will included in an upcoming amendment to the Fees and Charges Bylaw.
Exception for having to pay costs identified in 11(1) if owner reports before RCMP discovery	11(2)		
Inspection fees under Fees Bylaw	11(3)		
Additional fees under Fees Bylaw	11(4)		
Inspector may enter onto property to complete inspection or take actions	12(1)	Part 5	Language is basically the same
Interfere or obstruct entrance by Inspector	12(2)	4.1(j)	Basically the same language
Posting "Unsafe - Do Not Enter or Occupy" notice	12(3)	6.4, Schedule C	Improved language and inclusion of notice form [Schedule C]

Regulation Wording Changes between the existing and revised Controlled Substance Bylaws

Description of Bylaw Regulation	Original Bylaw [Bylaw No. 3246]	New Bylaw [Bylaw No. 3803]	Comments
Obstruct Inspector from posting notice	12(4)	4.1(i)	Similar language
Warranties in relation to notices or permits	12(5)	10.1	Improved language
Professional certification required to substantiate work conforms to Bylaw, Building Code, Electrical Code and other health and safety requirements	12(6)	10.3	Similar language
Standard of proof for determining whether requirements have been met	12.1(1)	Definition	Removed – not necessary as there is a definition of “unauthorized drug production facility”
Deeming a property a controlled substance property	12.1(2)	-	Serves no purpose within the municipality's jurisdiction of authority

Table 2: New regulations proposed under Bylaw No.3803:

Subsection	Description of Bylaw Regulation
4.1(g)	Prohibition on using water from the District's water distribution system in an Unauthorized Drug Production Facility
4.1(k)	Remove or alter the posted notice
6.1	Require property owner to undertake a special safety inspection
7.1	Expanded section on requirements for re-occupancy to require: special safety inspections be conducted, owner to obtain permits and approvals, owner to carry out the work, inspection by Building Inspector, and removal of notice by Inspector
8.2	Requirement for installation of a backflow prevention mechanism
10.2	Responsibility of owner to carry out the work in accordance with applicable codes, standards and enactments [which includes bylaws]
Schedule D	Water Shut Off Notice


Table 3: Definitions that have been added, removed or added

Unchanged Definitions	Amended Definitions	New Definitions [Added]	Removed Definitions
Building Code	Building Inspector	Authorized Grow Operation	Amphetamines
	Fire Chief	Building Bylaw	Alteration
	Hazardous Condition	Bylaw Enforcement Officer	Controlled Substance
	Inspector	Council	Controlled Substance Property
	Owner	Director of Engineering	Dangerous Goods
	Parcel	Director of Planning and Building	Flammable and Combustible Liquid
	Special Safety Inspection	District	Grow Operation
		Electrical Code	Pesticide
		Fire Code	Professional Cleaner
		Hazardous Condition Requirement List	Re-Occupancy Permit
		Hazardous Substance	Tenancy Agreement
		Manager of Fire and Bylaw Services	
		Manager of Operations	

Regulation Wording Changes between the existing and revised Controlled Substance Bylaws

Unchanged Definitions	Amended Definitions	New Definitions [Added]	Removed Definitions
		Mould Remediation Guidelines	
		Occupier	
		Qualified Contractor	
		Qualified Environmental Professional	
		Remediation Action Plan	
		Unauthorized Alteration	
		Unauthorized Drug Production Facility	
		Utility	

Report

Date	December 2, 2020	File:
To	Council	
From	Michelle Martineau, Manager, Legislative Services	Endorsed: 
Subject	Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020 - first three readings	

Purpose

To introduce Bylaw No. 3804 so that Council may consider establishing a process for imposing costs that may be recovered and applied as property taxes when a property owner has failed to mitigate a nuisance on their property.

Background

The purpose of enacting a new nuisance abatement bylaw is to impose nuisance abatement service fees in order to recover the costs associated with cleaning up non-compliant nuisance properties. The legislation provides for fees to be charged when staff or a contractor must enter the property to complete the work in order to abate the nuisance. However, these costs do not include the time spent by bylaw enforcement officers or other applicable staff when attending to the property to compel the person or owner to stop an activity that constitutes a nuisance or to take action to mitigate the nuisance.

Historically when the District has dealt with nuisance properties (through a complaint driven process), bylaw enforcement officers have worked with property owners to bring about compliance. However, there are times where the owner of that property has failed to take action as directed for mitigating the nuisance(s), such as an accumulation of garbage or unsanitary conditions, and bylaw enforcement officers have had to go to Council for approval of a remedial action report in order to clean up the property.

The modernization or creation of new regulatory bylaws was identified as a project for Legislative Services in the 2020 Business Plan. This project aligns with Council's objective for relevant and responsive bylaws and Council policies to be in place that is enforceable.

Discussion

Section 17 of the *Community Charter* enables Council to require remedial action to be taken on a property within its jurisdiction. If the property owner fails to take the action required of them, the municipality is then authorized to recover the expenses incurred for the work done or services provided. In order to recover those expenses, they must be established by bylaw, as per section 194 of the *Act*.

Section 36 of the *Police Act* provides bylaw enforcement officers with the same powers and privileges as a peace officer respecting the enforcement of municipal bylaws.

The proposed, Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020 (Bylaw 3804), drafted by our municipal solicitors, is consistent with bylaws adopted by the Cities of Prince George, Courtney, Kimberley, Port Coquitlam, and the District of North Vancouver. They bylaw authorizes the Manager of Fire and Bylaw Services to issue a Clean Up Order without having to submit a remedial action report to Council for authorization to issue the Order and clean up the property.

Although other municipalities such as the Cities of Nanaimo, Pitt Meadows and Port Alberni, and the Towns of Qualicum Beach and Ladysmith have adopted similar bylaws, to allow for cost recovery, their bylaws, lack regulations which would enable bylaw enforcement officers to deal with nuisance properties within prescribed conditions without having to seek approval from Council. In those municipalities, their staff must still bring forward a report to request authorization to issue the Order and take action. This is a step that can slow the process down by two weeks or even a month during the summer.

Bylaw 3804 proposes to:

- Establish prohibitions on property owners/occupiers for acts that cause a nuisance, including noise, odours, garbage, offensive materials, overgrown vegetation, graffiti, etc.;
- Require property owners/occupiers to take action to clean up the property;
- Establish a process for issuing and reconsideration of a Clean Up Order;
- Authorize the District to enter the property and take action if the property owner fails to take remedial action;
- Establish rates for work performed by the District or when that service is contracted out, including an administrative charge;
- Establish a process for disposal of any items removed from the property;
- Authorize specific persons to enter onto the property to perform inspections; and,
- Authorize the costs imposed, if unpaid, to be recovered through property taxes.

Options

Option 1 (Recommended Option): Give the bylaw first three readings as presented.

That Council gives first, second and third readings to Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020.

Option 2 (Alternative Option): Give the bylaw first and second readings and identify any changes to be made to the bylaw prior to third reading.

- (i) That Council gives first and second readings to Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020.
- (ii) That section [*identify section*] of Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020 be amended to [*state what is to be added, removed or changed*].

- (iii) That Council gives third reading to Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020 as amended.

Implications

If adopted, this bylaw will assist and provide RCMP officers and municipal bylaw enforcement officers to enforce Council's regulations regarding property standards and bring about compliance up to four weeks sooner.

- Up to two weeks time will be saved as staff will no longer have to go Council with a remedial action request; and,
- An additional two weeks will be saved as the District will no longer be required to send out a second notice [after the 30 day notice has expired] advising that the District will enter onto the property in 14 days to complete if not undertaken. Bylaw 3804 authorizes the District to enter onto the property to complete the work if the property owner or occupant has not complied with the Clean Up Order within the 30 days.

Prior to or just after adoption of Bylaw 3804, staff intends to bring forward amendments to:

- (1) Municipal Ticket Information System Bylaw to include offence violations and fines
- (2) Fees and Charges Bylaw to establish the hourly rates set out in sections 5.12 and 8.1 and remove costs associated with the Untidy and Unsightly Premises Bylaw which will be repealed upon adoption of this bylaw

The bylaw will enable the District to recover all costs associated (e.g. staff resource time and equipment costs) with remediating properties where the owner fails to take the action ordered.

Recommendation

That Council gives first, second and third readings to Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020.

Attachments:

- (1) Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020
- (2) Untidy and Unsightly Premises Bylaw No. 2590, 1992



The Corporation of the District of North Cowichan

Nuisance Abatement and Cost Recovery Bylaw

Bylaw No. 3804

Contents

- 1 Citation
- 2 Severability
- 3 Definitions
- 4 Prohibitions
- 5 Nuisance Abatement
- 6 Costs Imposition
- 7 Collection
- 8 Costs
- 9 Repeal

WHEREAS, under Sections 8 and 64 of the *Community Charter*, Council may, by bylaw, regulate, prohibit and impose requirements in relation to nuisances; and

WHEREAS, under Sections 17 and 194 of the *Community Charter*, Council may impose costs and recover the costs of taking action in the event of a default by a person who fails to take action as Council directs:

NOW THEREFORE the Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:

PART 1 CITATION

- 1.1. This bylaw may be cited as "Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020".

PART 2 SEVERABILITY

- 2.1. If a portion of this bylaw is found invalid by a court, it will be severed and the remainder of the bylaw will remain in effect.

PART 3 DEFINITIONS

- 6.1. In this bylaw,

"NUISANCE" means:

- (a) noise, vibration, odour, dust, illumination or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;
- (b) the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere;

- (c) refuse, garbage or other material that is noxious, offensive or unwholesome;
- (d) the accumulation of water on property;
- (e) unsanitary conditions on property;
- (f) overgrown grass, weeds or trees;
- (g) the carrying on of a noxious or offensive business activity;
- (h) graffiti and unsightly conditions on property; and
- (i) indecency and profane, blasphemous or grossly insulting language; and
- (j) anything which constitutes a nuisance at law.

PART 4 PROHIBITIONS

- 4.1. No person shall do any act or cause any act to be done which constitutes a nuisance.
- 4.2. No owner or occupier of real property shall cause or permit a nuisance on that real property.
- 4.3. Every owner or occupier who is required to take action under a Weeds, Graffiti and Litter Order or a Clean Up Order shall comply with that order.

PART 5 NUISANCE ABATEMENT

- 5.1. A person in contravention of sections 4.1 or 4.2 of this bylaw shall abate or cause to be abated the nuisance.
- 5.2. If a Bylaw Compliance Officer determines that real property contains grass, weeds or trees that are overgrown, graffiti or strewn litter, the Bylaw Compliance Officer may issue a Weeds, Graffiti and Litter Order.
- 5.3. A Weeds, Graffiti and Litter Order must:
 - (a) be in writing;
 - (b) identify the person who must fulfill the requirement;
 - (c) be posted in a conspicuous location on the property;
 - (d) be sent by regular mail to the owner's address;
 - (e) be sent by regular mail to the occupier of the property if the occupier is the person who must fulfill the requirement;
 - (f) provide the owner or occupier of the property with no less than 5 business days to fulfill the requirement after the date the Weeds, Graffiti and Litter Order was posted on the property and sent;
 - (g) advise that a person may request that the Manager of Fire and Bylaw Services reconsider the Weeds, Graffiti and Litter Order in accordance with this Bylaw; and
 - (h) advise that upon default, the District may fulfil the requirement set out in the Weeds, Graffiti and Litter Order and seek recovery of the cost under section 17 of the *Community Charter*.
- 5.4. A person may request that the Manager of Fire and Bylaw Services reconsider a Weeds,

Graffiti and Litter Order by delivering written submissions regarding the request to the District's corporate officer at least two days prior to the expiration of the time for compliance set out in the Weeds, Graffiti and Litter Order and providing an e-mail or postal address to which the response of the Manager of Fire and Bylaw Services should be sent.

