

**A REGULAR MEETING
OF THE TOWN OF LADYSMITH COUNCIL
AGENDA
7:00 P.M.**

Tuesday, October 25, 2022
Ladysmith Seniors Centre
630 2nd Avenue

Pages

1. CALL TO ORDER AND ACKNOWLEDGEMENT

The Town of Ladysmith acknowledges with gratitude that this meeting takes place on the traditional, unceded territory of the Stz'uminus First Nation.

Members of the public may attend the meeting in person at the Ladysmith Seniors Centre or view the livestream on YouTube:

<https://www.youtube.com/channel/UCH3qHAExLiW8YrSuJk5R3uA/featured>.

2. AGENDA APPROVAL

Recommendation

That Council approve the agenda for this Regular Meeting of Council for October 25, 2022.

3. MINUTES

3.1. Minutes of the Regular Meeting of Council held October 4, 2022

6

Recommendation

That Council approve the minutes of the Regular Meeting of Council held October 4, 2022.

4. PROCLAMATIONS

4.1. Colour the World Orange, Complex Regional Pain Syndrome/Reflex Sympathetic Dystrophy Awareness

11

Mayor Stone has proclaimed Monday, November 7, 2022 as Complex Regional Pain Syndrome/Reflex Sympathetic Dystrophy Awareness Day in the Town of Ladysmith.

5. DEVELOPMENT APPLICATIONS

5.1. Development Variance Permit Application 3090-22-09 – 616 Walkem Road 12

Recommendation

That Council issue Development Variance Permit 3090-22-09 to vary section 6.4 (a)(ii) of “Town of Ladysmith Zoning Bylaw 2014, No. 1860” to allow a secondary suite with a maximum gross floor area of 100m² at 616 Walkem Road (Lot 30, District Lot 96, Oyster District, Plan 28585).

5.2. Development Permit Application 3060-21-27 – 1144 Rocky Creek Road 19

Recommendation

That Council issue Development Permit 3060-21-27 for an industrial development at 1144 Rocky Creek Road (Lot D District Lot 38 Oyster District Plan EPP36585), subject to the applicant providing a landscaping bond in the amount of \$8,960.

6. BYLAWS - OFFICIAL COMMUNITY PLANNING AND ZONING

6.1. Zoning Bylaw Amendment Application – Lot B Russell Road 32

Recommendation

That Council:

1. Not hold a public hearing for “Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 49) No. 2113”, in accordance with section 464(2) of the *Local Government Act*;
2. Direct staff to proceed with notification that a public hearing will not be held for “Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 49) No. 2113” in accordance with section 467 of the *Local Government Act*;
3. Require that the developer, at their cost and using the Town’s legal counsel, register on the title of the subject property prior to adoption of Bylaw No. 2113 (Lot B District Lot 67 Oyster District Plan EPP51928 Except Plan EPP89399), a covenant in favour of the Town pursuant to section 219 of the *Land Title Act*, for the purpose of tree retention, protection and management as described in this report;
4. Require that the property owner, prior to adoption of Bylaw No. 2113, provide cash in the amount of \$2000 to be deposited into the Town’s Amenity Reserve Fund; and
5. Endorse that the Town Engineer may approve a variance to the Town’s Engineering Standards and Specifications for the Urban Local right-of-way width for the section of proposed road on Lot

B District Lot 67 Oyster District Plan EPP51928, as shown on Attachment B, to accommodate road requirements within a 10-11m road dedication.

7. COMMITTEE MINUTES

7.1. Community Planning Advisory Committee - October 5, 2022

78

Recommendation

That Council receive the minutes of the Community Planning Advisory Committee meeting held October 5, 2022.

8. 2023-2027 FINANCIAL PLAN DISCUSSIONS - WATER & SEWER OPERATING & CAPITAL BUDGETS

8.1. Presentation and Council Discussion

8.2. Public Input and Questions

8.3. Water and Sewer 2023 Budgets

80

Recommendation

That Council:

1. Approve the inclusion of an additional position of Equipment Operator 2 into the 2023-2027 Financial Plan;
2. Direct staff to amend the "Sewer Rates Bylaw 1966, No. 422, Amendment Bylaw 1999, No.1360" to include a 2.5% increase to the rates;
3. Direct staff to prepare the 2023 sewer parcel tax bylaw at \$360 per parcel;
4. Direct staff to amend the "Waterworks Regulation Bylaw 1999, No.1298" to include a 5% increase to the rates; and
5. Confirm the 2023 water parcel tax bylaw at \$459 per parcel.

9. REPORTS

9.1. Official Results of the Town of Ladysmith 2022 General Local Election

93

Recommendation

That Council receive the report from the Chief Election Officer dated October 25, 2022 regarding the Official Results of the Town of Ladysmith 2022 General Local Election.

9.2. Appointment of Corporate Officer 96

Recommendation

That Council appoint Matt O’Halloran as Corporate Officer, effective Monday, November 14, 2022.

9.3. High Street Watermain Replacement Tender Award 98

Recommendation

That Council:

1. Amend the 2022-2026 Financial Plan to include the revised project budget of \$290,00 for the High Street Watermain project, with the additional funds of \$125,000 to come from deferring the Oyster Bay Drive Watermain project; and
2. Award Tender 2022-IS-13 to Milestone Equipment Contracting Inc. in the amount of \$246,184, excluding GST.

9.4. 2023 Community Public Art Banner Theme 101

Recommendation

That Council approve the theme “Connecting Ladysmith Through the Arts” for the 2023 Community Public Art Banner Program.

10. BYLAWS

10.1. Bylaw Status Sheet 103

11. NEW BUSINESS

12. QUESTION PERIOD

- A maximum of 15 minutes is allotted for questions.
- Persons wishing to address Council during "Question Period" must be Town of Ladysmith residents, non-resident property owners, or operators of a business.
- Individuals must state their name and address for identification purposes.
- Questions put forth must be on topics which are not normally dealt with by Town staff as a matter of routine.
- Questions must be brief and to the point.
- Questions shall be addressed through the Chair and answers given likewise. Debates with or by individual Council members or staff

members are not allowed.

- No commitments shall be made by the Chair in replying to a question. Matters which may require action of the Council shall be referred to a future meeting of the Council.

13. ADJOURNMENT



MINUTES OF A REGULAR MEETING OF COUNCIL

Tuesday, October 4, 2022

6:30 P.M.

Ladysmith Seniors Centre
630 2nd Avenue

Council Members Present:

Mayor Aaron Stone
Councillor Amanda Jacobson
Councillor Tricia McKay

Councillor Duck Paterson
Councillor Marsh Stevens
Councillor Jeff Virtanen

Council Members Absent:

Councillor Rob Johnson

Staff Present:

Allison McCarrick
Erin Anderson
Chris Barfoot
Jake Belobaba

Ryan Bouma
Trish McConnell
Donna Smith
Sue Bouma

1. CALL TO ORDER

Mayor Stone called this Meeting of Council to order at 6:31 p.m., in order to retire immediately into Closed Session.

2. CLOSED SESSION

CS 2022-235

That, in accordance with section 90(1) of the *Community Charter*, Council retire into closed session in order to consider items related to the following:

- (a) personal information about an identifiable individual who holds or is being considered for a position; and
- (c) labour relations or other employee relations.

Motion Carried

3. OPEN MEETING AND ACKNOWLEDGEMENT (7:00 P.M.)

Mayor Stone called the Regular Meeting of Council to order at 7:00 p.m., recognizing with gratitude that it was taking place on the traditional, unceded territory of the Stz'uminus First Nation.

He asked Councillor Paterson to speak about his experience with the Cops for Cancer Tour de Rock fundraiser, for which he raised over \$11,000 for childhood cancer by shaving his head. Councillor Paterson thanked everyone for their generosity and enthusiasm and noted that Ladysmith as a whole raised approximately \$36,000 for the cause.

Mayor Stone added that the Island Corridor Foundation golf tournament held at the Fairwinds Golf Course also raised just under \$70,000 for Cops for Cancer. He thanked the business community for their support with the silent auction.

4. AGENDA APPROVAL

CS 2022-236

That Council approve the agenda for this Regular Meeting of Council for October 4, 2022.

Motion Carried

5. RISE AND REPORT- Items from Closed Session

Council rose from Closed Session at 6:36 p.m. with report on the following:

- **CE 2022-068**

That Council:

1. As per Council Resolution CE 2013-171, provide in 2022 a 3.5% lump sum payment, based on 2021 compensation, for the Ladysmith Fire/Rescue Paid on Call Firefighters and Officers considered eligible as current and active personnel as of June 22, 2022; and
2. Rise and report on Recommendation No. 1 immediately.

6. MINUTES

6.1 Minutes of the Public Hearing and Regular Meeting of Council held September 20, 2022

CS 2022-237

That Council approve the minutes of the Public Hearing and Regular Meeting of Council held September 20, 2022.

Motion Carried

7. PROCLAMATIONS

7.1 Foster Family Month

Mayor Stone proclaimed October 2022 as "Foster Family Month" in the Town of Ladysmith.

7.2 Community Inclusion Month

Mayor Stone proclaimed October 2022 as "Community Inclusion Month" in the Town of Ladysmith.

8. COMMITTEE MINUTES

8.1 Committee of the Whole Recommendations - September 27, 2022

CS 2022-238

1. That Council refer the Community Banner Program Expansion to the next Council for review during its Strategic Planning process.
2. That Council:
 - (a) Direct staff to consult with the local business community regarding the impact of the single-use plastic proposed regulations being introduced by senior levels of government; and
 - (b) Report back to Council with the results and options for a single-use plastics bylaw incorporating best practices introduced by other municipalities.

Motion Carried

8.2 Poverty Reduction Task Group - August 22, 2022

CS 2022-239

That Council receive the minutes of the Poverty Reduction Task Group meeting held August 22, 2022.

Motion Carried

8.3 Parks, Recreation & Culture Advisory Committee - September 21, 2022

CS 2022-240

That Council receive the minutes of the Parks, Recreation & Culture Advisory Committee meeting held September 21, 2022.

Motion Carried

9. REPORTS

9.1 Colonia/Delcourt Active Transportation Project Tender

CS 2022-241

That Council:

1. Amend the 2022-2026 Financial Plan to include the revised project budget of \$870,000 for the Colonia/Delcourt Active Transportation project, with the additional funds to come from:
 - cancelling the Blaire Place Ocean Access project (\$20,000);
 - delaying two storm main projects: Kitchener to Gatacre; and French to Kitchener (total of \$67,005);
 - delaying the 2021 and 2022 bollard installation projects (\$56,055);
 - using \$250,000 from the Canada Community-Building Fund; and
 - using \$53,097 from appropriated equity; and
2. Award Tender 2022-IS-12 Colonia Drive & Delcourt Avenue Sidewalk & Traffic Calming project to Stone Pacific Contracting in the amount of \$788,311.16, excluding GST.

Motion Carried

10. BYLAWS

10.1 Bylaws for Adoption

10.1.1 "Official Community Plan Bylaw 2003, No. 1488, Amendment Bylaw (No. 70) 2022, No. 2102"

CS 2022-242

That Council adopt "Official Community Plan Bylaw 2003, No. 1488, Amendment Bylaw (No. 70) 2022, No. 2102".

Motion Carried

10.1.2 "Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 47) 2022, No. 2103"

CS 2022-243

That Council adopt "Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 47) 2022, No. 2103".

Motion Carried

10.1.3 "2023 Permissive Tax Exemptions Bylaw 2022, No. 2122"

CS 2022-244

That Council adopt "2023 Permissive Tax Exemptions Bylaw 2022, No. 2122".

Motion Carried

Mayor Stone declared a conflict of interest related to Item 10.1.4 as he is Chair of the Island Corridor Foundation and vacated the Chair and the meeting at 7:21 p.m.

Deputy Mayor Stevens assumed the Chair.

10.1.4 "10 Year Island Corridor Foundation Permissive Tax Exemptions Bylaw 2022, No. 2123"

CS 2022-245

That Council adopt "10 Year Island Corridor Foundation Permissive Tax Exemptions Bylaw 2022, No. 2123".

Motion Carried

Mayor Stone returned to the meeting at 7:22 p.m. and resumed the Chair.

10.2 Bylaw Status Sheet

11. QUESTION PERIOD

There were no questions submitted by the public.

12. ADJOURNMENT

As this is the last meeting before the October 15th election, Mayor Stone thanked the current Council for their service in the past term and expressed pride in their accomplishments, noting that these achievements were particularly significant given the challenging times they and the world had faced in the past two-and-a-half years.

CS 2022-246

That this Regular Meeting of Council be adjourned at 7:23 p.m.

Motion Carried

CERTIFIED CORRECT:

Mayor (A. Stone)

Corporate Officer (D. Smith)



TOWN OF LADYSMITH

PROCLAMATION

COMPLEX REGIONAL PAIN SYNDROME (CRPS/RSD) AWARENESS DAY

WHEREAS: *Complex Regional Pain Syndrome (CRPS), also known as Reflex Sympathetic Dystrophy (RSD), is a debilitating nerve condition characterized by continuous, intense burning pain that is out of proportion with the severity of the original injury and for which there is no cure, and which ranks as the most painful condition on the McGill Pain Scale; and*

WHEREAS: *Although CRPS was first identified in the 1800s, it remains a poorly understood condition and hard to diagnose; and*

WHEREAS: *The first Monday in November has been chosen as the day to spread awareness about this debilitating nerve condition that can cause swelling and extreme sensitivity to touch.*

THEREFORE, *I, Aaron Stone, Mayor of the Town of Ladysmith, do hereby proclaim November 7, 2022 as “CRPS/RSD Awareness Day” in the Town of Ladysmith, British Columbia.*

Mayor A. Stone

October 11, 2022

STAFF REPORT TO COUNCIL

Report Prepared By: Julie Thompson
Reviewed By: Jake Belobaba, RPP, MCIP, Director of Development Services
Meeting Date: October 25, 2022
File No: 3090-22-09
Re: Development Variance Permit Application 3090-22-09 – 616 Walkem Road

RECOMMENDATION:

That Council issue Development Variance Permit 3090-22-09 to vary section 6.4 (a)(ii) of “Town of Ladysmith Zoning Bylaw 2014, No. 1860” to allow a secondary suite with a maximum gross floor area of 100m² at 616 Walkem Road (Lot 30, District Lot 96, Oyster District, Plan 28585).

EXECUTIVE SUMMARY:

The applicant is proposing to construct a secondary suite in the basement of an existing single unit dwelling at 616 Walkem Road and has applied for a Development Variance Permit (DVP) because the proposed suite is larger than the maximum permitted secondary suite size. Staff recommend that DVP 3090-22-09 (Attachment A) be approved based on analysis of the impacts.



Figure 1: Subject property map. On-site parking areas located beside and in front of dwelling.

PREVIOUS COUNCIL DIRECTION:

N/A

INTRODUCTION/BACKGROUND:

The 983.1m² subject property is located at 616 Walkem Road, in a predominantly single-family residential neighbourhood with multi-family and institutional uses in the vicinity. The applicant is proposing to construct a secondary suite within the basement of the existing single unit dwelling on the subject property. Suites are a permitted use within the applicable zone, but the proposed suite is larger than the maximum permitted size in “Town of Ladysmith Zoning Bylaw 2014, No. 1860”, therefore a variance is required.

The applicant has provided a rationale letter which is attached (Attachment B).

DISCUSSION:

The subject property is designated Single Family Residential in “Official Community Plan Bylaw 2003, No. 1488” (OCP) and is zoned Single Dwelling Residential (R-1) in “Town of Ladysmith Zoning Bylaw 2014, No. 1860”. The proposed secondary suite is consistent with the OCP designation and is a permitted use within the R-1 zone.

Section 6.4(a)(ii) of the Zoning Bylaw limits the size of a secondary suite to a maximum gross floor area of 90m² or 40% of the single unit dwelling gross floor area, whichever is less. The applicant is proposing to construct a secondary suite within the entire lower level (the basement) of the existing dwelling. The size of the existing lower level is approximately 98m², exceeding the permitted suite area. As such, DVP 22-09 proposes to increase the allowable secondary suite size to 100m² for the subject property. The BC Building Code previously had size restrictions for secondary suites, but suite size restrictions were removed from the Code to enable the creation of more affordable housing and to provide local governments with more options for land use planning.¹

Analysis:

The subject property contains an existing parking area large enough for several on-site parking spaces (see Figure 1), more than are required by the Zoning Bylaw. A secondary suite is already permitted on the subject property, the proposed increase in suite size is minor, and the suite will contribute to affordable housing and rental stock within an existing mature neighbourhood. Based on this analysis, it is not expected that the proposal will create a negative impact in the neighbourhood, therefore staff recommend that DVP 22-09 be approved.

ALTERNATIVES:

Council can choose to:

1. Refuse issuance of DVP 3090-22-02.
2. Refer the application back to staff for further review as specified by Council.

FINANCIAL IMPLICATIONS:

N/A

LEGAL IMPLICATIONS:

The *Local Government Act* allows Council to vary Zoning Bylaw regulations excluding regulations for use, density and rental tenure through issuance of a DVP. Council may approve a variance to secondary suite size as proposed in this application.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

¹ https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/construction-industry/building-codes-and-standards/bulletins/b19-04_info_lgs_secondary_suite_code_changes_2019_12_13.pdf

Notice of the proposed variance was issued on October 14, 2022 in accordance with the requirements of the *Local Government Act* and “Town of Ladysmith Development Procedures Bylaw 2008, No. 1667”. The notice was mailed and delivered to property owners/residents within 60m of the subject property. At the time of writing, no submissions have been received.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The application has been referred to the Engineering and Building Inspection Departments. No concerns were noted.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input type="checkbox"/> Healthy Community | <input type="checkbox"/> Local, Diverse Economy |
| <input type="checkbox"/> Not Applicable | |

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|--|
| <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Economy |
| <input type="checkbox"/> Community | <input checked="" type="checkbox"/> Not Applicable |
| <input type="checkbox"/> Waterfront | |

I approve the report and recommendations.

Allison McCarrick, Chief Administrative Officer

ATTACHMENTS:

- A. DVP 3090-22-09
- B. Applicant Rationale Letter (June 15, 2022)



TOWN OF LADYSMITH DEVELOPMENT VARIANCE PERMIT

(Section 498 Local Government Act)

FILE NO: 3090-22-09

DATE: October 25, 2022

Name of Owner(s) of Land (Permittee): Bruce J Wegerif, Donna L Wegerif, Matthew E. Crosby and Sarah L. Crosby

Applicant: Bruce Wegerif

Subject Property (Civic Address): 616 Walkem Road

1. This Development Variance Permit is issued subject to compliance with all of the bylaws of the Town of Ladysmith applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Development Variance Permit applies to and only to those lands within the Town of Ladysmith described below and any and all buildings, structures and other development thereon:

Lot 30, District Lot 96, Oyster District, Plan 28585 - PID: 001-779-672 (616 Walkem Road)
3. Section 6.4.a) ii) "Secondary Suite Regulations" of the "Town of Ladysmith Zoning Bylaw 2014, No. 1860", as amended, is varied for the subject property to allow a *Secondary Suite* with a maximum *Gross Floor Area* of 100 square metres.
4. The land described herein shall be developed strictly in accordance with terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part thereof.
5. Notice of this Permit shall be filed in the Land Title Office at Victoria under s.503 of the *Local Government Act*, and upon such filing, the terms of this Permit or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
6. THIS PERMIT IS NOT A BUILDING PERMIT. No occupancy permit shall be issued until all items of this Development Variance Permit have been complied with to the satisfaction of the Corporate Officer.

AUTHORIZED BY RESOLUTION NO. _____ PASSED BY THE COUNCIL OF THE
TOWN OF LADYSMITH ON THE ____ DAY OF _____ 202__.

Mayor (A. Stone)

Corporate Officer (D. Smith)

DRAFT

Town of Ladysmith, Development Services Office

Subject: Rationale letter for Development Variance Permit Application

June 15, 2022

Dear Development Services staff,

We are submitting documents for a Development Variance Permit and a Building Permit to create a suite within the basement of our residence at 616 Walkem Road. We purchased the home in January of this year and took possession in April. We are applying for a DVP to request a variance to the allowable space for the suite.

The foremost purpose of purchasing this residence is to help our daughter, son-in-law and their children buy a home within Vancouver Island's tight and challenging real estate market. They have moved into the main upper floor and we will be the occupants of the lower level suite once renovations are complete.

Our primary intent, as grandparents, is to provide help with our grandkids while they are small. In return when we are much older and need help, the family will only be a few steps away. We do not see this as just "building a suite", but rather building housing for two families. When completed, there will be no physical communication between the two levels, neither is there a plan for any "shared" areas. Each family will occupy each floor independently.

Within the design of the suite, we plan to comply with the Town of Ladysmith's Suite guidelines. This is not an inexpensive undertaking. Highlights of our plans include, but are not limited to the following items:

- We will install separate HVAC systems. A new heat pump is installed and fully operational for the main floor. A similar independent heat pump system will be installed in the suite.
- We plan to install a tankless hot water heater with adequate capacity for both residences.
- All plumbing will be modified to enable isolation of each residence.
- The residences will be rewired with separate panels and meters.
- Each floor will have separate laundry facilities.
- We plan to install soundproofing materials within the entire ceiling space of the lower suite.
- We plan to modify the bi-level stairway by removing the lower stairwell to delineate separate entrances for each residence.

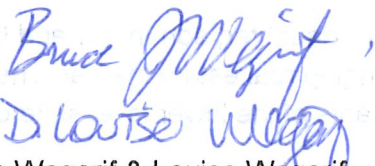
We would like to be able to develop the entire lower level for the suite. By completing the entire lower level, minus the footprint of the modified bi-level stairwell, we plan to develop approx. 1008ft² (90m²), or 47.8% of the home's total square footage. We only recently were informed that the basement area measurement must include the perimeter foundation walls. At some

past date, most of the exterior basement walls were (partially) insulated and finished. They average 12" or 30cm thick. We were not expecting to include this area within the lower level area measurement, although it has been included in the above calculation. This exterior wall area totals approximately 90ft² (8.4m²).

This home has an existing attached garage which both families will use for storage. Therefore, we do not need to designate a portion of the basement for storage or other common use.

As parents and grandparents, we are planning the suite in this house to be our last home; our permanent dwelling. Therefore, we are requesting permission to develop the entire basement for our suite.

Respectfully submitted,



Bruce Wegerif & Louise Wegerif

STAFF REPORT TO COUNCIL

Report Prepared By: Julie Thompson, Planner
Reviewed By: Jake Belobaba, RPP, MCIP, Director of Development Services
Meeting Date: October 25, 2022
File No: DP 3060-21-27
Re: Development Permit Application 3060-21-27 – 1144 Rocky Creek Road

RECOMMENDATION:

That Council issue Development Permit 3060-21-27 for an industrial development at 1144 Rocky Creek Road (Lot D District Lot 38 Oyster District Plan EPP36585), subject to the applicant providing a landscaping bond in the amount of \$8,960.

