

**A PUBLIC HEARING AND REGULAR MEETING
OF THE TOWN OF LADYSMITH
COUNCIL AGENDA
6:00 P.M.**

Tuesday, May 20, 2025
Ladysmith Seniors Centre
630 2nd Avenue

Pages

1. OPEN MEETING AND ACKNOWLEDGEMENT

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

Members of the public may attend meetings 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 Public Hearing and Regular Meeting of Council for May 20, 2025.

3. PUBLIC HEARING

Amendment to Covenant CB215820, registered as a condition of approval for Zoning Bylaw/Official Community Plan Amendment Bylaw Nos. 2068 and 2069.

Subject Property: 1130 Rocky Creek Road: LOT 1 DISTRICT LOTS 24 AND 38 OYSTER DISTRICT PLAN EPP110197 (PID: 031-792-022.)

3.1 Outline of Public Hearing Process - Mayor Beeston

3.2 Introduction - Director of Development Services

3.3 Submissions

3.4 Call for Submissions to Council (Three Times) - Mayor Beeston

3.5 Declaration that the Public Hearing for Amendment to Covenant CB215820 is Closed - Mayor Beeston

4. COVENANT AMENDMENT - 1130 ROCKY CREEK ROAD (SUBJECT OF PUBLIC HEARING)

4.1 Amendment of Covenant CB215820

Recommendation

1. Subject to Approval from the Ministry of Transportation and Transit, authorize the amendment of Covenant CB215820 to remove the requirement to construct a roundabout; and
2. Require that, as a condition of approval of amending Covenant CB215820 the following conditions to be secured through a covenant:
 - a. A prohibition on access from Ludlow Road and limited egress to Ludlow Road to a single, right out only egress, until the roundabout is constructed;
 - b. A requirement to construct a temporary median in Ludlow Road prior to issuance of an Occupancy Permit;
 - c. A requirement for cash in lieu of frontage improvements along Ludlow Road and Rocky Creek Road at time of building permit issuance;
 - d. A requirement to install a temporary gravel pathway along the frontage of the property as shown in development permit 3060-24-20 at time of building permit issuance;
 - e. A requirement to install no left turn signs in the Ludlow Road right of way to prevent left hand turns exiting 1010 Ludlow Road; and
 - f. A requirement to install no U-Turn signs at the Ludlow Road/Rocky Creek Road intersection.

5. MINUTES

5.1 Minutes of the Regular Meeting of Council held May 6, 2025

25

Recommendation

That Council approve the minutes of the Regular Meeting of Council held May 6, 2025.

6. DELEGATIONS

6.1 Bob Day and Kenzie Knight, Tourism Cowichan Society 32

Bob Day, President, and Kenzie Knight, Tourism Development Specialist, from the Tourism Cowichan Society, will provide an annual update and highlights on marketing, industry engagement and destination development activities.

7. DEVELOPMENT APPLICATIONS

7.1 Temporary Use Permit – 226 Buller Street 51

Recommendation

That Council approve Temporary Use Permit 3340-25-02 for Lot 20, Block 45, Lot 56, Oyster District, Plan 703A (226 Buller Street) to allow Tourist Accommodation as a temporary use in a secondary suite.

7.2 Liquor Patio Endorsement - 530 1st Ave (Zack's Lounge) 66

Recommendation

That Council, in response to the referral from the Liquor and Cannabis Regulation Branch for a patio endorsement application in conjunction with a Liquor Primary outdoor patio licence for Zack's Lounge at 530 1st Avenue, opt out of the local government comment process and direct staff to notify the Liquor and Cannabis Regulation Branch that the Town does not wish to comment on the application.

8. COMMITTEE MINUTES

8.1 Committee of the Whole - May 13, 2025 80

Recommendation

That Council approve the Ladysmith RCMP Detachment Annual Performance Plan for 2025-2026.

Recommendation

That Council:

- A. Reinstate fees for parklets and patios on Town streets, with annual fees of \$6.04 per m2 or \$89.69 per parking stall, as provided in the report dated May 13, 2025; and
- B. Direct staff to amend "Streets and Traffic Bylaw 1998, No.1309" based on item A.

Recommendation

That Council direct staff to prepare a report for a future meeting of Council that:

- A. Presents options for increasing cemetery plot fees for non-residents; and
- B. Assesses the feasibility of installing a columbarium niche structure for the interment of urns.

9. REPORTS

9.1 Section 57 Notice on Title and Remedial Action Requirements, 324 Morgan Road

90

Recommendation

That Council:

1. Pursuant to section 57(3) of the *Community Charter*:
 - a. Provide an opportunity for the owner to be heard regarding the Building Inspector's recommendation to place a notice pursuant to section 57 of the *Community Charter* on title of Parcel A (Being a Consolidation of Lots A & B, See CA3693354) District Lot 42 Oyster District Plan EPP17717, (324 Morgan Road) as described in the Inspector's May 20, 2025 report to Council;
 - b. Provide an opportunity for the Building Inspector to be heard, regarding the Building Inspector's recommendation to place a notice on title as described in the Inspector's May 20, 2025 report to Council;
 - c. Confirm the recommendations of the Building Inspector as outlined in the Inspector's May 20, 2025 report to Council; and
 - d. Direct the Corporate Officer to file a notice in the Land Title Office for the property legally described as 324 Morgan Road, in accordance with subsections 57(3)(a) and (b) of the *Community Charter*;
2. Pursuant to section 72 of the *Community Charter*:
 - a. Impose a Remedial Action Requirement on the owner of 324 Morgan Road to:
 - i. Remove all shipping containers, including any containers altered to create buildings and containers supporting any buildings or structures;
 - ii. Remove two of the three recreational vehicles from the property;

- iii. Have a Red Seal Plumber permanently decommission the plumbing systems servicing the recreational vehicles;
- iv. Restore the altered hillside adjacent to the Trans-Canada Highway Right-of-Way under the supervision of a geotechnical engineer; and
- v. Restore the riparian area under the direction of a Qualified Environmental Professional under the Riparian Areas Protection Act;
- b. Require completion of the remedial actions under recommendation 2(a) within 120 days;
- c. Direct staff to advise the owner that they may request that Council reconsider the Remedial Action by providing written notice within 14 days of the date of the notice of the Remedial Action Requirement; and
- d. Direct staff to take action, if necessary, in accordance with Section 17 of the *Community Charter*, without further notice and at the owner's expense, if the Remedial Action under recommendation 2(a) is not completed.

9.2 Emergency Access Through Brown Drive Park

110

Recommendation That Council

- 1. Receive the request by the developer of Lot A District Lot 126 Oyster District Plan VIP73132 Except Part in Plan EPP23747 Malone Road to install an emergency access/egress road through Brown Drive Park;
- 2. Refer the proposal to the Parks, Recreation & Culture Advisory Committee; and
- 3. Defer further consideration of the request pending review by PRCAC.

9.3 Adjustment to Water Billing Account – 2025, Q1,Q2

164

Recommendation That Council:

- 1. Provide a bill adjustment due to a water leak for 000-1050370-000 in the amount of \$3,340.74 and 000-0695000-000 in the amount of \$3,623.26; and
- 2. Determine if it wishes to provide a second water leak adjustment for account 000-0043000-000 in the amount of \$176.36.

9.4 Award FJCC Roof Replacement Tender 167

Recommendation

That Council award the FJCC Roof Replacement Phase 1 - Tender 2025-PRC-01 to United Roofing (BC) Inc. in the amount of \$420,470.00 (excluding applicable taxes).

9.5 Recycling Management Services Agreement 169

Recommendation

That Council:

1. Authorize the Mayor and Corporate Officer to sign the Solid Waste Management Services Agreement between the Town and the Cowichan Valley Regional District (CVRD);
2. Inform Recycle BC of the arrangement between the CVRD and the Town; and
3. Authorize the Mayor and Corporate Officer to sign the Recycle BC Statement of Work and the Master Services Agreement.

9.6 UBCM Community to Community (C2C) Forum Program 227

Recommendation

That Council:

1. Authorize staff to apply to the Union of BC Municipalities for up to \$10,000 during the 2025 application intake for the Regional Community to Community Forum Program to support a community forum with the Stz'uminus First Nation Council; and
2. Amend the 2025-2029 Financial Plan accordingly.

10. BYLAWS

10.1 Bylaw Status Sheet 229

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 related to items on the agenda.
- 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

Received May 13, 2025

From: Frank Crucil

Sent: May 13, 2025 8:26 AM

To: Sue Bouma <sbouma@ladysmith.ca>

Cc: Frank Crucil ; Mike Crucil

Subject: Rocky Creek Development 1130 Rocky Creek Road --Public Hearing

Hi Sue.

We want to provide this submission for the upcoming Public Hearing on 1130 Rocky Creek Road

We are strong advocates of Ladysmith and the need for economic development. In times of personal attacks coming from south of the borderas Canadians we need to count on each other more than ever. These projects that this fellow and our project on Rocky Creek bring local jobs and boost our economy and the exposure to Ladysmith which in turn encourages future developers to look favorably at Ladysmith as a good place to invest . And perhaps encourage development of the long, long awaited Waterfront development.

Speaking for Mike and I it is very frustrating with all the Bureaucracy that has been created over the decades, one has to have a lot of patience to work thru the very costly process.

I am trusting council would support this development and show leadership for the good of all....as developments like these bring new jobs and confidence to the town.

Thanks

Frank and Mike Crucil

FMC Holdings Ltd.

MAY 13, 2025

Dear Town of Ladysmith Council,

Similar to the last submission for the Public Hearing in January, I am again writing to support the proposed development at 1130 Rocky Creek Road. This long-vacant land is a prime spot to bring new business to Ladysmith. With some of the new housing going in the commercial space would see strong traffic from residents in the area. As a business operator in the area I would welcome the development.

This project will revitalize the area, boost our local economy, and make the town more attractive to visitors and residents. Please move forward with this opportunity to make the most of this valuable space.

Thank you for your work to improve our community.



EHREN MADILL



P.O. Box 598
33 Roberts Street
Ladysmith, B.C. V9G 1A4

T 250 245 2112
F 250 245 2124
E info@ladysmithcofc.com
www.ladysmithcofc.com

May 13, 2025

Town of Ladysmith
Box 220, 410 Esplanade
Ladysmith BC, V9G 1A2

Attention: Mayor Deena Beeston
Ladysmith Town Council
Allison McCarrick - Chief Administrative Officer
Sue Bouma – Manager of Corporate Services/Corporate Officer

Re: Ladysmith Chamber of Commerce Statement on Ludlow Road Roundabout

Dear Mayor Beeston, Town Council and Senior Staff,

The Ladysmith Chamber of Commerce supports the construction of a roundabout on Ludlow Road, recognizing its importance in improving traffic flow, safety, and accessibility for future development on the waterfront side of the highway.

As the Town of Ladysmith is a significant landowner in this area, the Chamber encourages the Town to finance and construct the roundabout ensuring that the benefiting properties pay their proportionate share of the costs upon development.

To achieve this, we urge the Town to explore available financial tools under the Community Charter, such as borrowing, Development Cost Charges, and latecomer agreements. A strategic approach will support future growth while maintaining fiscal responsibility and fairness for all stakeholders.

We appreciate your consideration of this important infrastructure investment and welcome the opportunity to collaborate on solutions that benefit Ladysmith's citizens and developments.

Sincerely,

Cheri Mactier
Board President
Ladysmith Chamber of Commerce



OFFICE LOCATION
 #18 - 1156 Rocky Creek Road
 Ladysmith, B.C.
 Phone: (250) 924-2250
 Fax: (250) 924-2251

MAILING ADDRESS
 Box 778
 Ladysmith, B.C.
 V9G 1A5

"A Fully Bonded and Insured – General Contractor providing Civil and Residential Servicing"

Public Hearing – 1130 Rocky Creek Road

Joshua Development Corp., Oyster Harbour Development Corp.

May 13, 2025

To the Town of Ladysmith (Mayor, Council Members, Town Administration staff),

We, at David Stalker Excavating Ltd., are in full support of the application being presented before Town staff for the following reasons:

- David Stalker Excavating Ltd. were selected as the "low bidder" amongst 5 reputable civil construction central island companies, during the original tender process in the Spring season of 2023.
 Our local company has been in Ladysmith for 32+ years now, with our head office located on Rocky Creek Road for the last 12 years. We directly employ internally from 20 to 40 central island workers annually.
- We were officially "awarded" (subject to project funding) the project as per the tender process, but with the scopes of offsite works being required for improvements (benefitting multiple area corporate businesses at the expense of one individual development property) created such an additional burden to the overall project – the project was suspended at that time.
- Our support to the developer includes for the application for removal of the requirement to build the design traffic flow control "roundabout" at the intersection of Ludlow Road and Rocky Creek Road. This concept benefits all local area established businesses and property owners in the area, but should not be the financial burden of one isolated individual property development owner.
- This project creates local jobs, to multiple construction crews during the project various stages of construction, followed by the future store front retail employees.
- More tax base for the Town of Ladysmith
- More economic local business in Ladysmith.
- Developing and cleaning up that specific corner of high visual exposure property that reflects on public image to locals and tourists as they are traveling in and through along the island destinations.
- Unique property such as this carry additional costs beyond standard flat land developing, due to land elevation countours and retaining walls to protect the railway R.O.E. integrity and level off zones within the property for public access ease.

OFFICE LOCATION

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V9G 1A5

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- The costs involved in development projects continue to increase annually at considerable rates for offsite development & onsite development. Equipment, wages, materials, gravels, disposal tipping fees, and subtrades facing the same increases affects the final project costs.
- Pricing in our industry does not ever see the privilege of decreasing. In the time since this project was priced in Spring 2023, we have now faced an average minimum 15% price increase in the selected local gravel supplier, the fill material disposal dumpsite property (which are very limited to gain access to for options), on PVC pipe and products, on concrete supply and products, and asphalt to name a few particulars.

Thank you for your time and considerations pertaining to this application being presented.

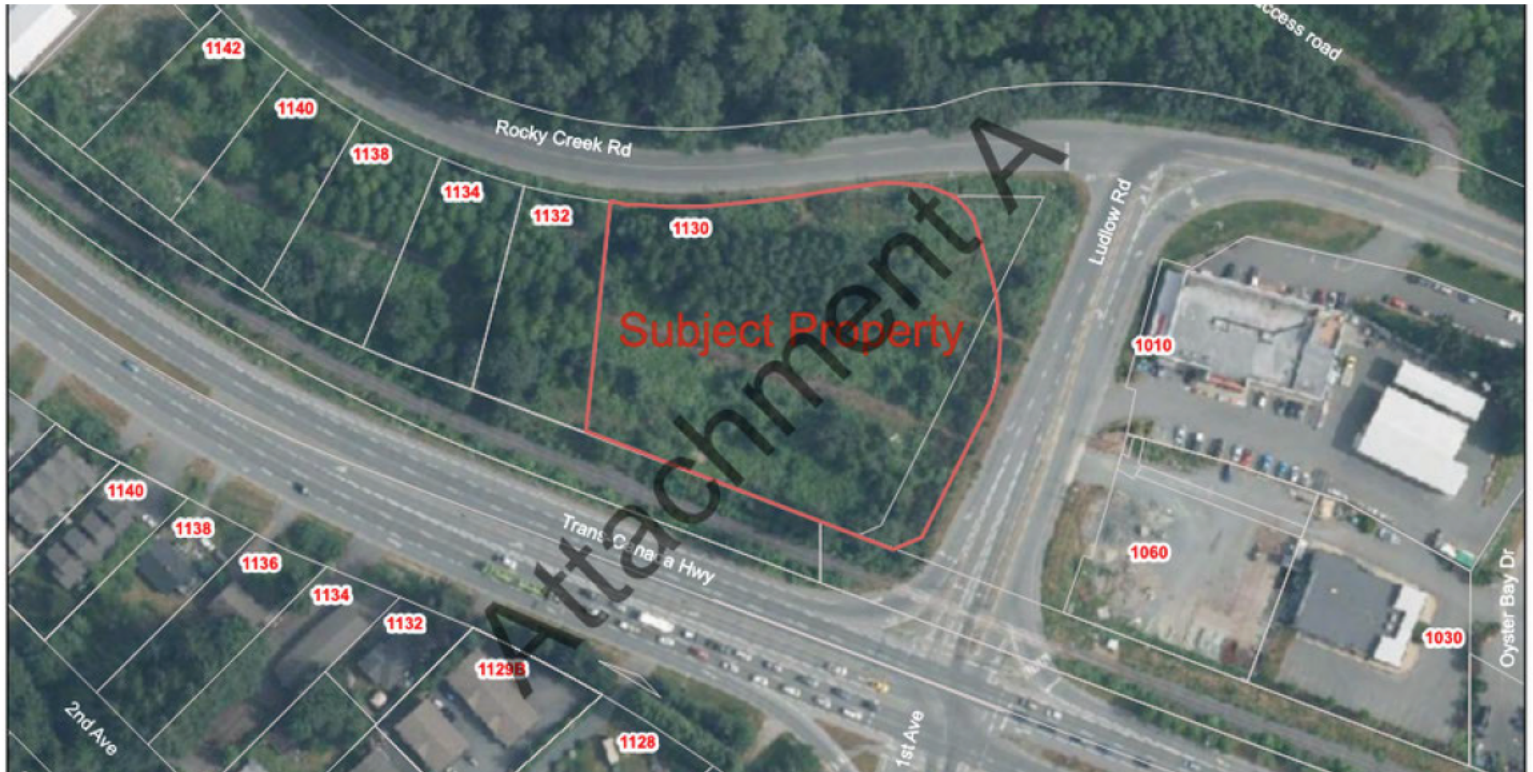


David Stalker
Owner / President
David Stalker Excavating Ltd.
Office: 250-924-2250 ext.2



Daryl Foulds
General Manager
David Stalker Excavating Ltd.
Office: 250-924-2250 ext.1

1130 ROCKY CREEK ROAD APPLICANT PUBLIC HEARING SUBMISSION



Sections

1. Introduction
2. Application Public Input History
3. OCP & Town of Ladysmith Tax Policy Alignment
4. Economic Benefits
5. Community Benefits
6. Traffic Findings

1130 ROCKY CREEK ROAD APPLICANT PUBLIC HEARING SUBMISSION

1. Introduction

Thank you for taking the time to learn about our proposed development at 1130 Rocky Creek Road, located at the intersection of Rocky Creek Road and Ludlow on Highway 1. This site is a major gateway to the Town of Ladysmith, and we are deeply committed to ensuring that our development will be a positive addition to the community while aligning with the vision outlined in Ladysmith's Official Community Plan (OCP).

We have provided a summary of key facts related to our development at 1130 Rocky Creek Road in this submission. If you are seeking more in-depth information, please refer to our original public hearing submission for the 2nd public hearing on January 21, 2025 on [page 5 of Late Agenda Items](#) as well as in the [Council Minutes, Agendas, and Video](#) link and dates provided in *Previous Information* in the box below on this page.

We are a small family run development company that prides itself on investing in and building productive relationships with local communities. We devote substantial time and resources to projects that we believe will benefit everyone in the long term. Our focus is on creating developments that foster sustainable growth and community enrichment, and we take immense pride in the quality and integrity of our work.

We unfortunately will not be able to attend this 3rd public hearing in person as it is our son's elementary school graduation celebration the same evening and we will be with him to celebrate.

We appreciate your consideration of our proposal and hope the information provided will address any questions you may have. Should you require further details or clarification, please do not hesitate to reach out.

Thank you again for your time.



Ashley Garib

Previous Information

Additional information can be found on the Town of Ladysmith Council Meeting webpage under [Council Minutes, Agendas, and Video](#) for each respective date:

- May 6, 2025
- February 18, 2025
- January 21, 2025
- December 17, 2024
- September 20, 2022
- September 7, 2022
- September 7, 2021
- June 15, 2021
- June 1, 2021
- July 7, 2020

1130 ROCKY CREEK ROAD APPLICANT PUBLIC HEARING SUBMISSION



2. Application Public Input History

- This is the third public hearing for this development.
 - The 1st public hearing occurred June 15, 2021. There was only one submission – a letter of support
 - The 2nd public hearing on January 21, 2025 had multiple letters of support and no opposition to the proposed project. The only 2 submissions made against the proposal had concerns with traffic changes in the area
 - See **Note Regarding Traffic Changes** in Section 6 on Page 9 of this document
 - At the original Neighbourhood Information Meeting at Eagle's Hall on July 23, 2020, there were 2 attendees who both supported the project. No further public input was received via digital methods
- The development application was submitted over 5 years ago in April 2020
- We have been in discussions with TOL Staff since 2018 and this application was presented by TOL Staff to Council in 2020 for direction.
 - Council requested a number of amenities including the HandyDART stop, intense landscaping and outdoor electrical supply for the Festival of Lights.
 - We included all of these into our development at that time.

DEVELOPMENT ALIGNMENT WITH TOWN OF LADYSMITH POLICIES

3. OCP & Town of Ladysmith Tax Policy Alignment

OCP & Policy Alignment

This development is aligned with the **Official Community Plan**, which was adopted in May 2023 and awarded a **Silver Award for Excellence in Policy Planning** from the Planning Institute of BC.

This development is located in an OCP designated Priority Growth Area as part of Midtown. The OCP outlines that growth should be concentrated and incentivized in these areas.

The **2023-2026 Strategic Plan** reiterates this and outlines that an overarching goal of TOL is to promote an environment that facilitates business development and job creation.

Waterfront Area Plan

The **Waterfront Area Plan** goes back to 1997, with the last major revision completed in 2018.

This development will attract new visitors and pedestrians from downtown, increasing interconnectivity on this side of the Highway. This will attract attention and interest in further expansion. These are benefits in addition to the development's direct economic contributions to TOL budgets.

DCC Bylaw and Revitalization Tax Exemption Economic Program

This property is eligible for the **DCC Bylaw and Revitalization Tax Exemption Economic Program** that TOL enacted to encourage new business investment and reinforce the Town's commitment to economic revitalization

Bylaw Excerpts

TOWN OF LADYSMITH BYLAW NO. 1807

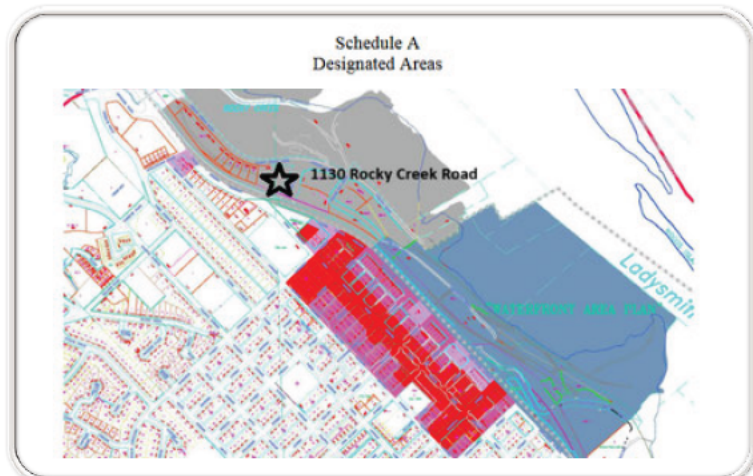
A Bylaw to Establish a Revitalization Tax Exemption – Economic Program

WHEREAS Council may, by bylaw, establish a revitalization tax exemption program;

AND WHEREAS Council wishes to establish a revitalization tax exemption for economic revitalization in order to encourage the commercial and industrial redevelopment of those areas, identified in Schedule "A" of this Bylaw, which are experiencing challenges in attracting and retaining investment;

AND WHEREAS Council wishes that the following objectives of the program be established by this Bylaw:

- To stimulate construction and alteration of buildings within Ladysmith; and
- To encourage new business investment in commercial and industrial used lands and, in turn, encourage new employment; and
- To promote a higher standard of urban design within business areas and employment areas in order to increase the attractiveness of these locations; and
- Generally reinforce the Town's commitment to economic revitalization.



DEVELOPMENT BENEFITS FOR LADYSMITH

4. Economic Benefits

Increased DCCs

This project will increase TOL's DCC budgets and should enable TOL to allocate additional funds to high priority projects. As outlined in the [TOL's 2024 Financial Statements](#), the total DCC reserve is just over \$9.7M with \$1.7M in the DCC Roads allocation.

Increased Property Taxes

This development will increase annual property tax revenues for Ladysmith. Commercial rates are higher and help keep property taxes lower for residents on a long-term basis.

Land Swap & Cash in Lieu Revenue

The 'Land Swap' is the transaction we undertook with TOL to ensure that they had the land needed to build the proposed roundabout in the future.

We paid \$170,000 to TOL because of a difference in size between the corner needed for the roundabout and the excess land we obtained. See the Land Swap Visual on this page. We did not gain more buildable square footage from this transaction.

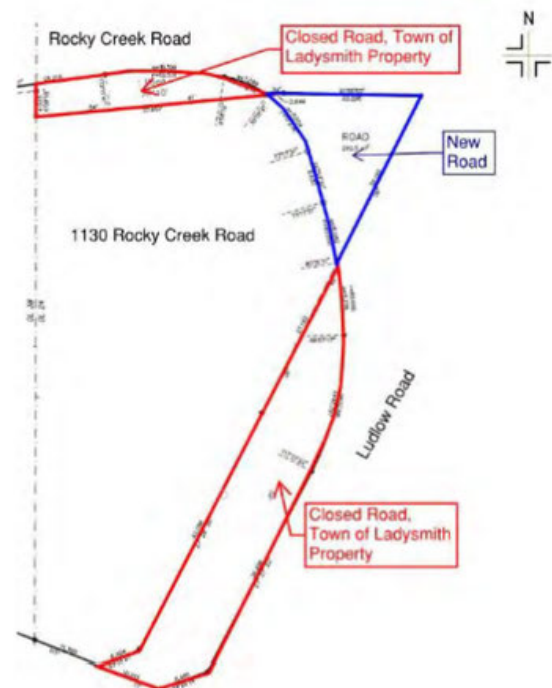
The Cash in Lieu is estimated to be \$104,000 and will be paid to TOL directly to construct sidewalks that are part of the roundabout construction.

Local Employment Opportunities

Employment opportunities for local residents help keep both residents and dollars in the community, while also minimizing commuting times. This includes during construction and afterwards through ancillary services such as landscaping, waste disposal and building maintenance. It will also increase the attractiveness of Ladysmith as a stop for tourists and other travelers on Highway 1.

The resulting economic activity is likely to support other Ladysmith businesses as well, creating a positive ripple effect throughout the local economy.

Land Swap Visual from Dec 17, 2024
TOL Council Agenda



DEVELOPMENT BENEFITS FOR LADYSMITH

5. Community Benefits

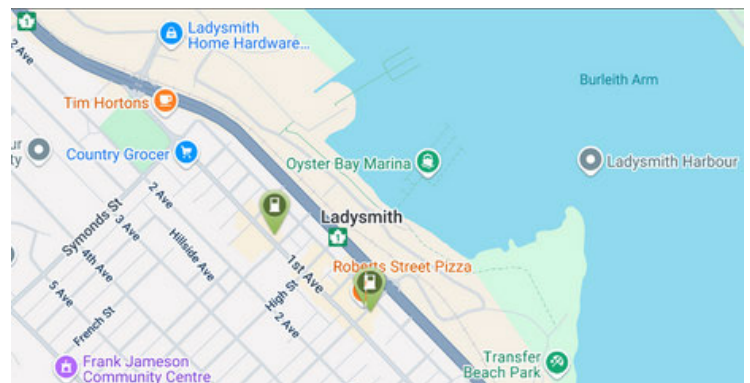
Public Transportation

The development will include a HandyDART Stop and Shelter, helping increase public transport accessibility in Ladysmith



Energy Transition Infrastructure

The development will include EV chargers directly on the highway. This will help expand charging options for both residents and will increase Ladysmith's attractiveness as a stop for EV drivers



PlugInBC

Civic Amenities

Expanded Outdoor Electrical Supply for the Festival of Lights and Light Up Parade
Intense Landscaping for visual appeal



DEVELOPMENT TRAFFIC FINDINGS

6. Traffic Findings

Traffic Impact Assessments

We have paid for 2 Traffic Impact Assessments (TIA), including an additional Traffic Memorandum focused on Home Hardware's access and egress.

The most recent TIA was finalized in October 2024. It was completed by a well-known reputable firm, Watt Consulting, who regularly undertakes work for municipalities including Ladysmith.

The TIA assessed all traffic movements in the area including areas as far away as the Grouhel Rd/Hwy 1 intersection at the request of TOL Staff.

The entire TIA report is included in the [TOL Council December 17, 2024 Agenda](#) on pages 381-436.

TOL Staff confirmed again on [May 6, 2025](#) that a roundabout is not required for this development.

The TIAs were directed by and confirmed satisfactory by TOL Staff to proceed as this development does not require a roundabout to function at a high level of service (LOS B).

Waterfront Area Transportation Review - 'The Binnie Report'

The Binnie Report incorporated a roundabout at the Rocky Creek/Ludlow intersection based on discussions with the Town of Ladysmith. It was not independently identified and recommended.

It appears that this was proposed to enforce Home Hardware's RIRO approvals as outlined in the Binnie Excerpt below and proposed by TOL Staff in the [October 15, 2018 TOL Council Agenda](#), which includes the full Binnie Report on pages 44-137.

It was also based on projections of 300 residential units in the Waterfront Area Plan by 2023. As of 2025, no construction or plans appear forthcoming.

Binnie Report Excerpt

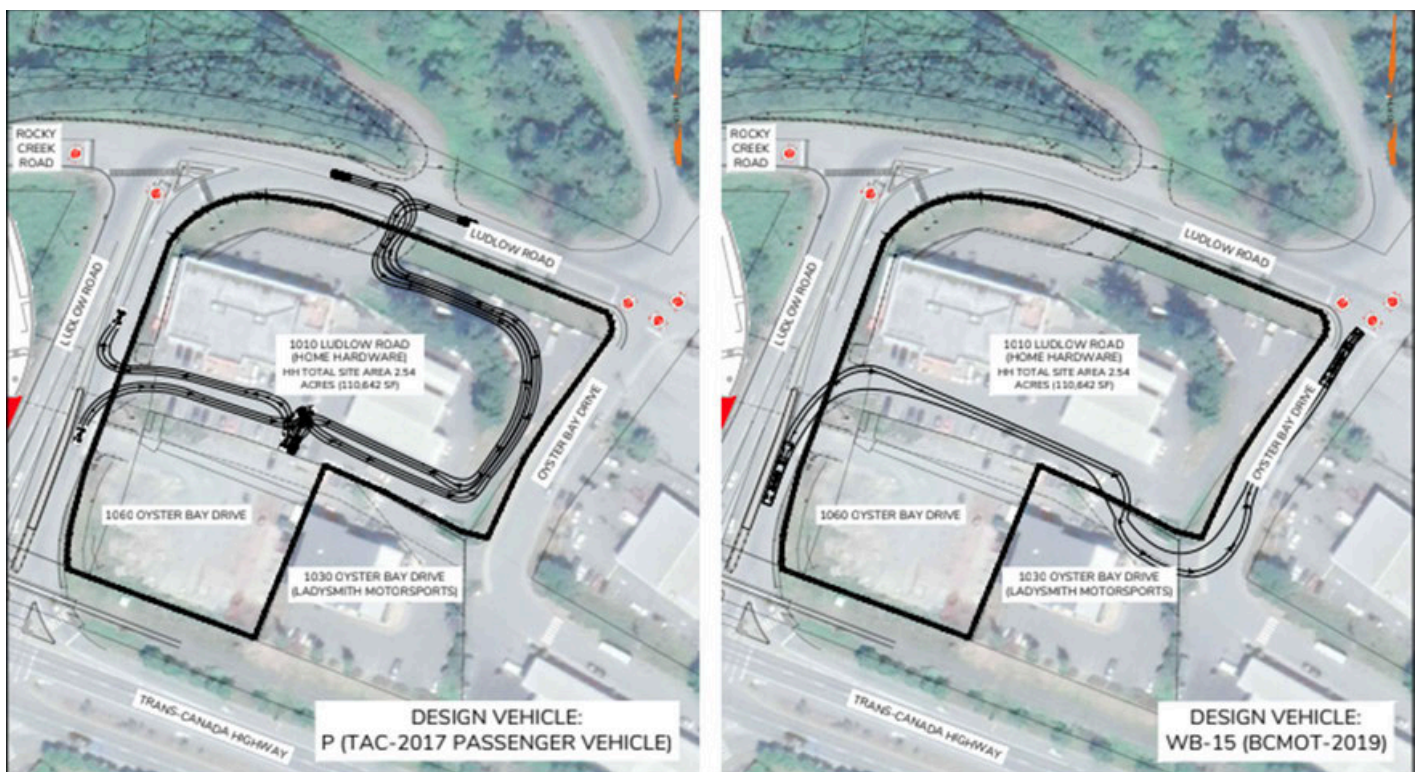
3.2.2 Scenario 2 – Shared Existing Driveway with New Roundabout

In the analysis for Scenario 2, the proposed driveway for Xtend Rental was assumed to be consolidated with the existing access to Home Hardware. This scenario also assumes the enforcement of a RIRO configuration at the driveway to Home Hardware. The existing median is recommended to be extended along Ludlow Road to Rocky Creek Road to help facilitate the enforcement of the RIRO configuration from Home Hardware. Based on discussions with the Town, a roundabout is proposed for the existing stop-controlled intersection of Rocky Creek Road and Ludlow Road to facilitate vehicles wishing to access Highway 1 from exiting the existing Home Hardware access. The roundabout should be designed to accommodate the B-train vehicles that utilize the intersection to access the existing lumber mill north of the Study area.

DEVELOPMENT TRAFFIC FINDINGS

Traffic Movement Patterns at Neighbouring Properties as Approved by TOL Council

These images are from the Traffic Impact Assessment outlining the existing development approvals for 1010 Ludlow Road (Home Hardware), 1060 Ludlow Road (formerly 1060 Oyster Bay Drive now Home Hardware parking), and 1030 Oyster Bay Drive (Ladysmith Motorsports)



DEVELOPMENT TRAFFIC FINDINGS

Traffic Movement Patterns at Neighbouring Properties as Approved by TOL Council

This image is a basic google maps drawing outlining these existing underutilized access points and that they are currently available for exiting the sites as required under TOL Bylaws and outlined on the previous page of this submission. The recent expansion of Home Hardware's parking lot to the 1060 Ludlow Road property is outlined.



Note Regarding Traffic Changes

The traffic concerns raised at the January 2025 public hearing were regarding changes originally proposed by TOL Staff in October 2018 prior to and unrelated to this application.

These traffic changes would bring 1010 Ludlow Road (Home Hardware), 1060 Ludlow Road (Home Hardware recent parking expansion) and 1030 Oyster Bay Drive (Ladysmith Motorsports) in line with their original approvals and TOL Bylaws.

DEVELOPMENT TRAFFIC FINDINGS

MOTI Original Response on Traffic Requirements

These were Ministry of Transportation and Infrastructure's (MOTI) original comments follow our April 2020 application. They do not require a roundabout and if 1130 Rocky Creek Road is limited to Right Out Only on Ludlow Road, they do not require any changes to traffic infrastructure in the area.



Ministry of Transportation
and Infrastructure

DEVELOPMENT SERVICES GENERAL COMMUNICATION

Your File #: 3360-20-02
eDAS File #: 2020-04431
Date: Oct/16/2020

Town of Ladysmith
Julie Thompson
C-132 Roberts Street
PO Box 220
Ladysmith, British Columbia V9G1A2
Canada

Attention: Julie Thompson Acting Senior Planner

**Re: Proposed General Referral Approval Application for:
Lot A District Lots 24 and 38 Oyster District Plan VIP71248
Map: 1159319,445040
1130 Rocky Creek Road, Ladysmith**

The following comments have been received by the Ministry Engineer regarding the TIA:

- MOTI would like the access to meet the minimum recommended distance from the intersection as mentioned in the report (70m). This would put it generally in the vicinity of the access to the Home Hardware, and I think is more appropriate.

I also feel that we could likely restrict this access to right out only, as most in-bound traffic is likely to be pass by trips on the highway, especially during peak hours, and they'll have to go down to the full movement access to get in, anyway. If we don't restrict to RO only, I want some aggressive traffic islands installed to prevent a left turn in from Ludlow.

I'd like to know more about the TOL's timeline for installing a roundabout at the intersection of Ludlow and Rocky Creek Road. They appear to be leaning heavily on this for mobility and civil improvements.

If you have any questions please feel free to call Jamie Leigh Hopkins at

Yours truly,

Jamie Leigh Hopkins
Development Services Officer

H1180-eDAS (2009/02)

| Local District Address |
|---|
| Vancouver Island District |
| Third Flr |
| 2100 Labeux Road |
| Nanaimo, BC V9T 6E9 |
| Canada |
| Phone: (250) 751-3248 Fax: (250) 751-3289 |

Page 1 of 1

DEVELOPMENT TRAFFIC FINDINGS

October 2024 Traffic Impact Assessment Key Findings

Please see below for key excerpts from the TIA, which address the potential safety concerns that TOL Staff have highlighted in previous [Council meetings](#). Watt Consulting found that forecasted traffic volumes would be accommodated by the existing configuration until at least 2026 but likely longer as there are no active development applications for the waterfront area.

MEMORANDUM

Date: 2024-10-15
To: Ashley Garib, Oyster Harbour Development Corp
Subject: Ludlow Road / Rocky Creek Road Roundabout
Condition for 1130 Rocky Creek Road

WATT CONSULTING GROUP

Page 8 of 15

4.2 Current Conditions

4.2.1 Upper Ludlow Access

Legality of Left In/Out

Although the median has been extended across the entire Ludlow Road frontage of 1060 Oyster Bay Drive (per Binnie's recommendation), it does not extend past the Home Hardware access. Although it is understood that a crosshatched painted island once existed between the median and the Rocky Creek Road intersection, historical satellite imagery shows the crosshatch markings fading over the years from 2006 to 2014. When WATT visited the site in January 2024, the existence of crosshatch markings between the lines was not noted as they were no longer visible at all on the wet road.

The Town has requested confirmation of "whether a driver making [a left turn exiting Home Hardware] would be contravening the Motor Vehicle Act". Both double yellow lines and crosshatched painted islands are intended to discourage unsafe turning movements and encourage drivers who do turn to exercise caution. Neither legally bans safe turning movements under the Motor Vehicle Act, only passing movements that cross the yellow line.

Safety of Left In/Out

The Town has also requested confirmation of "whether not preventing [a left turn exiting Home Hardware] would be safe from a traffic engineering perspective". For legal purposes, whether or not the movement is "safe" at any given time is to be determined by the driver. The Act does not specifically define what conditions are "safe", however if the turn results in a collision, it can be considered unsafe and therefore illegal. WATT offers the following considerations on the safety of the left turn out of Home Hardware:

Time Gaps

As conflicting through traffic volumes on Ludlow Road increase, the opportunities for "safe" (and therefore legal) left turns entering and exiting the upper Ludlow Home Hardware access will decrease. Very high through traffic volumes may encourage unsafe (and therefore illegal) left turns by exiting traffic. Per WATT's TIA Update, when the 1130 Rocky Creek Road site is occupied (assumed to be 2026), Ludlow Road is expected to see a peak of 297 vehicles per hour in both directions combined at the access. This represents an average of one conflicting vehicle every 12 seconds. The

MEMORANDUM

Date: 2024-10-15
To: Ashley Garib, Oyster Harbour Development Corp
Subject: Ludlow Road / Rocky Creek Road Roundabout
Condition for 1130 Rocky Creek Road

WATT CONSULTING GROUP

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actual time gaps between vehicles may vary significantly due to gaps created by the signalized intersection at Highway 1 / 1st Avenue-Ludlow Road.

In 2036 (assuming full build-out of the waterfront development described in Binnie's report) the TIA Update expects a peak of 435 vehicles per hour in both directions combined. This represents an average of 1 conflicting vehicle every 8 seconds.

Turning movement data for traffic using the upper Ludlow Home Hardware access was collected by WATT on Wednesday, January 24, 2024 from 4:00 PM to 5:00 PM and on Thursday, January 25, 2024 from 8:00 AM to 9:00 AM. The results are shown in **Table 1**.

Table 1 - Vehicle Turning Movements Using Home Hardware Upper Ludlow Access

| Movement | AM | PM |
|-----------------|----|----|
| EBR (Right In) | 24 | 25 |
| NBR (Right Out) | 2 | 2 |
| WBL (Left In) | 4 | 1 |
| NBL (Left Out) | 18 | 22 |

The forecasted peak of thru traffic on Ludlow Road occurs during the PM peak hour, so it would conflict with 22 vehicles turning left out of the upper Ludlow Home Hardware access. It is believed that sufficient gaps in thru traffic exist for these vehicles to turn left out of Home Hardware safely in the 2026 horizon year.

In the 2036 horizon year, the number of safe gaps available for vehicles turning left out of Home Hardware will be reduced. As there are currently no active development applications for the waterfront area, however, there is no clear indication of when the forecasted 2036 horizon volumes will actually occur.

DEVELOPMENT TRAFFIC FINDINGS

October 2024 Traffic Impact Assessment Key Findings

Please see below for the Conclusions and Recommendations of the TIA completed by Watt Consulting. As outlined earlier in this submission, the full report is available in the [TOL Council December 17, 2024 Agenda](#) on pages 381-436.

MEMORANDUM

Date: 2024-10-15

To: Ashley Garib, Oyster Harbour Development Corp

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5.0 CONCLUSIONS

The proposed access configuration to the 1130 Rocky Creek Road development addresses MoTI and the Town's requirements for 1130 Rocky Creek Road traffic without the need for a roundabout. The access will be right out only with the delineators along the centreline of the road from the existing median to within 10m of the Rocky Creek Road / Ludlow Road intersection. Once the roundabout is built and the delineators replaced with concrete/raised medians the site access can be right in / right out.

Binnie's transportation review of the Town's Waterfront Area Plan recommended a roundabout to allow safe and legal U-turns by traffic exiting Home Hardware, 90% of which currently turns left out onto Ludlow Road near the proposed 1130 Rocky Creek Road access (on the opposing side of the road). While originally restricted in Development Permit 07-06, this (Home Hardware access on Ludlow Road) left turn is currently legal from the perspective of the Motor Vehicle Act, and WATT does not believe that it will be made unsafe by forecasted traffic to and from the 1130 Rocky Creek Road development.

Elimination the left turn movement from the Home Hardware upper lot access, with the delineators would enforce the right-in/right-out only as contemplated in the original Home Hardware access approval. Paved egress from the upper lot is currently available to Ludlow Road (south segment) via the property's own lower access and to Oyster Bay Drive via existing easement on 1030 Oyster Bay Drive.

There is considerable development potential in the area and, as such, several sites are forecasted to add traffic through the Ludlow Road / Rocky Creek Road intersection in the coming years. As traffic volumes increase, a roundabout may be considered to improve safety at this intersection.

MEMORANDUM

Date: 2024-10-15

To: Ashley Garib, Oyster Harbour Development Corp

Subject: Ludlow Road / Rocky Creek Road Roundabout
Condition for 1130 Rocky Creek Road

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6.0 RECOMMENDATIONS

As of August 9, 2024, the Town has indicated that they wish to enforce the ban on left turns entering and exiting Home Hardware prior to roundabout construction. To accomplish this, WATT makes the following recommendations for Ludlow Road as shown in **Figure 5**:

1. Re-paint the hatched median between the existing Ludlow Road concrete median and the Rocky Creek Road / Ludlow Road intersection to make it visible to drivers
2. Install the proposed temporary centreline barrier within the painted median from the concrete median to 10 metres from the Rocky Creek Road / Ludlow Road intersection. Bolt-down delineators with a retroreflective coating at the top are recommended as they can be easily removed when the concrete median is extended to the new roundabout.
3. Install R-015-L (No Left Turn) signage facing exiting traffic at the Home Hardware upper Ludlow Road access.
4. Install R-019-1 (No U-Turn) signage facing eastbound traffic (on Ludlow Road) at the Ludlow Road / Rocky Creek Road intersection.
5. When the roundabout is installed in the future, by others, allow right in / right out access to 1130 Rocky Creek Road on the Ludlow Road access.

These measures are intended to temporarily prevent left turn movements at the Home Hardware upper access until the roundabout is constructed. It is expected that the existing concrete median will be extended to the roundabout when the roundabout is constructed.



MINUTES OF A REGULAR MEETING OF COUNCIL

Tuesday, May 6, 2025

5:30 P.M.

Ladysmith Seniors Centre

630 2nd Avenue

Council Members Present:

Mayor Deena Beeston
Councillor Ray Gourlay
Councillor Amanda Jacobson
Councillor Tricia McKay

Councillor Duck Paterson
Councillor Marsh Stevens
Councillor Jeff Virtanen

Staff Present:

Allison McCarrick
Erin Anderson
Jake Belobaba
Tim Tanton
Chris Geiger

Trish McConnell
Sue Bouma
Nick Pescod
Hayley Young

1. CALL TO ORDER

Mayor Beeston called this Meeting of Council to order at 5:30 p.m., in order to retire immediately into Closed Session.

2. CLOSED SESSION

CS 2025-109

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

- (1)(c) labour relations or other employee relations;
- (1)(g) litigation or potential litigation affecting the municipality;
- (1)(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (1)(k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public.

- (2)(b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party; and
- (2)(d) a matter that, under another enactment, is such that the public must be excluded from the meeting.

Motion Carried

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

Mayor Beeston called this Regular Meeting of Council to order at 7:03 p.m., recognizing with gratitude that it was taking place on the unceded territory of the Stz'uminus First Nation.

4. AGENDA APPROVAL

CS 2025-110

That Council approve the agenda for this Regular Meeting of Council for May 6, 2025 as amended to include item 10.2 "Letters to Outgoing and Incoming Members of Parliament for the Nanaimo-Ladysmith Constituency – Councillor Gourlay."

Motion Carried

5. MINUTES

5.1 Minutes of the Public Hearing and Regular Meeting of Council held April 15, 2025

CS 2025-111

That Council approve the minutes of the Public Hearing and Regular Meeting of Council held April 15, 2025.

Motion Carried

6. PROCLAMATIONS

6.1 National Public Works Week - May 18 to 24, 2025

Mayor Beeston proclaimed May 18 to 24, 2025 as "National Public Works Week" in the Town of Ladysmith.

6.2 Island Good Days - May 30 to June 6, 2025

Mayor Beeston proclaimed May 30 to June 6, 2025 as "Island Good Days" in the Town of Ladysmith.

7. COMMITTEE MINUTES

7.1 Parks, Recreation & Culture Advisory Committee - April 16, 2025

CS 2025-112

That Council receive the minutes of the Parks, Recreation & Culture Advisory Committee meeting held April 16, 2025.

Motion Carried

8. REPORTS

8.1 Waive Purchasing Policy for Surplus Vehicle Rescue Equipment

CS 2025-113

That Council waive Purchasing Policy 5-1790-D and permit the donation of surplus Fire Rescue vehicle tools and equipment to the Tobiano Fire Department.

Motion Carried

9. BYLAWS

9.1 Bylaws for Adoption

9.1.1 “Property Tax Rates Bylaw 2025, No. 2209”

CS 2025-114

That Council adopt “Property Tax Rates Bylaw 2025, No. 2209”.

Motion Carried

9.1.2 “Sewer Parcel Tax Bylaw 2025, No. 2210”

CS 2025-115

That Council adopt “Sewer Parcel Tax Bylaw 2025, No. 2210”.

Motion Carried

9.1.3 “Water Parcel Tax Bylaw 2025, No. 2211”

CS 2025-116

That Council adopt “Water Parcel Tax Bylaw 2025, No. 2211”.

Motion Carried

9.2 Bylaw Status Sheet

10. NEW BUSINESS

10.1 Online Survey Regarding the Large Item Disposal Program - Councillor Gourlay

CS 2025-117

That Council direct staff to solicit feedback using the Town's online public engagement platform regarding the annual large item disposal program.

Motion Carried

10.2 Letters to Outgoing and Incoming Members of Parliament for the Nanaimo-Ladysmith Constituency – Councillor Gourlay

CS 2025-118

That Council direct staff to send a letter of thanks to Lisa Marie Barron, former MP for Nanaimo-Ladysmith, and a welcome letter to the incoming MP, Tamara Kronis.

Motion Carried

11. UNFINISHED BUSINESS

11.1 Notice of Motion 1130 Rocky Creek Road - Councillor Paterson

CS 2025-119

That Council:

1. Direct staff to cease work on the report under resolution CS2025-051;
2. Endorse, in principle, amending Covenant CB215820 to remove the requirement to construct a roundabout.
3. Require that, as a condition of approval of amending Covenant CB215820 the following conditions to be secured through a covenant:
 - a) a prohibition on access from Ludlow Road and limited egress to Ludlow Road to a single, right out only egress, until the roundabout is constructed;
 - b) a requirement to construct a temporary median in Ludlow Road prior to issuance of an Occupancy Permit;
 - c) a requirement for cash in lieu of frontage improvements along Ludlow Road and Rocky Creek Road at time of building permit issuance;
 - d) a requirement to install a temporary gravel pathway along the frontage of the property as shown in development permit 3060-24-20 at time of building permit issuance;

- e) a requirement to install no left turn signs in the Ludlow Road right of way to prevent left hand turns exiting 1010 Ludlow Road;
 - f) a requirement to install no U-Turn signs at the Ludlow Road/Rocky Creek Road Intersection; and
 - g) a requirement for the developer to contribute \$200,000 towards the development of the roundabout at time of building permit issuance.
4. Hold another public hearing and obtain approval from the Ministry of Transportation and Transit prior to making a final decision on the matter.