- 5.5. If a timely request for reconsideration of a Weeds, Graffiti and Litter Order is made, the Manager of Fire and Bylaw Services may do any of the following:
- (a) affirm the Weeds, Graffiti and Litter Order;
 - (b) cancel the Weeds, Graffiti and Litter Order;
 - (c) affirm and extend the time for compliance with the Weeds, Graffiti and Litter Order; or
 - (d) modify the Weeds, Graffiti and Litter Order to accommodate a request by the affected person.
- 5.6. If a Bylaw Compliance Officer determines that a nuisance, other than a nuisance that may be the subject of a Weeds, Graffiti and Litter Order, exists on real property, the Manager of Fire and Bylaw Services may issue a Clean Up Order.
- 5.7. A Clean Up Order must:
- (a) be in writing;
 - (b) identify the person who must fulfill the requirement;
 - (c) be personally served on or sent by registered mail to the owner of the property at the owner's address;
 - (d) be personally served on or sent by registered mail to the occupier, if the occupier of the property is the person must fulfill the requirement;
 - (e) be sent by regular mail to the occupier of the property if:
 - (i) the address of the property is different from the owner's address; and
 - (ii) the owner of the property is the person who must fulfill the requirement;
 - (f) be sent by regular mail to each holder of a registered charge in relation to the property whose name is included on the assessment roll, if any, at the address set out in that assessment roll and to any later address provided to the District;
 - (g) be posted in a conspicuous place on the property;
 - (h) provide the owner or occupier with no less than 30 days to fulfill the requirement after the date the Clean Up Order was posted on the property and sent;
 - (i) advise that a person may request that Council consider the Clean Up Order in accordance with this bylaw; and
 - (j) advise that, upon default, the District may fulfil the requirement set out in the Clean Up Order and seek recovery of the cost under section 17 of the *Community Charter*.
- 5.8. If a Manager of Fire and Bylaw Services concludes that a person is evading receipt of a Clean Up Order, the Manager of Fire and Bylaw Services may request that Council, by resolution, authorize steps to be taken to deliver notice to that person as an alternative to compliance with section 5.7(c) or (d) of this bylaw.

- 5.9. A person may request that Council reconsider a Clean Up Order by delivering a request in writing to the District's Corporate Officer at least two weeks prior to the expiration of the time for compliance set out in the Clean Up Order.
- 5.10. If a timely request for reconsideration of a Clean Up Order is made, Council must hear the representations of the requestor at a Council meeting and may do any of the following:
- (a) affirm the Clean Up Order;
 - (b) cancel the Clean Up Order;
 - (c) affirm and extend the time for compliance with the Clean Up Order; and
 - (d) modify the Clean Up Order to accommodate a request by the affected person.
- 5.11. If an owner or occupier fails to comply with a Clean Up Order or a Weeds, Graffiti and Litter Order, the District may, by its employees, contractors and agents, enter onto the property and take action in accordance with section 17 of the *Community Charter* and fulfil the requirements of the order. The District may recover the cost of such action on default, including administrative costs equal to 15% of the value of all contractor and agent invoices, from the person subject to the order and if such costs remain unpaid by December 31 of the year in which they are owing, such costs may be recovered as property taxes in arrears in accordance with Part 14 of the *Community Charter*.
- 5.12. The District may charge for work performed under section 5.11 by employees of the District at the hourly rates set out in the Fees and Charges Bylaw, as revised or replaced from time to time.
- 5.13. If the District's action on default includes the removal of one or more items from a property, the Manager of Fire and Bylaw Services may, as the Manager of Fire and Bylaw Services considers reasonable given the nature, condition and market value of each item:
- (a) dispose of the item;
 - (b) sell the item for salvage and credit the money received against the cost of acting on default;
 - (c) auction the item and credit the money received against the cost of acting on default; or
 - (d) place the item into storage until the item is collected or abandoned.
- 5.14. In accordance with section 16 of the *Community Charter*, the following persons are authorized to enter onto property to inspect and determine whether the requirements of this bylaw are being met, and to carry out an action authorized under section 5.11 of this bylaw:
- (a) a member of the RCMP;
 - (b) the Manager of Fire and Bylaw Services;
 - (c) a Bylaw Compliance Officer;
 - (d) a Building Inspector;
 - (e) the Chief Building Inspector;
 - (f) the Fire Chief;

- (g) the Deputy Fire Chief; and
- (h) a Fire Fighter.

PART 6 COSTS IMPOSITION

- 6.1. The District may impose the costs of abating a nuisance on one or more of the following:
- (a) The occupier of land from which the nuisance emanates; and
 - (b) The owner of land from which the nuisance emanates.

PART 7 COLLECTION

- 7.1. The District may recover the costs imposed under Section 6 in accordance with:
- (a) Section 231 of the *Community Charter* as a debt due and recoverable in a court of competent jurisdiction; or
 - (b) Section 258 of the *Community Charter* as property taxes.

PART 8 COSTS

- 8.1. The costs recoverable for nuisance abatement are set out in the Fees and Charges Bylaw, as revised or replaced from time to time.

PART 10 OFFENCE AND PENALTY

- 10.1. Every person who contravenes any provisions of this bylaw commits an offence punishable upon summary conviction and is liable to a fine not exceeding \$10,000.00.
- 10.2. If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

PART 11 REPEAL

- 11.1. Bylaw 2590, Untidy and Unsightly Premises Bylaw, 1992, and all amendments thereto, are hereby repealed.

READ a first time on
READ a second time on
READ a third time on
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN

BYLAW NO. 2590

A BY-LAW TO PROHIBIT UNSIGHTLY PREMISES WITHIN THE
CORPORATION OF THE DISTRICT OF NORTH COWICHAN

The Municipal Council of The Corporation of the District of North Cowichan in open meeting assembled, pursuant to Section 932(g), (h), (h.1), and (k) of the Municipal Act, ENACTS as follows:

1. In this by-law, the following words shall have the meanings hereinafter assigned to them:

"Filth, Discarded Materials or Rubbish" includes any and all manner of garbage; discarded or disused materials; filth; noxious, offensive or unwholesome matters; unused or stripped automobiles, trucks, trailers, boats, vessels, machinery, mechanical or metal parts; bottles, glass.

"Graffiti" means drawing, printing or writing scratched, sprayed, painted or scribbled on a wall or other surface, but does not include a sign for which a permit has been issued by the Municipality.

"Inspector" means a person appointed by the Council to administer this by-law.

"Noxious Weeds" has the same meaning as in the Weed Control Act.

"Occupier" has the same meaning as in the Municipal Act.

"Open Place" means a highway or any premises where there are no buildings or structures.

"Owner" has the same meaning as in the Municipal Act.

"Premises" means any lot, block, or other area in which land is held or into which it is subdivided.

"Real Property" has the same meaning as in the Municipal Act.

"Municipality" means the Corporation of the District of North Cowichan.

2. No owner or occupier of real property shall cause or permit, filth, discarded materials or rubbish to collect or accumulate on their premises.

3. No person shall deposit or discard filth, discarded materials, or other rubbish in any open space within the Municipality.

4. No owner or occupier of real property shall allow such property to become or to remain unsightly.

5. No person shall place graffiti on walls, fences, or elsewhere on or adjacent to a public place.

6. Owners or occupiers of real property or their agents shall keep their property clear of brush, noxious weeds and other growths.

7. Owners or occupiers of real property, or their agents, shall remove from such property any unsightly accumulation of filth, discarded materials, rubbish, or graffiti.

8. In default of the owner or occupier of real property removing from their real property any unsightly accumulation of filth, discarded materials, rubbish, or graffiti, or clearing the property of brush, noxious weeds or other growths, the Municipality, by its employees and others, may enter and effect the removal or clearance at the expense of the owner or occupier defaulting and the charges for doing so, if unpaid on December 31st in any year, shall be added to and form part of the taxes payable on that real property as taxes in arrear.

9. Every inspector is hereby authorized at any time to enter upon any real property or premises, in the Municipality to ascertain whether this by-law is being observed.

10. A person who contravenes this By-law by doing an act that it forbids, or by omitting to do an act that it requires to be done, commits an offence and is liable to the penalties prescribed in the Offence Act.

11. By-law Nos. 186 and 1651 are hereby repealed.


12. This by-law may be cited for all purposes as "Untidy and Unsightly Premises By-law 1991".

Received First Reading on the 17th day of July 1991.

Received Second Reading on the 17th day of July 1991.


Received Third Reading on the 17th day of July 1991.

RECONSIDERED, ADOPTED, and FINALLY PASSED by the Municipal Council on the 14th day of August 1991.


H.R. Hollett,
Mayor


M.O. Ruttan,
Municipal Clerk

Report

Date	December 2, 2020	Prospero No. ZB000132
To	Council	Folio No. 06039-026
From	Anthony Price, Planning Technician	File No. 3360-20 20.05
Subject	Zoning Amendment Application No. ZB000132 (Lot 7 Wellburn Place) for first two readings	Endorsed: 

Purpose

To introduce Bylaw No. 3809, which proposes a site-specific zoning amendment for Lot 7 at Wellburn Place, to permit a second detached dwelling unit in addition to a principal single family dwelling in the Rural Residential (R1) zone.

Background

On December 18, 2019, Council adopted the Second Dwelling Rural Lands Policy, establishing the following criteria for site-specific zoning amendment applications for second dwellings outside the Urban Containment Boundary (UCB):

- a. That size of the proposed second dwelling be restricted by covenant to 92 m² (990.28 ft²) or less;
- b. That subdivision be restricted by covenant to prevent subdivision including strata subdivision;
- c. That the size of the parcel be a minimum of; and
 - i. 1 ha (2.5 acres) where no Municipal sewer or water exists;
 - ii. 0.4 ha (1 acre) where no Municipal sewer exists;
 - iii. 0.2 ha (0.5 acres) where Municipal water and sewer exist; and
- d. That siting of second dwellings on agricultural lands be established and restricted by covenant to preserve agricultural land.

Discussion

Site Context:

The subject property is a 0.47 Ha (1.17 acre) lot located at Wellburn Place, off of Calais Road. This parcel is presently vacant (Attachments 1 & 2).

The subject property was created in 2019 as part of a 9-lot subdivision. To date, four of the lots have been built on, and five remain undeveloped.

Land Use Context:

Direction	Land Use	Zone
North	Single-Family Dwelling	R1 (Residential Rural 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)
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The surrounding neighbourhood generally consists of one and two storey residential homes on lots approximately 0.1.7ha (0.4 acre) and larger in size.

Proposal

The applicant is requesting an amendment to the R1 Zone (Attachment 6) to permit a detached second dwelling with a maximum habitable gross floor area of 92m². To comply with the Second Dwelling Rural Lands Policy, a Section 219 covenant securing the policy's requirements will be necessary prior to adopting the zoning amendment bylaw. The applicant is aware of the policy and is agreeable to registering a covenant on the property as a condition of rezoning.

Official Community Plan (OCP) & Rural Cluster Designation:

The Subject Property is located within the Lakes Road Area 'Rural Cluster' designation of the OCP (Attachment 4). Rural Clusters are pockets of residential settlement outside of growth centres and the UCB. As with other lands within the rural areas, density increases are generally discouraged in Rural Clusters.

HOUSING & SERVICES 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 viewsapes 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 ...*

Policy 2.1.5.9 *The Municipality generally discourages the development of accessory (second) residences on rural lands, except to address farm labour housing needs.*

OCP policies 2.1.5.6 and 2.1.5.9 speak to discouraging additional density. Staff note that the R1 zoning that applies to the subject property currently allows up to two dwelling units in the form of a two family dwelling (duplex) or a single family dwelling and secondary suite. The requested zoning amendment would allow the second dwelling to be detached from the principal dwelling, but the maximum number of dwellings permitted on the property would remain at two. As the application does not result in a net increase in density (i.e. the number of dwellings per parcel), staff consider it to be generally consistent with OCP land use policy.

HOUSING:

Policy 2.5.2.3 *The Municipality supports the development of new market forms of affordable housing, both for rent and purchase.*

Servicing and Infrastructure:

Confirmation through a Registered Onsite Wastewater Practitioner has been provided by the applicant, confirming that the subject property can support an on-site septic system that will service two dwellings.

Municipal water servicing is available, and a building permit application is required for the applicant to connect to the water service.

Analysis & Conclusion

This application is generally compliant with Official Community Plan land use policies and the Second Dwelling Rural Lands Policy. Detached second dwellings can provide housing for young adults, single person households, individuals with special needs, and the elderly. It is generally more affordable than a conventional single family dwelling and can contribute positively to the stock of available rental housing. For these reasons, staff recommend approval of the application.