EXECUTIVE SUMMARY:

An application has been received for an industrial development at 1144 Rocky Creek Road. Staff recommend that Council issue Development Permit (DP) 3060-21-27 (Attachment A) as the proposal is generally consistent with the Development Permit Area 5 – Industrial guidelines and the Zoning Bylaw regulations.

PREVIOUS COUNCIL DIRECTION:

N/A

INTRODUCTION/BACKGROUND:

The 1,370m² subject property is located in an industrial area at 1144 Rocky Creek Road.

Adjacent land uses include an auto-parts retail store and vacant land. The applicant is proposing to construct a 725m² industrial building on the subject property for Cannabis Processing and Cannabis Cultivation. Currently, the applicable Light Industrial (I-1) zone permits Cannabis Micro-Processing and Cannabis Micro-Cultivation.¹ The property owner has submitted a Zoning Bylaw amendment application to allow Cannabis Processing and Cultivation on the subject property. If the proposed zoning is approved, the new use would occur within the proposed



Figure 1 - Subject property

¹ In “Town of Ladysmith Zoning Bylaw 2014, No. 1860”, “Cannabis Processing” or “Cannabis Cultivation” means the processing or cultivation of cannabis as authorized by a licence for standard processing or cultivation under the *Cannabis Act* and its regulations. Similarly, “Cannabis Micro-Processing” or “Cannabis Micro-Cultivation” requires a licence for micro-processing or micro-cultivation. Under the *Cannabis Act* Regulations, a licence for micro-cultivation or micro-processing contains thresholds for the surface area of cultivation and volume of cannabis that may be processed, whereas the standard licence does not contain these thresholds.

building. If the proposed zoning is not approved, the new building will be limited to Micro-Processing, Micro-Cultivation and/or other permitted industrial uses. DP 3060-21-27 will not authorize the proposed Cannabis Processing/Cultivation (under a standard cannabis licence), only the building and site improvements. Licensing of recreational cannabis facilities by the Federal government requires compliance with local zoning regulations.

The proposed industrial development includes the following features:

- A two-storey, 725m² building. The second storey is smaller than the main storey.
- Attractive landscaping.
- A picnic area with shade trees for employees.
- Bicycle parking.
- A surface parking area with a combination of standard, small car, and disability parking stalls.



Figure 2 - Proposed front facade

ANALYSIS:

The subject property is designated Industrial in “Official Community Plan Bylaw 2003, No. 1488” (OCP) and is within the Light Industrial (I-1) zone in “Town of Ladysmith Zoning Bylaw 2014, No. 1860”. The proposed development is consistent with the OCP designation and most Zoning Bylaw regulations (see ‘Proposed Variance’ for details). The property is located in Development Permit Area 5 – Industrial (DPA 5), therefore a DP is required to allow the proposed development.

Development Permit Area:

The objective of DPA 5 is to enhance the Town’s industrial areas and ensure that industrial development is complementary to the existing character of Ladysmith, and aligned with the Town’s vision for future growth.

The proposed development has been reviewed for consistency with the DPA 5 guidelines. The guideline categories and staff observations have been summarized in Table 1.

Table 1 - Guidelines Summary

Guideline Category	Staff Observations
Building design	<ul style="list-style-type: none"> The proposed building has a contemporary industrial design and complements existing buildings on the street.
Building siting & massing	<ul style="list-style-type: none"> The building massing is consistent with other buildings on the street. Canopies over entrances and windows provide articulation in building height.
Building frontage	<ul style="list-style-type: none"> The building facades are modulated with a variety of cladding material, colour variations, canopies, windows and doors. The building entrances are located at the front and are identifiable with canopies.
Windows & doors	<ul style="list-style-type: none"> The main entrance to the building is identified by a prominent canopy and an at-grade pathway which adjoins the sidewalk. Alternative entrances are defined with canopies. The windows and doors on the front elevation facing Rocky Creek Road are proportional to the size of the wall and are architecturally compatible with the building design.
Signs, canopies & lighting	<ul style="list-style-type: none"> No signs are proposed at this time. Future signage will require a sign permit. Canopies are provided at the front entrances to provide weather protection. Exterior lighting will be provided within the building's canopy ceilings and will follow dark sky principles.
Materials & colours	<ul style="list-style-type: none"> Exterior cladding materials consist of beige metal siding, black metal canopies, dark grey/bronze metal roof, bronze doors, aluminum window frames, and a wood pattern metal trim accent. The proposed colour palette is cohesive and sensitive to neighbouring buildings on the street. Colour variation is used to provide visual interest.
Mechanical, electrical & security equipment	<ul style="list-style-type: none"> Mechanical equipment is proposed to be located at the rear of the building. For the proposed cannabis use, ventilation is required to be designed to control odours per the Town's "Business License Bylaw No. 1513, 2003". There are federal requirements for odor control as well.
Accessibility & connectivity	<ul style="list-style-type: none"> An at-grade pedestrian pathway connects the main building entrance with the sidewalk. The pathway is separated from vehicle drive aisles. An accessible entrance to the building's first storey is provided. One parking space for persons with disabilities is provided.
Vehicle & bicycle parking	<ul style="list-style-type: none"> The parking area is accessed from Rocky Creek Road. There are no lanes or side streets from which to provide access. The surface parking area contains shade trees and landscaping. Trees along the property frontage are not permitted due to the location of a statutory right-of-way containing Town utilities at the front of the property.

Guideline Category	Staff Observations
	<ul style="list-style-type: none"> • Nine parking spaces are proposed, consisting of six standard spaces, two small-car spaces, and one accessible space. The Zoning Bylaw requires 11 spaces, therefore a variance is proposed. See 'Proposed Variances' for details. • Outdoor bicycle parking is provided. • Showers are provided inside the building.
Loading facilities	<ul style="list-style-type: none"> • One loading space is provided inside the building and one is provided outside in the parking area, in front of the building. The outdoor loading space requires variances for width and location. See 'Proposed Variances' for details. • Due to the location of the right of way at the front of the parcel, there are limited options for parking and loading locations (i.e. the building cannot be sited at the front of the parcel on top of the right of way, with parking and loading in the rear).
Landscape	<ul style="list-style-type: none"> • Existing vegetation at the rear of the property will be maintained where possible. • Employee lunch areas with picnic tables and trees are provided. • A vegetative buffer on an adjacent parcel exists between the property and the Island Highway. • The property will be fenced and drought-tolerant landscaping is proposed around the parking area and at the property frontage. • A security bond in the amount of \$8,960 will be required to ensure the proposed landscaping is provided. Security to be returned to developer upon receipt of a report from the Landscape Architect confirming that the landscaping was installed in accordance with the landscape plan. • The proposed landscaping will conform to the BC Landscape Standard.
Energy conservation, rain water management & water conservation	<ul style="list-style-type: none"> • The surface treatment for the pedestrian pathway and employee amenity space is permeable. • The proposed landscaping in the parking area is permeable. • A high-efficiency, automatic irrigation system is proposed. • The building is proposed to meet the ASHRAE 90.1 (2016) energy performance standard.
Recycling, organics & solid waste management	<ul style="list-style-type: none"> • An enclosed solid waste disposal area is provided within the parking area.
Crime prevention	<ul style="list-style-type: none"> • The site is territorially defined and features such as entrances, parking areas and pathways express ownership over the space. • Windows are provided at the front of the building with views to the street.

Proposed Variances:

Guideline 9(d) in the DPA 5 Guidelines allows the minimum off-street parking and loading requirements of the Zoning Bylaw to be reduced or altered through the DP approval process, where strict compliance with the regulations would undermine the character of the area. The Parking and Loading Regulations in the Zoning Bylaw require 11 parking spaces for the

proposed development and two loading spaces. Nine parking spaces are proposed, consisting of six standard spaces, two small-car spaces, and one accessible space, as well as two loading spaces (one inside and one outside). The outdoor loading space is proposed to be 0.2m (7.8") narrower than the required 3.0m minimum width, so that an adjacent building entrance has enough clearance (1.5m) to meet BC Building Code requirements for wheelchair access. This loading space is also proposed to be located in front of the building, which is not permitted by the Zoning Bylaw. Strict compliance with the Zoning Bylaw minimum parking and loading requirements could undermine the character of the development as it would require a larger portion of the property to be dedicated for parking, thereby reducing the size of the proposed building. Additionally, the location of the Town right of way at the front of the property limits the location of the building, and by extension the size and location of on-site parking and loading locations (i.e. the building cannot be sited on top of the right of way, which in turn limits where parking and loading can be located).

The building and site as designed are consistent with the character of the area and other developed properties on Rocky Creek Road. The proposed variances are minor, and staff do not expect parking issues along Rocky Creek Road.

The proposed development is generally consistent with the DPA 5 guidelines. Based on this analysis, it is recommended that Council issue DP 3060-21-27.

ALTERNATIVES:

Council can choose to:

1. Not issue DP 3060-21-27 where refusal is based upon determination that the application does not meet the DPA 5 guidelines; or
2. Refer DP 3060-21-27 back to staff for further review as specified by Council.

FINANCIAL IMPLICATIONS:

N/A

LEGAL IMPLICATIONS:

The subject property is within DPA 5, therefore a DP is required prior to issuance of a building permit. If the DP is refused, reasons must be given based on the DPA 5 Guidelines as the issuance of a DP is not a completely discretionary decision of Council.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

N/A

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The proposed development was referred to the Engineering and Building Inspection Departments for comment. Building and Engineering requirements will be addressed at the time of building permit.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- Complete Community Land Use
- Green Buildings
- Innovative Infrastructure
- Healthy Community
- Not Applicable

- Low Impact Transportation
- Multi-Use Landscapes
- Local Food Systems
- Local, Diverse Economy

ALIGNMENT WITH STRATEGIC PRIORITIES:

- Infrastructure
- Community
- Waterfront

- Economy
- Not Applicable

I approve the report and recommendation.

Allison McCarrick, Chief Administrative Officer

ATTACHMENT:

- A. Draft DP 3060-21-27



TOWN OF LADYSMITH DEVELOPMENT PERMIT

(Section 489 *Local Government Act*)

FILE NO: 3060-21-27

DATE: October 25, 2022

Name of Owner(s) of Land (Permittee): Polstar Holdings Ltd., Inc. No. BC0747053

Applicant: Rosa Salcido (Vivid Green Architecture Inc.)

Subject Property (Civic Address): 1144 Rocky Creek Road

1. This Development Permit is subject to compliance with all of the bylaws of the Town of Ladysmith applicable thereto, except as specifically varied by this Permit.
2. This Permit applies to and only to those lands within the Town of Ladysmith described below, and any and all buildings structures and other development thereon:

Lot D District Lot 38 Oyster District Plan EPP36585

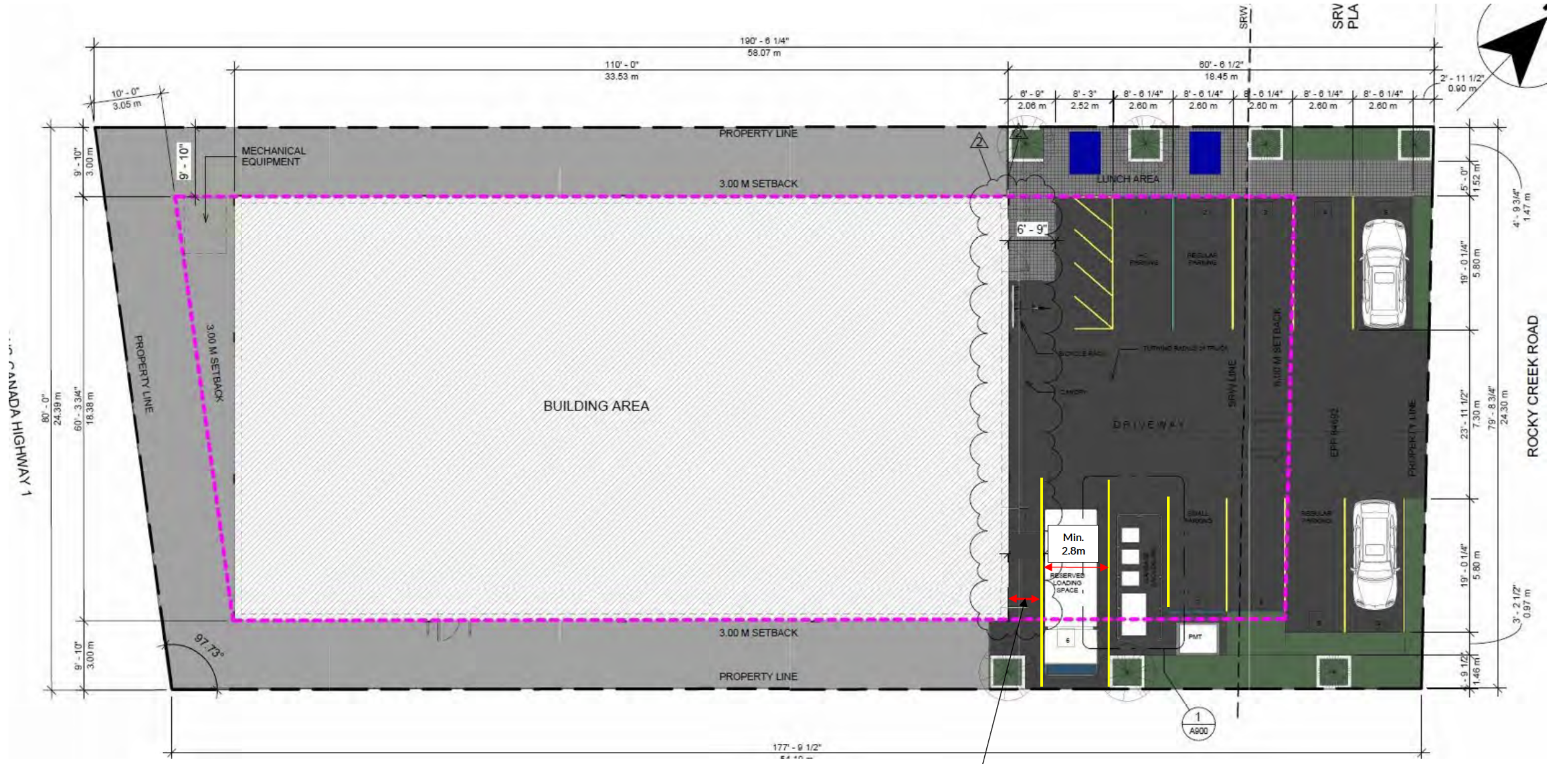
PID: 029-272-769

(referred to as the "Land")

3. This Permit has the effect of authorizing the issuance of a building permit for the construction of an industrial building, construction of accessory structures, and the alteration of land on the Land in accordance with the plans and specifications attached to this Permit, and subject to all applicable laws except as varied by this Permit, and subject to the conditions, requirements and standards imposed and agreed to in sections 8 and 9 of this Permit.
4. With respect to the Land, section 8.2.1 "Calculation of Off-Street Parking Spaces" in "Town of Ladysmith Zoning Bylaw 2014, No. 1860" is hereby varied, in accordance with section 490(1) of the *Local Government Act*, such that nine (9) parking spaces shall be provided, consisting of six (6) standard spaces, two (2) small-car spaces and one (1) accessible space, as shown in **Schedule A – Site Plan**.
5. With respect to the Land, section 8.2.7 "Off-Street Loading Spaces" in "Town of Ladysmith Zoning Bylaw 2014, No. 1860" is hereby varied, in accordance with section 490(1) of the *Local Government Act*, such that one loading space may be located in a front yard, as shown in **Schedule A – Site Plan**.
6. With respect to the Land, section 8.2.9 "Design Standards for Off-Street Parking and Loading Areas" is hereby varied, in accordance with section 490(1) of the *Local Government Act*, such that the minimum width for one outdoor loading space on the Land is 2.8 metres, as shown in **Schedule A – Site Plan**.

7. This Permit does not have the effect of varying the use or density of the Land specified in "Zoning Bylaw 2014, No. 1860".
8. The Permittee, as a condition of the issuance of this Permit, agrees to develop the Land in accordance with **Schedule A – Site Plan, Schedule B – Elevation Plans, Schedule C – Garbage Enclosure Plan, and Schedule D – Landscape Plan**, including the following:
 - (a) Exterior lighting must be directed downward and follow dark sky principles.
 - (b) The garbage enclosure shown in **Schedule C – Garbage Enclosure Plan**, must include screening of views from above, such as with a pergola, arbour or other permeable roof screen attached to the enclosure.
9. This Permit is issued on the condition that the Permittee has provided to the Town of Ladysmith security in the form of cash or an irrevocable Letter of Credit to guarantee the performance of the conditions in section 8 of this Permit respecting landscaping. The Letter of Credit shall be for a period of two years and shall be automatically extended. The Letter of Credit or cash shall be in the amount of **\$8,960.00**.
10. Should the Permittee fail to satisfy the conditions referred to in sections 8 and 9 of this Permit, the Town of Ladysmith may undertake and complete the works required to satisfy the landscaping condition(s) at the cost of the Permittee, and may apply the security in payment of the cost of the work, with any excess to be returned to the Permittee. Requests for the release of the security shall be accompanied by a report from a landscape architect confirming that the landscaping conditions in section 8 of this Permit have been met.
11. Should there be no default as herein provided, or where a Permit lapses, the Town of Ladysmith shall return any security provided to the Permittee.
12. If the Permittee does not substantially start any construction permitted by this Permit within **two years** of the date of this Permit as established by the authorizing resolution date, this Permit shall lapse.
13. The plans and specifications attached to this Permit are an integral part of this Permit.
14. Notice of this Permit shall be filed in the Land Title Office at Victoria under s.503 of the *Local Government Act*, and upon such filing, the terms of this Permit or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
15. Despite issuance of this Permit, construction may not start without a Building Permit or other necessary permits.

AUTHORIZED BY RESOLUTION NO. _____ PASSED BY THE COUNCIL OF THE TOWN OF LADYSMITH ON THE ____ DAY OF _____, 202__.



Notes:

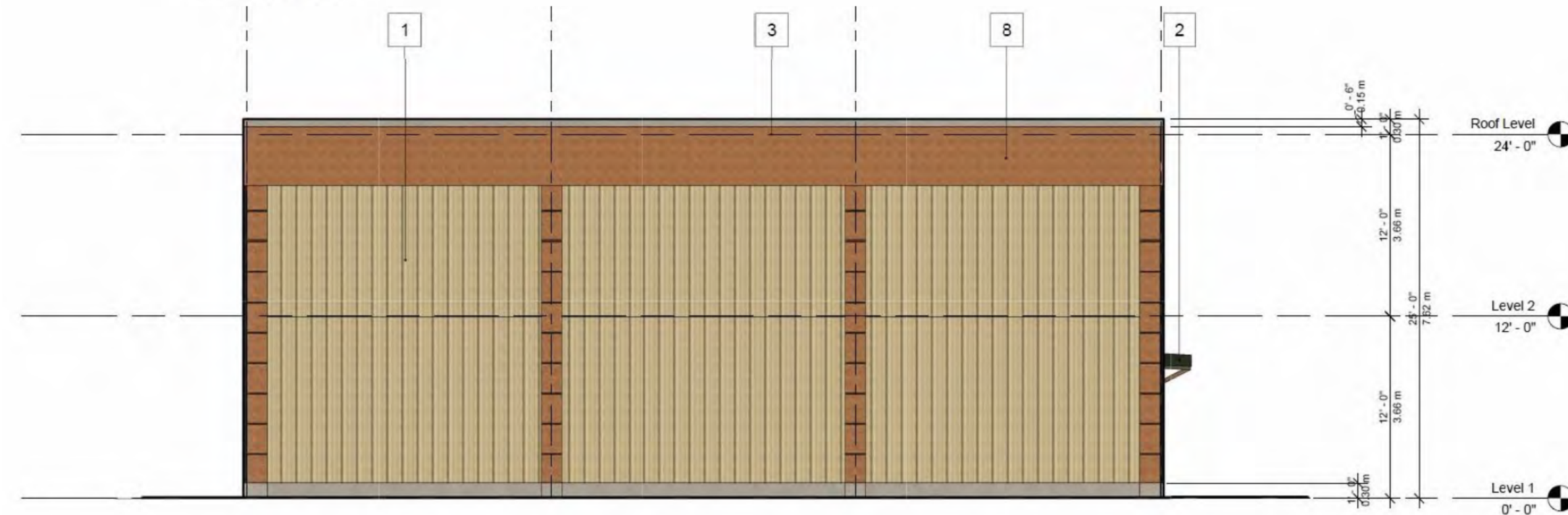
- All landscaping and bicycle racks to be as shown on Schedule C - Landscape Plan

Minimum 1.5m between accessible door and loading space

Schedule A - Site Plan
 DP 3060-21-27
 1144 Rocky Creek Road



1 East Elevation
3/16" = 1'-0"

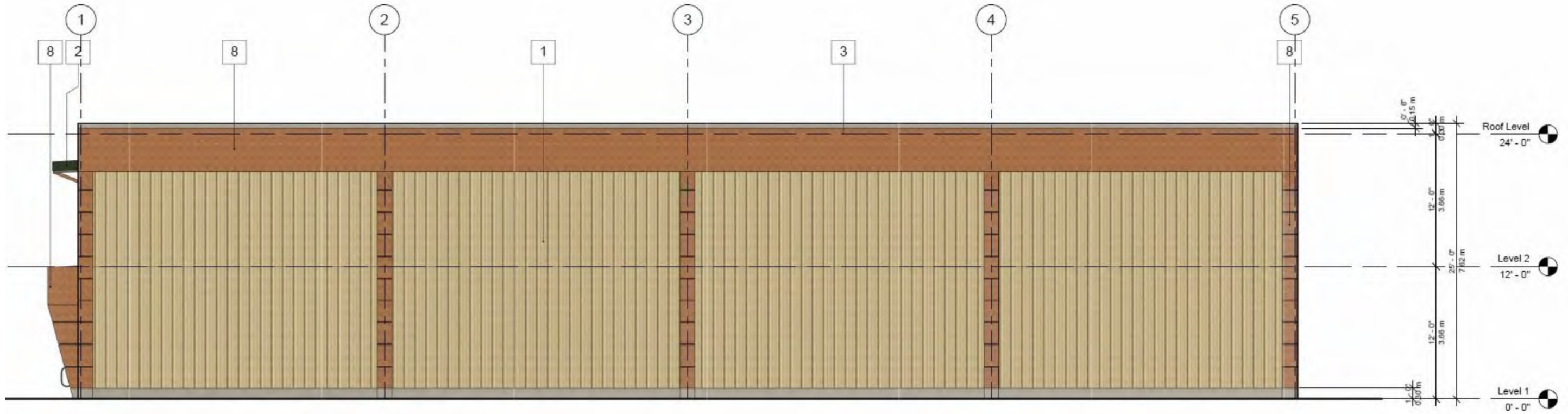


2 West Elevation
3/16" = 1'-0"

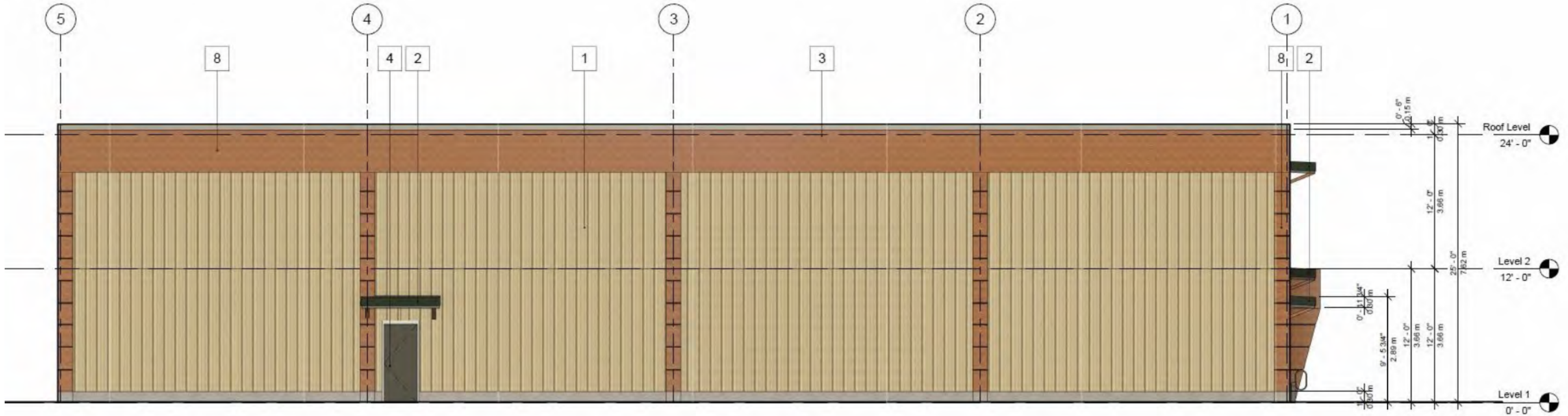
Materials Legend
1/2" = 1'-0"