CS 2025-120

AMENDMENT

That Council amend Resolution CS 2025-119 by removing item 3 (g) “a requirement for the developer to contribute \$200,000 towards the development of the roundabout at time of building permit issuance;” and consider it separately.

Amendment Carried

Resolution CS 2025-119, as amended reads:

That Council:

1. Direct staff to cease work on the report under resolution CS2025-051;
2. Endorse, in principle, amending Covenant CB215820 to remove the requirement to construct a roundabout.
3. Require that, as a condition of approval of amending Covenant CB215820 the following conditions to be secured through a covenant:
 - a) a prohibition on access from Ludlow Road and limited egress to Ludlow Road to a single, right out only egress, until the roundabout is constructed;
 - b) a requirement to construct a temporary median in Ludlow Road prior to issuance of an Occupancy Permit;
 - c) a requirement for cash in lieu of frontage improvements along Ludlow Road and Rocky Creek Road at time of building permit issuance;
 - d) a requirement to install a temporary gravel pathway along the frontage of the property as shown in development permit 3060-24-20 at time of building permit issuance;

- e) a requirement to install no left turn signs in the Ludlow Road right of way to prevent left hand turns exiting 1010 Ludlow Road; and
 - f) a requirement to install no U-Turn signs at the Ludlow Road/Rocky Creek Road Intersection.
4. Hold another public hearing and obtain approval from the Ministry of Transportation and Transit prior to making a final decision on the matter.

Main Motion, as Amended, Carried

OPPOSED: Councillors Jacobson and Stevens

CS 2025-121

That Council require that, as a condition of approving the amendment to Covenant CB215820 for the development at 1130 Rocky Creek Road, the following be secured through a covenant: a requirement for the developer to contribute \$200,000 toward the construction of the roundabout, payable at the time of building permit issuance.

Motion Defeated

OPPOSED: Mayor Beeston, Councillors Jacobson, Paterson and Virtanen.

12. QUESTION PERIOD

There were no questions from the public.

RECESS

CS 2025-122

By unanimous consent, Council recessed at 8:14 p.m. in order to reconvene the Closed session.

Council reconvened the Open meeting at 8:28 p.m.

13. RISE AND REPORT- Items from Closed Session

Council rose from Closed Session at 8:27 p.m. with report on the following:

CE 2025-035

That Council:

1. Receive the Fire Department Strategic Work Plan dated April 14, 2025, conducted by Tim Pley & Associates Ltd.;
2. Authorize staff to initiate working through short- to long-term recommendations; and
3. Rise and report on items 1 and 2 immediately.

14. ADJOURNMENT

CS 2025-123

By unanimous consent, Council adjourned this Regular Meeting of Council at 8:29 p.m.

CERTIFIED CORRECT

Mayor (D. Beeston)

Corporate Officer (S. Bouma)

COWICHAN

2024/25 Year in Review

About Tourism Cowichan Society



Leadership provided by
Board of Directors
comprised of industry
representatives



4VI Group contracted to
deliver destination
marketing &
management services



Stakeholder model
representing 400+
tourism related
businesses



Funding sources
include Destination BC,
MRDT & and local
government

Strategic Objectives

From MRDT 5-Year Plan



Increase Revenue from Visitation



Manage Growth and Benefit
Through Seasonal Disperson



Increase Stakeholder Collaboration
and Export Readiness



Support Sustainable Tourism
Initiatives and Activities



Total MRDT Collection

MRDT Revenues

2023 = \$ 462,300

2024 = \$ 480,242 (+4%)

Funds destination
marketing, tourism
development & industry
engagement programs

OAP Revenues

2023 = \$ 262,339

2024 = \$ 377,312 (+44%)

Funds affordable
housing initiatives
through CVRD and
Cowichan Housing
Association



Fall Campaign



Your Official Invitation
to Visit **COWICHAN**

PLAN NOW >



Your Official Invitation
to Visit **COWICHAN**

PLAN NOW >



Your Official Invitation
to Visit **COWICHAN**

PLAN NOW >


Your Official Invitation

[Link to Video](#)



Fall Sponsored Content

Vancouver Is Awesome
Curiosity Vancouver
KelownaNow
Castanet




VANCOUVER IS AWESOME


NEWS LIVING FEATURES CURATED HOMES CLASSIFIEDS OBITS SHOP BECOME /

Contest: You could win a fall vacation package to Cowichan on Vancouver Island

Fall in love with Cowichan this harvest season with a trip to this beautiful and bountiful region on southern Vancouver Island. Enter now for your chance to win a prize package worth \$800!



"Go with the slow" in Cowichan this fall. | Photo by Monascherie Photography



CURIOCITY







SELECT A CITY


Lifestyle Things To Do Food & Drink

THINGS TO DO SPONSORED

5 reasons the Cowichan region is the perfect autumnal getaway

Sep 12, 2024 | Alicia Lyons | Things To Do



Broadcast Advertising

CTV Vancouver Community Segments



BC Food and Wine Radio



Spring Campaign

[Link to Full Video](#)



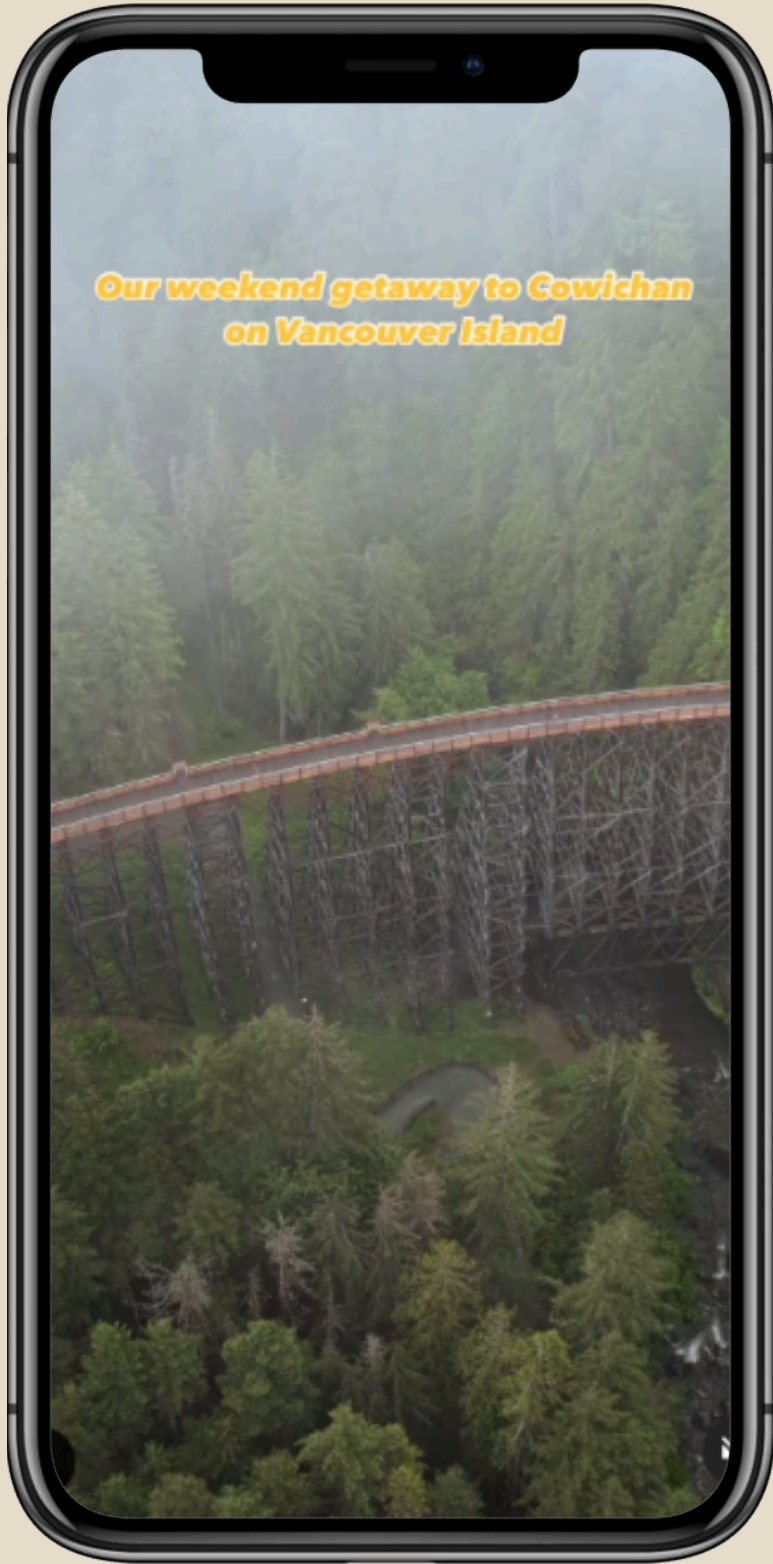
Influencer Marketing

@VanCity Wild
@Monascherie

@MatWanbon
@DanielAndMeriana



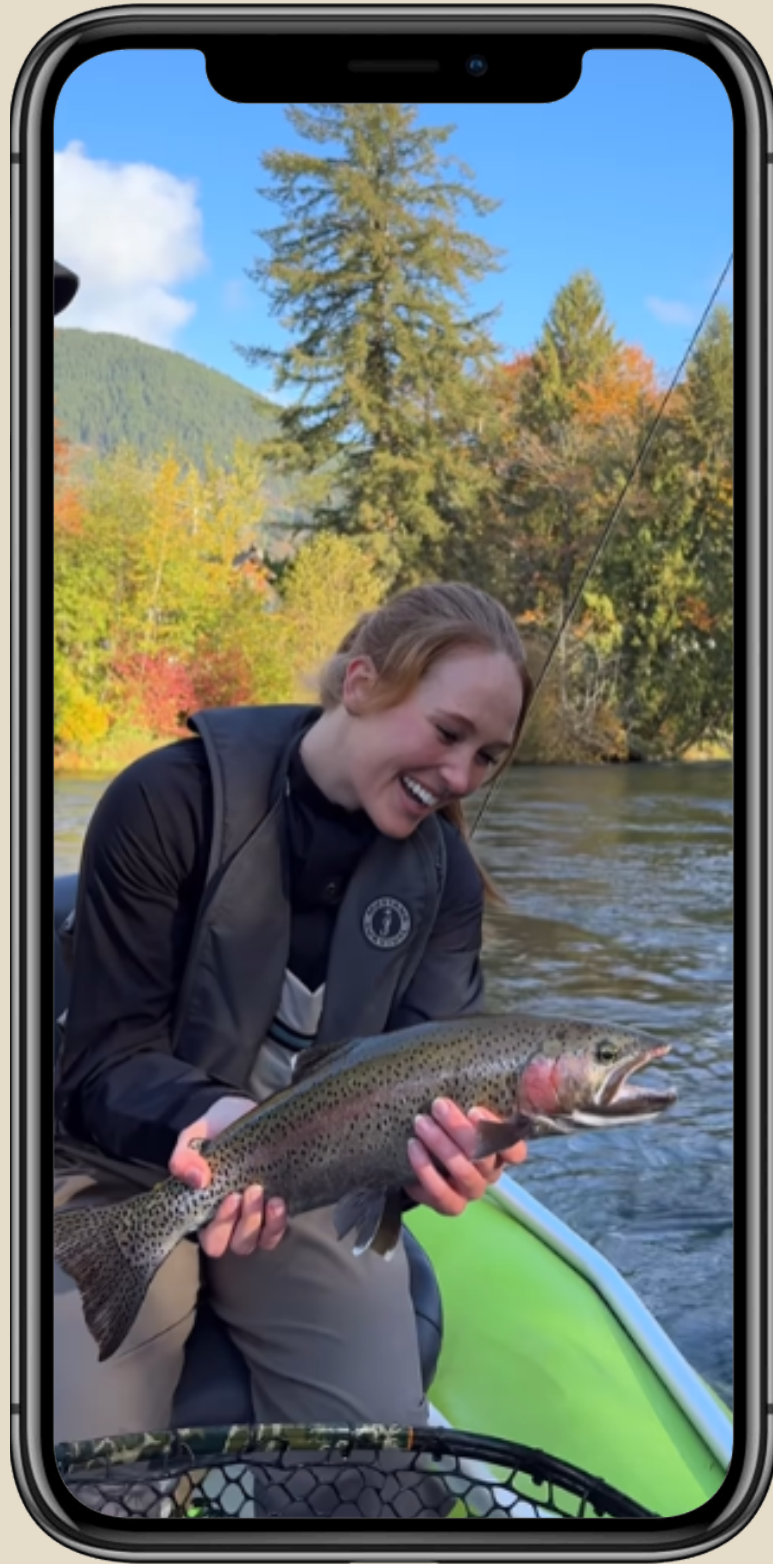
47.3K views



15K views



11.3K views



14.8K views

Educational Content

@TheNatureEducator



25.8K views



30.9K views



Print Collateral

Visitor Guide Refresh



Cowichan Wineries Map Brochure



Partnership Marketing

Island Taste Trail



OCT 18 TO NOV 10, 2024

EXPERIENCE FALL TASTES FROM
COWICHAN, NANAIMO,
PARKSVILLE QUALICUM BEACH,
COMOX VALLEY AND CAMPBELL RIVER

www.islandtastetrail.ca

PRESENTED BY:




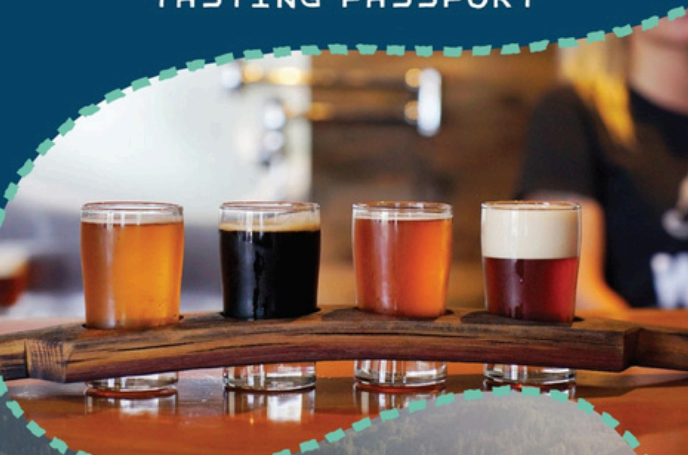





TRY OUR
FEATURE PAIRING




BC Ale Trail Central Island Tasting Passport

CENTRAL ISLAND
TASTING PASSPORT






From Cowichan through Nanaimo and Parksville Qualicum Beach to the Comox Valley, Central Vancouver Island offers a variety of exceptional experiences, including spectacular beaches, hiking and mountain biking trails, and coastal paddling. From February 1 through March 9, explore the region and the diverse mix of breweries.



PARKSVILLE
QUALICUM BEACH



BCAleTrail.ca
f @BCAleTrail

#CentralIslandPassport
#ExploreBC
#BCAleTrail
#BCCraftBeer

FILL YOUR PASSPORT TO WIN!

From February 1 - March 9, 2025, visit any of the participating breweries and ask for a stamp with purchase. After collecting six unique stamps, hand in the completed passport at one of the participating breweries to be entered to win one of FOUR Grand Prize packages. Then fill out another one!

Comox Valley:

- Ace Brewing
- Cumberland Brewing
- Gladstone Brewing
- Hornby Island Brewing
- Land & Sea Brewing
- Rad Brewing Co.

Cowichan:

- Bayview Brewing
- Craig Street Brew Pub
- Deadhead Brew Co.
- Red Arrow Brewing

Nanaimo:

- Longwood Brew Pub & Restaurant
- White Sails Brewing
- Wolf Brewing Company

Parksville Qualicum Beach:

- Fern + Cedar Brewing
- LoveShack Libations
- Mount Arrowsmith Brewing
- Rusted Rake Brewing

BC Ale Trail App  

Prefer paperless? Download our free app to collect your stamps by scanning a QR code PLUS earn reward points with every check-in.



Contest Period: February 1 - March 9, 2025
See prize details at: bcailetrail.ca/CentralIslandPassport

Name _____ Phone _____

Email _____ Postal Code _____

☐ I would like to subscribe to e-newsletters from the BC Ale Trail and our tourism partners



After collecting six unique stamps, hand in the passport at any participating location to be entered to win

Consumer Shows

Vancouver Outdoor Adventure & Travel Show

Tourism Cowichan attended as an exhibitor alongside 4 Cowichan businesses to interact with an engaged audience, generate sales leads and increase brand awareness. The show was attended by 15,700 people.



Destination Development

Events & Experiences Fund

To invest in events and festivals that attract visitors to the Cowichan area to generate overnight stays and drive seasonal dispersion

Cycling Tourism Strategy

Investigate tourism growth opportunities surrounding signature cycling routes, networks, and experiences in the Cowichan region

Hotel Needs Assessment

Final report demonstrated market potential for the Cowichan region to develop an additional 175 hotel rooms



Industry Development

Cowichan Spark Program

Business incubator program matching three entrepreneurs with a tourism mentor and seed grant to help bring new tourism ideas to life.



WHAT'S YOUR NEW TOURISM IDEA?

Cowichan

Laurie Arbuthnot • Wild Coast Perfumery

✓ MENTORSHIPS ✓ GRANTS ✓ COMMUNITY

Apply by November 12, 2024 at TourismInnovation.ca/Cowichan

Circular Economy Accelerator

Provides business assessment from team at Synergy and practical recommendations to reduce energy, water and waste emissions + costs



ELEVATE YOUR BUSINESS

Cut costs, find operational efficiencies, and embrace innovation with Project Zero's 1:1 business support program.

PROJECT ZERO ACCELERATOR

A hands-on program designed to help Vancouver Island businesses achieve their sustainable goals.

Learn more at project-zero.ca/accelerator

Coming Up in 2025!

Coordinated multi-channel marketing campaigns

Partnerships with local content creators for authentic storytelling

New partner in the Spirit Loop and Fishing BC campaigns

Strengthen board governance and recruitment process

Access to new tourism data through AirDNA and Data Appeal

Improved stakeholder engagement and communications

Website optimization and SEO strategy

Regional engagement for 5-Year MRDT Renewal

Increased collaboration for sustainable tourism development

Structured planning process and annual stakeholder survey

Launch itinerary builder tool on consumer website

Cowichan visitor centre enhancement grants

A man with grey hair and glasses, wearing a dark blue long-sleeved shirt, is shown in profile from the chest up. He is holding a light-colored wooden mask with both hands. The mask has a serene expression with closed eyes and a slight smile. The background is a workshop with various tools and equipment visible.

COWICHAN

Kenzie Knight
Tourism Development Specialist
kenzie@tourismcowichan.com

STAFF REPORT TO COUNCIL

Report Prepared By: Julia Dewijn, Planner
Reviewed By: Jake Belobaba, RPP, MCIP, Director of Development Services
Meeting Date: May 20, 2025
File No: 3340-25-02
RE: Temporary Use Permit – 226 Buller Street

RECOMMENDATION:

That Council approve Temporary Use Permit 3340-25-02 for Lot 20, Block 45, Lot 56, Oyster District, Plan 703A (226 Buller Street) to allow Tourist Accommodation as a temporary use in a secondary suite.

EXECUTIVE SUMMARY:

The purpose of this report is to introduce a proposal to allow Tourist Accommodation as a use for the Short-Term Rental (STR) of a secondary suite at 226 Buller Street for Council consideration. The proposed use requires a Temporary Use Permit (TUP) to authorize the use of the secondary suite as a STR.

PREVIOUS COUNCIL DIRECTION:

| Resolution | Meeting Date | Resolution Details |
|-------------|-------------------------------|--|
| CS 2025-096 | April 15 th , 2025 | That Council give third reading and adopt "Official Community Plan Bylaw 2022, No. 2200, Amendment Bylaw 2025, No. 2205." <i>Motion Carried</i> |
| CS 2025-084 | April 1 st , 2025 | That Council: 1. Having considered section 475 of the <i>Local Government Act</i> , and in particular the matters set out in subsections (2)(A) and (b), resolve that: a. The Stz'uminus First Nation, Agricultural Land Commission and School District 68 are the only entities that are appropriate to consult in connection with "Official Community Plan Bylaw 2022, No. 2200, Amendment Bylaw 2025, No. 2205"; b. Consultation should be early but need not be ongoing; c. The consultation process described in the staff report to Council dated April 1, 2025 is sufficient in respect to the proposed Official Community Plan amendment and d. Staff be directed to refer "Official Community Plan Bylaw 2022, No. 2200, Amendment Bylaw 2025, No., 2205" to the Stz'uminus First Nation, Agricultural Land Commission and School District 68 as set out in the April 1, 2025 staff report to Council; |

| | | |
|--|--|--|
| | | <ol style="list-style-type: none"> 2. Give first and second readings to “Official Community Plan Bylaw 2022, No. 2200, Amendment Bylaw 2025, No. 2205”; 3. Consider “Official Community Plan Bylaw 2022, No. 2200, Amendment Bylaw 2025, No. 2205” in conjunction with the Town’s Financial Plan, the Town’s Liquid Waste Management Plan, and the Cowichan Valley Regional District Solid Waste Management Plan, pursuant to section 477(3) of the <i>Local Government Act</i>; 4. Consider “Official Community Plan Bylaw 2022, No. 2200, Amendment Bylaw 2025, No. 2205” in conjunction with the Town’s Housing Needs Report and the housing information on which the report is based, pursuant to section 473(2.1) of the <i>Local Government Act</i>; 5. Direct staff to schedule a public hearing and notice of the hearing for “Official Community Plan Bylaw 2022, No. 2200, Amendment Bylaw 2025, No. 2205”; and 6. Authorize staff to accept and process Temporary Use Permits for Short-Term Rentals prior to adoption of Bylaw 2025. <p><i>Motion Carried</i></p> |
|--|--|--|

INTRODUCTION/BACKGROUND:

Subject property

The subject property is a 557.2 square metre parcel located at 226 Buller Street. The property is currently designated Neighbourhood Residential under the “Official Community Plan Bylaw 2022, No. 2200” (OCP) and zoned Old-Town Residential (R-2) under the “Town of Ladysmith Zoning Bylaw 2014, No. 1860”. The property is currently occupied by a single unit dwelling with a secondary suite. The secondary suite was permitted through the issuance of a building permit in February, 2017. Because the owner obtained a building permit to construct the suite, and no unpermitted alterations to the home have occurred, no renovations are required to bring the suite into compliance with the BC Building Code. The suite has been listed on AirBnB for the past ten months.

Adjacent land uses include the following:

- Northeast: a multi-unit residential building, single unit dwellings, and the Downtown area.
- Southeast: the Ladysmith Resources Centre Association/Ladysmith Seniors’ Centre, daycare, First United Church, Pharmacy and Dental offices, and the High Street Ball Field.
- South / Southwest: The Heart on the Hill Housing, single unit dwellings, daycare and Ladysmith Intermediate School.
- North: single unit dwellings.

The subject property is approximately 200 metres (3- to 4-minute walk) from 1st Avenue and 95 metres (2-minute walk) from the Ladysmith / Alderwood Transit Service at the Ladysmith Resources Centre.

A map of the subject property is provided in Attachment A.

Existing Short-Term Rental Regulations

The nightly rental of dwelling units is currently limited to the C-2, C-4, CD-7 zones and certain areas of the A-RR zone. Some residential zones (RU-1, R-1, R-2, R-2-B) permit the nightly rental of up to four guest rooms within a single unit dwelling as a bed and breakfast. Rooms in bed and breakfasts are not allowed to contain kitchens or kitchenettes and are not permitted on properties where there is already a secondary suite, coach house, two-unit dwelling, or a multi-unit dwelling.

The short-term rental of an entire dwelling unit for the nightly accommodation of paying guests has never been permitted in the Town of Ladysmith outside of zones permitting Tourist Accommodation as a use. A business license has always been required to operate Tourist Accommodations and Bed and Breakfasts.

The Short-Term Rental Accommodations Act

In late 2023, the Province of British Columbia enacted the *Short-Term Rental Accommodations Act* (STRAA) to strengthen regulations and enforcement for STRs and increase protections for long-term rental housing. The STRAA applies to STRs listed on vacation rental platforms and other websites, such as Airbnb, VRBO, Facebook Marketplace, Kijiji, and Craigslist. As part of the legislation, the Province requires that each STR host displays a valid business licence number on their listing wherever a business licence is required by the local government having jurisdiction. STR Platforms are required to share listing data with the Province every month, which in turn is shared with participating municipalities through the Short-Term Rental Portal (“STR Portal”).

The STRAA requires all STRs to register with the Province by May 1st, 2025. STR platforms are required to remove advertisements and prevent new bookings of STRs without valid provincial registration numbers on June 2nd, 2025, and platforms must cancel all existing reservations for unregistered STRs after June 23rd, 2025. Operating a STR without a valid registration number may also result in fines and/or tickets for the operator.

Ladysmith STR TUP Program

Council adopted Bylaw No. 2205 on April 15th, 2025, which amended the OCP to establish Temporary Use Permit guidelines to allow a limited number of TUPs for STRs outside of permitted zones.

Council also authorized staff on April 1, 2025 to begin accepting and processing TUP applications prior to adoption of Bylaw No. 2205. The first application (this one) was received on April 4th, 2025.

PROPOSAL:

The proposed TUP will permit Tourist Accommodation as temporary use in the secondary suite on the Subject Property. Conditions of the proposed TUP include a requirement for on-site parking for guests, at least 60 bookings per year under normal market conditions, and a valid business license.

The STR at 226 Buller Street was booked for 214 nights in the last ten months, which is one of the highest 'nights stayed' totals out of the approximate 50 active listings in Town.

A breakdown of the features of the proposed STR is provided in the list below:

- One bedroom, and a pull-out couch in the living room.
- A kitchen, including a full-sized refrigerator, range oven, coffee maker, microwave oven, kitchen sink, toaster, and cabinets.
- Projector screen and projector in the living area.
- Washing machine and dryer.
- Small grassy outdoor amenity space with seating.
- Partial ocean view from the northeast side of the property.
- Within a 10-minute walk to shopping and services in the Downtown and a 17-minute walk to the waterfront.

To allow the proposed Short-Term Rental at 226 Buller Street, a Temporary Use Permit (TUP) must be approved by Council. The owners have already submitted a business licence application which is pending approval of the TUP.

No development or changes to the building are proposed.

Attachment B includes a draft of the proposed Temporary Use Permit 3340-25-02. A Site Plan of the subject property is provided as Attachment C.

ANALYSIS:

For the reasons outlined below, staff are recommending approval of the proposal.

Zoning Bylaw

The subject property is zoned Old Town Residential – R-2 which permits bed and breakfasts as an accessory use for single unit dwellings. However, the proposed STR does not meet the bed and breakfast zoning regulations because the rental area is within a secondary suite. As such, the owners have applied for a TUP to allow a STR within a secondary suite.

Official Community Plan

The subject property is designated as Neighbourhood Residential within the OCP. This land use designation generally encourages strategic infill in this area of Town, enables a range of housing types, and supports small-scale neighbourhood-serving commercial uses.

Some key OCP objectives include the following:

- Create 10-minute neighbourhoods.
- Make active transportation the easiest and most enjoyable way to get around.
- Strengthen street life and other bustling public spaces.
- Increase housing diversity and affordability.

Housing affordability and creating active and connected neighbourhoods are priorities within the OCP. These priorities should be considered when determining whether allowances for STRs will enhance the Town's vision without adversely impacting other key objectives such as increasing the attainability of affordable, diverse housing.

Table 2, included below, highlights existing and proposed policies relating to the provision of STR accommodation within Ladysmith and staff comments connecting the policies to the proposed STR TUP.

Table 1. OCP Policy Analysis

| OCP Policy Category and Policies | Comments |
|---|---|
| Part C: 3. Policies | |
| Diverse & Affordable Housing | |
| 3.14. Monitor the impact of STR accommodation on long-term rental housing supply. Consider the Short-Term Rental recommendations of CVRD's Workforce Housing Strategy (2022). | The TUP program for STRs was designed to align with the CVRD's Workforce Housing Strategy from 2024. This Strategy includes actions encouraging member municipalities of the Cowichan Valley Regional District, to provide opportunities for STRs through TUPS or rezoning applications, with special consideration being given to the needs of temporary worker housing and the tourism industry. Bylaw 2205, noted above, incorporated OCP policies for issuing TUP's and considering rezoning applications for STR's |
| "OCP Bylaw 2022, No. 2200, Amendment Bylaw 2025, No. 2205" | |
| Part C. Policy 3.14 | |
| 3.14 Where Short-Term Rentals are not permitted under the Zoning Bylaw: <ul style="list-style-type: none"> • Council may issue Temporary Use Permits (TUPs) in accordance with the guidelines in Schedule A.2; or • Approve rezoning applications where the applicant can demonstrate the benefits of the tourism offering provided by the STR outweighs the loss of housing. | This proposal is for a Temporary Use Permit and the guidelines of the proposed schedule A.2 are applied to the proposed STR in Table 2. A Temporary Use Permit is required to allow the STR on this property because the rental area would be contained within a secondary suite. Council may choose to approve the proposed TUP, approve an amended recommendation, or deny the proposal. |

The new policies outlining the objectives and guidelines for Temporary Use Permit applications for STR's in the OCP outlines the following objectives:

1. To limit STRs in Ladysmith until rental vacancy rates are consistently at or above 3%.
2. To allow Temporary Use Permits for STRs that provide unique, high-quality accommodations that make Ladysmith a preferred tourism destination, while preserving generic housing stock for residents.
3. To support housing for both the travelling workforce and permanent workforce.

4. To complement regional and provincial initiatives to address the impact of STRs on the housing market.

Table 2 provides an analysis of the STR TUP guidelines in relation to the proposed STR at 226 Buller Street.

Table 2. STR TUP guideline analysis

| STR TUP Guidelines | Staff Comments |
|---|--|
| <p>1. Number of TUPs issued based on the average CMHC's Rental Market Survey for Ladysmith for the preceding two years:</p> <ul style="list-style-type: none"> • 0 TUPs at a 0% residential vacancy rate. • Up to 5 TUPs at a 0 - 1% vacancy rate. • Up to 10 TUPs at a 1 - 2% vacancy rate. • No restrictions on the number of TUPs at a vacancy rate of 3% or higher. | <ul style="list-style-type: none"> • The current average residential vacancy rate is 2.0%. Thus, up to 10 TUPs for STR (STR) allowances may be issued. • No STR TUPs have been issued, so the proposed STR meets the residential vacancy rate guideline. |
| <p>2. STRs should not be provided in more affordable housing units (tend to serve populations in greater need of housing, e.g., suites, apartments, older housing stock).</p> | <ul style="list-style-type: none"> • The proposed STR is located within a legal secondary suite in the Old Town neighbourhood. This area is considered a more affordable area of Town. • Because the proposed STR is located inside a secondary suite in the Old Town area, issuing a TUP could result in the temporary loss of a more affordable housing unit from the Town's rental stock. However, guideline 3 makes an exception for the subject property, as it is located within a ten-minute walk from Downtown. |
| <p>3. Notwithstanding guidelines 1 and 2, TUPs may be issued where the applicant can demonstrate:</p> <ol style="list-style-type: none"> a. The STR will be limited to rentals for workers temporarily working in Ladysmith; or b. The STR provides a unique, high-quality tourism offering within a ten-minute walk of Ladysmith's waterfront or Downtown. | <ul style="list-style-type: none"> • The proposed STR is a two- to three-minute walk (75 metres) from the edge of the Downtown designation, a four-minute walk (200 metres) to 1st Avenue and a seventeen-minute walk (1.2 kilometres) of the waterfront at Transfer Beach. • Some nearby shops and services include the Vancouver Island Regional Library (300 m), Sporty Grill (250 m), Ladysmith Museum (250 m), Wild Poppy Market (350 m), and Fox and Hound (400 m). • The proposed STR provides some amenities including a small outdoor |

| | |
|--|--|
| | <p>amenity space, a partial waterfront view, but the interior of the unit appears similar to that of a standard secondary suite.</p> <ul style="list-style-type: none"> • In the Rationale Letter provided as Attachment D, the applicant states the space has been rented to temporary workers in the past. As such, this STR may serve both tourists and temporary workers. |
| 4. STR should not provide redundant accommodation products that would otherwise be available in the conventional accommodation market. | <ul style="list-style-type: none"> • Similar tourist accommodations are limited in and near the downtown. |
| 5. STR should accommodate guest parking on site. | <ul style="list-style-type: none"> • The proposed STR will provide 1 off-street parking space for guest parking. • The subject property has a carport and a large driveway on the lane-side that can accommodate the off-street parking requirements. |
| 6. STRs should not generate nuisance for neighbouring properties and should have noise mitigating features and policies. | <ul style="list-style-type: none"> • The operation of a STR at the subject property is not anticipated to generate nuisance for neighbouring properties because the subject property is bordered with dense, mature vegetation and is five- to ten-meters away from the closest adjacent homes. |
| <p>7. The layout, form, and function of proposed STRs should ensure a comfortable, memorable and convenient guest experience, including:</p> <ol style="list-style-type: none"> a. A cohesive design theme incorporating colour schemes, furniture styles, and decorative elements. b. Privacy and ease of movement into and within the STR. c. A spacious and well-designed layout with adequate ceiling heights and lighting. d. On-site amenities that provide tourist appeal, such as ocean views, decks and patios, hot tubs, swimming pools, water access and outdoor cooking and dining areas. e. Kitchens purposely designed and equipped to maximize functionality, convenience and comfort (e.g., full-sized appliances in a “work triangle”, | <ul style="list-style-type: none"> • The STR includes some decorative accents, including indoor plants and wall hangings. The suite contains standard kitchen appliances and furniture. • The STR is arranged in a way that promotes privacy and movement into and throughout the rental space. The outdoor amenity space is adjacent to the rear driveway, but privacy is provided from the upslope neighbouring property with dense vegetation along the property line. • The rental has standard ceiling heights (2.1m). The kitchen/living area is open concept, albeit not exceedingly spacious. • The proposed STR would have access to limited on-site amenities, including an outdoor seating area with a partial view of the ocean. Off-site amenities include 1st Avenue (three- to four-minute walk), High Street Ball Field (three-minute walk), a bus stop, and a seventeen-minute walk to Transfer Beach. |

| | |
|--|---|
| <p>sufficient storage, small appliances and groceries, and task and ambient lighting). Small kitchens and gally kitchens are generally discouraged.</p> <p>f. Divided work and living areas to support the use by the travelling workforce.</p> | <ul style="list-style-type: none"> • The STR's kitchen is sufficiently functional and lit (with natural and artificial lighting). The refrigerator and range oven are arranged next to one another and a high table can serve as both a food preparation space and dining area. There is no dishwasher in the STR, but a large kitchen sink is provided. • The high table could be used as a workspace as needed, but it is located within the living area. |
| <p>8. STR units must be compliant with the BC Building Code and the Town's Building Bylaw. Units constructed without permits must be brought into compliance with the BC Building Code and other safety regulations prior to the issuance of a business licence.</p> | <ul style="list-style-type: none"> • The proposed STR would be operated within a secondary suite, which received an occupancy permit on February 20, 2017. • The Building Department conducted an inspection of the suite on April 15th, 2025, for this TUP application. The Building Inspectors did not note any unpermitted construction or concerns with the secondary suite's compliance with the BC Building Code. |
| <p>9. TUPs may include conditions to mitigate the loss of housing stock caused by converting the residential unit to a STR, such as contributions to the Town's affordable housing reserve.</p> | <ul style="list-style-type: none"> • Due to the proximity to downtown, staff believe the benefit to local tourism outweighs the temporary loss of a residential unit to STR and no additional conditions, such as contributions to the Town's affordable housing reserve, are recommended to mitigate the temporary loss of housing stock. |
| <p>10. STRs should be booked for a minimum of 60 days per year under normal market conditions. TUPs may include conditions requiring a minimum number of bookings per year.</p> | <ul style="list-style-type: none"> • Staff included a condition in the TUP that the STR must be booked for a minimum of 60 days per calendar year to ensure it does not remain vacant and fails to contribute to local tourism or temporary workforce housing. • On the Province's Short-Term Rental Data Portal, 226 Buller Street is shown to have been booked for a total of 214 nights in the last ten months. This is one of the highest nights stayed totals out of all active STRs in Ladysmith. |
| <p>11. STRs should be available year-round and secure bookings year-round. STRs during peak season and long-term rental (more than 3 months) in the off-season may be considered. TUPs may contain conditions regulating the use during certain times of the year.</p> | <ul style="list-style-type: none"> • No time-sensitive conditions are proposed in the draft TUP as special accommodation for certain times of the year does not seem necessary, as the STR platform indicates the rental was in use as a STR throughout the previous year. |

The proposed STR is generally consistent with the Official Community Plan's policies and guidelines for STR TUPs, and, for the reasons outlined in Table 2, staff anticipate the benefits to local tourism and/or temporary workers exceed the impacts of a temporary loss of a long-term rental unit.

ALTERNATIVES:

Council can choose to:

1. Deny the application for TUP 3340-25-02.
2. Defer the application to a subsequent meeting of Council.
3. Amend the conditions of TUP 3340-25-02 and approve the permit as amended.
4. Refer the application back to staff for further review, as specified by Council.

FINANCIAL IMPLICATIONS:

N/A

LEGAL IMPLICATIONS:

N/A

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

Newspaper notification of the proposed TUP was published in the May 15th edition of the Ladysmith Chronicle. A sign was also posted on the subject property on May 9th, 2025, and notification was sent by mail and courier on May 9th to owners and tenants of properties within 60 meters of the subject property.

A public hearing for a temporary use permit is not required pursuant to section 464(1) of the *Local Government Act*.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The application was circulated to the Town Building Department for review and comment. Their comments are summarized below:

Table 1: Interdepartmental Referral Comments

| Referred (Yes/No) | Department | Comments |
|------------------------------|---------------------|---|
| Yes | Building Inspection | An occupancy permit was issued for the secondary suite on February 20, 2017. The secondary suite was previously approved by the Town in its current condition. No concerns were noted during the Building Inspectors' inspection of the suite on April 15 th , 2025. |

COMMUNITY PLANNING ADVISORY COMMITTEE (CPAC) REVIEW:

Under CPAC Terms of Reference a CPAC review of this application is not required.

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|--|---|
| <input type="checkbox"/> Core Infrastructure | <input checked="" type="checkbox"/> Economy |
| <input checked="" type="checkbox"/> Official Community Plan Implementation | <input type="checkbox"/> Leadership |
| <input type="checkbox"/> Waterfront Area Plan | <input type="checkbox"/> Not Applicable |

I approve the report and recommendation(s).

Allison McCarrick, Chief Administrative Officer

ATTACHMENT(S):


- A. Subject Property Map
- B. Temporary Use Permit 3340-25-02
- C. Site Plan
- D. Rationale Letter

SUBJECT PROPERTY MAP

226 Buller Street



 Subject Property

0 20 60 100
 Meters



TOWN OF LADYSMITH TEMPORARY USE PERMIT

FILE NO: 3340-25-02

DATE: May 6th, 2025

Name of Owner(s) of Land (Permittee): Pavol Kubini and Ruth Urban

Applicant: Pavol Kubini

Subject Property: 226 Buller Street

1. This permit is issued subject to compliance with all Town of Ladysmith bylaws that apply to this permit.
2. This permit applies to the lands described below, and any buildings, structures, and other development thereon (hereinafter called the Lands).

226 Buller Street (LOT 20, BLOCK 45, LOT 56, OYSTER DISTRICT, PLAN 703A)
PID: 008-545-570

3. Pursuant to section 493 of the *Local Government Act*, this permit authorizes a temporary Tourist Accommodation Use at 226 Buller Street to allow a Short-Term Rental contained in a Secondary Suite subject to the conditions contained herein.
4. The applicant shall ensure that the following conditions of this Permit (**TUP 3340-25-02**) are met:
 - a. The Short-Term Rental shall be booked for a minimum of sixty (60) days per calendar year, under normal market conditions.
 - b. A minimum of one (1) off-street parking space shall be provided for the Tourist Accommodation use.
 - c. A valid Business Licence must be obtained and maintained while the Short-Term Rental remains in operation.
5. This permit is not a building permit or a sign permit.
6. Pursuant to section 497 of the *Local Government Act*, this permit lapses **three years** from the date of issuance of this permit, unless renewed pursuant to section 7 of this Permit.

7. This Permit may be renewed once only by a Council resolution.

AUTHORIZED BY RESOLUTION NO. _____ PASSED BY THE COUNCIL OF THE TOWN OF
LADYSMITH ON THE 6TH DAY OF MAY 2025

DRAFT



Attachment D

Rationale Letter – Short-Term Rental Temporary Use Permit Application

Re: 226 Buller Street, Ladysmith, BC

To Whom It May Concern,

We are writing to provide a rationale in support of our application for a Temporary Use Permit (TUP) to allow short-term rental of our legal suite located at **226 Buller Street** in Ladysmith, BC.

Our suite is a **fully self-contained, legal one-bedroom unit** located on the lower level of our home. It features a **private entrance** accessible from the rear parking area via a gentle interior ramp. The suite includes:

- A **separate bedroom** with a queen-size bed,
- A **pull-out couch** in the living room,
- A fully equipped **kitchen**,
- A clean and well-maintained **bathroom**,
- And a spacious **flat parking area** at the back of the house, making it convenient for guests with vehicles.

Our home is situated **on the corner of Buller Street and another quiet residential street**, just a **5-minute walk from downtown Ladysmith**. The property offers excellent privacy — we have **only one immediate neighbour**, who is fully shielded by a **large retaining wall and dense greenery**, including a tall bush that separates the properties. This thoughtful layout ensures minimal impact on our surroundings and maintains the quiet character of the neighbourhood.

The suite has proven to be an ideal accommodation for **tourists, temporary workers, and families visiting loved ones** in the area. For example, we've hosted a **temporary worker training for tug boat operations**, who stayed with us on **four separate occasions for approximately one month at a time**. We've also welcomed visitors attending **local events**, such as **(REDACTED) who came to Ladysmith for a pickleball tournament**, and guests participating in the town's **annual car show**. Several of our guests were also here to **spend time with nearby family**, including grandparents visiting their grandchildren and relatives attending family gatherings.

These guests have consistently supported the **local economy**, dining at nearby restaurants, shopping at small businesses, and exploring Ladysmith's beautiful waterfront, trails, and surrounding area.

As on-site homeowners, we take pride in offering a **clean, quiet, and welcoming space**, and are always available to ensure that our guests' stays are respectful and aligned with community standards.

We believe that our short-term rental provides a **high-quality, private, and well-managed accommodation option** that supports local tourism while minimizing impacts on our neighbourhood. We respectfully ask for Council's support of our application.

Sincerely,

Pavol Kubini & Ruth Urban

STAFF REPORT TO COUNCIL

Report Prepared By: Julia Dewijn, Planner
Reviewed By: Jake Belobaba, RPP, MCIP, Director of Development Services
Meeting Date: May 20, 2025
File No: 4320-50 25-01
Re: Liquor Patio Endorsement – 530 1st Avenue (Zack's Lounge)

RECOMMENDATION:

That Council, in response to the referral from the Liquor and Cannabis Regulation Branch for a patio endorsement application in conjunction with a Liquor Primary outdoor patio licence for Zack's Lounge at 530 1st Avenue, opt out of the local government comment process and direct staff to notify the Liquor and Cannabis Regulation Branch that the Town does not wish to comment on the application.

EXECUTIVE SUMMARY:

The Liquor and Cannabis Regulation Branch (LCRB) has referred an application for Zack's Lounge (530 1st Avenue) to renew their Liquor Primary licence for the continued operation of an outdoor patio located on Town property. The patio was previously authorized under LCRB's Temporary Expanded Service Area (TESA) program. Under section 38 of the *Liquor Control and Licensing Act*, Council must receive the referral and choose to "opt in" or "opt out" of the local government comment process. Staff recommend that Council opt out of this comment process. Should Council decide to opt in, the Town must gather resident views on the application.

PREVIOUS COUNCIL DIRECTION:

| Resolution | Meeting Date | Resolution Details |
|-------------|---------------|---|
| CS 2023-078 | April 4, 2023 | That Council, in response to the referral from the Liquor and Cannabis Regulation Branch for a patio endorsement application in conjunction with a liquor primary outdoor patio licence for Zack's Lounge at 530 1 st Avenue, opt out of the local government comment process and direct staff to notify the Liquor and Cannabis Regulation Branch that the Town does not wish to comment on the application. <i>Motion Carried</i> |

| | | |
|-------------|------------------|--|
| CS 2020-309 | October 20, 2020 | That Council advise the Liquor and Cannabis Regulation Branch that it supports the extension of Temporary Expanded Service Area authorization until October 31, 2021, pursuant to Liquor and Cannabis Regulation Board Policy Directive 20-26. |
| CS 2020-187 | June 16, 2020 | That Council provide preapproval for Temporary Expanded Service Area Authorizations pursuant to Liquor and Cannabis Regulatory Board Policy Directive 20-13. |
| CS 2016-280 | August 15, 2016 | <p>1. That Council recommend the issuance of a liquor Primary Licence by the BC Liquor Control and licensing Branch to Zack's Lounge to be located at 530 First Avenue for the following reasons:</p> <ul style="list-style-type: none"> • The property is zoned for neighbourhood pub use • The hours of operation are proposed to be between 10 a.m. and 10 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays, and Sundays; and between 10 a.m. and 11 p.m. on Fridays and Saturdays • The limited 30 person capacity of the lounge • The issuance of a Business Licence for Zack's Lounge will require the owner to adhere to Terms and Conditions for Liquor Licenced Establishments outlined in "Town of Ladysmith Liquor Licence Bylaw 2003, No.1513", to participate in the "Bar Watch" program, and to enter into a Good neighbour Agreement with the Town and the RCMP. <p>2. That Council has reviewed and endorses the comments about the Liquor Primary License prescribed criteria provided in the Staff Report dated August 15, 2016 from the Director of Development Services.</p> <p>3. That Council considered without comment the letter received as a result of notification to the property owners, residents and businesses within 60 meters of 530 First Avenue, and the sign placed in the proposed establishment.</p> |
| CS 2016-254 | July 4, 2016 | <p>That Council direct staff to:</p> <ul style="list-style-type: none"> a. Gather the views of residents and businesses within 60 metres of the subject property by direct mail and request the owner to place the Town's notice in the window of the building; and |

| | | |
|--|--|--|
| | | b. Report back to Council regarding the community's views and the matters in Section 10 of the Liquor Control and Licensing Regulation as outlined in Part 4 – Public Interest of the Application Summary, following completion of the notice process. |
|--|--|--|

INTRODUCTION/BACKGROUND:

Zack's Lounge has a Liquor Primary licence for their indoor liquor services. The Province implemented a TESA program during the COVID-19 pandemic to temporarily allow liquor service in unlicensed outdoor areas at licensed liquor establishments. Council supported the extension of this program on October 20, 2020 (see Resolution CS 2020-309), which eliminated the requirement for the LCRB to obtain local government approval for TESA applications.

Zack's Lounge was granted TESA approval on July 24, 2020, and a Building Permit and Sidewalk Patio Permit (20-01) for seasonal use were issued on August 7, 2020, for the raised outdoor patio located within the road right of way. The Director of Development Services approved an additional sidewalk patio permit application under the Streets and Traffic Bylaw on March 3, 2023, to allow the patio structure to remain in place year-round. The patio operated with liquor services under the TESA program, which expired on December 31, 2024.

The Town of Ladysmith does not have any formal policies related to liquor license application referrals for patio and food primary endorsements.

Council opted in to the local government comment process to gather residents' views on an initial liquor primary application for Zack's Lounge in 2016.

The Town previously received a permanent liquor licence application referral from the LCRB in 2023 for the outdoor patio, and Council passed a resolution to opt-out of the local government comment process at that time. However, the application was abandoned and the LCRB has now sent the Town of Ladysmith a new liquor licence application referral.

PROPOSAL:

The applicant has applied to the LCRB for a permanent liquor licence for the outdoor patio. No changes to the occupancy load (30 persons maximum) or the patio structure are proposed. Liquor licence applications trigger the requirement for local government comment under the *Liquor Control and Licensing Act*.

DISCUSSION:

The outdoor patio has seasonally been in operation since August 2020 and has been authorized to operate year-round since March 2023. Zack's Lounge is a pub-style restaurant catering to adult patrons aged 19 and older and is in the Downtown Commercial Zone. The business has a Liquor Primary licence for indoor services, but the

liquor licence for the patio has since expired. There are no residential zones within 60 metres from the subject property, and Zack's Lounge is primarily surrounded by other commercial businesses. Zack's Lounge and its outdoor patio support the local economy while enhancing vibrancy and activity along 1st Avenue.

