



TOWN OF COMOX

1809 Beaufort Avenue Ph: (250) 339-2202
Comox BC V9M 1R9 Fx: (250) 339-7110

REGULAR COUNCIL MEETING **AGENDA FOR WEDNESDAY APRIL 18, 2018**

We respectfully acknowledge that we live, work and play on the traditional lands of the K'ómoks First Nation ... Gila'kasla ... Hay ch q' a'

Meeting Location: Council Chambers, 1801B Beaufort Avenue, Comox

Call to Order: 5:30 p.m.

Adoption of the Agenda

1. DELEGATIONS: NIL

2. MINUTES OF MEETINGS: NIL

- (7) a. [Regular Council Meeting Minutes](#)
That the Minutes of the Regular Meeting of Council, held in Council Chambers on Wednesday April 4, 2018, be Approved.
- (11) b. [Public Hearing Meeting Minutes](#)
That the Minutes of the Public Hearing, held in Council Chambers on Wednesday April 4, 2018, be Approved.
- (27) c. [Special Council Meeting Minutes](#)
That the Minutes of the Special Meeting, held in Council Chambers on Wednesday, April 11, 2018, be Approved.

3. COMMITTEE REPORTS: NIL

4. UNFINISHED BUSINESS:

- (29) a. [Management Report - April 18, 2018](#)
That the Management Report for April 18, 2018 be received and filed for information.

- (31) b. [Rezoning Application: RZ 17-1 / Development Permit Application: DP 17-1 \(618 & 634 Anderton Road\)](#)
1. *That Comox Zoning Amendment Bylaw 1872 be amended as follows:*
 - a. *by replacing Schedule 1, Section 825.1 subsection (1) with the following text:*
 - (1) *Accessory structures and uses, excluding*
 - (a) *buildings other than those used for solid waste collection, recycling collection or dwelling unit accessory uses; and*
 - (b) *outside storage*
 - b. *by replacing Schedule 1, Section 825.2 subsections (3) and (4) with the following text:*
 - (3) *All permitted uses shall be located within a portion of a building, completely enclosed by exterior walls, except for restaurants, child care facilities, produce stalls, landscape material, accessory structures and accessory uses other than solid waste collection and recycling collection; and*
 - (4) *Notwithstanding Section 825.10(4), no solid waste collection or recycling collection shall be located within 12.0 metres of any lot line abutting a Residential or Multi-Family Residential zoned parcel.*
 - c. *by deleting Schedule 1, Section 825.11 (1) and renumbering remaining subsections accordingly.*
 2. *That Comox Zoning Amendment Bylaw 1872 be given Third Reading as amended (Attachment 2); and*
 3. *That Comox Phased Development Agreement Authorization Bylaw 1873: 618 Anderton Road be given Third Reading (Attachment 3).*
- (69) c. [Rezoning Application: RZ 17-10 / Development Permit 17-6 / Development Variance Permit Application: DVP 17-1 \(1170 Lazo Road\)](#)
1. *That Comox Zoning Amendment Bylaw 1874 be given Third Reading; and*
 2. *That Comox Phased Development Agreement Authorization Bylaw 1875: Lazo Road be given Third Reading.*
- (123) d. [Rezoning Application: RZ 18-2 \(Cannabis Regulation\)](#)
1. *That Comox Zoning Amendment Bylaw 1880 be given Third Reading; and*
 2. *That Comox Zoning Amendment Bylaw 1880 be Adopted.*

5. SPECIAL REPORTS: NIL

6. BYLAWS: NIL

- (127) a. [Bylaw 1881: Comox Parks Use Bylaw No. 1881, 2018](#)
That Comox Parks Use Bylaw No. 1881, 2018 be Adopted.
- (139) b. [Bylaw 1882: Comox Business Regulation Bylaw No. 1882, 2018](#)
That Comox Business Regulation Bylaw No. 1882, 2018 be Adopted.

7. NEW BUSINESS: NIL

- 8. CORRESPONDENCE: NIL**

- 9. LATE ITEMS: NIL**

- 10. DELEGATIONS: NIL**

- 11. REPORTS FROM MEMBERS OF COUNCIL:**

- 12. MEDIA QUESTION PERIOD:**

- 13. PUBLIC QUESTION PERIOD:**

- 14. EXCLUDE THE PUBLIC:**

ADJOURNMENT



Deputy Corporate Administrator

TOWN OF COMOX
Minutes of the Regular Council Meeting,
held in Council Chambers on Wednesday April 4, 2018

Present: Mayor P. Ives
Councillors R. Arnott, K. Grant, M. Grant
H. MacKinnon, B. Price, M. Swift

Absent: Nil

Call to Order:

The meeting was called to order at 5:30 p.m.

The Agenda was Adopted.

There were visitors in attendance.

1. DELEGATIONS: NIL

2. MINUTES OF MEETINGS:

a. Regular Council Meeting Minutes

RCM Minutes

That the Minutes of the Regular Meeting of Council, held in Council Chambers on Wednesday March 21, 2018, be Approved.

(2018.070) -- CARRIED

b. Committee of the Whole Meeting Minutes

COW Minutes

That the Minutes of the Committee of the Whole meeting, held in Council Chambers on Wednesday March 28, 2018, be Received.

(2018.071) -- CARRIED

COMMITTEE RECOMMENDATIONS:

- (1) Mobile Vending Program

Mobile Vending Program

That the proposed Parks Use Bylaw No. 1881, 2018 and proposed Business Regulation Bylaw No. 1882, 2018 be forwarded to Council for 1st, 2nd and 3rd Readings.

(2018.072) -- CARRIED

- (2) Managing a Privacy Breach - Policy No. ALL - 010

Privacy Breach Policy

That Policy No. ALL - 010, Managing a Privacy Breach, be approved.

(2018.073) -- CARRIED

- (3) 5th Base - Highland Park Concession - Renew Licence to Occupy

5th Base Licence to Occupy

THAT Council authorize the Corporate Administrator to renew the lease agreement between 5th Base and the Town of Comox for that portion of land legally described as Lot A, District Lot 194, Comox Land District, Except Plan 48028, Plan VIP43953 commonly known as Highland Park for the purposes of occupying and operating a concession stand in Highland Park for a three year term ending May 22, 2021.

(2018.074) -- CARRIED

COMMITTEE RECOMMENDATIONS:

- (4) Beckton Drive Parking

Beckton Drive Parking

That staff provide a report on where parking can be located on Beckton Drive between Noel Avenue and the 90 degree corner, based on a no cost option.

(2018.075) -- CARRIED

3. COMMITTEE REPORTS: NIL

4. UNFINISHED BUSINESS:

- a. Management Report - April 4, 2018

Management Report

That the Management Report for April 4, 2018 be received and filed for information.

(2018.076) -- CARRIED

5. SPECIAL REPORTS: NIL

6. BYLAWS:

- a. Bylaw 1881: Comox Parks Use Bylaw No. 1881, 2018

Parks Use Bylaw

That Bylaw No. 1881 (Comox Parks Use Bylaw No. 1881, 2018) be given First, Second and Third Readings.

(2018.077) -- CARRIED

- b. Bylaw 1882: Comox Business Regulation Bylaw No. 1882, 2018

Business Regulation Bylaw

That Bylaw No. 1882 (Comox Business Regulation Bylaw No. 1882, 2018) be given First, Second and Third Readings.

(2018.078) -- CARRIED

7. NEW BUSINESS:

- a. Notice of Motion (Councillor Arnott) - Town of Comox Air Quality

Notice of Motion - Air Quality

That staff prepare a report for potential recommendations that would improve Town of Comox air quality with respect to wood burning.

(2018.079) -- CARRIED

- b. Planning Report: PR 18-5 Draft NE Comox Storm Water Management Plan Development Phase 3 Report

NE Storm Water Management Plan

That the following be received:

- the April 4, 2018 Planning Report PR 18-5;
- the March 29, 2018 letter/report from Jim Dumont, P. Eng. regarding the NE Comox Storm Water Management Plan; and
- the March 1, 2018 draft report titled "North East Comox Neighbourhood Stormwater Management Plan - Phase 3 of 3".

(2018.080) -- CARRIED

8. CORRESPONDENCE:

- a. **Barbara Martin - Thank you for the attention given to Shakesides.**

Shakesides

The note received March 27, 2018 from Barbara Martin, regarding attention given to Shakesides, was received and filed for information.

(2018.081) -- CARRIED

9. LATE ITEMS: NIL

10. DELEGATIONS: NIL

11. REPORTS FROM MEMBERS OF COUNCIL:

- a. **Councillor Price**

Councillor Price advised that she attended:

- the Comox Archives and Museum Society AGM,
- two Regional District board meetings, and
- a Regional District water committee agenda review meeting.

- b. **Councillor Swift**

Councillor Swift advised that she attended:

- the Filberg Heritage Lodge and Park Association AGM,
- the Volunteer Coffee, and
- the Comox Fire Youth Camp closing activities.

- c. **Councillor Arnott**

Councillor Arnott advised that he attended:

- the Comox Fire Youth Camp closing activities,
- the Filberg Easter Egg Hunt, and
- the Eagle FM appreciation evening.

- d. **Councillor MacKinnon**

Councillor MacKinnon advised that he attended:

- a Homelessness Coalition meeting,
- the Comox Easter Eggstravaganza event,
- the Comox Fire Youth Camp guest speaker evening,
- the Pearl Ellis Gallery and Museum AGM, and
- the Eagle FM appreciation evening.

- e. **Councillor Marg Grant**

Councillor Grant advised that she attended:

- the Comox Archives and Museum Society AGM,
- a farewell event for Jeremy Dunn, and
- an Island Health public forum.

- f. **Councillor Ken Grant**

Councillor Grant advised that he attended two regional district board meetings.

- g. **Mayor Ives**

Mayor Ives advised that he attended:

- the Top 20 Under 40 executive judging session,
- an Island Coastal Economic Trust board meeting,
- the Comox Fire Youth Camp closing activities, and
- an Island Health public forum.

14. EXCLUDE THE PUBLIC: NIL

Adjournment:

Regularly moved and seconded that the meeting adjourn at 6:11 p.m.

CARRIED

Certified correct pursuant to Section 97(1)(b) of the Community Charter.

MAYOR

CORPORATE OFFICER

**Minutes of a Public Hearing,
held in d'Esterre House on Wednesday, April 4, 2018**

Present: Mayor P. Ives
Councillors R. Arnott, K. Grant, M. Grant,
H. MacKinnon, B. Price, M. Swift

Absent: Nil

Call to Order:

The Public Hearing was called to order at 7:00 p.m.

There were approximately 100 members of the public in attendance.

PUBLIC HEARING STATEMENT

Mayor Ives made the following statement:

This Public Hearing is hereby convened pursuant to Section 464 of the *Local Government Act* for the purpose of hearing representations from those persons who believe that their interest is affected by the proposed:

1. Rezoning Application RZ 17-1 (618 & 634 Anderton Road)

- a. Comox Zoning Amendment Bylaw No. 1872
- b. Discharge of Restrictive Covenant EK048266
- c. Comox Phased Development Agreement Authorization Bylaw 1873: 618 Anderton Road

2. Rezoning Application RZ 17-10 (1170 Lazo Road):

- a. Comox Zoning Amendment Bylaw No. 1874
- b. Comox Phased Development Agreement Authorization Bylaw 1875: Lazo Road

3. Rezoning Application RZ 18-1 (Veterinary Clinic Text Amendment):

- a. Comox Zoning Amendment Bylaw 1879

4. Rezoning Application RZ 18-2 (Cannabis Regulation):

- a. Comox Zoning Amendment Bylaw 1880

The proposed bylaws have received first and second readings, but have not passed third reading or been adopted by Council. Notices of this Public Hearing have been published in accordance with the requirements of the *Local Government Act*. Also, a copy of the proposed bylaws, supporting documentation and any submissions to Council received from the public have been available for inspection at Comox Town Hall as required by the *Local Government Act*. Copies are also available for review at the desk of the clerk.

To maintain order and to ensure everyone a reasonable opportunity to be heard, I ask that each person wishing to speak first sign the Speaker's List, located at the desk of the Clerk. Once called by the Chair, please begin your presentation to Council by clearly stating your name and address. Please make your presentation as brief as possible. After all have had an opportunity to be heard, anyone wishing to have further input may once again sign the Speaker's List.

Council will not debate with each other or members of the public. Council will not answer questions; we are here to hear from you. Technical questions may be directed by the Chair to the staff.

Everyone will be given a reasonable opportunity to be heard at this meeting. No one will be, or should feel, discouraged or prevented from making his or her views heard. Please refrain from any conduct that would intimidate others or discourage them from speaking.

1. Rezoning Application RZ 17-1 (618 & 634 Anderton Road)

a. Application Summary

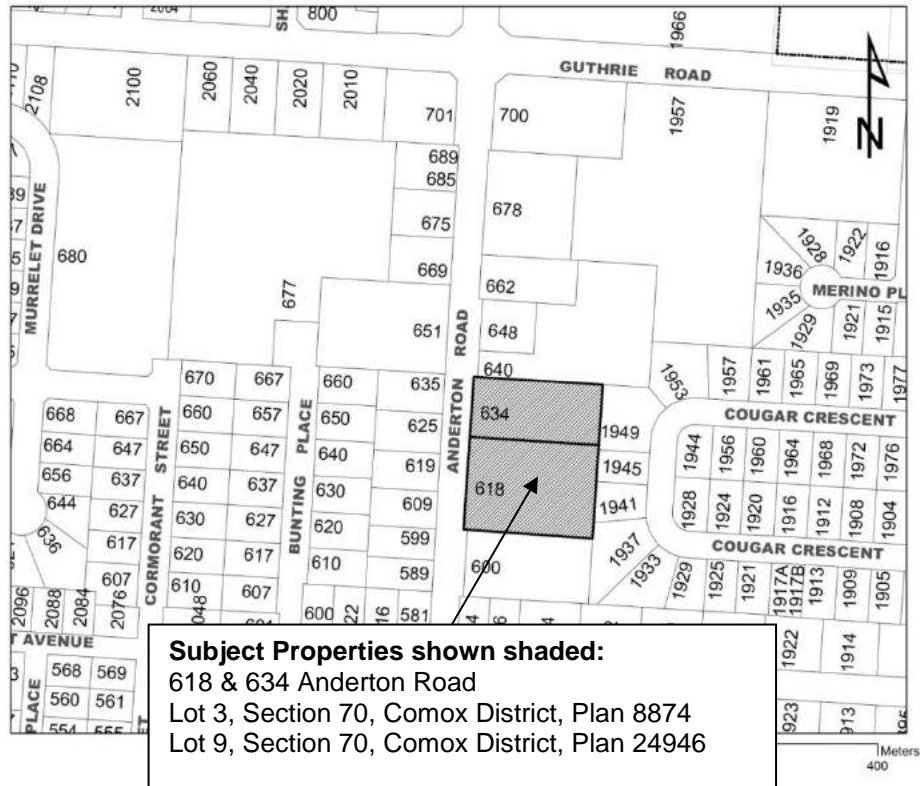
1. Comox Zoning Amendment Bylaw 1872 and
2. Discharge of Restrictive Covenant EK048266

In general terms, the purposes of Comox Zoning Amendment Bylaw 1872 and Restrictive Covenant EK048266 are to rezone 618 and 634 Anderton Road from C4.1 Core Commercial to CD25 Comprehensive Development 25: 618 Anderton Road, in order to permit a 4 storey mixed-use development.

3. Comox Phased Development Agreement Authorization Bylaw 1873: 618 Anderton Road

The purpose of Comox Phased Development Agreement Authorization Bylaw 1873 is to establish a Phased Development Agreement for the provision of the following amenities with respect to the development at 618 and 634 Anderton Road:

- the payment of \$29,187 to an Affordable Housing Fund;
- the consolidation of two subject properties;
- a 2.442 metre road dedication and upgrades along the Anderton Road frontage;
- the retention of 4 Douglas Fir trees;
- the provision of three 220V electrical connections within the parking area;
- sound attenuation for residential units;
- 9 Adaptable Housing units;
- sustainable construction methods; and
- An oil/grit separator for the on-site parking.



The Application Summary was received for information.

b. Public Hearing Submissions

Mayor Ives made the following statement:

Written – To ensure that written submissions are included in the minutes of the meeting, please ensure that all are submitted to the desk of the Clerk before the end of the meeting.

Verbal – The proposed bylaws are now open for discussion.

Pamela Jong - #9-600 Anderton Road

Ms. Jong commented that she does not believe the width of the road will be wide enough for a turning lane. Anderton road signage indicates 'no passing' but people do. She noted that traffic is increasing with people turning into the recycling depot, and the gas station and now adding an apartment building with businesses below. Ms. Jong does foresee people passing on the right (using the biking lane).

The Municipal Planner noted that there are no road improvements planned for Anderton Road at this time.

Helene Boucher - #1-600 Anderton Road

Ms. Boucher commented that she is concerned with traffic but she is also concerned about drainage from that property onto the Anderton Road property SE corner. Ms. Boucher noted that she had sent an email in January but has yet to receive a response from the Town or the developer.

Municipal Planner noted under the building bylaw the roof drains & parking lot drains will be connected into the storm main.

Mayor Ives continued by stating the following:

I would remind those present that legal considerations prevent the members of Council from considering any representation made after the close of this Agenda Item.

Before closing the Agenda Item, I am going to call three times for any further speakers on any of the matters contained in the proposed bylaws.

For the first time, is there anyone who wishes to make any further representation?

For the second time, is there anyone who wishes to make any further representation?

Mr. Crosby Mtawali – 1949 Cougar Crescent

Mr. Mtawali noted he has three concerns with the proposed development and asks the following to be considered, designated non-smoking, dog run – how is it going to be cared for, and locating the garbage dumpsters away from the property lines of existing residents to a central location.

The Municipal Planner advised that the garbage bins will be off-set and located just off the east property line. As for designated non-smoking area and dog run – that will be left to the developer/management of the property.

Mayor Ives then asked for the third time, is there anyone who wishes to make any further representation?

Mr. Kevin Widdifield – 2022B Bolt Avenue

Mr. Widdifield asked where the public could access the traffic impact study completed for this development.

Municipal Planner advised that a traffic impact study was not a requirement. The Town's overall transportation plan speaks to roads within Town and that Anderton is designated 'arterial'.