1		GA 24 PBR Panel - Biege
2		Cascadia Metal Panel for Canopy Fascia - Solid Neutral Color Black
3		GA 24 Galvalume Standing Seam Roof - Burnished Slate/Bronze
4		Exterior Door Panel - Matt Bronze
5		Rolling Door Panel- Series 650 Bronze
6		Glass
7		Aluminum Window Frame Anodized
8		Cascadia Metal Panel - Wood Pattern

Schedule B - Elevation Plans (1 of 2)
DP 3060-21-27
1144 Rocky Creek Road



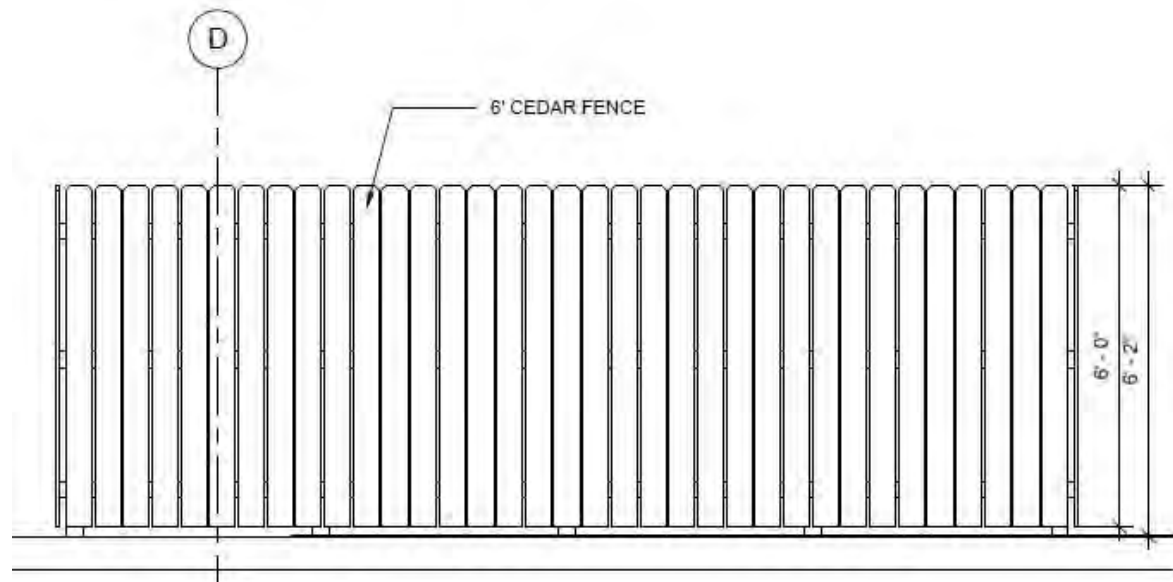
3 North Elevation
3/16" = 1'-0"



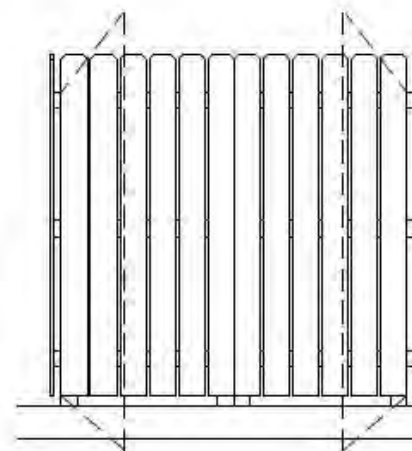
4 South Elevation
3/16" = 1'-0"

Notes:
 • See materials legend on previous page

Schedule B - Elevation Plans (2 of 2)
 DP 3060-21-27
 1144 Rocky Creek Road



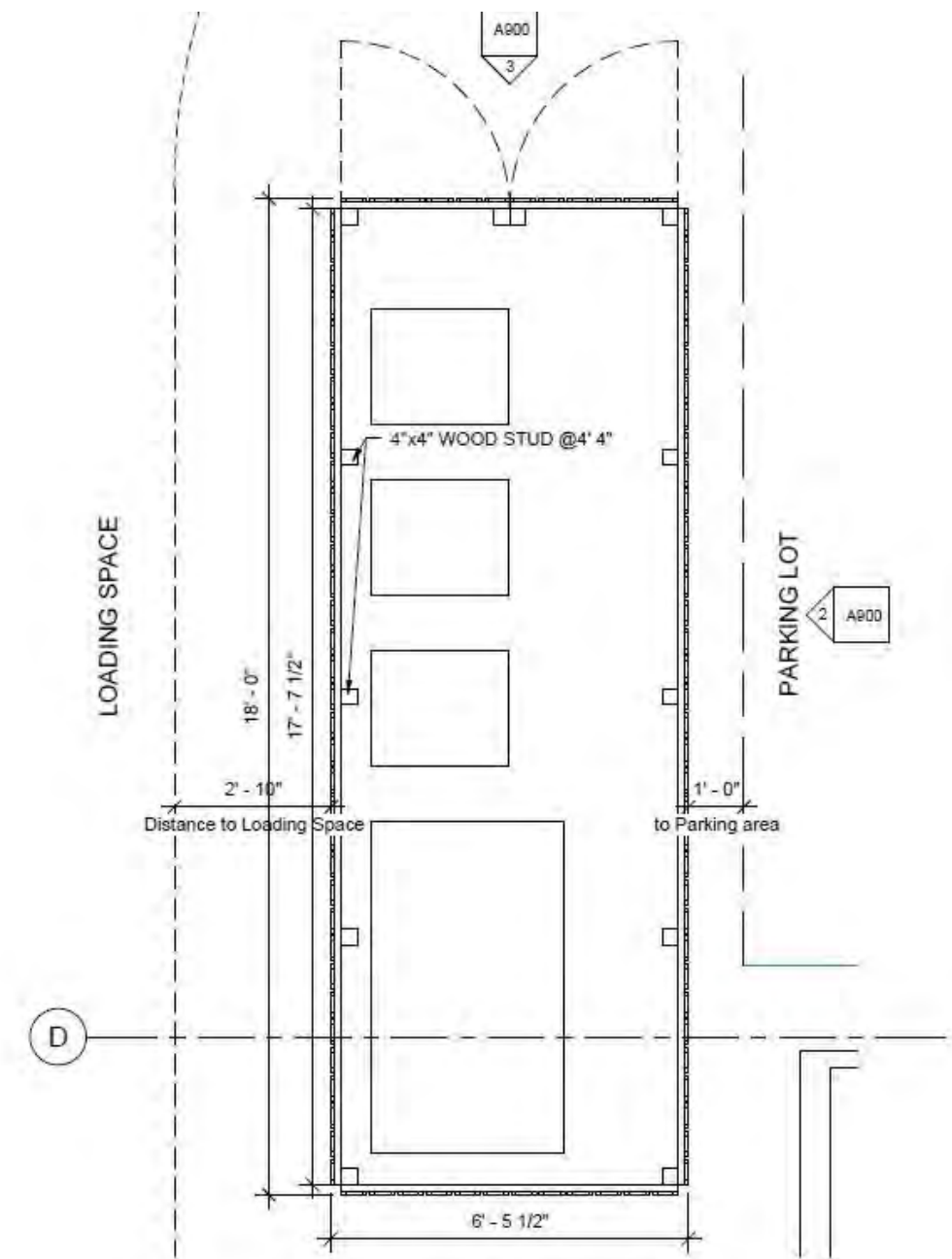
2 Elevation 1 - a
1/2" = 1'-0"



3 Elevation 1 - b
1/2" = 1'-0"

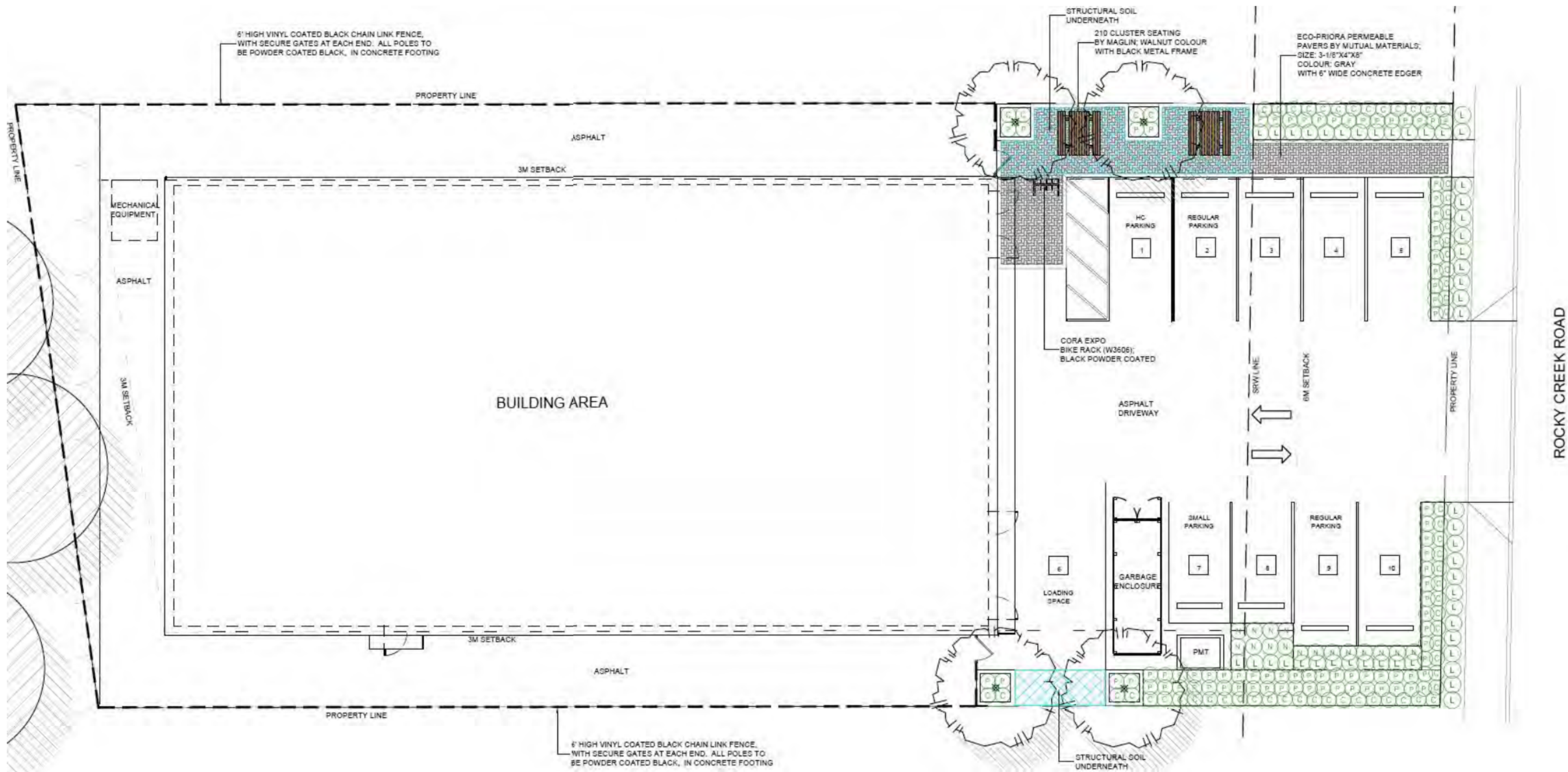
Notes:

- The garbage enclosure must include screening of views from above, such as with a pergola, arbour or other permeable roof screen attached to the enclosure.



1 ENLARGEMENT GARBAGE ENCLOSURE
1/2" = 1'-0"

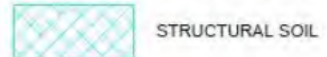
Schedule C - Garbage Enclosure Plan
DP 3060-21-27
1144 Rocky Creek Road



PLANT SCHEDULE		PMG PROJECT NUMBER: 21-208		
KEY	QTY	BOTANICAL NAME	COMMON NAME	PLANTED SIZE / REMARKS
TREE				
	4	PRUNUS SERRULATA 'AMANOGAWA'	AMANOGAWA FLOWERING CHERRY	8CM CAL; 1.5M STD; B&B
GRASS				
	64	CALAMAGROSTIS ACUTIFLORA 'KARL FOERSTER'	FEATHER REED GRASS	#1 POT
	83	PENNISETUM ALOPECUROIDES	FOUNTAIN GRASS	#1 POT
PERENNIAL				
	48	LAVENDULA ANGUSTIFOLIA 'HIDCOTE BLUE'	ENGLISH LAVENDER; COMPACT; DEEP PURPLE	15CM POT
	16	NEPETA x JR WALKER	DWARF BLUE CATMINT	15CM POT

NOTES: * PLANT SIZES IN THIS LIST ARE SPECIFIED ACCORDING TO THE BC LANDSCAPE STANDARD AND CANADIAN LANDSCAPE STANDARD, LATEST EDITION. CONTAINER SIZES SPECIFIED AS PER CNLA STANDARD. BOTH PLANT SIZE AND CONTAINER SIZE ARE THE MINIMUM ACCEPTABLE SIZES. * REFER TO SPECIFICATIONS FOR DEFINED CONTAINER MEASUREMENTS AND OTHER PLANT MATERIAL REQUIREMENTS. * SEARCH AND REVIEW: MAKE PLANT MATERIAL AVAILABLE FOR OPTIONAL REVIEW BY LANDSCAPE ARCHITECT AT SOURCE OF SUPPLY. AREA OF SEARCH TO INCLUDE LOWER MAINLAND AND FRASER VALLEY. * SUBSTITUTIONS: OBTAIN WRITTEN APPROVAL FROM THE LANDSCAPE ARCHITECT PRIOR TO MAKING ANY SUBSTITUTIONS. UNAPPROVED SUBSTITUTIONS WILL BE REJECTED. ALLOW A MINIMUM OF FIVE DAYS PRIOR TO DELIVERY FOR REQUEST TO SUBSTITUTE. SUBSTITUTIONS ARE SUBJECT TO BC LANDSCAPE STANDARD AND CANADIAN LANDSCAPE STANDARD - DEFINITION OF CONDITIONS OF AVAILABILITY. * ALL LANDSCAPE MATERIAL AND WORKMANSHIP MUST MEET OR EXCEED BC LANDSCAPE STANDARD AND CANADIAN LANDSCAPE STANDARD LATEST EDITION. * ALL PLANT MATERIAL MUST BE PROVIDED FROM CERTIFIED DISEASE FREE NURSERY. * BIO-SOLIDS NOT PERMITTED IN GROWING MEDIUM UNLESS AUTHORIZED BY LANDSCAPE ARCHITECT.

* PROVIDE DESIGN-BUILD HIGH EFFICIENCY AUTOMATIC IRRIGATION SYSTEM TO AAIBC STANDARDS FOR ALL ONSITE LANDSCAPE. PROVIDE SHOP DRAWINGS FOR LANDSCAPE ARCHITECT REVIEW PRIOR TO INSTALLATION. INCLUDE RAIN SENSOR.



Schedule D - Landscape Plan
DP 3060-21-27
1144 Rocky Creek Road

STAFF REPORT TO COUNCIL

Report Prepared By: Julie Thompson, Planner
Reviewed By: Jake Belobaba, RPP, MCIP, Director of Development Services
Meeting Date: October 25, 2022
File No: ZBL 3360-21-03
Re: Zoning Bylaw Amendment Application – Lot B Russell Road

RECOMMENDATION:

That Council:

1. Not hold a public hearing for “Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 49) No. 2113”, in accordance with section 464(2) of the *Local Government Act*;
2. Direct staff to proceed with notification that a public hearing will not be held for “Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 49) No. 2113” in accordance with section 467 of the *Local Government Act*;
3. Require that the developer, at their cost and using the Town’s legal counsel, register on the title of the subject property prior to adoption of Bylaw No. 2113 (Lot B District Lot 67 Oyster District Plan EPP51928 Except Plan EPP89399), a covenant in favour of the Town pursuant to section 219 of the *Land Title Act*, for the purpose of tree retention, protection and management as described in this report;
4. Require that the property owner, prior to adoption of Bylaw No. 2113, provide cash in the amount of \$2000 to be deposited into the Town’s Amenity Reserve Fund; and
5. Endorse that the Town Engineer may approve a variance to the Town’s Engineering Standards and Specifications for the Urban Local right-of-way width for the section of proposed road on Lot B District Lot 67 Oyster District Plan EPP51928, as shown on Attachment B, to accommodate road requirements within a 10-11m road dedication.

EXECUTIVE SUMMARY:

A Zoning Bylaw amendment application has been received to rezone a 0.747 ha portion of a 0.814 ha parcel of land located at 891 Russell Road from Single Dwelling Residential (R-1) to Single Dwelling Residential – Small Lot A (R-1-A) for the purpose of subdivision. Staff recommend that Bylaw No. 2113 proceed for further consideration without a public hearing as the proposal is consistent with “Official Community Plan 2003, No. 1488” (OCP).

PREVIOUS COUNCIL DIRECTION:

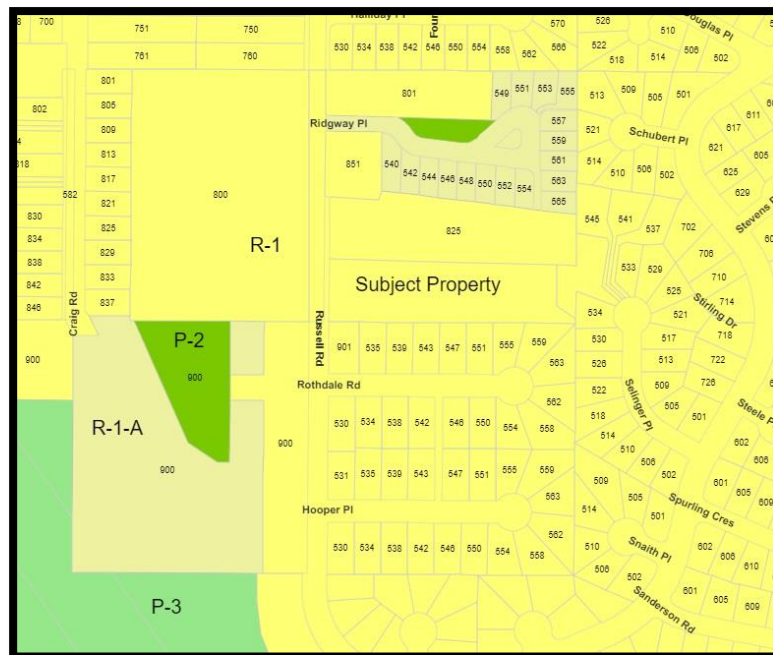
N/A

INTRODUCTION/BACKGROUND:

The subject property is 0.814 ha in size and is located at 891 Russell Road in a predominantly single-family residential neighbourhood. The subject property is characterized by a cleared area in its centre, with mature trees along the sides and rear, and is relatively flat (see Figure 1). A subdivision in 2020 separated a 772.6m² parcel containing a house from the subject property. The applicant is proposing to create an 11 parcel subdivision on the subject property and has applied to rezone a 0.747ha portion from R-1 to R-1-A to create 10 smaller parcels, while the 11th parcel (fronting on Russell Road) would remain in the existing R-1 zone (see Attachment C). The surrounding zoning consists mainly of R-1 and R-1-A parcels, as shown in Figure 2.



Figure 1 - Subject property aerial photo.



The following Figure 2 – Current zoning map. Note: this map is not up to date with current property boundaries. See Figure 1 for boundaries of subject property.

- (
- Proposed subdivision site plan (August 5, 2022)

- Proposed Tree Protection Covenant Letter – Aquaparian Environmental Consulting Ltd. (December 8, 2021)
- Tree Retention Plan – Vancouver Island Tree Service, Ltd. (February 17, 2022)
- Covenant P106070 (October 28, 1985)

DISCUSSION:

Official Community Plan:

The subject property is located in the Single Family Residential land use designation in the OCP. The Single Family Residential designation supports a maximum density of 10 units per hectare for single family development and 25 units per hectare for small lot single family development. The density of the proposed R-1-A area is 13.4 units per hectare.

The following OCP policies are also relevant to the proposal:

- 3.1.4(1) – direct growth to lands within the Urban Containment Boundary (the subject property is within the boundary).
- 3.1.4(2) – future residential growth will occur in five general areas, including South Ladysmith (the subject property is located in South Ladysmith).
- 3.1.4(3) – the Town will encourage residential infill where vacant lots exist.
- 3.1.4(9) – to reduce land consumption, increased residential densities, such as compact lots, will be promoted at appropriate locations.
- 3.1.4(17) – the approval of infill or new subdivisions shall consider potential impacts on existing neighbours of the proposed development and new residents or users of the development.

The development is consistent with the Single Family Residential designation and is consistent with the OCP policies noted above. An OCP amendment is not required.