As the business has offered liquor services for several years, including services on the outdoor patio until the liquor licence expired in December 2024, staff do not anticipate any change in impact to residents in the area. Staff do not see a need for the Town to comment or gather resident views, and recommend opting out of the local government comment process.

ALTERNATIVES:

Council can choose to opt in to the local government comment process and specify how resident views should be gathered.

FINANCIAL IMPLICATIONS:

The Town's fee for a Liquor Primary licence referral is \$1,750 plus advertising costs. This fee will not be charged if Council opts out of the referral process. The LCRB review process and fees will still apply.

LEGAL IMPLICATIONS:

Section 38 of the *Liquor Control and Licensing Act* requires the Town to decide whether to opt in or opt out of the local government comment process. If the Town decides to opt in, the Town must gather resident views. If the Town opts out, there is no requirement for the Town to gather resident views.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

No public consultation is required if Council opts out of the local government comment process.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

There are no referral requirements if Council opts out of the local government comment process. The LCRB will be responsible for referring the application to affected agencies. However, staff contacted the Building and Fire Departments who had the following comments:

- The Building Department stated that the patio structure does not rest on private property and is therefore exempt from the BC Building Code, including the occupancy load calculations.
- The Fire Department and Building Department provided an occupancy load limit of 30 persons, as allowed under the BC Fire Code.

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|---|
| <input type="checkbox"/> Core Infrastructure | <input checked="" type="checkbox"/> Economy |
| <input type="checkbox"/> Official Community Plan Implementation | <input type="checkbox"/> Leadership |
| <input type="checkbox"/> Waterfront Area Plan | <input type="checkbox"/> Not Applicable |

I approve the report and recommendation.

Allison McCarrick, Chief Administrative Officer

ATTACHMENTS:

- A. Liquor Licence Application
- B. Occupancy Load
- C. Patio Area



Liquor and Cannabis Licensing

Attachment A - Liquor Primary Licence Application

Provide Comment on Liquor Primary New Outdoor Patio Application

Use this form to apply for a new outdoor patio area for your Liquor Primary licensed establishment.

The application fee is \$440.

☒ If you leave this page, the information you input will be saved. You can continue later from the dashboard.

BEFORE STARTING THE APPLICATION

The term "local government" is a defined term in our Act and may also include: municipal government, city hall, regional district, local trust, etc. governing the geographic area where your proposed establishment is located. In certain areas, the approving authority may be Indigenous Nation. For the purpose of this guide we will use the short form "LG/IN".

If an LG/IN is the applicant, the Branch will gather community input and consider the regulatory criteria; the LG/IN is not permitted to conduct public input or provide comments on their own application. This is to prevent conflicts of interest. The applicant must pay any costs incurred to obtain the views of residents.

☒ If you have any questions about this application, contact the Liquor and Cannabis Regulation Branch (LCRB) at LCRBLiquor@gov.bc.ca (<mailto:LCRBLiquor@gov.bc.ca>).

ESTABLISHMENT DETAILS

Establishment Name

Zack's Lounge (307543)

LIQUOR PRIMARY LOCATION ADDRESS

The establishment is currently located at the following address:

Address

530 1st Ave

City

LADYSMITH

Province

British Columbia

Postal Code

V9G1A1

Country

Canada

Chat with us

Feedback

Parcel Identifier (PID)

LOCAL GOVERNMENT/INDIGENOUS NATION AND POLICE JURISDICTION

Enter the **local government** or **Indigenous Nation** (<https://www2.gov.bc.ca/gov/content?id=B5744089A70F428FA189E5FF5CAE4E4A>) and police jurisdiction where the establishment will be located. Suggestions will be provided after you type the first three characters of the name.

Local Government/Indigenous Nation

Selected Local Government/Indigenous Nation

Name: Ladysmith

Please ensure you have made yourself familiar with the application requirements for this local government (or Indigenous Nation) prior to submitting your application. You may need to contact them prior to submitting to ensure your successful submission.

Police Jurisdiction

Selected Police Jurisdiction

Name: Ladysmith RCMP

ESTABLISHMENT CONTACT DETAILS

The phone and email address used to contact your establishment:

Establishment Email

Establishment Phone

APPLICATION DETAILS

You confirm that the patio service area(s) bounding is sufficient:

☐ * For you to monitor and control patron entry and exit, and

☐ * To visually and physically define the service area.

In opening this patio area you confirm that:

- ☐ * You will take appropriate measures to maintain care and control over the service area and conduct.

Describe the location of the patio in relationship to the interior service area.

*

The patio is directly out front of our building at 530 1st Ave. There is a large store front window which we can see the patio and the entrance. Proper signage is displayed in order to restrict minors and patrons sitting themselves. the interior service bar takes roughly ten seconds to reach the patio.

What is the status of the patio area construction? *

Ready to Operate

In Progress

Not Started

If construction has not yet started or is in progress, when do you expect it to be complete?

yyyy-mm-dd

- ☐ The patio is currently the subject of a Temporary Expanded Service Area (TESA) Authorization

Indicate the months you expect to operate the patio (note: if approved, your patio will be licensed for the full year, within the limits of LG/IN bylaws and permits):

- ☐ January
- ☐ February
- ☐ March
- ☐ April
- ☐ May
- ☐ June
- ☐ July
- ☐ August
- ☐ September
- ☐ October
- ☐ November
- ☐ December

Describe how patrons will access the patio (ie. from interior). *

patrons will access the patio from the one ramp entrance directly across the sidewalk from our main entrance door of the interior service area.

Will servers have to carry liquor through any unlicensed areas to get to the patio?

☐ Liquor will be carried through any unlicensed area to get to the patio.

If yes, please explain. Only servers are permitted to carry liquor through unlicensed areas.

yes, only licensed servers will be permitted to carry liquor across the small segment of side walk directly outside our main entrance. this will be done with due diligence to and from the patio as we have done for the last 4 years.

Liquor will primarily be served from: *

| | | |
|-------------------------------|----------------------------------|-----------------------------|
| Fixed service bar(s) on patio | Portable service bar(s) on patio | The interior service bar(s) |
|-------------------------------|----------------------------------|-----------------------------|

Floor Plan

Attach a high-quality copy of the proposed patio floor plan(s).

The floor plan(s) must be stamped with an occupant load for each proposed service area. The occupant load stamp must be signed and dated by the issuing authority within 1 year prior to the date of submission of this application.

Occupant load is the maximum number of persons (patrons plus staff) permitted in the service area and is generally determined by the Local Government (LG) / Indigenous nation (IN) fire and/or building authorities. If the LG/IN authority will not provide the occupant load, you must request they provide a letter confirming they do not issue occupant load and submit it with this application. The Branch will then accept your floor plan(s) with the occupant load calculation determined, and stamped/dated/signed, by a registered professional architect or engineer.

It is an application requirement to submit a floor plan with an occupant load stamp. An application will not be considered complete until a current (within the last 12 months) occupant load stamped floor plan is received.

The applicant is responsible for complying with any local bylaws related to licensed establishment patios. **Note:** Patios on grass, earth or gravel require a permit from the local Health Authority. Sidewalk patios require a permit from LG/IN.

Floor plans must show all proposed patio service area(s) and have sufficient detail including:

- liquor service bars
- stairs, entrances and exits

- relation to the other FP licensed areas, other liquor licences, unlicensed areas and other businesses

Sample Floor Plan



[Floor Plan 2.pdf \(api/file/83b25870-69f5-ef11-b852-005056838fcd/download-file/application/Floor Plan 2.pdf?serverRelativeUrl=%2Fadoxio_application%2F124603_83B2587069F5EF11B852005056838FCD%2FFloor%20Plan_2.pdf&documentType=Floorplan\)](#) 557

Enter the total occupant load as indicated by your local government. This number can be either the total stamped on the floor plan or the sum of occupant loads across all service areas, as listed in the occupant load stamp.

Total occupant load *

Total occupant load

SERVICE AREAS

Use the following table to list the proposed patio service areas and provide a proposed person capacity (patrons plus staff) for each area. Use names like Patio 1, or Upper Patio/Lower Patio.

Note: Proposed capacity cannot exceed occupant load issued by the local authority.

| Area No. | Area/Floor Level | Indoor | Patio | Proposed Capacity |
|----------|----------------------|--------------------------|--------------------------|-------------------|
| 1 | outdoor raised patio | <input type="checkbox"/> | <input type="checkbox"/> | 30 |

Total Requested Capacity: 30

LIQUOR PRIMARY OWNERSHIP DETAILS

Please provide the following details about your application:

- ☐ * The applicant is the owner of the business in respect of which the licence is to be issued or will become the owner before the licence is issued.
- ☐ * At the time of this submission, the applicant is:
- The owner of or has an agreement to purchase the place or premises that will form the proposed establishment, or
 - The lessee or has a binding offer to lease the place or premises that will form the proposed establishment

☐ * At the time the licence is issued, the applicant will be:

- The owner of the place or premises that forms the establishment, or
- The lessee of the place or premises that forms the establishment (term no less than 12 months).

APPLICATION CONTACT DETAILS

Please provide contact information for the contact that the LCRB should communicate with regarding this application.

First Name *

(Redacted)

Last Name *

(Redacted)

Title/Position

(Redacted)

Phone Number (main) *

(Redacted)

Email *

By submitting the email address, you agree that the Liquor and Cannabis Regulation Branch can use it to communicate with you about this application.

(Redacted)

DECLARATIONS

The application must only be submitted by an individual with the authority to bind the applicant. The branch relies on the applicant to ensure that the individual who submits this application is authorized to do so. Typically, an appropriate individual in a corporation will be a duly authorized signatory who will usually be an officer or, in some cases, a director

Note: A lawyer or consultant, may NOT submit this application on behalf of the applicant.

☐ * I understand and affirm that I am authorized to submit the application

Section 20 (1) of the Liquor Control and Licensing Act states: "The general manager may refuse to issue, renew, transfer or amend a licence if the applicant fails to disclose a material fact required by the application or makes a false or misleading statement in the application."

☐ * I understand and affirm that all of the information provided for this application is true and complete

LOCAL GOVERNMENT/INDIGENOUS NATION CONFIRMATION OF RECEIPT OF APPLICATION

LG/IN

Ladysmith

Name of Official

Title/Position**Phone****Email**

This serves as notice that an application for a structural change to a liquor primary (LP) licence is being made within your community. The Branch requests that you consider this application (application form and floor plan) and provide the Branch with resolution within 90 days of the above received date. Alternatively, LG/IN can delegate staff with the authority to provide comment.

- If there are any major issues LG/IN may hold off signing the application until the issues are resolved or they have a plan to deal with the issues.
- When LG/IN is comfortable with the application proceeding, LG/IN staff will Accept the application using the button below. LG/IN will keep a copy of the signed application form and all supporting documents.
- The applicant will submit the application to the Branch.

To provide a resolution or comment:

- Gather public input for the community within the immediate vicinity of the establishment.
- Consider these factors which must be taken into account when providing resolution/comment:
 - The location of the establishment.
 - The person capacity and hours of liquor service of the establishment.
- Provide a resolution/comment with comments on:
 - The impact of noise on nearby residents.
 - The impact on the community if the application is approved.
 - The view of residents and a description of the method used to gather views.
 - The LG/IN recommendations (including whether or not the application be approved) and the reasons on which they are based.
- Provide any reports that are referenced in, or used to determine, the resolution/comment.
- If more than 90 days is required, provide a written request for extension to the Branch.
- If LG/IN opts out, or is the applicant, the Branch will gather public input and contact LG/IN staff for information to assist the Branch in considering the regulatory criteria.

If you have any questions, or the establishment is located on Treaty First Nation land, please call the Branch toll-free at 1-866-209-2111.

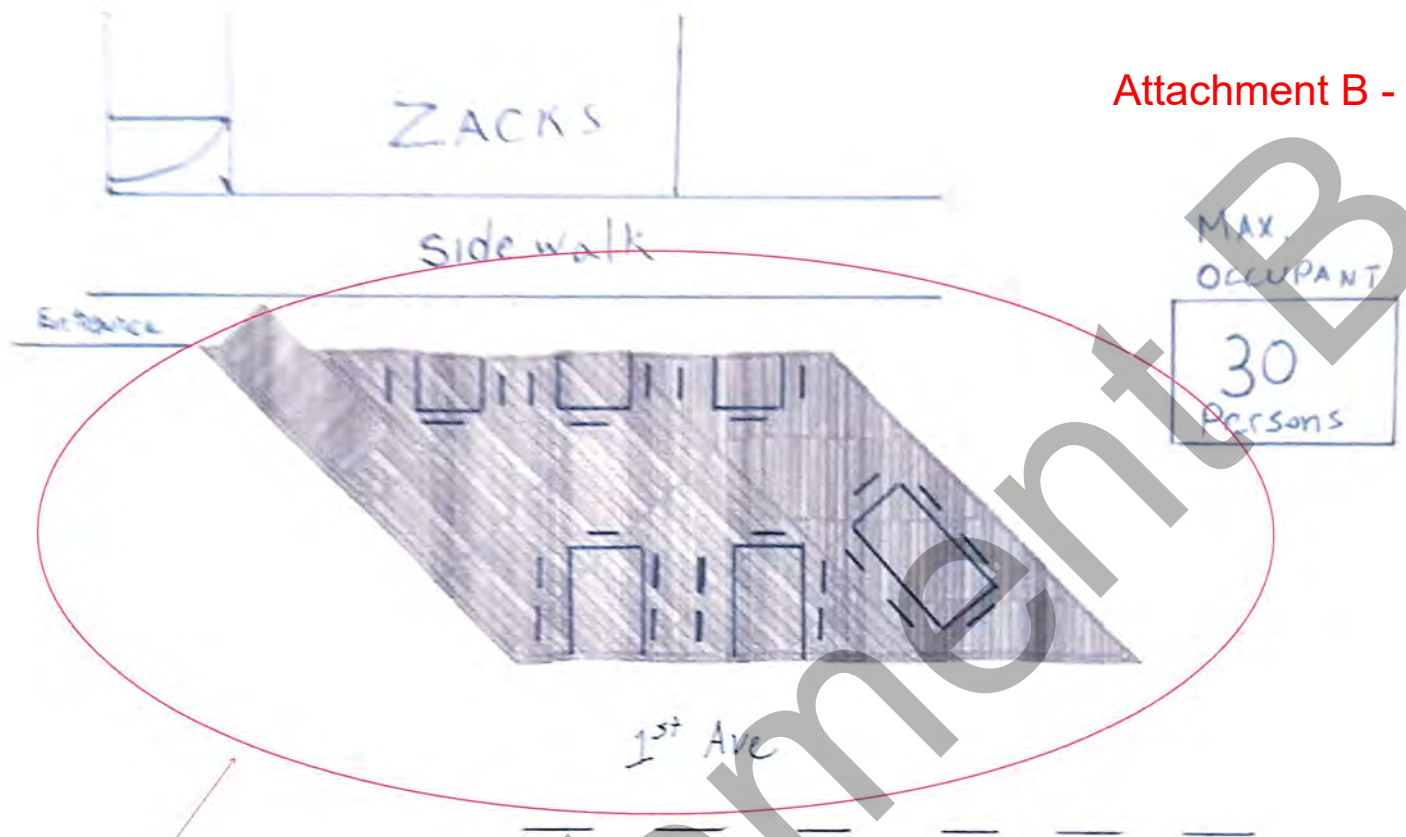
TO UPLOAD DOCUMENTS, DRAG FILES HERE OR [BROWSE](#).
FILES MUST BE IN PDF, JPEG, OR PNG FORMAT.
MAX FILE SIZE: 25MB.

Opt Out of Comment

Reject Application

Accept Application

Attachment B - Occupant Load



The patio rest on a public road. The BC Building Code applies to buildings and structures resting on private property. This patio therefore is exempt from the Towns BUILDING & PLUMBING BYLAW 2024, NO.2174 and the Building Code. Occupant loads cannot be determined by the Building Code, however the BC Fire Code can accept the proposed load. (30 persons max)

| | |
|---|------------|
| APPROVED | |
| SUBJECT TO AN ON-SITE INSPECTION AND APPROVAL OF BUILDING INSPECTOR. THE OWNER OR AUTHORIZED AGENT SHALL GIVE AT LEAST 48 HOURS NOTICE TO THE BUILDING INSPECTOR AND OBTAIN HIS INSPECTION AND APPROVAL OF CONSTRUCTION AT STAGES SHOWN ON BUILDING PERMIT. KEEP THIS COPY OF APPROVED DRAWINGS AT CONSTRUCTION SITE. | |
| TOWN OF LADYSMITH | |
| <i>Moh</i> | 2025.04.16 |
| BUILDING INSPECTOR | DATE |

Attachment C - Patio Area

Zack's Lounge. 530 1st Avenue – Designated Patio Area



Committee of the Whole Recommendations to Council**May 20, 2025**

At its May 13, 2025 meeting, the Committee of the Whole recommended:

1. That Council approve the Ladysmith RCMP Detachment Annual Performance Plan for 2025-2026.
2. That Council:
 - A. Reinstate fees for parklets and patios on Town streets, with annual fees of \$6.04 per m² or \$89.69 per parking stall, as provided in the report dated May 13, 2025; and
 - B. Direct staff to amend “Streets and Traffic Bylaw 1998, No.1309” based on item A.
3. That Council direct staff to prepare a report for a future meeting of Council that:
 - A. Presents options for increasing cemetery plot fees for non-residents; and
 - B. Assesses the feasibility of installing a columbarium niche structure for the interment of urns.



COMMITTEE OF THE WHOLE MEETING MINUTES

Tuesday, May 13, 2025

6:30 P.M.

Ladysmith Seniors Centre
630 2nd Avenue

Council Members Present:

Councillor Ray Gourlay, Chair
Mayor Deena Beeston
Councillor Amanda Jacobson

Councillor Tricia McKay
Councillor Duck Paterson
Councillor Jeff Virtanen

Council Members Absent:

Councillor Marsh Stevens

Staff Present:

Allison McCarrick
Erin Anderson
Chris Barfoot
Jake Belobaba
Tim Tanton

Chris Geiger
Sue Bouma
Nick Pescod
Hayley Young

1. CALL TO ORDER AND ACKNOWLEDGEMENT

Councillor Gourlay, Chair, called this Committee of the Whole meeting to order at 6:30 p.m., and acknowledged with gratitude that it was being held on the unceded territory of the Stz'uminus First Nation.

2. AGENDA APPROVAL

CW 2025-021

That the agenda for the May 13, 2025 Committee of the Whole meeting be approved as amended to include:

- Background materials, requested by Councillor Stevens, regarding legislative considerations for Item 6.1 "TOL Campsite Discussion - Mayor Beeston"; and
- New Item 7.1 "Spring Clean Up – Staff Verbal Update".

Motion Carried

3. MINUTES

3.1 Minutes of the Committee of the Whole Meeting held March 11, 2025

CW 2025-022

That the minutes of the Committee of the Whole meeting held March 11, 2025 be approved.

Motion Carried

4. PRESENTATIONS

4.1 Ladysmith RCMP Annual Mayor's Report and Detachment Annual Performance Plan

Staff Sergeant Trevor Busch, Ladysmith RCMP, reviewed the RCMP Annual Mayor's Report for April 1, 2024, to March 31, 2025, highlighting a general decline in crime trends across Vancouver Island. Additionally, he shared results from a recent community survey which revealed that the majority of respondents reported feeling safe in the community and expressed satisfaction with local RCMP services.

S/Sgt Busch then discussed the RCMP Detachment Annual Performance Plan for 2025-2026 and responded to Council's questions.

CW 2025-023

That the Committee receive the RCMP Annual Mayor's Report for April 1, 2024 to March 31, 2025.

Motion Carried

CW 2025-024

That the Committee recommend that Council approve the Ladysmith RCMP Detachment Annual Performance Plan for 2025-2026.

Motion Carried

5. REPORTS

5.1 Building Inspector's Report for January to April 30, 2025

CW 2025-025

That the Committee receive the Building Inspector's Report for the months January to April 2025.

Motion Carried

5.2 Ladysmith Fire/Rescue Reports for January to April 2025

CW 2025-026

That the Committee receive the Ladysmith Fire/Rescue Reports for the months January to April 2025.

Motion Carried

5.3 Coastal Animal Control Services Reports for January to March 2025

CW 2025-027

That the Committee receive the Coastal Animal Control Services Reports for the months January to March 2025.

Motion Carried

5.4 2025 Q1 (Jan-Mar) Financial Update

CW 2025-028

That the Committee receive the staff report dated May 13, 2025, regarding the 2025 Q1 (Jan to March) Financial Update from the Director of Financial Services.

Motion Carried

5.5 Parklet Fees and Charges

CW 2025-029

That the Committee recommend that Council:

1. Reinstate fees for parklets and patios on Town streets, with annual fees of \$6.04 per m² or \$89.69 per parking stall, as provided in the report dated May 13, 2025; and
2. Direct staff to amend "Streets and Traffic Bylaw 1998, No.1309" based on item 1.

Motion Carried

5.6 2023-2026 Strategic Priorities Update

CW 2025-030

That the Committee receive the 2023-2026 Strategic Priorities Update dated May 13, 2025.

Motion Carried

6. COUNCIL SUBMISSIONS

6.1 TOL Campsite Discussion - Mayor Beeston

Mayor Beeston initiated the discussion on the potential for establishing a Town-owned campsite to support local tourism and economic development.

The Committee expressed concerns, including location considerations, the potential cost, staff capacity, and the fact that the strategic plan is already filled with projects, leaving no immediate capacity to pursue this initiative at this time.

6.2 Cemetery Columbarium - Councillor Gourlay

Councillor Gourlay highlighted areas for improvement in the cemetery to make it more equitable and financially sustainable, noting that it is currently operating at a loss. He explained that both residents and non-residents are paying below market rates, with non-residents primarily using the cemetery. He noted that residents should not subsidize non-residents' burial rights.

Regarding the proposed columbarium niche structure, Councillor Gourlay explained that such niches are a popular cremation option and would allow the cemetery to densify by building upward, providing a space-efficient solution as cremation grows in popularity.

CW 2025-031

That the Committee recommend that Council direct staff to prepare a report for a future meeting of Council that:

1. Presents options for increasing cemetery plot fees for non-residents; and
2. Assesses the feasibility of installing a columbarium niche structure for the interment of urns.

Motion Carried

7. NEW BUSINESS

7.1 Spring Clean Up – Staff Verbal Update

Allison McCarrick, CAO, provided a verbal update on the Town's spring cleanup program, highlighting feedback from residents about missed items and the reasons behind those concerns.

She referenced Councillor Gourlay's suggestion to implement a survey on the program and confirmed that the survey will be conducted before next year's program. The results will be brought forward to Council to help inform potential revisions to the program or a decision on whether to continue it.

8. ADJOURNMENT

CW 2025-032

That this Committee of the Whole Meeting be adjourned at 7:47 p.m.

Motion Carried

CERTIFIED CORRECT

Chair (Councillor R. Gourlay)

Corporate Officer (S. Bouma)

STAFF REPORT TO COMMITTEE OF THE WHOLE

Report Prepared By: Julie Tierney, Executive Liaison
Reviewed By: Allison McCarrick, CAO
Meeting Date: May 13, 2025
File No: 0890-20
Re: Parklet and Patio Fees

RECOMMENDATION:

That the Committee recommend that Council:

1. Consider reinstating fees for parklets and patios on Town streets as selected by the Committee from options provided in the report dated May 13, 2025; and
2. Direct staff to amend "Streets and Traffic Bylaw 1998, No.1309" based on item 1.

EXECUTIVE SUMMARY:

This report has been prepared to provide the Committee with fee options for alternative use of parking stalls in the downtown area.

PREVIOUS COUNCIL DIRECTION:

| Number | Date | Resolution |
|-------------|------------|---|
| CS 2025-035 | 2025-02-04 | That Council: 1. Deny the Oct 24, 2024 request from the Temperance Hotel for dedicated hotel parking on the public street; 2. Direct staff to remove the overnight parking prohibition from two parking spaces on 1st Avenue adjacent to the Temperance Hotel; and 3. Direct staff to develop a fee structure for the use of Town streets for Council consideration. |
| CS 2020-206 | 2020-07-07 | That Council give first three readings to "Streets and Traffic Bylaw 1998, No. 1309, Amendment Bylaw #8, 2020, No. 2042" to clarify regulations for sidewalk patios and "parklets". |
| CS 2020-191 | 2020-06-16 | That Council allow for a three-year pilot project for parklets and patio spaces in the downtown area, with businesses utilizing parking spaces directly in front of their business. |
| CS 2020-165 | 2020-06-02 | FINAL RESOLUTION AS AMENDED BY CS 2020-166 That Council direct staff to initiate the following change to bylaws that regulate sidewalk patios, retail displays and parklets: 1. Eliminate the application fee or "rent" for sidewalk patios, retail displays and parklets; and 2. Allow 1-2 dining sets, racks or displays without a permit, |

| Number | Date | Resolution |
|-------------|------------|---|
| | | provided they are placed in accordance with Town bylaw regulations and Provincial Health regulations. |
| CS 2020-169 | 2020-06-02 | That Council direct staff to prepare a report for the next Council meeting with a policy framework for parklet/patio spaces based on a demonstrated desire by local businesses to have such spaces available to them. |

INTRODUCTION/BACKGROUND:

Prior to 2020, the Town charged an application fee of \$25 and \$5 per square metre for the use of areas in front of businesses for outdoor patios. In response to the challenges and pressures of the COVID-19 pandemic, Council passed a resolution to eliminate permits and fees for sidewalk patios, retail displays and parklets.

Most local governments charge for the use of private space by businesses. The table below shows a survey of local governments and respective fees, permitted structures and provisions.

| Local Government | Application Fee | Annual Licence | Structure & Duration | Stall/Space Provision |
|------------------|-----------------|---|--------------------------------|---|
| Duncan | \$150 | \$37/m ² + CPI (Multi-year Licence) | Patio Annual | Parking stall or sidewalk |
| Courtenay | \$125 | \$5/m ² plus \$100 per parking stall | Patio Apr 1-Oct 31 | Two parking stalls |
| Comox | \$35 | Road Encroachment Agreement: \$50 | Parklet Annual | Two parallel parking stalls |
| Campbell River | \$50 | No Licence | Sidewalk Seating | Two parking stalls or sidewalk |
| Cumberland | \$100 | \$11/m ² Deposit: \$500 | Sidewalk seating Mar 1- Oct 31 | Two parking stalls or sidewalk |
| Qualicum | \$10 | \$21.50/m ² | Sidewalk seating Apr 1-Oct 31 | Sidewalk fronting business, not permitted in parking stalls |
| Nanaimo | \$50 | \$35/m ² | Parklet or sidewalk seating | Parking stall or sidewalk |
| Parksville | | Currently under Review | | |

Council may also wish to consider the fees established as part of the March 4, 2025, Council resolution authorizing a Temporary Use Permit for 28 defined parking stalls at 117 Gatacre to allow for construction staging to support the construction at 440 1st Avenue. At the time, staff noted the practice of not charging fees for parking or structures on town-owned parking areas and contacted an appraiser for guidance on a suitable usage fee. Based on the appraiser's advice, Council approved a charge of \$18.84 per m² per year for construction staging. Staff note, however, that the area used for construction staging at 117 Gatacre is significantly larger than the area fronting most businesses, which makes the land more valuable and justifies higher rents.

Staff prepared the following fee options for consideration:

| Option | Annual Fee per m ² | Annual Fee per Stall (14.85 m ²) | Comment |
|--------|-------------------------------|--|--------------------------------------|
| 1 | \$5.00 | \$74.25 | Amount charged pre-2020 |
| 2 | \$6.04 | \$89.69 | Amount pre-2020 increased by CPI |
| 3 | \$10.76 | \$159.79 | Low range of appraised parking stall |
| 4 | \$18.84 | \$279.77 | Amount chosen for above-noted TUP |

ALTERNATIVES:

The Committee can choose to:

1. Not endorse a fee for parklets and patios using public space.
2. Defer consideration to a subsequent meeting of the Committee.
3. Refer the proposal back to staff for further review as specified by the Committee.
4. Propose a rate not provided in this report.

FINANCIAL IMPLICATIONS:

Currently, the Town has only one parklet, comprised of four parking stalls. No fee is charged for this parklet. If Council approves one of the above fee-options, total revenues from sidewalk patios would increase as:

| Option | Increase |
|------------|------------|
| Status Quo | \$0.00 |
| 1 | \$297.00 |
| 2 | \$358.76 |
| 3 | \$639.16 |
| 4 | \$1,119.96 |

LEGAL IMPLICATIONS:

Should Council impose one of the above fees, the existing parklet and any future parklets will be subject to the fee. Section 25(1) of the *Community Charter* prohibits against assistance to business, meaning that the fee cannot be waived for select businesses.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The Town has received complaints that the existing parklet causes a shortage of parking; adopting a fee for use may satisfy concerns about the use of parking spaces for private businesses.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|--|
| <input type="checkbox"/> Core Infrastructure | <input type="checkbox"/> Economy |
| <input type="checkbox"/> Official Community Plan Implementation | <input type="checkbox"/> Leadership |
| <input type="checkbox"/> Waterfront Area Plan | <input checked="" type="checkbox"/> Not Applicable |

I approve the report and recommendation.

Allison McCarrick, Chief Administrative Officer

Previously reviewed

STAFF REPORT TO COUNCIL

Report Prepared By: Mark Van Vliet, Senior Building Inspector
Julia Dewijn, Planner
Mike Sherman, Bylaw Compliance Officer

Reviewed By: Jake Belobaba, Director of Development Services

Meeting Date: May 20, 2025

File No: 4020-20 & 3800-20

Re: Section 57 Notice on Title & Remedial Action Requirement, 324 Morgan Road

RECOMMENDATION:

That Council:

1. Pursuant to section 57(3) of the *Community Charter*:
 - a) Provide an opportunity for the owner to be heard regarding the Building Inspector's recommendation to place a notice pursuant to section 57 of the *Community Charter* on title of Parcel A (Being a Consolidation of Lots A & B, See CA3693354) District Lot 42 Oyster District Plan EPP17717, (324 Morgan Road) as described in the Inspector's May 20, 2025 report to Council;
 - b) Provide an opportunity for the Building Inspector to be heard, regarding the Building Inspector's recommendation to place a notice on title as described in the Inspector's May 20, 2025 report to Council;
 - c) Confirm the recommendations of the Building Inspector as outlined in the Inspector's May 20, 2025 report to Council; and
 - d) Direct the Corporate Officer to file a notice in the Land Title Office for the property legally described as 324 Morgan Road, in accordance with subsections 57(3)(a) and (b) of the *Community Charter*;
2. Pursuant to section 72 of the *Community Charter*:
 - a) Impose a Remedial Action Requirement on the owner of 324 Morgan Road to:
 - i. Remove all shipping containers, including any containers altered to create buildings and containers supporting any buildings or structures;
 - ii. Remove two of the three recreational vehicles from the property;
 - iii. Have a Red Seal Plumber permanently decommission the plumbing systems servicing the recreational vehicles;
 - iv. Restore the altered hillside adjacent to the Trans-Canada Highway Right-of-Way under the supervision of a geotechnical engineer; and

- v. Restore the riparian area under the direction of a Qualified Environmental Professional under the Riparian Areas Protection Act;
- b) Require completion of the remedial actions under recommendation 2(a) within 120 days;
- c) Direct staff to advise the owner that they may request that Council reconsider the Remedial Action by providing written notice within 14 days of the date of the notice of the Remedial Action Requirement; and
- d) Direct staff to take action, if necessary, in accordance with Section 17 of the *Community Charter*, without further notice and at the owner's expense, if the Remedial Action under recommendation 2(a) is not completed.

EXECUTIVE SUMMARY:

The purpose of this staff report is to recommend placing both a "Section 57" and Remedial Action Requirement on 324 Morgan Road to promptly address hazardous conditions that have been identified on the property.

PREVIOUS COUNCIL DIRECTION:

N/A

SUBJECT PROPERTY:

324 Morgan Road is a 14,285m² parcel with a single unit dwelling. The property abuts the southwest side of the Trans-Canada Highway. Part of the parcel is a forested riparian area (Russell Creek). Surrounding uses include single unit dwellings and an institutional property (Davis Road School) located approximately 150 metres southwest of the subject property.

CONDITIONS OBSERVED:

On January 25th, 2024, the Town received a complaint that dump trucks were depositing fill at the subject property, on the hillside adjacent to the Trans-Canada Highway right-of-way. On February 12, 2024, the Senior Building Inspector visited the property and posted a Stop Work Order after confirming that the following had taken place:

1. Land alteration, including vegetation removal and placement of fill within the Riparian Area contrary to the Town's OCP and the *Provincial Riparian Areas Protection Act*.
2. Land alteration, including vegetation removal and placement of fill within the right of way for the Trans-Canada Highway.
3. Construction of 3-4 accessory buildings and placement of shipping containers. Staff confirmed by reviewing air photos that these had been installed within the last four years.

The owner was notified of the above-noted contraventions through registered mail and was given detailed instructions for corrective action which included:

1. Submitting a Development Permit (DP) application to authorize the placement of fill on the property and adjacent highway right of way.
2. Covering the disturbed soils and fill to prevent sedimentation in the highway ditches and Russell Creek.
3. Ceasing any further land alteration without permits.
4. Contacting the Senior Building Inspector to discuss the compliance process for the accessory buildings and shipping containers on the property.

Along with the letter, the owner received resources including DPA guidelines, checklists, and zoning regulations, all of which are detailed in Attachment A.

After receiving directions from Town staff, the owner covered the disturbed areas but did not apply for a Development Permit.

On February 29th, 2024, the Senior Building Inspector noticed significant soil sloughing from the altered land on the subject property onto the highway right of way. The Ministry of Transportation and Transit (MOTT) was notified, but no response was received.

On April 3rd, 2024, the Senior Building Inspector conducted a site visit with the owner to discuss Building Bylaw and Zoning Bylaw regulations, specifically regarding the number of accessory buildings and shipping containers on the property. During the inspection, several unpermitted structures were identified, including three shipping containers—two of which were joined to form a building with four garage doors (the interior of these containers were not inspected). The Inspector informed the owner that shipping containers are prohibited under zoning regulations and must be removed. Additionally, the owner was instructed to apply for the necessary building permits to legalize any unauthorized buildings or structures and told that specific instructions for corrective action would be provided upon application. While on site, the owner was instructed once more that they must apply for necessary development permits, as outlined in the February 12th letter and Stop Work Order.

Nine months later, on February 7th, 2025, the Bylaw Compliance Officer received another complaint of four RV's located on the property occupied by tenants and advertised for rent on Facebook Marketplace. In addition, the complaint noted that a pickleball/basketball court was built in the fall of 2024.

On March 6th, 2025, the Bylaw Compliance Officer and the Senior Building Inspector visited the property and noted the bylaw contraventions listed below in Table 1.

Table 1: Observed Bylaw Contraventions

| Bylaw Contravention | Staff Comments |
|----------------------------|---|
| Number of Accessory | <ul style="list-style-type: none">• 10 accessory buildings and 3 accessory structures were identified on the subject property, including 2 buildings made from shipping |

| | |
|--|---|
| Buildings and Structures | containers. The Zoning Bylaw limits the number of accessory buildings on this property to 2. |
| Shipping Containers | <ul style="list-style-type: none"> 3 additional shipping containers were added to the property, bringing the total to 6. These additional containers were confirmed to have been added <i>after</i> the Inspector warned the owner in April 2024 that the initial 3 containers were not permitted under the Zoning Bylaw. |
| Recreational Vehicles | <ul style="list-style-type: none"> 3 recreational vehicles (RVs) were located on the property and occupied by tenants. The tenants indicated that they occupy the RVs for more than 7 days per year, which is contrary to zoning. 2 of the RVs were serviced by underground plumbing systems (water supply and sewage drainage) that were not inspected nor issued through permits by the Town. The third RV was parked along the altered hillside adjacent to the Highway ROW, with its sewage drainage hose discharging onto the slope and into the riparian area. |
| Chickens | <ul style="list-style-type: none"> A chicken coop had been built and chickens were living inside. Backyard chickens are not permitted in this location |
| Development Within the Riparian Development Permit Area (DPA) without a Development Permit | <ul style="list-style-type: none"> Further vegetation clearing and soil piling/disturbance had occurred along the Highway ROW. A number of structures were likely constructed within the 30-metre Riparian Assessment Area of Russell Creek without the required Development Permits. Additionally, while staff were unable to verify the exact location of the DPA, some land alteration and construction may have occurred within the Steep Slopes/Hazard Lands DPA. |

After further review of the bylaw contraventions, the Town's Bylaw Compliance Officer, Senior Building Inspector, two Engineering Department staff, and a Vancouver Island Health Officer visited the property on March 17th, 2025. Copies of a new Stop Work Order were posted in three locations, and staff provided the owner with a letter detailing the reasons for the order. Among other directions for compliance, the letter directed the owner to cease all work immediately, including any construction or alterations to land or structures and directed the owner to cease using any plumbing systems connected to the RVs to avoid further unauthorized sewage disposal and potential cross contamination of the Town's water supply. The full letter is provided in Attachment B.

During the March 17th site visit, staff confirmed through testing that two of the three RVs were draining sewage into the Town's sanitary sewer system through unknown plumbing configurations installed without permits. The RV dispensing sewage into the Highway ROW was viewed by the Vancouver Island Health Officer who immediately requested that the RV be relocated to a location where sewage disposal was possible. The RV was relocated by the owner on March 22nd.

To summarize, the owner has been notified of the need for corrective action numerous times over the past year. This includes two Stop Work Orders, two bylaw contravention letters, numerous emails, and conversations during two site visits with Town staff. In each instance, Town staff provided specific instructions and various resources to assist the owner in taking corrective action and have been available to answer any questions.

The owner was also informed that they may be subject to daily fines under “Ticket Information Utilization Bylaw 2002, No. 1457”; however, no fines have been issued to date.

On April 28th, 2025, the Senior Building Inspector provided the written recommendation in Attachment C to the Corporate Officer pursuant to section 57(2) of the *Community Charter*. On April 28th, 2025, the Corporate Officer issued notice to the owner in Attachment D pursuant to section 57(2)(a) of the *Community Charter* and placed the matter on the agenda for the May 20th, 2025 Council meeting pursuant to section 57(2)(b) of the *Community Charter*.

Upon receiving notice from the Corporate Office, the owner contacted the Senior Building Inspector to review the May 20th, 2025 report to Council and discuss how to comply with the proposed requirements before the meeting date. The owner has since provided documentation showing their intention to promptly address some of the hazardous conditions.

RECOMMENDED ENFORCEMENT ACTIONS:

Section 57 – Notice on Title

The Town’s Building Inspectors are responsible for ensuring that all new buildings and renovations comply with the Town’s bylaws and the BC Building Code. The purpose of these regulations is to ensure buildings are durable and safe for the intended use. Where work is completed without required permits and inspections, significant deficiencies can occur that pose a risk of injury or death, shorten the lifespan of buildings, or make them unusable for their intended purpose. Tenants or future owners who may be unaware of these conditions are often the most significantly affected.

A Notice on Title under section 57 of the *Community Charter*, is an enforcement tool used by local governments throughout British Columbia to alert interested parties to building infractions on a particular property. Once filed, the notice appears on all title searches under “Legal Notations,” and parties with an interest in the land (e.g., realtors, lenders, buyers, lawyers or any member of the public wishing to obtain a title search from the Land Titles Office) will become aware a contravention has occurred and can inquire with the local government about the nature of the contravention.

A Notice on Title may be registered on title when:

- a) A building inspector observes a condition resulting from a contravention of a municipal bylaw, the BC Building Code or another applicable enactment, and concludes that, “a building or other structure is unsafe or is unlikely to be usable for its intended purpose during its normal lifetime,” or
- b) A building inspector determines that work was completed without a required permit or a satisfactorily completed inspection.

Under Section 57(3) of the *Community Charter*, Council must pass a resolution directing the Corporate Officer to file a Notice on Title and only after providing the property owner and Building Inspector an opportunity to be heard. If Council confirms the recommendations of the Building Inspector, Council must pass a resolution directing the Corporate Officer to file a notice in the Land Title Office. The notice must state that a resolution has been passed pursuant to Section 57 of the *Community Charter* and that additional information is available at City Hall.

Although a Notice on Title can be ordered by Council due to the absence of a permit or inspection, staff generally reserve recommending this tool for “high risk” or serious infractions.

Remedial Action Orders

Under section 72 (1) of the *Community Charter*, Council also has the authority to issue a Remedial Action Order to property owners or occupiers if it is determined that the property contains elements posing a potential risk to the health and safety of others. Remedial Action Orders are an enforcement tool used by local governments throughout British Columbia and can be implemented when gentler enforcement tactics to address declared hazards are ignored by property owners, or there is an imminent danger. The aim of Remedial Action Orders is to remove hazardous conditions within a specified amount of time. Each Remedial Action Order declared by Council must include specific instructions for the owner to follow and the owner must be permitted a reasonable amount of time (not less than 30 days) to complete the requirements. Council may extend a time limit if it expires, and deadlines of less than 30 days are acceptable in an emergency.

Under the *Community Charter* Council can require the owner / occupier of land to:

- (a) remove or demolish a hazard or nuisance (e.g. demolish a derelict building);
- (b) fill in, cover, or alter a hazard or nuisance (e.g. fill in a large hole);
- (c) bring the property up to a standard specified by bylaw (e.g. bring a building built without permits into compliance with the BC Building Code); and / or
- (d) otherwise deal with the hazard or nuisance in accordance with the direction of Council.

Where the person subject to the Remedial Action Order fails to bring the property into compliance, sections 17 and 258 of the *Community Charter* authorize the Town to:

- a) fulfill the Remedial Action Requirements at the defaulter’s expense;
- b) recover the costs incurred from that person as a special fee and / or as a debt; and
- c) collect those amounts in the same manner as property taxes.

Sections 17 and 258 grant clear incentives for property owners to comply with Remedial Action Orders. Additionally, these sections empower the Town to address declared hazards at the owner's expense if the owner fails to comply with the requirements.

Because remedial action orders impose a cost on property owners, staff generally reserve recommending this tool for the “highest risk” infractions that require urgent attention.

ANALYSIS:

The principal concerns with the bylaw contraventions, recommended enforcement actions and rationale for further enforcement are described in Table 2, below:

Table 2: Bylaw Contravention Concerns

| Bylaw Contravention | Staff Concerns | Recommended Enforcement Action |
|--|--|---------------------------------------|
| Number of Accessory Buildings and Structures | <ul style="list-style-type: none">• The Zoning Bylaw allows 2 accessory buildings/structures on the property. A total of 13 were observed. Except for the main dwelling, built in 2010, all 13 of the new structures on the property have been constructed without building permits and do not meet the BC Building Code. Many of the buildings and structures are structurally inadequate, with improper foundations and framing that pose a risk of collapse. Additionally, roofs and decks are not sized, or spaced correctly, posing a risk of significant failure during a storm or heavy snowfall event. Functionally, numerous platforms intended to support occupants lack proper guardrails, handrails, or anti-slip measures. This is contrary to the BC Building Code and exposes occupants to fall hazards.• The non-compliant buildings and structures may pose a risk to current or future owners but appear to lack any immediate threats to neighbouring properties. Therefore, staff are recommending a Section 57 Notice on Title as a less punitive enforcement measure. | Section 57 – Notice on Title |
| Shipping Containers | <ul style="list-style-type: none">• Four of the six shipping containers appear to have been modified into combined buildings or structures and two of the six are being used as supports for other buildings or structures. These alterations were likely made without the guidance of a structural engineer, posing a risk of collapse.• Shipping containers repurposed for use other than shipping also pose several fire safety risks. Because they are made of steel, heat can quickly transfer through the walls and ignite the contents during a nearby fire. Shipping containers lack ventilation which can lead to a buildup of flammable gases or vapors, especially if combustible materials are stored in the shipping containers, potentially causing fatal explosions. Additionally, fires in shipping containers can be unpredictable and intense due to the confined space, leading to rapid temperature increases and making them difficult to control and extinguish. The two combined shipping containers have minimal ventilation and contain a workshop with a wood-burning stove and shelves containing flammable liquids. Four of the six shipping containers have not been inspected internally, so staff were unable to determine their contents• According to WorkSafeBC, it takes less than 1 litre of vaporized gasoline to forcibly explode a shipping container. In December 2011, two City of Enderby firefighters were battling a fire at a log home construction business. As the fire was nearly extinguished, a metal shipping container exploded due to ignited fuel vapors inside. The explosion caused flying debris to strike one of the firefighters, | Remedial Action Order |

| | | |
|--|---|-----------------------------|
| | <p>resulting in fatal injuries. The complete report detailing the causes and underlying factors is available on WorkSafe BC's website. A similar explosion occurred in Saanich during the summer of 2013.</p> <ul style="list-style-type: none"> The shipping containers pose significant dangers to the owner, neighbours and the fire department. Due to the safety risks imposed on others, staff are recommending a Remedial Action Order to have the containers removed. | |
| Recreation Vehicles | <ul style="list-style-type: none"> All RVs on the property are serviced by plumbing systems that were neither permitted nor inspected by the Town. It is possible that the systems do not meet BC Plumbing Code requirements or other regulations that are necessary to prevent local drinking water contamination, environmental damage, and/or property damage to neighbouring sites. The Zoning Bylaw does not allow RVs to be used for more than 7 days per year and only one RV is permitted to be parked or stored on a residential property. Due to the health risks of unpermitted plumbing, staff are recommending a remedial action order requiring the removal of 2 of the 3 RVs and the subgrade plumbing systems. | Remedial Action Order |
| Chickens | <ul style="list-style-type: none"> A chicken coop housing live chickens is not permitted for this property because the property is within the Backyard Poultry Exclusion Areas under the Animal Control Bylaw. Although keeping chickens is contrary to Town bylaws, the chicken coop is located far away from neighbouring properties. Staff recommend that Council take no immediate action. Bylaw Enforcement staff will monitor the site to ensure no additional chickens are added and that the existing chickens are removed in a humane way. | Bylaw Compliance Monitoring |
| Development Within the Riparian Development Permit Area without a Development Permit | <ul style="list-style-type: none"> The altered slope appears to exceed the recommended slope angle of 2 Horizontal to 1 Vertical (27°) provided by the Engineers and Geoscientists of BC (EGBC). With the addition of what appears to be multiple truckloads of new soil, the removal of slope-stabilizing vegetation, and the apparent sloughing of soil onto the Highway ROW, it is necessary for a Geotechnical Engineer to assess the conditions further and provide instructions to prevent a significant hillside collapse. Numerous buildings and structures likely exist within the Riparian Assessment Area (30 metres from the stream boundary or top of bank) and/or the Steep Slopes/Hazard Lands DPA, contrary to section 489 of the <i>Local Government Act</i>. On and off-site activities, including vegetation alteration, soil disruption, and construction within the Riparian Assessment Area contravene requirements established by the Province's <i>Riparian Areas Protection Regulation</i>, which aims to protect streams and fish habitat. Under this act, development must be preceded by a report from a Qualified Environmental Professional (QEP). Due to the risk of landslide and harm to the Russell Creek riparian area, staff recommend requiring a Geotechnical and QEP review through a Remedial Action Order. | Remedial Action Order |

Due to the owner's repeated failure to comply with compliance instructions provided by Town staff and the continued construction, alteration, or placement of unpermitted structures on the property, it is crucial to ensure interested parties are warned about the above-noted hazards. Placing a Section 57 Notice on Title will serve this purpose.

The 13 accessory buildings are unlikely to pose risks to anyone other than the owner and occupants of 324 Morgan Road. However, the hazardous conditions recommended for correction under the Remedial Action Order do pose potential risks beyond the property boundaries if not immediately addressed. Therefore, staff recommend that Council, in addition to the Section 57 Notice, impose a Remedial Action Order on the owner of 324 Morgan Road to address the most hazardous conditions.

Fortunately, the owner has recently indicated an intention to address some of the hazardous conditions. Immediately after receiving notice in Attachment D, the owner contacted both a Geotechnical Firm and an Environmental Consulting Firm. Additionally, efforts have commenced to remove the RV's, their occupants and plumbing systems. Given the owner's recent actions, staff remain hopeful that owner will continue to pursue compliance and the requirements of the Remedial Action Order will be addressed promptly. However, it is noted that the owner disagrees with the requirements concerning the shipping containers and it remains unclear if and how they will address this issue. Once the owner achieves compliance with the Remedial Action Order no further action is required by Council or the owner. The Section 57 Notice can be removed following compliance by paying a \$400 fee. Despite the owner's recent efforts, compliance has not been achieved, and staff are nonetheless recommending registering the Section 57 Notice and issuing the Remedial Action Order to ensure compliance efforts are followed through and for the reasons outlined under 'Legal Implications'.