Ms. Ingrid Frohlich - #8-600 Anderton Road

Ms. Frohlich noted that some residents wrote letters to the Town and the Campbell River office (developer) about their concerns. Have their concerns about this development been addressed at all or is this all a done deal? Ms. Frohlich commented that she wrote a lengthy letter to Council and the developer in Campbell River highlighting traffic as being a major concern given the 81 units being proposed. She also expressed concern about residents not likely to use the corner of Anderton & Guthrie when wanting to visit the cold beer and wine store across the street. She noted that the proposed 4 storey building is absolutely not acceptable. Ms. Frohlich stated that homes on Anderton consist of one storey buildings i.e., patio homes, etc., and that it should remain that way. She is also concerned about timing of garbage collection and being disturbed in the early morning hours of collection day and the lack of privacy for those residences that abut the property line.

Ms. Pavola Mtawali – 1949 Cougar Cres

Ms. Mtawali began by stating that two years ago she was informed of a development at that time – Abbey Lane. She stated that a number of residents in the area got together and held an open house of their own. Before she attended the public hearing this evening, they reviewed those minutes and confirmed that they were not concerned about the property being developed but what they were concerned about was the size, traffic, kids crossing the street (due to schools in the area). At present, they have to mitigate Robb Road crossing in order to get kids across safely and even now people pass on the right hand side. Overall it is just too big. She continued by noting that the developer, told them at the time, that the development had to be this large in order to make a profit. Ms. Mtawali recommended that this property be developed properly by mitigating noise, traffic and livability for people around the neighbourhood – make it smaller, remove the commercial and reduce it to a 3 storey apartment building noting that the developer did not want commercial in the first place. Ms. Mtawali continued by referring to a former development where she elected to not voice her concerns and relied on the planning department and council to support something that would be appropriate for a storage facility but this development resulted in the property elevation being built up 4' followed by a 6' fence but because the property was built up the fence is more like 2'. We now have a cedar fence with dirt up against it and storage units being used to conduct small business. Leaving it up to the developer to deal with designation of a non-smoking area, dog run, retaining walls and fences has proved to not being a great approach. We are a small town, let's put in an appropriate building that allows the neighbourhood to be livable for everyone. We have three sons, we need affordable housing and I would never encourage them to live in a big box apartment like the one that is being proposed.

Pamela Jong - #9-600 Anderton Road

Ms. Jong noted that she is concerned with privacy between green gables and the new development. Ms. Jong requested that a berm be built between the two properties including planting of large trees.

Mayor Ives then asked for a third and final time, is there anyone who wishes to make any further representation?

Wendy Prothero – 1945 Beaufort Avenue

Ms. Prothero commented that she herself, being a keen cyclist, was almost wiped out by a car who passed on the right on Anderton. She encouraged Council to look at separated bike lanes as a safety precaution.

There being no further speakers on the speaker's list, Mayor Ives declared this Agenda Item closed (7:28 pm).

2. Rezoning Application RZ 17-10 (1170 Lazo Road)

a. Application Summary

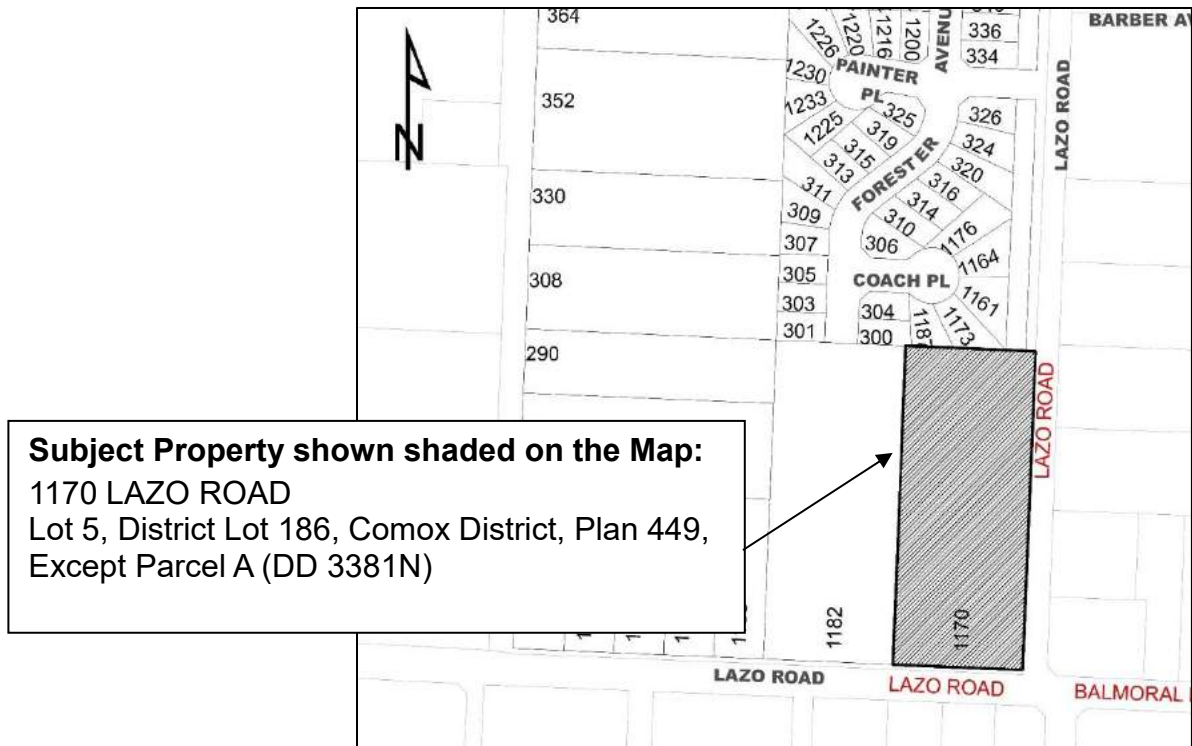
a) Comox Zoning Amendment Bylaw No. 1874

In general terms, the purpose of Comox Zoning Amendment Bylaw 1874 is to rezone 1170 Lazo Road from R3.3 Single-Family – large Lot to R4.1 Single-Family – 350m² Parcel.

b) Comox Phased Development Agreement authorization Bylaw No. 1875: Lazo Road

In general terms, the purpose of Comox Phased Development Agreement Authorization Bylaw 1875: Lazo Road is to establish a Phased Development Agreement for the provision of the following amenities with respect to the development at 1170 Lazo Rd:

- payment of \$17,022 to an Affordable Housing Fund;
- tree retention;
- Town ability to purchase approximately 2,250m² of land for park purposes along Lazo Road for \$153,202;
- removal of invasive species;
- planting of mix of 20 trees (mix of Douglas Fir, Western Hemlock and Dogwood);
- 2 Adaptable Housing units; and
- sustainable construction methods.



The Application Summary was received for information.

b. Public Hearing Submissions

[Mayor Ives made the following statement](#)

Written – To ensure that written submissions are included in the minutes of the meeting, please ensure that all are submitted to the desk of the Clerk before the end of the meeting.

Verbal – The proposed bylaws are now open for discussion.

Shannon Middleton – 1232 Mason Avenue

Ms. Middleton asked what adaptable housing means and if ‘grading’ is included?

The Municipal Planner advised that adaptable housing includes a number of design requirements which are intended that the unit (if somebody is disabled) can be readily modified e.g., doorway/hallway widths, door knobs, light switches and confirmed it does include grading.

Linda Keating – 1175 Coach Place

Ms. Keating noted that she is a part-time resident. She continued by commenting that when the subdivision went in beside them, they were concerned and wondered

if there would be a little area set aside where the kids could play. They were told by the developer at the time that they were welcome to buy a lot to permit everyone to play there. Ms. Keating would like to focus on the green space and inquired if this is something in the 2040 plan or within a couple of years given that Lazo is getting very busy.

Municipal Planner noted that it is in the Town's 5 year horizon (Beckton to the north and west to Forester Road)

Mayor Ives continued by reminding those present that legal considerations prevent the members of Council from considering any representation made after the close of this Agenda Item.

Before closing the Agenda Item, I am going to call three times for any further speakers on any of the matters contained in the proposed bylaws.

For the first time, is there anyone who wishes to make any further representation?

For the second time, is there anyone who wishes to make any further representation?

For the third time, is there anyone who wishes to make any further representation?

There being no further speakers, I declare this Agenda Item closed. (time 7:33 pm)

3. Rezoning Application RZ 18-1 (Veterinary Clinic Text Amendment)

a. Application Summary

Comox Zoning Amendment Bylaw 1879

In general terms, the purpose of Comox Zoning Amendment Bylaw 1879 is to define "Veterinary Clinic-Small Animal Practice" and add it as a permitted use in the following zones:

- C2.1 General Commercial
- C2.2 General Commercial-Accommodation
- C4.1 Core Commercial
- CD 6.1 Comprehensive Development 6.1: 1829 Beaufort Ave. (Commercial Area A only)
- CD11 Comprehensive Development 11: 640 Anderton Commercial/Mini-Storage (Commercial Area A only); and
- CD 13 Comprehensive Development 13: 2310 Guthrie Road

The Application Summary was received for information.

b. Public Hearing Submissions

Mayor Ives made the following statement:

Written – To ensure that written submissions are included in the minutes of the meeting, please ensure that all are submitted to the desk of the Clerk before the end of the meeting.

Verbal – The proposed bylaw is now open for discussion.

c. Close of Agenda Item

There being no speakers on the speaker's list, Mayor Ives made the following statement:

I would remind those present that legal considerations prevent the members of Council from considering any representation made after the close of this Agenda Item.

Before closing the Agenda Item, I am going to call three times for any further speakers on any of the matters contained in the proposed bylaw.

For the first time, is there anyone who wishes to make any further representation?

For the second time, is there anyone who wishes to make any further representation?

For the third time, is there anyone who wishes to make any further representation?

There being no speakers, I declare this Agenda Item closed. (Time 7:34 pm)

4. Rezoning Application RZ 18-2 (Cannabis Regulation)

a. Application Summary:

a) Comox Zoning Amendment Bylaw 1880

In general terms, the purpose of Comox Zoning Amendment Bylaw 1880 is to:

- Define Cannabis;
- Amend the definitions of:
 - a Medical Cannabis Productions Facility - to include cannabis production licensed under the federal Narcotic Control Act; and
 - a Retail Store - to exclude the retail sale of cannabis from the definition of a Retail Store; and
- Prohibit retail sale of cannabis in all zones in the Town of Comox.

The Municipal Planner provided the following opening statement:

Looking at adjusting Town regulations to reflect pending legislation of recreation cannabis and will act as a clean slate from which to establish municipal regulatory framework in Comox. March 7th planning staff report was brought forward for Council/public consideration outlining framework to allow certain cannabis sales and we are hoping to have regulations in place once federal legalization takes place.

The Application Summary was received for information.

b. Public Hearing Submissions

Mayor Ives made the following statement:

Written – To ensure that written submissions are included in the minutes of the meeting, please ensure that all are submitted to the desk of the Clerk before the end of the meeting.

Verbal – The proposed bylaw is now open for discussion.

Don Jacquest – 2127 Bolt Avenue

Mr. Jacquest expressed that he is in favour of the proposed bylaw and appreciated the March 7th planning report that explained what Council's strategy was. He has seen the Town use this precautionary approach twice before and encourages Council to follow through to ensure that access to recreational cannabis is permitted in a manner that does not promote its use, as noted in the staff report. Again, Mr. Jacquest noted he is speaking in favour because it's a good safe first step as part of the process.

Catherine McCann - #201-1700 Beaufort Avenue

Ms. McCann noted that she is a pharmacist and owner of the Medicine Shoppe. She is in favour of the proposed bylaw but also feels that the devil is in the details. She continued by stating that federal legislation does not differentiate between medical and recreational cannabis and that this needs to be a consideration in the bylaw. Definition of Cannabis is broad and would include everything a cannabis plant might produce. She continued by noting that she dispenses cannabinoid, in particular nabilone to a number of patients and that it is important to understand the differences. Another item of concern is that often many of the retail outlets for obtaining cannabis are called dispensary pharmacies etc., and she finds this very misleading to the public as generally people do not know or understand that they are not going to get traditional pharmacy services in these types of retail outlets. Federal legislation does not address this at all and it is something Council should look towards.

John McNamee – 1820 Buena Vista Avenue

Mr. McNamee read his letter he wrote to Council, received by the Town of Comox on April 4, 2018 and is attached to these Public Hearing Minutes.

c. Close of Agenda Item

There being no further speakers on the speaker's list, Mayor Ives made the following statement:

I would remind those present that legal considerations prevent the members of Council from considering any representation made after the close of this Agenda Item.

Before closing the Agenda Item, I am going to call three times for any further speakers on any of the matters contained in the proposed bylaw.

For the first time, is there anyone who wishes to make any further representation?

Ms. Shannon Middleton – 1232 Mason Avenue

Ms. Middleton wished to echo Mr. McNamee's comments and disagrees with putting a ban on the sale of recreational cannabis. She encouraged Council to think about voters and how much business we would like to bring to Comox and if we ban this outright these retailers and businesses will go elsewhere. They will go to neighbouring communities and give them our tax revenue. We are not progressive enough and need to move faster and not put a ban in place right out of the gate.

Mayor Ives then called for the second time, is there anyone who wishes to make any further representation?

For the third time, is there anyone who wishes to make any further representation?

There being no further speakers, I declare this Agenda Item and this Public Hearing closed.

The Public Hearing closed at 7:49 pm

5. Other Items

a) Rezoning Application RZ 18-1 (Veterinary Clinic Text Amendment)

1. *That Comox Zoning Amendment Bylaw 1879 be given Third Reading.*

(2018.082 -- CARRIED)

2. *That Comox Zoning Amendment Bylaw 1879 be adopted.*

(2018.083 -- CARRIED)

b) Rezoning Application RZ 18-2 (Cannabis Regulation)

1. *That Council defer further consideration of Comox Zoning Amendment Bylaw 1880 to its Regular Meeting of Council Wednesday, April 18, 2018.*

(2018.084 – CARRIED)

Adjournment:

Regularly moved and seconded that the meeting adjourn at 7:50 pm

Certified correct pursuant to Section 97 (1)(b) of the *Community Charter*.

MAYOR

CORPORATE OFFICER

Certified fair and accurate pursuant to Section 465(6) of the *Local Government Act*.

DEPUTY CORPORATE ADMINISTRATOR

ACTION		RECEIVED	
LOG: 18-081	REFER: REFER	AGENDA: OUT	APR 04 2018
FILE: Planning	ACTION: File	DATE: April 4	TOWN OF COMOX
copies ~ Mayor = Cnel RK/nk/HSR			

Dear Mayor and Council

1820 Buena Vista Ave
Comox, B.C.
V9M-1B7
April 4, 2017

I am writing to express my disagreement with and disapproval of proposed by-law 1800. I may not be able to present my views at tonight's meeting but wanted to be sure my views are heard.

It may well be that council is planning on further study to determine where (or if) cannabis shops are to be allowed in Comox. I find it highly unusual, if that is council's intent, that this was not revealed to Comox residents before yesterday's Comox Valley Record (April 3). This by-law received first and second reading on March 7. Would that not have been a great time to inform the huge majority of Comox residents who were not present at that meeting? Did I possibly miss a special issue of the Comox town newsletter informing us of what must obviously have been seen to be a contentious issue? Parking this issue in the prohibited uses category 5.10 alongside abattoirs, cabarets, escort services, etc for an undetermined length of time for further study is the main reason for the obvious distrust of our council's motives.

Given the length of time that we, and presumably our council, have known that possession of cannabis

will be legalized throughout Canada on July 1, 2018, Has this not been sufficient time for Comox Council to have initiated a staff study of locations, hours of retail outlets? Jurisdictions all across Canada have faced the same time constraints and deadlines and it would appear that most are now prepared for July 1, that is Comox.

I would suggest that rather than place a ban on retail outlets (this word was used quoting the mayor in The Record) that staff be directed to complete their study on parameters within the next 3 months so that Comox will be ready to approve retail sales of cannabis in time for the July 1, 2018 legalization date. It is just not fair either to Comox residents or to potential retailers to have to wait for an unspecified time to purchase and sell (in the case of licensed retailers) cannabis in our own home town. If this is unrealistic, then maybe this bylaw amendment could be simply tabled to allow time for the study to be completed because, as the mayor has said, there are no serious inquiries yet regarding business licenses for retail outlets. That way we wouldn't have to go through a similar process to have a prohibited use removed from By-law 1850 sometime in the future and Comox residents can enjoy and benefit from local cannabis retailers as soon as possible.

Yours sincerely
John K. M. Horne

BLANK PAGE

TOWN OF COMOX
Minutes of the Special Council Meeting
held in Council Chambers on Wednesday, April 11, 2018

Present: Mayor P. Ives
Councillors R. Arnott K. Grant, M. Grant
H. MacKinnon, B. Price, M. Swift

Call to Order:

The meeting was called to order at 4:30 pm

1. WAIVE NOTICE:

a. Waive Notice

Waive Notice – Motion to Waive Notice

That by unanimous vote of all Council members, Council waives the notice required under Section 127 of the Community Charter and adopts the April 11, 2018 special Council meeting agenda, as presented.

(2018.082) -- CARRIED

2. EXCLUDE THE PUBLIC:

b. Exclude the Public

Exclude the Public – Motion to Close

That Council closes the meeting to the public, pursuant to section 90(1)(g) of the Community Charter, for the purpose of considering litigation or potential litigation affecting the municipality.

(2018.083) -- CARRIED

Adjournment:

Regularly moved and seconded that the meeting adjourn at 6:01 pm.
Certified correct pursuant to Section 97 (1)(b) of the *Community Charter*.