Zoning Bylaw:

The subject property is zoned R-1 in “Town of Ladysmith Zoning Bylaw 2014, No. 1860”. The R-1 zone has a minimum parcel size of 668m² for the creation of new parcels. If approved, Bylaw No. 2113 will rezone a 0.747ha portion of the subject property (the ‘subject area’) to R-1-A, which has a minimum parcel size of 460m², in order to allow a 10 parcel subdivision. The current R-1 zone would yield eight parcels in the same area. The 668.2m² remainder of the subject property would create an eleventh parcel which complies with the R-1 zone and is not proposed to be rezoned. The proposed 10 parcel subdivision (see Attachment B) would comply with the proposed R-1-A zone. See ‘Proposed Bylaw No. 2113’ for further details on proposed zoning provisions.

Subject to the conditions outlined, staff recommend that the proposed Bylaw No. 2113 proceed for public notification followed by readings from Council.

Community Planning Advisory Committee (CPAC):

The application was considered by CPAC at their meeting on September 1, 2021. CPAC passed the following resolution:

It was moved, seconded and carried that CPAC recommends that Council approve rezoning application 3360-21-03 (Lot B – Russell Road) on the condition of provision of a tree preservation covenant, and provision of adequate landscaping and greenspace.

The CPAC minutes are attached (Attachment G).

Tree Protection Area:

The applicant has submitted two technical reports relating to the preservation of trees on the subject property. The first report, a ‘Proposed Tree Protection Covenant Letter’ by Aquaparian Environmental Consulting Ltd. (Attachment D), states that development pressures leading to the loss of trees in the absence of a tree protection bylaw is problematic for wildlife as nesting and foraging habitat is lost, and wildlife ecosystems are fragmented. Tree retention provides ecological benefits by creating “stepping stones” and corridors for wildlife. Other benefits of tree retention include but are not limited to:

- the aesthetic value of greenspace,
- privacy,
- backyard bird activity (e.g. owls),
- shade and cooling effects,
- improved air quality,
- wind break, and
- carbon sequestration.

Aquaparian recommends a 5m tree retention buffer along the rear of each of the proposed parcels and a larger triangular area at the rear of proposed Lot 2 (see Figure 3). However, the report also identifies several mature trees outside of the proposed 5m buffer that could be retained as they’re located in the rear yards of the proposed parcels. As such, staff asked the applicant to provide a follow-up assessment from an arborist to look at the mature trees on the property, in addition to the proposed 5m buffer.

The applicant provided a ‘Tree Retention Plan’ from VI Tree Service Ltd. (Attachment E) with further recommendations for the retention of mature trees on the subject property. The report recommends several mature trees for retention based on the health and location of the trees, and includes recommendations for tree protection during construction. Trees recommended for removal are dead or would directly impact development (e.g. they are located in the proposed road or on a building site).

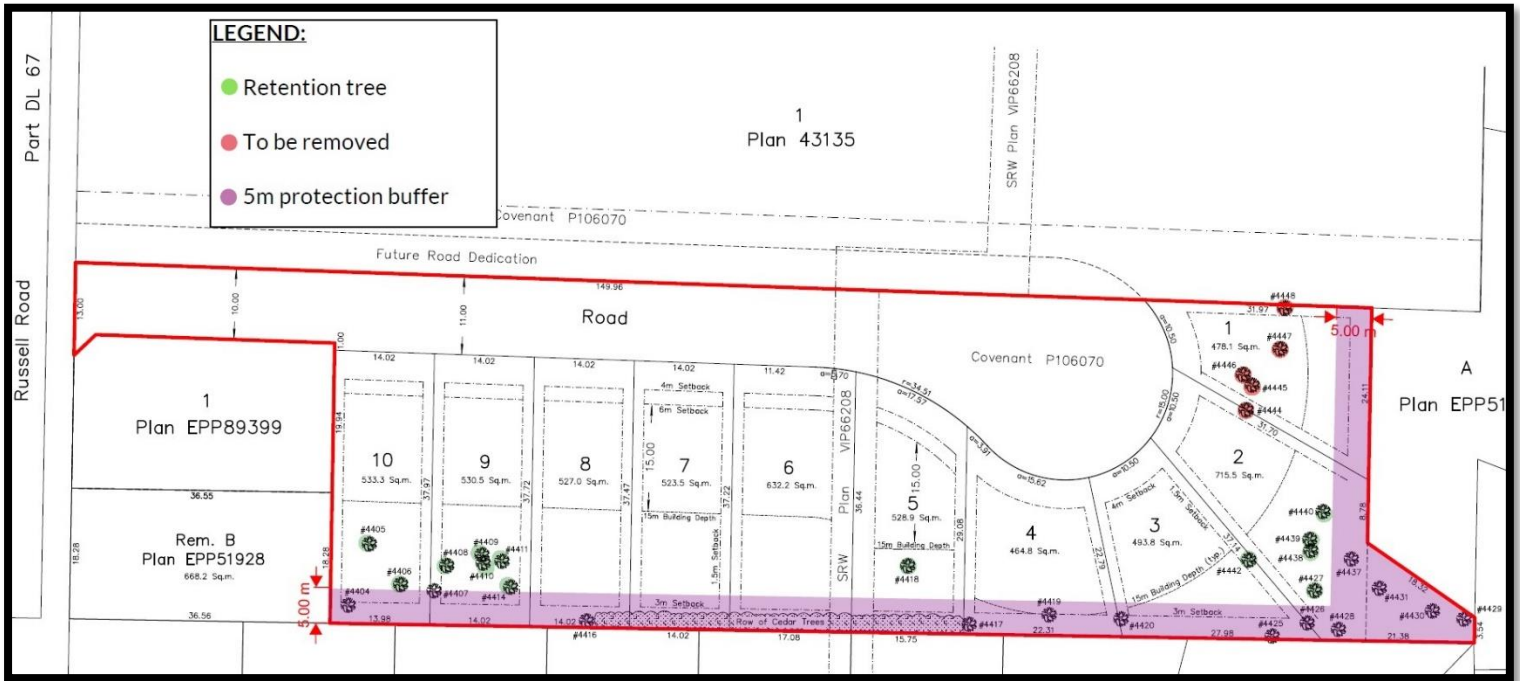


Figure 3 - Proposed tree retention.

Based on the information in the reports and the recommendation from CPAC, staff recommend registration of a covenant on the title of the subject property for the retention, protection and management of trees on the subject area, as a condition of adoption of Bylaw No. 2113. It is noted that Aquaparian’s Tree Protection Covenant Letter Report contains recommendations for a permanent barrier between the 5m buffer area and the rest of the property to ensure long-term protection of the tree buffer. Staff do not recommend this as a covenant provision as it would limit the area that may be used for recreation on each parcel. An alternative recommendation for an information brochure is provided in Table 1, which also summarizes the general terms of the proposed covenant.

Table 1: General Terms of Proposed Covenant

Provision	Details	Staff Comments
Tree retention	<ul style="list-style-type: none"> Retention of the mature trees on-site, outside of the 5m buffer, as identified in the Tree Preservation Plan by VI Tree (Attachment E). Retention of all (non-invasive) trees within the 5m buffer and triangular area identified in the Tree Protection Covenant Letter Report by Aquaparian (Attachment D). 	<ul style="list-style-type: none"> The trees identified for retention in VI Tree’s report are all located at the rear of the proposed parcels and are not expected to interfere with potential development. The 5m buffer and triangular area captures a few of the retention trees identified by VI Tree, in addition to other smaller trees, such as the cedar tree row shown in both reports.
Tree protection	<ul style="list-style-type: none"> A temporary tree protection barrier must be erected prior to excavation, demolition 	<ul style="list-style-type: none"> The recommendations in VI Tree’s report will ensure the protection of

Provision	Details	Staff Comments
	<p>or construction, and maintained throughout construction to protect the critical root zones of all retention trees, as recommended in the Tree Retention Plan by VI Tree (Attachment E).</p>	<p>trees during development activities.</p>
<p>Tree management</p>	<ul style="list-style-type: none"> • Requirement for assessment of retention trees by an arborist after initial clearing, during construction, and after construction of buildings, to determine viability of trees and treat for hazards if necessary. • Trees identified as hazardous by a tree risk assessor may be treated (e.g. pruning) or removed under the direction of a tree risk assessor. • Provisions to ensure that trees may be treated/removed if they pose a risk to development once constructed (e.g. if tree roots grow too close to building foundations or perimeter drains, etc.), as determined by a tree risk assessor. • Standards for tree replacement where protected trees require removal, under the direction of a certified arborist. • Standards for tree maintenance after construction to ensure their long-term health. • Requirement to draft and distribute an information brochure with respect to the tree protection/retention requirements in the covenant to future property owners as the parcels sell. Brochure to be approved by the Director of Development Services as a condition of subdivision. 	<ul style="list-style-type: none"> • The proposed provisions recognize that trees may be damaged or become sick at any stage before, during or after construction and that removal or treatment of the trees may be necessary to alleviate a hazard. • The brochure is intended to aid the long-term protection of the trees by providing future property owners with the tree protection requirements and the benefits afforded by tree retention in a user-friendly format.

Engineering Comments:

The application was referred to the Engineering Department for comment. There is an existing covenant (Attachment F) registered to the property title which identifies a 10m wide area along the north property boundary (see Attachment C) as an area to be dedicated as road for a future subdivision. An additional 10m width is identified on the adjacent property to the north such that a total 20m of width is available for future road dedication between the two properties. A 10-11m road dedication width is proposed for the subdivision of the subject property (see Figure 3 or Attachment B), with the remainder of the road to be built when the adjacent property to the north eventually develops. The minimum road right-of-way width for an “Urban Local” road is 15.5m in accordance with section 7A.2 of the Town’s Engineering Standards and Specifications. The Town’s Engineering Standards and Specifications allow the Town’s Engineer

to approve variances to the minimum right-of-way widths. Since the proposed 10-11m wide road is significantly less than the minimum 15.5m standard, Engineering is requesting Council support for the Town Engineer to reduce the minimum width requirement of the Urban Local road section on the subject property to accommodate road requirements within a 10-11m road dedication until the neighbouring development to the north proceeds. The proposed road requirements would generally include curb and sidewalk on one side, street lights, 7m of pavement, and 1m gravel shoulder. All required utilities would be included.

Proposed Bylaw No. 2113

In addition to changing the zone on the subject area from R-1 to R-1-A, Bylaw No. 2113 also proposes a reduced front parcel line setback for both principal buildings and accessory buildings to offset the tree protection area that is proposed at the rear of the parcels (see ‘Tree Protection Area’ for details). It is expected that a reduced front parcel line setback will give property owners more flexibility in building location on each parcel. The front parcel line setback in the R-1-A zone is 4m, and Bylaw No. 2113 proposes a 3m setback. Permitted setback exemptions would allow encroachment by 1.5m into the front setback for structures such as unenclosed front porches.

A comparison of the existing R-1 zone and the proposed R-1-A zone with site specific provisions is provided in Table 1, below.

Table 2: Zone comparison

Regulation	R-1 (existing)	R-1-A (proposed)
Principal uses	Single Unit Dwelling	Single Unit Dwelling
Accessory uses	Secondary Suite Home Based Business Urban Agriculture Bed & Breakfast	Secondary Suite Home Based Business Urban Agriculture
Minimum parcel size	668m ²	460m ²
Minimum frontage	18.28m	13.5m
Minimum finished floor area	83m ²	83m ²
Maximum finished floor area	Lesser of 33% of parcel area or 240m ²	175m ²
Maximum parcel coverage	33%	33%
Maximum height	9m	8m
Maximum perimeter wall height	7.32m or 9.14m with articulation	N/A
Setbacks for a principal building (from parcel line)		
Front	6m	3m *site specific
Interior or exterior side	3m	2m
Other interior side	1.5m	1.5m
Rear	4.5m	3m

Community Amenity Contribution Policy (CAC):

The Town's CAC policy encourages rezoning applicants to contribute towards needed infrastructure and amenities as a way of ensuring that the proposed development is seen as making a positive contribution to the neighbourhood and community at large. The applicant is proposing to donate \$2000 to the Town's Amenity Reserve Fund (equivalent to \$1000 per each additional parcel that may be created by rezoning the land to R-1-A). The proposed CAC is consistent with the Town's current CAC policy.

ALTERNATIVES:

Council can choose to:

1. Give first and second readings to "Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 49) 2022, No. 2113" and direct staff to proceed with scheduling and notification for a Public Hearing for Bylaw No. 2113 as in accordance with section 466 of the *Local Government Act*.¹
2. Deny Zoning Bylaw amendment application 3360-21-03.
3. Refer the application back to staff for further review as specified by Council.
4. Postpone consideration of the application until the OCP review process is complete and a new OCP is adopted.

FINANCIAL IMPLICATIONS:

N/A

LEGAL IMPLICATIONS:

A public hearing is not required in accordance with section 464(2) of the *Local Government Act* since Bylaw No. 2113 is consistent with the Town's OCP. To proceed without a public hearing, Council must, prior to first and second readings of Bylaw No. 2113, pass a resolution to not hold a public hearing and direct staff to carry out the required notification that a public hearing will not be held. Alternatively, Council may give Bylaw No. 2113 first and second readings at this meeting and direct that a public hearing be held if Council wishes to hold a public hearing with respect to the application (see Alternative 1).

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

A Neighbourhood Information Meeting is not required under "Town of Ladysmith Development Procedures Bylaw 2008, No. 1667" unless an OCP amendment is proposed or required.

Bylaw No. 2113 is consistent with the Town's OCP and therefore a public hearing is not required under section 464(2) of the *Local Government Act*. However, notification is required in accordance with section 467 of the *Local Government Act* and "Town of Ladysmith Development Procedures Bylaw 2008, No. 1667". Notification will be distributed/posted at least 10 days prior to Council consideration of first reading of Bylaw No. 2113.

¹ If Council chooses this alternative, staff recommend that Council also include recommendations 3-5 of the 'Recommendation' section at the beginning of this report.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The application was referred to the Town’s Building Inspection and Engineering departments. See ‘Engineering Comments’ for details.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input checked="" type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input type="checkbox"/> Healthy Community | <input type="checkbox"/> Local, Diverse Economy |
| <input type="checkbox"/> Not Applicable | |

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|--|
| <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Economy |
| <input type="checkbox"/> Community | <input checked="" type="checkbox"/> Not Applicable |
| <input type="checkbox"/> Waterfront | |

I approve the report and recommendation(s).

Allison McCarrick, Chief Administrative Officer

ATTACHMENTS:

- A. Bylaw No. 2113
- B. Applicant cover letter (dated April 22, 2021)
- C. Proposed subdivision site plan (dated August 5, 2022)
- D. Proposed Tree Protection Covenant Letter Report – Aquaparian Environmental Consulting, Ltd. (dated December 8, 2021)
- E. Tree Retention Plan – Vancouver Island Tree Service, Ltd. (dated February 17, 2022)
- F. Covenant P106070 (October 28, 1985)
- G. CPAC Minutes (September 1, 2021)

TOWN OF LADYSMITH

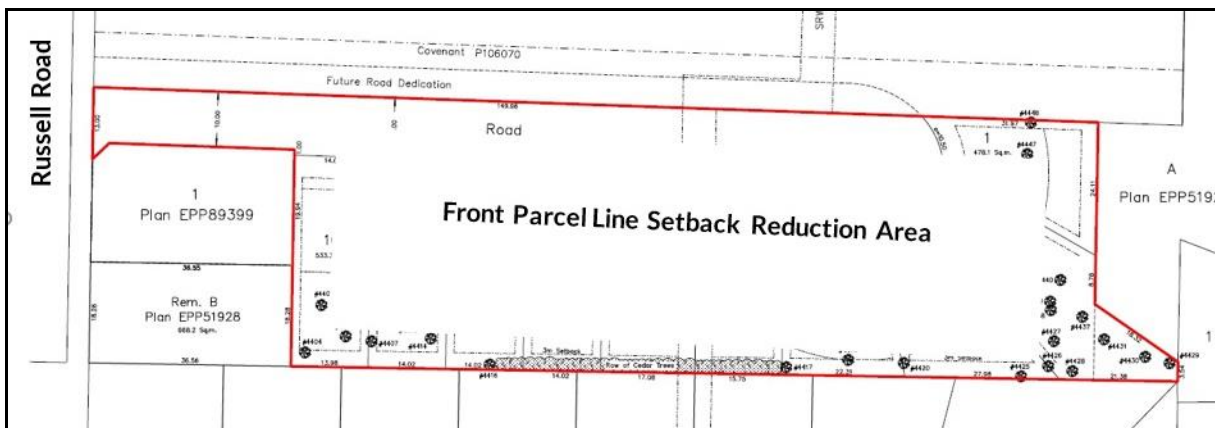
BYLAW NO. 2113

A Bylaw to amend “Town of Ladysmith Zoning Bylaw 2014, No. 1860”

The Council of the Town of Ladysmith in open meeting assembled enacts as the following amendments to “Town of Ladysmith Zoning Bylaw 2014, No. 1860”:

1. Schedule A – Zoning Bylaw Text is amended by adding a new section 7 “Site Specific Regulations” in section 10.3 “Single Dwelling Residential – Small Lot A Zone (R-1-A)”, as follows:
 - a. “Despite section 5.c) and 5.d), the *Front Parcel Line Setback* for a *Principal Building or Structure* and an *Accessory Building or Structure* is 3.0 metres, for the area shown in Figure 10.3.1”

FIGURE 10.3.1 PLAN OF FRONT PARCEL LINE SETBACK REDUCTION AREA



2. Schedule B – Zoning Bylaw Map is amended to change the zone for the subject area, Lot B District Lot 67 Oyster District Plan EPP51928 Except Plan EPP89399, as shown in Schedule 1, attached to and forming part of this Bylaw, from R-1 to R-1-A.

Citation

3. This Bylaw may be cited for all purposes as “Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 49) 2022, No. 2113”.

READ A FIRST TIME on the _____ day of _____, 2022
READ A SECOND TIME on the _____ day of _____, 2022
PUBLIC HEARING _____
READ A THIRD TIME on the _____ day of _____, 2022
APPROVED BY MINISTRY OF TRANSPORTATION & INFRASTRUCTURE
on the _____ day of _____, 2022
ADOPTED on the _____ day of _____, 2022

Mayor (A. Stone)

Corporate Officer

Attachment B

2021-April-22

Jake Belobaba
Director, Development Services
Town of Ladysmith
132C Robert Street
Ladysmith, BC, V9G 1A2

Dear Mr. Belobaba

Re - Rezoning Application for Lot B, District 67, Plan EPP51928 except Plan EPP89399

Further to our pre-application discussions with Ladysmith planning staff regarding the proposed rezoning of the above noted property, I am writing on behalf of the property owners, FMC Holdings Limited, to summarize the application.

Further to our discussions and review of the Town of Ladysmith's application forms and checklists, we have prepared an application package that includes the following;

Application form, checklist and fees
Summary letter
Proposed Subdivision Plan, Turner Surveying, Nanaimo
Preliminary Civil Engineering Design, Herold Engineering, Nanaimo
Previous PLA, C3320-15-04
Site Profile
Title Search
Covenants, Right of Ways and Easements on Title
BC Company Search

Property Description

This property is 0.81 ha (2.01 acres] and was previously addressed as 891 Russell Road. Lot 1, now addressed as 891 Russell Road, fronts on Russell Road, was subdivided off the property in 2020 and contains a house situated on the property. Adjacent to Lot 1 is Lot Rem. B, which also fronts on Russell Road. Neither Lot 1 or Rem. B are included in this rezoning application. Both Lot 1 and Rem. B are zoned Single Dwelling Residential (R-1).

The legal description of the property is Lot B, District Lot 67, Plan EPP51928 except plan EPP 89399. The PID is 029-799-031. The OCP designation for the property is neighborhood.

**Seward
Developments
Inc.**

**toby.seward@shaw.ca
250-713-6595
1820 Argyle Avenue, Nanaimo, B.C., V9S 3K7**

Current and Proposed Zoning

The current zoning is single dwelling residential (R – 1] which allows a parcel size of a minimum 668m² (7188 sq. ft.), with a minimum lot frontage of 18.28m (60.0 ft). Under the current zoning eight lots could be created.

The owners are making application to rezone the property to Single Dwelling Residential - Small Lot A Zone (R-1-A), which allows a parcel size of a minimum 460 m² (4950 sq. ft.), with a minimum lot frontage of 13.5 m (44.3 ft.). Under the proposed zoning, 10 lots could be created, as shown on the Turner Surveying plan.

The owner's rationale for making application for this rezoning is that a variety of lot sizes would be created (from 480 m² to 728 m², averaging 565 m²) allowing for two additional lots to be constructed off the partial cul-de-sac entrance road that would provide access to the lots. Given the smaller lot sizes, smaller and less expensive houses could be constructed on the lots. If the property to the north is developed in the future, a full cul-de-sac would be constructed, possibly including similar sized lots that are proposed in this application.

Neighbourhood Consultation Process

Following submission of this rezoning application, the applicant will work with Town of Ladysmith staff to determine how best to communicate with neighbourhood residents regarding this proposed rezoning. Given the health and safety concerns regarding COVID-19, various options may be used to seek feedback from the neighbourhood, including;

- 1.) Neighbourhood information Meeting (NIM) - This meeting could either be held on site or in a larger venue in Ladysmith, that would allow for social distancing and associated health and safety requirements.
- 2.) Written Correspondence - For people who do not wish to or cannot attend the NIM, written correspondence will be sent to area residents seeking their feedback regarding the proposed rezoning
- 3.) Zoom meeting – A online meeting could be arranged, to allow neighbourhood residents to provide input regarding the proposed rezoning.

Preliminary Engineering Design

The preliminary civil engineering design by Herold Engineering was prepared for the previous two lot of subdivision (File #3220-15-04] and included the design for the frontage works on Russell Road, the stormwater management plan and the proposed servicing. The engineering design is included in this application package.

**Seward
Developments
Inc.**

**toby.seward@shaw.ca
250-713-6595
1820 Argyle Ave, Nanaimo, B.C., V9S 3K7**

If the proposed rezoning is successful, the increased lot yield would be two lots (from the current allowable 8 lots, to the proposed 10 lots). The owner will discuss a proposed community amenity contribution with Ladysmith staff and determine if an amenity could be provided in the area, that would benefit the local neighbourhood.

Please advise if further information is required to support this rezoning application.