Under section 78 of the *Community Charter*, the owner will have the opportunity to request reconsideration of the Remedial Action Requirements. This request must be made by written notice within 14 days of receiving the notice, or within a longer period permitted by Council. If Council receives a request for reconsideration, they must provide the owner with an opportunity to be heard. After hearing from the owner, Council may confirm, amend, or cancel the Remedial Action Requirements.

ALTERNATIVES:

Council can choose to:

1. Direct that a Section 57 Notice, not be placed on the title of 324 Morgan Road and/or a Remedial Action Requirement, not be imposed upon the owner of 324 Morgan Road.
2. Defer consideration of the matter to a subsequent meeting of Council.
3. Direct that another course of action be taken.

FINANCIAL IMPLICATIONS:

Section 57 – Notice on Title

The cost to file a Notice on Title with the Land Titles Office is \$32.51. At this time, there is no bylaw that would require the \$32.51 fee to be paid by the owner.

The Fees and Charges Bylaw requires a property owner to pay a \$400 fee to remove a Section 57 Notice. The owner (or a future owner) will need to pay this fee once they are eligible to have the Section 57 notice removed from title. The fee is intended to cover the Town's administration and inspections costs related to removing the notice from title.

Remedial Action Order

Costs for the Town to remove the hazards required by a Remedial Action Requirements can be recovered under sections 17 and 258 of the *Community Charter* if the owner fails to comply with the requirements.

LEGAL IMPLICATIONS:

Section 57 Notice on Title

Staff have consulted with the Town's lawyer on the use of Section 57 Notices and the Town's duty of care when the Town is aware of building code infractions. Generally, municipalities have no legal duty to enforce bylaws when enforcement is not mandated by statute and there is no such mandated duty with respect to building bylaws. However, a municipality that has adopted a building bylaw owes a duty of care to those who might be injured by the negligent exercise of those powers such as failing to enforce known and significant contraventions of the building bylaws. This duty of care may be met by issuing warnings such as a Section 57 Notice. In short, when building contraventions are known, the Town has a duty to either enforce or ensure that those at risk are made aware of the contraventions; the Town may be liable if neither action is taken.

Although it has consequences for the owner (such as creating a deterrent for future buyers), filing the notice is intended to be less punitive action enforcement. It serves as a disclosure mechanism to protect future owners and other parties with an interest in the property. No further action is required by Council once the Notice is registered on title and the Town will have met its duty of care for the less urgent bylaw infractions.

Staff have also consulted with the Town's lawyer about Remedial Action Requirements and the Town's duty of care when aware of hazardous conditions. Generally, if the Town knows about hazardous conditions but doesn't act, it risks being considered negligent. Negligence claims often focus on whether the Town acted reasonably, which involves assessing what a reasonable person would do in similar circumstances. Factors include the likelihood of known or foreseeable harm, the severity of that harm, and the effort or cost required to prevent it. The lawyer advised that it's generally safer for the Town to use its powers to mitigate the risk rather than ignoring it.

Although Remedial Action Requirements place a significant burden on the property owner, the risks to others are clear and require urgent attention, and staff see this as a reasonable course of action for the more serious infractions on the property.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

Once registered at the Land Titles Office, the Section 57 Notice will serve to advise anyone with interest in the land of the contravention; provide disclosure to prospective buyers and agents; and protect taxpayers from potential claims regarding the contravention. The Notice itself does not disclose the details of the contravention; however, such information may be obtained from the Town.

INTERGOVERNMENTAL REFERRALS:

Staff contacted the Vancouver Island Health Authority, the Ministry of Forests, Lands and Natural Resource Operations, the Department of Fisheries and Oceans Canada and the Ministry of Transportation and Transit about activities undertaken by the owner of 324 Morgan Road.

Table 3 summarizes the responses received from these agencies and staff's comments.

Table 1: Intergovernmental Referral Comments

| Agency | Agency/Staff Comments |
|--|--|
| Island Health | The Vancouver Island Health Officer determined that the RVs must be serviced by water systems complying with the Drinking Water Protection Act. As a temporary measure, the officer directed that all RVs be connected to the unpermitted plumbing systems. No further action was requested after the RV was relocated. |
| Ministry of Forests, Lands and Natural Resource Operations | The Ministry's Natural Resource Officers informed Town staff on April 1 st , 2025 that, in their professional opinion, enforcement under the Riparian Areas Protection Regulation and Town of Ladysmith Bylaws should provide appropriate avenues for enforcement, and that their department will not become involved at this time. The Natural Resource Officer Supervisor asked to be contacted should any further environmentally damaging activities occur at or surrounding the subject property. |
| Department of Fisheries and Oceans Canada | Staff spoke with a representative of the Department of Fisheries and Oceans Canada on April 3 rd , 2025, and the representative stated the location of works appears to be far enough away from Russell Creek that they do not have significant concerns the activities would impact fish habitat. Additionally, their mapping server does not identify Russell Creek as fish habitat. |
| Ministry of Water, Lands and Resource Stewardship | The Ministry of Water, Lands and Resource Stewardship's Registered Professional Biologist supports the Town in pursuing a Condition and Impact Assessment from the landowner to rectify RAPR concerns. The RAPR office supports that a Qualified Environmental Professional under the regulation author a Condition and Impact Assessment accounting for all unpermitted works within the RAA to meet Riparian Protection Standards for the purposes of bylaw compliance. The representative requested they be kept up to date with the compliance status for this property. |
| Ministry of Transportation and Transit | The Ministry of Transportation and Transit was notified of the soil sloughing onto the Highway right of way, however, no response was received. |

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The Building, Bylaw Compliance and Planning Departments have been in close communication to identify leading concerns related to the bylaw contraventions that have occurred on the subject property and in developing bylaw enforcement responses.

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|--|
| <input type="checkbox"/> Core Infrastructure | <input type="checkbox"/> Economy |
| <input type="checkbox"/> Official Community Plan Implementation | <input type="checkbox"/> Leadership |
| <input type="checkbox"/> Waterfront Area Plan | <input checked="" type="checkbox"/> Not Applicable |

I approve the report and recommendations.

Allison McCarrick, Chief Administrative Officer

ATTACHMENTS:

- A. Unauthorized Activity Letter
- B. Stop Work Order Letter
- C. Memo to Corporate Officer
- D. Notice to Property Owner

- 3-4 accessory buildings on the property exceeds the number of accessory buildings permitted by the Town's Zoning Bylaw. The maximum number is two accessory buildings per property. Buildings more than 10m² in floor area require issuance of a building permit. Accessory buildings must comply with the regulations in the zoning bylaw (see attached 'Accessory Building Regulations' and applicable R-1 zone). Accessory buildings within DPA 6 require issuance of a DP (see above).
- Sea cans or shipping containers are not permitted on residential property in accordance with the Zoning Bylaw. Any shipping containers located on the property are required to be removed.
- A portion of the land where the land alteration/gravel placement has occurred is within Development Permit Area 7 – Hazard Lands (DPA 7) due to steep slopes. A DP is required prior to any construction, land alteration and vegetation removal or disturbance within DPA 7. The development will require assessment by a Geotechnical Engineer to ensure slope stability and provide recommendations.
- The Ministry of Environment and Climate Change Strategy has been notified of the unauthorized clearing and placement of fill within the riparian area.
- The Ministry of Transportation and Infrastructure has been notified of the unauthorized clearing and placement of fill within the highway ROW.

To prevent erosion of loose soils and sedimentation into the adjacent stream, any exposed soils must be covered with plastic, tarps, or hay bales immediately, and **no later than Friday, February 16, 2024**. Do not undertake any further land alteration unless a DP has been issued by the Town or remediation works within the riparian area have been authorized by the Town. Failure to cover by this date may result in daily fines that are authorized under the Ticket Information Utilization Bylaw 2002, No.1457.

Please contact me as soon as possible to discuss and confirm the number of accessory buildings and/or shipping containers on the property as this will impact next steps. A site visit may be required to confirm.

Resources:

The DPA 6 and DPA 7 guidelines are enclosed for your reference. More information on the RAPR can be found here: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/fish/aquatic-habitat-management/riparian-areas-regulation>

Below is a list of Environmental Consultants with QEPs in our area. Please note that this list is not exhaustive.

- Aquaparian Environmental Consulting Ltd: <https://aquaparian.com/contact/>
- D. R. Clough Consulting: office 250-390-2901, drclough@shaw.ca.
- Madrone Environmental Services Ltd.: <https://www.madrone.ca/contact>
- TerraWest Environmental Inc.: <https://terrawest.ca/contact-us/>

Please do not hesitate to contact me at 250-245-6432 or mvanvliet@ladysmith.ca to discuss this matter and how to proceed with bringing the property into compliance with the

Town's bylaws. The Town's Planning Department can be contacted to discuss the DP application process at ds@ladysmith.ca or by calling 250-245-6415.

Sincerely,

Mark Van Vliet
Senior Building Inspector

Enclosures:

- DP application
- DPA checklist
- Accessory building regulations
- R-1 Zone
- DPA 6 guidelines
- DPA 7 guidelines
- Stop Work Order



Attachment B

March 17, 2025

Our File: 3800-20

Kade Dwolinsky
322 Morgan Road
Ladysmith, BC
V9G 1W6

Dear Kade:

RE: Stop Work Order – PID: 029-296-641 - LADYSMITH, BC

It has come to our attention that further illegal construction and use on the above-noted property has occurred since the Town last contacted you in 2024. At that time, you were informed in writing that:

1. Land alteration, including vegetation removal and placement of fill had occurred within a riparian area and within the Trans-Canada Highway right-of-way (ROW) without required permits.
2. The property was in contravention of the Town's Zoning Bylaw, as 3-4 unpermitted accessory buildings on the property exceeded the maximum number of permitted accessory structures and that structures had been built without required building permits.
3. Shipping containers are not permitted on residential properties and all containers must be removed.

Since our previous letter was sent on February 12th, 2024 additional unauthorized activities have taken place. During a recent inspection, the following additional bylaw infractions were noted:

1. Additional structures have been added in contravention of the zoning bylaw and without building permits.
2. Additional shipping containers have been added, bringing the total to six. Shipping containers are not permitted on this property. Modifications to containers have also occurred which contravene the building code and Town's building bylaw.
3. Three RV's have been placed on the property and are occupied. Two of the RV's are serviced with unpermitted water and sewage hook-ups. The third trailer is placed along the edge of the property and is draining sewage directly onto the neighbouring Trans-Canada Highway Right of Way.
4. Further disturbances to the Riparian Area.
5. The keeping of chickens on the property. Backyard poultry keeping is not permitted on this property.

In accordance with the Town's Building & Plumbing Bylaw, a building official may order the immediate suspension or correction of all construction on a building or structure by posting a Stop Work Order on the premises if the work does not comply with any applicable Town bylaw. Due to infractions found throughout the property, **a Stop Work Order has been posted, and you are directed to cease all work immediately, including any construction or alterations to land or structures and to prevent the use of any plumbing systems connected to the travel trailers to avoid further unauthorized sewage disposal.**



The Island Health Authority has been made aware of the illegal sewage disposal and will require further inspections. The Department of Fisheries and Oceans and the Ministry of Transportation and Transit will be informed of the results of Island Health's investigation. After investigations by relevant regulatory authorities are completed, you will be notified of the results and given specific instructions for corrective action.

The Stop Work Order must remain in place and must not be reversed, altered, defaced, covered, removed, or tampered with in any way until a Town official removes it, which will only occur once all infractions are corrected.

Failure to immediately comply with the conditions of the Stop Work Order is a violation of the "Building & Plumbing Bylaw, 2024, No. 2174" and may result in the imposition of the penalty provided by the Bylaw, to a maximum of \$10,000.00 and/or 3 months imprisonment, in addition to the costs of prosecution. Furthermore, failure to promptly initiate corrective actions as ordered by any regulatory authority following the investigation may lead to daily fines, as authorized under the "Ticket Information Utilization Bylaw 2002, No. 1457." The Town may also proceed with a notice on title pursuant to section 57 of the *Community Charter*, or Remedial Action Requirements under section 72 of the *Community Charter*.

The Town aims to address all unsafe conditions and unauthorized use without resorting to enforcement actions that could result in fines or inconvenience to you. By promptly halting all work and unauthorized sewage disposal, you will be taking the first step towards achieving future compliance.

Please feel free to email anytime at mvanvliet@ladysmith.ca or msherman@ladysmith.ca to discuss further.

Sincerely,

Mark Van Vliet

Mark Van Vliet
Senior Building Inspector
Town of Ladysmith

M. Sherman

Mike Sherman
Bylaw Compliance Officer
Town of Ladysmith

Memo

From: Mark Van Vliet, Senior Building Inspector

To: Sue Bouma, Manager of Corporate Services/Corporate Officer

Date: April 28, 2025

Re: Section 57 Notice and Remedial Action Requirements, 324 Morgan Road

I have prepared a report to Council recommending that a note be filed on title for 324 Morgan Road (**PID: 029-296-641, PARCEL A, PLAN EPP17717, DISTRICT LOT 42, OYSTER LAND DISTRICT, (BEING A CONSOLIDATION OF LOTS A & B, SEE CA3693354)**) under section 57 of the *Community Charter*. The report also recommends that Council impose Remedial Action Requirements on the owner to address hazardous conditions pursuant to section 72 of the *Community Charter*.

Accordingly, please notify the property owners of the referenced property and schedule my recommendation to be placed before Council at the May 20th, 2025 meeting.

Regards,

Mark Van Vliet

Mark Van Vliet
Senior Building Inspector
Development Services

Attachment D

April 28, 2025

Our File: 3800-20 & 4020-20

Kade Dwolinsky
324 Morgan Road
Ladysmith, BC
V9G 1W6

Dear Kade Dwolinsky:

RE: Section 57 – Notice on Title & Section 72 - Remedial Action Requirement
324 Morgan Road
PARCEL A, PLAN EPP17717, DISTRICT LOT 42, OYSTER LAND DISTRICT,
(BEING A CONSOLIDATION OF LOTS A & B, SEE CA3693354)
PID : 029-296-641

Notice is hereby given that at its Regular Meeting to be held at 630 2nd Avenue, Ladysmith, BC, on May 20th, 2025, at 7:00pm, Council of the Town of Ladysmith will consider a report from the Senior Building Inspector recommending a notice be registered on the title of the above-noted property, pursuant to Section 57 of the *Community Charter*. The notice is concerning alleged contravention(s) of the Town's "Building and Plumbing Bylaw 1994, No. 1119" as amended; namely accessory buildings or structures without valid building permits. In addition, to address alleged hazardous conditions, Remedial Action Requirements are recommended to be imposed upon the owner, pursuant to Section 72 of the *Community Charter*. The recommendation requires the completion of the requirements within 120 days after receiving written notification.

A copy of the report will be available for viewing on May 16, 2025 via the Town of Ladysmith website: <https://www.ladysmith.ca/city-hall/mayor-council/council-minutes-and-agendas>

As the affected property owner, if you choose to attend the Council meeting, you will be provided an opportunity to address Council with regard to the contravened bylaw regulations. If Council determines there is a contravention of "Building and Plumbing Bylaw 1994, No. 1119" as amended, a Bylaw Contravention Notice will be registered at the Land Title Office pursuant to Section 57(3) of the *Community Charter*. The notice will serve to advise those with interest in the property of the regulations contravened.

Under section 78 of the *Community Charter*, you will not be provided with an opportunity to address Council with regard to the recommended Remedial Action Requirements. If



Council were to impose the recommended requirements you will have the opportunity to request reconsideration of the Remedial Action Requirements which may be addressed at a future Council meeting. Your request must be made by written notice within 14 days of receiving notice that the Remedial Action Requirements are to be imposed, or within a longer period permitted by Council.

If you have any questions about the meeting, please contact the undersigned at 250-245-6419. For all other questions, please contact Development Services at 250-245-6415.

Sincerely,



Sue Bouma
Manager of Corporate Services/Corporate Office
Town of Ladysmith

Cc: Mark Van Vliet, Senior Building Inspector

STAFF REPORT TO COUNCIL

Report Prepared By: Andrew Wilson, Planner
Reviewed By: Jake Belobaba, RPP, MCIP, Director of Development Services
Meeting Date: May 20, 2025
File No: ZBL 3360-23-10
Re: Emergency Access Lane through Brown Drive Park

RECOMMENDATION:

That Council

1. Receive the request by the developer of Lot A District Lot 126 Oyster District Plan VIP73132 Except Part in Plan EPP23747 Malone Road to install an emergency access/egress road through Brown Drive Park;
2. Refer the proposal to the Parks, Recreation & Culture Advisory Committee; and
3. Defer further consideration of the request pending review by PRCAC.

EXECUTIVE SUMMARY:

A Zoning Bylaw amendment application has been received for Lot A District Lot 126 Malone Road to increase the number of permitted dwelling units from 189 to 600. Under Policy 2.52 of Part 2 of the OCP, a second emergency access/egress route is required. To meet this requirement, the developer is seeking permission to construct an emergency-only road through Brown Drive Park to connect Hunter Way with Colonia Drive. For the reasons outlined herein, staff are recommending that, prior to considering the rezoning application, Council refer the proposal to the Parks, Recreation & Culture Advisory Committee (PRCAC).

PREVIOUS COUNCIL DIRECTION:

| Resolution | Meeting Date | Resolution Details |
|-------------|---------------|---|
| CS 2023-184 | July 18, 2023 | Committee of the Whole Recommendations – July 11, 2023 That Council: 6. a) Endorse the Brown Drive Park Plan as presented; and b) Direct staff to include Phase 1, as described in the Brown Drive Park Plan, including up-to-date costing, with 2024 capital items for Council's consideration. <i>Motion Carried.</i> |
| CS 2020-247 | Aug. 18, 2020 | Zoning Bylaw and OCP Amendment – Lot A Malone Road: That Council refer the Zoning Bylaw and Official Community Plan amendment application No. 3360-20-03 for Lot A, Malone Road back to staff to work with the applicant to explore ways to move forward with the project within the existing zoning. <i>Motion Carried</i> |

| Resolution | Meeting Date | Resolution Details |
|-------------|--------------|---|
| CS 2014-171 | May 12, 2014 | Zoning Bylaw Amendment Bylaw No. 1791 That Town of Ladysmith Zoning Bylaw 1995, No. 1160, Amendment Bylaw (No. 88) 2012, No. 1791 be read a third time and adopted. <i>Motion Carried</i> |
| CS 2014-170 | May 12, 2014 | Official Community Plan Amendment Bylaw No. 1790 That Council adopt That Town of Ladysmith Official Community Plan Bylaw 2003, No. 1488, Amendment Bylaw (No. 38) 2012, No. 1790 be read a third time and adopted. <i>Motion Carried</i> |
| CS 2012-360 | Dec. 3, 2012 | Rezoning Application – Lot A, District Lot 126 (Malone Road) That subject to any additional matters raised at the public hearing, the application by Landeca Services Inc. to amend the Official Community Plan 2003, No. 1488 and the Town of Ladysmith Zoning Bylaw 1995, No. 1160 to permit a residential development of single family, two-family, and multi-family development, be approved in principle, subject to the following conditions: That prior to the enactment of amending Bylaws 1790 and 1791 the following shall be completed to the satisfaction of the Director of Development Services: a) Preparation of the required documents to allow for the dedication to the Town, prior to the adoption of Bylaws 1790 and 1791, land containing the SPEA riparian areas. b) Preparation of the required documents to allow for the dedication of the Malone Road extension, prior to the adoption of Bylaws 1790 and 1791. c) Registration of a road reservation covenant on the title of the land under section 44 of the Community Charter to secure the future dedication and construction of Road A as a local public road, and the possible additional dedication that may be needed to accommodate for cuts, fills, and daylighting requirements. d) Registration of a section 219 covenant on the title of the land to secure the following: <ul style="list-style-type: none"> No clearing of trees and vegetation of the multi-family site until the overall development permit is approved; Provision of one serviced residential lot to 'Habitat for Humanity' prior to any subdivision of the land; Contribution of the pedestrian pathway and park staging area/entry to the Lot B, District Lot 126, Oyster District, Plan VIP73132 park site prior to issuance of a development permit or subdivision of the land; Provision of a continuous fence at the back of the single-family/two-family area bounding Lot B; A commitment to Energuide 80 energy efficient buildings; and A commitment to the construction of a minimum of 10% of the multi-family units as adaptable units. e) Consideration, in conjunction with Town staff, of practices for storm water management for the subject property; And that the Mayor and Corporate Officer be authorized to execute the Section 219 covenants. <i>Motion Carried</i> |

SUBJECT PROPERTY:

The subject property is a 6.8 hectare parcel located along the edge of the municipal boundary at the west end of Malone Road (see Attachment A). The property is surrounded by Brown Drive Park to the north, single family and multi-family residential areas to the east, and single-family residential and rural undeveloped lands within the CVRD to the south and west. A BC Hydro right-of-way abuts the western parcel line.

The site is located within walking distance from the following community facilities:

- 400 m – BC Transit stops (corner of Malone Road and Dunsmuir Crescent)
- 780 m – Frank Jameson Community Centre
- 750 m – Ladysmith Secondary School
- 725 m – Ladysmith Primary School
- 950 m – Ladysmith Fire Hall
- 1000 m – Ladysmith RCMP Detachment

The subject property is currently designated Multi-Family Residential under the OCP and was rezoned in 2014 to the Comprehensive Development 3 – Malone Residential (CD-3) Zone. The CD-3 Zone permits a mix of single family, duplexes, and multi-family housing.

INTRODUCTION/BACKGROUND:

A Zoning Bylaw amendment application has been received for the subject property for the purpose of providing additional density and flexible building forms in both the multi-family areas and smaller lot areas of the existing zone. The proposed development would see an increase in the maximum number of units from 189 to 600.

In pre-application meetings, staff advised the developer that a second access was needed to comply with the emergency access requirements of the OCP. The developer initially investigated a 300 metre route from the west end of Hunter Way, along the BC Hydro corridor to the west end of Davidson Road, which was staff's preferred route. However, this route crosses private land, and the developer has indicated that they have been unable to get permission from landowners. Subsequently, the developer proposed an emergency access route through Brown Drive Park.

Policy 2.52 under Part 2 of the Official Community Plan states that :

“2.52 Subdivision and rezoning applications will be evaluated to ensure that neighbourhoods meet section 5.1.4 (Means of Access) of ‘National Fire Protection Association Standard 1141: Fire Protection Infrastructure for Land Development in Wildland, Rural and Suburban Areas’, which requires two accesses for neighbourhoods with 101-600 homes and three accesses for neighbourhoods with more than 600 homes. More stringent requirements will be considered in the wildland urban interface and other hazard lands.”

The proposed development requires a secondary access as it will have up to 600 homes. Currently the only access is via Malone Road and Hunter Way. NFPA standards allow a secondary emergency access to be a one-way lane, with a minimum width of 5.0m. This does not include drainage or the width of the subbase and shoulders. The developer is

proposing a one-way emergency access with a width of 3.0m to 3.5m, which does not meet the NFPA standard.

Although a 5.0m one-way emergency lane is supported by NFPA guidelines, due to the length and location of the route, the Fire Chief would prefer a wider, two-way route. If designed only for one-way traffic, the proposed 200m route will require traffic control during an emergency evacuation. This may delay the response of emergency vehicles and/or evacuation of residents and will take emergency responders away from their duties to provide traffic control. A two-way route would address these issues. However, it is much wider, taking up a larger footprint in the park. NFPA 1141 guidelines recommend a 7.3m minimum width for two-way access, excluding curbs and shoulders. In both a one-way and two-way configuration, maintenance or operational requirements must be considered, such as snow clearing and closing areas of the park when the emergency access is in use. Additionally, a further review of the width and grade of the parking lot staging area on Hunter Way is required to ensure vehicles can pass through this area.

Brown Drive Park is a neighbourhood park located where Brown Drive meets Colonia Drive. The Kinsmen Club of Ladysmith and community partners installed new playground equipment in phases over a decade ago. In 2022, the Town initiated a planning process for the park with an online survey and an in-person engagement BBQ. At the in-person event, stakeholders provided feedback on the park and amenity improvements. Close to 50 residents attended as well as members of community organizations, the Parks, Recreation & Culture Advisory Committee and Town staff.

The Brown Drive Park Implementation Plan (see Attachment G) identifies both short- and long-term goals and proposed park improvements. The costs to complete Phase 1 of the proposed park plan are estimated to be \$30,000 and were approved by Council on July 18, 2023. An accessible walking path around the perimeter of the park is proposed for Phase 2 and is identified as a high priority item. The park plan does not describe the width or specifications of the path; however, the pedestrian path was not intended to accommodate vehicles. The 5.0m emergency access lane width needed to accommodate one-way vehicle traffic is at least 1m wider than BC active transportation guideline recommendations for multi-use trails. It is unclear if reconfiguring the pedestrian route through the park is what stakeholders envisioned when they created the Brown Drive Park Plan.

PROPOSAL:

To meet the requirements of OCP policy 2.52 described above, the applicant is requesting permission to construct a one-way emergency access route through Brown Drive Park to connect Hunter Way to Colonia Drive (see Attachment B). During an emergency, the lane could be opened to facilitate emergency vehicle access/egress and/or as an evacuation route for residents. For the rest of the time, the lane would serve as a pedestrian/bicycle path and be closed to vehicle traffic with removable bollards or similar barriers.

The emergency access lane generally aligns with the accessible pathway in the Brown Drive Park Plan. The applicant has indicated they will work with Parks staff to find a permeable hard surface suitable for both emergency vehicles and active transportation users. The British Columbia Active Transportation Design Guide recommends pathway width of 3.0m to 4.0m for a multi-use trail through a park. The proposed 5.0m width would provide sufficient space for a bi-directional multi-use path for all ages and abilities but does not meet the 7.4m requirement for two-way vehicle traffic.

The Town does not currently have engineering standards for emergency accesses. Engineering staff have assessed standards in other jurisdictions, including the District of Saanich and the City of Nanaimo, and in consultation with the Town's Fire Chief have drafted a one-way standard which includes a 5.0m wide paved surface (5.6m with flat curbs). A two-way access road requires a minimum of 7.4m wide paved surface plus curbs and drainage.

According to Parks, Recreation & Culture staff, a culvert crossing the creek in the northern corner of the park requires upgrades whether an emergency lane is approved or not. All aspects of the route must be designed to accommodate the Town's largest fire truck and equipment. Tower 1, currently the largest fire department vehicle, has a Gross Vehicle Weight Rating (GVWR) of 34,019kg.

If approved, the developer has indicated they would construct the access/egress, including necessary culvert upgrades, at their cost. Once complete, maintaining the emergency access/egress would fall to the Town. The parking/staging area (Phase 1, Item No. 4 of the Park Implementation Plan) was secured as a contribution through the previous rezoning.

Community Contributions:

The applicant is proposing the following community contributions in exchange for the increased density and emergency access/egress through Brown Drive Park:

1. Brown Drive Park Improvements:
 - a. a cash contribution of \$50,000 for upgrades and improvements to Brown Drive Park; and
 - b. an 80 meter long, 2.0-3.0 metre-wide asphalt multi-use path connecting Colonia Drive to the playground.
2. Dedicated park of 0.81 hectares on the subject property. This area will include two rocky outcrop features and is approximately 12.5% of the subject property;
3. Public Nature Trail – construction of 650 metres of public trail including construction of a concrete staircase with resting areas;
4. Electric Vehicle Charging Infrastructure in Areas C-1, C-2, and C-3;
5. Affordable Housing:
 - a. A minimum of 10% of the total residential units within Areas C-1, C-2 and C-3 will be secured for affordable housing (ownership and/or rental).
 - b. A minimum of 30% of Area C-1 units will be designated and secured for purpose-built rental housing (affordable and/or market rental);

6. New off-site sidewalk – construction of 160m of new concrete sidewalk on the north side of Malone Road between the site and Colonia Drive;
7. Tree Planting – a minimum 2 new trees to be planted for each principal dwelling unit within Areas A & B;

The developer's proposal is described in greater detail in the following attachments:

- Project Rationale (Attachment C);
- Development Concept (Attachment D);
- Application Supplemental Submission June 27, 2024 (Attachment E); and
- Application Supplemental Submission October 21, 2024 (Attachment F).

The proposal is consistent with the OCP and section 464(3) of the *Local Government Act*, meaning the Town is prohibited from holding a public hearing for the rezoning proposal. However, the decision to allow an emergency roadway through Brown Drive Park is a discretionary decision of Council, and Council can seek resident views on the proposal prior to allowing infrastructure to be installed through the park. Given the importance of the park to the community and the potential impacts of the proposed access/egress, staff are recommending that the proposal be referred to the PRCAC, to examine the community impacts of constructing an emergency access through the park.

DISCUSSION:

Brown Drive Park is a cherished neighbourhood park, popular amongst hikers, bikers, dog walkers, and children of various age groups. As noted above, the Brown Drive Park Implementation Plan was a thorough engagement process involving many stakeholders. The Plan includes a large flat field through which the proposed access would cross. The PRCAC committee played a key role in shaping the Park plan.

Previously, a public hearing would have provided an opportunity for residents to comment on the proposed emergency access in conjunction with the rezoning proposal. However, due to recent legislation changes, a public hearing is prohibited for the rezoning application. Though generally aligned with the trail plans for the park, the proposed emergency access/egress will be substantially wider (up to 7.3 meters) and referring the proposal to the PRCAC is one mechanism for Council to consider the impacts of the emergency access/egress on the form and function of the park.

Council also faces a number of tradeoffs on this matter. A one-way access/egress has less impact on the park but reduces the effectiveness of emergency response and evacuation. Conversely, a two-way access is the ideal option for emergency response and evacuation but means a road/path far wider than needed for park use and consumes more amenity space. Unlike a pedestrian path that can be more easily rerouted, an emergency access will need to remain in place indefinitely, which may limit options for future park improvements in the large field area (e.g. sports field).

Operational considerations raise similar questions. Will the route need regular snow clearing to ensure it is available for emergency use, and how can this be done safely if people are using the park? Will the park need to be closed, or will barriers need to be put

in place if the route needs to be opened for emergency use? The PRCAC can provide useful input on all these issues.

Community Planning Advisory Committee (CPAC):

The application for rezoning was presented to CPAC on July 3, 2024 (see Attachment H). No concerns were expressed by CPAC regarding the emergency access route through the park, although a cross section and more detailed analysis of the access/egress was not available at the time. CPAC passed the following resolution:

It was moved, seconded, and carried that the Community Planning Advisory Committee recommends that Council approve Zoning Bylaw Amendment application 3360-23-10 for Lot A District Lot 126 Malone Road with consideration for the following:

- A cap on the number of single-unit and two-unit dwellings in Area C.
- Either frontloading the proposed affordable housing to earlier phases of the development or rental tenure zoning in Area C.
- Higher parcel coverage in Area C.
- Permitting fourplexes in Areas A and B.
- Fencing along the park boundary for Brown Drive Park installed prior to development.
- A minimum FSR in Area C aligned with OCP policy.
- Broadening the potential uses of the proposed \$50,000 cash contribution to allow it to be spent on other park improvements.

In response to CPAC recommendations, the applicant revised the proposal as outlined in the Supplemental Submission dated October 21, 2024 (see Attachment F).

ALTERNATIVES:

Council can choose to:

1. Deny the request for the proposed emergency access through Brown Drive Park.
2. Approve the request for the proposed emergency access through Brown Drive Park and direct staff to bring forward the rezoning application for Council consideration.
3. Hold a public hearing or another form of public engagement on the proposal for an emergency access through the park.
4. Refer the application back to CPAC.

FINANCIAL IMPLICATIONS:

If approved by Council costs to maintain the proposed emergency access/egress, which may include regular snow clearing, would fall to the Town.

LEGAL IMPLICATIONS:

Generally, dedicated park can only be used for typical park uses such as playgrounds, nature conservation, etc. However, roads through dedicated parks are generally permissible, as are multi-use pathways that can accommodate vehicles.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

As noted above, Council is prohibited from holding a public hearing on the development proposal. However, Council is free to consult with the community on the use of Town-owned parkland. Council may wish to hold a hearing or other form of public engagement to obtain public feedback on the proposed.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The application was circulated to Town departments for review and comment. Their comments are summarized below:

Table 2: Interdepartmental Referral Comments

| Referred (Yes/No) | Department | Comments |
|------------------------------|---|--|
| Yes | Infrastructure Services | <ul style="list-style-type: none">• Width and grade of the staging area parking lot on Hunter Way will need further review. |
| Yes | Building Inspection | <ul style="list-style-type: none">• Any access provisions should be accepted by the Fire Department. |
| Yes | Parks Recreation & Culture | <ul style="list-style-type: none">• Removal of a large swath of the park field to be replaced by a 5m+ wide hard paved surface may undermine the community engagement process of the Brown Drive Park Implementation Plan. The field was identified as a key asset of the Plan.• One benefit expressed was the developer would cover the cost of the brook culvert replacement and not the Town. |
| No | Financial Services | N/A |
| No | Legislative Services/Corporate Services | N/A |
| Yes | Fire/Protective Services | <ul style="list-style-type: none">• A one-way emergency fire lane is not preferred and may cause problems for the Town and other stakeholders of the space.• If the Authority Having Jurisdiction (AHJ) were to permit an emergency access through Brown Drive Park, at minimum it should align with NFPA 1141 recommendations on fire lanes.• Gates are recommended for a one-way lane.• Signage would be required to address no parking at the entrances to the park and to state bridge vehicle load limits within the park. |

| | | |
|--|--|--|
| | | <ul style="list-style-type: none"> • Further review is required regarding width and grade of the parking lot staging area on Hunter Way. • If the number of households being considered is greater than 600, the development will require 3 access routes. Only one of the 3 routes shall be permitted to be restricted for emergency use only. • Other considerations if approved by Council include snow removal and wintertime maintenance and who would be responsible. |
|--|--|--|

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|--|
| <input type="checkbox"/> Core Infrastructure | <input type="checkbox"/> Economy |
| <input type="checkbox"/> Official Community Plan Implementation | <input type="checkbox"/> Leadership |
| <input type="checkbox"/> Waterfront Area Plan | <input checked="" type="checkbox"/> Not Applicable |

I approve the report and recommendations.

Allison McCarrick, Chief Administrative Officer

ATTACHMENTS:

- A. Subject Property Map
- B. Secondary Access Route Map
- C. Development Concept
- D. Project Rationale
- E. Application Supplemental Submission June 27, 2024
- F. Application Supplemental Submission October 21, 2024
- G. Brown Drive Park Kinsmen Playground Implementation Plan
- H. Community Planning Advisory Committee, July 3, 2024 Minutes

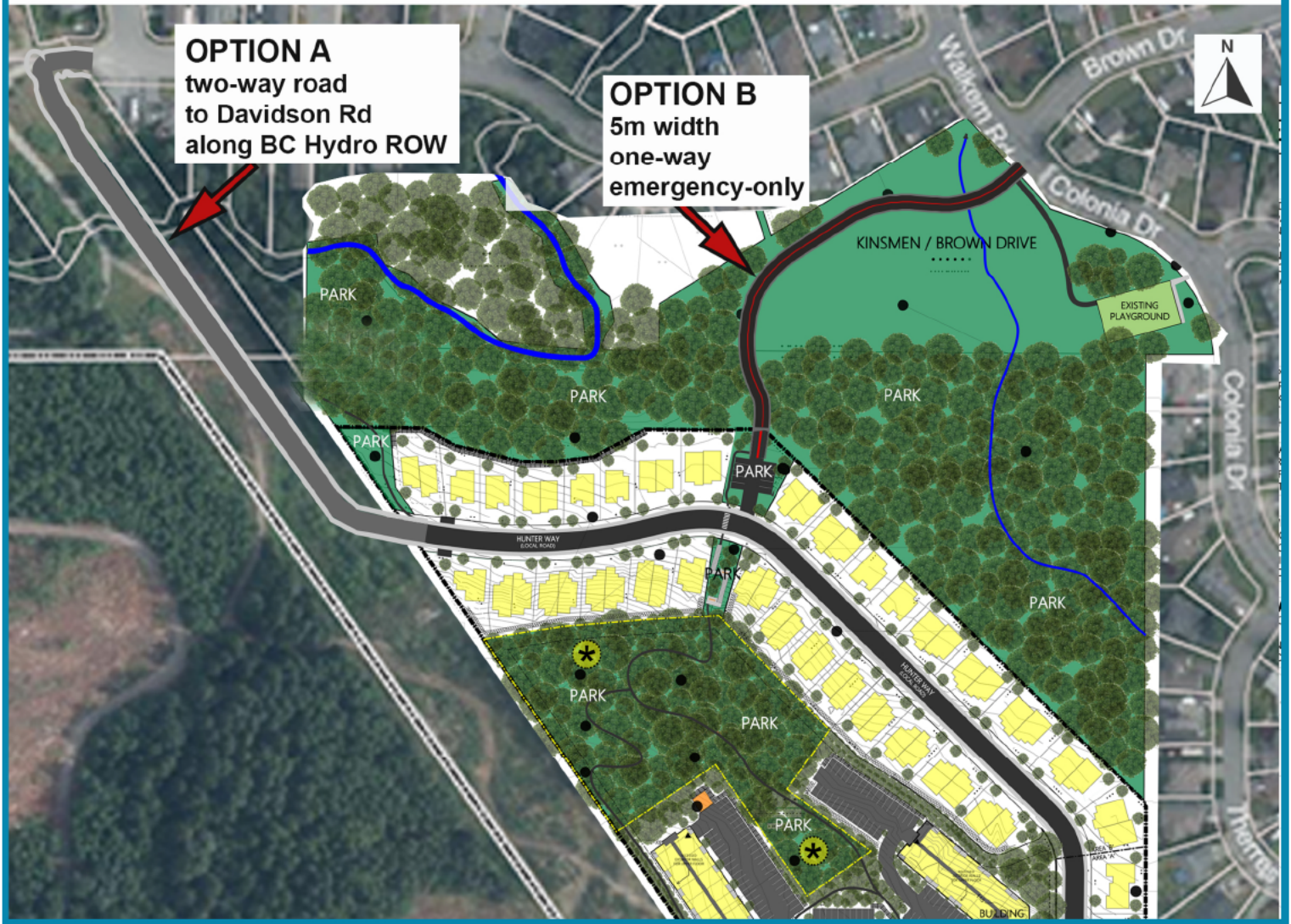
ATTACHMENT A

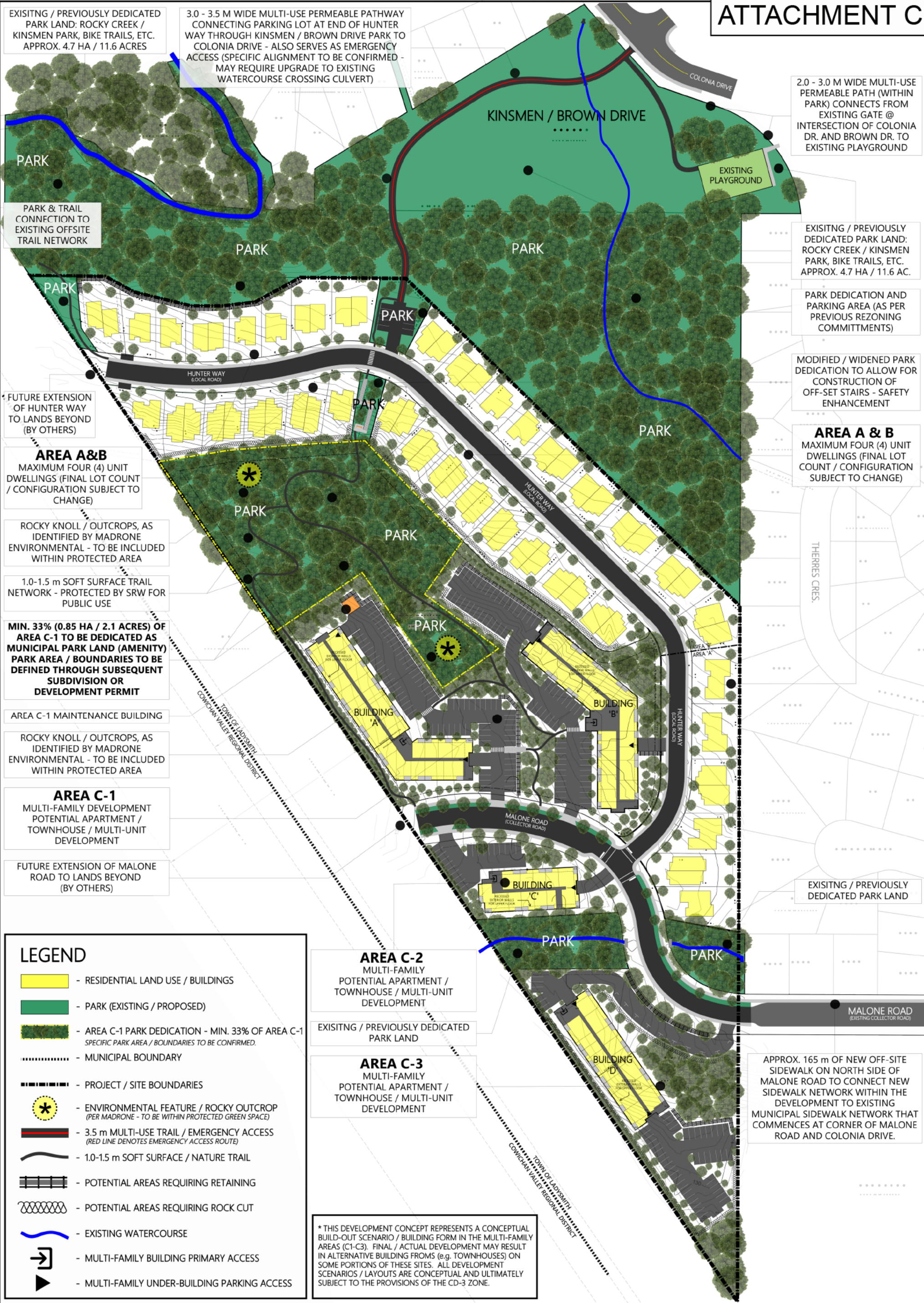


ATTACHMENT B

ACCESS OPTIONS

DISTRICT LOT 126 MALONE ROAD





NOTES:

1. THIS PLAN IS CONCEPTUAL AND PROVIDED FOR ILLUSTRATIVE / DISCUSSION PURPOSES ONLY.
2. THIS DRAWING SHOULD NOT BE RELIED UPON FOR CONSTRUCTION PURPOSES.
3. ALL PLANS AND PROPOSALS ARE PRELIMINARY AND SUBJECT TO CHANGE.
4. BASE PLAN / CONTOUR INFORMATION PROVIDED BY BENNET SURVEYING AND NEWCASTLE ENGINEERING.

SCALE: 0 5 10 15 20 30 40 50 60 (METRES)

FILE: 23-17RZ (LADYSMITH - MALONE ROAD)

DATE: 2025-03-07

VERSION / DRAWING NO. 23-17-07



MALONE RIDGE

ILLUSTRATIVE DEVELOPMENT CONCEPT

ATTACHMENT D

SCHEDULE 'H'

RECESSED
EXTERIOR WALLS
FOR UPPER FLOOR

BUILDING
'P'

800 m²
Main Floor
Commercial

MALONE RIDGE

COMPREHENSIVE DEVELOPMENT PLAN

PROJECT RATIONALE

(UPDATED)

MARCH 11 2025

MALONE ROAD
(COLLECTOR RD)

SUBMISISON PREPARED BY:

BUILD

RECESSED
EXTERIOR WALLS
FOR UPPER FLOOR

TOWNSITE
PLANNING

CONTENTS

| | | |
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1.0 – BACKGROUND / SITE CONTEXT

The subject properties are located in the Town of Ladysmith near the western boundary between the Town of Ladysmith and the Cowichan Valley Regional District (CVRD), at the west end of Malone Road and includes a total developable area of approximately 6.8 ha (16.8 acres).

The site is currently comprised of a mix of cleared lands (approximately 1/3 of the site has been cleared for initial phases of servicing and development along with undisturbed forested lands (second growth) on the remaining 2/3 of the site (multi-family lands).

There are a number of watercourses on and around the subject property. All of these riparian / watercourse areas, included required setbacks, have been identified and protected through previous development processes.

The site has significant changes in topography / elevation through different portions of the site.

The lands directly adjoining the site to the south/southwest are encumbered by a 45.0 m wide BC Hydro right-of-way for their primary Vancouver Island Transmission corridor. Lands to the west of the BC Hydro right-of-way are rural, undeveloped, and located within the CVRD. Lands to the east are a mix of primarily existing low density residential and municipal park lands. To the southeast is a large multi-family site comprising an existing 70-unit townhouse development. To the northeast and north are municipal park lands, which comprise a mix of developed park space (Kinsmen / Brown Drive Park) and less formal park space (forested lands, bike trails and riparian areas). These lands also contain trails which connect to significant existing formal and informal trail networks on surrounding lands.

A newly constructed portion of both Malone Road (collector road) and Hunter Way (new local road), along with associated site servicing, have been constructed over the past 24 months as part of the development of the initial phases of the subdivision.

As noted above, municipal servicing is available and has been extended into the site as part of the development of the initial phases. Potential additional infrastructure requirements, including preliminary fire flow calculations, are discussed in Section 6.0 of this report and addressed as part of this submission in the attached reports and supplemental information from Newcastle Engineering (Schedules M & N).

2.0 – APPLICATION HISTORY

The subject properties have been subject to several previous development applications. Most significantly, the lands were rezoned by the previous developer in 2014, a process which created the current **Comprehensive Development Malone Residential CD-3 Zone** under Bylaw No. 1860.

As part of that rezoning application, the developer (previous) committed to a number of development conditions which were secured through the registration of Section 219 covenant. Key commitments include:

1. Provision of a road alignment / layout that generally matched the 2014 development concept, including extension of Malone Road to the western site boundaries and establishment of a local road (Hunter Way).
2. Protection of all trees and site vegetation on the lands identified as Area C (multi family lands) until such time that development has been approved / initiated on these lands through subsequent Subdivision or Development Permit applications.
3. Creation and transfer of a residential lot to Mid-Vancouver Island Habitat for Humanity at no cost.
4. Provision of a pedestrian pathway and parking staging area adjoining Brown Drive Park to connect and provide access from the new neighbourhood to existing park lands.
5. Construction of fencing along the boundary between the proposed residential lands and Brown Drive / Kinsmen Park.
6. That all residential buildings on the lands will be constructed to meet the EnerGuide 80 Energy Standard.
7. That a minimum of 10% of the multi-family units will be constructed as adaptable units as defined by the BC Building Code.
8. Provision of a comprehensive stormwater management plan with any future development.

A current copy of the title as well as the existing covenants and all other registered charges requirements are all included with this submission as part of Schedules D and E1-6. To date, all of the commitments registered against the property have either been honoured and/or have been accounted for in planning for development of the site. Of particular note, the new lot for Habitat Humanity was included in Phase 1 of the development and was transferred concurrently with registration of the subdivision.

More recently, the current owner submitted an application to the Town of Ladysmith in 2019/2020 to rezone the properties to facilitate a potential lower density development of the site. This would have involved down-zoning most of the multi-family areas to facilitate additional Single and Two Unit Dwelling development.

Council, at their August 18, 2020 meeting, provided their feedback on the proposal, and were clear in their comments and their motion that they did not support amendments to the zoning which would have the effect of *decreasing* density and producing a more conventional lower density subdivision. The Town has also subsequently developed and adopted a new OCP, which contains policies which only serve to reinforce and support the feedback provided by Council in 2020.

Townsite Planning was engaged by the developer in 2022 to develop a new vision for the project, taking into account Council's views, best planning practices, and present housing market realities.

Upon reviewing the video / minutes of the August 18, 2020, we noted a number of key themes coming out of that discussion, in terms of what Council would like to see included with the planning and zoning for these lands. Key messages from Council at that time were:

1. *"Decreased building footprints and increased building height";*
2. *"Build / expand upon the provisions outlined in the existing CD-3 zone";*
3. *"Additional / higher densities";*
4. *"Parking at ground level / under-building with residential units above";*
5. *"Protecting significant existing forest cover and environmental features on the site".*
6. *"Development of a network of trails"; and,*
7. *"Connectivity between existing parks and trails through this site to lands beyond".*

In response, we have addressed all of these key points in our updated application and believe that we have developed a plan and draft zoning that will allow for the creation of a neighbourhood that will produce positive benefits for not only the Owner, but also for the Town of Ladysmith and both future and existing residents of the neighbourhood.

3.0 – OCP & ZONING CONTEXT

The subject properties are currently designated almost entirely for **Multi-Family Residential** under the Town of Ladysmith's new OCP Bylaw No. 2200, except for a small area on the eastern boundary which is designated for **Neighbourhood Residential** in proximity to the existing residential areas to the east. The remainder of the site is designated as **Park**, with lands previously dedicated in order to protect existing riparian areas, provide community parks and open space, and in order to satisfy statutory park dedication requirements.

Of note, this application does not require or propose to amend the OCP or alter the existing OCP land-use designations. We have developed a plan and new zoning for these lands that aligns with the Town's vision, as established in the OCP.