Applications for second dwellings in rural areas are presently being considered on a case-by-case basis through the rezoning application process. Council consented to this approach when it established the Second Dwelling Rural Land policy last year, but it was done as an interim measure until the OCP update, and Zoning Bylaw review projects are completed. These larger bylaw review processes, along with the Housing Needs Assessment project, should help identify community housing needs and preferences and provide direction on various housing issues, including detached second dwellings. As the public has not had an opportunity to provide input on a comprehensive approach to second dwellings, the public hearing will provide an important opportunity for the public to provide input on this site specific application. Although Council has the authority to waive the public hearing before considering adoption of the proposed zoning amendment, it is not recommended.

Communications and Engagement

If Council resolves to give first and second readings to Zoning Amendment Bylaw No. 3809 and forward the application to a public hearing, the owners and occupants of properties within a 60-metre radius of the subject property will be notified, and advertisements will be placed in the local newspaper, in accordance with the requirements of the *Local Government Act*.

Options**Option 1 (Recommended option):**

That Council give first and second readings to Zoning Amendment Bylaw No. 3809, 2020 to permit a second residential dwelling building on Lot 7 of Wellburn Place;
And that a public hearing be scheduled for Bylaw No. 3809 in accordance with the *Local Government Act*.

Option 2: That Council deny Zoning Amendment Application ZB000132 to permit the second residential dwelling building on Lot 7 of Wellburn Place.

Implications

If Council denies the application, the applicant would not be permitted to construct a second detached dwelling unit.

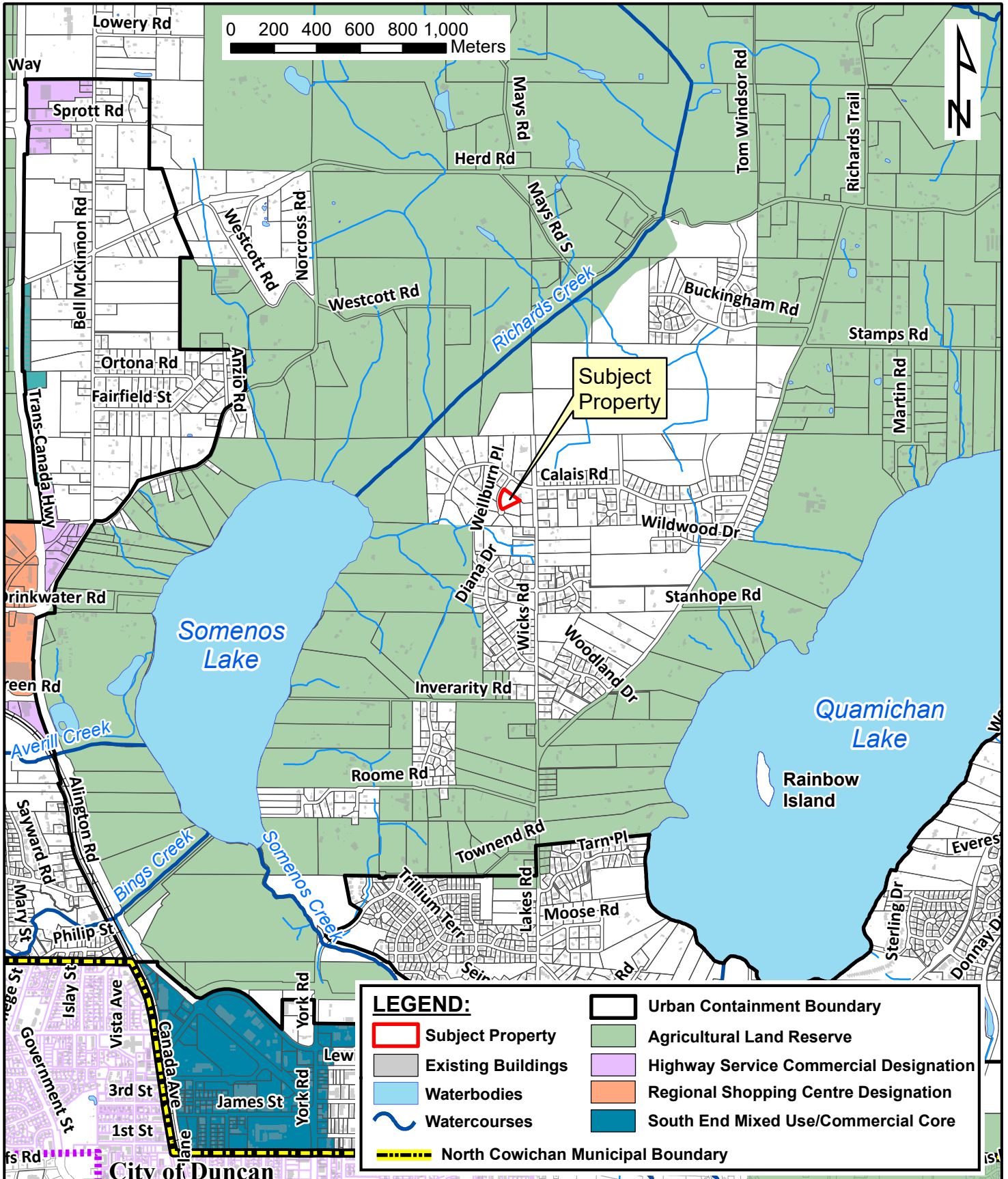
Recommendation

That Council give first and second readings to Zoning Amendment Bylaw No. 3809, 2020 to permit a second residential dwelling building on Lot 7 of Wellburn Place;

And that a public hearing be scheduled for Bylaw No. 3809 in accordance with the *Local Government Act*.


Attachments:

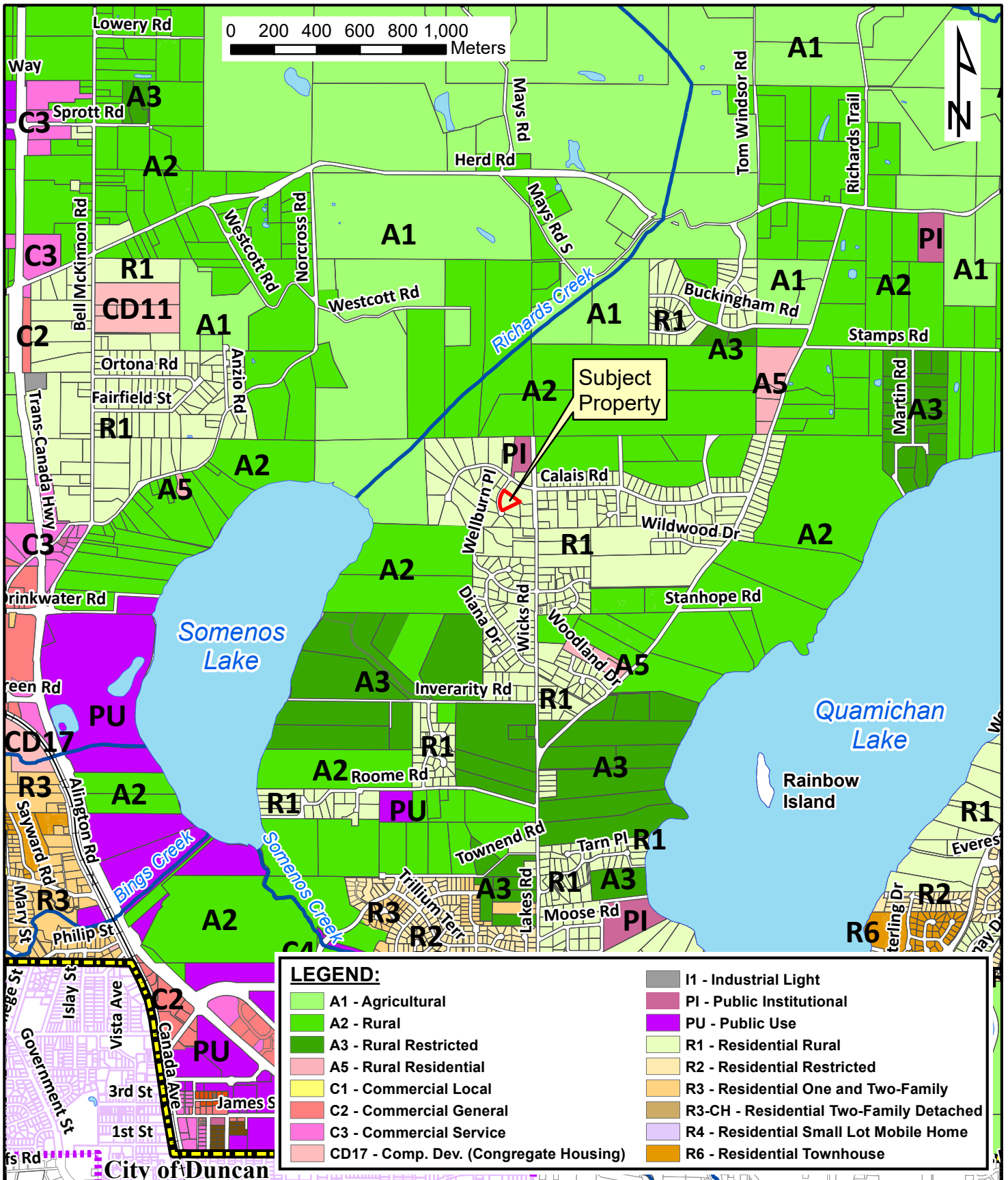
1. Location Map
2. Orthophoto
3. Zoning
4. Map 5, Rural Clusters
5. Sketch Site Plan
6. Rural Residential Zone (R1)
7. Draft Bylaw 3809



	LOCATION MAP		DATE:	June 11, 2020
	Lot 7, Plan EPP95212		TYPE:	Zoning Amendment
	Wellburn Place		FILE#:	ZB000132



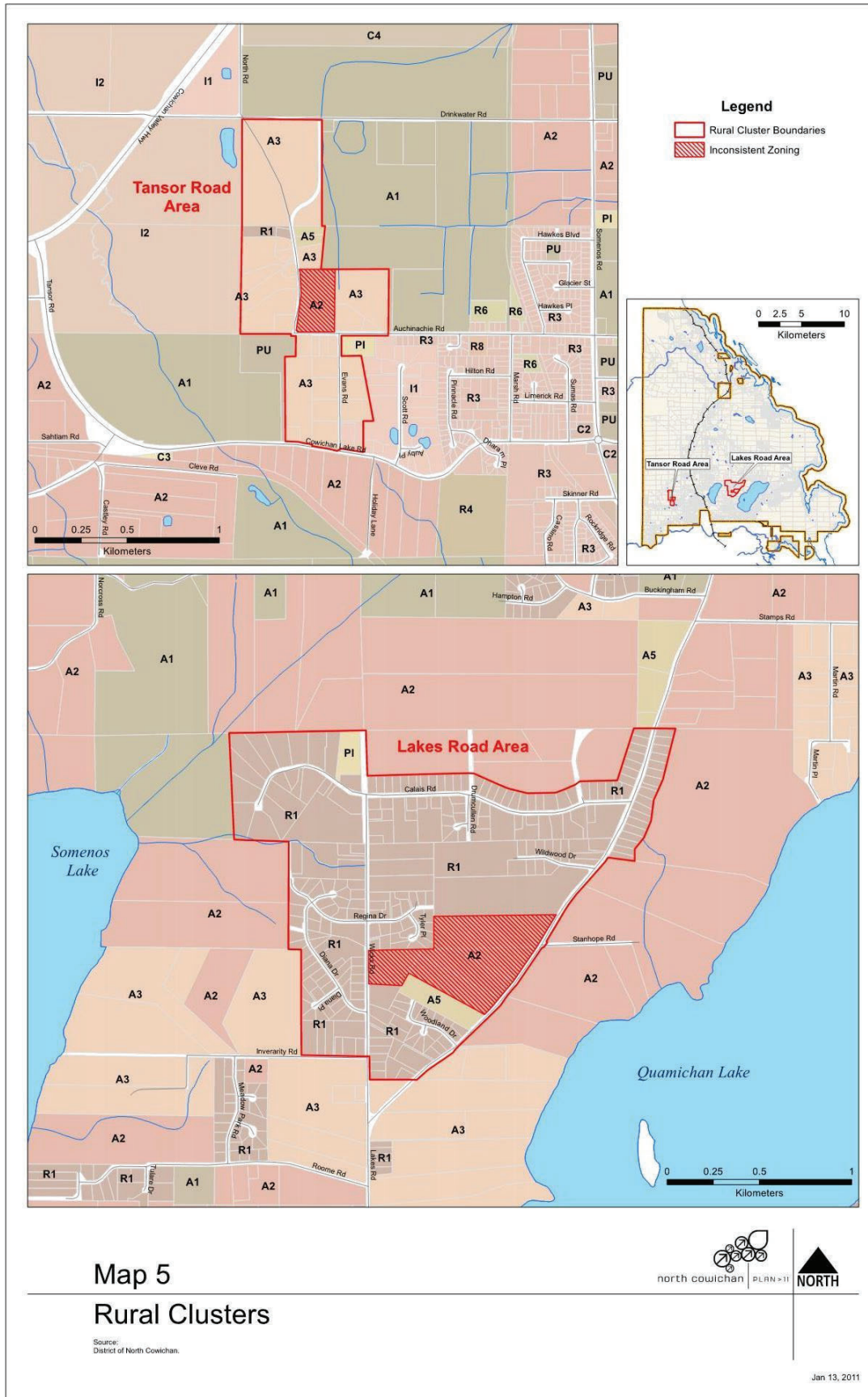
	ORTHOPHOTO MAP		DATE:	June 11, 2020
	Lot 7, Plan EPP95212 Wellburn Place		TYPE:	Zoning Amendment
			FILE#:	ZB000132



ZONING MAP

Lot 7, Plan EPP95212
Wellburn Place

DATE:	June 11, 2020
TYPE:	Zoning Amendment
FILE#:	ZB000132





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 Mobile Home (subject to the Temporary Mobile Home Permit Bylaw)
 - Two-Family Dwelling [BL3302, BL3367, BL3754]

Minimum Lot Size

- (2) The minimum permitted lot size for the R1 zone is 1,675 m² (18,029 sq. ft.).