Yours truly

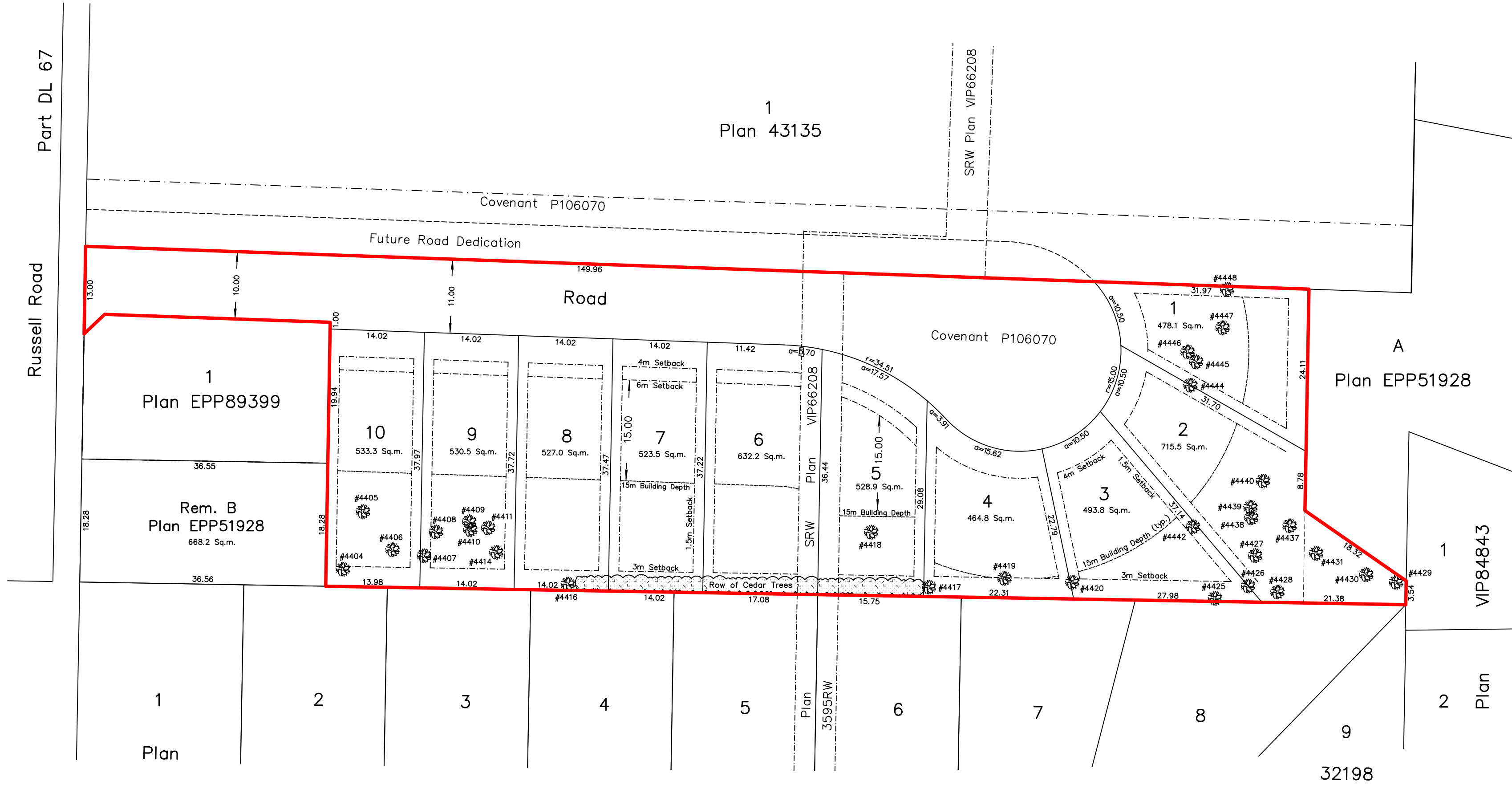
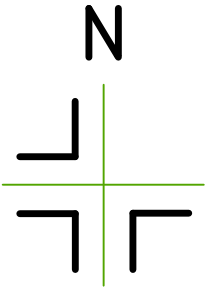


Toby Seward
Seward Developments Inc

ec FMC Holdings Ltd

**Seward
Developments
Inc.**

**toby.seward@shaw.ca
250-713-6595
1820 Argyle Avenue, Nanaimo, B.C., V9S 3K7**



NOTE:
 THIS SITE PLAN SHOWS 1.5m SIDE PARCEL LINE SETBACKS FOR PRINCIPAL BUILDINGS AND STRUCTURES IN THE R-1-A ZONE. THE R-1-A ZONE REQUIRES ONE SIDE PARCEL LINE TO BE 2.0m AND THE OTHER SIDE PARCEL LINE CAN BE A MINIMUM OF 1.5m.

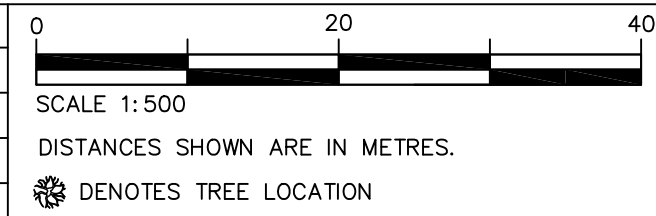
NOTE:
 THE REGISTERED TITLE OF THIS PROPERTY IS AFFECTED BY THE FOLLOWING LEGAL NOTATIONS AND REGISTERED CHARGES, LIENS AND INTERESTS:
 M76300, P106070, EL129035, CA8121318, CA8121319 & CA8121320.
 THIS SITE PLAN DOES NOT VERIFY COMPLIANCE WITH THE ABOVE NOTED DOCUMENTS.

SITE SUMMARY	
CURRENT ZONING	R1
PROPOSED ZONING	R-1-A
TOTAL SITE AREA	0.747 ha

PLAN SHOWING PROPOSED SUBDIVISION OF PART OF:
 LOT B, DISTRICT LOT 67, OYSTER DISTRICT, PLAN EPP51928,
 EXCEPT PLAN EPP89399.

Client: FMC HOLDINGS LTD. Civic Address: 891 RUSSELL ROAD
 File: 19-144-B Scale: 1:500 Drawn by: DRW Date: August 5th, 2022

DATE	REVISION	DATE	REVISION
January 8, 2021	First Issue	August 5, 2022	Increase road width to 11m, revise layout
October 18, 2021	Plot Tree Locations		
October 29, 2021	Plot Setbacks & Trees Outside Project Boundaries		
December 8, 2021	Remove Trees Outside Project Boundaries		



Turner & Associates
 land surveying
 250.753.9778
 435 Terminal Avenue North
 Nanaimo, BC V9S 4J8
 www.turnersurveys.ca



December 8, 2021

FMC Holdings Ltd
1890 Schoolhouse Road
Nanaimo BC, V9X 1T4

C/O: Toby Seward, Seward Developments Inc.

Via Email: toby.seward@shaw.ca

**RE: PROPOSED TREE PROTECTION COVENANT LETTER REPORT
891 RUSSELL DRIVE, LADYSMITH BC**

1.0 INTRODUCTION

Aquaparian Environmental Consulting Ltd. (Aquaparian) was retained by FMC Holdings Ltd. to provide environmental services for the proposed re-zoning and subsequent subdivision and development of 891 Russell Road located in the Town of Ladysmith, BC. The intent of this letter is to aid a preliminary discussion regarding tree retention as part of the rezoning and development plan. The Town of Ladysmith currently has no Tree Protection Bylaw to prevent the loss of trees during development of land. This letter report provides an approach and rationale to select trees to be retained on the parcel and recommends items for consideration when drafting a covenant to protect the trees in the future.

A review of the Town of Ladysmith Official Community Plan (OCP) identifies that the subject parcel is currently zoned Single Family Residential (R1), is 1.85 acres (0.747 ha) in size and not subject to any Development Permit Areas. It is legally described as follows: LOT 3, DISTRICT LOT 67, OYSTER DISTRICT, PLAN EPP51928, EXCEPT PLAN EPP89399. A site map is included as Figure 1. The parcel is rectangular in shape, bound by Russell Road to the west and private properties on all other sides. Google Earth imagery shows that the parcel is partially cleared and developed with a single-family house located at the west end. As understood, the project proposes to rezone the property to Single Dwelling Residential Small Lot A Zone (R-1-A) to enable a higher density development.

As understood, in lieu of a Tree Protection Bylaw, the Town is proposing that a covenant be placed on portions of the property to protect trees. Aquaparian and VI Tree Service (arborist) completed a preliminary site assessment on September 28, 2021 to document the tree cover on the site. Subsequently, the larger diameter trees (≥ 50 cm DBH) were tagged by the arborist and surveyed onto a legal site plan produced by Turner & Associates Land Surveying (Figure 2). There are a number of smaller trees on the site as well which were not surveyed; Figure 3 is an

overlay of the site plan on Google Earth with an approximate outline of the existing canopy cover on the property and the proposed tree retention covenant area. The intent was to identify significant clusters of mature trees and determine the potential tree removal requirements for the proposed development in order to plan for tree retention. Based on the proposed subdivision layout and the location of the majority of trees, the covenant area is proposed to be 5m wide along the south boundary and extending along the east boundary of the parcel including the irregular triangle area at the southeast corner. These trees will require further assessment by the arborist to ensure they are not hazard trees or require modification by limb removal or similar to make them wind firm. These covenant areas can be enhanced by the addition of trees and understory species to replace other trees removed from the property.

The central area of the property (approximately 3150m²) is cleared while the sides and back of the property are treed. The estimated tree canopy cover on the parcel is approximately 58% of the property which includes the canopy of trees that are located close to the property line on adjacent parcels; primarily along the north boundary future road dedication area. The estimated covenant area is 950m² or 13% of the parcel. Retained trees in the covenant area are expected to have canopy cover extending over the covenant boundary as they mature, therefore the covenant area is not representative of the canopy cover.

TABLE 1: SUMMARY OF TREE CANOPY AND COVENANT AREA

Area Description	Area (m ²) / No.	Percent
Parcel	7470 m ²	100%
Tree Canopy Cover	4320 m ²	58% of parcel
Proposed Covenant	950 m ²	13% of parcel 22% of canopy cover
Mature Trees >50cm DBH	31 trees in parcel 13 trees in covenant area. Tree tag numbers: #4404 #4407 #4416 #4417 #4419 #4420 #4425 #4426 #4428 #4429 #4430 #4431 #4437	42% of trees >50cm DBH in covenant area

The following sections provides a rationale for the importance of the covenant as well as recommendations for terms and conditions for discussion in drafting the covenant.

2.0 RATIONALE FOR PROPOSED TREE PROTECTION

An increased need for housing due to a growing population is driving development pressure on Vancouver Island including the Town of Ladysmith. Without a Tree Protection Bylaw in place, the loss of trees is problematic for wildlife (birds, amphibians, reptiles and mammals) within the town as urban environments increase and nesting and foraging habitat is lost. Development is responsible for much of the ecosystem fragmentation experienced by wildlife in urban settings. Species that do not undergo migrations are particularly sensitive to ecosystem fragmentation because they do not have the ability to travel elsewhere to find ample food and breeding opportunities. Fragmented ecosystems lead to limitations in resources because of a lack of interconnectedness between foraging and breeding habitats. With this in mind, tree retention should consider adjacent forest stands where they occur to create larger areas for wildlife across property boundaries. Clusters of trees create ecological stepping stones for wildlife, while linear strips of vegetation across property lines create a safe corridor for wildlife to move across the landscape while avoiding anthropogenic threats such as mortality from traffic or predation by domestic pets.

Tree removal may result in increased wind shear risk for retained trees when forested blocks are suddenly exposed to winds through clearing of adjacent stands. In some cases, it may be necessary to replace or modify some trees (i.e. hazard trees) in a covenant area with newly planted trees of the same species to allow the new stand of trees to establish in their current conditions and grow wind firm to a mature height. This is to be directed by a certified arborist.

In addition to the ecological benefits of tree retention to wildlife, there is the appeal of the aesthetic value of green space to the landowner and the creation of privacy maintained by retained trees. Backyard bird activity may be valued by residents. Other benefits of retaining trees in an urban landscape include provision of shade, improved air quality, wind break and, in the larger context, carbon sequestration.

3.0 RECOMMENDATIONS FOR TREE RETENTION AND PROTECTION

For the subject parcel, the proposed covenant area includes a linear 5m wide strip of existing mature trees along the south and east boundaries including the triangular area at the southeast corner. The covenant area is contiguous with trees remaining on the developed adjacent lots to all four sides of the property. The trees within the proposed covenant area will need to be assessed in detail by the arborist to determine if any of the trees are hazardous and require

modification to make them wind firm or require removal and replacement with suitable native species. Potential impacts to the root zones of the trees in the covenant will also be considered.

As understood, the Town is intending to require a covenant to protect trees on this site. The terms and conditions of the covenant are to be negotiated. Aquaparian recommends some flexibility in the covenant wording to allow limited future activities within the covenant area to remove or modify trees that may become hazardous over time. In addition, removal of invasive species is to be allowed to protect the health of the trees and integrity of the habitat. Planting and preserving native understory species should also be encouraged to maintain and enhance habitat value of the covenant area for wildlife and help outcompete invasive plants.

The covenant should protect areas of retained trees from encroachment. No dumping of yard waste or other alteration is allowed in the covenant area. A permanent barrier such as a fence with signage is an effective way to prevent negative impacts to the covenant.

A Tree Management Plan including a more detailed analysis of tree retention, removal and replacement should be completed at the Subdivision stage of the project at 891 Russell Road with input from the project arborist. Trees deemed hazardous should be scheduled for modification or removal and replacement as determined by arborist. The Tree Management Plan will include a site plan showing the proposed development and the existing trees on the site, trees to be retained, tree covenant protection area and a plan for tree replacement within the covenant area(s).

5.0 CLOSURE

This report has been provided to support the re-zoning application phase of the project by providing information regarding the existing tree canopy on the parcel, provide a rationale for tree protection within the property and to propose a strategy for tree retention and protection within covenant areas. The covenant is being required by the Town of Ladysmith in lieu of a Tree Protection Bylaw. This report is to be amended to reflect ongoing negotiations and rezoning discussions as required by changes to the site plan or proposed covenant boundaries.

This assessment has also been completed in accordance with generally accepted biological practices. No other warrantee is made, either expressed or implied. Aquaparian Environmental Consultants Ltd. trusts this information meets your requirements for the Phase 1 OCP/rezoning stage of the development. If you require further information, please contact the undersigned.

Sincerely,



AQUAPARIAN ENVIRONMENTAL CONSULTING LTD.

Prepared by:



Jeni Rowell, B.Sc.
Biologist-in-Training

Sarah Bonar, B.Sc, R.P.Bio
Senior Biologist/Principle

Z:\PROJECTS\PROJECTS\N836 891 RUSSELL ROAD\891 RUSSELL ROAD COVENANT LETTER.DOCX



203-321 WALLACE STREET NANAIMO, BC V9R 5B6
SARAH BONAR 250-714-8446 CHRIS ZAMORA 250-714-8864

FIGURE 1
SITE LOCATION MAP



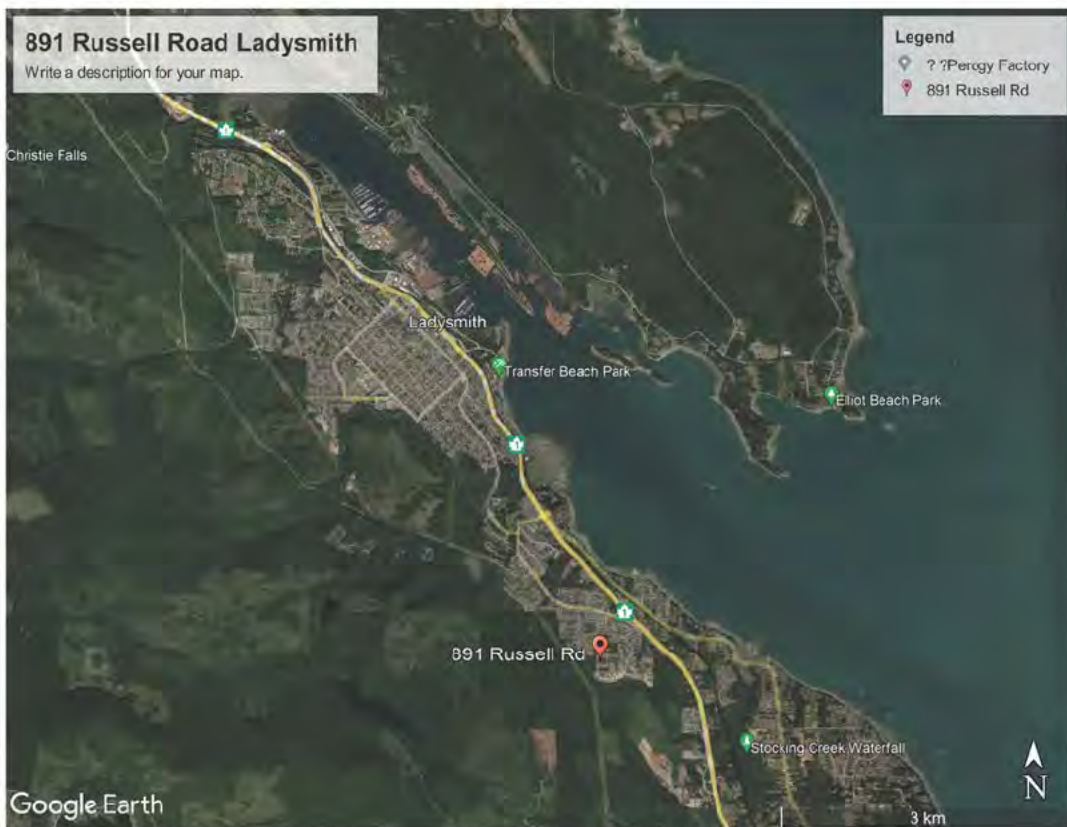


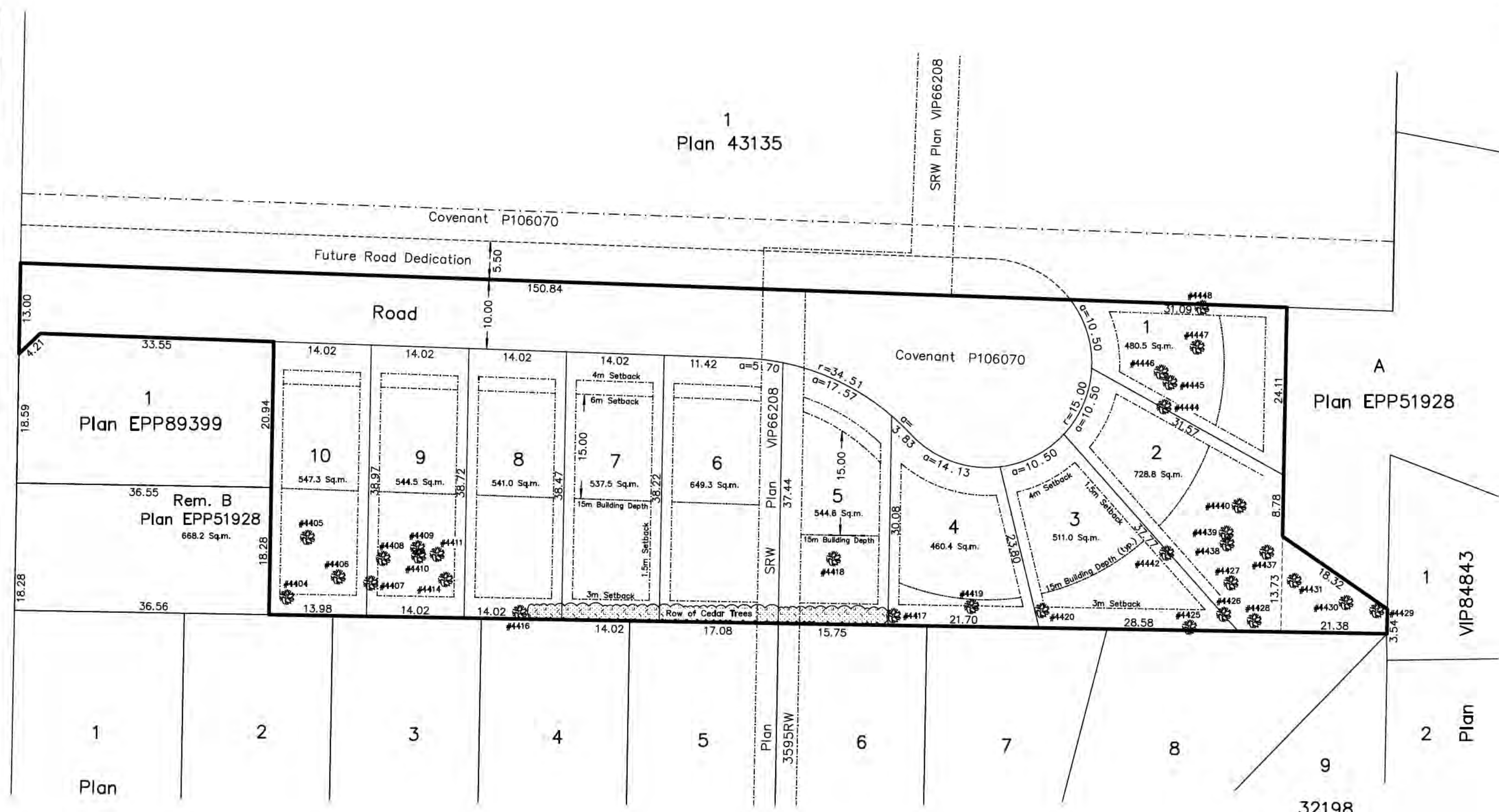
FIGURE 2

**SITE SURVEY OF 891 RUSSEL ROAD
(TURNER & ASSOCIATES LAND SURVEYING)**



Russell Road

Part DL 67

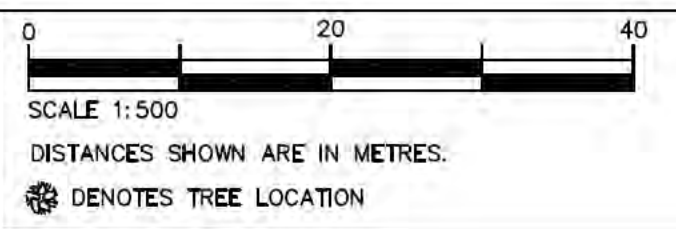


NOTE:
 THIS SITE PLAN SHOWS 1.5m SIDE PARCEL LINE SETBACKS FOR PRINCIPAL BUILDINGS AND STRUCTURES IN THE R-1-A ZONE. THE R-1-A ZONE REQUIRES ONE SIDE PARCEL LINE TO BE 2.0m AND THE OTHER SIDE PARCEL LINE CAN BE A MINIMUM OF 1.5m.

NOTE:
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 M76300, P106070, E129035, CAB121318, CAB121319 & CAB121320.
 THIS SITE PLAN DOES NOT VERIFY COMPLIANCE WITH THE ABOVE NOTED DOCUMENTS.

PLAN SHOWING TREE LOCATIONS WITHIN PROPOSED SUBDIVISION OF PART OF:
 LOT B, DISTRICT LOT 67, OYSTER DISTRICT, PLAN EPP51928,
 EXCEPT PLAN EPP89399.