As previously noted, the entire site is currently subject to the zoning provisions contained in the **Comprehensive Development Malone Residential (CD-3) Zone** under Bylaw No. 1860, which was developed and adopted in 2014.

We have developed a draft / updated CD-3 Zone and CD-3 Zoning Map (Schedules J & K) to reflect the requested amendments to the CD-3 zone necessary to facilitate the proposed development contemplated in our application.

Schedule I provides a detailed illustrative concept which outlines the potential form and location of development that would be permitted under the updated CD-3 zone.

This plan (Schedule I) contemplates potential apartment buildings in the multi-family areas (Area C), however, the CD-3 zone would also allow for a range of multi-family uses in these areas, and so it is entirely possible that portions of Area C would be developed for different forms of housing, such as townhouses or patio homes. These types of developments would result in lower overall densities but are still keeping with OCP policy guidance.

What remains consistent, however, is a commitment – through the proposed zoning and the amenity contributions and commitments outlined in this application – that significant portions of the multi-family lands will be retained in their natural state in order to respect existing ecological features and provide for development that is built *into*, instead of on the natural environment.

Each of the areas within the CD-3 zone, along with the proposed changes, are discussed in more detail below:

3.1 CD-3 – AREA A & AREA B

Areas A & B comprise the lands adjoining Hunter Way. The current CD-3 zone contemplates a mix of Single- and Two-Unit Dwellings in Areas A & B and currently allows for a minimum of two (2) units (SFD and secondary suite) on some lots and up to four (4) units (duplex with secondary suites) on others. In short, the key proposed changes to Areas A & B are intended to allow for the development of four (4) units on all lots, as well as increasing the range of housing forms / options (e.g.

townhouses, fourplexes, etc.). This change was strongly encouraged by the Community Planning Advisory Committee (CPAC) and aligns with the Province's mandate as established through the adoption of Bill 44 (SSMUH). These changes will significantly increase opportunities for smaller and more affordable residential units, both owned and rented.

There are also a number of other minor modifications to the CD-3 zone with regard to lot coverage and Floor Space Ratio, etc. These proposed changes are highlighted in Schedule J.

3.3 CD-3 – AREA C

Area C currently comprises the majority of the remainder of the property and is where the most substantive changes to the CD-3 zone are proposed. Area C currently contains three (3) distinct physical parcels, totalling 3.674 ha (9.08 acres) of land.

The current CD-3 Area C zoning allows only for a maximum of 103 units and 2.5 stories (10.0 m) in building height. If fully built out, this represents a density of only 28 units per ha, or 11.34 units per acre. This is extremely low density for a multi-family area.

By comparison, single-family density is generally accepted to be in the range of +/- 15-20 units per ha, whereas most multi-family designations typically encourage densities in the range of 60-100 units per ha. In addition, the significant limitations within the current zoning (as discussed below) would likely only allow for the development of townhouses within the multi-family areas.

Using an average unit size of 1400 square feet (130 square metres) for a typical 3-bedroom townhouse, the Floor Space Ratio (FSR) under current zoning would end up being approximately 0.35.

The current OCP identifies a minimum (FSR) expectation of 1.0, and up to a maximum of 2.2. Compared to the most likely development scenario under the current CD-3 zoning, the new OCP requires at least three times (3x) and as much as six times (6x) as much square footage within Area C. To be clear, the current zoning falls well short of and does not align with the Town of Ladysmith's OCP policies for multi-family areas.

Also, as noted, the current CD-3 zoning only allows for a maximum building height of 10 metres (2.5 stories). By comparison, The Town of Ladysmith OCP encourages building heights of up to six (6) stories (6-storey wood-frame buildings can now be constructed under the BC Building Code) in multi-family areas.

It is clear that the current zoning does not align and is not consistent with the new OCP, and that additional density and alternative building forms should be supportable in this area. Key proposed changes within the updated / draft CD-3 zone for Area C are outlined in the table below:

| | EXISTING CD-3 ZONE | TOWN OF LADYSMITH OCP | DRAFT / PROPOSED CD-3 ZONE |
|---|---|--|---|
| PERMITTED USES | <ul style="list-style-type: none"> Multi-Unit Dwellings | <ul style="list-style-type: none"> Diverse mix of residential types and tenures | <ul style="list-style-type: none"> Multi-Unit Dwellings Townhouses Two Unit Dwellings (Max. 10%) Single Unit Dwellings (Max. 10%) |
| FLOOR SPACE RATIO | <ul style="list-style-type: none"> 0.66 Permitted 0.35 Estimated Actual | <ul style="list-style-type: none"> Min. 1.0 Max. 2.2 | <ul style="list-style-type: none"> Min. 1.0 (as per OCP) Max. 2.2 (as per OCP) |
| BUILDING HEIGHT | <ul style="list-style-type: none"> 10 m (2.5 Stories) | <ul style="list-style-type: none"> 6 stories | <ul style="list-style-type: none"> 6 stories (as per OCP) |
| UNDERGROUND / UNDER-BUILDING PARKING | <ul style="list-style-type: none"> None required | <ul style="list-style-type: none"> Encouraged | <ul style="list-style-type: none"> Any building with 4 or more residential floors will be required to provide underground / under-building parking. |

Table 3.3.1 – Proposed Key CD-3 Zoning Amendments

1. In accordance with OCP policy, which supports a broader range of land uses, the range of potential Principal Uses in Area C (which currently permits only Multi Unit Dwellings) has been expanded to also include Townhouses, Two Unit Dwellings and Single Unit Dwellings. The purpose here is to provide for greater flexibility for a variety of different residential projects on these lands, including the possibility of apartments, townhouses and patio homes, etc. Of note, there is a limitation proposed within Area C on the number of Single Unit and Duplex Dwellings (max. 10%) in order to discourage this use generally, utilizing it only where site limitations warrant consideration (e.g. on a patio home site where site limitations might only facilitate or allow for one or two additional units). The focus in this area is clearly on apartment and townhouse style developments.
2. In accordance with OCP policy, the maximum building height in the CD-3 zone has been increased to the lesser of 21.0 m or 6 stories. Of note, for any building (apartment) that contains either 5 or 6 stories, we have suggested that the upper floor of the building must be setback at least 1.5 m from the face of the remainder of the building in order to create enhanced building articulation and reduce the impact of massing.

3. In accordance with OCP policy, which encourages the use of underground / underbuilding parking, for any building within Area C that contain 4 or more floors of residential use, the building footprint must be designed to accommodate underground / under-building parking (except for common and mechanical areas).
4. There are also a number of other minor modifications to the CD-3 zone with regard to lot coverage, parcel area, etc. These proposed changes are highlighted in Schedule J.

Ultimately, there are many reasons that we believe that Council should support the proposed zoning amendments and the resulting development potential that they would create. There are dozens of OCP policies which support our application, however it is not feasible to address each policy specifically. As stated earlier in this report, every effort has been made to incorporate and implement critical OCP policies into every aspect of our submission.

Some of the key reason that we believe this application is supportable include:

- Perhaps most importantly, the proposed land uses and densities are fully supported by and consistent with the Town of Ladysmith OCP. The current zoning does not meet OCP goals and objectives related to the provision of a range of housing types, affordability and density.
- There is an existing well-built network of collector roads within the neighbourhood. Malone Road / Roberts Street and Dunsmuir Crescent / Symonds Street provide excellent vehicular access to and from this site and to numerous community facilities and services. We have also included a number of proposals within our application that will augment the existing pedestrian and cycling network, creating new and increased opportunities for active transportation for both existing and future residents in this area.
- The site is located within walking distance from the following community facilities:
 - 400 m – BC Transit stops (corner of Malone Road and Dunsmuir Crescent)
 - 780 m – Frank Jameson Community Centre
 - 750 m – Ladysmith Secondary School
 - 725 m – Ladysmith Primary School
 - 950 m – Ladysmith Fire Hall
 - 1000 m – Ladysmith RCMP Detachment
- Increased building heights (as per OCP) are proposed within this development and are located west of any existing residential development and at the western extent of the Town's current corporate limits and will have no impact on any existing or surrounding residential landowners.

- From a density perspective, the Town of Ladysmith's previous OCP targeted a density of 60 units per ha in areas designated for multi-family development. The new OCP contains policy and regulatory guidance that supports higher densities based on targeted Floor Space Ratios (Min. 1.0 – Max. 2.2) and building heights (up to six (6) stories), which could theoretically allow for 700+ residential units within Area C as shown (at a F.S.R. of 2.2).
- The illustrative concept plan provided with our application would facilitate the construction of approximately 500-600 residential units across the entire site, which reflects the unique characteristics of the site (see further below). The project, as proposed, would be in the mid-range of the density spectrum contemplated in the OCP.
- From a planning perspective, each site must be considered on its own merit and take into account the unique characteristics of the property and its surroundings. While this site has excellent access to numerous key local services (parks, transit, schools, downtown, etc.) we are in the low-mid range for multi-family density in acknowledgement of the following constraints:
 - location near the western edge of the Town's current boundary;
 - unique environmental characteristics that warrant and require protection;
 - topographical constraints; and
 - adjacency to a primarily low-density neighbourhood (noting that there is, however, a 70-unit townhouse development directly to the southeast of this site)
- In accordance with the approach outlined in the new OCP, the draft CD-3 zone does not contain a specific density cap, rather we are proposing zoning provisions which align with OCP policies related to building form (multiple forms), heights (up to 6-stories) and floor space ratio (Min. 1.0, Max. 2.2).
- Approval of this application will secure affordable rental and home ownership opportunities as well as secured purpose-built rental units. This will be achieved through our formal commitments (s.219 Covenant / Housing Agreement) as well as informally through more flexible zoning that allows for the construction of a broader range of residential unit types and sizes.

4.0 ECOLOGICAL CONSIDERATIONS

We acknowledge that the original CD-3 zoning was developed and put in place with significant consideration for broader environmental and ecological considerations. This was discussed by Council at their August 18, 2020 meeting, is a critical component of the new OCP, and is noted specifically in the current purpose statement for the CD-3 zone:

"The purpose of the Comprehensive Development 3 Zone is to accommodate a mixed residential neighbourhood with a range of housing options and densities. Emphasis is placed on protecting the natural ecosystems and landscape through comprehensive site planning."

In recognition of these important ecological considerations, the developer engaged Madrone Environmental to prepare an updated Ecological Assessment for the subject property in order to review key environmental features and provide updated recommendations for protection (see Schedule L). The report confirmed that there are no significant environmental features that require protection, such as new or previously identified riparian areas, but does acknowledge those areas that have already been protected (e.g. riparian areas / watercourses) through previous application processes.

The Ecological Assessment did identify that there are two rocky outcrops within Area C-1 that do have broader environmental value. In acknowledgement of the environmental goals outlined in the OCP, along with the previous development objectives identified for this site, we are proposing to cluster the development within Area C-1 (see Schedule I), to the southern portion of the area, allowing for protection of a minimum of 33% of that block of lands (0.85 ha / 2.1 acres) in its natural state. We had originally proposed that this would be achieved through registration of a Section 219 covenant to prevent land alteration / removal of vegetation, however, following discussion with Staff the owners have agreed that they would be prepared to dedicate these lands as municipal park as an Amenity Contribution.

In addition, we recognize that interface wildfire has become a critical consideration for all new developments, but in particular for those lands located at or near the edge of built-up urban areas, adjoining rural and forested lands.

The developer engaged Strathcona Forestry to provide a comprehensive Wildfire Assessment, in order to ensure that best practices are utilized in the planning and development of this site. This assessment is attached as Schedule O. The Wildfire Assessment provides for a series of recommendations and discusses best practices for implementation at the development and building stage in order to mitigate fire risk. The report does also recommend that a secondary / emergency access be included as part of the development, either as a gated road or trail. This issue is further discussed in Section 6.0 below.

5.0 PARKS & OPEN SPACE

The dedication and protection of park lands, environmental areas and green spaces in this area has taken place incrementally and through multiple processes over the past +/-25 years.

The 0.85 ha (2.1 acres) of land proposed to be dedicated for municipal park within Area C-1 (33% of Area C-1) represents 12.5% of the current overall development site (approx. 6.80 ha) and is in addition to the 0.36 ha (0.89 acres) (5.3%) of land previously dedicated and/or committed for park dedication and riparian protection, etc. with initial phases of development following successful rezoning in 2014.

In total, supporting this application will result in approximately 1.21 ha (3.0 acres / approximately 18% of the site) being protected through park dedication, which is approximately 3.6X greater than the

legislative park dedication requirements (5%).

Furthermore, this is also in addition to the 2.58 ha of land that was transferred to the Town of Ladysmith in approximately 2001, which allowed for a substantial expansion to the south of the Kinsmen / Brown Drive Park to protect and provide dedicated public access for forested areas with bike trails and for watercourse / riparian protection.

In total, including the commitments contained as part of our application, out of the original 10.30 ha parent parcel that existed in 2001, a total of 3.65 ha (greater than 35%) of the original lands have been or will be protected from development for park lands, riparian protection and protected green space.

We believe this represents an excellent balance between development, parks and open space and ecology.



Figure 5.1 – Neighbourhood parks and protected lands (Existing and Proposed).
Source: Bennett Land Surveying / Townsite Planning

6.0 SERVICING / INFRASTRUCTURE CONSIDERATIONS

Please see the attached Servicing Report (Schedule M) from Newcastle Engineering, which provide additional detail regarding proposed servicing and existing infrastructure and system capacities required to accommodate the proposed development.

In general, infrastructure installed to date as part of this development is sized sufficiently to accommodate the anticipated housing forms and densities included as part of this application. Subsequent to our original application submission, the Province introduced and adopted Bill 44, which resulted in the need for the Town to complete infrastructure analysis work to determine the impacts of introducing additional density. Based on this work, we are now aware of some downstream sanitary sewer capacity issues that will need to be addressed as part of the phasing of this development, recognizing that existing areas, other potential development lands, and DCC's will all also likely be part of the overall discussion regarding the timing and logistics of downstream system upgrades.

In addition, the Town identified in a pre-application meeting that provision of a secondary / emergency access may be necessary as a result of the proposed increase to the density. This was also a recommendation within the Wildfire Hazard Assessment.

Following review, we have determined that there are only two viable / potential options for emergency access:

1. The first option would be to provide for an emergency access from the west end of Hunter Way, north through the BC Hydro transmission corridor / right-of-way north to Davidson Road (approx. 300 m). We contacted BC Hydro (who hold a right-of-way over those lands) and they indicated that they had no concerns with the possibility of an emergency access located below their transmission lines. Unfortunately, when we reached out to the landowner (Timberwest / Mosaic), they indicated that they were unwilling to grant a right-of-way over their lands to facilitate the construction of an emergency access. It was very clear in their correspondence that this was a direct result of the Town's decision not to support their application for annexation to bring these lands within the Town's municipal boundaries in 2014. Efforts on our part to continue the conversation with Timberwest or seek alternatives that might allow Timberwest / Mosaic to change their position have not yielded any positive results to date.
2. The second option would be to construct an emergency access from the north side of the new park lands on the north side of Hunter Way, through Brown Drive Park, to the intersection of Colonia Drive and Brown Drive.

Our proposal would see the construction of a 3.0 - 3.5 m wide permeable surface multi-use path through the park between the two roads, that would be designed and constructed to

also accommodate an emergency vehicle. Emergency access routes are very rarely (in some cases never) used for emergency purposes, meaning that this infrastructure will act as a pedestrian and cycling connection through the park, virtually 100% of the time. It will also provide enhanced park access for Parks Operations vehicles.

As part of this commitment and in the interest of providing for enhanced connectivity and access for all ages and abilities, we have also proposed to construct a 2.0 - 3.0 m wide permeable surface multi-use path (amenity) within the park from the east end of this link, south to connect to the existing playground.

These significant active transportation amenities will allow for pedestrians, cyclists, parents with strollers and those in wheelchairs full access to the park and to connect this new neighbourhood to the existing neighbourhood to the east. These multi-use path connections also align perfectly with Council's *Brown Drive Park / Kinsmen Playground Implementation Plan (Phase 2, Item #4)* and the previous commitments for the construction of a parking / staging area along Hunter Way within Phase 3 (Phase 1, Item # 4).

We believe that no additional trees would need to be removed from the park (as this connection would be constructed along the same alignment as the underground utilities that were recently installed to service the development), however, the developer is prepared to replace any tree that was ultimately required to be removed from within the park on a 2:1 basis.

As an emergency access route, Option #2 (through the park) is significantly shorter (approx. 200 m) than Option #1 (300 m) and is a much easier route to navigate as Option #1 would have some significant topographic constraints. In the event of a potential interface wildfire, an emergency access to the east (through the park) is also much more likely to be of use and valuable than would an emergency access that is likely headed towards the source of any potential wildfire (lands to the west).

Ultimately, we believe there is a potential win-win here with Option #2 that allows for both improved public safety as well as new public amenities and enhancements to the existing park lands and neighbourhood connectivity.

The current CD-3 zoning allows for a maximum of 146 residential units and currently has no requirements for an emergency / secondary access. We also further note that a secondary access typically isn't required until there are a minimum of 150 residential units (re: Fire Underwriters Survey), therefore we anticipate that the emergency access wouldn't be required to be constructed until at least that many units had been constructed.

We note also that there is an existing culvert crossing the small watercourse (presumably also used by Parks Operations vehicles) within the park, and that the developer may need to upgrade that crossing to accommodate emergency vehicles.

Alternatively, we would request that the Town either assist us in our efforts to work with Timberwest/Mosaic or reconsider this potential requirement to provide for emergency access. It would seem to be unfair for the Town to impose a requirement for secondary access but then not be willing to work with the developer to satisfy this requirement given that the Town is directly involved in the decision-making and history related to both options.

We would also point out that, even without an emergency access connection allowing for vehicular access, there will always be an emergency access for residents between Hunter Way and Colonia Drive, by simple virtue of the existing and anticipated park lands. These are public lands and are available for public use at all times. In the event of any number of hypothetical emergency scenarios where Malone Road is completely blocked at the entrance to the development, it will always be possible for people to physically get in and out (on foot) of the development by using this connection through public lands.

7.0 PROPOSED GREEN BUILDING & DESIGN FEATURES

Green building & design considerations are a critical component of any new development proposal, as both municipal Planners and elected officials seek to balance and achieve density and affordability, while decreasing the impact that new development has on the natural environment. This development incorporates numerous green building and development features to support this goal.

Every aspect of this development has been reviewed under an environmental lens in order to determine how best to create a new neighbourhood that minimizes impact on the natural environment.

Key commitments in this regard include:

1. Clustering of development on the multi-family portions of the site in order to protect the existing forest canopy and ecological features on the site. This protection ensures that roughly 25% of the existing tree canopy within the developable area (min. 33% within Area C-1) will be protected.
2. Working with the natural topography and identification of preferred building locations and orientation within Areas C-1, C-2 and C-3 in order to minimize site disturbance and land alteration.
3. Installation of a minimum of two (2) new trees per principal unit within Areas A and B in order to re-establish a new tree canopy within the developed areas of the site over time. This is anticipated to add approximately 120-130 new trees in Area A and B. Lands within Area C (multi-family sites) will be required to provide comprehensive landscape plans – which will likely introduce hundreds of additional new trees – as part of subsequent Development Permit applications.
4. On each multi-family site (Area C-1, C-2, and C-3) projects will be designed, and infrastructure will be installed at the time of development in order to allow for the future installation of Level 2 electric vehicle chargers for each parking stall on the site.
5. As per provincial and municipal regulations, all Part 3 and Part 9 buildings are now required to be constructed to meet Step 3 of the BC Energy Step Code.
6. Protection for all watercourse and key environmental features both on and near the site.
7. Reduction of impermeable surfaces through requirement for underground/underbuilding parking for any residential building with four (4) or more residential stories.
8. Reduction of Malone Road cross-section (width) through the site in order to increase traffic safety and decrease impermeable surfaces (re: storm run-off).

9. Construction of approximately 300 m of permeable multi-use path and approximately 650 m of soft surface trail network, as well as construction of approximately 160 m of new concrete sidewalk on the north side of Malone Road from the site entrance to the intersection of Colonia Drive. These amenities will significantly enhance walkability and access to active transportation options (walking, cycling, transit) for area residents
10. Provision of comprehensive stormwater management plans with all development in order to effectively manage rain and storm water leaving the site, from both a water quality and quantity perspective.

8.0 COMMUNITY AMENITY CONTRIBUTIONS

As required by the Town of Ladysmith, we have reviewed the Town's *Community Amenity Contribution* policies, including recent updates outlined in the new OCP. The developer acknowledges that an increase in density creates increased demand on existing municipal resources and community services.

To this end, the developer is prepared to provide a number of additional amenities (beyond those already committed), which we will believe will offset the potential impact generated by an increase in density and provide for tremendous additional benefits that will enhance both the new development as well as the broader existing neighbourhood and community. To be clear, these new community amenity contributions are in addition to those already agreed upon with the previous rezoning approval in 2014.

The details and specifics of all proposed new amenities will be secured through registration of a Section 219 covenant(s) prior to adoption of the zoning bylaw amendment. In addition, all constructed amenities shall be built to municipal standards and in accordance with plans prepared by a civil engineer and shall be subject to approval for construction by the Town of Ladysmith. Proposed timing for the construction of any physical amenities is addressed with each commitment as per below:

1. EXCESS PARK DEDICATION



Figure 8.1 – Excerpt from Illustrative Site Plan identifying general location of 0.85 ha / 2.1 acres of protected green space.

Developer Commitment: As previously noted, park dedication requirements (5%) have already been satisfied for this development through previous dedications (5.3%). However, acknowledging the impact that additional density brings, the Owners are prepared to

dedicate a further 2.1 acres / 0.85 ha (minimum of 33% of Area C-1) of forested lands for natural green space and for public use.

The new park dedication area within Area C-1 will include both of the rocky knolls and will be as identified generally on the attached Illustrative Site Plan prepared by Townsite Planning Inc. This amenity is to be secured via registration of a Section 219 covenant with language outlining the minimum commitments prior to adoption of the zoning bylaw amendment. Dedication of the new park lands will occur as part of the first subdivision of the lands within Area C.

2. PUBLIC NATURAL TRAIL SYSTEM (ON-SITE)

Developer Commitment: Construction of approximately 650 metres of public trail system (1.0 - 1.5 m soft surface), within Areas B and C (dedicated park lands).



This will also include construction of an offset concrete staircase, with resting areas (benches) within the proposed park lands on the south side of Hunter Way, all as identified generally on the Illustrative Site Plan prepared by Townsite Planning Inc.

This amenity is to be completed prior to issuance of Final Occupancy of the first residential unit for lands located on Area C-1.

Figure 8.2 – Image of proposed similar natural trail through Area C-1.
Source: www.destinationwestport.com/directory/cong-forest-nature-trail

3. PUBLIC MULTI-USE PATH SYSTEM (OFF-SITE)

Developer Commitment: Construction of a 3.0-3.5-metre-wide permeable surface multi-use path (designed and constructed to also serve as an emergency access) to connect from the end of the parking area within the park lands on the north side of Hunter Way, through Kinsmen / Brown Drive Park to the intersection of Colonia Drive and Brown Drive (approx. 200 l.m.), including potential culvert crossing upgrades / replacement as required. Included also as part of this amenity will be the replacement of any tree that is required to be removed (none are anticipated to be removed) from the park to facilitate construction on a 2:1 basis.

This amenity will also include construction of a 2.0-3.0-metre-wide permeable surface multi-use path (not required for emergency access) within Kinsmen / Brown Drive Park from

the park gate at / near the Colonia Drive / Brown Drive intersection south to the existing pedestrian entrance to the park at the playground (approx. 80 l.m.).

These multi-use path amenities are to be completed prior to issuance of Final Occupancy of the 147th residential unit within the entire development area (Areas A, B, C-1, C-2 and C-3).

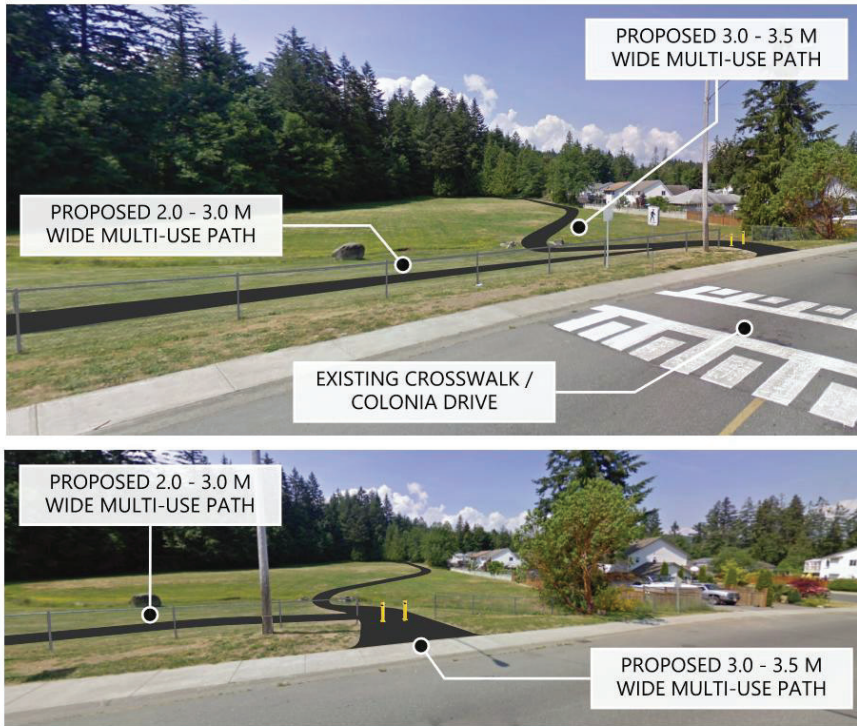


Figure 8.3 – Rendering of proposed Multi-Use Path through Kinsmen / Brown Drive Park.
Source: Google Maps / Townsite Planning Inc.

4. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE

Developer Commitment: On each multi-family site parcel (Area C-1, C-2, and C-3), projects will be designed, and infrastructure will be installed at the time of development in order to allow for the future installation of Level 2 electric vehicle chargers for each parking stall on the site. This amenity is to be completed as a condition of future Building Permits for each of the projects in Area C-1, C-2 and C-3.

5. AFFORDABLE HOUSING

Developer Commitment: Within the multi-family lands (Area C-1, C-2, and C-3 collectively), a minimum of 10% of the total residential units will be secured for affordable housing, which is defined as *"a residential housing unit, either owned or rented, that is made available at a rental rate or purchase price below fair market value"*. All housing units designated as an affordable housing unit, regardless of tenure, shall remain designated as such in perpetuity, unless otherwise agreed upon by the Town of Ladysmith.

An Affordable **Rental** Housing Unit shall be rented to a qualified tenant at a rental rate that does not exceed 30% of the median household income for the Ladysmith Census Agglomeration Area according to Statistics Canada.

An Affordable **Ownership** Housing Unit shall be sold to a qualified purchaser at a purchase price not greater than 90% of the Fair Market Value, as determined by an Appraiser (AACI) within 90 days of the projected sale date of the unit.

This commitment may be combined with the previous commitment to provide for a minimum of 10% of the multi-family units as adaptable units as defined by the BC Building Code (i.e. a unit may be both adaptable and affordable and would count towards the minimum 10% threshold for both commitments). This commitment will be secured through registration of a Section 219 Covenant and/or a Housing Agreement, as part of the Zoning Bylaw adoption process.

6. NEW SIDEWALK (OFF-SITE)

Developer Commitment: Construction of approximately 160 metres of new concrete sidewalk on the north side of Malone Road, directly adjoining the existing concrete curb, between the entrance to the site and the intersection of Malone Road and Colonia Drive to eliminate this significant gap in the Town's sidewalk network. This amenity is to be completed in conjunction with construction of the servicing for the next phase of the subdivision within Area B.

7. TREE PLANTING

Developer Commitment: A minimum of two (2) new trees will be installed within the front and/or rear yard (min. one tree within front yard area) for each principal dwelling unit within Areas A and B, including provisions for a \$500 deposit payable at the time of Building Permit to ensure tree installation and survival for one (1) year). Any forfeited deposits (or where planting of the required trees is not feasible), the deposit funds will be used by the Town's Parks Department to add new trees within existing neighbourhood parks.

8. PUBLIC PARK / PLAYGROUND IMPROVEMENTS

Developer Commitment: A cash amenity contribution of \$50,000 will be made to the Town of Ladysmith to be used for any improvements / upgrades to the Brown Drive Park / Kinsmen Playground that the Town deems beneficial. This amenity is to be paid prior to issuance of the first Building Permit for lands located on Area C-1, C-2 or C-3.

9.0 – SUMMARY

In closing, we believe that the development proposed with this application represents exactly the type of development that is specifically targeted and supported in the Town of Ladysmith OCP. Our application, including the plan and draft CD-3 zone introduce and allow for a broader range of housing densities, forms and tenure not currently permitted under existing zoning.

However, of equal importance, our application also respects surrounding neighbourhoods and existing community character, provides fantastic opportunities for outdoor recreational opportunities, encourages and enhances the use of active transportation, and protects critical ecological features and functions found both on site and within nearby protected lands.

When combined with the significant amenities and benefits that the developer is offering to provide to both new and existing community and area residents, we believe that the proposed development represents a significant net benefit for the Town and neighbourhood and community residents.

Finally, in consideration of the new OCP and the extensive comments from Council at the August 18, 2020 meeting – where it was clear that Council envisioned greater potential for this site than was either proposed at that time or was possible under the existing CD-3 zoning – we believe that we have responded to that feedback and produced a plan that better represents Council's vision for this site and allows the community to realize the goals set out in the OCP.

We thank you sincerely for your consideration.

END OF DOCUMENT



June 27, 2024

Town of Ladysmith
Development Services Office
132C Roberts Street
Ladysmith, BC V9G 1A2

Our File: 22-05RZ (MALONE)

Attn: Jake Belobaba, Director of Development Services

Re: APPLICATION FOR REZONING – SUPPLEMENTAL SUBMISSION

LOT A, DISTRICT LOT 126 OYSTER DISTRICT, PLAN VIP73132, EXCEPT PART IN PLAN EPP23747

Dear Mr. Belobaba,

Please accept this letter as a supplementary submission in support of our existing application to amend the CD-3 zone within Bylaw No. 1860 in order to update a few specific considerations that have changed since our original submission was made in December 2023.

1. Protected Green Space

Further to recent conversations between yourself and the owner, we wish to confirm that the owner is prepared to dedicate the lands in a location generally identified within Area C-1 on the Illustrative Site Plan as "*Protected Green Space*", as park land to the Town of Ladysmith. We have also further reviewed our planning work and are prepared to increase the amount of the dedication from 0.77 ha / 1.9 acres (as currently identified on the Illustrative Site Plan) to a minimum of 0.81 ha / 2.0 acres. This commitment would be secured through the rezoning process as a requirement to be completed prior to issuance of the first Development Permit on Area C-1, allowing the Owner to work with the Town to refine the exact boundaries of the dedication (maintaining the minimum dedication threshold of 0.81 ha / 2.0 acres) once more detailed site planning and building locations are confirmed on the developable lands.

2. Changes to CD-3 Zone re: SSMUH / Bill 44 Requirements

On June 27, 2024, Council adopted Bylaw No. 2186, which dramatically amended the Zoning Bylaw to reflect the implementation of the requirements contained within Bill 44. As a result, the existing or default CD-3 zone has now been amended and differs from what we had

submitted in December, 2023. The implementation of Bill 44 and the adoption of Bylaw 2186 have also allowed us to consider how those changes to the CD-3 zone will affect the owner moving forward in Areas A and B. As a result, attached please find an updated submission for a draft CD-3 zone which reflects:

- a) the changes to the CD-3 zone brought into effect through Bylaw No. 2186 on June 24, 2024.
- b) the re-introduction of a "Unit Count Cap" for Area C (C1-C3). The existing CD-3 zone provides for a unit count cap of 103 units. We had previously removed that unit count cap as the Town appeared to be focused (in the new OCP) on building heights and FSR, however, for clarity / certainty, the Owner is prepared to confirm a unit count cap of 400 units for Areas C1-C3, as discussed on the illustrative site plan and the engineering servicing report included with our original application.

While we acknowledge that this represents a significant increase to the current unit count cap, it is important to consider this in the context of the new OCP. The new OCP supports a minimum FSR of 1.0 and a maximum FSR of 2.2 on these multi-family lands. Over 3.7 ha (total area) and using an average apartment unit size of +/- 900 ft², this means that the OCP would support between 370 and 800 units in Areas C1-C3. Obviously environmental and topographical constraints influence site planning, which is why we have ended up at the lower end of that spectrum, but essentially, we are requesting only roughly half of the density supported in principle by the OCP, while also offering to dedicate 0.81 ha / 2.0 acres of park land to the Town.

- c) a change to eliminate the proposed differential parcel area requirements for Areas A and B (450 m² for single family and 600 m² for duplex). The draft bylaw now reflects the recent updates to require a minimum area of 668 m² for all parcels.
- d) one additional minor adjustment that would allow for the construction of a maximum of two principal buildings in Area B only, where the parcel area is greater than 780 m². This provision does not change the permitted principal uses in Area B (Single Dwelling, Two Unit Dwelling), rather it would simply - on select lots within Phases 2-4 that meet the 780 m² area requirement – allow for the construction of two principal buildings (e.g., two duplex buildings without secondary suites, or two single dwellings with secondary suites).

We believe this change to allow for two principal buildings on selected lots (greater than 780 m²) in Area B is beneficial as it will facilitate the development of a broader mix of lot sizes, housing types and unit sizes in the development. Based on the current PLA layout, there would be a total of eleven (11)

lots that would be large enough to accommodate two principal buildings (>780 m²), and twenty-one (21) lots that would be <780m² (but >668 m²) and therefore limited to one principal building.

Maintaining the 780 m² area threshold in order to have two principal buildings will mean that Areas A and B will not have any more units that would have permitted prior to the adoption of the SSMUH regulations, as the lots that meet this area threshold are already permitted to have four (4) units. This means that the previously discussed concept of registering a covenant to restrict density in Area C in order to transfer that density to Areas A and B, would not be required.

It will also, by virtue of the minimum parcel size and the corresponding site standards, facilitate the construction of smaller and therefore more affordable duplex units (3-bedroom, single car garage, +/- 1,450 ft²). This can be achieved without compromising or exceeding any of updated zoning bylaw site standards (re: setbacks, lot coverage, building height, etc.) and it is not anticipated that any subsequent variances will be required. As currently structured, the zoning for duplexes with suites would most likely see the construction of 1,800-2,000 ft duplex units, each with a two-car garage, plus a 6-700 ft² secondary suites.

Finally, as the Strata Property Act now prohibits stratas from restricting rentals, all four (4) of these units (two duplex buildings) would be rentable, meaning there is just as much potential for rental units was with a duplex with secondary suites.

In closing, while we had been hopeful that Bylaw No. 2186 would have ultimately had a broader mix of housing types / options available, we do wish to express our acknowledgement and appreciation for the tremendous amount of work that Staff have undertaken to analyze these legislative requirements and bring forward such substantive changes to the Zoning Bylaw, including changes that benefit and introduce opportunities for the Malone Road project, in such a short time.

We look forward to working with the Town to continue to refine our application as we continue to move forward through the rezoning process. Please contact us if you have any questions or concerns regarding the information contained herein.

Sincere Regards,



Scott W. Mack, M.Arch., B.Sc. (PLAN), MCIP, RPP
Managing Partner | Registered Professional Planner

TOWNSITE PLANNING INC.
t: 250.797.2515
e: scott@townsiteplanning.ca

cc: Owners – 1250655 BC LTD.
Kailen Elander – Newcastle Engineering

ATTACHMENT F



October 21, 2024

Town of Ladysmith
Development Services Office
132C Roberts Street
Ladysmith, BC V9G 1A2

Our File: 22-05RZ (MALONE)
Your File: ZBL 23-10 Lot A Malone Road

Attn: Jake Belobaba, Director of Development Services
Andrew Wilson, Planner (File Manager)

Re: APPLICATION FOR REZONING – SUPPLEMENTAL SUBMISSION
LOT A, DISTRICT LOT 126 OYSTER DISTRICT, PLAN VIP73132, EXCEPT PART IN PLAN EPP23747

Dear Messrs. Belobaba and Wilson,

Please accept this letter as a supplementary submission in support of our existing application to amend the CD-3 zone within Bylaw No. 1860 in order to update several specific considerations that have changed subsequent to our previous submissions and updates from:

- our original submission (December 2023);
- updated letter (June 24, 2024); and,
- the Community Planning Advisory Committee (CPAC) meeting (July 3, 2024).

We recently received a copy of the minutes from the CPAC meeting and the *Brown Drive Park Kinsmen Playground Implementation Plan* and discussed the committee's recommendations with Mr. Wilson. We also attended the CPAC meeting and provided a presentation and addressed questions from the committee.

CPAC ultimately passed the following resolution containing a number of recommendations, which we have addressed below:

- It was moved, seconded, and carried that the Community Planning Advisory Committee recommends that Council approve Zoning Bylaw Amendment application 3360-23-10 for Lot A District Lot 126 Malone Road with consideration for the following:
 - A CAP ON THE NUMBER OF SINGLE-UNIT AND TWO-UNIT DWELLINGS IN AREA C.
We had previously identified a cap only on the number of single units in Area C (10%), but the Owners have no concerns with expanding the 10% restriction to include two-unit dwellings as well, as recommended by CPAC.

- **EITHER FRONTLOADING THE PROPOSED AFFORDABLE HOUSING TO EARLIER PHASES OF THE DEVELOPMENT OR RENTAL TENURE ZONING IN AREA C.**

We spent a considerable amount of time discussing this item and how best to address the recommendation in a manner that satisfies the committee's interests, and the expectations outlined in the Town's OCP. In order to address this recommendation, we would propose the following.

1. A minimum of 10% of the units within Areas C-1, C-2 and C3 will be secured for *affordable housing* (ownership and/or rental); and,
2. A minimum of 30% of the units within Area C-1 will be designated and secured for *purpose-built rental housing* (affordable and/or market rental).

We believe this represents a significant contribution to the Town's OCP objectives related to the provision of both affordable as well as secured rental tenure housing. Based on the density range supported in the OCP and the draft CD-3 zone, this would provide for 30-60 affordable homes and 60-120 secured rental units depending on final unit count.

- **HIGHER PARCEL COVERAGE IN AREA C.**

As discussed with Staff, most multi-family areas in the Town of Ladysmith Zoning Bylaw allow for a parcel coverage of 50%. The Owners have no concerns with increasing the parcel coverage in the CD-3 zone from 40% to 50%, as recommended by CPAC.

- **PERMITTING FOURPLEXES IN AREAS A AND B.**

The committee spoke at length about their desire to see a greater diversity of housing within Areas A and B, including the possibility for triplexes, fourplexes, townhouses, etc. The Owners have no concerns with this recommendation from CPAC, which will significantly expand opportunities for affordable home ownership. This also aligns with our previous request to allow for two (2) principal buildings (i.e. two duplex buildings) on parcels greater than 780 m².

This change within Areas A and B will provide for a modest increase in the potential number of units, above what is already permitted as per the zoning in place prior to the implementation of the new Small-Scale Multi-Unit Housing (SSMUH) legislation and zoning (re: downstream sanitary sewer constraints). The current PLA (based on pre-June 2024 zoning) accommodates a total of 32 lots and a maximum of 86 units in Areas A and B:

- 21 lots greater than 668 m² accommodating two (2) units each (total 42 units); and,
- 11 lots greater than 780 m² accommodating four (4) units each (total 44 units).

Based on the current draft of the updated CD-3 zone, if each of these 32 lots was fully developed with 4 units, that would result in a maximum total of 128 units, a potential increase of 42 units over and above the current zoning (max. 86 units). The current zoning for Area C allows for a maximum of 103 residential units. As per previous discussions with Staff, we would propose to register a covenant against the CD-3 lands that would limit the total unit count on a temporary basis to a maximum of 189 residential units. If the permitted density is fully

utilized in Areas A & B, this would effectively temporarily limit development within Area C to a maximum of sixty-one (61) residential units (103-42), until such time that the downstream sewer capacity constraints have been addressed.

We acknowledge that the Town would prefer to have their lawyers draft this covenant language, however we would offer the following as a general suggestion for the potential language

- *Notwithstanding provisions otherwise contained in the CD-3 Zone of the Town of Ladysmith Zoning Bylaw 2014, No. 1860, the total number of residential units permitted within the CD-3 zone (all areas) shall be limited, on a temporary basis, to a maximum of one hundred eight-nine (189) residential units.*
 - *This temporary restriction shall remain in place until such time that downstream sanitary sewer capacity constraints have been resolved to the satisfaction of the Director of Engineering for the Town of Ladysmith.*
 - *Once these downstream sanitary capacity issues have been resolved to the satisfaction of the Director of Engineering for the Town of Ladysmith, the Town shall agree to authorize a Release of this charge, at which point the provisions of the Zoning Bylaw shall prevail.*
-
- **FENCING ALONG THE PARK BOUNDARY FOR BROWN DRIVE PARK INSTALLED PRIOR TO DEVELOPMENT.**

The fencing that has already been installed aligns with the boundaries of the Phases 1 and 2 of the subdivision. There is already a commitment / requirement that this fencing be continued adjacent to the park for Phases 3 and 4 of the development, thus the Owners have no concerns with this recommendation from CPAC to ultimately establish a consistent fencing standard between the development and the park lands.
 - **A MINIMUM FSR IN AREA C ALIGNED WITH OCP POLICY.**

The Owners have no concerns the CPAC recommendation to ensure that Area C is ultimately developed to meet the minimum FSR standards identified in the OCP (minimum FSR 1.0). We would propose that the 1.0 FSR minimum be applied as an average over the three sites within Area C, which will allow for some flexibility to account for challenging topography as well as to potentially include some townhouse development within the multi-family areas.
 - **BROADENING THE POTENTIAL USES OF THE PROPOSED \$50,000 CASH CONTRIBUTION TO ALLOW IT TO BE SPENT ON OTHER PARK IMPROVEMENTS.**

The Owners are supportive of the CPAC recommendation to broaden the potential uses for the \$50,000 for improvements within Brown Drive Park. The owners would be happy to see these funds used on any one of the positive and beneficial improvements identified in the *Brown Drive / Kinsmen Playground Implementation Plan*.

ADDITIONAL ITEMS – EMERGENCY ACCESS

Further to additional discussions with Staff and having now received a copy of the *Brown Drive Kinsmen Park Implementation Plan*, we have updated our proposal for emergency access and improvements within Brown Drive Park to better align with the recent work done by the Town of Ladysmith with local residents.

We were pleased to see that our proposed emergency access routing aligns almost exactly with the proposed primary pathway connection between the Hunter Way parking lot and Colonia Drive. We understand that Staff would prefer to see this emergency access / pathway connection, along with the connection across to the playground, developed with a permeable surface (rather than asphalt as proposed) and we will work with staff to find a mutually acceptable permeable and accessible surface and alignment for these pathways at the time of development in order to meet the objectives of the *Brown Drive Kinsmen Playground Implementation Plan*.

In addition to serving as an emergency access, construction of this amenity by the Developer will essentially complete Phase 2, Item No. 4 of the Implementation Plan at no cost to the Town or taxpayers. This is in addition to construction of the parking / staging area within the park lands adjoining Hunter Way (Phase 1, Item No. 4 of the Implementation Plan), which has already been secured through the previous rezoning application.

ADDITIONAL ITEMS – AREA C TOTAL UNIT CAP

Our original application proposed to eliminate the unit cap from Area C (currently 103 units) in the draft CD-3 zone and replace it instead with regulations related to Floor Space Ratio (FSR) and building heights. Our rationale for this approach was that it matched the Town's OCP, which focusses on FSR and building heights to regulate density, rather than hard unit caps or u/ha.

Shortly before the CPAC meeting we received direction from staff that including a unit cap may be desirable and we accommodated this suggestion in our updated draft on June 28, 2024. We proposed a cap of 400 units as that aligned generally with the conceptual work that has been completed to date. At the CPAC meeting, although it did not ultimately factor into the recommendations, there was significant discussion about whether there should be a unit cap, with the committee strongly suggesting that there should not be a hard unit cap in order to allow for greater flexibility and potential additional density within the scope of the density ranges identified in the OCP.

Mr. Belobaba advised the committee that at the very least that Staff would prefer to see a cap that related to / aligned with the Fire Underwriters Survey (FUS) standard for emergency access. It is our understanding that the FUS generally recommends the following:

- *That prior to development of the 151st unit, a second access (for emergency services) to the site should be provided (in addition to primary access from Malone Road); and,*
- *That prior to development of the 601st unit, a third access (for emergency access) to and from the site should be provided (in addition to primary access from Malone Road and the first emergency / secondary access).*

In order to strike a balance between the committee and Staff preferences, the owners would propose that minimum and maximum densities in the multi-family area be established in the CD-3 zone that align with the OCP, and that a Section 219 covenant be registered against the property to establish unit counts related to the provision of emergency access in relation to established FUS standards as identified above.

CLOSING

Overall, we were very pleased with what appeared to be a strong level of overall support for this project from CPAC, and we feel that we have been able to appropriately satisfy all of the requests and recommendations from both the committee as well as Staff, with this revised and updated proposal.

We look forward to working with the Town to continue to refine our application as we continue to move forward through the rezoning process. We are eager to present our application to Council for first, second and third reading and look forward to discussing potential Council dates with Staff at your earliest convenience. Please contact us if you have any questions or concerns regarding the information contained herein.

Sincere Regards,



Scott W. Mack, M.Arch., B.Sc. (PLAN), MCIP, RPP
Managing Partner | Registered Professional Planner

cc: Owners – 1250655 BC LTD.
Kailen Elander – Newcastle Engineering

Attachments:

Appendix A – Updated List of Community Amenity Contributions / Commitments (as of October 21, 2024)
Appendix B – Updated Draft CD-3 Zone (as of October 21, 2024)
Appendix C – Updated Illustrative Site Plan (as of October 21, 2024)

Appendix A - Updated List of Community Amenity Contributions / Commitments

(as of October 21, 2024)

1. Minimum 0.85 ha (2.1 acres / 33%) Area C-1 to be dedicated as municipal park land. While the Illustrative Site Plan identifies the general area for this dedication, the specific park boundaries will be refined and confirmed through subsequent subdivision and/or Development Permit but will at a minimum include the two rocky knolls identified by Madrone Environmental.
2. Minimum 10% of all residential units in Area C1, C2 and C3 (est. 30-60 units depending on final unit count) will be secured for affordable housing, as per the definition outlined in the Ladysmith OCP.
3. Minimum 30% of all residential units in Area C-1 (est. 60-120 units depending on final unit count) will be secured for purpose-built rental housing (affordable and/or market).
4. 160 l.m. of new off-site concrete sidewalk on the north side Malone Road to connect Colonia Drive to entrance of development.
5. \$50,000 cash contribution towards park improvements identified in the *Brown Drive Kinsmen Park Implementation Plan*.
6. Approximately 650 l.m. of permeable soft surface path / trail system through new dedicated park lands and multi-family lands within Area C-1.
7. Approximately 300 l.m. of off-site accessible permeable pathway (also designed and constructed to serve as emergency access) to connect Hunter Way to Colonia Drive through Brown Drive Park, with connections to the Kinsmen Playground.
8. Infrastructure provided for future Level 2 electric vehicle charging stations for each parking stall in Area C.
9. Two (2) new trees per lot for each new parcel created in Area A and B.
10. All Part 3 and Part 9 buildings must meet Step 3 of the BC Energy Step Code (as per Provincial and municipal regulations).
11. Reduction of impermeable surfaces through requirements for underground/under-building parking for any building in Area C with four (4) or more stories and reduction to Malone Road cross-section / asphalt width (also provides for traffic calming and increased pedestrian safety).
12. Protection for all watercourses and key environmental features within and adjoining the site.
13. Provision for small-scale neighbourhood-oriented commercial uses within the proposed zoning.
14. Provision for comprehensive stormwater management plans with all development in order to effectively manage rain and storm water leaving the site from both a water quality and quantity perspective.



TOWN OF LADYSMITH

BROWN DRIVE PARK

KINSMEN PLAYGROUND
IMPLEMENTATION PLAN





Purpose of the Plan

In recent years, identifying potential uses at the park, recreational bike trails were added through a collaborative effort between the Town and the Cowichan Trail Stewardship Society Ladysmith Chapter and many youth from the community. The Ladysmith Resources Centre Association currently operates the Storybook Walk Through, a Memorandum of Understanding with the Town. Both amenities provide opportunities for families and youth to gather as community. The Kinsmen playground is the centre of most of the parks activities

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Town of Ladysmith



Overview

History

Brown Drive Park is a neighbourhood park situated where Brown Drive meets Colonia Drive, offering a large open green space with a small brook. The Kinsmen Club of Ladysmith with community partners installed new playground equipment in phases a decade ago and has since been titled Kinsmen Playground. According to the Town's Park Bylaws, the original name of the park is Hill Top Park and it was dedicated under this name in 1984. The community commonly refers to it as Brown Drive or Kinsmen Park.