Minimum Frontage

- (3) The minimum permitted frontage for the R1 zone is 30.0 m (98.43').

Density

- (4) The maximum permitted density for the R1 zone is as follows:
- (a) The number of residential buildings shall not exceed one.
 - (b) Despite the foregoing, the placement of a Temporary Mobile Home may also be permitted on lots 0.81 ha (two acres), or larger, subject to the Temporary Mobile Home Permit Bylaw. [BL3754]
 - (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]
 - (f) Despite section 56 (4) (a), a maximum of 2 residential buildings, with a total combined maximum of 2 dwelling units, is permitted on 6343 Wicks Road (PID: 003-145-603). [BL3731]
 - (g) Despite section 56 (4) (a), a maximum of 2 residential buildings, with a total combined maximum of 2 dwelling units, is permitted on 10097 Chemainus Road (PID: 018-858-651). [BL3732]
 - (h) Despite section 56 (4) (a), a maximum of 2 residential buildings, with a total combined maximum of 2 dwelling units, is permitted on 2372 Regina Drive (PID 000-368-393). [BL3760]
 - (i) 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). [BL3766]

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) Repealed [3758]
 - (f) Assisted Living, Supportive Housing, and Community Care Facilities may be permitted provided that the number of residents does not exceed ten, including resident staff,
 - (ii) the use is within a single-family dwelling unit only,
 - (iii) valid health permits for septic systems or on-site wastewater treatment systems are obtained, where no municipal sewer is available. [BL3302]
 - (g) Limited farm sale of agricultural products may be sold directly to the public provided that:
 - (i) a minimum of 50% of the agricultural products offered for sale are produced on the land;
 - (ii) the covered retail sales area does not exceed 100 m² (1076.4 sq. ft.); and
 - (iii) the retail sales are clearly ancillary to the farm use. [BL3083]
 - (h) [Repealed. BL3367]



The Corporation of the District of North Cowichan
Zoning Amendment Bylaw (Lot 7 Wellburn Place), 2020

Bylaw No. 3809

The Council of The Corporation of The District of North Cowichan in open meeting enacts as follows:

- 1 This Bylaw may be cited as *"Zoning Amendment Bylaw No. 3809, 2020"*.
- 2 That Zoning Bylaw 1997, No. 2950, section 56 (4) [density in the Residential Rural Zone (R1) is amended by adding the following paragraph as subsection (j):
 "(j) Despite section 56 (4) (a), a maximum of 2 residential buildings, with a total combined maximum of 2 dwelling units, is permitted on Lot 7 Wellburn Place (PID: 031-028-314)"

READ a first time on
Information Meeting held
READ a second time on
CONSIDERED at a Public Hearing on
READ a third time on
APPROVED by Ministry of Transportation and Infrastructure on
COVENANT registered on
ADOPTED on

CORPORATE OFFICER

PRESIDING MEMBER

Report

Date	December 2, 2020	File: TTP00079 05401-000
To	Council	
From	Anthony Price, Planning Technician	Endorsed: 
Subject	Temporary Mobile Home Permit Application for 5855 Menzies Road	

Purpose

To consider issuance of a Temporary Mobile Home Permit (TMHP) for 5855 Menzies Road to allow a mobile home to be placed on the property in addition to the principal single family dwelling.

Background

The applicant has requested permission for a temporary mobile home to accommodate the owner's child and her family and to relax the maximum mobile home width requirement from 4.3 metres to 8.54 metres.

The subject property is 1.14 ha (2.82 acres) in area and is zoned Rural Zone (A2) (attachments 1, 2, and 3). The property is within the Agricultural Land Reserve (ALR) and outside the Urban Containment Boundary.

ALR Use Regulation permits one manufactured home for family members in addition to a principal single-family dwelling, subject to specific criteria (ALR Use Regulation s. 32 (3)). No application is required to the Agricultural Land Commission (ALC) to construct an additional residence that is a manufactured home if:

- (a) *the manufactured home is 9 m or less in width,*
- (b) *the manufactured home is used only by the owner or any of the following persons who are related within the meaning of subsection (4):*
 - (i) *a person who is the owner's*
 - (A) *parent, grandparent or great grandparent,*
 - (B) *sibling, or*
 - (C) *child, grandchild or great grandchild;*
 - (ii) *the owner's spouse, or a person who is a parent of the owner's spouse,*
- (c) *all required authorizations to locate the manufactured home on the agricultural land are granted before July 31, 2021, and,*
- (d) *the size and siting of the manufactured home is not altered after July 31, 2021, unless permitted under section 25 or 45 of the Act.*

Proposal

In addition to complying with ALC regulations, the property owner must also comply with the District's

Zoning Bylaw No. 2950 (Zoning Bylaw 2950) and [Temporary Mobile Home Permit Bylaw No. 1685](#) (TMHP Bylaw 1685).

[TMHP Bylaw No. 1685](#) authorizes a mobile home to be placed on a parcel, in addition to the principal single family dwelling, to accommodate for the care of a sick or elderly person, a child needing accommodation, to accommodate the owner while their permanent resident is under construction, farm help, or for protection against vandalism. Any permit issued by Council is for a term of one year if the property is at least 0.81 ha in size and meets the conditions under section 10 of the bylaw. The permit (attachment 7 draft permit) shall be renewed upon written application if the circumstances for issuance remain the same.

The applicants have stated in their application that the mobile home would provide accommodation for the stepchild of the owner and her family on the property so that she can provide care for her elderly mother, who resides in the principal single-family dwelling with her husband. The mobile home's proposed location is close to the single-family dwelling and the existing driveway (Attachment 4).

Discussion

The proposal is consistent with [Temporary Mobile Home Permit Bylaw 1685](#) in terms of use (to provide accommodation for a child and her family), but not the width limitation and location of the mobile home itself. The bylaw sets a maximum mobile home width of 4.3 metres, whereas the width proposed is 8.54 metres. Council has approved similar relaxations to the width requirement in the past.

Section 10 (f) of [Temporary Mobile Home Permit Bylaw 1685](#) states *the mobile home must be sited to the rear or side of the front line of the existing dwelling*.

The proposed location of the mobile home is approximately 30 metres from Menzies Road, but is closer to the road than the principal dwelling. The opinion of staff is that the intent of Section 10(f) of TMHP Bylaw 1685 is to minimize potential impacts the proposed mobile home may have on the character of the neighbourhood. Staff believe the proposed location will have minimal impact on the neighborhood's character as it will be set well back from the road and is screened from the road by mature forest (Attachment 6, image one).

The proposed mobile home siting (Attachment 4) will allow the occupant (owner's stepchild) to reside in close proximity to the single-family dwelling (Attachment 6, image three). In addition, the proposed siting minimizes the disturbance to potential agricultural land and protects existing trees (Attachment 6, image two).

In addition, the application complies with all ALC Use Regulations and the *ALC Act*.

If Council authorizes the Temporary Mobile Home Permit, an application for a building permit will be required in order to confirm the following:

- sewage disposal is in compliance with Island Health requirements;
- a suitable potable water supply is in place and connected;

- the mobile home is a CSA Z240-MH series standard (attachment 5), and secured to an appropriate foundation (concrete pile; surface pier; or, concrete slab); and,
- any other allocable requirements of Building Bylaw No. 3172

Siting of the mobile home generally complies with the TMHP Bylaw 1685, as well as adheres to Zoning Bylaw 2950.

Options

Option 1 (Staff Recommendation):

That Temporary Mobile Home Application No. TTP00079 be approved and a permit be issued for a temporary mobile home located at 5855 Menzies Road, and that Council authorizes that the maximum width of the mobile home not exceed 8.54 metres.

Option 2 (Alternative Recommendation):

That Temporary Mobile Home Application No. TTP00079 be approved and a permit issued for a temporary mobile home located at 5855 Menzies Road in accordance with the regulation under Temporary Mobile Home Permit Bylaw No. 1685, 1976.

Option 3 (Alternative Recommendation):

That Temporary Mobile Home Application No. TTP00079 for a temporary mobile home located at 5855 Menzies Road be denied.

Implications

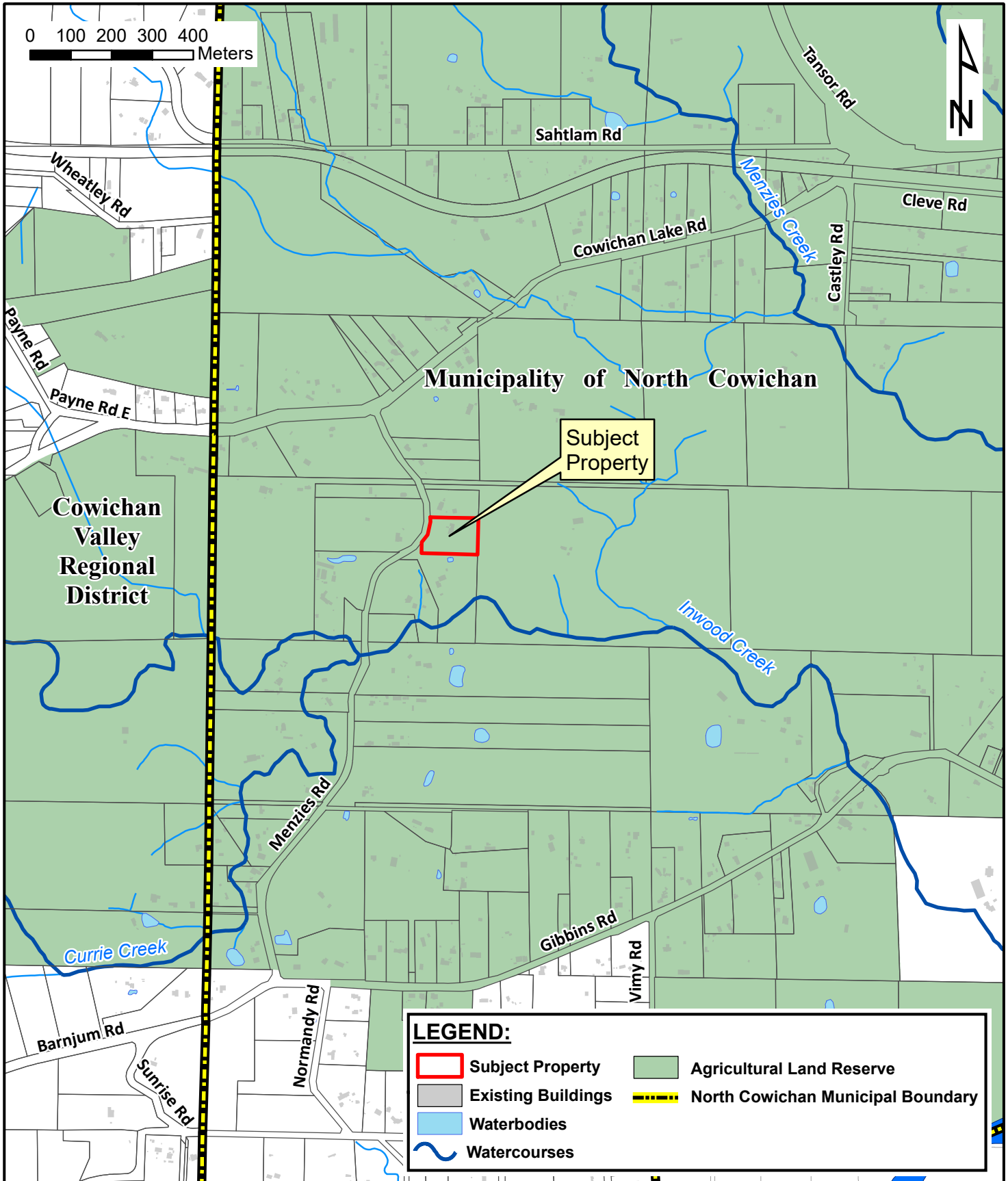
Should Council deny the application, the mobile home will not be permitted on the property.