DATE	REVISION
January 8, 2021	First Issue
October 18, 2021	Plot Tree Locations
October 29, 2021	Plot Setbacks & Trees Outside Project Boundaries
December 8, 2021	Remove Trees Outside Project Boundaries



SITE SUMMARY	
CURRENT ZONING	R1
PROPOSED ZONING	R-1-A
TOTAL SITE AREA	0.747 ha

Turner & Associates
 land surveying
 250.753.9778
 435 Terminal Avenue North
 Nanaimo, BC V9S 4J8
 www.turnersurveys.ca

Client: FMC HOLDINGS LTD. Civic Address: 891 RUSSELL ROAD
 File: 19-144-B Scale: 1:500 Drawn by: DRW Date: December 8, 2021

FIGURE 3

**OVERLAY OF SITE PLAN ON GOOGLE EARTH WITH
ESTIMATED CANOPY COVER AND PROPOSED COVENANT AREA**

**891 RUSSELL ROAD LADYSMITH
SITE PLAN OVERLAY WITH CANOPY COVER AND PROPOSED COVENANT AREA**



LEGEND:



CANOPY COVER 4320m²; 58% OF PARCEL



COVENANT BOUNDARY 950m²; 13% OF PARCEL; 22% OF CANOPY COVER



31 TREES ≥ 50CM DBH IN PARCEL;
13 TREES ≥ 50CM DBH IN COVENANT AREA

APPENDIX A
SITE PHOTOGRAPHS



891 Russell Road
Photo Sheet 1



Photo 1 & 2. Looking west from the back of the property showing the trees along the south and north boundary and a cluster of trees by the developed parcel at the west end.



Photo 3 Looking south at the row of cedar tree hedging and a mature weeping willow tree.



Photo 4. Looking across the treed cluster at the southeast corner of the parcel.



Tree Retention Plan

891 Russell Rd.

Ladysmith, B.C.

For:

Toby Seward

FMC Holdings, Ltd.

February 17, 2022

Submitted by:

Jon Bennett (PN-6799A, TRAQ Qualified)

Vancouver Island Tree Service, Ltd.

1495 Wilson Rd.

Nanaimo, B.C. V9R 6R3

jon.bennett@vitree.ca



Introduction

This Tree Retention Plan (TRP) is for the planned development at 891 Russell Rd. (The Property), in Ladysmith, B.C. Vancouver Island Tree Service, Ltd. was contracted by FMC Holdings, Ltd., (The Developer), to draft this report. This report is submitted for the consideration of the Town of Ladysmith, regarding the development of The Property.

The Property was originally assessed by Peter Brinson (PN0286-BT), Board Certified Master Arborist, (VI Tree Service, Ltd.), on September 28, 2021. All trees with a Diameter at Breast Height (DBH) greater than 50 cm were subsequently tagged and catalogued.

The Developer has also retained the services of Sarah Bonar and Chris Zamora, of Aquaparian Environmental Consulting, Ltd. for the project at The Property. Aquaparian had written a report dated December 8, 2021, re: PROPOSED TREE PROTECTION COVENANT LETTER. Many of the recommendations of this TRP will reflect, or echo, the recommendations outlined in Aquaparian's report.

Purpose & Use of Report

The purpose of the TRP is to offer recommendations based on best practices for retention of trees during construction. The aim is to identify trees of significance, (in this case, trees with a DBH > 50cm), and offer specific guidelines that will ensure these trees will be given the best opportunity to survive the construction process, and thrive into the future, post construction.

Limitations

- This report is based on visual inspection of the trees. Inspection was conducted from ground level
- This report does not provide any estimates to implement the proposed recommendations provided in this report
- This report is valid for the duration of the building project at The Property



Tree Inventory

(*See attached Tree Index*)

The (55) trees are listed on the tree inventory below. Each tree on the lot was tagged and numbered. The inventory contains:

- Tree #
- Species
- DBH
- Height (approx.)
- Overall Health (see below)
- Comments (if applicable)
- Remove/Retain

The **Overall Health Rating** is a generalized statement about the current health of a particular tree being evaluated. It is a method used to quickly assess larger groups of trees for any obvious defects, evidence of the presence of pests or disease, or to declare a tree to be dead or dying. The different ratings are explained below.

- **Excellent:** Ideal shape and structure according to species profile, no discernible defects, or heritage tree
- **Good:** Tree is in good condition with no significant structural weaknesses or health concerns
- **Fair:** Tree has visible health and/or minor structural weaknesses, but overall condition is fair.
- **Poor:** Tree is in serious decline, possibly with obvious structural issues. These trees may have difficulty adapting to land use changes.
- **Dead/Dying:** Tree is dead, or very advanced decline. Usually less than 30% Live Crown

Findings

It is recommended that a Tree Protection Barrier be erected to protect the Critical Root Zones (CRZ) of all retention trees, (trees not immediately required to be removed to accommodate the Development), mainly on Lots 2, 3, 5, 9 and 10. **The dimensions of the Tree Protection Barrier will be based on the diameter of the largest outside retention trees on the lots, multiplied by 6;**

- Lot 2: Tree #4440 (CRZ: 45 cm x 6 = 2.7 m)
- Lot 3: Tree #4442 (CRZ: 51 cm x 6 = 3.06 m)
- Lot 5: Tree #4418 (CRZ: 20 cm x 6 = 1.2 m)
- Lot 9: #4408 (CRZ: 81 cm x 6 = 4.86 m)
- Lot 10: #4405 (CRZ: 65 cm x 6 = 3.9 m)

Trees on Neighbouring Lots

A 5-meter buffer zone has been agreed upon, between the Town of Ladysmith and the Developer. As described in the Aquaparian report;

“..The proposed covenant area includes a linear 5m wide strip of existing mature trees along the south and east boundaries including the triangular area at the southeast corner. The covenant area is contiguous with trees remaining on the developed adjacent lots to all four sides of the property.”

This 5-meter wide buffer will ensure there is no disturbance to the trees on neighbouring properties.

Summary

Of the (55) significant trees contained in this report, (17) are to be removed as they will be directly impacted by the development of the site, and the construction of the new road, (See index and site map). There may also be an additional (10) trees that are currently scheduled for retention that may have to be removed (see below).

The remaining (38) trees appear to be outside the building envelopes and should not be directly impacted by the development. As stated above, the Tree Retention Guidelines outlined in Appendix A should be implemented to preserve the health, and protect the CRZs of these trees during construction. Tree protection barriers should be constructed prior to any work commencing on the site. If any construction activities are required to take place inside the tree protection barriers, a Certified Arborist must be present to supervise.

It is recommended that the following trees be re-assessed regularly during construction to evaluate their viability for retention as the project progresses:



Lot 2 - Trees #4438, 4439 and 4440

Lot 3 - Tree #4442

Lot 5 - Tree #4418

Lot 9 - Trees #4408, 4409, 4410 and 4411

Lot 10 - Tree #4405

Although these (10) trees are scheduled for retention in this report, location of houses and site conditions may change prior to construction, which could make retention untenable. It is, therefore, recommended that the (10) trees listed above should not be included in the Tree Retention Covenant proposed for this property. It is further recommended that the (10) tree above be inspected during construction by a Certified Arborist with Tree Risk Assessor qualification. If retention of these trees becomes untenable, it is recommended that trees directly impacted be considered for removal.

A Post-Clearing Tree-Risk Assessment will be conducted following the initial clearing of the Property. This will be an opportunity to assess the remaining trees to determine viability for retention.

All other trees outside the 5 m covenant that have DBH less than 50 cm are scheduled for removal. These trees are not included in this report or adjoining tree index.

The trees identified on the neighbouring properties shall be protected by the 5 m covenant which runs along the south and east perimeters of the Development. All trees along the north perimeter are to be removed to allow the construction of the road into the Development.

I hereby declare that all information contained in the above report is accurate and true, to the best of my abilities.

A handwritten signature in black ink that reads 'Jonathan Bennett'.

Jonathan Bennett

ISA Certified Arborist PN-6799A

Certified Tree Risk Assessor Qualification

Appendix A: (*Derived, in large part, from City of Vancouver Bylaw #9958*)

Tree Retention Guidelines:

Protection of Trees During Construction

1) The owner shall:

- a)** Install a protection barrier for each retention tree, or group of retention trees, located on the site before demolition, excavation or construction begins
- b)** Ensure that the protection barrier meets the requirements for a protection barrier, (*see below), throughout the course of demolition, excavation, and construction on the site; and
- c)** Maintain the protection barrier in good repair continuously throughout the course of demolition, excavation, and construction on the site.

2) A person who installs a protection barrier must:

- (a)** Care for the retention tree within the tree protection area, during the construction process, including sufficient watering, particularly if excavation has disturbed the tree root system;
- (b)** Attend to proper root pruning and care for the remaining root system;

- (c) To minimize root damage, soil erosion and tree disturbance, wrap a temporary root curtain around the root zone to retain and protect the exposed area, which root curtain is to consist of heavy wire mesh or similar material lined with burlap and supported by posts;
- (d) Use backfill to ensure that none of the roots remain exposed;
- (e) If required, tunnel rather than trench when installing underground utilities and drainage lines, which technique includes boring a hole under or through the root system with minimum disturbance, and carry out any excavation within the tree protection area to accommodate underground installations, including services and footings, by hand; and
- (f) Maintain such protection barrier, repair any damage to it, and not alter or remove it until construction is complete.

“Protection barrier” means a barrier erected to protect a tree and its roots that:

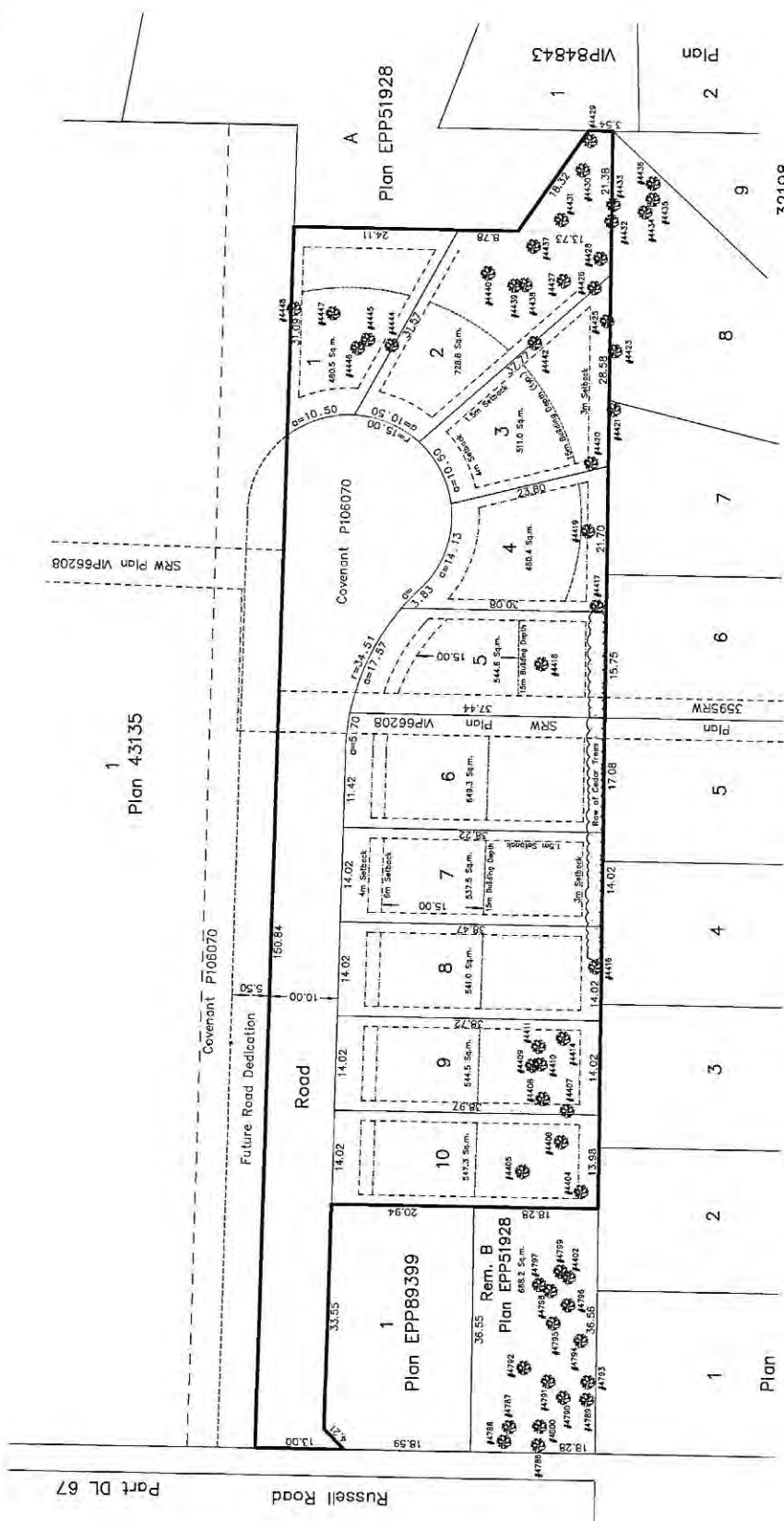
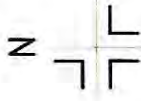
- (a) is at least 1.2 metres high measured from the ground,
- (b) meets the distance requirements, measured 1.4 m above the existing grade of the ground adjoining the base of the tree (DBH x 6)
- (c) with respect to its construction, consists of snow fencing fastened securely to metal or wood stakes spaced no more than one metre apart

3) No encroachment

A person must not encroach into a tree protection area, with or without vehicles, and must not store anything in such area until construction is complete.

<u>Tree #</u>	<u>Species</u>	<u>DBH (cm)</u>	<u>Crown Spread (m)</u>	<u>Live Crown Ratio (%)</u>	<u>Height (m)</u>	<u>Health</u>	<u>Comments</u>	<u>Remove/Retain</u>
4402	Western Red Cedar (<i>Thuja plicata</i>)	43	9	30	20	Good	Edge of driveway.	Remove
4403	Lost tag							
4404	Big Leaf Maple (<i>Acer macrophyllum</i>)	40	8	30	18	Good	Two stems at 3.5 meters. Inside 5 m covenant	Retain
4405	Big Leaf Maple (<i>Acer macrophyllum</i>)	65	14	30	20	Good	Edge of driveway. Outside Lot 10 Building envelope. TPF @ 3.9 m around Tree #4405-14	Retain
4406	Big Leaf Maple (<i>Acer macrophyllum</i>)	90	13	50	25	Good	Two stems (50 cms + 40 cms); crown is asymmetrical; machine damage on roots. TPF @ 3.9 m around Tree #4405-14	Retain
4407		38	6	30	20	Good	Machine damage on roots. TPF @ 3.9 m around Tree #4405-14	Retain
4408	Western Red Cedar (<i>Thuja plicata</i>)	81	12	75	30	Good	Behind garage. TPF @ 3.9 m around Tree #4405-14	Retain
4409	Douglas Fir (<i>Pseudotsuga menziesii</i>)	55	7	10	33	Good	TPF @ 3.9 m around Tree #4405-14	Retain
4410	Douglas Fir (<i>Pseudotsuga menziesii</i>)	41	6	40	20	Good	TPF @ 3.9 m around Tree #4405-14	Retain
4411	Douglas Fir (<i>Pseudotsuga menziesii</i>)	60	9	40	33	Good	Crown is asymmetrical. TPF @ 3.9 m around Tree #4405-14	Retain
4412	Lost tag						TPF @ 3.9 m around Tree #4405-14	Retain
4413	Douglas Fir (<i>Pseudotsuga menziesii</i>)	52	8	40	25	Good	Off site. Two tops. TPF @ 3.9 m around Tree #4405-14	Retain
4414	Douglas Fir (<i>Pseudotsuga menziesii</i>)	70	10	40	30	Good	Blackberry wrapped around base of tree. TPF @ 3.9 m around Tree #4405-14	Retain
4415	Western Red Cedar (<i>Thuja plicata</i>)	25	8	40	17	Good	Part of a hedge next to fence approximately 25 meters long. Average height is 18 m; DBH ranges from 15 to 40 cms; hedge is in good health. Inside 5 m covenant.	Retain
4416	Western Red Cedar (<i>Thuja plicata</i>)	33	8	40	20	Good		Retain
4417	Western Red Cedar (<i>Thuja plicata</i>)	35	8	40	20	Good		Retain
4418	Weeping Willow (<i>Salix babylonica</i>)	20	10	80	14	Good	Open grown.	Retain
4419		110	20	60	25	Good	Inside 5 m covenant	Retain
4420	Big Leaf Maple (<i>Acer macrophyllum</i>)	45	16	75	18	Excellent	Inside 5 m covenant	Retain
4421	Deodara Cedar (<i>Cedrus deodara</i>)	66	10	50	20	Good	Off site.	Retain
4422	Douglas Fir (<i>Pseudotsuga menziesii</i>)	74	9	50	35	Good	Off site.	Retain
4423	Douglas Fir (<i>Pseudotsuga menziesii</i>)	100	12	50	36	Good	Off site; two stems (60 cms + 40 cms)	Retain
4424	Douglas Fir (<i>Pseudotsuga menziesii</i>)	51	8	40	34	Good	Off site.	Retain
4425	Douglas Fir (<i>Pseudotsuga menziesii</i>)	80	9	50	20	Good	Inside 5 m covenant	Retain
4426	Douglas Fir (<i>Pseudotsuga menziesii</i>)	48	6	50	30	Good	Inside 5 m covenant	Retain
4427	Douglas Fir (<i>Pseudotsuga menziesii</i>)	35	6	30	30	Good	Crown is asymmetrical.	Retain
4428	Douglas Fir (<i>Pseudotsuga menziesii</i>)	40	6	40	33	Good	Inside 5 m covenant	Retain

4429	Douglas Fir (<i>Pseudotsuga menziesii</i>)	44	6	30	35	Good	Inside 5 m covenant	Retain
4430	Douglas Fir (<i>Pseudotsuga menziesii</i>)	40	6	30	35	Good	Inside 5 m covenant	Retain
4431	Pacific Arbutus (<i>Arbutus menziesii</i>)	50	14	40	33	Good	Inside 5 m covenant	Retain
4432	Douglas Fir (<i>Pseudotsuga menziesii</i>)	37	6	30	30	Good	Inside 5 m covenant	Retain
4433	Douglas Fir (<i>Pseudotsuga menziesii</i>)	38	6	30	33	Good	Inside 5 m covenant	Retain
4434	Pacific Arbutus (<i>Arbutus menziesii</i>)	95	14	40	30	Good	Leans east; two stems (55 cms to 40 cms); off site.	Retain
4435	Douglas Fir (<i>Pseudotsuga menziesii</i>)	54	6	40	33	Good	Off site.	Retain
4436	Douglas Fir (<i>Pseudotsuga menziesii</i>)	54	6	40	33	Good	Off site.	Retain
4437	Douglas Fir (<i>Pseudotsuga menziesii</i>)	35	6	25	33	Good	Outside Lot 2 Building envelope: TPF @ 2.7 m	Retain
4438	Douglas Fir (<i>Pseudotsuga menziesii</i>)	35	6	25	33	Good	Outside Lot 2 Building envelope: TPF @ 2.7 m	Retain
4439	Douglas Fir (<i>Pseudotsuga menziesii</i>)	35	6	25	33	Good	Outside Lot 2 Building envelope: TPF @ 2.7 m	Retain
4440	Douglas Fir (<i>Pseudotsuga menziesii</i>)	45	6	25	33	Good	Outside Lot 2 Building envelope: TPF @ 2.7 m	Retain
4441	Western Red Cedar (<i>Thuja plicata</i>)					Dead	Tree is dead.	Remove
4442	Pacific Arbutus (<i>Arbutus menziesii</i>)	51	14	40	33	Good	Leans west, TPF @ 3.06 m	Retain
4443	Western Red Cedar (<i>Thuja plicata</i>)					Dead	Tree is dead.	Remove
4444	Douglas Fir (<i>Pseudotsuga menziesii</i>)	47	6	25	33	Good	Between Lot 1 & 2 building envelopes	Remove
4445	Pacific Arbutus (<i>Arbutus menziesii</i>)	85	24	45	33	Good	Inside Lot 1 Building envelope	Remove
4446	Douglas Fir (<i>Pseudotsuga menziesii</i>)	40	6	25	33	Good	Inside Lot 1 Building envelope	Remove
4447	Pacific Arbutus (<i>Arbutus menziesii</i>)	60	24	30	26	Fair	Inside Lot 1 Building envelope	Remove
4448	Douglas Fir (<i>Pseudotsuga menziesii</i>)	35	6	35	30	Good	On road allowance	Remove
4455	Big Leaf Maple (<i>Acer macrophyllum</i>)	120	25	60	25	Good	Three stems. On road allowance	Remove
4456	Big Leaf Maple (<i>Acer macrophyllum</i>)	87	20	60	30	Good	Four stems. On road allowance	Remove
4457	Western Red Cedar (<i>Thuja plicata</i>)					Dead	Tree is dead.	Remove
4458	Western Red Cedar (<i>Thuja plicata</i>)					Dead	Tree is dead	Remove
4459	Western Red Cedar (<i>Thuja plicata</i>)					Dead	Tree is dead	Remove
4460	Douglas Fir (<i>Pseudotsuga menziesii</i>)	72	9	45	34	Good	Crown is asymmetrical; swelling in butt. On road allowance	Remove
4461	Douglas Fir (<i>Pseudotsuga menziesii</i>)	35	9	45	34	Good	Crown is asymmetrical; leans over the house. On road allowance	Remove
4462	Douglas Fir (<i>Pseudotsuga menziesii</i>)	41	7	30	33	Good	Crown is asymmetrical; leans towards the neighbour's house. On road allowance	Remove
4463	Douglas Fir (<i>Pseudotsuga menziesii</i>)	52	7	40	33	Good	Roots disturbed when house was built approx. 10 years ago. On road allowance	Remove



NOTE:
THIS SITE PLAN SHOWS 1.5m SIDE PARCEL LINE SETBACKS FOR
TRIANGULAR BUILDINGS AND 1.5m SIDE PARCEL LINE SETBACKS FOR
RECTANGULAR BUILDINGS. THE OTHER SIDE PARCEL LINE TO 1.5m, 3m
AND THE OTHER SIDE PARCEL LINE CAN BE A MINIMUM OF 1.5m.

NOTE:
THE REGISTERED TITLE OF THIS PROPERTY IS AFFECTED BY THE
FOLLOWING LEGAL NOTATIONS AND REGISTERED CHARGES, LIENS
AND INTERESTS:
C/2010/0010, E/1990/05, C/AR/21318, C/AR/21319, &
C/AR/21320.
THIS SITE PLAN DOES NOT VERIFY COMPLIANCE WITH THE ABOVE
NOTED DOCUMENTS.

Turner & Associates Land Surveying 250-753-9778 435 Terminal Avenue North Nanaimo, BC V9S 4J8 www.turnersurvey.co	
SITE SUMMARY CURRENT ZONING: R1 PROPOSED ZONING: R-1-A TOTAL SITE AREA: 0.147 ha	
REVISION DATE January 8, 2021 October 18, 2021 October 29, 2021	REVISION First Issue Plot Tree Locations Plot Setbacks & Trees Outside Project Boundaries
PLAN SHOWING TREE LOCATIONS WITHIN PROPOSED SUBDIVISION OF PART OF LOT B, DISTRICT LOT 67, OYSTER DISTRICT, PLAN EPP51928, EXCEPT PLAN EPP89399.	
Client: FMC HOLDINGS LTD. Scale: 1:500 Drawn by: DRW	Site Address: 891 RUSSELL ROAD Date: October 26, 2021

LAND TITLE ACT
FORM 17
(Section 152(1))
APPLICATION

P 106070

(a) Nature of Interest
CHARGE - RESTRICTIVE
COVENANT

(b) Address of person entitled to be
registered, if different from that
shown in instrument.