CARRIED

MAYOR

CORPORATE OFFICER

BLANK PAGE

TOWN OF COMOX – MANAGEMENT REPORT

April 18, 2018

Item	DATE ADDED	SUBJECT	COUNCIL DIRECTION	STATUS
1.	Mar 7, 2007	Organic Waste Collection Service	Investigate the provision of an Organic Waste Collection Service in Comox-Courtenay	Pilot project extended until the end of 2018 Organics collection for 2017 overall climbed slightly by 3.5%. Residents on average diverted a total of 124 kg per capita during the year, compared to 119 kg 2016. As per Council's Strategic Plan, staff will be looking at the feasibility of increasing organics collection by reducing the frequency of garbage collection this year.
2.	Aug 20, 2014	Fixed Wing Search and Rescue Training Facility	Investigate the feasibility of financial and other incentives that would support the selection of 19 Wing Comox.	Grant-in-aid provided to 19 Wing Comox as an incentive to develop a training facility at CFB Comox.
3.	Jan 18, 2017	Northeast Comox Storm Water Management Plan	Completion of Northeast Comox Storm Water Management Plan	Phase 3 report presented April 4.
4.	Jan 18, 2017	Mack Laing Trust	That staff be directed to begin the process to modify, if necessary, the terms of the Trust.	Court date has been postponed to April 16.
7.	August 2, 2017	Wayfinding Signage	Develop wayfinding signage standards, prototypes and implement Phase 1 signage	Staff meeting with consultant April 20.

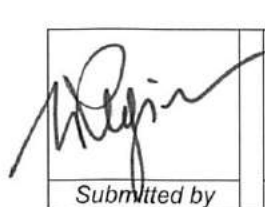
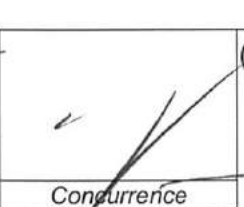

Note: Shaded items will be removed from the Management Report unless otherwise directed by Council.

BLANK PAGE



TOWN OF COMOX PLANNING REPORT

TO:	RICHARD KANIGAN, CHIEF ADMINISTRATIVE OFFICER
FROM:	MARVIN KAMENZ, MUNICIPAL PLANNER REGINA BOZEROCKA, PLANNER I
SUBJECT:	REZONING APPLICATION: RZ 17-1 DEVELOPMENT PERMIT APPLICATION: DP 17-1 618 & 634 ANDERTON ROAD
DATE:	APRIL 18, 2018 POST PUBLIC HEARING, THIRD READING REPORT

		
Submitted by	Concurrence	Approval

Planner's recommendation:

1. That Comox Zoning Amendment Bylaw 1872 be amended as follows:
 - a. by replacing Schedule 1, Section 825.1 subsection (1) with the following text:
 - (1) Accessory structures and uses, excluding
 - (a) buildings other than those used for solid waste collection, recycling collection or dwelling unit accessory uses; and
 - (b) outside storage
 - b. by replacing Schedule 1, Section 825.2 subsections (3) and (4) with the following text:
 - (3) All permitted uses shall be located within a portion of a building, completely enclosed by exterior walls, except for restaurants, child care facilities, produce stalls, landscape material, accessory structures and accessory uses other than solid waste collection and recycling collection; and
 - (4) Notwithstanding Section 825.10(4), no solid waste collection or recycling collection shall be located within 12.0 metres of any lot line abutting a Residential or Multi-Family Residential zoned parcel.
 - c. by deleting Schedule 1, Section 825.11 (1) and renumbering remaining sub-sections accordingly.

APRIL 18, 2018

2. That Comox Zoning Amendment Bylaw 1872 be given Third Reading as amended (**Attachment 2**); and
3. That Comox Phased Development Agreement Authorization Bylaw 1873: 618 Anderton Road be given Third Reading (**Attachment 3**);

Proposal:

The proposal is for a rezoning of the subject properties to a new comprehensive development zone and issuance of a Development Permit to facilitate a four storey mixed use commercial-residential development, consisting of approximately 628 m² of commercial premises, 84 residential units and 114 parking spaces at grade. Approximately 175 m² of the ground floor commercial area is proposed as residential amenity space (such as a fitness or a common room) and dwelling unit rental office.

The updated Application Summary is contained in **Attachment 1**.

Background:

A Public Hearing on Bylaws 1872 and 1873, and discharge of Restrictive Covenant EK048266 was held on April 4th, 2018. A copy of the *Local Government Act* Section 465 Public Hearing summary report is contained in the April 18, 2018 Regular Council Meeting.

Discussion:

At the Public Hearing concern was expressed regarding the proposed location of garbage compounds adjacent to the east and south property lines in terms of noise and loss of privacy for surrounding residents. It was requested that the garbage dumpsters be relocated away from the property lines of neighbouring residential properties, to a central location.

Schedule 1, Outstanding Items has been revised (and shown in bold text) to add the provision of drawings and details for the relocation of solid waste and recycling collection, as per Comox Zoning Amendment Bylaw 1872 as amended and Development Permit Area #4 guidelines.

At the Public Hearing it was proposed that removal of the ground floor commercial would allow for a reduction of the building from 4 to 3 stories. The ground floor is approximately 2,400 square metres, of which only approximately 628 square metres is commercial use.

APRIL 18, 2018

A concern was also raised at the Public Hearing as to potential grade alteration along property lines adjacent to existing residential development. No retaining walls or areas of significant grade change are proposed along the south property line¹. Along the east property line retaining walls are setback a minimum of 4.0 metres and no significant grade change in this area is proposed. No retaining walls in excess of 0.60 m are proposed in this area.

Processing Procedures:

Attachment 4 lists the remaining processing steps that will allow Council's concurrent consideration of the Rezoning and Development Permit applications and discharge of Restrictive Covenant EK048266.

MK/ RB

Schedule: 1
Attachments: 4

Cc: Matthew Fitzgerald, BroadStreet Properties Ltd.
100 St. Ann's Road, Campbell River, BC V9W

¹ Approximately 4.0 metres wide landscaped area with specified maximum slope of 1V:2H.

APRIL 18, 2018

SCHEDULE 1

**OUTSTANDING ITEMS TO BE RESOLVED PRIOR TO ADOPTION
OF PROPOSED BYLAWS 1872 AND 1873**

1. Updated and internally coordinated drawings:
 - a. Grading Plan and Site Plan to remove redundant information such as site lights along south property line, inconsistent grading notes and to show minimum 114 parking stalls. 25% of the required minimum number of stalls may be "small", in accordance with Comox Zoning Bylaw Section 6;
 - b. **Site Plan and elevation drawings for the relocation of solid waste and recycling collection, as per Comox Zoning Amendment Bylaw 1872 as amended and Development Permit Area #4 guidelines;**
 - c. Sign details illustrating the height of parking and rental office directional signs of a standard parking signage height and the residential development sign a maximum of 2.25 metres above the sidewalk level, per Town of Comox Sign Bylaw No. 1197, 1995.
 - d. Site lighting detail drawing to show no part of parking or loading light fixture is more than 4.5 metres above finished ground level, including the concrete base;
 - e. Commercial railing detail drawing, in accordance with Schedule 1, Figure 1.
 - f. Floor plans, indicating 9 Adaptable Residential Units (labelled and referencing the adaptable unit design detail) and showing elevator shaft location on each floor;
 - g. Landscaping Plans and Specifications, to address the following:
 - o At the south-east corner of the site, adjacent to the existing large Douglas Firs on the neighbouring property: the 2 Tulip Trees and 1 Metro Gold Maple, are too large for growing under the firs. Replaced with more shade tolerant species, such as Portuguese Laurels (5 Gal. size at planting time), Japanese Maples (4-5 cm caliper at planting time), and for ground coverage - Salal, Oregon Grape, and/or Ferns (2 Gal. size at planting time);
 - o At the parking entrance to the residential building: 1 Swedish Columnar Aspen, is too close to the building. Replaced with a smaller ornamental tree, such as Japanese Maple (4-5 cm caliper at planting time);

APRIL 18, 2018

- Along north lot line: 8 Swedish Columnar Aspens require full sunlight and more space. Replaced with smaller, shade tolerant ornamental trees, such as Japanese Maples (4-5 cm caliper at planting time);
 - The main residential entrance off Anderton Road: root zone of 6 Red Western Cedars are too close to building foundations. Replace with screening with more compact root zone such as 6 Rhododendrons (5 Gal. size at planting time) and 8 Sword Ferns (2 Gal. size at planting time).
2. **Written confirmation from Emterra Environmental that updated locations of solid waste and recycling collection compounds are acceptable;**
3. The subject properties consolidation into one parcel;
4. A 2.442 metre road dedication along the Anderton Road frontage;
5. Section 219 *Land Titles Act* restrictive covenants
- a. PDA strengthening covenant for the following:
 - i. Within 30 days of proposed Bylaws adoption, payment of \$ 29,187 as a contribution to the Town's Affordable Housing Fund;
 - ii. Provision of the following works and services along the full Anderton Road frontage of the Land, in accordance with Town of Comox Subdivision and Development Servicing Bylaw, 1261:
 - 1. Pavement resurfacing up to the centerline of the existing pavement;
 - 2. Vertical face barrier curb and gutter;
 - 3. 1500 mm wide concrete sidewalk aligned with the existing sidewalk;
 - 4. Concrete driveway drop;
 - 5. Grassed boulevard;
 - 6. 11 Acer Griseum (Paperbark maple) boulevard trees, minimum 8 cm caliper at planting time, with a minimum 3.0 cubic metres of appropriate soil and growing space; and
 - 7. Removal of all private utility poles from the road dedication.
 - iii. provision of 220V electrical connections for at least three parking spaces in the residential parking area;
 - iv. certification that construction of dwelling units within 35.0 metres of Anderton Road have sound attenuation that meets Canada Mortgage and Housing

APRIL 18, 2018

Corporation Standards, in accordance with Town of Comox, Acoustical Standards for Residential Developments, a report prepared by Wakefield Acoustics, dated October 30, 2014 and having alternative means to window opening for ventilation;

- v. construction of at least 9 residential units on the Land, in accordance with Comox Zoning Bylaw 1850, Section 5.20 Special Needs Housing Standards – Adaptable Housing;
 - vi. The certification that the buildings on the Land are built to a minimum BUILT GREEN Bronze standard, Step 1 as referenced in Table 9.36.6.3.B of the British Columbia Building Code, or an alternative standard, acceptable to the Town;
- b. Tree protection covenant with rent charge for the retention and protection of the 4 Douglas Fir trees to be retained.
- c. The provision and maintenance of an oil/ grit separator for the on-site parking and maneuvering areas.

APRIL 18, 2018

DEVELOPMENT PERMIT CONDITIONS

The Development Permit is for the construction of Mixed Use Commercial – Residential development, in compliance with the revised drawings and landscape plans, per Schedule 1, Outstanding Items, and the following conditions:

- At time of Building Permit Issuance, provision of a landscape security in the amount of \$105,673.80;
- No windows of the common amenity space or dwelling unit rental office fronting Anderton Road shall be blocked by furniture, partitions, or be obscured in any other way;
- All landscaping, including boulevard trees to be serviced with automatic watering system;
- Issuance of any sign permits in conformance with Town of Comox Sign Bylaw No. 1197;
- All new services shall be placed underground;
- Screening of all above ground utility boxes and utility transformers must be provided in conformance with Comox Zoning Bylaw Section 8.9, i.e. concealed from view along their perimeter by landscape material hedge or combination thereof, so as to be effective year round; not less than 1.2m in height and no more than 2.0 metres in height above finished ground level. Where landscape material screening is not possible, the utility boxes and transformers must be wrapped in Town standards "Evergreen image" wrap;
- All fencing or other wooden landscape components shall be treated with paint, stain, or other preservative.
- Fencing must be robust and minimum commercial grade. Wood fencing must have minimum 15 x 15 cm posts and 5 x 10 cm horizontal supports at the top and bottom of fence panels.
- Parking must be in compliance with Comox Zoning Bylaw 1850:
 - Section 6.12(7) and (8) Surfacing and Curbing;
 - Visitor Parking, Small Car, Accessible and Commercial parking spaces shall be clearly marked in accordance with Section 6.12(10);
- All exterior building, exterior corridor, and site lighting fixtures (including those in parking areas but excluding dwelling unit entrance, balcony and patio lighting) shall:
 - produce illumination levels in accordance with common engineering practices and standards;
 - be of a metal halide type or provide a similar light spectrum;
 - minimize illumination of adjacent properties;

APRIL 18, 2018

- consist of full cut off/flat lens pole lighting or fully shielded wall lighting;
- be arranged so rays of light are directed upon the parking, walking, or loading areas and not upon adjacent land or streets; and
- excluding light fixtures that are incorporated into canopies, lighting of off-street parking and loading areas shall:
 - i. be so arranged that no part of any fixture is more than 4.5 m above finished ground level, and
 - ii. not overhang maneuvering aisles or loading spaces.

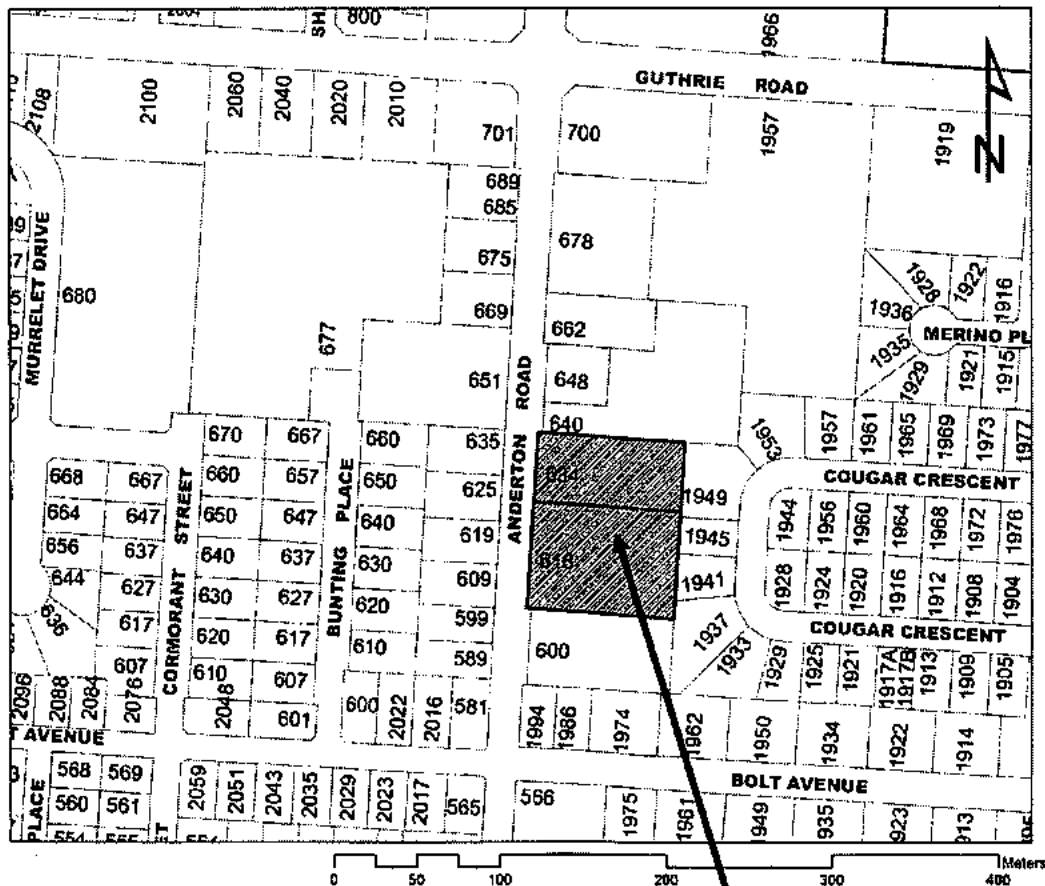
Figure 1. Commercial railing detail.



APRIL 18, 2018

ATTACHMENT 1

APPLICATION SUMMARY



Subject Properties shown shaded:

618 & 634 Anderton Road
PID: 005-476-798
Lot 3, Section 70, Comox District, Plan 8874
PID: 001-107-232
Lot 9, Section 70, Comox District, Plan 24946

APRIL 18, 2018

Proposal:	The proposal is for a rezoning of the subject properties to a new comprehensive development zone and issuance of a Development Permit to facilitate a four storey mixed use commercial-residential development, consisting of approximately 628 m ² of commercial premises, 84 residential units and 114 parking spaces at grade. Approximately 175 m ² of the ground floor commercial area is proposed as residential amenity space (such as a fitness or a common room) and dwelling unit rental office.
Owner:	Just Right Enterprises Ltd. Inc.No. BC971273
Applicant:	Matthew Fitzgerald, Broadstreet Properties Ltd.
Legal Description:	Lot 3, Section 70, Comox District, Plan 8874 Lot 9, Section 70, Comox District, Plan 24946
Civic Address:	618 & 634 Anderton Road

Official Community Plan:

Land Use Designation:	Mixed Use: Commercial – Residential
Development Permit Areas:	DPA # 4 Mixed Use: Commercial – Residential

Zoning:	EXISTING	PROPOSED
	C4.1 Core Commercial Covenant EK048266 restricts development to 2 stories, ground floor retail, second storey office with surface and underground parking	New CD25 All provided parameters are after consolidation of the subject properties and road dedication Proposed cancellation of covenant EK048266
Permitted uses:	Dwelling units Accessory structures and uses, excluding buildings and outside storage. Wide range of commercial uses, including assembly and cultural centres, childcare facilities, retail, offices, personal services, medical clinics, restaurants, hotels.	Dwelling units Accessory structures and uses, excluding buildings other than those accessory to dwelling units, and outside storage. Commercial uses compatible with residential orientated development, including assembly centres, childcare facilities, retail, offices, personal services, medical clinics, restaurants.