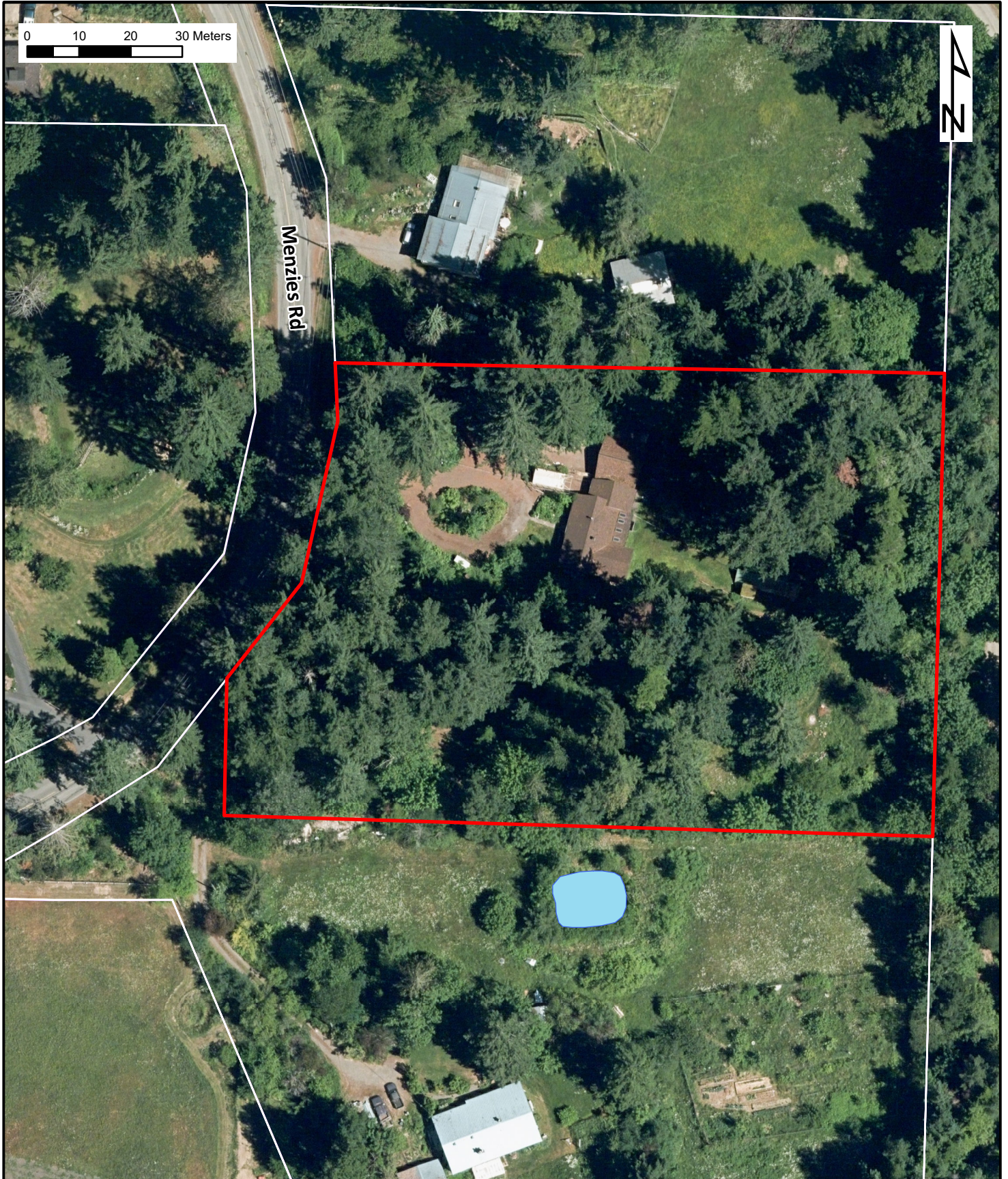
Recommendation

That Temporary Mobile Home Application No. TTP00079 be approved and a permit be issued for a temporary mobile home located at 5855 Menzies Road, and that Council authorizes that the maximum width of the mobile home not to exceed 8.54 metres.

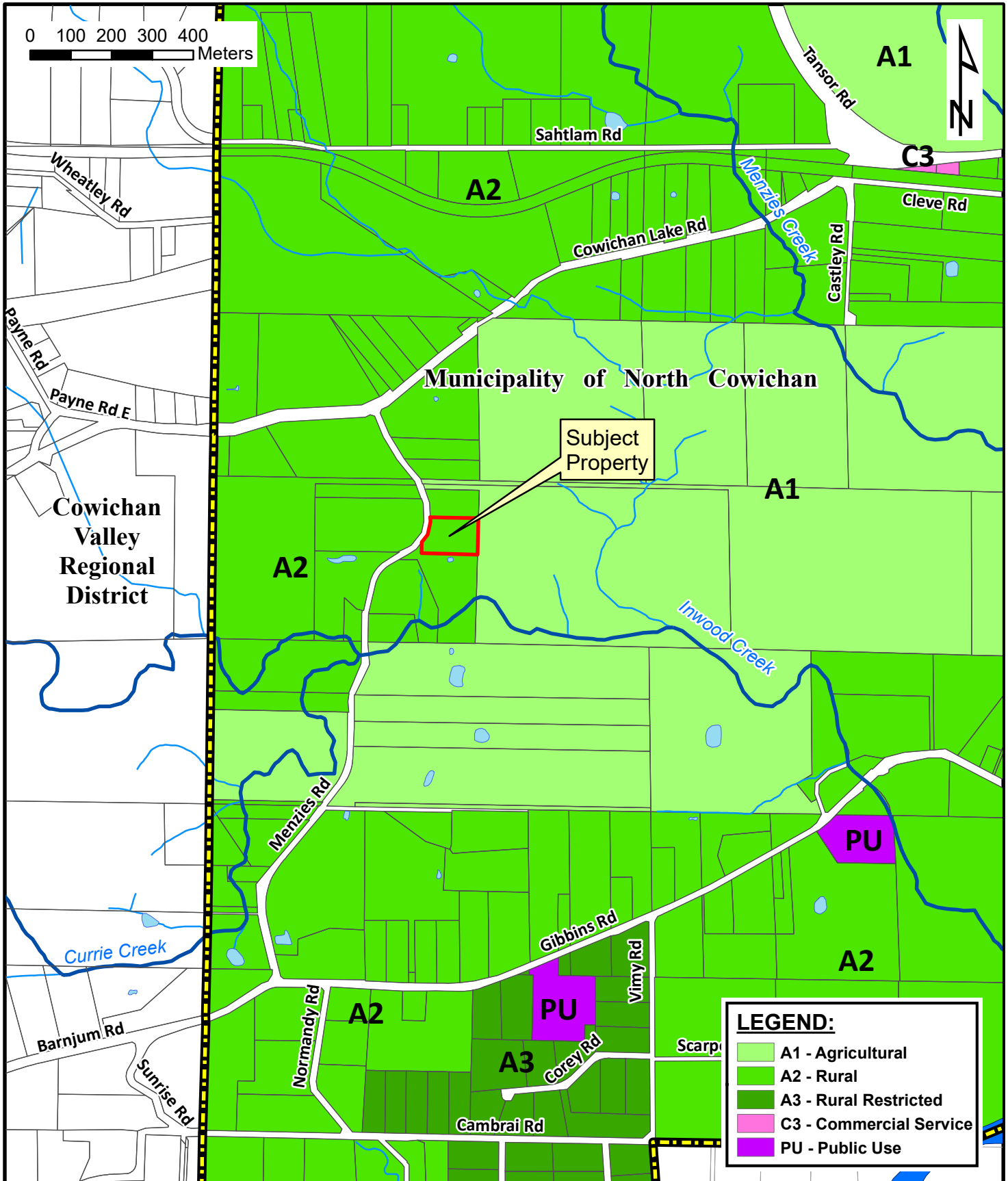
Attachments:

- Attachment 1 - Location Map
- Attachment 2 - Orthophoto
- Attachment 3 - Zoning Map
- Attachment 4 - Site Plan
- Attachment 5 - Z240-Mobile Home Specs 2020-06-03
- Attachment 6 - Site Photos
- Attachment 7 – Draft Permit





	ORTHOPHOTO MAP		DATE:	October 19, 2020
	(Orthophoto is from 2019 aerial photography)		TYPE:	Temp. Mobile Home Permit
	5855 Menzies Road		FILE#:	TTP00079



SITE PLAN SHOWING PROPOSED LOCATION OF MODULAR HOME ON

LOT B, SECTION 18, RANGE 1,
QUAMICHAN DISTRICT,
PLAN 20732.

SCALE 1 : 750

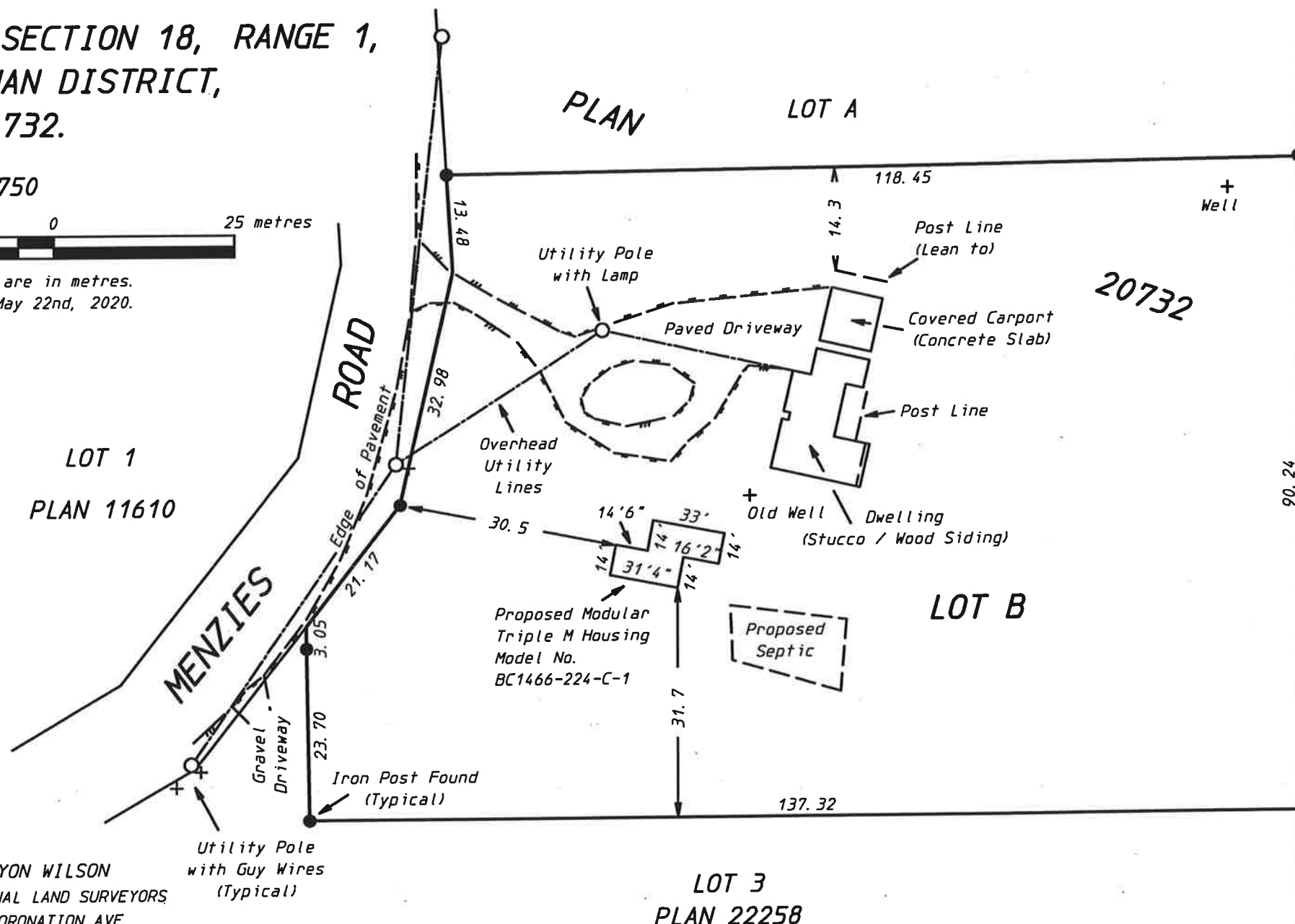


All distances are in metres.
Field Survey May 22nd, 2020.