Brown Drive Park Defining Characteristics:

- **Open Space** – Offering multiple opportunities for unstructured and structured play.
- **Kinsmen Playground** – The centre of most of the activities on the site and a popular destination for children of various age groups.
- **Small Brook** – Very popular with children and an excellent opportunity to teach children about the water cycle and the environment.
- **Storybook Walk** – A community collaboration with key community stakeholders that has become extremely popular and is an excellent example of multigenerational experiential programming.
- **Recreational Bike Trails** – A youth driven community building project involving the community, volunteers and many of the youth who ride and enjoy the trails.
- **Walking Trails** – Very popular amongst hikers, bikers and dog walkers. These trails are also an entry point that connects to the trails system beyond the Town boundary.

Emerging Themes

Considering the user experience and the overall feedback from the community, the following themes represent how Brown Drive Park can continue to be a safe, enjoyable, inviting and engaging space. They reflect the experiences people want to see and the practical applications to achieve this.



Community Engagement

The Town of Ladysmith hosted an in-person public engagement event at the Park in early summer 2022 to gather feedback on potential park and amenity improvements. The event was attended by close to 50 community members supported by Town staff and members of the Parks, Recreation & Culture Advisory Committee.

Temporary panels were installed at four key focus areas in the park: Green Space, Forest Area, Playground and Open Space. The public was encouraged to leave feedback and perspectives on improvements by leaving a notes and comments on the panels.

The public engagement approach encouraged an open dialogue by allowing the public to both review comments and make their own suggestions, ask questions and highlight their own experiences in the space. A BBQ was held in conjunction with this event.



Key Messages

- Ensuring meaningful recognition of First Nations in the park, including development of interpretive elements and hul'qumi'num language.
- Improve overall accessibility and connectivity between park amenities through pedestrian access.
- Park identification/dedication.
- Education of the water system, native plants and ecological restoration.
- Utilizing existing 'passive' and 'active' areas.
- Keeping the Park natural.
- Focus on improvements and enhancements without changing the parks atmosphere.

Implementation

EXISTING

- ① Kinsmen Playground
- ② Washrooms
- ③ Storybook Walk
- ④ Recreational Bike Trails
- ⑤ Bike Skills Terrain Trail
- ⑥ Open Play Space

PHASE 1

- ① Bridge for Safe Crossing of Small Brook
- ② Park benches
- ③ Drinking fountain
- ④ Parking/Staging Area

PHASE 2

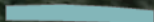
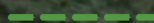

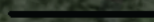
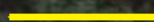
- ① Playground Improvements
- ② Seating
- ③ Small Brook Enhancements & Naturalization
- ④ New Accessible Pathway
- ⑤ Gazebo

PHASE 3

- ① New Washroom Building
- ② Connectivity to the Overall Parks and Trail Systems.

Potential Future Priorities:

- Ensuring meaningful recognition of First Nations in the park, including development of interpretive elements and hul'qumi'num language.
- Improve overall accessibility and connectivity between park amenities through pedestrian access.
- Park identification/dedication.
- Education of the water system, native plants and ecological restoration.
- Utilizing existing 'passive' and 'active' areas.

-  Creek
-  Park Boundary
-  Walking Trails
-  Bike Trails
-  Entry/Proposed Entry

Detailed Phase Descriptions

PHASE 1 1-2 YEARS

- Accessibility Audit.
- Park Benches (with arm rests located at playground, and perimeter trail park benches).
- Bike rack/repair station.
- Walking bridge over brook along main foot path in forest.
- Introduce naturalization and protection of the brook.
- Complete Recreational Bike Trails Skill Development section.
- Drinking fountain.

PHASE 2 2-3 YEARS

- Tree planting & native vegetation.
- Gazebo/picnic shelter.
- Accessible walking path around the perimeter of park.
- Continue naturalization of the brook with information on the water cycle with interpretive signage.
- Natural exercise options in the forest along main trail.
- Natural log benches along edge of brook for viewing.
- Swing for older children and accessible swing set.

PHASE 3 3-5 YEARS

- Signage and connectivity to the overall Town and Regional trail system.
- Naturalization of the western edge of the open space.
- New washroom building.



Park Amenity Priorities & Timeline

The following amenities are included in the Phasing Plan, with each identified as a high, medium or low priority and with an estimated timeline and order of magnitude cost. Some items are a high priority, but due to the potential high costs are not likely to be feasible in the short term.

| | |
|--------|---|
| HIGH | Items identified as a safety concern, must have through the community engagement integral to the success of the park. |
| MEDIUM | Lower risk items identified through the public engagement process that would enhance the park. |
| LOW | Park amenities that are desired but not integral to the success of the park. |

| Amenity | Priority | Timeline |
|---|-------------------|----------|
| Accessibility Audit | HIGH | PHASE 1 |
| Addition Park Benches | MEDIUM | PHASE 1 |
| Community Garden | FOR CONSIDERATION | |
| Bike rack and repair station | MEDIUM | PHASE 1 |
| Walking bridge over brook along main foot path in forest | HIGH | PHASE 1 |
| Introduce naturalization and protection of the brook | MEDIUM / ONGOING | |
| Complete Recreational Bike Trails Skill Development section | MEDIUM | PHASE 1 |
| Adding drinking fountain/water bottle fill station | HIGH | PHASE 1 |
| Add Hul'qumi'num translation for Hilltop Park | FOR CONSIDERATION | |
| Tree planting & native vegetation | MEDIUM | PHASE 2 |
| Gazebo/picnic shelter | MEDIUM | PHASE 2 |
| Accessible walking path around the perimeter of park | HIGH | PHASE 2 |
| Continue naturalization of the brook with information (interpretive signage) on the water cycle | MEDIUM / ONGOING | |
| Natural exercise options in the forest along main trail | MEDIUM | PHASE 2 |
| Natural log benches along edge of brook for viewing | LOW | PHASE 2 |
| Add swing for older children (e.g. friendship swing) | MEDIUM | PHASE 2 |
| Add accessible swing set | HIGH | PHASE 2 |
| Signage and connectivity to the overall Town and Regional trail system | MEDIUM | PHASE 3 |
| Naturalization of the western edge of the open space | MEDIUM | PHASE 3 |
| New washroom building | HIGH | PHASE 3 |

Public Engagement Event

This event was an opportunity to inform the community of the park planning process and to invite their input and engage them in a discussion to identify all the positive aspects of the existing park, identify potential opportunities and to identify any existing challenges and solutions to these. Many great ideas were shared and although it would be desired to accommodate them all in the plan, key priorities were identified to be included within the plan. Below is a list of all the comments from this session that were captured through comments and on idea boards.

Forest Area

- Circuit training course through forest for all levels of fitness.
- Leave trails as natural as possible – perfect for forest learning.
- More mountain bike trails.
- Bridge over stream.
- Bike park.
- Wider, accessible trails.
- Bridge over stream.
- Trail markers.
- Allow dogs on trail and in field.
- All dogs to be in the forest area and trails (on leash of course)
- More forested areas.
- My grandkids and I love the Storybook Walk. Thank you.
- Map or guide of trails and what is private/Town land.
- Make more bike trails and maps.
- Need a map.
- Keep it natural.
- Small disc golf course
- Bike trails!
- Bicycle 'tool' area to fix bikes (like at Rathtrevor)
- Climbing things, tire swing, zip line on top of trail.
- Expand the park to include more forest beyond the development.
- Protect the natural elements. Not everything needs to be accessible by all.
- Log benches by the creek for ease of watching play.
- The trails are already pretty awesome. General trail upgrades ?
- More, bigger trails? Bridge over brook? More wheelchair accessible?
- We are so grateful for the Storybook Walk.

Green Space

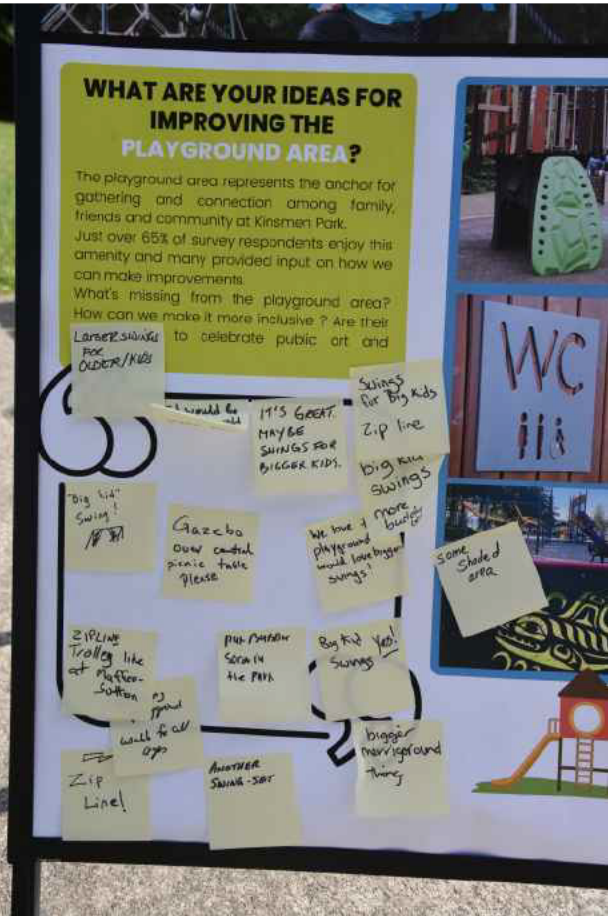
- Having more 'utilities' and support infrastructure – drinking. water fountain, covered picnic area.
- Mini splash park for kids.
- Second bathroom and spray park.
- One of the best multi-usage parks around.
- Maintain the creek as an amenity.
- Leave a natural gathering space for different impromptu activities – Frisbee, football, picnics etc.
- Revegetate the stream area more.
- Covered eating area.
- Keep natural, keep open space.
- Shelter and water bottle fill station.
- Water is great.
- Not all parks and their spaces need to be 'developed.'
- Let it be as wild (as possible).
- More benches.
- Cover the creek or put up a fence.
- Gazebos.
- Picnic shelter.
- Water fountain.
- Water park, water feature.

Open Space

- Creek great for nature learning.
- Leave nature in its natural form as much as possible.
- Leave the open field. We use it a lot. Perimeter benches.
- It would be great to have an area where dogs are allowed to be too.
- It would be great to add a water park.
- Allow dogs in the open field.
- Additional access gate at end of park near crosswalk.
- Small shelter/eat space like Transfer Beach.
- Trees on the far side provides shade for those who want it.
- Signage for leashed and voiced controlled dogs in the field.
- Two soccer goals with nets.
- Dog park area.
- Spray park.
- Community Garden.
- Leave a book, take a book.
- Fenced off leash area for dogs.
- Proper pump track at the back of the field (with maybe a mountain bike skills park).
- No dogs – leave big field for free play / multi-usage.
- More features like 'big rock' (Saltair).
- Dogs leashed under verbal control should be allowed on the field at off peak hours. It's a great space for pups.
- Love the open field and brook for open nature-based play.
- The hills are great for sledding in the winter.
- Theatre in the park for entertainment. Invite dance studies to perform at musical venues.
- Some park benches to rest and enjoy scenery and picnic tables too.
- Leashed dogs allowed (no off leash)
- Disc golf course.
- Goat farm where you can pet them.
- Water park.
- Multi-seasonal usage – sledding, leaf-play, etc.
- Dog park area.
- Picnic tables with big space for sports.
- The open green space is nice for kites, Frisbee, whatever.
- Some 'improvements' to the brook. Fruit trees along shore, little more accessible, replace culvert with a bridge.

Playground Area

- Larger swings for older kids.
- Amazing playground – usable for all ages.
- Zip line.
- Another swing set.
- Bigger merry-go-round.
- Zip line trolley like at Maffeo Sutton.
- Gazebo over central picnic table, please.
- We love the playground but would love bigger swings.
- Some shaded area.
- Big kid swings.
- It would be great to add swings for older kids.
- Swings for big kids. Zip line.
- It's great. Maybe swings for bigger kids.
- Big kid swings. More buddy benches.
- Big kid swing.
- Put (inflatable) bubble soccer in the park.





Town of Ladysmith
250-245-6424
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www.ladysmith.ca



MINUTES

Community Planning Advisory Committee

Wednesday, July 3, 2024 at 7:00 p.m.
City Hall Council Chambers, 410 Espanade

PRESENT: Members - Jennifer Aker; John Scott; Julika Pape; Tonya Soules; Keona Wiley; Anthony Price; Council Liaison – Marsh Stevens (via Conference Call); Director of Development Services & Recorder – Jake Belobaba

ABSENT: Member - Jason Robertson

GUESTS: Applicant - Scott Mack (file no. 3360-23-10)

Director of Development Services Jake Belobaba called the meeting to order at 7:02pm.

Jake Belobaba acknowledged with gratitude that Ladysmith is located on the unceded territories of the Stz'uminus First Nation.

1. AGENDA APPROVAL

It was moved, seconded, and carried that the Agenda of July 3, 2024, Community Planning Advisory Committee meeting be approved.

2. ADOPTION OF MINUTES

It was moved, seconded, and carried that the Minutes of May 1, 2024, Community Planning Advisory Committee meeting be approved.

3. COUNCIL REFERRALS

a. Zoning Bylaw Amendment Application 3360-23-10 – Lot A District Lot 126 Malone Road

Applicant Scott Mack from Townsite Planning gave a brief presentation on proposal.

It was moved, seconded, and carried that the Community Planning Advisory Committee recommends that Council approve Zoning Bylaw Amendment application 3360-23-10 for Lot A District Lot 126 Malone Road with consideration for the following:

- A cap on the number of single-unit and two-unit dwellings in Area C.
- Either frontloading the proposed affordable housing to earlier phases of the development or rental tenure zoning in Area C.
- Higher parcel coverage in Area C.
- Permitting fourplexes in Areas A and B.

- Fencing along the park boundary for Brown Drive Park installed prior to development.
- A minimum FSR in Area C aligned with OCP policy.
- Broadening the potential uses of the proposed \$50,000 cash contribution to allow it to be spent on other park improvements.

4. **NEW BUSINESS**

a. **Election of Chair**

Keona Wiley was elected as Chair.

5. **MONTHLY BRIEFING**

- 3360-22-07 - District Proposal (Lot A Holland Creek).
- Jake Belobaba provided a brief update on the Provincial Small Scale Multi-Unit Housing legislation.

6. **NEXT MEETING - TBD**

7. **ADJOURNMENT**

It was moved, seconded, and carried that the meeting be adjourned at 8:42 PM.


Chair (Keona Wiley)

RECEIVED:


Corporate Officer (S. Bouma)

STAFF REPORT TO COUNCIL

Report Prepared By: Kristine Hawkins, Revenue Accountant
Report Approved by: Erin Anderson, Director of Financial Services
Meeting Date: May 20, 2025
File No: 1820-01
RE: Adjustment to Water Billing Account – 2025, Q1,Q2

RECOMMENDATION:

That Council:

- 1) Provide a bill adjustment due to a water leak for 000-1050370-000 in the amount of \$3,340.74 and 000-0695000-000 in the amount of \$3,623.26; and
- 2) Determine if it wishes to provide a second water leak adjustment for account 000-0043000-000 in the amount of \$176.36.

EXECUTIVE SUMMARY:

The purpose of this staff report is to present to Council a request for water bill adjustments which are outside the scope of the Director of Finance's authorization to approve. They include second requests within a ten-year time period, as well as adjustment dollar amounts of more than \$3,000, so further approval by Council is necessary to adjust the billing amount. Property owners are required to repair the leaks on their property within 45 days of notification, and all but one property fulfilled this requirement.

PREVIOUS COUNCIL DIRECTION:

In 2017, Council amended "Waterworks Regulation Bylaw 1999, No. 1298" as follows:

39(3) Where any account is rendered pursuant to this section, the Director of Finance, in estimating the account, shall consider previous billing periods when such meter was registering correctly, seasonal variations, changes in occupancy, and any other factors which, in the opinion of the Director, may affect the consumption of water. The maximum adjustment amount is \$3,000 per account.

INTRODUCTION/BACKGROUND:

Water billing adjustments due to water breaks or leaks are permitted under "Waterworks Regulation Bylaw 1999, No. 1298". The adjustments are calculated using the consumption during the same period in the previous year as the baseline consumption.

Property owners are to repair the leak on their property within 45 days of the high consumption notification. The notification could be in the form of a notice placed at the property during the meter reading, a letter sent from the Town or the utility bill itself. Property owners can apply for one leak adjustment within a ten-year period.

Account No. 000-1050370-000 was notified by Town staff on March 20, 2025, of a higher than usual meter reading. It was determined a pipe was broken. The leak was repaired March 27, 2025, within the allowable time. If approved, the total amount of the adjustment would be \$3,340.74.

Account No. 000-0695000-000 was notified by Town staff on March 17, 2025, of a higher than usual meter reading. It was determined that there was a break in the main line. The leak was repaired April 17, 2025, within the allowable time. If approved, the total amount of the adjustment would be \$3,623.26.

Finally, account No. 000-0043000-000 noticed a broken pipe on February 28, 2025. The leak was temporarily repaired February 28, 2025, and permanently repaired March 6, 2025. This account previously received a leak adjustment in 2023 in the amount of \$289.00. As this is the second leak adjustment request, only Council may approve an adjustment to the account. If a second adjustment is approved, the total amount of the adjustment would be \$176.36.

ALTERNATIVES:

Council can choose to:

1. Not provide an adjustment to the water billing accounts.
2. Provide partial adjustment.
3. Increase the threshold amount delegated to staff.

FINANCIAL IMPLICATIONS:

Adjustments to water billing accounts affect the water revenues.

In 2025 to date, there were 19 adjustments due to service connection breaks, irrigation system leaks or unexplained consumption, ranging from \$41.71 to \$4,646.13, with the average adjustment amount of \$941.49.

LEGAL IMPLICATIONS:

N/A

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

Citizens are encouraged to repair any water leak quickly when it is discovered. The incentive of a potential adjustment supports repairs made in a timely manner.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The Public Works Utilities Department is involved in reading the meters, notifying property owners of high consumption and monitoring consumption until it returns to a normal range. Finance calculates the billing and any subsequent adjustments.

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|--|
| <input type="checkbox"/> Core Infrastructure | <input type="checkbox"/> Economy |
| <input type="checkbox"/> Official Community Plan Implementation | <input type="checkbox"/> Leadership |
| <input type="checkbox"/> Waterfront Area Plan | <input checked="" type="checkbox"/> Not Applicable |

I approve the report and recommendations.

Allison McCarrick, Chief Administrative Officer

STAFF REPORT TO COUNCIL

Report Prepared By: Richard Frost, Manager of Facility Operations
Reviewed By: Chris Barfoot, Director of Parks, Recreation & Culture
Meeting Date: May 20, 2025
File No: 1220-20
Re: Award FJCC Roof Replacement Tender

RECOMMENDATION:

That Council award the FJCC Roof Replacement Phase 1 - Tender 2025-PRC-01 to United Roofing (BC) Inc. in the amount of \$420,470.00 (excluding applicable taxes).

EXECUTIVE SUMMARY:

The Frank Jameson Community Centre (FJCC) has two roof sections (sections 6 and 8) that have reached the end of their life expectancy and require replacement. Based on a condition assessment conducted in 2023 and subsequent Council direction, staff initiated a competitive tender process in 2024 to have the 2 roofs replaced. However, due to all submissions being well above the existing budget, more funds were requested and allocated to make up project shortfalls.

In 2025, staff initiated the tender process, and United Roofing Inc. submitted the lowest compliant bid while demonstrating the ability to meet the project's timeline requirements. Staff recommend awarding the contract to United Roofing to allow completion during the scheduled facility shutdown window in late summer 2025.

PREVIOUS COUNCIL DIRECTION:

N/A

INTRODUCTION/BACKGROUND:

In 2023, Tremco Roofing & Building Maintenance conducted a comprehensive roof condition assessment of all Town of Ladysmith facilities. The assessment identified roof sections 6 and 8 at the FJCC as being in poor condition, with a recommendation for replacement in 2024.

Only 2 bid submissions were received in 2024. Both submissions exceeded the budget, so the tender was cancelled, and the project was deferred. In 2025, additional funds were requested and approved as part of the CVRD's Regional Recreation budget.

The Town then prepared Tender No. 2025-PRC-01 for Phase 1 of the FJCC Roof Replacement Project with an adjusted schedule, with assistance from roofing consultant Alpine Roofing. The tender was posted on BC Bid and the Town's website and closed on April 24, 2025. A total of four bids were received as shown below:

| Tenderer | Total Tender (excl. GST) | Days to Complete |
|--------------------------|--------------------------|------------------|
| United Roofing (BC) Inc. | \$420,470.00 | 19 |



| | | |
|-----------------------------------|--------------|----|
| G&G Roofing Ltd. | \$478,282.00 | 21 |
| Aurora Roofing Ltd. | \$548,000.00 | 21 |
| Nelson Roofing & Sheet Metal Ltd. | \$587,524.00 | 21 |

The evaluation process considered price as the primary factor, with secondary consideration given to schedule, references, and previous project performance.

United Roofing (BC) Inc. submitted the lowest bid at \$420,470.00. In addition to being the lowest bid, their bid included a shorter construction timeline. This is important given the facility's scheduled three-week shutdown period in August/September 2025.

Timely completion is critical to ensure the FJCC reopens as scheduled. United Roofing's proposal aligns with this requirement, reducing the risk of project delays and associated public disruptions.

ALTERNATIVES:

Council can choose to cancel or defer the project; however, this is not recommended based on the current condition of the roof.

FINANCIAL IMPLICATIONS:

The recommended contract award of \$420,470.00 is accounted for in the Town 2025-2029 financial plan and funded through the CVRD regional recreation function. Any cost savings realized must be reserved for regional recreation.

LEGAL IMPLICATIONS:

There are no anticipated legal issues with awarding this contract. The tender process was conducted in accordance with the Town's procurement policies.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

Failure to replace the roof sections poses a significant risk of water intrusion, potentially resulting in facility closures, damage to infrastructure, and loss of public services and revenue. Proceeding with this project during the planned shutdown minimizes disruption and supports the continued reliable operation of the FJCC.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Core Infrastructure | <input checked="" type="checkbox"/> Economy |
| <input type="checkbox"/> Official Community Plan Implementation | <input type="checkbox"/> Leadership |
| <input type="checkbox"/> Waterfront Area Plan | <input type="checkbox"/> Not Applicable |

I approve the report and recommendation.

Allison McCarrick, Chief Administrative Officer

INFORMATION REPORT TO COUNCIL

Report Prepared By: Sue Bouma, Manager of Corporate Services
Reviewed By: Allison McCarrick, CAO
Meeting Date: May 20, 2025
File No: 2320-20
Re: Recycling Management Services Agreement

RECOMMENDATION:

That Council:

1. Authorize the Mayor and Corporate Officer to sign the Solid Waste Management Services Agreement between the Town and the Cowichan Valley Regional District (CVRD);
2. Inform Recycle BC of the arrangement between the CVRD and the Town; and
3. Authorize the Mayor and Corporate Officer to sign the Recycle BC Statement of Work and the Master Services Agreement.

EXECUTIVE SUMMARY:

Following the closure of the GFL Chemainus recycling facility, Recycle BC designated Cascades Nanaimo as the dedicated receiving facility for the Town's recyclables. This new location is outside of the Town's regional district and presented logistical challenges for our contractor, Waste Connections, requiring them to backtrack from Bings Creek, where they deliver the Town's garbage and compost, to Nanaimo for recycling. Instead, they have been operating under an informal agreement with the CVRD to consolidate the recycling material at the Bings Creek facility. The Solid Waste Management Services Agreement (Attachment A) formalizes the arrangement between the Town and the CVRD. Staff will continue working with Recycle BC to secure Bings Creek as the dedicated receiving facility for the Town.

Staff also recommend executing the Recycle BC Statement of Work (Attachment B) and Master Services agreement (Attachment C) to ensure the Town continues to receive recycling rebates.

I approve the report and recommendations.

Allison McCarrick, Chief Administrative Officer

ATTACHMENTS:

- A. CVRD Solid Waste Management Services Agreement
- B. Recycle BC Statement of Work
- C. Recycle BC Master Services Agreement

SOLID WASTE MANAGEMENT SERVICES AGREEMENT

THIS AGREEMENT dated for reference the 1st day of April, 2025

BETWEEN:

COWICHAN VALLEY REGIONAL DISTRICT, a regional district under the *Local Government Act (BC)* and having an address at 175 Ingram Street, Duncan, British Columbia V9L 1N8

("CVRD")

AND:

TOWN OF LADYSMITH, a municipality under the *Local Government Act (BC)* and having an address at 410 Island Highway North, Ladysmith, British Columbia V9G 1B8

("Municipality")

WHEREAS:

- A. Pursuant to section 263(1)(b)(i) of the *Local Government Act*, the CVRD may enter into an agreement with the Municipality respecting activities, works or services within the powers of a Party to the agreement, including the undertaking, provision and operation of activities, works and services;
- B. Pursuant to section 23 of the *Community Charter (BC)*, the Municipality may make an agreement with the CVRD respecting activities and services within the powers of a Party to this Agreement, including agreements respecting the undertaking, provision and operation of activities and services;
- C. The CVRD owns and operates the Waste Management Facility herein described and is a party to the Master Services Agreement herein described;
- D. The Municipality provides Curbside Collection services herein defined for the collection, transportation and disposal of Solid Waste at the Waste Management Facility;
- E. The Municipality has requested and the CVRD has agreed to provide the Services, as herein defined, to the Municipality on the terms and conditions specified in this Agreement; and
- F. The Parties wish to enter into this Service Agreement to provide for the delivery of the Services by the CVRD to the Municipality and to settle the terms and conditions on which the CVRD will provide the Services.

NOW THEREFORE in consideration of the terms and conditions contained in this Agreement, the sufficiency of which is acknowledged, the Parties covenant and agree as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions: For the purpose of this Agreement:

- (a) **"Applicable Enactments"** means the enactments that are applicable to Curbside Collection and the Services, including the applicable bylaws of the CVRD;
- (b) **"Breach"** has the meaning described in section 8.4;
- (c) **"Curbside Collection"** means the collection, transportation and disposal of Solid Waste from residential properties;
- (d) **"End Date"** has the meaning set out in section 2.1;
- (e) **"Event of Force Majeure"** means an event that arises due to a cause beyond a Party's reasonable control including, without limitation, acts of God, fire, flood, disease outbreak, explosion, strikes, lockouts or other industrial disturbances or any material changes to laws, regulation or orders by any duly constituted governmental authority;
- (f) **"Fees"** has the meaning set out in section 4.1;
- (g) **"Garbage"** has the same meaning as "municipal solid waste" in the *Environmental Management Act*, SBC 2003, c. 53;
- (h) **"Master Services Agreement"** means the Master Services Agreement made between the Municipality and Recycle BC made as of November 30, 2013 and amended hereto;
- (i) **"Municipality"** means the Town of Ladysmith and its employees, agents and contractors;
- (j) **"Organic Waste"** means residential compostable food and yard waste collected at the curbside and accepted for consolidation at the Waste Management Facility;
- (k) **"Party"** means either of the CVRD or the Municipality and **"Parties"** means the Municipality and the CVRD collectively;
- (l) **"Recyclable Materials"** means residential materials collected curbside and accepted for recycling by the Recycle BC program and that are accepted for consolidation at the Waste Management Facility;
- (m) **"Recycle BC"** means MMBC Recycling Inc. carrying on business as Recycle BC, the entity with responsibility for the extended producer responsibility program for certain materials capable of being recycled in British Columbia;
- (n) **"Representative"** has the meaning described in section 9.1;

- (o) **"Services"** means the acceptance and consolidation of Solid Waste delivered by the Municipality or its contractors at the Waste Management Facility in accordance with the Statement of Work and all Applicable Enactments;
- (p) **"Solid Waste"** means source separated residential Garbage, Organic Waste and Recyclable Materials, or any one individually, generated by Curbside Collection by the Municipality;
- (q) **"Start Date"** has the meaning set out in section 2.1;
- (r) **"Statement of Work"** means SCHEDULE 2.1(g) of the Master Services Agreement, a reduced copy of which is attached as Schedule A;
- (s) **"Term"** is the period of time from the Start Date to the End Date, inclusive; and
- (t) **"Waste Management Facility"** means the Bings Creek Waste Management Facility located at 3900 Drinkwater Rd, Duncan, British Columbia and any other facility owned and operated by the CVRD at which Solid Waste may be consolidated for disposal.

1.2 Interpretation: In this Agreement:

- (a) the headings and captions used are used for convenience only and do not form part of this agreement and shall not be used to interpret, define or limit the scope or intent of this Agreement or any of its provisions;
- (b) a reference to an enactment, including a bylaw or ministerial order, includes every regulation made under the enactment, all amendments to the enactment in force from time to time, and any enactment that replaces, supplements or supersedes such enactment;
- (c) a word importing the masculine gender includes the feminine, neuter or transgender, a word importing the singular includes the plural, and in each case, vice versa; and
- (d) a reference to an agreement, approval, authorization, consent, waiver or notice means written agreement, approval, authorization, consent, waiver or notice.

1.3 Schedules: The following schedules are attached and form part of this Agreement:

Schedule A – Statement of Work for Consolidation and Transfer Services

2 TERM OF AGREEMENT

- 2.1 Term:** The Term will commence on April 1, 2025 (the **"Start Date"**) and end on the earlier of (the **"End Date"**): (i) the date that is five years after the Start Date; or (ii)

the date that termination in accordance with part 8 is effective. The Start Date may be extended with the consent of the Parties.

2.2 **Right of Renewal:** This Agreement may be renewed for an additional term of five years with the agreement of the Parties.

2.3 **Continuation of Services:** The CVRD may agree to continuing providing the Services after the expiry of the Term on a month-to-month basis without constituting a renewal, which Services will be provided on the same terms and conditions as this Agreement, including the obligation of the Municipality to pay any Fees as may be applicable.

3 PROVISION OF SERVICE

3.1 **Services:** As of the Start Date, the CVRD will provide the Municipality the Services on the terms and conditions set out in this Agreement.

3.2 **Service Standard:** The CVRD will provide the Services under this Agreement to the same standard and quality as such services are ordinarily provided by the CVRD through its own Electoral Area Curbside Collection program.

3.3 **Amendments to Services:** The provisions of this Agreement shall be binding on the Parties and, other than changes permitted to the terms and conditions under section 5.3, the Services will only be altered with the mutual agreement of the CVRD and the Municipality.

3.4 **No Obligation to Deliver Solid Waste to Waste Management Facility:** For greater certainty, the Municipality is not obligated to avail itself of the Services and the Municipality may deliver its Solid Waste, or part thereof, to another waste management facility in accordance with all applicable laws.

3.5 **Tonnage Data to be provided by Municipality:** Notwithstanding section 3.4, if the Municipality delivers any Solid Waste to another waste management facility, the Municipality shall provide the CVRD with tonnage data of all such Solid Waste delivered to another waste management facility during the calendar year by January 15th of the following year.

4 PAYMENT

4.1 **Payment for Services:** In consideration for the Services, the Municipality agrees to pay the CVRD the fees prescribed by the CVRD's *Bylaw No. 4412 – Solid Waste Fees and Regulations Bylaw, 2022*, as amended from time to time (the "**Fees**").

4.2 **Payment Due Date:** Payment will be due in accordance with the CVRD accounts receivable policies, and in no case less than thirty (30) days after the date of the invoice.

4.3 **Reduction in Fee:** There shall be no deduction or set-off from the Fees except as expressly permitted by this Agreement.

4.4 **CVRD Records:** Except for manifest errors in the calculation of the Fee, the CVRD's records relating to the performance of the Services will be conclusive in determining the amount of Services performed by the CVRD and used to calculate the Fee.

4.5 **Currency:** Unless stated otherwise in this Agreement, all sums of money are in Canadian dollars.

5 STATEMENT OF WORK AND APPLICABLE ENACTMENTS

5.1 **Waste Management Facility is Consolidation Facility:** The CVRD warrants and represents that throughout the Term of this Agreement, the Waste Management Facility will comply with all its requirements under Applicable Enactments and requirements of Recycle BC as a "Consolidation Facility".

5.2 **Municipality Compliance with Statement of Work and Applicable Enactments:** Without limiting the terms of this Agreement, the Municipality agrees that it shall comply with all of its obligations under Recycle BC's Statement of Work and Applicable Enactments.

5.3 **Changes to the Terms and Conditions:** If there are any amendments to Applicable Enactments or there are any amendments to the Master Services Agreement or the Statement of Work, or Recycle BC changes its program for Recyclable Materials, the CVRD reserves the right to change the terms and conditions on which it provides the Services in order to bring the Services into alignment with the changes in the Applicable Enactments, the Master Services Agreement, Statement of Work or with Recycle BC's program. The CVRD will provide thirty (30) days' notice to the Municipality of any such changes to the terms and conditions of the Services.

5.4 **Compliance with Laws:** The Parties must comply with all of the Applicable Enactments, provided that if there is any conflict between Municipality bylaws and CVRD bylaws with respect to Curbside Collection and the Services, then the CVRD bylaws shall prevail.

6 INSURANCE AND INDEMNITY

6.1 **Insurance:** With respect to insurance:

- (a) the Municipality shall take out and maintain, during the term of this Agreement, commercial liability insurance in the amount of not less than five million dollars (\$5,000,000) per single occurrence, naming the CVRD as an additional insured party thereto, and shall provide the CVRD with a certificate of insurance upon request by the CVRD; and
- (b) the policy of insurance shall contain a separation of insurer's cross liability clause in favour of the CVRD and the Municipality shall not cancel or change the insurance without first giving the CVRD thirty (30) days prior written notice.

6.2 **Indemnification by Municipality:** The Municipality hereby agrees to release and indemnify the CVRD and its elected officials, officers, employees, volunteers, agents and contractors from and against all claims, demands, complaints, actions, causes of action, suits, damages, losses (including personal injury and death), liabilities, expenses and costs (including, without limitation, actual legal fees and disbursements) (collectively "**Claims**"), arising from or in relation to any breach of this Agreement, act, omission, or negligence by the Municipality except to the extent that such Claims arise from any misconduct or negligence of the CVRD, its employees, contractors, agents, or anyone else for whom the CVRD is responsible at law.

6.3 **Indemnification by CVRD:** The CVRD hereby agrees to release and indemnify the Municipality and its elected officials, officers, employees, volunteers, agents and contractors from and against all Claims arising from or in relation to any breach of this Agreement, act, omission, or negligence by the CVRD except to the extent that such Claims arise from any misconduct or negligence of the Municipality, its employees, contractors, agents, or anyone else for whom the Municipality is responsible at law.

7 INTERRUPTION OF SERVICE

7.1 **Delays:** The CVRD will advise the Municipality of any delays or closures in performing the Services caused by weather, vehicle breakdowns, staff shortages, traffic, road conditions, or any other operational difficulties that may arise immediately before or during a scheduled collection day.

7.2 **Event of Force Majeure:** The CVRD will not be liable for its failure to perform any of its obligations under this Agreement due to an Event of Force Majeure nor do such failures constitute a default of the CVRD's obligations under this Agreement.

8 DISPUTE RESOLUTION, TERMINATION, AND SUSPENSION

8.1 **Dispute Resolution:** If the Parties to this Agreement are unable to agree on the interpretation or application of any provision hereof, or are unable to resolve any other issue in dispute pertaining to this Agreement, on notice by either Party to the other, the Parties agree:

- (a) first to promptly, diligently and in good faith, take all reasonable measures to negotiate an acceptable resolution to the disagreement in dispute;
- (b) second, if the Parties are unable to negotiate a resolution under paragraph (a) within sixty (60) days of the notice of dispute or disagreement, to request the assistance of a mediator, and such mediator to be mutually agreed upon by the Parties within thirty (30) days of receipt by a Party of a written notice requiring mediation, failing which the mediator will be appointed by the BC International Commercial Arbitration Centre ("**BCICAC**"). Such mediation will be conducted under the Commercial Mediation Rules of the BCICAC unless otherwise agreed by the Parties;

- (c) third, if the Parties are unable to resolve the dispute in accordance with paragraph (b), to refer the matter in dispute to arbitration to a single arbitrator pursuant to the *Arbitration Act* (BC) on the understanding and agreement that the decision of the arbitrator will be final and binding on the Parties. If the Parties are unable to agree on a single arbitrator and hear the dispute within sixty (60) days following the termination of the mediated negotiations set out in paragraph (b), an arbitrator will be appointed by the BCICAC; and
 - (d) unless otherwise agreed or decided by the arbitrator, costs shall be shared equally by the Parties.
- 8.2 **Suspension:** In the event that a Municipality has neglected, failed or refused to pay the Fee, the CVRD may suspend performing the Services until such time as any outstanding amounts have been paid by the Municipality. Where the Parties disagree on the obligation to pay under this Agreement, the CVRD will continue providing the Services while the Parties undertake dispute resolution under section 8.1.
- 8.3 **Termination:** In addition to any other right of termination under this Agreement, a Party may terminate this Agreement by providing not less than 90 days' notice to the other Parties. The Municipality agrees to pay CVRD such reasonable Fees as may have been incurred up to the time of notification of termination.
- 8.4 **Termination:** Provided that the dispute resolution provisions in section 8.1 have not been invoked, in the event that either Party (the "**Defaulting Party**") is in breach of, defaults, or otherwise fails to perform or observe any of its covenants or obligations in this Agreement (the "**Breach**"), the other Party may deliver written notice of such Breach to the Defaulting Party. If the Defaulting Party does not cure or otherwise perfect the Breach, and upon the expiry of not less than one (1) month from the date of the written notice referred to above, the other Party may immediately terminate this Agreement.
- 8.5 **No Compensation on Termination:** Except as specifically provided in this Agreement, neither the Municipality nor the CVRD will be entitled to any compensation or damages as a consequence of any termination of this Agreement.
- 9 DESIGNATED REPRESENTATIVES AND NOTICE**
- 9.1 **Designated Representatives:** The Parties shall by notice in writing designate a representative to act on their behalf with respect to the performance of this Agreement (the "**Representative**"), which Representative may be changed by a Party at any time during the Term on notice to the other Party.
- 9.2 **Communication:** The Representatives will attend an annual meeting of the Municipality and the CVRD to provide a report to the other Party's officials on the status of this Agreement/act as the principal contact for communications related to

this Agreement/establish a communication protocol and adhere to the protocol so established.

- 9.3 **Notice:** Unless otherwise specified in this Agreement, any notice required to be given by either Party shall be deemed to have been given if delivered by hand, mailed by prepaid registered mail or email at the following addresses or at such other address as the other Party may from time to time direct:

COWICHAN VALLEY REGIONAL DISTRICT

175 Ingram Street, Duncan, British Columbia V9L 1N8

Email: RWM@cvrld.bc.ca

Attention: Amanda Kletchko

TOWN OF LADYSMITH

410 Island Highway North, Ladysmith, British Columbia V9G 1B8

Email: _____

Attention: _____

Such notice shall be deemed to have been received if mailed, three (3) days after the time of mailing, or on the date of delivery if delivered by hand, or on the next business day if emailed. If normal mail service is interrupted by an Event of Force Majeure, then a notice sent by the impaired means of communication will not be deemed to be received until it is actually received, and the Party sending the notice shall utilize any other means of communication which have not been so interrupted or shall deliver such notice by hand in order to ensure its prompt receipt.

10 GENERAL

- 10.1 **Statutory Authority Reserved:** Nothing contained in this Agreement shall prejudice or affect the rights and powers of the CVRD or the Municipality in the exercise of its functions under any public or private statutes, bylaws, orders, regulations, or customs, all of which may be fully and effectively exercised as if this Agreement had not been executed and delivered by the Parties.
- 10.2 **Conflict with Applicable Bylaw:** In the event of a conflict between this Agreement and the bylaws of the Municipality, the provisions of this Agreement shall prevail and govern the obligations of the Parties.
- 10.3 **Governing Law:** This Agreement will be governed and construed in accordance with the laws of British Columbia and Canada and the Parties hereto attorn to the jurisdiction of the courts of British Columbia.
- 10.4 **Confidential Information:** The CVRD agrees that any of the information obtained from the Municipality or used by the CVRD its employees, contractors, and agents, in the course of providing the Services will be kept confidential by the CVRD and will not be used without the prior consent of the Municipality for any purpose other than the provision of the Services or as required by law, including the *Freedom of Information and Protection of Privacy Act*.

10.5 **Waiver:** Except as may be specifically agreed in writing, no action or failure to act by the CVRD or the Municipality shall constitute a waiver of any right or duty afforded either of them under this Agreement nor shall any such action or failure to act constitute an approval of or acquiescence in any Breach of this Agreement.

10.6 **Time:** Time is of the essence in this Agreement.

10.7 **Enurement:** This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective agents, successors and permitted assigns. Neither Party may assign, subcontract or transfer an interest in the Agreement without the prior written consent of the other Party.

IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the date first written above.

Executed on behalf of the COWICHAN VALLEY REGIONAL DISTRICT by its authorized signatories on _____, 2025.

Per: _____
(please sign)

Per: _____
(please sign)

Name: _____
(please print)

Name: _____
(please print)

Title: _____

Title: _____

Executed on behalf of the TOWN OF LADYSMITH by its authorized signatories on _____, 2025.

Per: _____
(please sign)

Per: _____
(please sign)

Name: _____
(please print)

Name: _____
(please print)

Title: _____

Title: _____

SCHEDULE A

COPY OF RECYCLE BC SCHEDULE 2.1(g) STATEMENT OF WORK
FOR CONSOLIDATION AND TRANSFER SERVICE

Attachment A

SCHEDULE 2.1(a)
STATEMENT OF WORK FOR CURBSIDE COLLECTION SERVICES PROVIDED BY LOCAL
GOVERNMENT

This Statement of Work is incorporated into and forms part of the Master Services Agreement made between Town of Ladysmith (“**Contractor**”) and MMBC Recycling Inc. carrying on business as Recycle BC (“**Recycle BC**”) made as of January 1, 2025 (the “**Agreement**”). The effective date of this Statement of Work (the “**SOW Effective Date**”) is January 1, 2025.

SECTION 1. Interpretation

- 1.1 Definitions. In this Statement of Work (including the attachments hereto), the following terms will have the following meanings. Capitalized terms used but not defined in this Statement of Work will have the respective meanings ascribed to them in the Agreement.

“**Agreement**” has the meaning set out on the first page of this Statement of Work.

“**Claim Information**” has the meaning set out in Section 3.3.2.

“**Collection Container**” means any reusable bin, box, tote, bag, open container or cart acceptable to Recycle BC used for household storage and curbside set-out of In-Scope PPP in the performance of this Statement of Work but, for the avoidance of doubt, may not include single-use bags.

“**Contractor**” has the meaning set out on the first page of this Statement of Work.

“**Curb**” or “**Curbside**” means a location within one metre of a Public Road or Private Road.

“**Curbside Collection**” has the meaning set out in Section 2.1.

“**Curbside Household**” means a self-contained dwelling unit providing accommodation to one or more people, including (i) single-family dwellings, (ii) buildings with up to four suites (iii) rowhouses and townhouses and, iii) secondary suites or carriage houses in each case where the resident of each unit is expected to individually deliver In-Scope PPP to the Curb for collection.

“**Curbside Household Baseline**” has the meaning set out in Attachment 5.

“**Customer**” means residents of Curbside Households within the Service Area.

“**Determined ICI Amount**” has the meaning set out in Section 2.1.1.

“**Hazardous Waste**” means any waste that may pose a risk to health, safety or the environment if not properly managed, including materials that are corrosive, reactive, toxic, leachable or ignitable (e.g. used oil, paint, pesticides, batteries, chemicals).

“**In-Scope PPP**” means the PPP set out in Attachment 2.1.2 and such other materials identified as In-Scope PPP by Recycle BC in writing from time to time.

“**Industrial, Commercial and Institutional**” or “**ICI**” means any operation or facility other than a residential premises as defined in the Regulation, including industrial facilities such as warehouses, distribution centres, manufacturing facilities; commercial facilities such as retail stores, offices, strip malls and vacation facilities, such as hotels, motels, cottages, cabins and rental, co-operative, fractional ownership, time-share or condominium accommodation associated with sports and leisure facilities (e.g., ski resorts); and, institutional facilities such as schools, churches, community

buildings, local government buildings, arenas, libraries, fire halls, police stations and residences at which medical care is provided, such as nursing homes, long-term care facilities and hospices.

“Missed Collection” means any failure of Contractor to collect In-Scope PPP that has been set out by a Customer on the Customer’s scheduled collection day by the appointed set out time.

“Multi-Family Building Collection” has the meaning set out in Section 2.1.7.

“Multi-Stream” means In-Scope PPP collected as segregated material categories. These categories may include Paper and Cardboard and Mixed Containers, with each category stream collected and maintained separate from each other.

“Not Accepted Materials” means, collectively, any material that is not PPP.

“Old Corrugated Cardboard” means paper-based material consisting of a fluted corrugated sheet and one or two flat linerboards. For clarity, waxed or coated old corrugated cardboard is excluded from this definition.

“Private Road” means a privately-owned and maintained right-of-way that allows for access by a service vehicle and that serves multiple residences.

“Public Road” means a public right-of-way used for public travel, including public alleys.

“Reduced Split Weighing” means a method whereby a subset of randomly selected collection vehicles of a Multi-Stream Contractor have each material category compartment weighed separately, and the results are extrapolated to calculate the split between the material categories on the remainder of the Contractor’s collection vehicles on a monthly basis, therefore eliminating the need for all collection vehicles to weigh each compartment individually.

“Resident Education Top Up” means a top up amount paid by Recycle BC to Contractor for the purposes of promotion, education and outreach programs in connection with PPP.

“Service Administration Top Up” means an amount paid by Recycle BC to Contractor for the purposes of administrative expenses associated with PPP program coordination, including office staff, data analysis and reconciliation, correspondence, office rent and office equipment.

“Service Area” means the geographic area delineated in Attachment 2.1.1.

“Service Commencement Date” means January 1, 2025.

“Single-Stream” means In-Scope PPP collected as comingled material categories. These categories may include Paper and Cardboard and Mixed Containers, collected together in the same Collection Container.

“SOW Effective Date” has the meaning set out on the first page of this Statement of Work.

“SOW Services” has the meaning set out in Section 2.

“SOW Term” has the meaning set out in Section 4.

“Transition and Implementation Plan” has the meaning set out in Section 2.4.

- 1.2 Attachments. As of the SOW Effective Date, the following Attachments form part of this Agreement (note that Attachment numbering is not sequential and is based on a related section reference):

| <u>Attachment</u> | <u>Description</u> |
|-------------------|--------------------------|
| Attachment 2.1.1 | - Service Area |
| Attachment 2.1.2 | - In-Scope PPP |
| Attachment 3.4 | - Service Level Failures |
| Attachment 5 | - Fees |

SECTION 2. Services

Contractor will provide, on the terms and conditions set out in the Agreement as supplemented and modified by the terms and conditions of this Statement of Work, the following Services (the “**SOW Services**”):

2.1 Curbside Collection Services. Beginning on the Service Commencement Date, Contractor will collect In-Scope PPP at Curbside from all Customers within the Service Area as further described in this Section 2.1 (“**Curbside Collection**”) and in accordance with the terms of the Agreement and this Statement of Work.

2.1.1 Service Area.

- (a) Notwithstanding the Curbside Household Baseline and subject to Section 2.1.2(i), Contractor is obligated to provide Curbside Collection from all Curbside Households in the Service Area.
- (b) Changes to the Service Area will be made in accordance with the change process set out in Section 2.2 of the Agreement.
- (c) Recycle BC may, in its sole discretion, approve Contractor to collect In-Scope PPP from a limited number of ICI locations. Contractor will collect In-Scope PPP only from ICI locations approved by Recycle BC in advance. Recycle BC shall have the right, exercisable at any time, in its sole discretion, to revoke its approval of any ICI locations.
- (d) Contractor will not be entitled to receive any Fees or other payments in respect of In-Scope PPP collected from ICI locations and will be solely responsible for all costs associated with the collection and post-collection management of In-Scope PPP collected from ICI locations. Recycle BC reserves the right to develop and apply a methodology, in its sole discretion, for calculating the amount of In-Scope PPP from ICI locations included in the Contractor-collected In-Scope PPP delivered to the Designated Post-Collection Facility (the “**Determined ICI Amount**”). Without limiting the generality of the foregoing, Contractor acknowledges and agrees that Contractor will be solely responsible for any costs or fees charged by the Designated Post-Collection Service Provider or Recycle BC in respect of the Determined ICI Amount.

2.1.2 PPP Materials.

- (a) Subject to the right of Contractor to reject In-Scope PPP that is not properly set out and subject to Section 2.1.4(d) and Section 2.1.4(f), Contractor will collect all In-Scope PPP from all Customers that is placed in Collection Containers or Customer-owned Collection Containers.
- (b) Where Contractor uses Collection Containers other than automated carts, Contractor will collect Old Corrugated Cardboard that is flattened and stacked by the Customer’s Collection Container (or stacked alone if no Collection Container

is present). Contractor will specify the appropriate measurements and size of flattened cardboard.