APRIL 18, 2018

Conditions of use:	Dwelling units shall not be located on or below the ground floor, or on a storey containing non-residential uses.	<p>Along any elevation of a building facing Anderton Road, for a distance of not less than 60.0 metres measured parallel to Anderton Road, dwelling units and accessory uses thereto other than common amenity space or dwelling unit rental office up to 175.0 square metres in size, shall not be permitted on the ground floor for a depth of 10.0 metres, measured perpendicularly from the Anderton Road elevation;</p> <p>All permitted uses shall be located within a portion of a building, completely enclosed by exterior walls, except for restaurants, child care facilities, produce stalls, landscape material, accessory structures and accessory uses other than solid waste collection and recycling collection; and</p> <p>No solid waste collection or recycling collection shall be located within 12.0 metres of any lot line abutting a Residential or Multi-Family Residential zoned parcel.</p>
Density:	n/a	95 UPH (proposed 84 residential units)
Parcel area:	minimum 550 m ²	8,500 m ²
Parcel coverage:	n/a	35 %
Height and stories:	10.0m	13.0 m (proposed 11.60 metres) 4 storeys
Required setbacks:		
Front:	n/a	<p>n/a for ground floor commercial uses; (proposed 1.60m)</p> <p>4.0 m for ground floor dwelling units;</p> <p>4.0 m above the ground floor</p>
Rear:	n/a	20.0 m (proposed 22.50m)
Side (interior):	3.5 m from abutting residential parcels	<p>2.0 m abutting commercial parcel to the north (proposed 3.61m)</p> <p>12.0 m abutting Multi-Family Residential parcel to the south (proposed 13.74m)</p>

APRIL 18, 2018

Accessory Buildings and outside storage:	Not permitted	10 % parcel coverage 4.5 m in height 2.0 m setback from abutting Single-Family Residential parcel to the east and Multi-Family Residential parcel to the south
Off-street parking	1 per dwelling unit, 0.25 per dwelling for visitors, and in accordance with commercial use parking requirements	1 per dwelling unit 0.2 per dwelling unit for visitors and in accordance with commercial use parking requirements

Surrounding Land Uses:	Single-Family Residential developments to the east and west; Multi-Family Residential development to the south; Commercial: ministorage and gas station to the north.	
---------------------------	---	--

**RZ 17-1, DP 17-1
618 and 634 ANDERTON ROAD**

APRIL 18, 2018

ATTACHMENT 2

COMOX ZONING AMENDMENT BYLAW 1872

TOWN OF COMOX

BYLAW 1872

A BYLAW TO AMEND COMOX ZONING BYLAW 1850

WHEREAS Council has the authority under the provisions of the *Local Government Act* to amend the Zoning Bylaw;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, enacts as follows:

1. Title

This bylaw may be cited for all purposes as the "Comox Zoning Amendment Bylaw 1872"

2. Amendments

Comox Zoning Bylaw 1850 is hereby amended as follows:

- (a) Section 4.1 Classification of Zones is amended by adding the following text under the heading Commercial Zones and after CD20 Comprehensive Development 20: 1170 Comox Avenue:
CD25 Comprehensive Development 25: 618 Anderton Road
- (b) Section 5.3 Fences is amended by replacing subsection (2) with the following text:
In the R4.1, CD23 and CD25 zones, no fence within a front yard shall exceed 1.0 metres in height.
- (c) Section 6.11 Location and Siting is amended by adding as subsection (8) (j) the following text:
In the CD25 zone,
 - (i) parking and loading areas shall not be permitted within a front yard; and
 - (ii) parking and loading areas shall not be permitted within 3.5 metres of any lot line which abuts a parcel in a Residential or Multi-Family Residential zone.

- (d) Schedule "A" is amended by adding as Section 825, CD25 Comprehensive Development 25: 618 Anderton Road, as shown on SCHEDULE "1" which is attached to and forms part of this Bylaw.

- (e) Schedule "B" (the Zoning Map) is amended by rezoning

Lot 3, Section 70, Comox District, Plan 8874 and Lot 9, Section 70, Comox District, Plan 24946, shown shaded on SCHEDULE "2" which is attached to and forms part of this Bylaw, from C4.1 Core Commercial, to CD25 Comprehensive Development 25: 618 Anderton Road.

3. Adoption

- | | |
|-----------------------------------|---------------------------------------|
| (1) READ A FIRST time this | 6 th day of December, 2017 |
| (2) READ A SECOND time this | 7 th day of March, 2018 |
| (3) ADVERTISED A FIRST time this | 22 nd day of March, 2018 |
| (4) ADVERTISED A SECOND time this | 27 th day of March, 2018 |
| (5) PUBLIC HEARING HELD this | 4 th day of April, 2018 |
| (6) READ A THIRD time this | th day of |
| (7) ADOPTED this | th day of |

Paul Ives,
Mayor

Richard Kanigan,
Corporate Officer

BYLAW 1872

SCHEDULE "1"

825. CD25 COMPREHENSIVE DEVELOPMENT 25: 618 ANDERTON ROAD
--

825.1 Permitted Uses:

In the CD25 zone, the following uses are permitted and all other uses are prohibited:

- (1) Accessory structures and uses, excluding:**
 - (a) buildings other than those used for solid waste collection, recycling collection or dwelling unit accessory uses; and**
 - (b) outside storage**
- (2) Artist studios**
- (3) Assembly centres**
- (4) Childcare facilities**
- (6) Dental clinics**
- (7) Denturist labs**
- (8) Dwelling units**
- (9) Financial institutions**
- (10) Grocery Store**
- (11) Home occupations**
- (12) Libraries**
- (13) Locksmiths**
- (14) Medical clinics**
- (16) Museums**
- (17) Offices**
- (18) Personal service establishments**
- (19) Pet grooming**
- (20) Produce stalls**
- (21) Restaurants**
- (22) Restaurant-Lounges**
- (23) Retail stores**
- (24) Small appliance repair shops, processing and packaging of food or beverage products, or establishments that repair or assemble electronic equipment which**
 - (i) have a total non-retail floor area not in excess of 300 square metres,**
 - (ii) retail directly from the premises, and**
 - (iii) have the retail area extending the full width of the premises and located adjacent to the primary pedestrian entrance.**
- (25) Video rental stores**

825.2 Conditions of Use:

- (1) Along any elevation of a building facing Anderton Road, for a distance of not less than 60.0 metres measured parallel to Anderton Road, dwelling units and accessory uses thereto other than common amenity space or dwelling unit rental office up to 175.0 square metres in size, shall not be permitted on the ground**

floor for a depth of 10.0 metres, measured perpendicularly from the Anderton Road elevation;

- (2) Permitted uses other than dwelling units shall not be located above the ground floor;
- (3) **All permitted uses shall be located within a portion of a building, completely enclosed by exterior walls, except for restaurants, child care facilities, landscape material, produce stalls, accessory structures and accessory uses other than solid waste collection and recycling collection; and**
- (4) **Notwithstanding, Section 825.10(4), no solid waste collection or recycling collection shall be located within 12.0 metres of any lot line abutting a Residential or Multi-Family Residential zoned parcel.**

825.3 Density:
95 units per hectare

825.4 Parcel Area:
Parcel area shall not be less than 8,500 square metres.

825.5 Parcel Frontage:
Parcel frontage shall not be less than 100.0 metres.

825.6 Parcel Depth:
Parcel depth shall not be less than 80.0 metres

825.7 Parcel Coverage:
Parcel coverage shall not be less than 35 %

825.8 Height and Storeys:
(1) Height shall not exceed 13.0 metres
(2) The number of storeys shall not exceed 4.

825.9 Required Setbacks:
(1) Front
(a) Ground floor dwelling units – Front setback shall not be less than 4.0 metres;
(b) Ground floor all other uses – n/a;
(c) Above the ground floor – Front setback shall not be less than 4.0 metres;
(2) Rear
Rear setback shall not be less than 20.0 metres
(3) Side - interior
Interior side setback shall not be less than 2.0 metres, except where the parcel abuts a Residential or Multi-Family Residential zoned parcel, in which case the interior side setback shall be not less than 12.0 metres.

825.10 Accessory Buildings
Accessory buildings shall:
(1) not exceed 4.5 metres in height;
(2) have a parcel coverage not exceeding 10%;
(3) not be located within a front yard; and

- (4) be excluded from required rear and interior side setbacks provided that no accessory building is located closer than 2.0 metres to a rear or interior side lot line which abuts a Residential or Multi-Family Residential zoned parcel.

825.11 Screening

The following shall be screened in accordance with Section 8:

~~Garbage compounds;~~

- (1) Off-street parking and loading areas;
- (2) Above ground utility boxes and utility transformers; and
- (3) CD25 zoned parcels from abutting Residential or Multi-Family Residential zoned parcels.

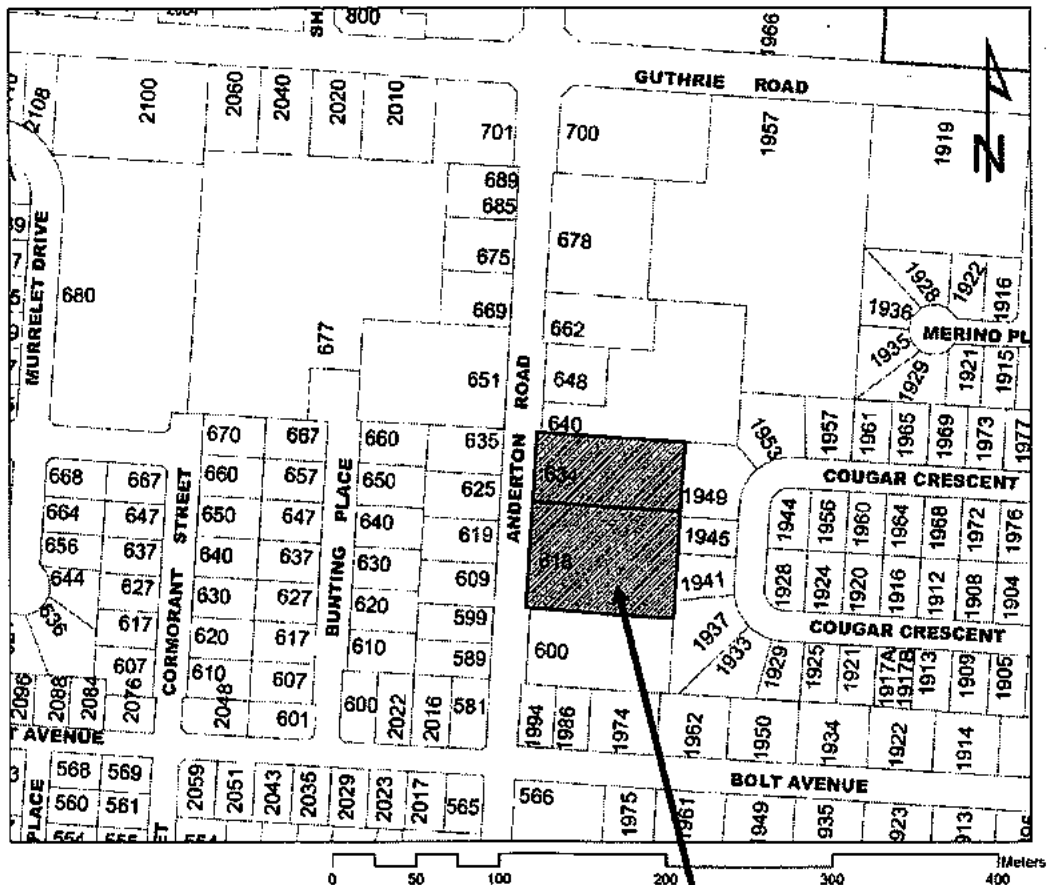
825.12 Off-Street Parking and Loading

- (1) Off-street parking and loading shall be provided in accordance with Section 6; and
- (2) Notwithstanding Section 825.12(1), the minimum required parking spaces shall be 1 per dwelling unit, plus 0.2 per dwelling unit for visitors.

825.13 Other Requirements:

- (1) Overhead wiring shall not be permitted on a parcel. All new services on a parcel shall be placed underground.
- (2) Unoccupied open spaces shall be fully and suitably landscaped with landscape material; this does not include environmentally sensitive areas, including watercourse setbacks as specified in Section 5.18.
- (3) All buildings shall conform to Section 5.18, Watercourse Regulations.

BYLAW 1872
SCHEDULE "2"
SUBJECT PROPERTY



Subject Properties:

618 & 634 Anderton Road

Lot 3, Section 70, Comox District, Plan 8874
Lot 9, Section 70, Comox District, Plan 24946

**RZ 17-1, DP 17-1
618 and 634 ANDERTON ROAD**

APRIL 18, 2018

ATTACHMENT 3

**COMOX PHASED DEVELOPMENT AGREEMENT
AUTHORIZATION BYLAW 1873: 618 ANDERTON**

TOWN OF COMOX

BYLAW 1873

A BYLAW TO ENTER INTO A PHASED DEVELOPMENT AGREEMENT

WHEREAS:

The Town may by bylaw enter into a phased development agreement pursuant to s. 516 of the *Local Government Act*;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, having given statutory notice and pursuant to Sections 466(2) and Section 518 of the *Local Government Act* RSBC, C.1, held a public hearing, enacts as follows:

1. Title

This bylaw may be cited for all purposes as the "Comox Phased Development Agreement Authorization Bylaw 1873: 618 Anderton Road".

2. Authorization

Council hereby authorizes the Town of Comox to enter into a phased development agreement under s 516 of the *Local Government Act*, in the form attached as Schedule "A" to this bylaw.

The Mayor and the Corporate Officer may execute and deliver an agreement with JUST RIGHT ENTERPRISES Ltd. Inc. No. BC0971273, in the form attached as Schedule "A" to this bylaw.

3. Adoption

(1) READ A FIRST time this

6th day of December, 2017

- | | |
|-----------------------------------|-------------------------------------|
| (2) READ A SECOND time this | 7 th day of March, 2018 |
| (3) ADVERTISED A FIRST time this | 22 nd day of March, 2018 |
| (4) ADVERTISED A SECOND time this | 27 th day of March, 2018 |
| (5) PUBLIC HEARING HELD this | 4 th day of April, 2018 |
| (6) READ A THIRD time this | th day of |
| (7) ADOPTED this | th day of |

Paul Ives,
Mayor

Richard Kanigan,
Corporate Officer

**BYLAW 1873
SCHEDULE "A"**

PHASED DEVELOPMENT AGREEMENT: 618 ANDERTON ROAD

PHASED DEVELOPMENT AGREEMENT: 618 ANDERTON ROAD

This Agreement dated for reference the ____ day of _____, 2018 is

AMONG:

TOWN OF COMOX, a municipal corporation, having an address of
1809 Beaufort Avenue, Comox B.C. V9M 1R9

(the "Town")

AND:

JUST RIGHT ENTERPRISES Ltd. Inc. No. BC0971273
C/O 201-467 Cumberland Road
Courtenay, B.C V9N 2C5

(the "Owner")

WHEREAS:

A. The Owner is the registered owner of land legally described as:

PID: 005-476-798
LOT 3, SECTION 70, COMOX DISTRICT, PLAN 8874
and
PID:001-107-232
LOT 9, SECTION 70, COMOX DISTRICT, PLAN 24946

(the "Land");

B. The Owner has applied to the Town for an amendment to Comox Zoning Bylaw 1850 ("Bylaw 1850") by way of Comox Zoning Amendment Bylaw 1872 (the "Zoning Amendment Bylaw") to permit the development on the Land of certain residential and commercial uses;

C. The Owner wishes to provide the following amenities with respect to the development on Land (the "Amenities"):

- (i) A **\$29,187** cash payment as a contribution to the Town's Affordable Housing Fund;
- (ii) The consolidation of two properties comprising the Land;

- (iii) A 2.442 metre road dedication along the Anderton Road frontage, as shown hatched on a sketch as contained in Schedule 1;
- (iv) Provision of the following works and services along the full Anderton Road frontage of the Land, in accordance with Town of Comox Subdivision and Development Servicing Bylaw, 1261:
 - 1. Pavement resurfacing up to the centerline of the existing pavement;
 - 2. Vertical face barrier curb and gutter;
 - 3. 1500 mm wide concrete sidewalk aligned with the existing sidewalk;
 - 4. Concrete driveway drop;
 - 5. Grassed boulevard;
 - 6. 11 Acer Griseum (Paperbark maple) boulevard trees, minimum 8 cm caliper at planting time, with a minimum 3.0 cubic metres of appropriate soil and growing space; and
 - 7. Removal of all private utility poles from the road dedication.
- (v) The retention, maintenance and protection of 4 Douglas Fir trees, in accordance with the November 24, 2017 letter from Matthew Fitzgerald, as contained in Schedule 2;
- (vi) The provision of 220V electrical connections for at least three parking spaces in the residential parking area;
- (vii) The construction of dwelling units within 35.0 metres of Anderton Road to have sound attenuation that meets Canada Mortgage and Housing Corporation Standards, in accordance with Town of Comox, Acoustical Standards for Residential Developments, a report prepared by Wakefield Acoustics, dated October 30, 2014 and having alternative means to window opening for ventilation;
- (viii) The construction of at least 9 residential units on the Land, in accordance with Bylaw 1850, Section 5.20 Special Needs Housing Standards – Adaptable Housing;
- (ix) The certification that the buildings on the Land are built to an energy performance standard acceptable to the Town;
- (x) The provision and maintenance of an oil/ grit separator for the on-site parking and maneuvering areas;
- D. The parties wish to ensure that the provisions of Bylaw 1850 as amended by the Zoning Amendment Bylaw continue to apply to Land for the period more particularly set out in this Agreement; and
- E. The Council of the Town has given notice and held a public hearing and has, by bylaw, authorized the execution of this Agreement;

NOW THEREFORE in consideration of the mutual promises set out in this Agreement, the parties agree pursuant to section 516 of the *Local Government Act* as follows:

APPLICATION OF AGREEMENT

1. This Agreement applies to the Land, including any parcels of land into which the Land may be subdivided.

BYLAW AMENDMENTS NOT TO APPLY

2. For the term of this Agreement, any amendment or repeal of sections 825.1, 825.2, 825.3, 825.4, 825.5, 825.6, 825.7, 825.8, 825.9, 825.10, 825.11, 825.12 and 825.13 of Bylaw 1850 as amended by the Zoning Amendment Bylaw shall not apply to Land, except:
 - (a) as provided in section 516(6) of the *Local Government Act*, or
 - (b) to the extent that the owner of any parcel comprising Land agrees in writing that the amendment or repeal shall apply to that land.
3. For certainty, and without limiting section 2, the Town agrees that any development permit or building permit that would be issuable in respect of Land on the date of adoption of the Zoning Amendment Bylaw will, subject to Section 9, be issued throughout the term of this Agreement in accordance with the Comox Official Community Plan Bylaw, 2011 (Bylaw No. 1685), Bylaw 1850 (apart from the sections specified in Section 2 to the extent that they may differ from the sections in force following adoption of the Zoning Amendment Bylaw), and Comox Building Bylaw No. 1472, despite any amendment or repeal of the bylaw provisions specified in section 2 that would otherwise prevent the issuance of the permit.