ATTACHMENT 4

Note: Lot B lies within the Corporation of the
District of North Cowichan and is Zoned R-2.
Bylaw setback requirements are as follows:

Single & Two Family Buildings	
Front	6.0 m
Side	3.0 m
Rear	8.0 m
Mobile Homes	
Front	30.0 m
Side	12.0 m
Rear	12.0 m
All Other Principal Buildings	
Front	25.0 m
Side	15.0 m
Rear	15.0 m
Accessory Buildings & Structures	
Front	8.0 m
Side	3.0 m
Rear	8.0 m



KENYON WILSON
PROFESSIONAL LAND SURVEYORS
221 CORONATION AVE.

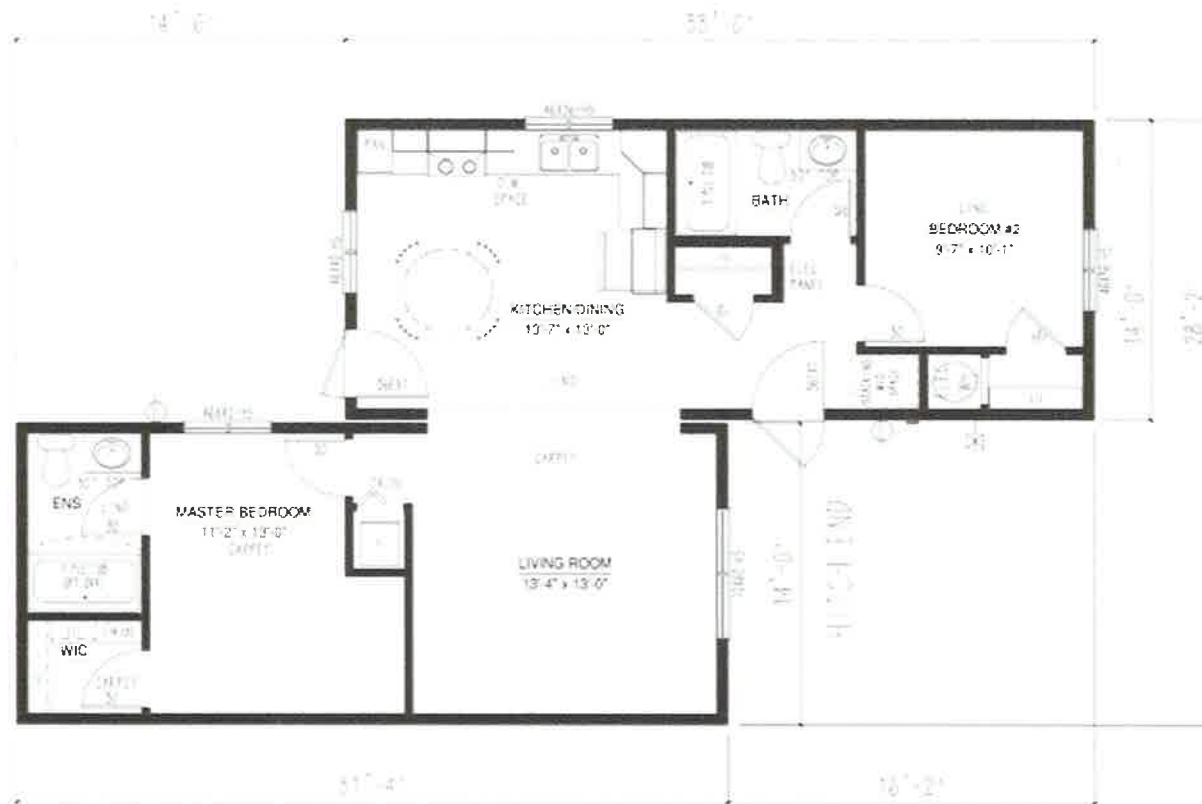
DUNCAN, B.C. V9L 2T1 (250) 746-4745
FILE 20-8601.MN2 May 29th, 2020

BC1466-224-C-1

- 924 sqft.
- 2 Bedroom
- 2 Bathroom



Attachment 5



Triple M Housing Ltd. reserves the right to modify plans and/or specifications at any time without notice. Due to provincial and/or other design requirements some variance in standard features may occur. Some items shown may be optional.

**BC SINGLE WIDE HOMES
14' SERIES (14' BOX)**

Built to the Residential CSA, Z-240 standards



CONSTRUCTION STANDARDS

4/12 roof pitch (1.75 interior pitch) @ 24" O/C
15/32" roof sheathing
Ground Snow Load: 80psf
Residential, maintenance free vinyl siding
Lifetime Warranty* shingles w/full underlayment
Engineered tubular steel frame with hitch
Floor joists: 2 x 8 @ 16" O/C
3/8" exterior wall sheathing (glued & fastened)
House wrap
Colored metal fascia & soffit
Triple M rigid ext. wall system w/ insulated header
Frost free tap (shipped loose)
Dedicated receptacle for heat tape at kitchen sink
23/32" floor sheathing (glued & fastened)
8' walls (2x6 exterior / 2x4 interior)
12" front and rear eave overhang
1.5" perimeter side eaves w/ ridge venting
6 mil vapor barrier
Insulation:
 Ceiling: R-40 Flat / R35 Cathedral
 Floor: R-31
 Walls: R-22
Rufftex ceiling finish
Vaulted ceiling – living room, dining room,
 kitchen & family room (plan specific)
Carpet with upgrade underlay in living
 room, family room and master bedroom
Foam-back linoleum (fully glued & rolled)
 remainder of home
Convertible gas furnace with electronic ignition
Coil cavity under furnace
40 US gallon electric HWT
Plumbed for washer, wired for dryer
100-amp electric service panel
1 1/2" conduit from draw side of panel through floor
Arc fault breakers
36" front and 32" rear exterior doors
Screen doors
White Clermont bi-folds at closets (plan specific)
White Clermont interior doors
32" utility room door
Standard Carriage Light & GFI receptacles at all
 Exterior doors (shipped loose)

Braided water lines at sinks & toilets
Main water shut-off inside home at kitchen sink
All fans & vents through roof

DISTINCTIVE STANDARD FEATURES

Low E Argon windows & sills complete w/screens
Craftsmen accent boards around standard windows
 (front and curbside)
1/2" vinyl drywall panels with taped seams
Straight roof line
Cordless cellular blinds throughout
Décor Switches
River Dinette Light in Dining Room
LED lighting throughout
Continuous rod shelving in closet

MODERN CRAFTED KITCHENS

Black 30" deluxe range with power range hood
Black 18 cubic ft. frost free fridge
Adjustable track lighting (2)
Modular cabinets with adjustable shelving
Spacious pantry in kitchen (where applicable)
PVC cabinet doors with soft-close hinge
Crown molding on cabinets
Laminate countertops with self-edge
Tight weave pantry shelving
Single lever faucet with spray
Single-row subway tile backsplash

CONTEMPORARY BATHS

De-humidistat on main bath fan, all other fans
 on separate switch
1-Piece smooth back tub/shower combination in
main bath & ensuite
Single-row subway tile backsplash

OPTIONAL FEATURES

- Upgrade interior doors
- White Silk glass pantry door
- Garden doors
- A/C ready
- Full tile backsplash with decor insert
- Optional stainless steel, slate or white appliances
- Built-in dishwasher
- Nail holes in trim filled

Attachment 6 – Site Photos

Image 1 – View from Menzies Rd (facing the single family dwelling and the proposed)

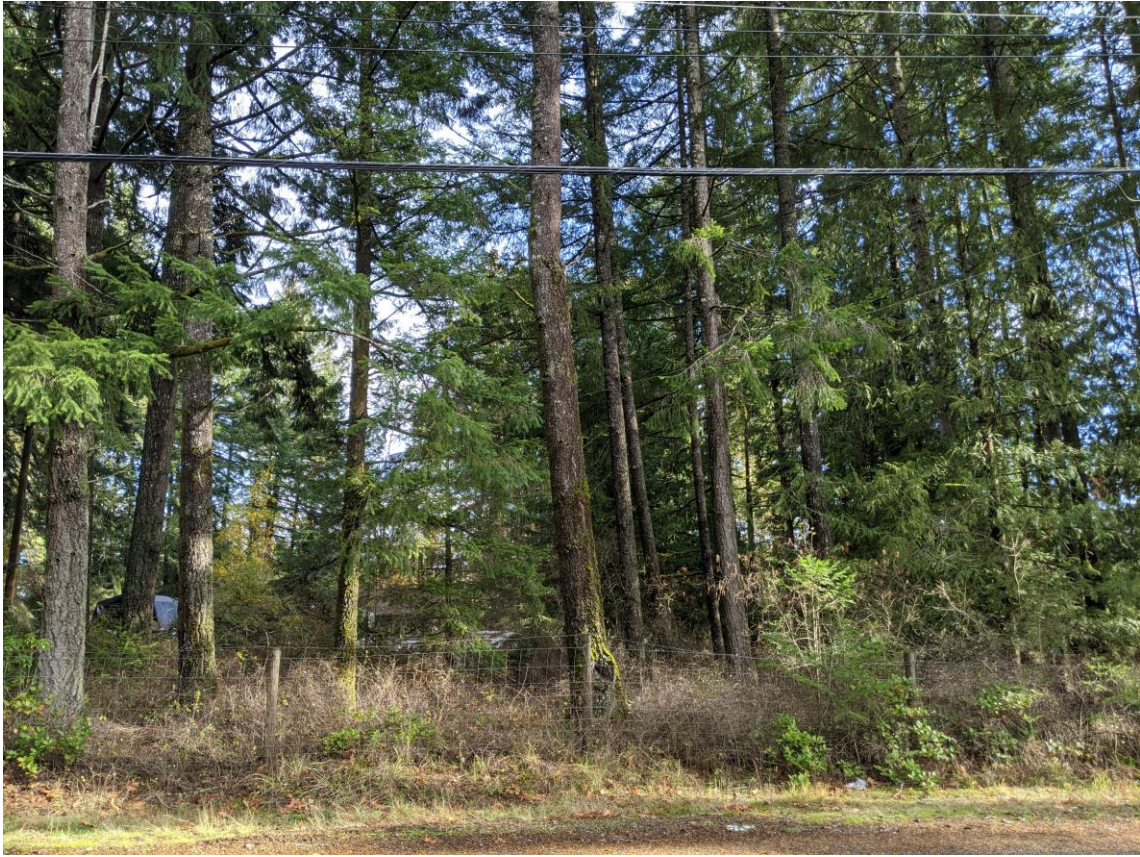


Image 2 – Proposed location (minimum disturbance)



Image 3 – Mobile home proximity to the Single Family Dwelling



TEMPORARY MOBILE HOME PERMIT

Permit No.	TTP00079/3070-20 20.01
Registered Owner	John Jupe
Subject Property	5855 Menzies Road
Description of Land	
• Parcel Identifier	003-574-415
• Folio	01768-000
• Legal Description	LOT B, SECTION 18, RANGE 1, QUAMICHAN DISTRICT, PLAN 20732
Name of Occupant	Kristy Clark
Relationship of Occupant	Owner's Step daughter
Source of Water	Municipal
Method of Sewage Disposal	Septic
Public Health Approval	Yes
Date of Council Approval	
Date of Permit Issuance	
Permit Expiry Date	December 31, 2020
Permit Fee Paid	\$600.00 - Paid

Pursuant to the provisions of Bylaw No. 1685 "Mobile Home Permit Bylaw 1978", and Bylaw No. 2950, as amended, the above-named property owner is hereby issued a permit for the occupancy of a mobile home for one-year from the date of issue, for the following purpose:

Reason for Permit: - to accommodate a child and child's family

All permits authorized are for a one year period unless otherwise specified, and may, but not necessarily, be approved for renewal for further periods by the Municipal council upon written application. Issuance date is always January 1 of the year in which the permit was approved.