- (c) Materials collected by Contractor may not contain more than 5% by weight of Not Accepted Materials. Loads exceeding 5% by weight of Not Accepted Materials may be subject to rejection by the Designated Post-Collection Service Provider and may result in Service Level Failure Credits.
- (d) Materials collected by Contractor may not contain (i) any packaging containing Hazardous Waste; (ii) Foam Packaging; or (iii) Flexible Plastics.
- (e) If Contractor collects In-Scope PPP in Multi-Stream, Contractor must ensure that:
 - (i) loads of Paper and Cardboard do not contain more than 1% by weight of Mixed Containers; and
 - (ii) loads of Mixed Containers do not contain more than 3% by weight of Paper and Cardboard.
- (f) Contractor must ensure that loads of Paper and Cardboard and Mixed Containers (whether collected in a Single-Stream or a Multi-Stream) do not contain more than 3% by weight of Glass Bottles and Jars.
- (g) If Contractor collects segregated Flexible Plastics from other In-Scope PPP, Contractor must ensure that the loads of Flexible Plastics do not contain more than 5% by weight of Paper and Cardboard, Mixed Containers or Glass Bottles and Jars.
- (h) Contractor must ensure that loads of Glass Bottles and Jars do not contain more than 1.5% by weight of Not Accepted Materials and other categories of In-Scope PPP (individually or in the aggregate). Loads of segregated Glass Bottles and Jars exceeding 1.5% by weight of Not Accepted Materials and other categories of In-Scope PPP (individually or in the aggregate) may be subject to rejection by the Designated Post-Collection Service Provider and may result in Service Level Failure Credits.
- (i) Contractor will implement and maintain reasonable procedures to ensure that loads delivered to the Designated Post-Collection Facility comply with the requirements set forth in this Section 2.1.2, including procedures to monitor the content of collected materials and procedures to notify and reject material from Customers who do not comply with such requirements. Such procedures are subject to review by Recycle BC at any time and from time to time. If Recycle BC determines that such procedures are inadequate, Contractor will adopt such procedures as Recycle BC may reasonably require in order to ensure compliance with this Section 2.1.2.
- (j) Recycle BC will work collaboratively with Contractor to provide assistance and direction to support Contractor in ensuring that loads delivered to the Designated Post-Collection Facility comply with the requirements set forth in this Section 2.1.2, with the ultimate goal of continuous improvement.

2.1.3 Collection.

- (a) Contractor will not place limits on the quantity of In-Scope PPP collected from Customers. Where Contractor uses automated carts as the Collection Container,

the quantity of material collected may be limited to what can reasonably fit inside the Collection Container.

- (b) In accordance with Section 2.1.2(a) and Section 2.1.2(b), Contractor will pick up In-Scope PPP placed by Customers at the Curb along the collection vehicle route, which may be a Public Road or a Private Road.
- (c) Subject to Section 2.1.3(e), Contractor will perform Curbside Collection from each Curbside Household in the Service Area no more frequently than weekly and no less frequently than every two weeks.
- (d) Contractor may, in its sole discretion, provide a service to assist applicable Customers to carry or roll their Collection Containers to the Curb if they have demonstrated a medical need to Contractor in accordance with procedures determined and implemented by Contractor and reviewed and approved by Recycle BC.
- (e) If Contractor collects either Flexible Plastics or Glass Bottles and Jars segregated from other In-Scope PPP, Contractor will collect these materials from each Curbside Household in the Service Area no more frequently than weekly and no less frequently than once every month.
- (f) Contractor will make collections in an orderly, non-disruptive and quiet manner, and will return Collection Containers in their set out location in an orderly manner. The location of returned Collection Containers should not block sidewalks, driveways or street parking.
- (g) Contractor will perform Curbside Collection on a regular schedule, which may shift as necessary to accommodate holidays, extreme weather events, construction and other unforeseen events.
- (h) Subject to Section 2.1.2(a), Section 2.1.2(b) and Section 2.1.3(a), Contractor will not reject any In-Scope PPP set out by a Customer unless Customer is notified of the reason for such rejection.

2.1.4 Collection Containers

- (a) Except to the extent and on the conditions otherwise approved by Recycle BC in writing, Contractor will, at Contractor's cost, provide Collection Containers to each Curbside Household in the Service Area that provide Customers with sufficient volume to accommodate In-Scope PPP generated by Customers between collections so that Collection Container capacity is not a barrier to Customer use of the Curbside Collection service.
- (b) Except to the extent and on the conditions otherwise approved by Recycle BC in writing, if Curbside Households or geographical areas are added to the Service Area under Section 2.1.1(a), Contractor will deliver Collection Containers to any new Curbside Households added to the Service Area at least ten (10) Business Days prior to the start date provided by Recycle BC.
- (c) Except to the extent and on the conditions otherwise approved by Recycle BC in writing, Contractor will deliver a Collection Container to a requesting Customer within ten (10) Business Days of the Customer's initial request.

- (d) If any Customers choose to provide their own Collection Containers, Contractor will handle the Customer-owned Collection Containers in such a way as to prevent undue damage, and Contractor will be responsible for unnecessary or unreasonable damage to Customer-owned Collection Containers. Contractor is not required to collect materials from any Customer-owned Collection Container if (i) collecting material from such Collection Container would involve a risk of injury to Contractor personnel or risk of damage to Contractor or Customer property; (ii) the Collection Container is otherwise incompatible with Contractor's collection model; or (iii) Customer provided Collection Containers are prohibited by municipal bylaw.
- (e) If Contractor did not provide Curbside Collection from Curbside Households in the Service Area immediately prior to the Service Commencement Date, Contractor will deliver Collection Containers that meet the requirements set out in this Agreement to each Customer in the Service Area at least ten (10) Business Days prior to the Service Commencement Date unless otherwise approved by Recycle BC in writing.
- (f) Contractor may not collect In-Scope PPP in single-use bags.
- (g) If Contractor proposes to change the type of Collection Container it uses for Curbside Collection in the Service Area, Contractor will submit a detailed transition plan to Recycle BC a minimum of six (6) months prior to the scheduled or planned change. Any change to the type of Collection Containers used for Curbside Collection in the Service Area is subject to approval in writing by Recycle BC, which approval will not be unreasonably withheld.

2.1.5 Designated Post-Collection Facility

- (a) Contractor will deliver all collected In-Scope PPP to the Designated Post-Collection Facility on the day of collection, unless alternative arrangements have been approved in writing by Recycle BC. If Contractor is unable to deliver collected In-Scope PPP to the Designated Post-Collection Facility on the day of collection for an unforeseen reason outside Contractor's reasonable control, Contractor will deliver such collected In-Scope PPP to the Designated Post-Collection Facility on the next Business Day, unless otherwise approved by Recycle BC in writing, and will store such In-Scope PPP during the interim in a safe and secure manner. Contractor may not charge any amounts to the Designated Post-Collection Service Provider in connection with such storage. Contractor will not deliver In-Scope PPP to any location other than the Designated Post-Collection Facility or dispose of any collected In-Scope PPP without prior written authorization from Recycle BC.
- (b) Contractor will deliver all collected In-Scope PPP to the Designated Post-Collection Facility segregated, at a minimum, in the manner set out in Attachment 2.1.2.
- (c) If Contractor collects Paper and Cardboard and Mixed Containers in Multi-Stream, Contractor must unload both Paper and Cardboard and Mixed Containers in separate bunkers or locations, as directed by the Designated Post-Collection Service Provider. Loads delivered in violation of this Section 2.1.5(c), including as a result of driver error or mechanical failure, may be subject to a Service Level Failure Credit.
- (d) Contractor will follow all reasonable instructions and procedures regarding the delivery of In-Scope PPP as directed by the Designated Post-Collection Service Provider and Recycle BC, including instructions and procedures pertaining to

health and safety, Reduced Split Weighing, delivery and unloading of In-Scope PPP, audit procedures and weigh scale operation.

- (e) If Contractor is scheduled to collect In-Scope PPP from Curbside Households in the Service Area on a holiday, Contractor will coordinate directly with the Designated Post-Collection Service Provider and Recycle BC a minimum of ten (10) Business Days in advance of such holiday in order to schedule the delivery of such In-Scope PPP.
- (f) If the Service Area is within the Metro Vancouver Regional District, subject to Section 2.1.5(h), the Designated Post-Collection Facility will be located within 30 minutes (on average based on typical traffic conditions between 10 am and 2 pm Monday to Friday) from the Service Area boundary at the point of least distance to the Designated Post-Collection Facility.
- (g) If the Service Area is not within Metro Vancouver Regional District, subject to Section 2.1.5(h), the Designated Post-Collection Service Provider will locate the Designated Post-Collection Facility within sixty (60) kilometers from the Service Area boundary at the point of least distance to Designated Post-Collection Facility. If delivery to the Designated Post-Collection Facility requires the use of a ferry or barge, then delivery boundary is the ferry or barge terminal and the Designated Post-Collection Service Provider will be responsible for the portion of the trip that requires ferry or barge travel.
- (h) If, after using commercially reasonable efforts, the Designated Post-Collection Service Provider is unable to locate a Designated Post-Collection Facility in accordance with 2.1.5(f) and Section 2.1.5(g), as applicable, Contractor will not be required to deliver In-Scope PPP to the Designated Post-Collection Facility except on terms mutually acceptable to Contractor and the Designated Post-Collection Service Provider.
- (i) Recycle BC may change the location of the Designated Post-Collection Facility with (i) thirty (30) days' written notice if the new Designated Post-Collection Facility is within 20 kilometers of the existing Designated Post-Collection Facility and in compliance to Section 2.1.5(f) or Section 2.1.5(g); and (ii) ninety (90) days' written notice if the new Designated Post-Collection Facility is more than 20 kilometers from the existing Designated Post-Collection Facility and in compliance to Section 2.1.5(f) or Section 2.1.5(g).
- (j) Unless Recycle BC otherwise agrees in writing, Contractor may not consolidate or otherwise sort In-Scope PPP collected from Customers in the Service Area before delivering such materials to the Designated Post-Collection Facility. Such approval may be subject to such conditions or procedures as Recycle BC considers appropriate or necessary in the circumstances and may be revoked at any time by Recycle BC, in its sole discretion, including if Contractor has failed to comply with such conditions or procedures.
- (k) If the Designated Post-Collection Service Provider rejects a load of In-Scope PPP from Contractor due to a verified claim that such load contains more than 5% by weight of Not Accepted Materials, contains any Hazardous Waste or resulted in the cross contamination of segregated materials due to a bulkhead failure Recycle BC reserves the right to designate alternative procedures and requirements associated with that load and to deduct any additional costs associated therewith from the Fees otherwise due to Contractor.

- (l) Recycle BC will, in its sole discretion, approve any Reduced Split Weighing, and the percentage of loads required to split weigh. If Recycle BC has provided such approval to Contractor, the Contractor is required to follow all direction as per Section 2.1.5(d). Recycle BC reserves the right to remove or change Reduced Split Weighing requirements at any time.
- (m) On a monthly basis, or on a schedule agreed upon by the Designated Post-Collection Service Provider, Contractor will retrieve any Collection Containers which have been inadvertently dropped into the collection vehicle and tipped at the Designated Post-Collection Facility.
- (n) If at any time during the SOW Term the Designated Post-Collection Facility is temporarily closed for three (3) Business Days or less, including without limitation due to emergency, mechanical breakdown or maintenance, Contractor shall deliver In-Scope PPP collected pursuant to this Statement of Work to an alternative location specified by Recycle BC in writing. If the Designated Post-Collection Facility is closed for longer than three (3) Business Days, Contractor and Recycle BC will mutually agree on a solution.

2.1.6 Spillage.

- (a) All loads collected by Contractor will be completely contained in collection vehicles at all times, except when In-Scope PPP is actually being loaded. Hoppers on all collection vehicles will be cleared frequently to prevent the occurrence of blowing or spillage.
- (b) Any spillage of In-Scope PPP that occurs during Curbside Collection will be immediately cleaned up or removed by Contractor at its sole expense. Contractor will keep accurate records of each occurrence of spillage and its clean-up, and will make such records available to Recycle BC on request. Contractor expressly acknowledges it is solely responsible for any violations of Applicable Law that may result from said spillage.
- (c) Without limiting Section 2.1.6(b) above, Contractor will maintain all collection vehicles to ensure that no liquid wastes (e.g., leachate) or oils (e.g., lubricating, hydraulic or fuel) are discharged to Customer premises, Public Roads or Private Roads. All collection and route supervisor vehicles used by Contractor will be equipped with a spill kit sufficient in size to contain a spill of equivalent volume to the largest lubricating, hydraulic or fuel tank on the largest collection vehicle. Any discharge of liquid wastes or oils that may occur from Contractor's collection vehicles prior to them being removed from service will be cleaned up or removed by Contractor within three hours of being noticed by route staff, Customers or Recycle BC, and will be remediated by Contractor at its sole expense. Such clean-up or removal will be documented with pictures and notice of such clean-up or removal will be provided to Recycle BC in writing. Contractor will immediately notify Recycle BC or the Designated Post-Collection Service Provider of any spills that enter ground-water or drainage systems.

2.1.7 Routes.

- (a) Contractor Curbside Collection routes may not extend outside the Service Area. Contractor collection vehicles used to perform Curbside Collection may only be used for collection services inside or outside the Service Area or for any other use if they are emptied before and after such other use and Contractor has obtained prior approval from Recycle BC in writing.

- (b) If Contractor also provides collection services to multi-family buildings pursuant to another Statement of Work under the Agreement ("**Multi-Family Building Collection**"), Recycle BC must provide its prior written approval to use the same collection vehicle to collect materials from Multi-Family Building Collection together with In-Scope PPP collected from Curbside Households under this Statement of Work.

2.1.8 Pilot programs.

- (a) Recycle BC may wish to test or implement one or more new services, technology systems or developments in PPP material segregation, processing or collection technology (collectively, "**Pilot Program**"). Recycle BC will provide at least ninety (90) days' written notice of its intention to implement a Pilot Program. The allocation of any costs (or savings) accrued by Recycle BC-initiated Pilot Programs will be negotiated prior to implementation pursuant to the change process in Section 2.2 of the Agreement. If Recycle BC deems the Pilot Program a success and desires to incorporate the service, technology or development from the Pilot Program into this Statement of Work, such a change will be made pursuant to the change process set out in Section 2.2 of the Agreement.
- (b) Contractor-initiated Pilot Programs will require prior written approval by Recycle BC and will be performed at no additional cost to Recycle BC.

2.2 Customer Service and Management. As part of Curbside Collection, Contractor will provide the following services:

2.2.1 Customer Service Requirements.

- (a) Contractor will have and maintain throughout the SOW Term a Customer service office and call center, which will be accessible by a local area code and prefix phone number or a toll-free number. Customer service representatives will be familiar with the Recycle BC program requirements and will make best efforts to be available through Contractor's call center during office hours for communication with Customers and Recycle BC representatives. Customer calls will be taken during office hours by a person, not by voice mail. During all non-office hours for the call center, Contractor will have an answering or voice mail service available to record messages from all incoming telephone calls.
- (b) Contractor's Customer service representatives will have instantaneous electronic access to Customer service data and history to assist them in providing excellent Customer service.

2.2.2 Customer Service Representative Staffing.

- (a) Contractor will maintain sufficient staffing to answer and handle complaints and service requests in a timely manner made by all methods, including telephone, letters, e-mails, social media posts and text messages.

2.2.3 Customer Complaints and Requests.

- (a) Contractor will record all Customer complaints and service requests, regardless of how received, including date, time, Customer's name and address, if the Customer is willing to give this information, method of transmittal and nature, date and manner of resolution of the complaint or service request in a computerized daily log. Contractor will make a commercially reasonable efforts to resolve all

complaints and service requests within two (2) Business Days of the original contact.

- (b) Contractor's customer service log will be available for inspection by Recycle BC, with consideration to Contractors confidentiality obligations, if requested by Recycle BC.

2.3 Promotion and Education.

- 2.3.1 Contractor will have primary responsibility for executing public promotion, education and outreach programs associated with the collection of In-Scope PPP. Contractor will incorporate Recycle BC-developed communications messages and images in Contractor's public promotion, education and outreach programs.
- 2.3.2 Recycle BC reserves the right, in its sole discretion, to require Contractor to seek advance approval of any or all public promotion, education and outreach materials associated with the collection of In-Scope PPP, including recycling guides, collection calendars, website content and "oops tags."
- 2.3.3 If Contractor receives Resident Education Top Up payments in accordance with Attachment 5, Contractor must spend the total amount of the Resident Education Top Up payments paid to Contractor on promotion, education and outreach programs on an annual basis. Recycle BC reserves the right to request proof of use of Resident Education Top Up payments.
- 2.3.4 Except for logos of the applicable local government, Recycle BC, Contractor or any sub-contractor of Contractor, Contractor may not affix or otherwise include any logo of, or any reference to, any other party or person on a Collection Container in any manner whatsoever, including stickers and hot stamps.
- 2.3.5 Contractor will have primary responsibility for providing Customers service-oriented information such as dates and times of Curbside Collection.

- 2.4 Transition and Implementation Services. If, immediately prior to the SOW Effective Date, Contractor (i) did not perform Curbside Collection from Curbside Households in the Service Area; or (ii) did not provide Curbside Collection from Curbside Households in the Service Area pursuant to a statement of work with Recycle BC, Contractor will, beginning on the SOW Effective Date and with Recycle BC's input, develop and submit to Recycle BC no later than two weeks after the SOW Effective Date a transition and implementation plan (the "**Transition and Implementation Plan**") for implementing Curbside Collection, including a specific timeline as to when different activities and events will occur, details of how certain events impact other events in the timeline, and the process to be used to ensure that implementation occurs on the Service Commencement Date with no disruption. The Transition and Implementation Plan will cover the entire period from the SOW Effective Date to and including the six (6) month anniversary of the Service Commencement Date. Contractor will describe in detail what is involved with each of the activities and events listed in the Transition and Implementation Plan. Finalization of the Transition and Implementation Plan will be subject to Recycle BC's prior approval.

SECTION 3. Performance Standards and Operational Requirements

- 3.1 Personnel Conduct. Contractor personnel performing Curbside Collection will at all times be courteous, refrain from loud, inappropriate or obscene language, exercise due care, perform their work without delay, minimize noise and avoid damage to public or private property. If on private property, Contractor personnel will follow the regular pedestrian walkways and paths, returning to the street after replacing empty Containers. Contractor personnel will not trespass, loiter, cross

flower beds, hedges or property of adjoining premises, or meddle with property that does not concern the SOW Services being performed.

3.2 Vehicle Standards. Without limiting any other requirements or obligations of Contractor, Contractor will meet or exceed the following standards in respect of collection vehicles used to perform Curbside Collection:

3.2.1 All collection vehicles will be well maintained and clean. All collection vehicles will have appropriate safety markings, including all highway lighting, flashing and warning lights, clearance lights and warning flags, all in accordance with applicable law. All collection vehicles and all parts and systems of all collection vehicles will operate properly and be maintained in a condition compliant with all applicable laws, good industry standards and be in a condition satisfactory to Recycle BC. Any vehicles not meeting these standards will not be used within the Service Area until repairs are made. All collection vehicles will be equipped with variable tone or proximity activated reverse movement back-up alarms.

3.2.2 Contractor will maintain all vehicles used in the performance of Curbside Collection in a manner intended to achieve reduced emissions and particulates, noise levels, operating costs and fuel use.

3.3 SOW Record and Reporting Requirements.

3.3.1 Service Delivery Reporting. In addition to the record keeping and reporting requirements in the Agreement, Contractor will:

- (a) maintain an electronic record of all Customer requests, Missed Collections, complaints and inquiries, including Customer name, mailing address, contact information (both telephone number and e-mail, if available), service address, if different from mailing address, date of contact, reason for contact;
- (b) maintain such other records as may be requested by Recycle BC, including:
 - (i) tonnage by collection date and weight scale ticket (which must include the collector name and truck number); and
 - (ii) Customer communications related to Curbside Collection including telephone calls, letters, e-mails, text messages or webpage messages received;
- (c) make all records maintained pursuant to this Statement of Work available to Recycle BC upon request;
- (d) provide a report to Recycle BC on associated collection metrics necessary to calculate the greenhouse gas emissions associated with the performance of Curbside Collection no more frequently than once per quarter and no less frequently than once per year;
- (e) upon Recycle BC's request, provide a report on the costs associated with the performance of Curbside Collection services, no more frequently than once per year;
- (f) upon Recycle BC's request, provide a response to questions posed by Recycle BC's non-financial auditor; and

- (g) upon Recycle BC's request, provide up to two ad-hoc reports each year, at no additional cost to Recycle BC, and such ad-hoc reports (i) may include Customer service database tabulations to identify specific Service Level or participation patterns or other similar information reports; and (ii) will not require the Contractor to expend more than forty (40) staff hours per year to complete,

and such records and reports will be provided in Recycle BC-defined format and software compatibility. For reports that are provided at Recycle BC's request, Recycle BC will use best efforts to communicate such request sixty (60) days in advance of due date. Contractor and Recycle BC will meet to discuss requests outside of this scope, all parties being reasonable.

3.3.2 Claims Reporting

- (a) Responsibility for claim reporting under Section 3.3.2(b) shall be assigned to the Designated Post-Collection Service Provider.
- (b) All loads will be documented by the Designated Post-Collection Service Provider in a manner specified by Recycle BC, including by a certified scale ticket provided by the Designated Post-Collection Service Provider with Contractor name and address, Designated Post-Collection Facility's name and address, date, time, truck number, net weight by material type (as set out in Attachment 2.1.2) and such other information as Recycle BC may designate (collectively, "**Claim Information**").
- (c) Recycle BC will issue a claim summary to Contractor based on Claim Information directly provided to Recycle BC by the Designated Post-Collection Service Provider, pursuant to Section 3.3.1(g)(b), and Contractor will review the claim summary for accuracy. Contractor must report to Recycle BC any content in the claim summary that Contractor disputes within thirty (30) days of the claim summary being issued.
- (d) After Recycle BC has approved the Claim Information, Recycle BC will issue a purchase order to Contractor, including a reference number. Recycle BC will issue payment to Contractor based on the approved purchase order without the need for Contractor to submit an invoice.
- (e) Standard tare weights for specific trucks may only be used on specific written permission of Recycle BC.

3.4 Service Levels. If Contractor fails to meet any Service Level set out in Attachment 3.4, Recycle BC will, in Recycle BC's sole discretion, be entitled to the applicable Service Level Failure Credits set out in Attachment 3.4.

SECTION 4. SOW Term

This Statement of Work will commence on the SOW Effective Date and its initial term will continue until December 31, 2029. Recycle BC may extend this Statement of Work for up to two further periods of one year each by providing at least one hundred eighty (180) days written notice before the expiration of the initial term or any such additional term or terms. The initial term and any such additional term or terms are herein referred to as the "**SOW Term**".

SECTION 5. Fees

The Fees payable by Recycle BC for the performance by Contractor of the SOW Services are set out in Attachment 5 to this Statement of Work, and such Fees begin after the Service Commencement Date. For the avoidance of doubt, Contractor acknowledges and agrees that it will not be entitled to receive any Fees in respect of In-Scope PPP collected from ICI locations.

SECTION 6. Additional Terms

- 6.1 No Double Charge. Contractor will not directly or indirectly charge Customers, including by way of tax, levy or other surcharge, for the cost of providing the SOW Services if and to the extent that such costs are covered by Fees (prior to deducting any Service Level Failure Credits) or other payments that Contractor is entitled to receive from Recycle BC under this Statement of Work. In the event that the Fees do not fully cover the Contractors costs of the program, the Contractor may directly or indirectly charge Customers for the portion of the costs of providing the SOW Services that are not covered by the Fees; provided that the Contractor shall not profit from such amounts.
- 6.2 Scavenging Forbidden. Contractor will not scavenge, or permit any employee (or, at the request of Recycle BC, any other person) to scavenge, any materials (including, if permitted by law, materials other than In-Scope PPP that have been set out to be collected by other collection service providers) at any time and at any location during Contractor's performance of the SOW Services or otherwise.
- 6.3 Risk. Contractor will be responsible for all risks, including risk of loss or damage caused by the In-Scope PPP, from the time that the In-Scope PPP is collected by Contractor until the Contractor delivers such In-Scope PPP to the Designated Post-Collection Facility. In-Scope PPP will be deemed to be delivered when off-loaded from Contractor's vehicles at the Designated Post-Collection Facility and accepted by receipt of scale ticket or bill of lading from the Designated Post-Collection Service Provider. Contractor will be responsible for the cost of any damage to Collection Containers or the Designated Post-Collection Facility caused by Contractor.

(Signature page follows.)

IN WITNESS WHEREOF the parties have executed this Statement of Work effective as of the SOW Effective Date.

MMBC RECYCLING INC.

Per: _____
(I have authority to bind Recycle BC)

Name: _____
(Please Print)

Title: _____

TOWN OF LADYSMITH

Per: _____
(I have authority to bind Contractor)

Name: _____
(Please Print)

Title: _____

Per: _____
(I have authority to bind Contractor)

Name: _____
(Please Print)

Title: _____

Note: Second signatory to be completed by Contractor only if Contractor requires two signatories (and by leaving the second signatory blank and returning the Statement of Work to Recycle BC, Contractor and the first signatory represent that no additional signatories are required).

Attachment B

**ATTACHMENT 2.1.1 TO SCHEDULE 2.1(a)
DESIGNATED SERVICE AREA**

1. Under this Statement of Work, the initial Curbside Household Baseline will be 3,511.
2. The Service Area is:

Town of Ladysmith

Attachment B

ATTACHMENT 2.1.2 TO SCHEDULE 2.1(a)
IN-SCOPE PPP

For the purpose of this Statement of Work, In-Scope PPP will mean the material described in the categories of PPP below that have been selected, as indicated by an "x" in the associated check box (and the In-Scope PPP shall be segregated, at a minimum, in the streams that have been selected below):

- ☒ PPP, in Single-Stream, in which Paper and Cardboard and Mixed Containers are collected together.
- ☐ PPP, in Multi-Stream, in which Paper and Cardboard must be segregated from all other PPP.
- ☐ PPP, in Multi-Stream, in which Mixed Containers must be segregated from all other PPP.
- ☐ PPP that is Glass Bottles and Jars, which must be segregated from all other PPP.
- ☐ PPP that is Flexible Plastics, which must be segregated from all other PPP.

To the extent beverage containers as defined in Schedule 1 of the Regulation are comingled with In-Scope PPP to be collected by Contractor, such beverage containers shall be deemed to be In-Scope PPP for the purposes of this Statement of Work, with polycoated beverage containers, plastic beverage containers and metal beverage containers defined as Mixed Containers and glass beverage containers defined as Glass Bottles and Jars.

ATTACHMENT 3.4 TO SCHEDULE 2.1(a)
SERVICE LEVEL FAILURES

Contractor may incur Service Level Failure Credits for the Service Level Failures described in this Attachment 3.4; provided, however, that the aggregate amount of Service Level Failure Credit in respect of any calendar year shall not exceed the aggregate amount of Fees payable to Contractor in respect of such calendar year:

| | Service Level Failure | Service Level Failure Credit | | | | | | |
|-----------------------------|---|---|-----------------------------|-----------------|---------------|---------|-------------|---------|
| 1 | Failure to clean up or collect spilled PPP within two hours from the time the Contractor has been notified of the spill or it has been observed by the Contractor. | Twice the cost of cleanup incurred by Recycle BC (if Recycle BC performs the cleanup) plus \$500 per incident (regardless of who performs the cleanup). | | | | | | |
| 2 | Contractor: a) fails to accurately report pursuant to Section 3(a) of Attachment 5; b) overstates or otherwise inaccurately reports the Curbside Household Baseline; or c) understates the number of ICI locations in the Service Area per Section 2.1.1(c). | \$5,000 per incident. | | | | | | |
| 3 | Failure to provide a required report pursuant to Section 3.3.1 or in Section 3(a) of Attachment 5 on time. | Withholding of all Fees due to Contractor until the required report is submitted. | | | | | | |
| 4 | Failure to separate In-Scope PPP collected from Curbside Households in the Service Area from materials collected outside of the Service Area without prior written approval from Recycle BC. | \$5,000 per route, plus \$3,000 per month (pro-rated in the case of a partial month) until the Service Level Failure has been remedied or a request for approval by the Contractor has been approved in writing by Recycle BC. | | | | | | |
| 5 | If the Curbside Household Baseline does not exceed 25,000, a delivery of materials to the Designated Post-Collection Facility that contains more than 5% by weight of Not Accepted Materials. | <p>The Per Load Amount for each weigh-scale ticketed load that results in a Service Level Failure, provided that the aggregate Service Level Failure Credit for this Service Level Failure in respect of any calendar year shall not exceed 24 times the applicable Per Load Amount</p> <p>For the purpose of this Service Level Failure, the “Per Load Amount” in respect of any year will be determined by the Curbside Household Baseline for such year, in accordance with the following table:</p> <table><tr><th>Curbside Household Baseline</th><th>Per Load Amount</th></tr><tr><td>10,000-25,000</td><td>\$5,000</td></tr><tr><td>5,000-9,999</td><td>\$3,750</td></tr></table> | Curbside Household Baseline | Per Load Amount | 10,000-25,000 | \$5,000 | 5,000-9,999 | \$3,750 |
| Curbside Household Baseline | Per Load Amount | | | | | | | |
| 10,000-25,000 | \$5,000 | | | | | | | |
| 5,000-9,999 | \$3,750 | | | | | | | |

| Service Level Failure | | Service Level Failure Credit | | | | | | | | | | | | | |
|-----------------------------|---|--|---------|-----------------------------|-----------------|---------|---------|-------------|---------|-------------|---------|-----------|---------|-------|-------|
| | | 2,500-4,999 | \$2,500 | | | | | | | | | | | | |
| | | 499-2,499 | \$1,250 | | | | | | | | | | | | |
| | | 0-499 | \$500 | | | | | | | | | | | | |
| 6 | If the Curbside Household Baseline exceeds 25,000, a delivery of materials to the Designated Post-Collection Facility that contains more than 5% by weight of Not Accepted Materials. | <p>The Per Load Amount for each weigh-scale ticketed load that results in a Service Level Failure, provided that the aggregate Service Level Failure Credit for this Service Level Failure in respect of any calendar year shall not exceed 24 times the applicable Per Load Amount.</p> <p>For the purpose of this Service Level Failure, the “Per Load Amount” will initially be \$5,000. If Contractor is required to make one or more payments in respect of this Service Level Failure in respect of any year, the Per Load Amount for the following year will be automatically increased by \$5,000 (to a maximum of \$20,000). If Contractor is not required to make any payments in respect of this Service Level Failure in respect of a particular year, the Per Load Amount for the following year will be reset at \$5,000.</p> | | | | | | | | | | | | | |
| 7 | If Contractor collects Mixed Containers and Paper and Cardboard in Multi-Stream, delivery of a load in violation of Section 2.1.5(c). | \$1,000 per load. | | | | | | | | | | | | | |
| 8 | Delivery of a load of: a) In-Scope PPP in Multi-Stream in violation of Section 2.1.2(e); b) Mixed Containers and Paper and Cardboard (whether collected in a single stream or a Multi-Stream) in violation of Section 2.1.2(f); c) Flexible Plastics in violation of Section 2.1.2(g); or d) Glass Bottles and Jars in violation of Section 2.1.2(h). | <p>The Per Load Amount for each weigh-scale ticketed load that results in a Service Level Failure, provided that the aggregate Service Level Failure Credit for this Service Level Failure in respect of any calendar year shall not exceed 24 times the applicable Per Load Amount.</p> <table><tr><th>Curbside Household Baseline</th><th>Per Load Amount</th></tr><tr><td>10,000+</td><td>\$5,000</td></tr><tr><td>5,000-9,999</td><td>\$3,750</td></tr><tr><td>2,500-4,999</td><td>\$2,500</td></tr><tr><td>499-2,499</td><td>\$1,250</td></tr><tr><td>0-499</td><td>\$500</td></tr></table> | | Curbside Household Baseline | Per Load Amount | 10,000+ | \$5,000 | 5,000-9,999 | \$3,750 | 2,500-4,999 | \$2,500 | 499-2,499 | \$1,250 | 0-499 | \$500 |
| Curbside Household Baseline | Per Load Amount | | | | | | | | | | | | | | |
| 10,000+ | \$5,000 | | | | | | | | | | | | | | |
| 5,000-9,999 | \$3,750 | | | | | | | | | | | | | | |
| 2,500-4,999 | \$2,500 | | | | | | | | | | | | | | |
| 499-2,499 | \$1,250 | | | | | | | | | | | | | | |
| 0-499 | \$500 | | | | | | | | | | | | | | |
| 9 | The occurrence of a Labour Disruption, if Contractor fails to (i) implement its Business Continuity Plan in respect of such Labour Disruption; or (ii) fails to comply with Sections | An equitable reduction in the Fees to reflect the value of any SOW Services not received by Recycle | | | | | | | | | | | | | |

| | Service Level Failure | Service Level Failure Credit |
|----|--|---|
| | 4.6.1 or 4.6.2 of the Agreement in respect of such Labour Disruption. | BC plus \$5,000 per day of Labour Disruption. |
| 10 | Contractor delivers In-Scope PPP to any location, such as a landfill, incinerator or energy recovery facility, other than the Designated Post-Collection Facility without the prior written permission of Recycle BC | \$25,000 per incident. |
| 11 | Contractor fails to follow Designated Post-Collection Service Provider direction as per Section 2.1.5(d). | \$5000 per incident. |

Attachment B

ATTACHMENT 5 TO SCHEDULE 2.1(a)
FEES

1. In this Attachment, the following terms will have the following meaning:

“Bonus Period” means each full calendar year during the SOW Term, commencing on January 1 and ending on December 31 of each year; provided, however, that (i) if the Service Commencement Date is not January 1, the initial Bonus Period shall commence on the Service Commencement Date and end on December 31 of that year; and (ii) if the SOW Term does not end December 31, the final Bonus Period will commence on January 1 of that year and end on the date on which the SOW Term ends.

“Curbside Household Baseline” means the number of Curbside Households in the Service Area as initially set out in Attachment 2.1.1, as may be modified in accordance with Section 3 of this Attachment 5.

2. In consideration for Contractor’s performance of the SOW Services, Recycle BC will pay Contractor:

- (a) The selected (as indicated by an “x” in the associated check box) annual amount in the table below times the Curbside Household Baseline (to be payable in arrears, in equal monthly payments on net thirty (30) day terms):

| | Curbside Collection Fee | |
|-------------------------------------|---|---|
| | Collection Type | \$ per Curbside Household per Year |
| <input type="checkbox"/> | Single-Stream using automated carts – Mixed Containers and Paper and Cardboard | \$41.00 |
| <input checked="" type="checkbox"/> | Single-Stream using Collection Containers other than automated carts – Mixed Containers and Paper and Cardboard | \$42.60 |
| <input type="checkbox"/> | Multi-Stream – Paper and Cardboard separate from Mixed Containers | \$71.10 |
| <input type="checkbox"/> | Flexible Plastics - which must be segregated from all other PPP | \$8.00 |

- (b) Each of the following that are selected (as indicated by an “x” in the associated check box) in the table below (which may be none): (i) the Resident Education Top Up amount; and (ii) the Service Administration Top Up amount, in each case as set out in the table below times the Curbside Household Baseline (to be payable in arrears, in equal monthly payments on net thirty (30) day terms):

| | Top Up Fee | \$ per Curbside Household per Year |
|-------------------------------------|-------------------------------|---|
| <input checked="" type="checkbox"/> | Resident Education Top Up | \$1.25 |
| <input checked="" type="checkbox"/> | Service Administration Top Up | \$3.75 |

Without limiting Contractor's obligations under this Statement of Work (including the cost Contractor is required to incur to perform such obligations), the Resident Education Top Up amount must be used for the purpose of providing resident education in respect of the Curbside Collection services.

- (c) If selected (as indicated by an "x" in the associated check box), the following per tonne amount, to be invoiced and paid pursuant to the claims submission process in accordance with the terms of the Agreement:

| Curbside Collection Glass Bottles and Jars Fee | | |
|--|------------------------|--------------|
| <input type="checkbox"/> | Glass Bottles and Jars | \$ per Tonne |
| | | \$80.00 |

- (d) For each Bonus Period, the Achieved Bonus Amount times the average Curbside Household Baseline for such period, where the "Achieved Bonus Amount" is the performance bonus amount in the table below that corresponds with the Not Accepted Materials percentage by weight of materials collected by Contractor during the Bonus Period. The foregoing will be calculated annually, at the end of each Bonus Period, based on the average Curbside Household Baseline for such period and the approved material composition audits completed for the Bonus Period. The Achieved Bonus Amount for a Bonus Period, if any, will be paid no later than July 1 of the following year.

For purposes of calculating the Achieved Bonus Amount, Recycle BC will apply a methodology, in its sole discretion, to calculate the average amount of Not Accepted Materials in Contractor's collected material for calculating the Not Accepted Material percentage.

If the Bonus Period is a partial calendar year, the Achieved Bonus Amount will be calculated by Recycle BC on a pro-rated basis taking into account such factors as Recycle BC, acting reasonably, may consider relevant.

If Contractor also provides Multi-Family Building Collection and In-Scope PPP collected in respect of Multi-Family Building Collection is collected in a vehicle with In-Scope PPP collected from Curbside Households under this Statement of Work, then, for the purpose of calculating the performance bonus under this subsection (d), the Curbside Household Baseline will be adjusted to include the number of multi-family households whose In-Scope PPP has been collected in this manner and the not accepted material percentage will be calculated based on audits that include both Curbside and multi-family collected material.

| Calculation of Achieved Bonus Amount | | | | |
|---|---------------------------|---------------|---------------|--------|
| Not Accepted Materials percentage by weight | 4.0% - 3.5% | ≤ 3.4% - 3.0% | ≤ 2.9% - 2.5% | ≤ 2.4% |
| Achieved Bonus Amount | \$ per Curbside Household | | | |
| | \$1.00 | \$1.50 | \$2.00 | \$2.50 |

3. The Curbside Household Baseline may be adjusted as follows:

- (a) On July 1 of each year, or on any other date determined by Recycle BC, and at such other times as the parties may agree, Contractor will, in good faith, report and attest (in a form

acceptable to Recycle BC) to the then-current number of Curbside Households in the Service Area.

- (b) Recycle BC may also provide evidence of the then-current number of Curbside Households in the Service Area. Based on Contractor's attestation and the evidence provided by Recycle BC, Recycle BC and Contractor will work in good faith to mutually agree on the new Curbside Household Baseline. Any Dispute in establishing the foregoing will be resolved by the Dispute resolution process under the Agreement.
 - (c) For purposes of reporting and determining the number of Curbside Households:
 - (i) A single family dwelling is considered one Curbside Household;
 - (ii) A laneway house is considered one Curbside Household;
 - (iii) A duplex is considered two Curbside Households;
 - (iv) A triplex is considered three Curbside Households;
 - (v) A fourplex is considered four Curbside Households;
 - (vi) A single family dwelling that has been converted into two, three or four residential dwelling units, shall be considered a duplex, triplex or fourplex, as described in (iii), (iv) and (v), respectively, if Contractor recognizes the conversion for utility and/or contract billing;
 - (vii) A single family dwelling that has been converted into multiple dwelling units that is recognized by Contractor as a single family dwelling for utility and/or contract billing is considered one Curbside Household; and
 - (viii) Each self-contained dwelling unit in a rowhouse or townhouse is considered one Curbside Household if the resident of each unit delivers In-Scope PPP to the Curb for collection in separate Collection Containers.
4. If the average annual amount of In-Scope PPP collected per Curbside Household by Contractor, in any twelve (12) month period (based on the Curbside Household Baseline) falls below one hundred (100) kilograms, then Recycle BC may require Contractor to, within ninety (90) days, prepare and submit to Recycle BC for approval a remediation plan designed to raise its collection yield above one hundred (100) kilograms per Curbside Household. Following approval of the remediation plan by Recycle BC, Contractor will execute the plan. Contractor will provide monthly reporting to Recycle BC detailing the progress and outcomes of the remediation plan. If material improvement does not occur within ninety (90) days of beginning to execute the plan, then Contractor will work with Recycle BC to establish additional changes and to adopt best practices recommended by Recycle BC in order to increase collection yield, and, at Recycle BC's discretion, may result in an equitable downward change in the Fees to reflect the reduced value of the amount of In-Scope PPP being collected by Contractor.
5. The Curbside Collection Fee and Top up Fee will be adjusted each year, up or down, on the first day of January of each year. Recycle BC reserves the right to choose the adjustment mechanism to be used each year, as between (i) the results of a cost study that samples the collection service providers to determine the costs associated with the performance of Curbside Collection services; and (ii) an adjustment that is based on the Consumer Price Index (CPI) for BC (All Items), which will be calculated as follows:

- (a) Curbside Collection Fee or Top Up Fee = Curbside Collection Fee or Top Up Fee, as applicable, in the previous year $\times (1 + (\text{percentage change in CPI}/100))$, where
- (i) percentage change in CPI = $(\text{current year CPI} - \text{previous year CPI}) / (\text{previous year CPI}) \times 100\%$; and
 - (ii) each year's CPI is the published CPI on September 1st of the year prior.

Attachment B

MASTER SERVICES AGREEMENT

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This Master Services Agreement (this “**Agreement**”) is entered into as of January 1, 2025 (“**Effective Date**”)

BETWEEN:

TOWN OF LADYSMITH, having a place of business at 410 Esplanade Ave, Ladysmith, BC V9G 1A1 (“**Contractor**”),

AND:

MMBC RECYCLING INC., a not-for-profit company incorporated under the *Canada Not-for-profit Corporations Act*, carrying on business as Recycle BC (“**Recycle BC**”).

RECITALS:

- A. WHEREAS Recycle BC represents companies and organizations (“**Producers**”) that supply products in packaging and printed paper to residents of British Columbia obligated under the *Recycling Regulation* (the “**Regulation**”) under the *Environmental Management Act* (British Columbia);
- B. WHEREAS Recycle BC developed the Packaging and Printed Paper Stewardship Plan;
- C. WHEREAS the Packaging and Printed Paper Stewardship Plan was approved by the Director, Waste Management, Environmental Standards Branch, Ministry of Environment on April 15, 2013;
- D. WHEREAS Recycle BC is meeting Producers’ obligations under the Regulation by implementing the Packaging and Printed Paper Stewardship Plan, including through this Agreement; and
- E. WHEREAS Recycle BC wishes to receive, and Contractor wishes to provide, the services set out in this Agreement, and the parties wish to foster dialogue and a good business relationship in carrying out such services.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Recycle BC and Contractor agree as follows:

SECTION 1. INTERPRETATION

1.1. Definitions. In this Agreement, the following terms will have the following meanings:

“**Affiliate**” means any entity controlled by, controlling, or under common control with a party.

“**Agreement**” has the meaning set out on the first page of this document.

“**Applicable Law**” means any domestic or foreign law, rule, statute, subordinate legislation, regulation, by-law, order, ordinance, protocol, code, guideline, treaty, policy, notice, direction or judicial, arbitral, administrative, ministerial or departmental judgment, award, decree, treaty, directive, or other requirement or guideline published or in force at any time during the Term which applies to or is otherwise intended to govern or regulate any person (including any party), property, transaction, activity, event or other matter, including any rule, order, judgment, directive or other requirement or guideline issued by any governmental or regulatory authority.

“**Business Continuity Plan**” has the meaning set out in Section 4.5.

“Business Day” means any day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia.

“Change” has the meaning set out in Section 2.2.1.

“Change Proposal” has the meaning set out in Section 2.2.3.

“Change Response” has the meaning set out in Section 2.2.2.

“Change Request” has the meaning set out in Section 2.2.1.

“Confidential Information” means information of or relating to a party (the **“Disclosing Party”**) that has or will come into the possession or knowledge of the other party (the **“Receiving Party”**) whether such information is or has been conveyed verbally or in written or other tangible form, and whether such information is acquired directly or indirectly such as in the course of discussions or other investigations by the Receiving Party, that: (a) where Recycle BC is the Disclosing Party, is any information of Recycle BC or relating to its business or affairs including technical, financial and business information, ideas, concepts or know-how, Services performance and Services delivery reporting information, and the terms of this Agreement; and (B) where Contractor is the Disclosing Party, is limited to financial information of Contractor. However, Confidential Information does not include information that: (i) was already known to the Receiving Party, without obligation to keep it confidential, at the time of its receipt from the Disclosing Party; or (ii) is or becomes available to the public other than as a result of a breach hereof by the Receiving Party; provided that the foregoing exceptions will not apply with respect to any personal information that is subject to Privacy Laws.

“Contractor” has the meaning set out on the first page of this Agreement.

“Designated Post-Collection Facility” means the facility at which Contractor delivers Contractor-collected Inbound Material to the Designated Post-Collection Service Provider.

“Designated Post-Collection Service Provider” means the entity, designated by Recycle BC, to receive Contractor-collected Inbound Material.

“Dispute” has the meaning set out in Section 14.1.

“Effective Date” has the meaning set out on the first page of this Agreement.

“Fees” has the meaning set out in Section 5.1.

“Flexible Plastics” means material listed in the “Flexible Plastics” category of the Materials List.

“Foam Packaging” means material listed in the “Foam Packaging” category of the Materials List.

“Force Majeure” has the meaning set out in Section 15.3.

“Glass Bottles and Jars” means material listed in the “Glass Bottles and Jars” category of the Materials List.

“Inbound Material” has the meaning set out in Schedule 4.2.

“Intellectual Property Rights” means inventions, patents, copyrights, trademarks, industrial designs, integrated circuit topography rights, know-how, trade secrets, Confidential Information, and any other intellectual property rights whether registered or unregistered, and including rights in any application for any of the foregoing.

“Key Personnel” has the meaning set out in Section 6.2.

“Labour Disruption” has the meaning set out in Section 4.6.2.

“Materials List” means Recycle BC’s list of accepted materials which is incorporated herein by reference and available here: <https://recyclebc.ca/what-can-i-recycle/>.

“Mixed Containers” means material listed in the “Plastic Containers”, “Cartons and Paper Cups”, “Aluminum Containers” and “Steel Containers” categories of the Materials List.

“Other Service Providers” has the meaning set out in Section 11.2.

“Packaging and Printed Paper” or **“PPP”** means Paper and Cardboard, Mixed Containers, Glass Bottles and Jars, Flexible Plastics and Foam Packaging.

“Paper and Cardboard” means material listed in the “Paper” and “Paper Packaging and Cardboard” categories of the Materials List.

“Privacy Laws” has the meaning set out in Section 9.4.

“Recycle BC” has the meaning set out on the first page of this Agreement.

“Recycle BC Policies and Standards” has the meaning set out in Section 4.2.

“Regulation” has the meaning set out on the first page of this Agreement.

“Representatives” has the meaning set out in Section 9.1.

“Service Level Failure” has the meaning set out in Section 4.4.2.

“Service Level Failure Credit” has the meaning set out in Schedule 4.4.

“Service Levels” has the meaning set out in Section 4.4.1.

“Services” has the meaning set out in Section 2.1.

“Statement of Work” or **“SOW”** means any statement of work attached hereto or as may from time to time be issued hereunder.

“Term” has the meaning set out in Section 3.1.

“Withheld Taxes” has the meaning set out in Section 5.5.

“Work Product” means the deliverables to be created or provided to Recycle BC by Contractor pursuant to any Statement of Work and any data, records, and reports that have been prepared, created, written or recorded in performance of the Services, whether by Contractor, Recycle BC, or Contractor and Recycle BC together.

1.2. Interpretation.

1.2.1. The terms ‘including’ and ‘includes’ are not terms of limitation.

1.2.2. Any capitalized term used in this Agreement that is not defined herein will have the generally accepted industry or technical meaning given to such term.

- 1.2.3. In this Agreement, words importing the singular number will include the plural and vice versa, and words importing the use of any gender will include the masculine, feminine and neuter genders and the word "person" will include an individual, a trust, a partnership, a body corporate, an association or other incorporated or unincorporated organization or entity.
- 1.2.4. The headings in this Agreement are solely for convenience of reference and will not be used for purposes of interpreting or construing the provisions hereof.
- 1.2.5. Unless otherwise provided for herein, all monetary amounts referred to herein will refer to the lawful money of Canada.
- 1.2.6. When calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference date in calculating such period will be excluded. If the last day of such period is not a Business Day, then the time period in question will end on the first Business Day following such non-Business Day.
- 1.2.7. Any references in this Agreement to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body, including any Applicable Law, will be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.
- 1.3. Schedules. As of the Effective Date, the following Schedules form part of this Agreement (note that Schedule numbering is not sequential and is based on a related section reference):

| Schedule | Description |
|-----------------|---|
| Schedule 2.1(a) | – Statement of Work for Curbside Collection Services Provided by Local Government |
| Schedule 2.1(g) | – Statement of Work for Consolidation and Transfer Services |
| Schedule 4.2 | – Recycle BC Policies and Standards |
| Schedule 4.4 | – Service Level Methodology |
| Schedule 12.1 | – Insurance Requirements |

- 1.4. Priority. In the event of any inconsistency between any of the provisions of the main terms and conditions of this Agreement, any Schedule that is not a Statement of Work, and any Statement of Work, the inconsistency will be resolved by reference to the following descending order of priority: (i) Section 1 through Section 15 of this Agreement; (ii) the Schedules annexed to this Agreement that are not Statements of Work; and (iii) the applicable Statement of Work, except to the extent a Statement of Work expressly states that it is intended to have priority over the main body of this Agreement or a Schedule referred to in subsection (ii), in which case the Statement of Work will have priority but solely with respect to such Statement of Work.