TERM OF AGREEMENT

4. The term of this Agreement is ten years from the date of adoption of the Zoning Amendment Bylaw.
5. The parties may terminate this Agreement at any time by written agreement of all parties.
6. If the Owner does not comply with all the requirements in Section 8, on which question the opinion of the Town shall be determinative provided that the Town may not act unreasonably, the Town may at its option terminate this Agreement by providing notice in writing to the Owner, provided that the Town has at least two months prior to giving such notice advised the Owner in writing of any alleged failure (the "Default Notice") and the Owner has not corrected the deficiency to the reasonable satisfaction of the Town. The Owner acknowledges the Town's unfettered right to further amend its Official Community Plan and Bylaw 1850 to reverse the effect of the Zoning Amendment Bylaw, in the event that the Owner fails to comply with Section 8, and waives any right it would otherwise have to claim, in respect of any such further amendment, that it has established a non-conforming use or a commitment to use Land as permitted by the Zoning Amendment Bylaw.

7. Despite the preceding section, if the default is one that cannot be corrected by the Owner, the Town may give notice of termination at the same time as the notice of default. For certainty, if the Owner should be a corporation, the following are defaults that cannot be remedied by the Owner:
- (a) if the Owner makes a general assignment for the benefit of creditors; or
 - (b) if the Owner institutes proceedings to be adjudicated bankrupt or insolvent or consents to the institution of bankruptcy or insolvency proceedings against the Owner or files an application or petition or answer or consent seeking re-organization or re-adjustment of the indebtedness of the Owner under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province of Canada relating to bankruptcy or insolvency, or consents to the filing of any such application or petition, or consents to the appointment of a receiver or receiver-manager; or
 - (c) if a receiver, interim receiver, receiver-manager, trustee, liquidator, or custodian of all or substantially all of the property of the Owner or of the Owner's interest in Land is appointed or applied for by the Owner or appointed pursuant to an instrument or by order of a court; or
 - (d) if a judgment, decree, or order is entered by a court of competent jurisdiction adjudging the Owner a bankrupt or insolvent or subject to the provisions of the *Bankruptcy and Insolvency Act* or determining that proceedings for re-organization, arrangement, adjustment, composition, liquidation, or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province of Canada relating to bankruptcy or insolvency have been properly instituted otherwise than by the Owner, provided that such judgment, decree or order is not in good faith contested by the Owner; or
 - (e) if any application or petition or certificate or order is made or granted for the winding-up or dissolution of the Owner, voluntary or otherwise.

AMENITIES FOR DEVELOPMENT OF LAND

8. The Owner shall, provide the following amenities by the deadlines herein specified:
- (a) Prior to adoption of the Zoning Amendment Bylaw:
 - (i) The consolidation of two properties comprising the Land;
 - (ii) A 2.442 metre road dedication along the Anderton Road frontage, as shown hatched on a sketch as contained in Schedule 1;

- (b) Within 30 days of the adoption by Council of the Zoning Amendment Bylaw, and prior to any application being made for a Building Permit on the Land:
 - (i) A **\$29,187** cash payment as a contribution to the Town's Affordable Housing Fund;
- (c) Prior to applying for an occupancy permit in respect of any buildings or portion thereof on the Land:
 - (i) Provision of the following works and services along the full Anderton Road frontage of the Land, in accordance with Town of Comox Subdivision and Development Servicing Bylaw, 1261:
 - 1. Pavement resurfacing up to the centerline of the existing pavement;
 - 2. Vertical face barrier curb and gutter;
 - 3. 1500 mm wide concrete sidewalk aligned with the existing sidewalk;
 - 4. Concrete driveway drop;
 - 5. Grassed boulevard;
 - 6. 11 Acer Griseum (Paperbark maple) boulevard trees, minimum 8 cm caliper at planting time, with a minimum 3.0 cubic metres of appropriate soil and growing space; and
 - 7. Removal of all private utility poles from the road dedication.
 - (ii) The provision of 220V electrical connections for at least three parking spaces in the residential parking area;
 - (iii) The provision of certification that construction of dwelling units within 35.0 metres of Anderton Road have sound attenuation that meets Canada Mortgage and Housing Corporation Standards, in accordance with Town of Comox, Acoustical Standards for Residential Developments, a report prepared by Wakefield Acoustics, dated October 30, 2014 and having alternative means to window opening for ventilation;
 - (iv) The construction of at least 9 residential units on the Land, in accordance with Bylaw 1850, Section 5.20 Special Needs Housing Standards – Adaptable Housing;
 - (v) The certification that the buildings on the Land are built to a minimum BUILT GREEN Bronze standard, Step 1 as referenced in Table 9.36.6.3.B of the British Columbia Building Code, or an alternative standard, acceptable to the Town; and
 - (vi) The provision and maintenance of an oil/ grit separator for the on-site parking and maneuvering areas.

RESTRICTIONS ON DEVELOPMENT OF LAND

9. The Owner shall not, despite the adoption of the Zoning Amendment Bylaw, construct or occupy any building or structure on Land until or unless the Owner's obligations under Section 8 have been met by the deadlines specified in the subsections of Section 8, and the Town shall be under no obligation to issue any building permit or occupancy permit or other authorization to which the Owner would be entitled were it not for this Section.
10. The Owner shall grant to the Town, and register in the applicable land title office against title to Land in priority to all financial liens, charges and encumbrances, a covenant under Section 219 of the *Land Title Act* with respect to the amenities to be provided under section 8.

ASSIGNMENT OF AGREEMENT

11. The Owner may assign this Agreement if the Town, acting reasonably, consents in writing to the assignment and the assignee has executed and delivered to the Town a notice of assumption and has entered into an assignment agreement with the Owner assigning the Agreement to the assignee.

GENERAL TERMS AND CONDITIONS

12. Any notice permitted or required by this Agreement to be given to either party must be given to that party at the address set out above, or to any other address of which the party has given the other party notice in writing expressly for the purposes of this Agreement.
13. Except as expressly set out in this Agreement, nothing in this Agreement shall prejudice or affect the rights and powers of the Town in the exercise of its functions under the *Community Charter* or the *Local Government Act* or any of its bylaws, or those of the Town's approving officer under the *Land Title Act*, *Strata Property Act* or Bare Land Strata Regulations.
14. Any opinion, decision, act or expression of satisfaction or acceptance provided for in this Agreement may be taken or made by the Town's Municipal Planner, unless expressly provided to be taken or made by another official of the Town, and in the process of exercising any such opinion, decision, act or expression of satisfaction or acceptance, the Town's Municipal Planner or other such person shall act reasonably.
15. No provision of this Agreement is to be considered to have been waived by the Town unless the waiver is expressed in writing by the Town. The waiver by the Town of any breach by any of the other parties of any provision is not to be construed as or constitute a waiver of any further or other breach.

16. Whenever in this Agreement the Town is required or entitled to exercise any discretion in the granting of consent or approval, or is entitled to make any determination, take any action or exercise any contractual right or remedy, the Town may do so in accordance with the contractual provisions of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice or otherwise, shall have any application in the interpretation or implementation of this Agreement.
17. The Owner shall indemnify and save harmless the Town, its officers, employees, Council members, agents and others (the "Town Representatives") from and against any and all actions, causes of action, liabilities, demands, losses, damages, costs, expenses (including actual fees of professional advisors), costs for the remediation of contamination, fines, penalties and other harm of any kind whatsoever, whether related to death, bodily injury, property loss, property damage, property contamination or consequential loss or damage, suffered or incurred by the Town or any of the Town Representatives, directly or indirectly, arising from, resulting from, connected with or related to:
 - (a) any default or breach of this Agreement by the Owner; and
 - (b) any wrongful act, omission or negligence of the Owner or its directors, officers, employees, agents, contractors, subcontractors, licensees, or others for whom they are responsible in law with respect to the covenants and obligations of the Owner pursuant to this Agreement.
18. This indemnity shall survive any conclusion or other termination of this Agreement, in relation to any matter arising prior to it.
19. If the Owner is delayed or prevented from the performance of any covenant or agreement required hereunder by reason of any unavoidable cause, then performance of such covenant or agreement shall be excused for the period during which such performance is delayed or prevented and the time for the performance thereof shall be extended accordingly. For the purposes of this section, "unavoidable cause" means any event or contingency beyond the reasonable control of the Owner, including without limitation a delay caused by weather conditions, power failure, fire or other casualty, governmental laws, regulations or controls, civil commotion, insurrection, sabotage, invasion, rebellion, military or usurped power, war or war-like operations and acts of God, but excluding a delay caused by lack of funds.
20. Time is of the essence of this Agreement and will remain of the essence notwithstanding the extension of any dates.
21. The Owner acknowledges and agrees that the Town, acting reasonably, may, despite any public law limitations on the withholding of building permits and occupancy permits, withhold building permits and occupancy permits for the purpose of ensuring compliance with and administering the terms of this Agreement.
22. This Agreement may be executed in multiple counterparts, each of which is to be deemed to be an original and all of which together constitute one and the same agreement.

23. This Agreement may be executed by the parties and transmitted by fax or scanned and emailed and if so executed and transmitted this agreement will be for all purposes as effective as if the parties had executed and delivered an original agreement.

As evidence of their agreement to be bound by the terms, the parties have caused this Agreement to be executed and delivered under seal by their authorized signatories as of the dates set out below:

TOWN OF COMOX
by its authorized signatories:

Name: _____ Date: _____

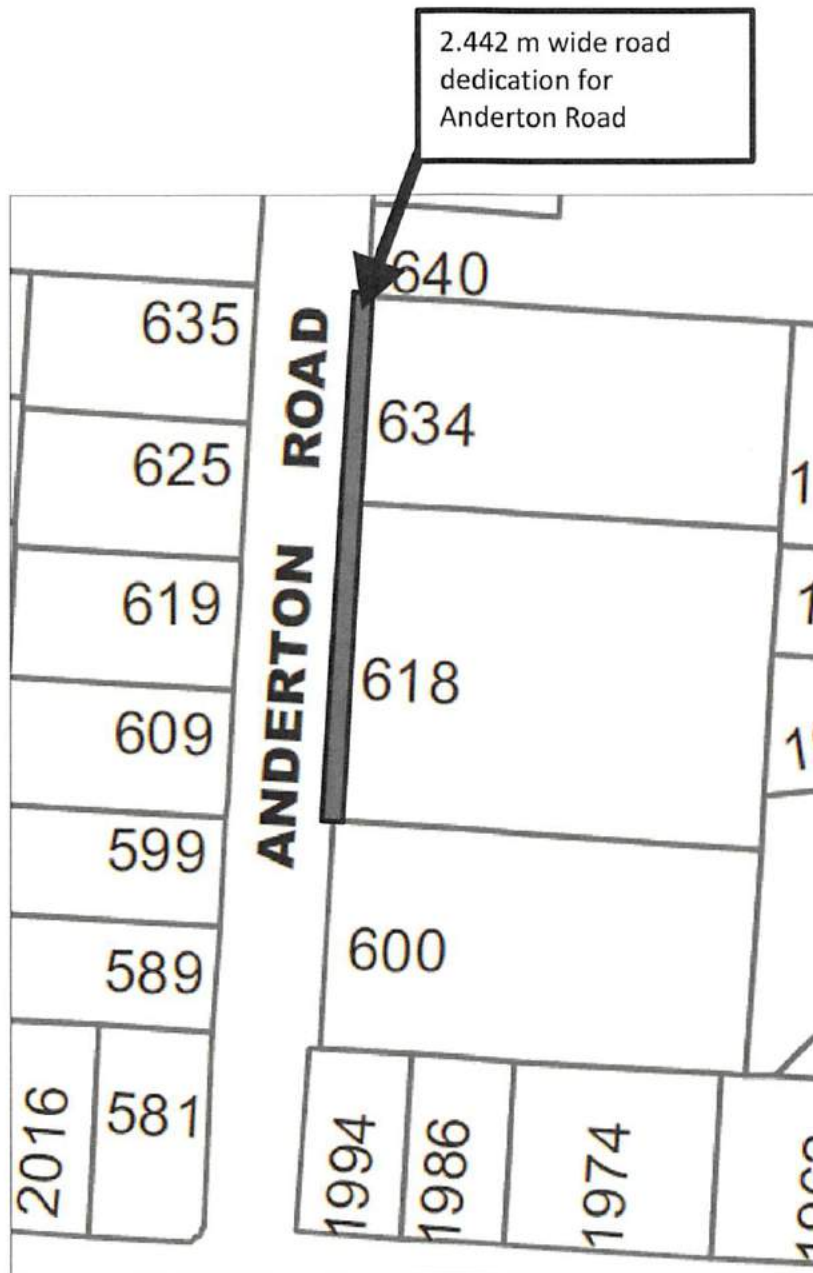
Name: _____

JUST RIGHT ENTERPRISES Ltd. Inc. No. BC0971273
by its authorized signatories:

Name: _____ Date: _____

Name: _____

SCHEDULE "1" ROAD DEDICATION



SCHEDULE "2"



November 24th, 2017

Regina Bozerocka
Town of Comox
1809 Beaufort Avenue Comox BC, V9M 1R9

RE: Tree Retention Plan (618 & 634 Anderton Road)

Ms. Bozerocka,

On November 17th we met with the Town's Planners to discuss concerns regarding the retainment of four fir trees which are currently growing on the parcel. The following parameters were provided:

1. *Written statement / sketch detail:*

- *enabling the retention of existing trees along property lines (both on the subject and adjacent properties), given proposed 2:1 slope from property lines to parking lot pavement, e.g. arborist confirmation that placement of fill on tree roots will not negatively impact them, or arborist confirmation that tree wells or retaining walls along the edge of parking lot will not negatively impact them. If the retention of trees results in reduction in the number of parking stalls – a statement of how many stalls will be lost.*

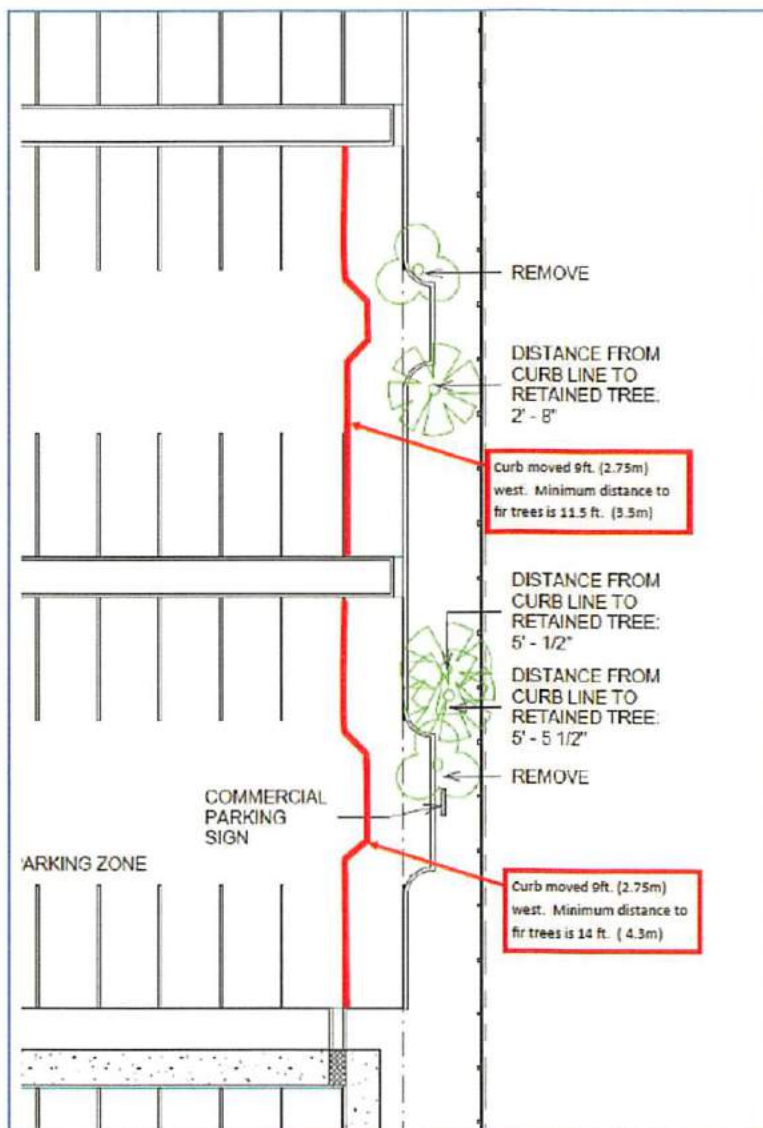
Based on the regrading of the site and addition of parking area near the trees the following questions were posed to our arborist the email exchange is attached):

- Is the distance from the planned curb to the tree sufficient to retain the tree? If not how far back does the curb have to be?
- Is the tree able to be maintained given that the area between the curb to the property line is to be regraded to a maximum of a 2:1 slope? If not what measures are necessary to maintain the tree with the grading changing to a maximum of 2:1 slope? (i.e. some form of small retaining wall)

Regarding the distance of the curbs to the tree, the arborist recommended a minimum distance of 6ft (1.8m) from the tree to the curb. As proposed, all three of the fir trees on the east edge of the property were less than this recommended distance. As a result, the site plan will be modified to shift the parking area west as depicted in the sketch below. **This will reduce the number of proposed parking stalls by four** but significantly increase the distance between the curb to the trees to exceed the arborist's recommendation concerning the distance from the tree to the curb. On the south edge of



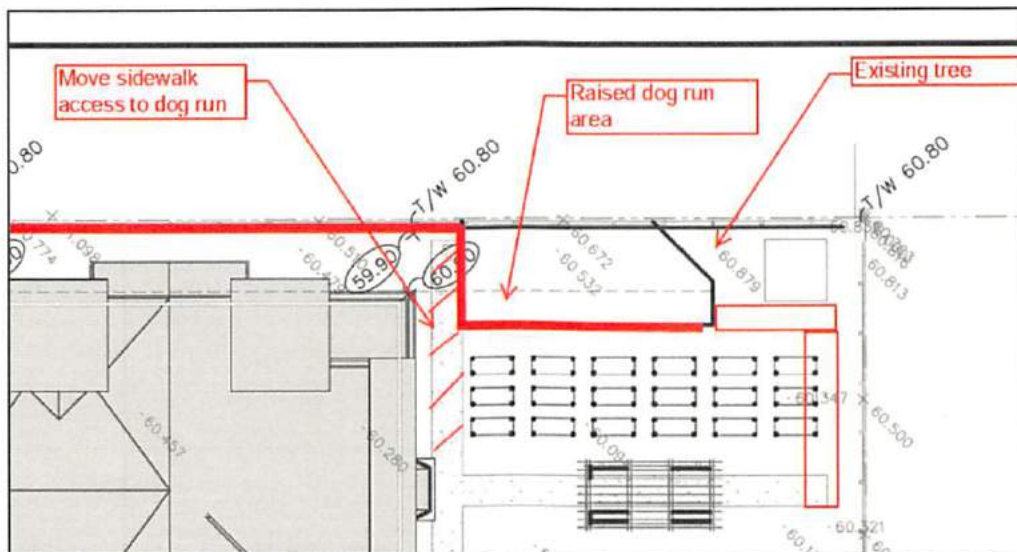
the property the fir trees on the neighbouring property are approximately 13ft. (4m) from the proposed curb on the south edge of the parking area.