PLEASE NOTE this permit is not transferable. If property ownership is transferred or the use for which the mobile home was assigned changes, you must notify the Municipal Office immediately. The mobile home must then either be removed from the property or a new permit application is to be submitted to Mayor and Council.

The subject property is in the Agricultural Land Reserve. The use and development of the property for a mobile home must comply with all applicable policies and regulations of the Agricultural Land Commission.

This permit is not a building permit. A valid permit must be obtained prior to placing a mobile home on the property.

Permit Authorized By:


Rob Conway, MICP, RPP
Director of Planning and Building

SCHEDULE 1 – TTP00079 Site Plan

SCHEDULE 2 – TTP00079 Owners Letter of Assurance

SCHEDULE 2
TTP00079 LETTER OF ASSURANCE

Report

Date	December 2, 2020	File: 0570-01
To	Council	
From	Tricia Mayea, Deputy Corporate Officer	Endorsed: 
Subject	2021 Council, Public Hearing and Committee of the Whole Meeting Schedule	

Purpose

To present the 2021 Council, Public Hearing and Committee of the Whole meeting schedule for Council's consideration.

Background

Pursuant to Section 127 of the *Community Charter* [notice of council meetings], and Section 4 of the Council Procedure Bylaw, Council must prepare annually on or before December 21, a schedule of the dates, times and places of regular Council meetings for the following year. The schedule must then be advertised in accordance with Section 94 of the *Community Charter* [requirements for public notice] and made available to the public by posting it at the public notice posting places (i.e. the notice board at the main entrance of the Municipal Hall and the municipal website).

Historically, Council has cancelled the first meetings in January, July and August, recognizing that there would likely be very little business included on those agendas due to the holiday season and summer vacations. Other changes to the schedule have occurred where there has been a conflict with the meeting schedule and the FCM, UBCM, AVICC, and/or LGLA conference or seminar.

In addition, Council established a "regular" Committee of the Whole (COW) meeting schedule for July to December 2020, at the June 17, 2020, Council meeting. It was determined that COW meetings would occur on the second Tuesday of every month beginning at 6:00 p.m. and that Council would revisit this at the end of the year to determine whether to amend the Council Procedure Bylaw to schedule regular COW meetings on a continual basis. As the Council Procedure Bylaw review is scheduled for early 2021, staff is proposing that the COW meetings continue every second Tuesday until that Bylaw is revised.

Discussion

The Council Procedure Bylaw states that meetings must be held on the first and third Wednesday of each month at 1:30 p.m. When a regular council meeting falls on a statutory holiday, the meeting must be held on the next day the Municipal Hall is open following the statutory holiday. If a meeting is cancelled or rescheduled to another date that is not due to a holiday, then Council must adopt a motion with a vote of at least 2/3 of members present for those changes to occur (e.g. if there are 7 members present then at least 5 must vote in the affirmative, if 5 or 6 members are present, then the vote must be at least 4 in favour).

With the review of the Council Procedure Bylaw being scheduled for early 2021, staff is proposing that the COW meetings continue every second Tuesday until the Bylaw is revised.

The attached 2021 North Cowichan Council, Public Hearing and COW Schedule continues with current practice; however, staff recommends that Council reschedule the following meetings:

- January
 - Move the first Council meeting in January to Wednesday, January 13, 2021, to take into consideration the holiday season and enable business items that cannot wait until January 20, 2021, to be considered by Council.
- February
 - To bring the first Council meeting in February forward one day to Tuesday, February 2, 2021, as the first Wednesday in February (February 3) conflicts with the LGLA Conference scheduled for February 3-4, 2021.
- July/August
 - Following past practise, cancel the first meeting in July and August, to lessen the impact of Council and/or staff missing meetings while on summer vacation. Should an urgent matter arise that cannot wait until the next regular meeting, Council may call a Special meeting by giving at least 24 hours notice.
- September
 - Move the second Council meeting in September to Wednesday, September 22, 2021, due to the conflict with the UBC Convention taking place September 13 – 17, 2021.
 - If Council resolves to continue with the regular COW meetings on the second Tuesday of the month, staff recommends that the COW meeting in September be scheduled on the first Tuesday of the month as the second Tuesday conflicts with the UBC Convention.

Other *potential* meeting postponements for Council's consideration:

- April and November
 - Statutory holidays falling on April 2, 2021, and November 11, 2021, occur within the agenda finalization period and can pose significant challenges for staff reports to go through the review and approval process while meeting the deadline to publish the agenda. Moving the April 7, 2021, and November 17, 2021 meetings to the following Wednesdays may reduce the impacts to these deadlines.

The 2021 Council Conference Schedule is as follows:

- Local Government Leadership Academy (LGLA)
The LGLA will be held virtually from February 3 – 4, 2021.
- Association of Vancouver Island Coastal Communities (AVICC)
The AVICC is going ahead with plans to hold the 2021 Convention as an in-person event in Nanaimo from April 16 – 18, 2021, at the Vancouver Island Conference Centre. The AVICC will monitor the orders of the Provincial Health Officer and if necessary the Convention will be held virtually.
- Federation of Canadian Municipalities (FCM)
Staff have confirmed with FCM that the tentative dates for the 2021 FCM Convention are as follows:

- June 3 – 6, 2021, if the convention is held virtually, or
- June 10 – 13, 2021, in Montreal if the convention can be held in-person.

The attached schedule was created with the assumption that the FCM Convention will be held virtually from June 3 – 6, 2021. If this changes to an in-person event, Council would need to lift their suspension, made March 18, 2020, on all travel for conferences. A report would be brought to Council at that time and then staff would update the schedule on the website and in Council calendars.

- Union of BC Municipalities (UBCM)

The 2021 UBCM Convention is scheduled to be held in-person the week of September 13 – 17, 2021, in Vancouver (see note above regarding conference travel). This is subject to change depending on orders of the Provincial Health Officer.

- Vancouver Island Economic Alliance (VIEA)

The VIEA Summit is scheduled to be held from October 26 – 28, 2021. Details regarding whether the Summit will be held in-person or virtually are not available at this time.

Options

Option 1 (Recommended):

That Council approve the “2021 North Cowichan Council, Public Hearing and COW Schedule” as presented, and that public notice be provided in accordance with section 5 of the Council Procedure Bylaw and section 94 of the *Community Charter*.

Option 2:

In addition to what was recommended under Option 1, postpone the first regular Council meeting in April and the second regular meeting in November to provide staff with additional time to meet agenda publishing deadlines. To move this option, Council would include the following two bullet points to motion 2 under the Recommendation:

- the first Regular Council meeting in April from 1:30 p.m. on Wednesday, April 7, 2021, to 1:30 p.m. on Wednesday, April 14, 2021
- the second Regular Council meeting in November from 1:30 p.m. on Wednesday, November 17, 2021, to 1:30 p.m. on Wednesday, November 24, 2021

Implications

If Council chooses to adopt the 2021 meeting schedule, as presented, there will only be one Council meeting held in July and one held in August, so Council may be required to schedule a Special meeting to expedite any urgent business that may arise at that time.

Recommendation

1. That Council schedule regular Committee of the Whole meetings on the second Tuesday of each month in 2021, commencing at 6:00 p.m., with the exception of the September 2021 meeting, which shall be held on the first Tuesday (September 7, 2021) at 6:00 p.m.
2. That Council reschedule the following regular Council meetings:

- first meeting in January from 1:30 p.m. on Wednesday, January 6, 2021, to 1:30 p.m. on Wednesday, January 13, 2021;
 - the first meeting in February from 1:30 p.m. on Wednesday, February 3, 2021, to 1:30 p.m. on Tuesday, February 2, 2021; and
 - the second meeting in September from 1:30 p.m. on Wednesday, September 15, 2021, to 1:30 p.m. on Wednesday, September 22, 2021
3. That Council cancel the July 7, 2021, and August 4, 2021, Regular Council meetings.
 4. That Council approve the “2021 North Cowichan Council, Public Hearing and COW Schedule” as presented, and that public notice be provided in accordance with section 5 of the Council Procedure Bylaw.

Attachment: 2021 North Cowichan Council, Public Hearing and COW Schedule

January 2021						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February 2021						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

March 2021						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April 2021						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

May 2021						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

June 2021						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

July 2021						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August 2021						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

September 2021						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October 2021						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November 2021						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December 2021						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

2021						
Council Meetings						
Council Meetings/Public Hearings						
Committee of the Whole						
Statutory Holidays						
Council Conferences						
LGLA February 3-4 (Virtual Platform)						
AVICC April 16-18 (Nanaimo)						
FCM June 3-6 (Virtual Platform) Note: if convention is changed to an in-person event, it will take place in Montreal, June 10-13.						
UBCM September 13-17 (Vancouver)						
VIEA October 26 – 28 (Unknown)						

Meeting Times:

Council Meetings:	1:30 pm
Public Hearings:	6:00 pm
Committee of the Whole:	6:00 pm

Deputy Mayor Schedule:

Tek Manhas – Nov. 1, 2020 – June 30, 2021
 Rosalie Sawrie – July 1, 2021 – Feb. 28, 2022
 Debra Toporowski – March 1, 2022 – Oct. 31, 2022

Report

Date November 24, 2020

To Council

From M. Frame, General Manager, Financial and Protective Services

Subject RCMP Office Supervisor/Police Support Services

File:

Endorsed:



Purpose

To request the establishment of an RCMP Office Supervisor/Police Support Services position in the 2021 Budget.

Background

North Cowichan/Duncan RCMP Detachment includes a blend of municipal and provincial administrative support staff. A single provincial Office Manager resource supervises the administrative support staff. However, with increasing human resource management demands, financial administration requirements and increasing building issues, the sustainability of one resource effectively managing all these areas is no longer viable. The duties of the current Provincial Office Manager are unmanageable for a single resource. The Provincial Office Manager is retiring in December and it is highly unlikely that the new provincial resource will continue to supervise municipal employees.

Discussion

Efficiencies would be gained through consistency of supervision by an Office Supervisor who has enhanced knowledge of municipal human resource policies and who can focus more time on municipal issues as they arise.

It is no longer feasible for the Provincial Officer Manager to manage both the municipal and public services employees. A single Office Manager resource cannot meet the needs of the new Performance Management System the municipality is seeking to implement. With these additional duties, employees' supervision and the management of their duties would be compromised; current building needs are taking precedent over human resource issues. The NCO i/c Ops needs to be relieved of their human resource duties with respect to the guards, as the NCO i/c Ops oversight is needed for operational areas. The cells present a high risk area and the human resource management of the guards needs to be addressed. Status quo is no longer a viable option.

This position was first requested in 2019 and was initially approved by Council in 2020. However, it was deferred to the 2021 budget considerations in response to the COVID pandemic.

Options

Option 1: Council direct staff to include an RCMP Office Supervisor/Police Support Services position in the 2021 Budget effective January 1, 2021.

Option 2: Council does not support an RCMP Office Supervisor/Police Support Services position.

Implications

- The financial implications will be minimal as the existing three days per week part-time position would be converted into the proposed position. And additional savings will be realized under the RCMP contract (primarily in less use of reservists in 2021 and beyond).
- Without this position these duties will fall to the NCO i/c Ops, which is not an efficient use of this Officer's time.