(c) Full name, address, tele-
phone number of person
presenting instrument:

(d) True Value: \$1.00

(e) Herewith Fees of: \$11.00

KING, SUTTON & HOPE
Barristers and Solicitors
4 Church Street
Nanaimo, B.C. 753-6617
V9R 5H4

[Signature]
Signature of Applicant.

LAND TITLE ACT
DEC -3 NO 06
85

THIS INDENTURE made the 28th day of October, 1985

BETWEEN: 12/03/85 A2858 CHG +VA 11

ROBERT LEON GRANT, Businessman, and JUDY ISABELLA
GRANT, Homemaker, both of Ladysmith, British
Columbia

(herein called the "Grantor")

OF THE FIRST PART

AND:

TOWN OF LADYSMITH, Box 220, Ladysmith,
British Columbia, V0R 2E0

(hereinafter called the "Grantee")

OF THE SECOND PART

WHEREAS the Grantor is the registered owner in fee simple of those

lands and premises legally described as:

Lot 2
District Lot 67
Oyster District
Plan 6215

(hereinafter referred to as the "Lands");

AND WHEREAS the Grantor wishes to subdivide the Lands and incidental thereto has agreed to enter into a Restrictive Covenant with the Town of Ladysmith pursuant to the provisions of Section 215 of the Land Title Act restricting the use of the portions of the Lands hereinafter described;

AND WHEREAS the purpose of the Restrictive Covenant is to ensure that the portions of the Lands hereinafter described remain as bare land without buildings, structures, erections or improvements situate thereon to enable the Grantee at some future date to construct roadways thereon;

AND WHEREAS the portion of the Lands to which this Restrictive Covenant will apply are legally described as follows:

FIRSTLY: All that part of Lot 1, of a plan of subdivision of Lot 2, District Lot 67, Oyster District, Plan 6215 certified by George C. Smythies, B.C. Land Surveyor, on the 15th day of October, 1985 a copy of which is attached hereto, lying to the south of a line, and said line extended, drawn parallel to and perpendicularly distant 10 metres northerly of the southerly boundary of said Lot 1; and

SECONDLY: All that part of Lot 2, of a plan of subdivision of Lot 2, District Lot 67, Oyster District, Plan 6215 certified by George C. Smythies, B.C. Land Surveyor, on the 15th day of October, 1985, a copy of which is attached hereto, lying to the north of a line, and said line extended, drawn parallel to and perpendicularly distant 10 metres southerly of the northerly boundary of said Lot 2

3

- Page 3 -

AND WHEREAS the Grantor desires to give such a Restrictive Covenant to the Grantee.

NOW THEREFORE in pursuance of the premises and for and in consideration of the sum of ONE DOLLAR (\$1.00) of lawful money of Canada (the receipt of which by the Grantor is hereby acknowledged) and other good and valuable consideration, the parties agree as follows:

1. The Grantor for themselves, their heirs, executors, administrators, successors, assigns, servants, employees and agents covenants and agrees with the Grantee not to cause to be placed on the portions of land affected by this Restrictive Covenant any buildings, structures, erections or improvements of any kind and that the aforescribed portions of land shall at all times remain bare land to enable the Grantee at some future date to place roadways thereon;

2. Upon written notice from the Grantee to the Grantor of any breach of paragraph 1 hereof, if the Grantor shall not within Thirty (30) days of such notice rectify such breach to the satisfaction of the Grantee, the Grantee may force the Grantor to remove such buildings, structures, erections or improvements as may be situate on the portions of land affected by this Restrictive Covenant;

3. The Grantee shall be entitled to use such force as shall reasonably be necessary to effect the removal of the offending buildings, structures,

4

10607C

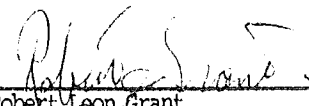
erections or improvements, as the case may be, from the portions of land affected by this Restrictive Covenant and any cost or expense to which the Grantee shall be put on such account shall be recoverable from the Grantor by the Grantee in any Court of competent Provincial jurisdiction.

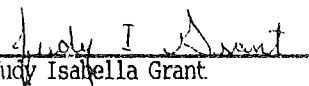
4. This Agreement shall be binding upon the parties hereunto and their successors, executors, administrators and assigns, as the case may be.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of the day and year first above written.

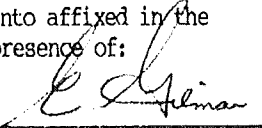
SIGNED, SEALED AND DELIVERED)
by the Grantor)
in the presence of:)

Name)
4 CHURCH)
Address)
VANUOVO, B.C.)
City)
SOMER)
Occupation)
(as to both signatures)


Robert Leon Grant


Judy Isabella Grant

The common seal of the)
TOWN OF LADYSMITH was here-)
unto affixed in the)
presence of:)


Approving Officer

(seal)

THIS RESTRICTIVE COVENANT IS GIVEN PURSUANT TO SECTION 215 OF THE LAND TITLE ACT, R.S.B.C. 1979 AS REFERRED TO IN THAT PLAN OF SUBDIVISION COMPLETED BY GEORGE C. SMYTHIES, B.C. LAND SURVEYOR, ON THE 15th DAY OF OCTOBER, 1985 RESPECTING THE SUBDIVISION OF LOT 2, PLAN 6215, DISTRICT LOT 67, OYSTER DISTRICT.



Government of British Columbia

File No. P106070

Not available at time of filming.

Plan not suitable for filming, see VAULT CLERK

See _____

DO NOT PHOTOCOPY

RMB 077



MINUTES

Community Planning Advisory Committee

Wednesday, September 1, 2021 at 7:00 p.m.
via Zoom

-
- PRESENT:** Acting Chair – Steve Frankel; Members – Brian Childs, Abbas Farahbakhsh, Tamara Hutchinson, Jason Robertson; Council Liaison – Tricia McKay; Senior Planner & Recorder – Christina Hovey; Planner – Julie Thompson
- ABSENT:** Chair - Jason Harrison; Member – Jennifer Sibbald
- GUESTS:** Applicant – Toby Seward (3360-21-03)
-

The meeting was called to order at 7:05pm, acknowledging with gratitude that Ladysmith is located on the traditional unceded territories of the Stz'uminus People.

1. ACTING CHAIR

Steve Frankel was selected as the acting chair by unanimous consent.

2. AGENDA APPROVAL

It was moved, seconded and carried that the Agenda of September 1, 2021 be approved.

3. ADOPTION OF MINUTES

It was moved, seconded and carried that the Minutes of August 4, 2021 be approved.

4. NEW BUSINESS

None.

5. COUNCIL REFERRALS

a. Facade Development Permit application 3060-21-14 – 516 1st Avenue

Julie Thompson briefly introduced the file, the applicant was not in attendance. Tiles were damaged on the front of the building and need to be replaced. The paint on the trim of the building, cream, black, and burgundy to match the tile and existing awning. One CPAC member remembers that the building was updated in the 1980s which included the changes to the roofline.

It was moved, seconded and carried that CPAC recommend that DP 3060-21-14 (516 1st Avenue) be approved as presented.

b. Zoning Bylaw Amendment application 3360-21-03 – Lot B Russell Road

Julie Thompson briefly introduced the file. Subdivision of the property will yield 2 additional lots (10 rather than 8) with a change in the zone from R-1 to R-1-B which allows for a smaller parcel size. Toby Seward then spoke on behalf of the applicant and was available for questions. He said that the applicant would be required to build a 2/3 road which would include 7.5m of paving, a sidewalk and a cul-de-sac large enough to allow a fire truck or garbage truck to turn around.

CPAC had a general discussion about subdivision in South Ladysmith and a desire to see more tree retention, greenspace, walking and cycling connections, and high quality housing and/or affordable housing.

CPAC would prefer to have more detail on landscaping plans for this type of development, although this is generally not provided at the time of a zoning amendment. There was also discussion about whether the houses would feel cramped on the parcels and whether there would be adequate parking for all the houses and suites.

It was moved, seconded and carried that CPAC recommends that Council approve rezoning application 3360-21-03 (Lot B – Russell Road) on the condition of provision of a tree preservation covenant, and provision of adequate landscaping and greenspace.

6. MONTHLY BRIEFING

File Updates:

- DP 3060-21-13 (32 High Street, Temperance Hotel) was approved.

7. NEXT MEETING – TBD

8. ADJOURNMENT

It was moved, seconded and carried that the meeting be adjourned at 8:35pm.

Acting Chair (S. Frankel)

RECEIVED:

Corporate Officer (D. Smith)



MINUTES

Community Planning Advisory Committee

Wednesday, October 5, 2022 at 7:00 p.m.

This meeting was held electronically

PRESENT: Acting Chair – Tamara Hutchinson; Members – Abbas Farahbakhsh, Brian Childs, Jason Robertson, Council Liaison – Marsh Stevens; Senior Planner & Recorder – Christina Hovey; Planner – Julie Thompson

ABSENT: Members – Jennifer Sibbald, Steve Frankel; Jason Harrison

GUESTS: Applicant – Brody Phillips (File No. 3360-21-12)

Senior Planner C. Hovey called the meeting to order at 7:17pm, acknowledging with gratitude that Ladysmith is located on the traditional unceded territories of the Stz'uminus First Nation.

1. ELECTION OF CHAIR

It was moved, seconded and carried that Jason Harrison be elected chair for another term.

2. ELECTION OF ACTING CHAIR

Tamara Hutchinson was selected as the acting chair of the meeting by consensus.

3. AGENDA APPROVAL

It was moved, seconded and carried that the Agenda of the October 5, 2022 Community Planning Advisory Committee meeting be approved.

4. ADOPTION OF MINUTES

It was moved, seconded and carried that the Minutes of the September 7, 2022 Community Planning Advisory Committee meeting be approved.

5. NEW BUSINESS

None.

6. COUNCIL REFERRALS

a. Zoning Bylaw Amendment 3360-21-12 – 11 & 17 Warren Street

Planner Julie Thompson provided a brief overview of the proposal. A development permit is required and will be referred to CPAC for review since the property is in DPA 2 (Downtown). Applicant Brody Phillips was available to answer questions from the committee and stated that he would relay the comments from the committee to the property owner.

The committee members made positive comments about the proposed style and design of the buildings which pick up on the “feel” of the area. Although the neighbouring homes are small there are some larger buildings nearby (e.g. Buckingham’s Browsersium, Eagles Hall).

The committee pointed out that the location of the property is ideal for additional density and multi-family housing. The parcel is flat and is in the downtown, one of the most walkable locations in Ladysmith. The proposal supports the goal of having more people living in the downtown and the proposed 3-bedroom units would accommodate families. There are

opportunities in the immediate area for redevelopment but the location is a tucked away/hidden. The committee encouraged additional density (more units than are proposed), provided it could be done without sacrificing the aesthetic style of the buildings.

CPAC recommended making changes to the proposal to allow for additional landscaping and outdoor amenity space. Suggestions included; reducing setbacks, reducing parking requirements, or reconfiguring the design from two to one buildings to remove the space between the buildings. For parking, Warren Street is wide enough to allow for ample on-street parking. The space between the buildings could be considered “wasted” if little light gets in and it can be poorly maintained, collecting moss and garbage.

It was moved, seconded, and carried that the Community Planning Advisory Committee supports the rezoning application in principle, but recommends that Council look for opportunities to:

- **increase the density;**
- **increase the amount of usable greenspace; and**
- **keep with the proposed neo-traditional design.**

7. MONTHLY BRIEFING (7:40pm)

The following files, that the Committee previously reviewed, have been presented to Council since the last meeting:

- Holland Heights/Lot 5 Holland Creek (3360-21-08)
- 1301 & 1391 Rocky Creek Road (3360-20-08)
- 1130 Rocky Creek Road (3360-20-02)

The draft new OCP received 1st reading and is being circulated to external agencies and other governments.

Committee members can review the Council Agendas and Minutes or contact staff for further information. One committee member expressed disappointment that 1130 Rocky Creek Road file was not referred back to CPAC by Council for further design review, which CPAC had requested. Senior Planner C. Hovey committed to looking into the possibility of amending the Committee Structure and/or Terms of Reference as a follow up to that concern.

8. NEXT MEETING – TBD

9. ADJOURNMENT

It was moved, seconded and carried that the meeting be adjourned at 8:37pm.

Acting Chair (T. Hutchinson)

RECEIVED:

Corporate Officer (D. Smith)

STAFF REPORT TO COUNCIL

Report Prepared By: Erin Anderson, Director of Financial Services
Reviewed By: Allison McCarrick, CAO
Meeting Date: October 25, 2022
File No:
Re: **Water and Sewer 2023 Budgets**

RECOMMENDATION:

That Council:

- 1) Approve the inclusion of an additional position of Equipment Operator 2 into the 2023-2027 Financial Plan;
- 2) Direct staff to amend the "Sewer Rates Bylaw 1966, No. 422, Amendment Bylaw 1999, No.1360" to include a 2.5% increase to the rates;
- 3) Direct staff to prepare the 2023 sewer parcel tax bylaw at \$360 per parcel;
- 4) Direct staff to amend the "Waterworks Regulation Bylaw 1999, No.1298" to include a 5% increase to the rates; and
- 5) Confirm the 2023 water parcel tax bylaw at \$459 per parcel.

EXECUTIVE SUMMARY:

The 2023 budget for the Town's water and sewer utilities are presented. Staff are proposing a 2.5% increase to sewer rates, a \$10 increase to the sewer parcel tax, and a 5% increase to the water rates.

PREVIOUS COUNCIL DIRECTION:

N/A

INTRODUCTION/BACKGROUND:

The Water and Sewer budgets are the second in a series of budget meetings discussing the 2023-2027 Financial Plan.

Though the operations are funded from the fees charged in their respective utilities, there are some common costs associated with the two funds:

- There is a 2.5% (over 2021) CUPE wage increase factored into the operations. Many of the employees work in both sewer and water. For budgeting, these employees have been split 60% to water and 40% to sewer.

- The additional Equipment Operator 2 has been included into the calculations.
- Materials used in the treatment are increasing.
- Hydro costs are increasing.

Sewer - Expenses

- The employment costs within the sewer utility are increasing \$26,144.
- The Waste Water Treatment Plant debt interest payment decreases \$10,000 per year. The debt is expected to end by 2036.
- Materials & Supplies are increasing by \$94,070. Much of this is due to an increase in chemical costs and the MBBR media (\$65,575). The remaining increase is for pump servicing.
- Though the capital budget for 2023 is lower than 2022, there is an increase to the contribution to reserve. This is necessary for future projects (such as UV disinfection) which is a requirement of the Operational Certificate.
- Hydro costs continue to increase, which represents a \$27,700 increase. This is slightly offset by a reduction in Contracted Services for \$12,200.
- Insurance, use of equipment and other amount to an increase of \$2,254.

Sewer Operations - expenses	2023 Proposed Budget	2022 Amended Budget
Employment Costs	734,992	708,848
Debt payment	637,500	647,500
Reserve	370,020	262,719
Capital	525,000	602,085
Materials & Supplies	326,925	232,855
Contract Services	207,170	219,369
Utilities	174,681	147,982
Other	141,877	146,326
Insurance	42,056	40,444
Equipment Use	36,059	30,968
Grand Total	3,196,280	3,039,096

Sewer - Revenues

The above sewer expenses are mainly funded by sewer parcel taxes and sewer rates.

There are 3,832 sewer parcels, including the Stz'uminus First Nation serviced area. Increasing the sewer parcel tax by \$10 to \$360 will see \$1,379,520 brought in to fund the Debt Payment (\$637,500) and the Capital & Reserve (\$895,020). Sewer rates make up most of the remaining funds.

Staff are proposing a 2.5% increase to the rates which results in a \$2.26 quarterly increase or \$9.06 annual increase for a single residential rate. Total sewer rates are expected to earn \$1,741,960.

DCC funding, permits, extended services and penalties makes up the remaining \$74,800.

Water – expense

- Employment costs are decreasing for 2023 as the additional casual workers are no longer part of the water budget.
- Funding for capital projects is decreasing by \$30,000 as focus on the Water Filtration Plan projects, funded from reserves, will take priority.
- Chemical costs are budgeted to remain at \$264,000, though other materials and supplies at the Water Filtration Plant are decreasing as capital works will cover some of the Plant deficiencies.
- The debt on the existing waterworks capital works from 2012 is renewing in 2023. The debt payments are anticipated to increase by \$5,505.
- Contracted Services are also decreasing due to the work being funded through the capital works.
- The proposed debt has been recalculated using current interest rates. This debt is necessary if the Water Supply grant is successful.
- Some of the facility costs are decreasing, such as insurance and utility costs, based on historic costs to date.

Water Operations - Expenses	2023 Proposed Budget	2022 Amended Budget	2022 Amended Budget Without Reserve
Employment Costs	997,237	1,053,289	947,835
Capital	555,000	585,000	585,000
Materials & Supplies	449,000	470,690	470,690
Debt payment - proposed	432,956	383,511	383,511
Debt payment - existing	387,685	382,180	382,180
Contract Services	199,820	421,150	196,150
Other	190,530	179,542	179,542
Equipment Use	87,771	75,286	75,286
Reserve	78,648	77,096	77,096
Utilities	70,363	92,250	92,250
Insurance	31,001	34,271	34,271
Grand Total	3,480,011	3,754,265	3,423,811

In 2022, there was one-time funding of \$330,454 for wages and contracted services, which was funded from reserves. This reserve funding has been removed for 2023.

Water - Revenues

There are 4053 parcels within the Town and including the Diamond and Stz’uminus First Nation serviced areas. The parcel tax, remaining at \$459, raises \$1,841,875 in revenue that funds existing debt on the Water Filtration Plant and water improvements (\$387,685), proposed debt (\$432,956), and capital projects and reserving funds (\$671,905), plus shared administration fees (\$181,030).

Staff are proposing to increase the water rates by 5% which will generate \$1,557,715. These rates fund the operations.

ALTERNATIVES:

Council can choose to direct staff to adjust the budgets, though service levels may be affected.

FINANCIAL IMPLICATIONS:

As discussed throughout the report.

If approved, the bylaws for the water and sewer rates will be presented to Council in December in order to be adopted prior to the start of the first quarter in 2023.

LEGAL IMPLICATIONS:

n/a

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

If approved, the notification of the rate changes will be included in a utility billing newsletter as well as on the website. The Stz’uminus First Nation and Diamond Improvement District will also be notified.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The Utilities area within Public Works performs much of the day-to-day operations for water and sewer utilities. If approved, Finance will prepare the necessary bylaws.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|--|--|
| <input type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input type="checkbox"/> Healthy Community | <input type="checkbox"/> Local, Diverse Economy |

Not Applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

Infrastructure

Economy

Community

Not Applicable

Waterfront

I approve the report and recommendation(s).

Allison McCarrick, Chief Administrative Officer

ATTACHMENT(S):

A. Attachment A - Sewer Capital List for 2023

B. Attachment B - Water Capital List for 2023

**ATTACHMENT A -
2023 PROPOSED SEWER CAPITAL LIST**

Public Works

Sewer/Compost

Project Name Inflow & Infiltration Connections - Sandy Beach

<i>Description</i>	Obtain MOE permit to access foreshore, excavate and expose sewer main. Complete repair, re-establish habitat.	YEAR Amounts	2023 \$75,000
<i>Purpose</i>	To repair the sewer main connection	Funding Sources:	
		Taxation	0
		Water Utility	0
		Sewer Utility	75,000
		Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
		Borrow	0
		Donation/Other	0
		Grant-confirmed	0
		Grant - TBD	0
<i>Consequence of not funding</i>	Damage pumpstation due to sand which could result in plugged pipes and sewer backups		
<i>Priority</i>	Immediate		
<i>Strategic Priority</i>	Infrastructure		
<i>Risk Level</i>	High Risk	<input type="checkbox"/> Early Budget Approval	

Project Name Sandy Beach Lift Station Upgrade Sandy Beach Lift Stn Controls

<i>Description</i>	Replacing the controls on the Lift Station at Sandy Beach	YEAR Amounts	2023 \$75,000
<i>Purpose</i>	To begin process on upgrading Sandy Beach lift station.	Funding Sources:	
		Taxation	0
		Water Utility	0
		Sewer Utility	75,000
		Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
		Borrow	0
		Donation/Other	0
		Grant-confirmed	0
		Grant - TBD	0
<i>Consequence of not funding</i>	Risk of lift station failure which would result in spillage of sewage on beach.		
<i>Priority</i>	Important but not critical		
<i>Strategic Priority</i>			
<i>Risk Level</i>	High Risk	<input type="checkbox"/> Early Budget Approval	

ATTACHMENT A -
2023 PROPOSED SEWER CAPITAL LIST

Project Name <u>UV Phase 2 - Design</u>			
Description	UV Design	YEAR	2023
		Amounts	\$100,000
Purpose	Begin design on the new UV disinfection system	<u>Funding Sources:</u>	
		Taxation	0
		Water Utility	0
		Sewer Utility	100,000
Consequence of not funding	Will not be ready for construction, resulting in not being compliant with Liquid Waste Management Plan	Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
Priority	Important but not critical	Borrow	0
		Donation/Other	0
Strategic Priority	Infrastructure	Grant-confirmed	0
		Grant - TBD	0
Risk Level	High Risk		
	<input checked="" type="checkbox"/> Early Budget Approval		

Project Name <u>Swettenham Pumpstation - pump</u>			
Description	Replacement of pump at the Swettenham Lift Station	YEAR	2023
		Amounts	\$35,000
Purpose	To ensure continued operations of the lift station by replacing aging pump	<u>Funding Sources:</u>	
		Taxation	0
		Water Utility	0
		Sewer Utility	35,000
Consequence of not funding	Existing pump can fail, leaving system as risk of failure.	Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
Priority	Important but not critical	Borrow	0
		Donation/Other	0
Strategic Priority	Operations	Grant-confirmed	0
		Grant - TBD	0
Risk Level	Medium Risk		
	<input checked="" type="checkbox"/> Early Budget Approval		

ATTACHMENT A -
2023 PROPOSED SEWER CAPITAL LIST

Project Name <u>MBBR Blower</u>			
Description	Replacement of bearings & fins for the MBBR	YEAR	2023
		Amounts	\$30,000
Purpose	To rebuild blower	Funding Sources:	
		Taxation	0
		Water Utility	0
		Sewer Utility	30,000
Consequence of not funding	Risk of breakdown. Can't run MBBR, cannot treat waste water properly.	Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
Priority	Important but not critical	Borrow	0
Strategic Priority	Operations	Donation/Other	0
	<input type="checkbox"/> Early Budget Approval	Grant-confirmed	0
Risk Level	Medium Risk	Grant - TBD	0