Regarding the area around the tree to a maximum of a 2:1 slope, the arborist expressed initial concern. However, when the curb is shifted west the slope decreases to a maximum of 4:1 thereby alleviating the impact on the tree.

Finally, there is one fir tree on the north edge of the property. There is a small retaining wall initially planned to be five feet from the tree. Initially the arborist recommended that we have an arborist onsite when the base for the wall installed to ensure minimal damage to the root system. We have proposed an alternative through our grading plan which will move the retaining wall into the site leaving the existing grades as they exist around the tree.



We trust this addressed the department's concerns with the impact of our proposal on the existing trees.

Matthew Fitzgerald, MCIP RPP
Development Manager
Seymour Pacific Developments Ltd.

APRIL 18, 2018

ATTACHMENT 4

PROCESSING PROCEDURES

The following process would allow Comox Zoning Bylaw Amendment Bylaw 1872, Comox Phased Development Agreement Authorization Bylaw 1873: 618 Anderton Road and Development Permit application to be considered concurrently.

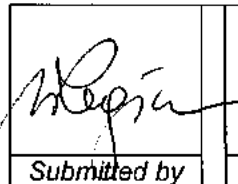
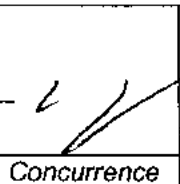

- 1) Third Reading of proposed Bylaws 1872 and 1873;
- 2) Completion of Schedule 1 Outstanding items to be resolved prior to Adoption of proposed Bylaws 1872 and 1873; and
- 3) Adoption of proposed Bylaws 1872 and 1873, issuance of the Development Permit and discharge of Restrictive Covenant EK048266.

BLANK PAGE



TOWN OF COMOX PLANNING REPORT

TO:	RICHARD KANIGAN, CHIEF ADMINISTRATIVE OFFICER
FROM:	MARVIN KAMENZ, MUNICIPAL PLANNER REGINA BOZEROCKA, PLANNER I
SUBJECT:	REZONING APPLICATION: RZ 17-10, DEVELOPMENT PERMIT 17-6 DEVELOPMENT VARIANCE PERMIT APPLICATION: DVP 17-7 1170 LAZO ROAD
DATE:	APRIL 18, 2018 POST PUBLIC HEARING, THIRD READING REPORT

		
Submitted by	Concurrence	Approval

Planner's recommendation:

1. That Comox Zoning Amendment Bylaw 1874 be given Third Reading (**Attachment 2**); and
2. That Comox Phased Development Agreement Authorization Bylaw 1875: Lazo Road be given Third Reading (**Attachment 3**).

Proposal:

Proposed is the rezoning of the subject property from R3.3 Single Family – Large Lot to R4.1 Single-Family – 350 m² Parcel, to facilitate a 16-lot single-family subdivision. The existing buildings and foundations are proposed to be demolished prior to the subdivision of the subject property.

The associated development variance permit would vary Town of Comox Subdivision and Development Servicing Bylaw, 1261 Road Specifications, to provide traffic calming and improve pedestrian infrastructure and neighbourhood aesthetics. The DVP would also vary the Comox Zoning Bylaw 1850 interpretation of front lot line for proposed Lot 15, for clarity when establishing building setbacks. The development permit is in relation to DPA #11 Wildlife Corridor. The Application Summary is contained in **Attachment 1**.

Background:

A Public Hearing on Bylaws 1874 and 1875 was held on April 4th, 2018.

A copy of the *Local Government Act* Section 465 Public Hearing summary report is contained in the April 18, 2018 Regular Council Meeting Agenda.

U:\Dev App\2017\OCP RZ\RZ 17-10 1170 Lazo Rd\Reports\2_RCM_RZ 17-10_post PH_3 Read_1170 Lazo Road_18.04.2018.docx

APRIL 18, 2018

Processing procedures:

Attachment 4 lists the processing steps that will allow Council's consideration of the Rezoning, Development Permit and Development Variance Permit Applications. Typically where a development proposal involves a Rezoning and Development Variance Permit, advertising of the rezoning public hearing and Council consideration of the Development Variance Permit is done concurrently. In this instance due to an oversight, concurrent advertising did not take place.

Council cannot receive public submissions after a public hearing without invalidating the hearing. Therefore, Attachment 4 has been modified so as to have advertising of the Development Variance Permit occur after Rezoning Bylaw Adoption. Following Development Variance Permit advertising, Council consideration of issuance of the Development Variance Permit and Development Permit would occur.

MK/ RB

Schedules:

1. Outstanding Items, DP conditions, DVP conditions

Attachments:

1. Application Summary
2. Proposed Zoning Amendment Bylaw 1874
3. Proposed Phased Development Authorization Agreement Bylaw 1875
4. Processing Procedures

cc.

Derek Jensen, McElhanney Consulting Services Ltd.
495 Sixth Street, Courtenay, B.C. V9N 6V4

APRIL 18, 2018

SCHEDULE 1

OUTSTANDING ITEMS

Provision of Phased Development Agreement Strengthening Covenant(s) to secure:

- a. Affordable housing cash contribution of \$ 17,022;
- b. Purchase of 2,250 m² of land for park purposes as shown in **Schedule 1**, Area of Park Land Purchase Drawing, for \$153,202 at time of subdivision;
- c. Prior to subdivision, removal of invasive species on the subject property, including proposed Greenway and road dedications, including Scotch Broom, English Holly, Himalayan Blackberry and thistles;
- d. Retention, maintenance and protection, including provision of rent charge, of the existing trees on the proposed lots, identified for retention in the Tree Assessment Report, September 1, 2017, prepared by Walter Ernst, Strategic Natural Resource Consultants 0Inc.;
- e. Provision, maintenance and protection, including provision of rent charge, of the mix of 18 new Douglas Fir and Western Hemlock trees to be planted in rear yards, and 2 Dogwood "Venus" trees, as shown on the **Schedule 1**, Tree Replanting Plan. The trees shall be a minimum of 2.0 metres in height at planting time; the groves shall be planted in a triangular pattern, and spaced a minimum of 2.5 metres.
- f. Construction of single-family dwellings on proposed Lots 5 and 6, in accordance with the Comox Zoning Bylaw 1850, Section 5.20 Special Needs Housing Standards – Adaptable Housing; and
- g. Provision of certification that the residential units on the Land are built to a minimum BUILT GREEN Bronze standard, Step 1 as referenced in Table 9.36.6.3.B of the British Columbia Building Code, or an alternative standard, acceptable to the Town.

APRIL 18, 2018

DEVELOPMENT PERMIT CONDITIONS

1. Subdivision in substantial compliance with the Proposed Subdivision Plan;
2. Removal of all fruit trees;
3. Removal of all barbed wire fencing;
4. In accordance with DPA #11 exemption 3.11.4(F)(II), height of fence can be no more than 1.20 metres above finished grade (it is encouraged for sections of the fence to have a distance of 0.45 metres from the finished grade to the bottom of the fence, to allow for safe passage of small mammals and fawns).

APRIL 18, 2018

DEVELOPMENT VARIANCE PERMIT CONDITIONS

1. Subdivision in substantial compliance with the Proposed Subdivision Plan;
2. Construction of no more than one access driveway per proposed lot, not exceeding 5.5 metres in width;
3. Comox Zoning Bylaw 1850, Section 3.2 Definitions, Front Lot Line, is to be varied for proposed Lot 15 to the following:

The Front Lot Line shall be a lot line common to the parcel and cul-de-sac portion of the street, starting at the north radius and ending at the south interior side lot line, in accordance with **Schedule 1**, Lot 15 Front Lot Line Drawing;

4. Town of Comox Subdivision and Development Servicing Bylaw 1261, Schedule C.1, is to be varied as follows:

- a. Appendix "C" Specifications for Highways, Table C-1 (Minimum Requirements, Roadway Widths, Curbs and Sidewalks):

Local Urban Road Pavement Width

From: 9.0 metres to: 6.0 metres, with 2.4 m pull-out parallel parking one side of the road

Type of curb

From: Rollover Curb to: Barrier curb, gutter

- b. Appendix "C" Section 10.1 and 10.2:

Sidewalks

From: Back of curb, in accordance with Standard Drawing SC-10

To: Back of curb at parking pull out and otherwise boulevard between back of curb and sidewalk so that sidewalk alignment is straight.

- c. Appendix "H" Section 1.2:

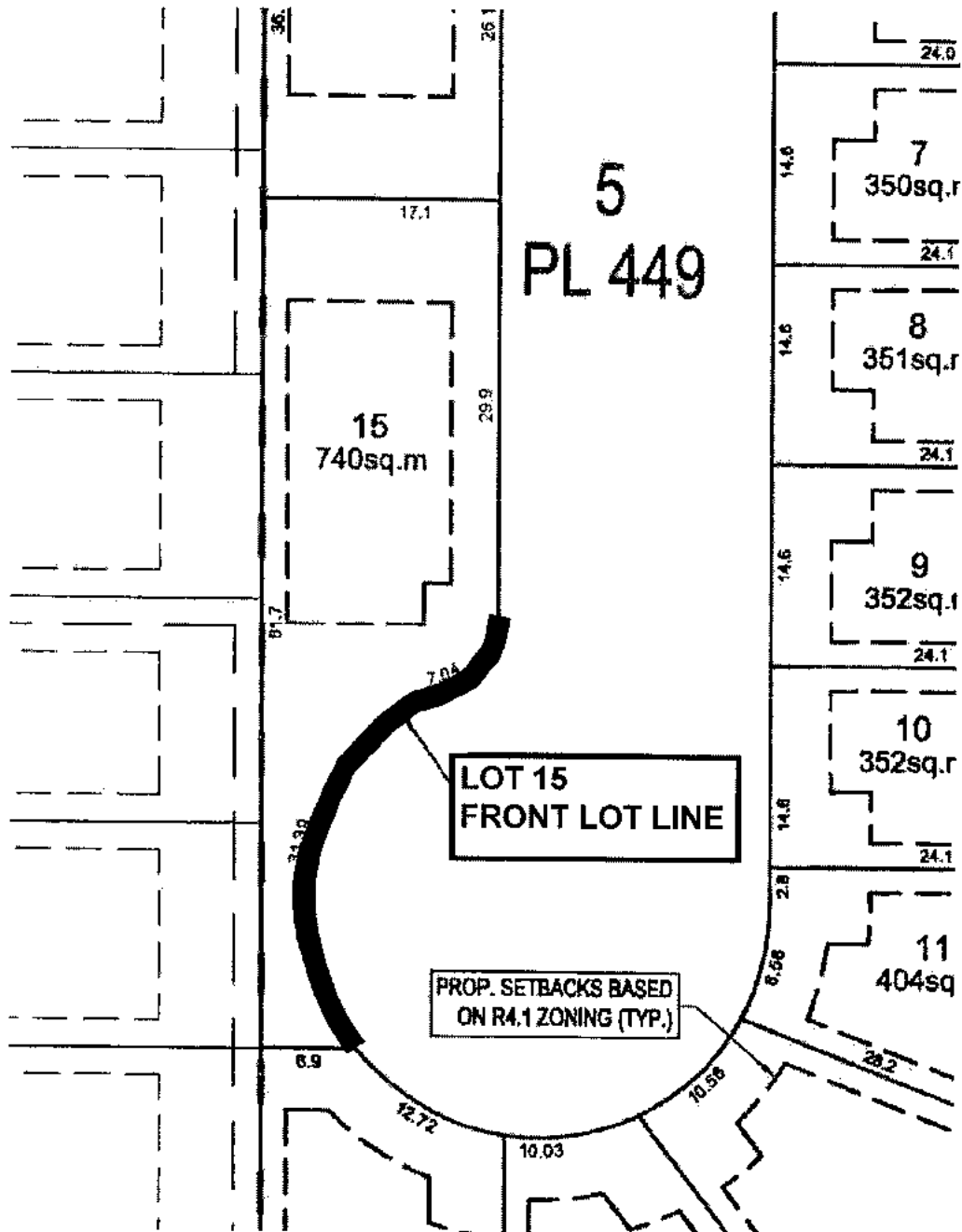
Street Trees and Underground utilities alignments

From: In accordance with drawings SH-1, SF-7 and SC-5

To: Notwithstanding drawings SH-1, SF-7 and SC-5, street trees shall be located immediately adjacent to the sidewalks in accordance with **Schedule 1** Street Trees Plan; structural soil for street trees shall be provided of a composition and depth acceptable to the Parks Superintendent; and the location of storm and sanitary mains shall be beneath the road pavement.

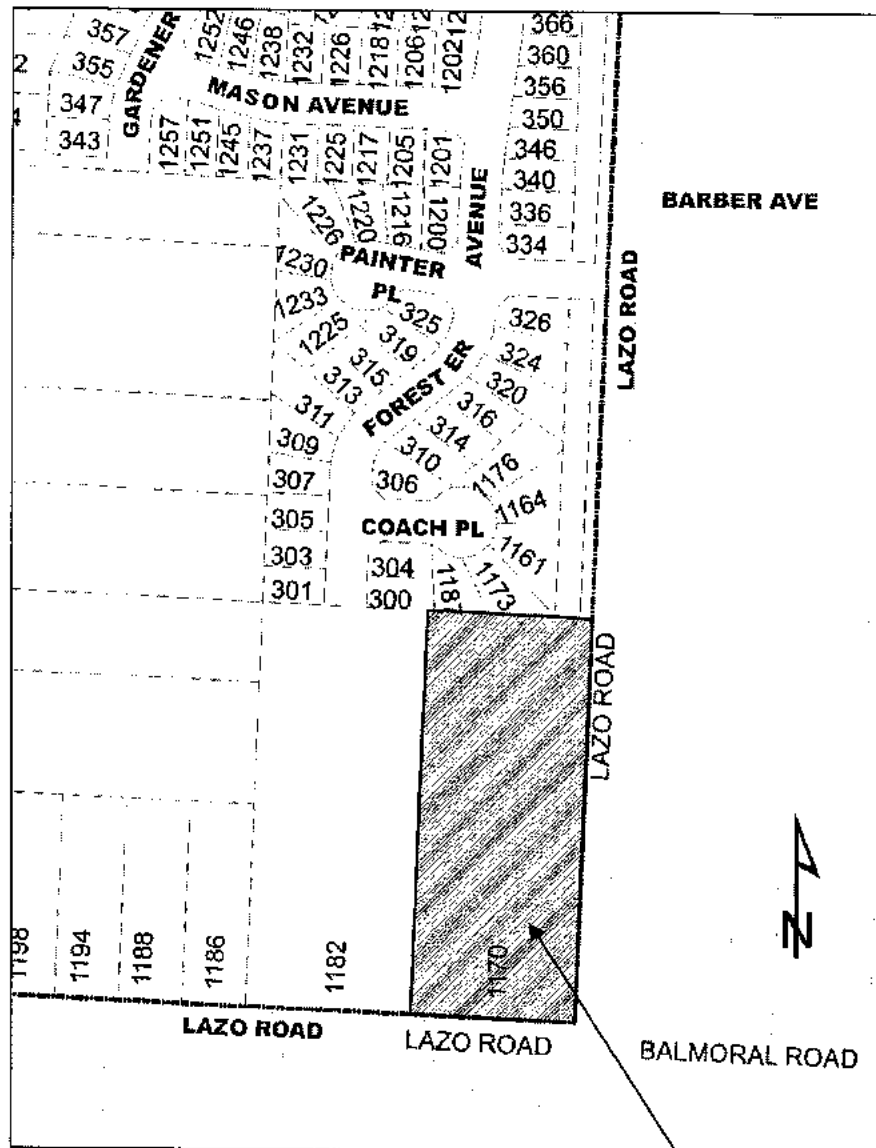
APRIL 18, 2018

LOT 15 FRONT LOT LINE DRAWING



APRIL 18, 2018

**ATTACHMENT 1
APPLICATION SUMMARY**



Subject Property:
ADDRESS: 1170 LAZO ROAD
LEGAL DESCRIPTION: Lot 5 District Lot 186 Comox District Plan 449
Except Parcel A (DD 3381N)

APRIL 18, 2018

Proposal:	Proposed is the rezoning of the subject property from R3.3 Single Family – Large Lot to R4.1 Single-Family – 350 m ² Parcel, to facilitate a 16-lot single-family subdivision. The existing buildings and foundations are proposed to be demolished prior to the subdivision of the subject property.	
	The associated development variance permit would vary Town of Comox Subdivision and Development Servicing Bylaw, 1261 Road Specifications, to provide traffic calming and improve pedestrian infrastructure and neighbourhood aesthetics. The DVP would also vary the Comox Zoning Bylaw 1850 interpretation of front lot line for proposed Lot 15, for clarity when establishing building setbacks.	
	The development permit is in relation to DPA #11 Wildlife Corridor.	
Owner:	Assiniboine Developments Ltd. Inc. No. BC1068777 1115191 B.C. Ltd.	
Applicant:	Derek Jensen, McElhanney Consulting Services, Ltd.	
Legal Description:	Lot 5 District Lot 186 Comox District Plan 449 Except Parcel A (DD 3381N)	
Civic Address:	1170 Lazo Road	
Official Community Plan:		
Land Use Designation:	Residential: Ground Oriented Infill and Residential: Townhouses and Ground Oriented Infill	
Development Permit Areas:	DPA # 2 Ground Oriented Infill (exempt) DPA #11 Wildlife Corridor DPA #16 Energy and Water Conservation and Reduction of Greenhouse Gas Emissions (exempt) DPA # 17 Coach Houses (exempt)	
Zoning:	EXISTING	PROPOSED
	R3.3 Single Family – Large Lot	R4.1 Single-Family – 350 m ² Parcel
Permitted uses:	Accessory structures and uses, Coach houses, Home occupations, Secondary suites, Single-family dwellings, Bed and Breakfast accommodations	Accessory structures and uses Home occupations, Secondary suites, Single-family dwellings,
Minimum parcel area	20,000 m ²	350 m ²
Min. parcel frontage:	20.0 m	13.0 m 15.0 m for parcels with exterior side lot line
Minimum parcel depth:	50.0 m	24.0 m
Maximum parcel coverage:	Lesser of 35% or 500 m ²	35%
Height and storey's:	9.0m	8.0 m

APRIL 18, 2018

	Maximum 2 storeys	Maximum 2 storeys
Minimum setbacks:		
front:	7.5 m	For 5.5 m as measured parallel to and at the front setback – front setback shall be no less than 7.5 m and for any part of a structure used as a garage. 4.5 m – for all other situations
rear:	7.5 m	The greater of 7.5 m or 25% of parcel depth
side (interior):	2.0 m	1.8 m
side (exterior):	3.5 m	3.5 m
Accessory Buildings:	60 m ² in gross floor area or 10% of parcel coverage; Maximum 4.5 m in height	40 m ² in gross floor area and 10% of parcel coverage, whichever is less; Maximum 4.5 m in height
Driveways:	n/a	Shall not exceed 5.5 metres in width; No more than one driveway per parcel
Surrounding Land Uses:	R3.2 zoned single-family development to the north and west, Lazo Road and CVRD large lot single family development to the south and east.	