SECTION 2. SCOPE OF SERVICES

- 2.1. Services. Contractor will perform the services set out in each Statement of Work, including the delivery of any Work Product, and any services that are inherent, necessary, or customarily provided as part of those services (collectively, the "**Services**"), all in accordance with the terms and conditions of this Agreement and the applicable Statement of Work, which shall be appended hereto as part of Schedule 2.1. Each Statement of Work will be effective, incorporated into and form a part of this Agreement when mutually accepted and duly executed by both parties.
- 2.2. Changes.

- 2.2.1. Recycle BC may, at any time and from time to time, request additions, deletions, amendments or any other changes to the Services set out in any Statement of Work or the manner in which such Services shall be performed (a **"Change"**) by issuing a **"Change Request"**. Contractor acknowledges that Recycle BC may be dependent on Contractor for the provision of the Services and, accordingly, acknowledges and agrees that Contractor shall be required to make a good faith Change Proposal (as defined below).
- 2.2.2. Contractor will provide an initial response to any Change Request (a **"Change Response"**) within twenty (20) Business Days following receipt of such Change Request, such response to indicate whether Contractor is able to implement such Change Request. If is not technically possible for Contractor to implement the Change Request, the parties will, on Recycle BC's request, meet to discuss, in good faith, whether it would be technically possible for Contractor to implement the Change Request.
- 2.2.3. Unless the parties have agreed that it would not be technically possible for Contractor to implement a Change Request, Contractor will provide a detailed proposal (a **"Change Proposal"**) within thirty (30) Business Days of providing the Change Response. Such Change Proposal must include details with respect to the implementation of the Change Request and details of any costs or other changes required to this Agreement or the applicable Statement of Work to comply with the Change Request.
- 2.2.4. Contractor may, at any time and from time to time, request a Change by delivering a Change Proposal (which proposal may be in the form of a business case) to Recycle BC.
- 2.2.5. If Recycle BC, in its sole discretion, accepts a Change Proposal, an authorized Recycle BC representative will provide Contractor with written approval of Recycle BC's acceptance in the form of an executed change order. If Recycle BC does not accept a Change Proposal, the parties will, on Recycle BC's request, negotiate in good faith the terms pursuant to which the parties may agree to implement the proposed Change. For the avoidance of doubt, Contractor will not implement any Change to any Statement of Work without Recycle BC's prior written approval.
- 2.2.6. Contractor will make requested Changes at no additional charge to Recycle BC unless implementing the Change will require Contractor to incur material additional costs, in which case Contractor will deal transparently with Recycle BC, including that Contractor will make available to Recycle BC all supporting information and documentation reasonably requested by Recycle BC that relates to the pricing of the proposed Change.
- 2.3. Non-Exclusive. Neither this Agreement nor any Statement of Work will grant Contractor exclusivity of supply unless expressly stated otherwise, with reference to this Section, in the applicable Statement of Work (and in no event will the scope of such exclusivity extend beyond the scope of Services under such Statement of Work).

SECTION 3. DURATION

- 3.1. Term of Agreement. This Agreement will commence on the Effective Date and will continue until the expiration or termination of the last Statement of Work under this Agreement (the **"Term"**).
- 3.2. Term of Statement of Work. Each Statement of Work will set out the term of the Statement of Work and any terms and conditions relating to the renewal of the Statement of Work.

SECTION 4. SERVICE STANDARDS

- 4.1. Performance. Contractor warrants that Contractor will perform, or cause to be performed (including through appropriate supervision and inspection), the Services and otherwise fulfill its obligations hereunder honestly and in good faith, exercising reasonable skill, care and diligence, in accordance

with recognized professional and North American industry standards, practices, and methods, in the applicable jurisdiction, in a timely manner and in accordance with the terms and conditions of this Agreement and any Statement of Work, having regard for the concerns, needs, and interests of residents and the environment. Except where otherwise set out in the Agreement, all weighing and measurement to be performed by Contractor will be made in accordance with the Recycle BC Policies and Standards on weights and measurements identified in Schedule 4.2.

- 4.2. Contractor to Comply with Recycle BC Policies and Standards. Contractor will comply at all times with all terms and requirements set out in the policies and standards set out in Schedule 4.2, as such policies and standards may be updated by Recycle BC from time to time, and such other policies and standards that Recycle BC brings to the attention of Contractor from time to time (collectively, "**Recycle BC Policies and Standards**"). Notice of updating of, or new, Recycle BC Policies and Standards may be made by Recycle BC by e-mail to the address set out in Section 15.5 (as such address may be updated pursuant to Section 15.5) and, notwithstanding Section 15.5, such notice will be deemed duly given when so e-mailed, without the need to confirm receipt. If compliance with updated or new Recycle BC Policies and Standards would require a Change and would require Contractor to incur material additional costs, then Contractor may request a Change pursuant to Section 2.2.4 for the implementation of the updated or new Recycle BC Policies and Standards; provided that Contractor must make any such request within thirty (30) days of Recycle BC providing notice of the updated or new Recycle BC Policies and Standards.
- 4.3. Compliance with Law. Contractor will perform its obligations under this Agreement in a manner that complies with all Applicable Laws, including:
- (a) the *Employment Standards Act* (British Columbia);
 - (b) the *Workers' Compensation Act of the Province* (British Columbia) and the *Occupational Health and Safety Regulations* thereunder;
 - (c) the *Environmental Management Act* (British Columbia); and
 - (d) the *Waste Management Act* (British Columbia).
- 4.4. Service Levels.
- 4.4.1. Contractor will continuously monitor each Service in order to identify, measure and report and correct problems and to ensure that Contractor is meeting or exceeding the following service levels (the "**Service Levels**");
- (a) all service levels set out in this Agreement, including in the applicable Statement of Work; and
 - (b) if no service level is provided for a Service or component thereof, all performance levels and measurements for such Service or component that are industry best practices,
- provided that in the event of a conflict between any service levels, the highest service level standard will apply. Contractor will notify Recycle BC in writing immediately if Contractor knows that Contractor has failed, or believes Contractor will fail, to achieve a Service Level.
- 4.4.2. Contractor recognizes that Contractor's failure to meet a Service Level (each such failure a "**Service Level Failure**") will have a material adverse impact on the business and operations of Recycle BC and that damages resulting from a Service Level Failure may not be capable of precise determination. As such (and without limiting Recycle BC's rights or remedies), Recycle BC will be entitled to any express remedies for Service Level Failures that may be set out in Schedule 4.4 or the applicable Statement of Work. Contractor agrees that it is obligated to meet all Service Levels,

even if no express remedy for a failure to meet such Service Level is provided in Schedule 4.4 or in a Statement of Work.

- 4.4.3. In the event of a Service Level Failure in respect of a Service Level expressly set out in a Statement of Work, Contractor will credit to Recycle BC the applicable Service Level Failure Credit set out in such Statement of Work. Contractor agrees that Service Level Failure Credits compensate Recycle BC in part for the reduced value of the Services actually provided by Contractor (and not as a penalty or exclusive liquidated damages). Contractor agrees that the Service Level Failure Credits are only partial compensation for the damage that may be suffered by Recycle BC as a result of Contractor's failure to meet a Service Level and that payment of any Service Level Failure Credit is without prejudice to any entitlement Recycle BC may have to damages or other remedies under this Agreement, at law or in equity. Service Level Failure Credits will be due regard-less of the manner in which the Service Level Failure is identified (including where reported by Contractor or identified by Recycle BC).
- 4.4.4. Upon Recycle BC's request, and in any event at least once per year, Recycle BC will meet with Contractor (which meeting may be in person or by phone as determined by Recycle BC) to review and discuss Contractor's performance level of the Services and Service Levels.
- 4.5. Contingency Planning. Without limiting Contractor's liability for performance of its obligations under this Agreement, Contractor will implement and maintain throughout the Term such contingency measures as may be appropriate, in Recycle BC's sole discretion (acting reasonably), including a comprehensive business continuity plan (the "**Business Continuity Plan**"), to continue the performance of its obligations under this Agreement under various scenarios including equipment failure, fuel shortage, strike, road closures (including due to weather, construction or otherwise), fire, pandemic, quarantine, and natural disasters. Recycle BC will have the right, upon demand from time to time, to review the Business Continuity Plan. Contractor will update its Business Continuity Plan at least once each year and in the event of any material change in operations or circumstance. Contractor will invoke its Business Continuity Plan where necessary due to any incident or event, including an event of Force Majeure, that has the potential to have a material impact on Contractor's ability to provide any material part of the Services for any material period of time, or upon the request of Recycle BC. Without limiting Contractors' obligations under this Agreement, whenever an incident or event that invokes the Business Continuity Plan also impacts other services provided by Contractor, and as a result Contractor is allocating resources or implementing temporary service changes or workarounds, Contractor will treat Recycle BC and the Services no less favourably than: (i) where Contractor is a local government, any other non-essential services it provides, or (ii) where Contractor is not a local government, any of its other customers, in each case in the allocation of such resources or in the implementation of such temporary service changes or workarounds.
- 4.6. Labour Disruption.
- 4.6.1. Contractor will provide Recycle BC with at least thirty (30) days prior written notice of the expirations of any labour agreement and, as soon as reasonably possible after providing such notice, Contractor will provide an assessment of the likelihood of a Labour Disruption (as defined below) in connection with the expiry of such labour agreement.
- 4.6.2. In the event that a labour disruption of any kind causes a reduction in Service Levels (a "**Labour Disruption**"), Contractor will inform Recycle BC within four (4) hours by phone and e-mail of the nature and scope of the disruption, as well as Contractor's immediate plans to invoke any or all of its Business Continuity Plan.
- 4.6.3. Without limiting Contractor's obligations under this Agreement, where a Labour Disruption also impacts other services provided by Contractor, and as a result Contractor is allocating resources or implementing temporary service changes or workarounds, Contractor will treat Recycle BC no less favourably than any of its other customers, in the allocation of such resources or in the

implementation of such temporary service changes or workarounds (for example, if Contractor provides collection Services hereunder and other collection services, and Contractor proposed to provide temporary drop-off sites in respect of its other collection services, then Contractor will also propose to provide such sites in respect of the Services hereunder).

- 4.6.4. Recycle BC will have the right to make a proportionate reduction to any Fees to reflect the value of any Services not received by Recycle BC due to a Labour Disruption.
- 4.6.5. In the event that a Labour Disruption lasts more than three (3) collection cycles (i.e. bi-weekly), and for so long as the Labour Disruption continues, Recycle BC will have the right to suspend payment of Fees (defined below) and terminate this Agreement or any Statements of Work, for cause, immediately upon delivery of written notice of termination by Recycle BC to Contractor.

SECTION 5. PAYMENT

- 5.1. Fees. In consideration of the complete and proper fulfillment of Contractor's obligations in accordance with the terms and conditions of this Agreement, Recycle BC will pay Contractor the amounts set forth in any Statement of Work (the "**Fees**"). Except as expressly set out in a Statement of Work, there will be no other amounts payable by Recycle BC to Contractor in respect of the Services or this Agreement, including any amounts for expenses or costs of travel, personnel, fuel, equipment or facilities relating to the Services or this Agreement.
- 5.2. Set-Off. Recycle BC may set-off and deduct from any amounts payable to Contractor: (a) any amounts owing by Contractor to Recycle BC pursuant to this Agreement or any other agreement between Contractor and Recycle BC that deals with the Services, including any Service Level Failure Credits; and (b) any costs incurred by Recycle BC in collecting any amounts owing by Contractor to Recycle BC pursuant to this Agreement or any other agreement between the parties that deals with the Services. The failure by Recycle BC to set-off or deduct any amount from an invoiced payment will not constitute a waiver of Recycle BC's right to set-off, deduct or collect such amount.
- 5.3. Invoicing.
 - 5.3.1. Unless otherwise set out in a Statement of Work, Contractor will submit claims using the Recycle BC claims reporting portal, or through such other method as Recycle BC may designate. Recycle BC will review submitted claims and will issue a purchase order to Contractor for valid approved claims.
 - 5.3.2. After receipt of a purchase order from Recycle BC, Contractor will invoice Recycle BC for the validated claim, with reference to the issued purchase order; provided that Recycle BC may, in its discretion, choose to issue payment to the Contractor based on the approved purchase order without the need for Contractor to submit an invoice. Where invoices are required by Recycle BC, Contractor will invoice Recycle BC using the contact information provided by Recycle BC for such purpose (as may be updated by Recycle BC from time to time).
 - 5.3.3. Where applicable as may be set out in a Statement of Work, Contractor must submit all claims within thirty (30) days of the performance of the applicable Services, and all invoices (where required to be submitted by Recycle BC) within thirty (30) days of the purchase order date. In no event will Recycle BC be liable for payment of any claim submitted more than ninety (90) days after the performance of the applicable Services, or payment of any invoice submitted more than ninety (90) days after the purchase order date.
- 5.4. Taxes. Except where otherwise noted, the Fees exclude all applicable sales, goods and services, value added, use or other commodity taxes that may be lawfully imposed upon the Services; where Contractor clearly and separately itemizes such taxes on Contractor's invoice to Recycle BC,

Recycle BC will pay and Contractor will remit such taxes to the appropriate taxing authority. On request, Contractor will provide reasonable assistance to Recycle BC to challenge the validity of any tax imposed on it due to this Agreement. If it is determined that Recycle BC paid Contractor an amount for tax that was not due, Contractor will refund the amount to Recycle BC. The parties will cooperate with each other to enable each party to determine its tax liabilities accurately and to reduce such liabilities to the extent permitted by Applicable Law.

- 5.5. Withholding Taxes. Recycle BC may deduct or withhold from any payment(s) made to Contractor any amount that Recycle BC is required to deduct or withhold in accordance with Applicable Law, including administrative practice ("**Withheld Taxes**") and will remit such Withheld Taxes to the appropriate taxing authority in a timely manner. All such Withheld Taxes will be treated as having been paid to Contractor by Recycle BC.
- 5.6. Payment. Subject to the terms and conditions of this Agreement and any Statement of Work, Recycle BC will pay Contractor, via electronic funds transfer, the undisputed Fees for the Services within thirty (30) days of the purchase order date. Contractor will provide Recycle BC with complete and accurate billing and contact information, including all information required by Recycle BC to effect electronic funds transfers and a billing email address to which Recycle BC may send submission reports and purchase orders. Contractor will promptly provide Recycle BC with any updates to such billing and contact information.
- 5.7. No Volume Commitment. Notwithstanding anything to the contrary in the Agreement, Contractor acknowledges that Recycle BC makes no representation or warranty as to the nature, timing, quality, quantity or volume of Services required from Contractor under this Agreement or the compensation that may be earned by Contractor, including as to any amounts of materials to be collected or managed through post-collection services by a Contractor.

SECTION 6. PERSONNEL

- 6.1. Suitable Personnel. Upon Recycle BC's request, Contractor will promptly investigate any written complaint from Recycle BC regarding any unsatisfactory performance by any of Contractor's personnel (including employees of a subcontractor or agent) and take immediate corrective action. If the offending conduct is repeated, and Contractor is not restricted by a collective agreement from doing so, Recycle BC may require that such person be removed from all performance of additional work for Recycle BC. Removal of such person will be addressed by Contractor immediately.
- 6.2. Key Personnel. During the term of each Statement of Work, Contractor will not remove any of the persons identified as "**Key Personnel**" in such Statement of Work (or their replacements) except (a) for cause or (b) if such person is replaced at the time of removal by personnel approved in advance by Recycle BC acting reasonably, it being understood that any such replacement shall have applicable ability, experience and expertise equal to or greater than the person being replaced. If any Key Personnel (or their replacement) ceases to serve in the applicable role for any reason whatsoever, Contractor shall (i) notify Recycle BC in writing within five (5) Business Days and (ii) use commercially reasonable efforts to replace such person with personnel approved in advance by Recycle BC acting reasonably, and shall provide Recycle BC with the updated contact information as soon as it is available, it being understood that any such replacement shall have applicable ability, experience and expertise equal to or greater than the person being replaced.
- 6.3. Subcontracting. Contractor will not delegate or subcontract all or any part of Contractor's obligations under this Agreement to anyone without the prior written consent of Recycle BC (not to be unreasonably withheld), including that Recycle BC's prior written consent is required by Contractor to continue to delegate or subcontract to a person following a change in control (including a sale of all or substantially all assets) of such person. The delegation or subcontracting of all or any part of Contractor's obligations under this Agreement will not relieve Contractor from any obligation or liability hereunder. Any breach of this Agreement by any delegate or subcontractor will be deemed to be a breach of this Agreement by Contractor.

SECTION 7. REPORTING AND AUDIT

- 7.1. Record Keeping. During the Term and thereafter until the later of three (3) years (or such longer period as may be required by Applicable Law) or the date all Disputes or other matters relating to this Agreement are resolved, Contractor will keep and maintain complete and accurate data, records, and documents in accordance with generally accepted accounting principles consistently applied to support and document all claims and amounts becoming payable to Contractor by Recycle BC hereunder, and all data, records, and documents relating to the performance of the Services, and compliance with Contractor's obligations under this Agreement.
- 7.2. Reporting. In addition to any other reporting obligations under this Agreement or a Statement of Work, Contractor will provide the following reporting to Recycle BC:
- (a) at least quarterly (or such other period as may be set out in a Statement of Work), Contractor will report, through Recycle BC's claims reporting portal, or through such other method as Recycle BC may designate, the reporting information set out in the applicable Statement of Work for Services performed. Such reporting may include applicable sites, amount, type, or weight of materials and service dates;
 - (b) upon such frequency as Recycle BC may request (but not more frequently than monthly), reports pertaining to the performance of the Services and Contractor's other obligations under this Agreement reasonably sufficient to permit Recycle BC to monitor and manage Contractor's performance; and
 - (c) such additional reports as Recycle BC may reasonably identify from time to time to be generated and delivered by Contractor on an ad-hoc or periodic basis.
- 7.3. Audit.
- 7.3.1. Without limiting any other audit right, during the Term and for the period Contractor is required to comply with Section 7.1, Recycle BC (or its audit representative) will have the right upon reasonable prior written notice to audit and inspect: (a) any site, facility, vehicle, or equipment relating to the performance of the Services; and (b) all data, records, documentation and other information of Contractor relating to this Agreement or the Services, in order to verify Contractor's performance and compliance with its obligations under this Agreement, including that Recycle BC (or its audit representative) may conduct a financial audit to verify the amounts paid or payable by Recycle BC hereunder. If any audit reveals that Recycle BC has been overbilled, Contractor will reimburse the overcharged amount to Recycle BC. If the overbilled amount exceeds five percent of the total amounts charged during the time period audited, Contractor will bear all of Recycle BC's costs in relation to such audit.
- 7.3.2. Without limiting any other audit right, during the Term and for the period Contractor is required to comply with Section 7.1, Contractor will make the data, records, and documents retained pursuant to Section 7.1 available for inspection or audit by Recycle BC (or its audit representative) upon Recycle BC's request.
- 7.3.3. Without limiting any other audit right, during the Term, Recycle BC (or its audit representative) may conduct composition studies, without notice, of any materials collected, transported, processed, or otherwise handled under this Agreement, at any stage of the Services and regardless of the location of such materials.
- 7.3.4. Contractor will co-operate with and provide to Recycle BC (or its audit representative) such reasonable assistance as they require in order to exercise the rights set out in this Section 7.3. Contractor will ensure that it has agreements in place with all subcontractors to enable Recycle BC

(or its audit representative) to directly exercise the audit rights under this Section 7.3 in respect of such subcontractor.

SECTION 8. REPRESENTATIONS AND WARRANTIES

- 8.1. Contractor Representations and Warranties. Contractor represents and warrants to and covenants with Recycle BC that:
- (a) it is duly incorporated, validly existing, and in good standing under the laws of its jurisdiction of incorporation, and is duly qualified to do business in all jurisdictions in which qualification is necessary in order to transact its business and perform its obligations set out in this Agreement;
 - (b) it has full power, authority, and right to execute and deliver this Agreement, to make the representations, warranties, and covenants set out herein, and to perform its obligations under this Agreement in accordance with its terms;
 - (c) this Agreement has been validly executed by an authorized representative of Contractor, and constitutes a valid and legally binding and enforceable obligation of Contractor;
 - (d) it has and will, at its own expense, procure all permits, certificates and licenses required by Applicable Law for the performance of the Services;
 - (e) the representations, warranties, covenants, claims, inducements, and agreements made by Contractor in Contractor's written response to any procurement process related to the Services or this Agreement are true and correct as of the Effective Date, including those in any proposal submitted in response to a request for proposals and any statements or claims in any completed and submitted questionnaire in response to any offer of a collection fee; and
 - (f) it has not given and will not give commissions, payments, kickbacks, gifts, lavish or extensive entertainment, or other inducements of more than minimal value to any employee or agent of Recycle BC in connection with this Agreement and, to the best of its knowledge, no officer, director, employee, agent or representative of Contractor has given any such commissions, payments, kickbacks, gifts, entertainment or other inducements to any employee or agent of Recycle BC.

SECTION 9. CONFIDENTIALITY

- 9.1. Confidentiality Covenant. The Receiving Party will: (i) take all measures reasonably required to maintain the confidentiality and security of the Confidential Information of the Disclosing Party; (ii) not use or reproduce Confidential Information for any purpose, other than as reasonably required to exercise or perform its rights or obligations under this Agreement; (iii) not disclose any Confidential Information other than to employees, agents or subcontractors of the Receiving Party ("**Representatives**") to the extent, and only to the extent, they have a need to know the Confidential Information in order for Receiving Party to exercise its rights or perform its obligations under this Agreement and who are bound by a legal obligation to protect the received Confidential Information from unauthorized use or disclosure; and (iv) be responsible for any breach of this Agreement by any of its Representatives.
- 9.2. Legal Requirement. Notwithstanding Section 9.1, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by a court of competent jurisdiction or other governmental authority or otherwise as required by Applicable Law, provided that, unless prohibited by Applicable Law, the Receiving Party gives the Disclosing Party an opportunity to oppose the disclosure or to seek a protective order protecting such Confidential Information prior to any such disclosure.

- 9.3. Return of Confidential Information. Upon expiry or termination of this Agreement, or upon request by the Disclosing Party, the Receiving Party will return to the Disclosing Party, or irrecoverably destroy, any Confidential Information of the Disclosing Party.
- 9.4. Privacy Laws. Contractor will not access, collect, use, disclose, dispose of or otherwise handle information of or about individuals that is subject to Applicable Laws relating to privacy ("**Privacy Laws**") in the performance of its obligations under this Agreement, except: (a) to the extent necessary to perform the Service; (b) in accordance with all Privacy Laws; and (c) in a manner that enables Recycle BC to comply with all Privacy Laws, including that Contractor will obtain appropriate consents from the applicable individuals to allow Contractor and Recycle BC to exercise their rights and to perform their obligations under this Agreement as they relate to such information. Unless prohibited by Applicable Law, Contractor will immediately notify Recycle BC of any demand, or request by a third party (including any government or a regulatory authority) for the disclosure of any information of Recycle BC that is subject to Privacy Laws, and, to the maximum extent permitted by law, will oppose, seek judicial relief of and appeal any such demand or request. Contractor will immediately notify Recycle BC if Contractor becomes aware that Contractor has failed to comply with Privacy Laws in connection with the performance of this Agreement.

SECTION 10. PROPRIETARY RIGHTS

- 10.1. Ownership. Except as otherwise specifically provided in any Statement of Work, or as otherwise agreed to by the parties in writing, the Work Product, together with any Intellectual Property Rights therein, will be owned by Recycle BC; accordingly, Contractor will assign and hereby assigns to Recycle BC all rights, title and interest it may have from time to time in the Work Products effective upon creation. During the Term, Contractor will have a non-exclusive, non-transferable license to use the Work Products for the sole purpose of providing and completing the Services. Contractor will obtain from all individuals involved in the development of the Work Product an express and irrevocable waiver in favour of Recycle BC, its successors and assigns of any and all moral rights arising under the *Copyright Act* (Canada) as amended (or any successor legislation of similar force and effect) or under similar legislation in other jurisdictions or at common law that Contractor or such individuals, as authors, have with respect to the Work Products. Notwithstanding the foregoing, Recycle BC shall not acquire any Intellectual Property Rights with respect to Contractor's tools, equipment, methodologies, questionnaires, responses, and proprietary research and data, as well as any and all computer software, code or codes and technology, used by Contractor in connection with the provision of the Services under this Agreement that is created or acquired prior to the Effective Date or otherwise created or acquired independent of the Services ("**Contractor Background IP**"). Contractor hereby grants to Recycle BC a perpetual, worldwide, fully-paid, and sub-licensable license to the Contractor Background IP as necessary for Recycle BC to exercise its rights in and to the Work Product and otherwise use the Services and obtain the rights granted to Recycle BC under this Agreement. All Work Product in the possession of Contractor will be promptly delivered to Recycle BC following termination of this Agreement or at such other time as Recycle BC may reasonably request.

SECTION 11. INDEMNITY

- 11.1. Indemnity. Contractor will indemnify and save harmless Recycle BC, its Affiliates, and their respective directors, officers, contractors, employees, volunteers, and agents from and against any and all manner of actions or causes of actions, damages, costs, losses or expenses of whatever kind (including related legal fees on a solicitor and client basis) which may be sustained or incurred by reason of or directly or indirectly arising out of any act or omission of Contractor or any person for whom the Contractor is, at law or under this Agreement, responsible, in relation to the Services or this Agreement, including those arising out of any (i) breach of this Agreement; (ii) damages to persons or property, personal injury or death; (iii) breach of Applicable Law; (iv) spill, leak, contamination, or other environmental damage; or (v) infringement, violation or misappropriation of any third party's right, including any Intellectual Property Right.

- 11.2. Available Remedies. If Contractor sustains damage in the course of performing the Services that is caused by another contractor of Recycle BC with whom Contractor is obligated under this Agreement to interact with directly (an “**Other Service Provider**”), Recycle BC will, upon Contractor’s reasonable and good faith request, use commercially reasonable efforts to exercise, for Contractor’s benefit, such contractual remedies of indemnification or receipt of Service Level Failure Credits as Recycle BC may have with the Other Service Provider that apply to the damage sustained by Contractor and the event which caused the damage; provided that Contractor: (i) has first used reasonable efforts to address the damage directly with the Other Service Provider, including exercising direct remedies Contractor may have under Applicable Law, contract or otherwise; and (ii) will have a duty to mitigate its damages.

SECTION 12. INSURANCE AND PERFORMANCE BOND

- 12.1. Insurance. During the Term, and for any additional period following the end of the Term set out in Schedule 12.1, Contractor will have and maintain in force in Canada, and will cause it subcontractors to have and maintain in force in Canada, at a minimum, the insurance coverages set out in Schedule 12.1, and Contractor will (and will cause its subcontractors to) otherwise comply with the provisions of Schedule 12.1. Failure to secure or maintain such insurance coverage, or the failure to comply fully with any of Schedule 12.1 will be deemed to be a material breach of this Agreement. None of the requirements contained herein as to types, limits and approval of insurance coverage to be maintained by Contractor are intended to and will not in any manner limit the liabilities and obligations assumed by Contractor under this Agreement.
- 12.2. Performance Bond. Contractor will comply with any performance bond requirements that may be set out in a Statement of Work.

SECTION 13. TERMINATION

- 13.1. Termination for Convenience. Either party may, at any time and without cause, terminate this Agreement or any Statements of Work for convenience upon giving the other party one hundred eighty (180) days’ prior written notice (or such shorter amount of notice as mutually agreed in writing by the parties).
- 13.2. Termination by Recycle BC for Cause. Recycle BC may elect to terminate this Agreement or any Statements of Work by providing written notice of such termination, effective immediately or at such other time set out in the notice of termination, to Contractor in the event that:
- (a) Contractor becomes subject to proceedings in bankruptcy or insolvency, voluntarily or involuntarily, if a receiver is appointed with or without Contractor’s consent, if Contractor assigns its property to its creditors or performs any other act of bankruptcy or if the other party becomes insolvent and cannot pay its debts when they are due;
 - (b) Contractor commits a material breach of this Agreement and does not cure such breach within thirty (30) days of receipt of notice thereof from Recycle BC;
 - (c) Contractor fails to provide all or a material portion of the Services for a consecutive period of more than seven (7) days, unless this is a result of a Labour Disruption or Force Majeure as per Section 4.6;
 - (d) Contractor’s performance creates a hazard to public health or safety or to the environment;
 - (e) Contractor is assessed five separate Service Level Failure Credits during any rolling six (6) month period; or
 - (f) any other termination right described in this Agreement or a Statement of Work is triggered.

- 13.3. Termination by Contractor for Cause. Contractor may elect to terminate this Agreement or any Statement of Work by providing written notice of such termination, effective immediately, to Recycle BC in the event that Recycle BC fails to pay undisputed Fees, as they become due, in the preceding three months and Recycle BC does not cure such non-payment within sixty (60) days of receipt of notice thereof from Contractor.
- 13.4. Change in Applicable Law. Recycle BC may elect to terminate this Agreement or any Statement of Work by providing written notice of such termination, effective immediately or at such other time set out in the notice of termination, to Contractor in the event that there is a material change in Applicable Law applicable to Recycle BC or the Services, including if there is a material change to an approved plan under the Regulation or if any new plan (whether submitted by Recycle BC or any other person) is approved thereunder.
- 13.5. Disruption of Service. The parties expressly agree that the failure or inability of Contractor to perform its obligations under this Agreement will constitute a breach hereunder, and that any costs and expenses reasonably incurred by Recycle BC for any replacement services as a result of such a failure or inability will be considered direct damages hereunder.
- 13.6. Termination Obligations and Assistance. Upon termination or expiration of this Agreement, Contractor will cooperate with Recycle BC to ensure the orderly wind down of the Services including, if requested by Recycle BC, continuing to provide such Services as are necessary to ensure an orderly transfer of the Services following termination of this Agreement on terms and conditions acceptable to each of the parties acting reasonably. Upon receipt of a notice of termination by either party under this Section 13 (Termination), Contractor will prepare its statement of account on the basis of the effective date of termination specified in the notice, and immediately return all Work Product to Recycle BC, whether completed or not.
- 13.7. Survival. The following sections will survive the expiration or termination of this Agreement, regardless of the reasons for its expiration or termination, in addition to any other provision which by law or by its nature should survive: Section 9 (Confidentiality), Section 11 (Indemnity), Section 12 (Insurance and Performance Bond), Section 14 (Dispute Resolution) and Section 15 (General Provisions) in their entirety, and Sections 7.1, 7.3, 10.1, 13.6, and 13.7. The expiry or termination of this Agreement will not affect the rights of any party to make a claim for damages arising from a breach of any provision of this Agreement which occurred prior to such expiry or termination.

SECTION 14. DISPUTE RESOLUTION

- 14.1. Disputes. Any dispute that touches upon the validity, construction, meaning, performance or effect of this Agreement or the rights or liabilities of the parties or any matter arising out of, or in connection with this Agreement (a "**Dispute**"), between Recycle BC and Contractor will be addressed as follows:
- (a) The parties will first attempt to resolve the Dispute through representatives from each of Recycle BC and Contractor who work most closely with each other on related matters, within fifteen (15) days after written notice of the Dispute was first given, or as otherwise agreed upon.
 - (b) If the Dispute is not resolved in accordance with Section 14.1(a), either party may escalate the Dispute to the senior Recycle BC and Contractor representatives, who will meet and work together in good faith to attempt to resolve the Dispute within a further fifteen (15) days, or as otherwise agreed upon.
 - (c) If the Dispute is not resolved in accordance with Section 14.1(b), then either party may escalate the Dispute to non-binding third party mediation. The mediation will take place at a time and place mutually agreed by the parties and will be led by a third-party facilitator

jointly selected by the parties (who, unless otherwise mutually agreed by the parties, will be an individual accredited to provide such services). If the Dispute remains unresolved within forty-five (45) days from the point at which a party escalated the Dispute to non-binding third party mediation, either party may escalate the Dispute by delivering a written notice to the other party referring the matter to binding arbitration.

- (d) If the Dispute is not resolved in accordance with Section 14.1(c) unless otherwise mutually agreed by the parties in writing, the Dispute will be conclusively settled by means of private and confidential binding arbitration, to the exclusion of courts of law. The arbitration will take place before a single arbitrator in Vancouver in the English language and will otherwise be undertaken under the auspices and rules of the British Columbia Arbitration & Mediation Institute. The decision of the arbitrator will be final and binding on the parties and will not be subject to appeal on any grounds whatsoever, and will be enforceable against Recycle BC and Contractor as the case may be. The parties will mutually agree on an arbitrator, where the parties are unable to mutually agree on an arbitrator, the arbitrator will be determined pursuant to the rules of the British Columbia Arbitration & Mediation Institute.
- (e) Notwithstanding anything to the contrary in this Section 14.1, either party may start litigation proceedings in a court of law at any time for an application for a temporary restraining order or other form of injunctive relief and each party hereby attorns to the non-exclusive jurisdiction of the courts of the province of British Columbia for such purpose.

SECTION 15. GENERAL PROVISIONS

- 15.1. Relationship of the Parties. It is acknowledged by the parties hereto that the Contractor is being retained by Recycle BC in the capacity of independent contractor and not as an employee of Recycle BC. The Contractor and Recycle BC acknowledge and agree that this Agreement does not create a partnership, joint venture, agency, or other special relationship between them. Except as may be specified in writing, neither party will have the power to obligate or bind the other party. Personnel supplied by Contractor will work exclusively for Contractor and will not be considered employees or agents of Recycle BC for any purpose.
- 15.2. Assignment. This Agreement may not be assigned by either party in whole or in part, without the other party's prior written consent, except that Recycle BC may assign this Agreement without Contractor's consent to a person with an approved plan under the Regulation, or who otherwise has obligations similar to those of Recycle BC or one or more Producers under any successor regulation or legislation, or to a person as part of a corporate reorganization of Recycle BC. Any attempt by a party to assign all or any part of this Agreement without prior written consent (where such consent is required) is void. Any assignment occurring by operation of law such as on a bankruptcy or amalgamation will be deemed to be an assignment and will be subject to this Section 15.2.
- 15.3. Force Majeure. Neither party to this Agreement or any Statement of Work will be liable to the other party for any failure or delay in fulfilling an obligation hereunder, if said failure or delay is attributable to an act of God, natural disaster, earthquake, fire, flood, war, riot, civil disturbance, epidemic, prolonged power failure or court or governmental order beyond such party's reasonable control ("Force Majeure"). The parties agree that the deadline for fulfilling the obligation in question will be extended for a period of time equal to that of the continuance of the Force Majeure. The party to which the Force Majeure applies will use all commercially reasonable efforts to minimize the effect of the Force Majeure on its performance under this Agreement or any Statement of Work. If Contractor's failure or delay in fulfilling its obligations under this Agreement due to a Force Majeure Event exceeds [30] days, then Recycle BC may immediately terminate this Agreement in whole or in part by giving written notice of termination.
- 15.4. Governing Law. This Agreement and any Statement of Work will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable

therein without regard to conflicts of law that would apply a different body of law. Subject to Section 14 (Dispute Resolution), the parties hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of British Columbia for any legal proceedings arising out of this Agreement, any Statement of Work or the performance of the obligations hereunder.

- 15.5. Notices. All notices, requests, demands or other communications given by one party to the other party, will be in writing, in the English language, and will be deemed duly given (i) when delivered by hand; (ii) by e-mail (with receipt confirmed), (iii), on the designated day of delivery after being given to an express overnight courier with a reliable system for tracking delivery, or (iv) six (6) days after the day of mailing, when mailed by Canada Post, registered or certified mail, return receipt requested and postage prepaid, and addressed as follows:

To Contractor:

Town of Ladysmith
410 Esplanade Ave
Ladysmith, BC V9G 1A1

E-mail: lthew@ladysmith.ca

Attention: Len Thew

To Recycle BC:

MMBC Recycling Inc.
405-221 West Esplanade
North Vancouver, BC V7M 3J3

E-mail: agreements@recyclebc.ca

Attention: Director, Collection Recycle BC

or to such other address as may be designated by notice given by either party to the other.

- 15.6. Further Assurances. The parties will do, execute or deliver all such further acts, documents and things as the other party may reasonably require from time to time for the purpose of giving effect to this Agreement and will use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.
- 15.7. No Publicity. Contractor will not use the name or trademarks of Recycle BC nor make any statement or issue any advertisement, publicity release, press releases to the public or the media with respect to this Agreement or Recycle BC, unless it has obtained Recycle BC's prior written approval, including that Contractor will not disclose or otherwise publicly report on any Service performance metrics (including volumes of material collected or processed).
- 15.8. Timing. Time will be of the essence of this Agreement and of every part hereof and no extension or variation of this Agreement will operate as a waiver of this provision.
- 15.9. Severability. If any provision, or portion thereof, of this Agreement or any Statement of Work is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination will not impair or affect the validity, legality or enforceability of the remaining provisions of this Agreement or any Statement of Work, and each provision, or portion thereof, is hereby declared to be separate, severable and distinct.

- 15.10. Waiver. A waiver of any provision of this Agreement or any Statement of Work will only be valid if provided in writing and will only be applicable to the specific incident and occurrence so waived. No omission, delay or failure to exercise any right or power, or any waiver by either party of any breach or default, whether expressed or implied, or any failure to insist on strict compliance with any provision of this Agreement, will be a waiver of any other provision. Any waiver of any provision or breach of this Agreement will not be a continuing waiver unless otherwise stated.
- 15.11. Remedies Cumulative. No single or partial exercise of any right or remedy under this Agreement or any Statement of Work will preclude any other or further exercise of any other right or remedy in this Agreement or any Statement of Work or as provided at law or in equity. Rights and remedies provided in this Agreement or any Statement of Work are cumulative and not exclusive of any right or remedy provided at law or in equity.
- 15.12. Amendment. This Agreement or any Statement of Work may only be amended by written agreement duly executed by authorized representatives of the parties.
- 15.13. Entire Agreement. This Agreement, including all Schedules hereto, and any Statement of Work will constitute the entire agreement between the parties with respect to the subject matter hereof and will replace all prior promises or understandings, oral or written. There is no representation, warranty, collateral term or condition or collateral agreement affecting this Agreement, other than as expressed in writing in this Agreement. Any purchase order or other instrument of Contractor accompanying a Statement of Work, an invoice or otherwise is for Contractor's internal use only and its terms will not alter or amend the terms of this Agreement.
- 15.14. Counterparts. This Agreement and any Statement of Work may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed signature page to this Agreement or any Statement of Work by any party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement or the Statement of Work by such party.

(Signature page follows.)

IN WITNESS WHEREOF the parties have executed this Agreement effective as of the Effective Date.

MMBC RECYCLING INC.

Per: _____
(I have authority to bind Recycle BC)

Name: _____
(Please Print)

Title: _____

TOWN OF LADYSMITH

Per: _____
(I have authority to bind Contractor)

Name: _____
(Please Print)

Title: _____

Per: _____
(I have authority to bind Contractor)

Name: _____
(Please Print)

Title: _____

Note: Second signatory to be completed by Contractor only if Contractor requires two signatories (and by leaving the second signatory blank and returning the Agreement to Recycle BC, Contractor and the first signatory represent that no additional signatories are required).

Attachment C

SCHEDULE 4.2 RECYCLE BC POLICIES AND STANDARDS

As of the Effective Date, the following are Recycle BC Policies and Standards:

1. Recycle BC's Weight and Measurement Standards, a copy of which is set out below:

Recycle BC requires that materials collected by Contractor in connection with the Services ("**Inbound Material**") be weighed, and that accurate weights be reported to Recycle BC.

Weight is defined by Recycle BC as the following:

"Gross Weight" means the weight of the truck or container plus its contents, measured in kilograms unless otherwise noted.

"Tare Weight" means the weight of the empty truck, container or equipment without its contents, measured in kilograms unless otherwise noted.

"Net Weight" means the weight of the contents of the container or truck, calculated as Gross Weight minus Tare Weight, measured in kilograms unless otherwise noted.

The following equation must always be true.

$$\text{Net Weight} = \text{Gross Weight} - \text{Tare Weight}$$

Measurement Canada has produced a comprehensive guide on taking and recording weights, available at <http://www.ic.gc.ca/eic/site/mc-mc.nsf/eng/lm00205.html>.

Contractor Responsibilities

All loads must be documented in a manner specified by Recycle BC, as amended by Recycle BC from time to time, including a certified scale ticket. The certified scale ticket may be provided by the Designated Post-Collection Service Provider to the Contractor if the weighing is performed by the Post-Collection Service Provider. If the Contractor is performing the actual weighing, the Post-Collection Service Provider responsibilities noted below must be followed by the Contractor.

Contractors are to maintain the following Net Weight records and provide upon request to Recycle BC:

- Curbside Collection: Tonnage of Inbound Material by collection date and individual truck number
- Multi-Family Building Collection: Tonnage of Inbound Material by collection date and individual truck number
- Depot Collection: Tonnage of Inbound Material by each container type, material category, and by the date on which the Designated Post-Collection Service Provider removed the PPP from the depot

SCHEDULE 4.4
SERVICE LEVEL METHODOLOGY

1. Contractor will measure and record all data reasonably required by Recycle BC to determine Contractor's performance of the Services against the applicable Service Levels. Contractor will retain such records in accordance with Section 7.1 of the Agreement. Upon request, and upon such frequency as Recycle BC may indicate (which may not be more frequently than monthly), Contractor will deliver to Recycle BC a report, in a form and format approved by Recycle BC, setting out details of Contractor's actual performance of the Services as measured against each Service Level during the applicable reporting period.

Attachment C

SCHEDULE 12.1 INSURANCE REQUIREMENTS

1. **Insurance Coverage.** The insurance coverage required pursuant to Section 12.1 of the main body of the Agreement is as follows:
 - (a) Comprehensive General Liability coverage with limits of not less than \$5,000,000 (five million dollars) per occurrence with a deductible not exceeding \$100,000 per occurrence, or, where Contractor is a local government, Contractor may self-insure for equivalent or better coverage (in which case Contractor will respond to all claims, actions, demands, expenses and losses by whomsoever made in the same manner as if commercial comprehensive general liability insurance was purchased for same and as if Recycle BC were included in such policy as an additional insured);
 - (b) Contractor will seek advice and obtain any necessary environmental impairment liability insurance or other such policy as may be recommended by their insurance broker or legal counsel to adequately protect against risks of environmental liability, with typical environmental impairment liability insurance for the Services having a limit of not less than \$1,000,000 (one million dollars) per occurrence with a deductible not greater than \$100,000 (for clarity, neither the amount nor type of environmental impairment liability insurance obtained by Contractor will in any manner limit or qualify the liabilities and obligations assumed by Contractor under this Agreement);
 - (c) Workers' Compensation Insurance or Workplace Safety & Insurance coverage with the applicable Provincial (including in all cases British Columbia) or Territorial Workplace Safety & Insurance Board or Employer's Liability Insurance or both with limits as required by Applicable Law covering all Contractor personnel; and
 - (d) Such other insurance coverage as may be set out in a Statement of Work.
2. **Requirements for Insurer.** All insurers must be reputable and financially creditworthy insurers with an A.M. Best financial strength rating of "A-" or higher (or equivalent rating by a similar agency, in Recycle BC's sole discretion).
3. **Recycle BC as Additional Insured.** Contractor will add Recycle BC as an additional insured on its Commercial General Liability policy with the following language: "MMBC Recycling Inc. and its affiliated entities, officers, partners, directors, employees, representatives and agents are included as Additional Insureds for Comprehensive General Liability."
4. **Evidence of Insurance.** Contractor will cause its insurers to issue to Recycle BC certificates of insurance on the Effective Date, and once each calendar year thereafter, evidencing that the coverages and policy endorsements required under this Agreement are maintained in force. Where Contractor is a local government and opts to self-insure pursuant to Section 1(a), Contractor will provide a written attestation stating and evidencing such self-insurance (including evidence of authority and financial ability to self-insure), in a form acceptable to Recycle BC, on the Effective Date and once each calendar year thereafter.
5. **Changes to Insurance Coverage.** Contractor will not reduce any insurance coverage below the requirements set out in this Schedule without Recycle BC's prior written consent. Contractor will provide not less than 30 days' notice to Recycle BC prior to any material change to its insurance coverage or to its insurer.
6. Intentionally omitted.

7. **Additional Period of Coverage.** Contractor will continue to have and maintain in force the insurance coverages set out in this Schedule, and Contractor will continue to comply with Section 12.1 of the main body of the Agreement and Schedule 12.1, beyond the end of the Term for an additional 2 years thereafter.

Attachment C

STAFF REPORT TO COUNCIL

Report Prepared By: Julie Tierney, Executive Liaison
Reviewed By: Allison McCarrick, CAO
Meeting Date: May 20, 2025
File No: 1855
Re: UBCM Community to Community (C2C) Forum Program

RECOMMENDATION:

That Council:

1. Authorize staff to apply to the Union of BC Municipalities for up to \$10,000 during the 2025 application intake for the Regional Community to Community Forum Program to support a community forum with the Stz'uminus First Nation Council; and
2. Amend the 2025-2029 Financial Plan accordingly.

EXECUTIVE SUMMARY:

Staff are seeking Council's approval to apply for funding through the UBCM's Regional Community to Community Forum (C2C) Program. The Program provides funds to assist communities to hold an event that provides an opportunity for dialogue with neighbouring First Nations on topics of mutual interest.

INTRODUCTION/BACKGROUND:

It is proposed that the Town and the Stz'uminus First Nation work together to hold an event that will provide an opportunity for dialogue and planning on topics of mutual interest. While the specific details of the proposed forum will be developed over the next couple of months between Stz'uminus and the Town, it is proposed that the previous format of a dinner and meeting between the two Councils and staff representatives be pursued. A support letter from Stz'uminus will be requested to accompany the grant application.

ALTERNATIVES:

Council can choose to apply for a lesser grant amount or may choose not to apply at this time.

FINANCIAL IMPLICATIONS:

This is a fully funded (100%) grant opportunity.

LEGAL IMPLICATIONS:

N/A

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The C2C Forum will be a positive step in strengthening the Town's relationship with the Stz'uminus First Nation, and an opportunity for Council and senior staff to work with the Council and staff of the Stz'uminus First Nation to address items of mutual interest. The opportunity for open communication will engage our communities and further build relationships and understanding.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|---|--|
| <input type="checkbox"/> Core Infrastructure | <input type="checkbox"/> Economy |
| <input type="checkbox"/> Official Community Plan Implementation | <input checked="" type="checkbox"/> Leadership |
| <input type="checkbox"/> Waterfront Area Plan | <input type="checkbox"/> Not Applicable |

I approve the report and recommendations.

Allison McCarrick, Chief Administrative Officer

BYLAW STATUS SHEET
May 20, 2025

| Bylaw # | Description | Status |
|---------|---|---|
| 2131 | "Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 54) 2022, No. 2131" (10940 Westdowne Rd.). Changes zoning from Rural Residential (RU-1) to Manufactured Home Park (MHP-1). | First and second readings, December 20, 2022. Public Hearing and third reading December 19, 2023. MOTI approval received January 15, 2024. Waiting on the applicant to meet the conditions of approval and provide the Town with documentation. Covenant can be completed once Town receives consolidated parcel confirmation. |
| 2133 | "Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw (No. 56) 2023, No. 2133". Allows convenience store at 1132-1142 Rocky Creek Rd. | First and second readings, January 10, 2023. Public Hearing required. MOTI approval required. Waiting on applicant to submit Development Permit per Council Resolution. |
| 2161 | "Official Community Plan Bylaw 2022, No. 2200, Amendment Bylaw 2023, No. 2161". To expand the mobile home park at 10940 Westdowne Road. | First and second readings, November 21, 2023. Second reading rescinded, second reading as amended, December 5, 2023. Public Hearing and third reading December 19, 2023. Waiting on the applicant to meet the conditions of approval and provide the Town with documentation. Covenant can be completed once Town receives consolidated parcel confirmation. |
| 2173 | "Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw, No. 2173". To allow storage capabilities at 10910 Westdowne Road. | First and second readings, December 17, 2024. Public Hearing and third reading January 21, 2025. Waiting on the applicant to provide a Stormwater Management Plan and stormwater covenant retainer. MOTI requires a commercial access permit and driveway access improvements. |