Project Name <u>Centrifuge - rebuild</u>			
Description	Rebalance and rebuild bearings in centrifuge.	YEAR	2023
		Amounts	\$40,000
Purpose	Per operating manual, due every 5000 hrs	Funding Sources:	
		Taxation	0
		Water Utility	0
Consequence of not funding	reduce to 1 centrifuge and potentially cannot treat waste water	Sewer Utility	40,000
		Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
Priority	Important but not critical	Borrow	0
Strategic Priority		Donation/Other	0
	<input type="checkbox"/> Early Budget Approval	Grant-confirmed	0
Risk Level	Medium Risk	Grant - TBD	0

ATTACHMENT A -
2023 PROPOSED SEWER CAPITAL LIST

Project Name <u>Sewer Main connection for Artist Studio</u>			
Description	Upgrades and connection the Machine Shop lift station	YEAR	2023
		Amounts	\$100,000
Purpose	To provide a temporary sewer connection for the aritst studio.	Funding Sources:	
		Taxation	0
		Water Utility	0
		Sewer Utility	100,000
Consequence of not funding	Will not be able to commission Artist Studio without a sewer connection	Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
Priority	Important but not critical	Borrow	0
Strategic Priority	Waterfront	Donation/Other	0
		Grant-confirmed	0
Risk Level	Medium Risk	Grant - TBD	0
	<input checked="" type="checkbox"/> Early Budget Approval		

Project Name <u>Spirogester Condition Assessment</u>			
Description	tank on foreshore filled with overflow - don't want concrete to fail and realise sewage	YEAR	2023
		Amounts	\$20,000
Purpose	To asset the remaining life of the spirogesture equipment	Funding Sources:	
		Taxation	0
		Water Utility	0
		Sewer Utility	20,000
Consequence of not funding	Overflow from the WWTP can leak to Ladysmith Harbour	Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
Priority	Important but not critical	Borrow	0
Strategic Priority	Infrastructure	Donation/Other	0
		Grant-confirmed	0
Risk Level	Medium Risk	Grant - TBD	0
	<input type="checkbox"/> Early Budget Approval		

ATTACHMENT A -
2023 PROPOSED SEWER CAPITAL LIST

<i>Project Name</i>	WWTP Servers		
<i>Description</i>	End of life replacement of WWTP servers & switches. MCC Surge Protector	YEAR	2023
		Amounts	\$50,000
<i>Purpose</i>	To ensure equipment is operation correctly	Funding Sources:	
		Taxation	0
		Water Utility	0
<i>Consequence of not funding</i>	Malfunction of support equipment	Sewer Utility	50,000
		Reserve	0
		DCC	0
		Gas Tax	0
<i>Priority</i>	Important but not critical	Carry-forward	0
		Borrow	0
<i>Strategic Priority</i>	Operations	Donation/Other	0
		Grant-confirmed	0
<i>Risk Level</i>	Medium Risk	Grant - TBD	0

Early Budget Approval

		ANNUAL TOTAL	\$525,000		
Taxation	0	DCC	0	Grant - TBD	0
Water Utility	0	Reserve	0	Borrow	0
Sewer Utility	525,000	Gas Tax	0	Donation/Other	0
C/F	0	Grant-confirmed	0		

ATTACHMENT B -
2023 PROPOSED WATER CAPITAL LIST

Public Works

Water

Project Name **Water Main replacement - 6th Ave & dead-ends**

Description Replace problematic AC watermain in combination with looping dead-end mains

YEAR

2023

Amounts

\$385,000

Purpose Replacement

Funding Sources:

Taxation 0

Water Utility 385,000

Sewer Utility 0

Reserve 0

DCC 0

Gas Tax 0

Carry-forward 0

Borrow 0

Donation/Other 0

Grant-confirmed 0

Grant - TBD 0

Consequence of not funding Identified as High Priority #4 by Koer's (2021)

Priority Immediate

Strategic Priority Infrastructure

Early Budget Approval

Risk Level High Risk

Project Name **Davis Rd PRV Replacement Design**

Description Abandon old underground PRV and design new above-ground PRV

YEAR

2023

Amounts

\$25,000

Purpose Replace underground PRV

Funding Sources:

Taxation 0

Water Utility 25,000

Sewer Utility 0

Reserve 0

DCC 0

Gas Tax 0

Carry-forward 0

Borrow 0

Donation/Other 0

Grant-confirmed 0

Grant - TBD 0

Consequence of not funding Identified as High Priority #5 by Koer's (2021)

Priority Immediate

Strategic Priority Infrastructure

Early Budget Approval

Risk Level Medium Risk

ATTACHMENT B -
2023 PROPOSED WATER CAPITAL LIST

Project Name **Sawmill Meter Replacement - #1 (south)**

Description Upgrading the southern meter chamber to improve accuracy of meter reading on mill water usage

YEAR

2023

Amounts

\$125,000

Purpose Replace meter to improve accuracy of readings

Funding Sources:

Taxation	0
Water Utility	125,000
Sewer Utility	0
Reserve	0
DCC	0
Gas Tax	0
Carry-forward	0
Borrow	0
Donation/Other	0
Grant-confirmed	0
Grant - TBD	0

Consequence of not funding Identified as High Priority #7 on Koers List (2021)

Priority Immediate

Strategic Priority Infrastructure

Early Budget Approval

Risk Level Low Risk

Project Name **Water Filtration Plant Deficiencies**

Description DAF tank seepage; soda ash hopper mixer; compressor, etc.

YEAR

2023

Amounts

\$600,000

Purpose To correct plant deficiencies

Funding Sources:

Taxation	0
Water Utility	0
Sewer Utility	0
Reserve	600,000
DCC	0
Gas Tax	0
Carry-forward	0
Borrow	0
Donation/Other	0
Grant-confirmed	0
Grant - TBD	0

Consequence of not funding Shortening life-span of DAF tanks, more manual operator requirements to ensure system works properly.

Priority Important but not critical

Strategic Priority Infrastructure

Early Budget Approval

Risk Level Medium Risk

ATTACHMENT B -
2023 PROPOSED WATER CAPITAL LIST

<i>Project Name</i>	<u>Remove Rocky Creek PRV & Vault</u>		
<i>Description</i>	Removal of Valve and PVR at Rocky Creek as it will not be necessary once development takes place. New development will replace valve.	YEAR	2023
		Amounts	\$50,000
<i>Purpose</i>	PRV that serves Oak Bay marina.	<u>Funding Sources:</u>	
		Taxation	0
		Water Utility	20,000
		Sewer Utility	0
<i>Consequence of not funding</i>		Reserve	0
		DCC	0
		Gas Tax	0
		Carry-forward	0
<i>Priority</i>	Important but not critical	Borrow	0
		Donation/Other	30,000
<i>Strategic Priority</i>	Infrastructure	Grant-confirmed	0
	<input type="checkbox"/> Early Budget Approval	Grant - TBD	0
<i>Risk Level</i>	Medium Risk		

		ANNUAL TOTAL	\$1,185,000		
Taxation	0	DCC	0	Grant - TBD	0
Water Utility	555,000	Reserve	600,000	Borrow	0
Sewer Utility	0	Gas Tax	0	Donation/Other	30,000
C/F	0	Grant-confirmed	0		

INFORMATION REPORT TO COUNCIL

Report Prepared By: Donna Smith, Chief Election Officer
Reviewed By: Allison McCarrick, Chief Administrative Officer
Meeting Date: October 25, 2022
File No:
Re: Official Results of the Town of Ladysmith 2022 General Local Election

RECOMMENDATION:

That Council receive the report from the Chief Election Officer dated October 25, 2022 regarding the Official Results of the Town of Ladysmith 2022 General Local Election.

EXECUTIVE SUMMARY:

This report fulfills a statutory obligation to provide Council with the official results of the General Local Election held October 15, 2022.

PREVIOUS COUNCIL DIRECTION:

N/A

DISCUSSION:

Section 158 of the *Local Government Act* states that the Chief Election Officer is required to submit a report to the Council within 30 days after the declaration of the official results by acclamation, voting or assent voting. This report must include a compilation of the ballot accounts.

The official declaration and the ballot account reconciliation are found in Attachments A and B of this report.

The ballot account reconciliation (Attachment B) references 11 ballots unaccounted for. I can confirm that those 11 ballots are mail ballots that have not been returned.

I approve the report and recommendation.

Allison McCarrick, Chief Administrative Officer

ATTACHMENTS:

- A. Declaration of 2022 Official General Local Election Results
- B. 2022 General Local Election Ballot Account Reconciliation

ATTACHMENT A



Election Day - Oct 15, 2022



Advance Voting - Oct 5 & 12

Town of Ladysmith Local Election 2022 NOTICE

250.245.6400

vote@ladysmith.ca

www.ladysmith.ca/election

DECLARATION OF OFFICIAL ELECTION RESULTS

I, Donna Smith, Chief Election Officer, do hereby declare the following official results of the Town of Ladysmith 2022 General Local Election:

Acclaimed to the office of Mayor: **STONE, Aaron**

Elected to the office of Councillor the following candidates, who received the highest number of valid votes:

<i>Office of Councillor</i>	<i># of Votes Received</i>
GOURLAY, Ray	1,065
JACOBSON, Amanda	791
McKAY, Tricia	1,022
PATERSON, Duck	968
STEVENS, Marsh	1,084
VIRTANEN, Jeff	1,042

Total Ballots Cast: 1,734

Voter Turnout: 23.98%

Dated at Ladysmith, BC
this 19th day of October, 2022.

Chief Election Officer

ATTACHMENT B



BALLOT ACCOUNT RECONCILIATION

Town of Ladysmith
General Local Election
October 15, 2022

Frank Jameson Community Centre
(includes Test Ballots, Mail-In Ballots, Advance Voting October 5 & 12
at Town of Ladysmith Council Chamber)

Form 13-6, LGA s.141

(1)	Number of ballots received for use		<u>5,101</u>
(2)	Ballots without objection	<u>1,711</u>	
(3)	Ballots accepted subject to objection under LGA s.140	<u>0</u>	
(4)	Ballots rejected without objection (including blanks)	<u>21</u>	
(5)	Ballots rejected subject to objection under LGA s.140	<u>0</u>	
(6)	Spoiled ballots that were replaced under LGA s.128	<u>29</u>	
(7)	Number of ballots given to the electors (2+3+4+5+6)	<u>1,761</u>	
(8)	Mail-in ballots received after close of polls	<u>1</u>	
(9)	Test ballots used	<u>101</u>	
(10)	Total number of ballots used (7+8+9)	<u>1,863</u>	
(11)	Unused ballots	<u>3,227</u>	
(12)	Number of ballots not accounted for	<u>11</u>	
(13)	TOTAL (10+11+12) No. 1 & No. 13 must agree		<u><u>5,101</u></u>

Donna Smith

Donna Smith, Chief Election Officer

STAFF REPORT TO COUNCIL

Report Prepared By: Donna Smith, Manager of Corporate Services
Reviewed By: Allison McCarrick, Chief Administrative Officer
Meeting Date: October 25, 2022
File No:
Re: **Appointment of Corporate Officer**

RECOMMENDATION:

That Council appoint Matt O'Halloran as Corporate Officer, effective Monday, November 14, 2022.

EXECUTIVE SUMMARY:

Matt O'Halloran has been hired as Manager of Corporate Services. This position is responsible for carrying out the duties of the Corporate Officer as stated in section 148 of the *Community Charter*. Mr. O'Halloran will be replacing the retiring Corporate Officer, Donna Smith.

PREVIOUS COUNCIL DIRECTION:

N/A

INTRODUCTION/BACKGROUND:

The duties of the Corporate Officer, a statutory position, are outlined in section 148 of the *Community Charter*:

- 148** One of the municipal officer positions must be assigned the responsibility of corporate administration, which includes the following powers, duties and functions:
- (a) ensuring that accurate minutes of the meetings of the council and council committees are prepared and that the minutes, bylaws and other records of the business of the council and council committees are maintained and kept safe;
 - (b) ensuring that access is provided to records of the council and council committees, as required by law or authorized by the council;
 - (c) administering oaths and taking affirmations, affidavits and declarations required to be taken under this Act or any other Act relating to municipalities;
 - (d) certifying copies of bylaws and other documents, as required or requested;
 - (e) accepting, on behalf of the council or municipality, notices and documents that are required or permitted to be given to, served on, filed with or otherwise provided to the council or municipality;
 - (f) keeping the corporate seal, if any, and having it affixed to documents as required.

Additionally, Council has delegated some of its powers and duties to the Corporate Officer in

“Ladysmith Officers and Delegation of Authority Bylaw 2016, No. 1905”. Some of those delegated powers include: entering into leases of two years or less; approving applications for private uses of municipal streets (road closure events); power to accept and execute a restrictive covenant on behalf of the Town in certain situations and in accordance with legislation; discharge of statutory right of way or easement.

The Deputy Corporate Officers previously appointed by Council - Sue Bouma, Administrative Coordinator, Corporate Services and Erin Anderson, Director of Finance, will continue in their roles to support the new Corporate Officer.

ALTERNATIVES:

N/A

FINANCIAL IMPLICATIONS:

N/A

LEGAL IMPLICATIONS:

Council is legislated to appoint a Corporate Officer and one or more deputies.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

N/A

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

N/A

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|--|--|
| <input type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input type="checkbox"/> Healthy Community | <input type="checkbox"/> Local, Diverse Economy |
| <input checked="" type="checkbox"/> Not Applicable | |

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|--|
| <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Economy |
| <input type="checkbox"/> Community | <input checked="" type="checkbox"/> Not Applicable |
| <input type="checkbox"/> Waterfront | |

I approve the report and recommendation.

Allison McCarrick, Chief Administrative Officer

STAFF REPORT TO COUNCIL

Report Prepared By: Ryan Bouma, Director of Infrastructure Services
Reviewed By: Allison McCarrick, CAO
Meeting Date: October 25, 2022
File No:
Re: **High Street Watermain Replacement Tender Award**

RECOMMENDATION:

That Council:

- 1) Amend the 2022-2026 Financial Plan to include the revised project budget of \$290,00 for the High Street Watermain project, with the additional funds of \$125,000 to come from deferring the Oyster Bay Drive Watermain project; and
- 2) Award Tender 2022-IS-13 to Milestone Equipment Contracting Inc. in the amount of \$246,184, excluding GST.

EXECUTIVE SUMMARY:

The existing watermain on High Street between 1st Avenue and Esplanade is due for replacement. The project was budgeted, designed, and put out to tender in 2020, however the pandemic hit and lockdowns were in place so the tender was cancelled prior to closing. The new invitation to Tender closed October 13, 2022 with six (6) bids received, including a low bid of \$246,184, excluding GST. Although the bid is over the \$165,000 budget, the bids appear to be competitive and reliable.

PREVIOUS COUNCIL DIRECTION:

N/A

INTRODUCTION/BACKGROUND:

The small 100mm diameter cast iron watermain on High Street was built in 1967. Staff believe this is the last cast iron watermain in the Town. Cast iron pipes are prone to developing tuberculation, resulting in iron oxide (rust) on the interior walls of the pipe. The tuberculation can also restrict the pipe diameter, thus limiting flows for adequate service and fire protection. Businesses in the area report reduced pressure or loss of service when Town crews flush the watermain. Rusty water has also been reported on several occasions.

In 2020, the project was put out for tender however it was cancelled prior to closing due to the COVID-19 pandemic and subsequent lockdowns. No bids were received. Other watermains were prioritized in that time to mitigate construction impact to businesses on High Street as they recovered from the results of the pandemic.

The project was recently put out for tender again and closed October 13, 2022 with six (6) bids received. The lowest bid, provided by Milestone Contracting Inc. (Milestone), was \$246,184.00, excluding GST. The contract administrator has reviewed Milestone’s submission, found it to be compliant and recommended award. The Town has completed a recent project with Milestone and has received bids from them on other projects. The table below provides a summary of bidders.

NAME	AMOUNT	DURATION (DAYS)
Caribou Mountain Construction	\$526,098.22	Not Stated
Copcan Civil Limited	\$357,950.00	50
Stone Pacific Contracting Ltd.	\$311,722.01	35
IWC Excavating Ltd.	\$310,347.00	180
David Stalker Excavating Ltd.	\$256,324.75	60
Milestone Equipment Contracting Inc.	\$246,184.00	35

The amounts shown above include a \$15,000 contingency allowance that was built into the tender. The original budget for this project was set at \$165,000 and the low bid exceeds the amount significantly. It is anticipated that the complexity of downtown work, traffic control, and business accommodation drove the final prices up over similar watermain replacement work. Given the need for contract administration and potential change orders, staff recommend increasing the budget to \$290,000 and awarding to Milestone. This can be achieved by deferring the Oyster Bay Drive watermain project and utilizing the funds for the High Street project.

ALTERNATIVES:

Council can choose to cancel the tender and re-budget in a future year.

FINANCIAL IMPLICATIONS:

The bids for this project are significantly over budget. There is \$325,000 set aside for the Oyster Bay Drive watermain project. As that project has not commenced, the funds could be utilized for the High Street watermain project, allowing this project to proceed. The Oyster Bay Drive watermain project will be re-added to the 2023-2027 Financial Plan, though based on current trends the project budget will be increased.

LEGAL IMPLICATIONS:

Tender 2022-IS-13 is still active at this time, therefore the Town must notify bidders of cancellation or award by December 12, 2022.

Selecting a contractor needs to follow specific criteria that conform to legislation and the tender requirements. These include bid compliance, capability to complete the work, bonding, and others. Relying on undisclosed criterion would not be suitable when selecting a contractor. The lowest bidder meets all the known criteria.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

Staff have canvassed the businesses in the area and heard concerns regarding interruptions to business hours, parking, traffic control, and noise. The tender requires the contractor to provide traffic control and to complete two tie-ins during the night as water needs to be turned off to the businesses. The tender has allowed for necessary road and parking closures to provide a practical means of completing the project. The details of traffic control and closures are not known until staff are able to review the contractor’s traffic control plan.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The Director of Financial Services has reviewed the proposed budget changes with Infrastructure Services.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|--|--|
| <input type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input type="checkbox"/> Healthy Community | <input type="checkbox"/> Local, Diverse Economy |
| <input checked="" type="checkbox"/> Not Applicable | |

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Infrastructure | <input checked="" type="checkbox"/> Economy |
| <input checked="" type="checkbox"/> Community | <input type="checkbox"/> Not Applicable |
| <input type="checkbox"/> Waterfront | |

I approve the report and recommendations.

Allison McCarrick, Chief Administrative Officer

STAFF REPORT TO COUNCIL

Report Prepared By: Shannon Wilson – Recreation & Culture Coordinator
Reviewed By: Chris Barfoot, Director Parks, Recreation & Culture
Meeting Date: October 25, 2022
File No:
Re: **2023 Community Public Art Banner Theme**

RECOMMENDATION:

That Council approve the theme “Connecting Ladysmith Through the Arts” for the 2023 Community Public Art Banner Program.

EXECUTIVE SUMMARY:

The Public Art Task Group (PATG) recommends themes to the Parks, Recreation & Culture Advisory Committee (PRCAC) for the annual Community Banner Program, which showcases the downtown area of 1st Avenue and Transfer Beach Boulevard. At its meeting held September 21, 2022, the PRCAC endorsed the following recommendation from PATG:

2022-23: That the Parks, Recreation & Culture Advisory Committee endorse the recommendation of the Public Art Task Group and recommend that Council approve the theme “Connecting Ladysmith Through the Arts” for the 2023 Community Public Art Banner Program.

PREVIOUS COUNCIL DIRECTION:

Resolution	Meeting Date	Resolution Details
CS 2020-011	01/07/2020	That Council approve the Community Banner Program as presented and recommended by the Parks, Recreation and Culture Advisory Committee.

INTRODUCTION/BACKGROUND:

The PATG recommends a public art banner theme that showcases art that connects people, promotes peace, spreads positivity, creates opportunities to gather, focuses on relationships, and celebrates diversity. Ladysmith and Stz’uminus’ natural environment inspires creativity, and community events, and gatherings create the connections we all need to feel a sense of belonging.

The PATG recommended, and the PRCAC endorsed, the 2023 banner theme of “Connecting Ladysmith through the Arts” for consideration by Council. New designs will be presented along 1st Avenue. Banners from previous years will be installed along Captain Tristan de Koninck Way



down to Transfer Beach. Once the improvement project for 4th Avenue is complete, banners will also be installed along it.

Upon Council’s approval of the annual Public Art Banner theme, the Call for Artists process for the design(s) will commence, with recommendations presented back to Council for approval. Each year banners are displayed from May to October. The Community Banner Program has an annual budget allocation.

ALTERNATIVES:

Council can choose to not approve the current theme and refer the proposed theme back to the PATG for further refinement.

FINANCIAL IMPLICATIONS:

The annual operational funding for the banners will be used for the Community Banner Program. Existing funding would continue to cover the artist’s fee, design and production costs.

LEGAL IMPLICATIONS:

N/A

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The purpose of the Community Banner Program is beautification and the promotion of our community identity. Community banners add vibrancy and community spirit throughout Ladysmith and will represent Ladysmith’s small-town charm, coastal community life and diverse cultural heritage.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The installation of the banners is coordinated with Infrastructure Services.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|---|--|
| <input type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input checked="" type="checkbox"/> Healthy Community | <input checked="" type="checkbox"/> Local, Diverse Economy |
| <input type="checkbox"/> Not Applicable | |

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|--|---|
| <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Economy |
| <input checked="" type="checkbox"/> Community | <input type="checkbox"/> Not Applicable |
| <input checked="" type="checkbox"/> Waterfront | |

I approve the report and recommendation.

Allison McCarrick, Chief Administrative Officer

BYLAW STATUS SHEET October 25, 2022

Bylaw #	Description	Status
2106	“Official Community Plan Bylaw 2003, No. 1488, Amendment Bylaw (No. 71) 2022, No. 2106” (amend land use and Development Permit Areas at Lot 5, Holland Creek)	First and second readings, April 19, 2022. Public Hearing held August 2, 2022. Second reading rescinded, September 6, 2022. Second public hearing and third reading September 20, 2022. Conditions to be met prior to adoption.
2107	“Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No.48) 2022, No. 2107” (include secondary suites, coach house dwellings and townhouse dwellings at Lot 5, Holland Creek)	First and second readings, April 19, 2022. Public Hearing held August 2, 2022. Second reading rescinded, September 6, 2022. Second public hearing and third reading September 20, 2022. Conditions to be met prior to adoption.
2120	“Road Closure and Dedication Removal Bylaw 2022, No. 2120” (allow the closure of the lane separating 621 & 631 1st Avenue to vehicle traffic)	First, second and third readings September 6, 2022. MOTI approval and public notice required.
2200	“Official Community Plan Bylaw 2022, No. 2200” (a new Official Community Plan for the Town)	First reading September 20, 2022. Referred to various agencies as per resolution CS 2022-230.