Comox Zoning Bylaw 1850

Interpretation, Section 3.2 Definitions

Front Lot Line	REQUIRED A lot line common to a parcel and a street other than a lane.	PROPOSED VARIANCE for Lot 15 only: A lot line common to the parcel and cul-de-sac portion of the street, starting at the north radius and ending at the south interior side lot line, in accordance with Schedule 1, Lot 15 Front Lot Line Drawing.
----------------	--	---

Town of Comox Subdivision and Development Servicing Bylaw 1261

Schedule C.1, Appendix "C" (Specifications for Highways), Table C-1 (Minimum Requirements, Roadway Widths, Curbs and Sidewalks)

Local Road	REQUIRED	PROPOSED VARIANCES
Pavement Width	9.0 metres	6.0 metres With 2.4 m pull-out parallel parking one side of the road
Type of curb	Rollover Curb	Barrier curb, gutter
Sidewalks	Back of curb In accordance with drawing SC-10	Back of curb at parking pull out and otherwise boulevard between back of curb and sidewalk so that sidewalk alignment is straight
Street Trees and Underground utilities alignments	In accordance with drawings: SH-1, SC-5 and SF-7	In accordance with the Schedule 1 Street Trees Plan, location of street trees immediately adjacent to sidewalks, provision of structural soil for the street trees of a composition and depth acceptable to the Parks Superintendent, and location of storm and sanitary mains beneath the road pavement.

**RZ 17-10, DP 17-6, DVP 17-7
1170 LAZO ROAD**

APRIL 18, 2018

**ATTACHMENT 2
PROPOSED ZONING AMENDMENT BYLAW**

TOWN OF COMOX

BYLAW 1874

A BYLAW TO AMEND COMOX ZONING BYLAW 1850

WHEREAS Council has the authority under the provisions of the *Local Government Act* to amend the Zoning Bylaw;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, enacts as follows:

1. Title

This bylaw may be cited for all purposes as the "Comox Zoning Amendment Bylaw 1874"

2. Amendments

(1) Comox Zoning Bylaw 1850 is hereby amended as follows:

Schedule "B" (the Zoning Map):

by rezoning

LOT 5 DISTRICT LOT 186 COMOX DISTRICT PLAN 449 EXCEPT PARCEL A (DD3381N) shown shaded on SCHEDULE "1" which is attached to and forms part of this Bylaw, from R3.3 Single Family – Large Lot, to R4.1 Single-Family – 350 m² Parcel.

3. Adoption

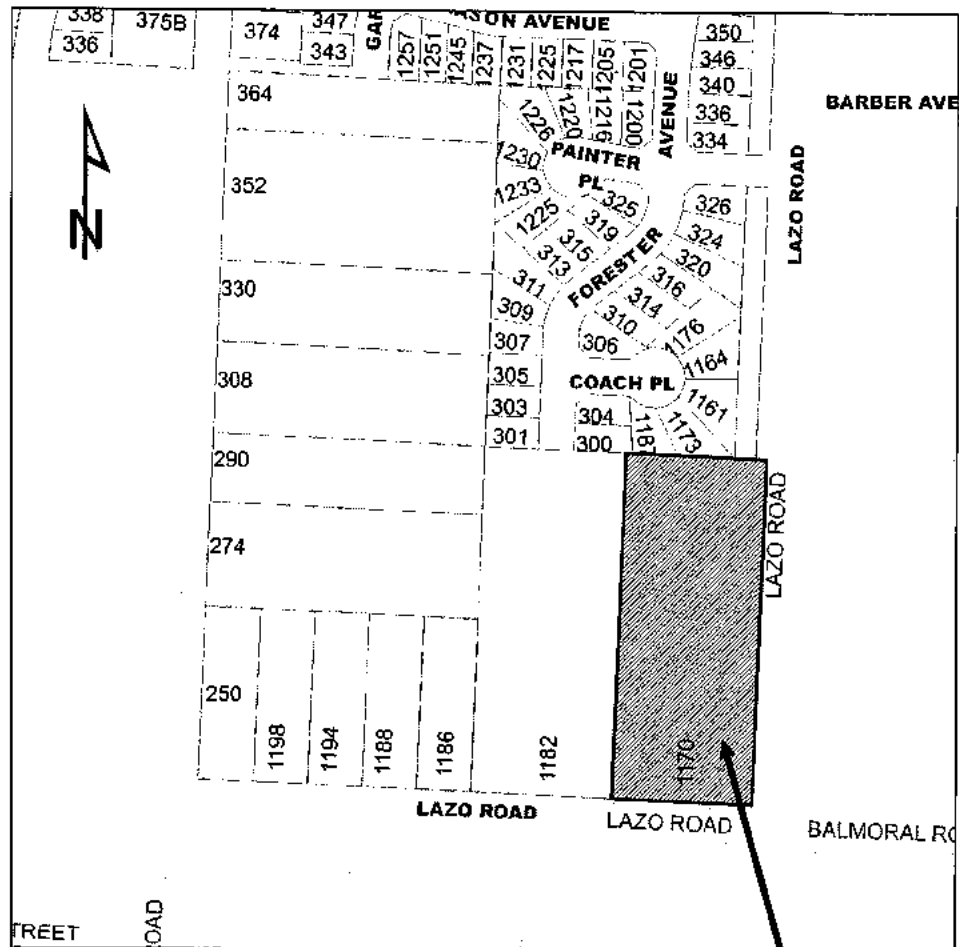
- | | |
|-----------------------------|------------------------------------|
| (1) READ A FIRST time this | 7 th day of March, 2018 |
| (2) READ A SECOND time this | 7 th day of March, 2018 |

- | | | |
|-----|-------------------------------|-------------------------------------|
| (3) | ADVERTISED A FIRST time this | 22 nd day of March, 2018 |
| (4) | ADVERTISED A SECOND time this | 27 th day of March, 2018 |
| (5) | PUBLIC HEARING HELD this | 4 th day of April, 2018 |
| (6) | READ A THIRD time this | th day of , 2018 |
| (7) | ADOPTED this | th day of , 2018 |

Paul Ives,
Mayor

Richard Kanigan,
Corporate Officer

SCHEDULE "1"
SUBJECT PROPERTY



Subject Property:

1170 Lazo Road

PID: 009-045-686

LOT 5 DISTRICT LOT 186 COMOX DISTRICT PLAN 449 EXCEPT
PARCEL A (DD3381N)

APRIL 18, 2018

ATTACHMENT 3
PROPOSED PHASED DEVELOPMENT AGREEMENT BYLAW

TOWN OF COMOX

BYLAW 1875

A BYLAW TO ENTER INTO A PHASED DEVELOPMENT AGREEMENT

WHEREAS:

The Town may by bylaw enter into a phased development agreement pursuant to s. 516.1 of the *Local Government Act*;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, having given notice and held a public hearing, enacts as follows:

1. Title

This bylaw may be cited for all purposes as the "Comox Phased Development Agreement Authorization Bylaw 1875: Lazo Road".

2. Authorization

Council hereby authorizes the Town of Comox to enter into a phased development agreement under s.516.1 of the *Local Government Act*, in the form attached as Schedule "A" to this bylaw.

The Mayor and the Corporate Officer may execute and deliver an agreement with Assiniboine Developments Ltd. Inc. No. BC1068777 and 1115191 B.C. Ltd. Inc. No. BC1115191, in the form attached as Schedule "A" to this bylaw.

3. Adoption

- | | | |
|-----|-------------------------|------------------------------------|
| (1) | READ A FIRST time this | 7 th day of March, 2018 |
| (2) | READ A SECOND time this | 7 th day of March, 2018 |

- | | | |
|-----|-------------------------------|-------------------------------------|
| (3) | ADVERTISED A FIRST time this | 22 nd day of March, 2018 |
| (4) | ADVERTISED A SECOND time this | 27 th day of March, 2018 |
| (5) | PUBLIC HEARING HELD this | 4 th day of April, 2018 |
| (6) | READ A THIRD time this | th day of, 2018 |
| (7) | ADOPTED this | th day of, 2018 |

Paul Ives,
Mayor

Richard Kanigan,
Corporate Officer

BYLAW 1875

SCHEDULE "A"

PHASED DEVELOPMENT AGREEMENT: 1170 LAZO ROAD

PHASED DEVELOPMENT AGREEMENT:

1170 LAZO ROAD

This Agreement dated for reference the ____ day of _____, 2018 is

AMONG:

TOWN OF COMOX,
a municipal corporation, having an address of
1809 Beaufort Avenue, Comox B.C. V9M 1R9

(the "Town")

AND:

Assiniboine Developments Ltd., Inc. No. BC1068777
a corporation having an address of
200 – 8837 – 201 Street
Langley, B.C. V2Y 0C8

and

1115191 B.C. Ltd. Inc. No. BC1115191
a corporation having an address of
7277 Fitzsimmons Rd. S.
Whistler, B.C. V0N 1B7

(the "Owner")

WHEREAS:

A. The Owner is the registered owner of land legally described as:

PID: 009-045-868
LOT 5 DISTRICT LOT 186 COMOX DISTRICT PLAN 449
EXCEPT PARCEL A (DD 3381N)

(the "Land");

B. The Owner has applied to the Town for an amendment to Comox Zoning Bylaw 1850 (the "Bylaw 1850") by way of Comox Zoning Amendment Bylaw 1874 (the "Zoning Amendment Bylaw") to permit the residential development on the Land;

- C. The Owner wishes to provide the following amenities with respect to the development on Land:
- (i) A \$17,022.00 cash payment as a contribution to the Town's Affordable Housing Fund;
 - (ii) The retention, maintenance and protection of trees identified for retention in the Tree Assessment Report, dated September 1, 2017, prepared by Walter Ernst, Strategic Natural Resource Consultants Inc, and included in Schedule 1;
 - (iii) Dedication of approximately 2,250 square metres of land for park purposes along Lazo Road dedication as shown in Schedule 2, Area of Park Land Purchase Drawing, to be acquired for \$153,202.00;
 - (iv) Removal of invasive species on the subject property, including proposed Greenway and road dedications, including Scotch Broom, English Holly, Himalayan Blackberry and thistles;
 - (v) The planting, maintenance and protection of the mix of 18 new Douglas Fir and Western Hemlock trees, in locations shown in Schedule 3;
 - (vi) The planting, maintenance and protection of 2 new Dogwood (Cornus Venus) trees, in locations shown in Schedule 3;
 - (vii) The construction of the single-family dwellings on proposed Lots 5 and 6, shown on the Lot Layout Plan in Schedule 4, in accordance with the Bylaw 1850 Section 5.20 Special Needs Housing Standards – Adaptable Housing; and
 - (viii) Certification that the residential units on the Land are built to a minimum BUILT GREEN Bronze standard, Step 1 as referenced in Table 9.36.6.3.B of the British Columbia Building Code, or an alternative standard for single-family construction; acceptable to the Town.
- E. The Council of the Town has given notice and held a public hearing and has, by bylaw, authorized the execution of this Agreement;

NOW THEREFORE in consideration of the mutual promises set out in this Agreement, the parties agree pursuant to section 516.1 of the *Local Government Act* as follows:

APPLICATION OF AGREEMENT

1. This Agreement applies to the Land, including any parcels of land into which the Land may be subdivided.

BYLAW AMENDMENTS NOT TO APPLY

2. For the term of this Agreement, any amendment or repeal of the following sections: 112.1, 112.2, 112.3, 112.4, 112.5, 112.6, 112.7, 112.8, 112.9, 112.10, 107.12 and 112.13 of Bylaw 1850, as amended by the Zoning Amendment Bylaw shall not apply to Land, except:
 - (a) as provided in section 516(6) of the *Local Government Act*; or
 - (b) to the extent that the owner of any parcel comprising Land agrees in writing that the amendment or repeal shall apply to that land.
3. For certainty, and without limiting section 2, the Town agrees that any development permit or building permit that would be issuable in respect of Land on the date of adoption of the Zoning Amendment Bylaw will, subject to Section 9, be issued throughout the term of this Agreement in accordance with Comox Official Community Plan Bylaw, 2011 (Bylaw No. 1685), the Bylaw 1850 (apart from the sections specified in Section 2 to the extent that they may differ from the sections in force following adoption of the Zoning Amendment Bylaw and Comox Building Bylaw No. 1472 despite any amendment or repeal of the bylaw provisions specified in section 2 that would otherwise prevent the issuance of the permit.

TERM OF AGREEMENT

4. The term of this Agreement is ten years from the date of adoption of the Zoning Amendment Bylaw.
5. The parties may terminate this Agreement at any time by written agreement of all parties.
6. If the Owner does not comply with all the requirements in Section 8, on which question the opinion of the Town shall be determinative provided that the Town may not act unreasonably, the Town may at its option terminate this Agreement by providing notice in writing to the Owner, provided that the Town has at least two months prior to giving such notice advised the Owner in writing of any alleged failure (the "Default Notice") and the Owner has not corrected the deficiency to the reasonable satisfaction of the Town. The Owner acknowledges the Town's unfettered right to further amend its Bylaw No. 1685 and Bylaw 1850, to reverse the effect of the Zoning Amendment Bylaw, in the event that the Owner fails to comply with Section 8, and waives any right it would otherwise have to claim, in respect of any such further amendment, that it has established a non-conforming use or a commitment to use Land as permitted by the Zoning Amendment Bylaw.
7. Despite the preceding section, if the default is one that cannot be corrected by the Owner, the Town may give notice of termination at the same time as the notice of default. For certainty, if the Owner should be a corporation, the following are defaults that cannot be remedied by the Owner:
 - (a) if the Owner makes a general assignment for the benefit of creditors; or

- (b) if the Owner institutes proceedings to be adjudicated bankrupt or insolvent or consents to the institution of bankruptcy or insolvency proceedings against the Owner or files an application or petition or answer or consent seeking re-organization or re-adjustment of the indebtedness of the Owner under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province of Canada relating to bankruptcy or insolvency, or consents to the filing of any such application or petition, or consents to the appointment of a receiver or receiver-manager; or
- (c) if a receiver, interim receiver, receiver-manager, trustee, liquidator, or custodian of all or substantially all of the property of the Owner or of the Owner's interest in Land is appointed or applied for by the Owner or appointed pursuant to an instrument or by order of a court; or
- (d) if a judgment, decree, or order is entered by a court of competent jurisdiction adjudging the Owner a bankrupt or insolvent or subject to the provisions of the *Bankruptcy and Insolvency Act* or determining that proceedings for re-organization, arrangement, adjustment, composition, liquidation, or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province of Canada relating to bankruptcy or insolvency have been properly instituted otherwise than by the Owner, provided that such judgment, decree or order is not in good faith contested by the Owner; or
- (e) if any application or petition or certificate or order is made or granted for the winding-up or dissolution of the Owner, voluntary or otherwise.

AMENITIES FOR DEVELOPMENT OF LAND

8. The Owner shall provide the following amenities by the deadlines herein specified:
- (a) Within 30 days of the adoption by Council of the Zoning Amendment Bylaw and prior to any application being made for Subdivision of the land, payment to the Town by certified cheque or bank draft the sum of \$17,022.00 as a contribution to the Town's Affordable Housing Fund.
 - (b) Retention, maintenance and protection of trees identified for retention in the Tree Assessment Report, dated September 1, 2017, prepared by Walter Ernst, Strategic Natural Resource Consultants Inc, and included in Schedule 1.
 - (c) Prior to subdivision approval:
 - (i) Dedication of approximately 2,250 square metres of land for park purposes along Lazo Road dedication as shown in Schedule 2, Area of Park Land Purchase Drawing, to be acquired for \$153,202.
 - (ii) Removal of invasive species on the subject property, including proposed Greenway and road dedications, including Scotch Broom, English Holly, Himalayan Blackberry and thistles;

- (iii) The planting, maintenance and protection of the mix of 18 new Douglas Fir and Western Hemlock trees, in locations shown in Schedule 3; and
 - (iv) The planting, maintenance and protection of 2 new Dogwood (*Cornus Venus*) trees, in locations shown in Schedule 3;
- (d) Prior to applying for occupancy permit in respect of any buildings on the Land, provision of certification that the residential units on the Land are built to a minimum BUILT GREEN Bronze standard, Step 1 as referenced in Table 9.36.6.3.B of the British Columbia Building Code, or an alternative standard; and
- (e) Prior to applying for occupancy permit in respect of any buildings on proposed Lots 5 and 6 on the Land, shown on the Lot Layout Plan in Schedule 4, construction of single-family dwellings on proposed Lots 5 and 6, in accordance with Bylaw 1850 Section 5.20 Special Needs Housing Standards – Adaptable Housing.