Recommendation

That Council direct staff to include an RCMP Office Supervisor/Police Support Services position in the 2021 Budget effective January 1, 2021

Municipality of North Cowichan Committee of the Whole MINUTES

**November 24, 2020, 6:00 p.m.
Electronically**

Members Present

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

Staff Present

Ted Swabey, Chief Administrative Officer (CAO)
Sarah Nixon, Deputy Chief Administrative Officer (D/CAO)
Mark Frame, General Manager, Financial and Protective Services
David Conway, Director, Engineering
Clay Reitsma, Senior Manager, Engineering
Don Stewart, Director, Parks and Recreation
Rob Conway, Director, Planning and Building
Shawn Cator, Director, Operations
George Farkas, Director, Human Resources and Corporate Planning
Walter Wiebe, Senior Manager, Financial Services
Jason Birch, Chief Information Officer
Megan Jordan, Manager, Communications and Public Engagement
Jamie Goodman, Manager, Budgets and Infrastructure
Marla Laycock, Human Resources Advisor
Rohan Bender, Health, Safety and Disability Management Advisor
Chris Bear, Inspector North Cowichan / Duncan RCMP
Michelle Martineau, Corporate Officer
Tricia Mayea, Deputy Corporate Officer

1. CALL TO ORDER

There being a quorum present, the Chair called the meeting to order at 6:07 p.m.

2. APPROVAL OF AGENDA

Council added one late item [Webex discussion] to the agenda under New Business Item 5.1.

IT WAS MOVED AND SECONDED:

That the Committee of the Whole agenda be adopted as amended.

CARRIED

3. PUBLIC INPUT

The Committee received no submissions via email prior to the meeting and there were no public attendees at that time.

4. BUSINESS

4.1 Presentation of Departmental Business Plans

An opening presentation provided an overview of the departmental business plan presentations; highlighting the purpose and content of the plans, the 2021 budget schedule, the business planning process and what is new in the 2021 plans.

The Committee received the following staff presentations:

- CAO Office Departmental Business Plan
- Human Resources and Corporate Planning Department Business Plan
- Financial Services Business Plan
- RCMP Departmental Business Plan
- Information Management and Information Technology Business Plan
- Operations Department Business Plan
- Parks and Recreation Departmental Business Plan

Highlights from each presentation included:

- Organizational structure
- Staffing levels
- Department focus
- Overview of the core areas of business
- COVID-19 impacts
- Projected business plan deliverables
- Statistical information
- Operational budget – supplemental budget requests
- Operating budget
- Capital budget
- Climate emergency priorities
- Key performance indicators

Details of the departmental business plan presentations were included in the agenda package that was published to the District's website.

IT WAS MOVED AND SECONDED:

That the meeting be extended until 10:00 p.m.

CARRIED

IT WAS MOVED AND SECONDED:

That the meeting be extended until 11:00 p.m.

CARRIED

4.1.1 Information Report for 2021 Procurement Position Request

4.1.2 RCMP Office Supervisor/Police Support Services

IT WAS MOVED AND SECONDED:

That the Committee of the Whole recommends:

That Council direct staff to include a RCMP Office Supervisor/Police Support Services position in the 2021 Budget effective January 1, 2021.

CARRIED

5. NEW BUSINESS

5.1 Webex Discussion

The impacts of the COVID-19 pandemic on how meetings are being administered using the Webex platform was discussed.

6. QUESTION PERIOD

Councillor Manhas called for a recess at 10:19 p.m. to allow viewers to submit questions via email or verbally online on the matters discussed during the meeting. One question had been submitted in relation to item 4.1 when the meeting reconvened at 10:30 p.m.

7. ADJOURNMENT

IT WAS MOVED AND SECONDED:

That the meeting be adjourned at 10:32 p.m.

CARRIED

Certified by Corporate Officer

Signed by Mayor

Council Member Motion

Notice given on: Wednesday, November 18, 2020

Meeting Date Wednesday, December 2, 2020

From Councillor Douglas

Subject Affordable Housing

Background

There is a critical lack of affordable housing in North Cowichan, for both rental and ownership. The situation has grown steadily worse over the last decade as market conditions have changed in cities and towns across BC and Canada.

- Of 3,185 renter households in North Cowichan, 45 percent (or 1,400+ households) are spending over 30% of their income on rent and utilities, which is the Canada Mortgage and Housing Corporation threshold for housing affordability. Twenty-percent of renter households (630+ households) are spending over 50% of their income on rent and utilities.
- There is a shortage of rental housing stock in the Cowichan region. Between 2013 and 2017 the rental vacancy rate decreased from 8.6% to 2.8%, and October 2019 rental market data shows an average vacancy rate of 1%, lower than Vancouver.
- Analysis from the BC Non-Profit Housing Association found that 2,200+ households in the Cowichan region have unmet affordable housing needs, because of a backlog of affordable rental housing (750 units for low/moderate income levels) plus 1,500+ households in need of income support for housing.
- Home ownership is increasingly out of reach. The benchmark sales price for a single-family home in the region is skyrocketing, and as of October 2020 is \$498,400, up from \$302,300 at the same time in 2015. Meanwhile the benchmark sales price of an apartment is now \$232,500, up from \$130,100 five years ago, while the sales price of a townhouse is \$410,100, up from \$181,500 five years ago.
- The current housing market is not aligned with local need. The median household income for North Cowichan is slightly over \$64,000 (Census 2016), less than the provincial average. Based on current lending rates and benchmark sales prices, the median income would not qualify the typical household for single-family dwelling or townhouse.

The Municipality of North Cowichan currently has policies in its Official Community Plan (OCP) to encourage affordable housing, including policies 2.5.2.2, 2.5.2.3 and 2.5.2.4, which were designed to maintain existing affordable housing, support the development of new market forms of affordable housing for rent and purchase, and support initiatives to augment the amount of non-market housing.

The Municipality has had some success with these policies, including partnering with the Community Land Trust of BC to build 114 non-market rental units on municipal land, and negotiating a per-door affordable housing contribution for the 1,300+ unit Kingsview development. However, these policies have not been adequate to address the critical shortage of affordable housing stock, and are not as rigorous as other municipalities in BC, including Nanaimo and Victoria.

North Cowichan is currently re-writing its OCP, and this provides an opportunity to strengthen existing affordable housing policies. However, there are advantages for a Municipality to have a stand-alone affordable housing policy separate from the OCP that will include more detailed policies that can be adjusted as conditions change. North Cowichan could consider a wide range of tools already implemented in other municipalities across BC (see Attachment 1). Cowichan Housing Association has expressed a willingness to support this work as appropriate and in collaboration with municipal staff.

Recommendation

That Council direct staff to work with the Cowichan Housing Association to develop an affordable housing policy and implementation strategy.

Attachment: Affordable Housing Policy Options for North Cowichan

Affordable Housing Policy Options for North Cowichan

Policy Tool	Notes
Define affordable rental housing	For example, define "affordable rental housing" in municipal policies as housing that: a) costs 30% or less of the Cowichan region's monthly median household income; or b) is at least 30% below market rent in the Cowichan region (whichever is lower). Addresses issue of projects presented as "market affordable" without any clear definition (see the BC Government Employee Union's 30% Formula).
Fast Track applications for affordable rental housing	Accelerate permitting and approval processes for construction of affordable rental housing projects. Recommended in the Cowichan Attainable Housing Strategy , which calls for local government to support attainable housing by "fast-track[ing] complete applications for affordable housing projects."
Inclusionary zoning	For example, require all future density increases for moderate projects (≥ 10 units) to include at least 10% of total units as affordable, and for large projects (≥ 60 units) to include at least 20% of total units as affordable, to be accomplished using either inclusionary zoning or density trading. Exempt 100% purpose-built rental and 100% non-market. The City of Victoria's Inclusionary Zoning and Community Amenity Policy is a recent example that has already had success.
Community amenity contributions	For example, require all future density increases for smaller projects (< 10 units) to include a cash-in-lieu contribution set a reasonable amount per square foot of bonus floor space, with exemption for 100% purpose-built rental and 100% non-market housing.
Development cost waivers	Provide targeted incentives for affordable rental construction, including waivers for development permit fees, development cost charges and community amenity contributions. Recommended in the Cowichan Attainable Housing Strategy : "Development cost charge waiver bylaw for not-for-profit housing with an agreement to secure the housing affordability.""
10-year tax waivers	Introduce 10-year property tax waivers for public and non-market affordable rental housing construction. North Cowichan previously offered tax exemptions to residential housing developments with 100 or more units per hectare, and for supportive housing (not density specific) under the Revitalization Program Bylaw (repealed March 2019).
Municipal land provision/acquisition	Continue to pursue opportunities to build new affordable rental housing on existing municipal owned lands, and acquire new land for affordable rental housing, as recommended in the BC Housing Scan of Leading Practices and practiced in municipalities across BC.
Secondary suites/coach houses/accessory dwelling units	Reduce water/sewer fees for secondary suites and accessory dwelling units to encourage property owners to develop new and legalize existing secondary suites/accessory dwelling units, and thereby increase the affordable housing stock (see City of Nelson).

Residential Rental Tenure zoning	In recent years, provincial regulations were amended to allow municipalities to zone specifically to retain and encourage rental housing in their communities. Recommended in the Cowichan Attainable Housing Strategy , which suggests zoning bylaws to foster affordable housing development through residential rental tenure zoning.
Pre-zone land	Pre-zone areas of the Municipality for increased density with provisions for purpose-built rental and affordable housing (see recent examples in City of Coquitlam and City of Burnaby).
Parking requirements	Offset the added costs of providing new affordable housing by reducing parking requirements, and provide developers with opportunities build more floor space than normally allowed, in exchange for affordable housing. Recommended in Cowichan Attainable Housing Strategy , which suggests zoning bylaw to fostering affordable housing development by reducing parking requirements dependent on specifics of housing development.
Secured rental housing	Encourage projects where 100% of the residential rental units are secured for the life of the building through eligible incentives such as DCC waivers, parking requirements reductions, relaxation of unit sizes, and additional density beyond what is available under existing zoning. The City of Vancouver has such a policy .
Infill, intensification and densification	Encourage infill, intensification and densification in selected single-detached neighbourhoods, where appropriate to the form and character of existing neighbourhoods (e.g., single detached units with secondary suites, several attached or detached units on what was previously one or a few single detached lots, single detached units with coach-house type units above garages in the rear of the lot, and other similar form). See City of Nanaimo Affordable Housing Strategy .
Family-friendly housing	Encourage the construction of larger two and three bedroom units appropriate for larger and/or extended families within new multi-unit residential developments. See, for example, City of New Westminster's Family-Friendly Housing Policy , that requires minimum of 30% two- and three-bedroom units, and that at least 10% of the total units in a project be three-bedrooms or more. It also requires that multi-unit rental projects include a minimum of 25% two and three-bedroom units, and that at least 5% of the total project units be three bedrooms or more.
Tenant relocation	Ensure that tenants impacted by redevelopment and demolition are adequately notified and compensated and provided with assistance in finding new housing. Under the City of Vancouver's policy , tenants are provided with compensation based on years of tenure, assistance fund alternate accommodations, and right of first refusal to return to the new or renovated building at 20% below market rents.
Partner with land trusts, co-ops and not-for-profit housing providers	Recommended by BC Housing and the BC Non-Profit Housing Association, land trusts are one arrangement of land ownership that is underpinned by an organization with a built-in desire to create

	permanently affordable housing. Land trusts often maintain ownership of the land while making it available for housing through land lease or housing rental agreements with co-op and non-profit housing providers, to ensure long-term control of the land. (See BCNPHA's Affordable Housing Plan and BC Housing's Scan of Leading Practices).
Pet policy	Support policies and practices that allow renters to keep pets, including actively supporting efforts and advocate for changes at the provincial level (see Nanaimo Affordable Housing Strategy).
Speculation tax	Advocate for the provincial government to include the Cowichan region in the Speculation and Vacancy Tax , to discourage housing speculation and people from leaving homes vacant. Currently the Capital Regional District and the City of Nanaimo are designated as taxable regions.
Rental replacement policies	Replacement policies can establish a ratio of replacement for every affordable or rental unit demolished. Frequently, this is a one-to-one ratio. Municipalities can ensure these ratios are protected within their development and rezoning policies (see City of Surrey Rental Replacement Policy).
Pre-approved coach house designs/Best design practices	Develop a number of designs for coach houses such that, if a homeowner selects one of these, the length of the approval process could be reduced (see Nanaimo Affordable Housing Strategy). Alternatively, develop best practices for designing coach houses (see District of North Vancouver's Coach House How-to Guide).