RESTRICTIONS ON DEVELOPMENT OF LAND

9. The Owner shall not, despite the adoption of the Zoning Amendment Bylaw, construct or occupy any building or structure on Land until or unless the Owner's obligations under Section 8 have been met by the deadlines specified in the subsections of Section 8, and the Town shall be under no obligation to issue any building permit or occupancy permit or other authorization to which the Owner would be entitled were it not for this Section.
10. The Owner shall grant to the Town, and register in the applicable land title office against title to Land in priority to all financial liens, charges and encumbrances, covenants under Section 219 of the *Land Title Act* with respect to the amenities to be provided under section 8.

ASSIGNMENT OF AGREEMENT

11. The Owner may assign this Agreement if the Town, acting reasonably, consents in writing to the assignment and the assignee has executed and delivered to the Town a notice of assumption and has entered into an assignment agreement with the Owner assigning the Agreement to the assignee.

GENERAL TERMS AND CONDITIONS

12. Any notice permitted or required by this Agreement to be given to either party must be given to that party at the address set out above, or to any other address of which the party has given the other party notice in writing expressly for the purposes of this Agreement.
13. Except as expressly set out in this Agreement, nothing in this Agreement shall prejudice or affect the rights and powers of the Town in the exercise of its functions under the *Community Charter* or the *Local Government Act* or any of its bylaws, or

those of the Town's approving officer under the *Land Title Act*, *Strata Property Act* or Bare Land Strata Regulations.

14. Any opinion, decision, act or expression of satisfaction or acceptance provided for in this Agreement may be taken or made by the Town's Municipal Planner, unless expressly provided to be taken or made by another official of the Town, and in the process of exercising any such opinion, decision, act or expression of satisfaction or acceptance, the Town's Municipal Planner or other such person shall act reasonably.
15. No provision of this Agreement is to be considered to have been waived by the Town unless the waiver is expressed in writing by the Town. The waiver by the Town of any breach by any of the other parties of any provision is not to be construed as or constitute a waiver of any further or other breach.
16. Whenever in this Agreement the Town is required or entitled to exercise any discretion in the granting of consent or approval, or is entitled to make any determination, take any action or exercise any contractual right or remedy, the Town may do so in accordance with the contractual provisions of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice or otherwise, shall have any application in the interpretation or implementation of this Agreement.
17. The Owner shall indemnify and save harmless the Town, its officers, employees, Council members, agents and others (the "Town Representatives") from and against any and all actions, causes of action, liabilities, demands, losses, damages, costs, expenses (including actual fees of professional advisors), costs for the remediation of contamination, fines, penalties and other harm of any kind whatsoever, whether related to death, bodily injury, property loss, property damage, property contamination or consequential loss or damage, suffered or incurred by the Town or any of the Town Representatives, directly or indirectly, arising from, resulting from, connected with or related to:
 - (a) any default or breach of this Agreement by the Owner; and
 - (b) any wrongful act, omission or negligence of the Owner or its directors, officers, employees, agents, contractors, subcontractors, licensees, or others for whom they are responsible in law with respect to the covenants and obligations of the Owner pursuant to this Agreement.
18. This indemnity shall survive any conclusion or other termination of this Agreement, in relation to any matter arising prior to it.
19. If the Owner is delayed or prevented from the performance of any covenant or agreement required hereunder by reason of any unavoidable cause, then performance of such covenant or agreement shall be excused for the period during which such performance is delayed or prevented and the time for the performance thereof shall be extended accordingly. For the purposes of this section, "unavoidable cause" means any event or contingency beyond the reasonable control of the Owner, including without limitation a delay caused by weather conditions, power failure, fire or

other casualty, governmental laws, regulations or controls, civil commotion, insurrection, sabotage, invasion, rebellion, military or usurped power, war or war-like operations and acts of God, but excluding a delay caused by lack of funds.

20. Time is of the essence of this Agreement and will remain of the essence notwithstanding the extension of any dates.
21. The Owner acknowledges and agrees that the Town, acting reasonably, may, despite any public law limitations on the withholding of building permits and occupancy permits, withhold building permits and occupancy permits for the purpose of ensuring compliance with and administering the terms of this Agreement.
22. This Agreement may be executed in multiple counterparts, each of which is to be deemed to be an original and all of which together constitute one and the same agreement.
23. This Agreement may be executed by the parties and transmitted by fax or scanned and emailed and if so executed and transmitted this agreement will be for all purposes as effective as if the parties had executed and delivered an original agreement.

As evidence of their agreement to be bound by the terms, the parties have caused this Agreement to be executed and delivered under seal by their authorized signatories as of the dates set out below:

TOWN OF COMOX
by its authorized signatories:

Name: _____ Date: _____

Name: _____

Owner
by its authorized signatories:

Name: _____ Date: _____

Name: _____

**SCHEDULE 1
TREE ASSESSMENT REPORT**



Tree Inventory Assessment -1170 Lazo Road Development

PROFESSIONALLY RESOURCEFUL

[REDACTED]

1.0	Introduction and Background	2
1.1	Project Objectives	3
2.0	Methodology.....	3
3.0	Results / Discussion / Recommendations	3
4.0	Invasive Species Management.....	13
5.0	Future Planning / Limitations	14
6.0	Signature and Professional Seal.....	15
	Appendix I – Tree Inventory Assessment Map	16
	Appendix II – Tree Inventory Assessment Data.....	17



A tree inventory was completed on behalf of Derek Jensen of McElhanney Consulting Services (McElhanney) for a proposed residential site located at 1170 Lazo Road, Comox, BC on August 18, 2017 by Walter Ernst (R.P.F. / Cert. Arb. / Urban Tree Risk Assessor) of Strategic Natural Resource Consultants Inc. (SNRC).

The proposed development area is bound by Lazo Road to the south and east, a private development lot to the west, and existing residential properties to the north. The land parcel is identified as Lot 5 / Plan 449 of the Comox Land District. Refer to Figure 1 for proposed 1170 Lazo Road development locator map.

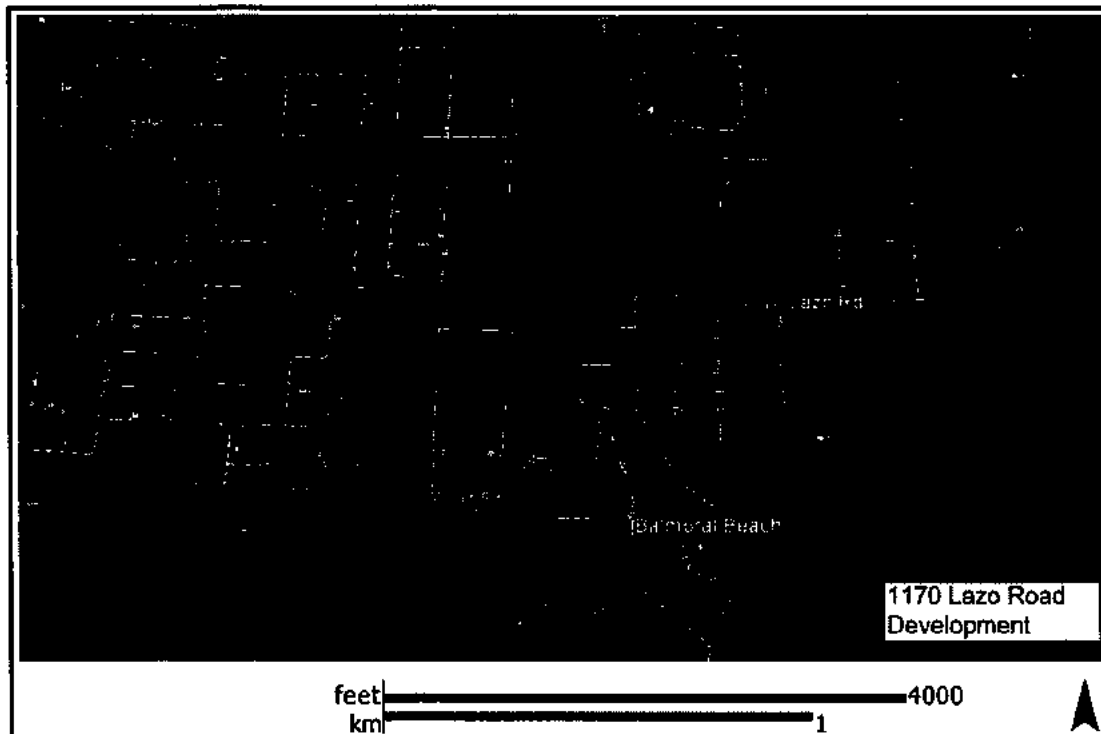


Figure 1: Proposed 1170 Lazo Road Development Location.

A preliminary site plan map (Drawing # SK-2 / Project # 2211-47484-00, dated August 16, 2017) showing the development area boundaries was provided by McElhanney prior to the tree inventory fieldwork (refer to Appendix I).

Previous discussions between Walter Ernst of SNRC and Derek Jensen of McElhanney outlined general project expectations with regards to inventory tree assessment requirements. These initial discussions provided the basis for the methodologies used in the field and within this report.

The following project objectives were determined for the field assessment:

Objective #1:

- Conduct a tree inventory to determine the following stand characteristics:
 - Average and range of diameter-at-breast-height (DBH) and height.
 - Species composition and total number of stems across the entire site.
 - General condition / health of the trees and stand as a whole.
 - Required tree protection zones for individual trees to be retained.

Objective #2:

- Conduct a hazard tree assessment to identify potential hazards within the proposed development for worker safety.

Objective #3:

- Prescribe tree removal and retention based on individual locations of trees in relation to the proposed property enclosures, access road, and rear / front yard setbacks as well the level of risk or safety hazards posed by the trees.

Objective #4:

- Identify any protected tree species and prescribe actions to retain these species.

Objective #5:

- Identify invasive species concentrations within the proposed development area and incorporate management recommendations for the development phases.

The tree inventory was conducted by identifying every tree within the project area. McElhanney surveyed previously located each tree on the development site prior to the tree inventory assessment. Each live tree with a DBH greater than or equal to 20cm was tallied where species information was collected. For each inventory tree it was determined whether it should be retained or removed based on preliminary site plan information (Drawing # SK-2 / Project # 2211-47484-00, dated August 16, 2017), location with respect to proposed building envelopes, rear / front yard setbacks, and the access road, and the health of the trees. Within this development, only the inventory trees recommended for removal were marked in the field with pink ribbon with the tree numbers written down. Refer to Appendix I for the tree inventory map which identifies the inventory trees and Appendix II for the tree inventory data. Equipment utilized for the field assessment included a laser, iPad, mallet, and a diameter tape.

General Site Description:

Based on provincial biogeoclimatic (BEC) zone mapping, the development area is located within the Very Dry Maritime Coastal Western Hemlock subzone variant (CWHxm1). This subzone variant is typified by warm, dry summers and moist, mild winters with relatively little snowfall. Growing seasons are typically long with potential water deficits on zonal sites.



The site has been mostly cleared previously with timber consisting of lightly scattered trees and localized timber patches. Old buildings, building foundations, barbed wire and other garbage are scattered within the development area. The site series is 01-50%, 15-50%. Soil moisture ranges from fresh to very moist and soil nutrient level is medium to rich. The ground is flat with 0-5% grades, and drainage varies from well to imperfect. As the bulk of this area has been historically cleared (prior to development work), native vegetation is sparse. Various tall sedge and grass species dominate the site. Numerous invasive species are located on the site, dominated by Himalayan blackberry, Scotch broom, and various thistle species (with scattered English holly).

Where timber exists, it consists of immature to mature second growth coastal Douglas-fir (*Pseudotsuga menziesii*), trembling aspen (*Populus tremuloides*), Pacific willow (*Salix lucida*), Scouler willow (*Salix scouleriana*), black locust (*Robinia pseudoacacia*), English holly (*Ilex aquifolium*), and bigleaf maple (*Acer macrophyllum*) with numerous apple trees scattered within the southeastern and northern sections of the development. Minor amounts of bitter cherry (*Prunus emarginata*), Garry oak (*Quercus garryana*), horse chestnut (*Aesculus hippocastanum*), common hazel (*Corylus avellana*), and pear / plum fruit trees exist on the site. Refer to Figure 2 for a general photo of the development site.



Figure 2: 1170 Lazo Road Development Site.



Tree Inventory:

Based on the assessment a total of 90 trees ($\geq 20\text{cm}$ DBH) were assessed within the development (33% Douglas-fir, 19% trembling aspen, 12% apple trees, 10% willow species, 8% black locust, 7% English holly, 5% bigleaf maple, 1% bitter cherry, 1% Garry oak, 1% plum trees, 1% pear trees, 1% common hazel, and 1% horse chestnut). Of these trees 39 (43%) are proposed for retention and 51 are proposed for removal (57%). Trees were selected for removal or retention as per Section 2.0 Methodology.

The Douglas-fir trees along the southeast boundary edge (along Lazo Road) have been previously pruned / topped in order to provide adequate clearance for the distribution line along the road. No defects or weak attachments were noted on these trees. The trees are moderate in health, have adequate live foliage and act as a good visual screen from Lazo Road. Refer to Figure 3 for a photo of the pruned Douglas-fir trees along Lazo Road.



Figure 3: Photo showing pruned Douglas-fir trees adjacent Lazo Road at the southeast boundary.

One danger tree (labelled DT1) was identified at the southern edge of the property. This tree was not included within the tree inventory as it is a dead standing black locust tree. This tree is recommended to be felled along with the other removal trees. Refer to Figure 4 for a photo showing the black locust danger tree.





Figure 4: Photo showing black locust danger tree (DT1).

A cluster of English holly trees (south end of development within park dedication) and trembling aspen trees (north end of development within road alignment or property enclosures) will require removal. Specific to the holly trees, these trees are non-native and the majority are in poor health (with rapidly declining crowns which are unsightly). These trees should be removed and replaced with suitable native or ornamental (non-invasive) species if possible. The majority of the aspen trees are <20cm DBH (but range from 10-35cm DBH) and lay within either the road alignment or property enclosures of residential lots 1 and 15. Additionally as the stand of trees to the west (within the adjacent lot) have recently been cleared, the stand of spindly trembling aspen (18m height) have lost the support from the adjacent tree stems and will be more exposed to the dominant winds in the area (over the upcoming winter season). Therefore, they will be more windthrow prone. Refer to Figures 5 and 6 showing English holly and trembling aspen clusters.





Figure 5: Photo showing English holly cluster at the southern end of the development.



Figure 6: Photo showing trembling aspen cluster at the northwest end of the development.



One Garry Oak tree noted during the inventory assessment (Tree 33) will be retained. This tree is located within the rear yard setback of residential lot 13 and was determined to be healthy and in good condition. Refer to Figure 7 for a photo of Tree 33 (Garry oak).

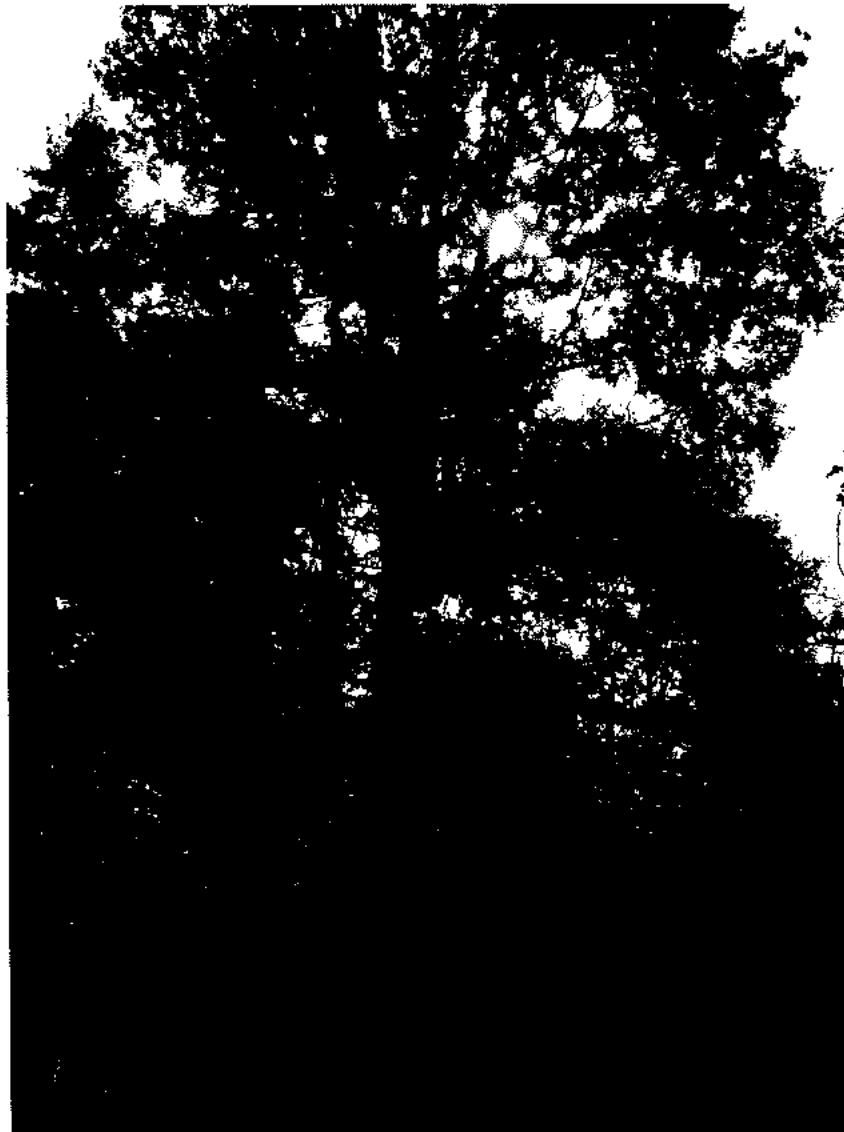


Figure 7: Photo showing Garry oak tree (Tree 33).

There are 10 trees located outside of the development at the western boundary (6 mature Douglas-fir, 3 immature Douglas-fir and 1 bigleaf maple). With the exception of the bigleaf maple all these trees were marked with pink ribbon from a previous arborist assessment at the neighbouring property. These trees are not to be removed and may require ribbon removal or ribboning with a different colour prior to commencement of falling and construction activities (in order to avoid confusion with removal trees). Refer to Figure 8 for a photo showing the 6 mature Douglas-fir trees located adjacent the development.

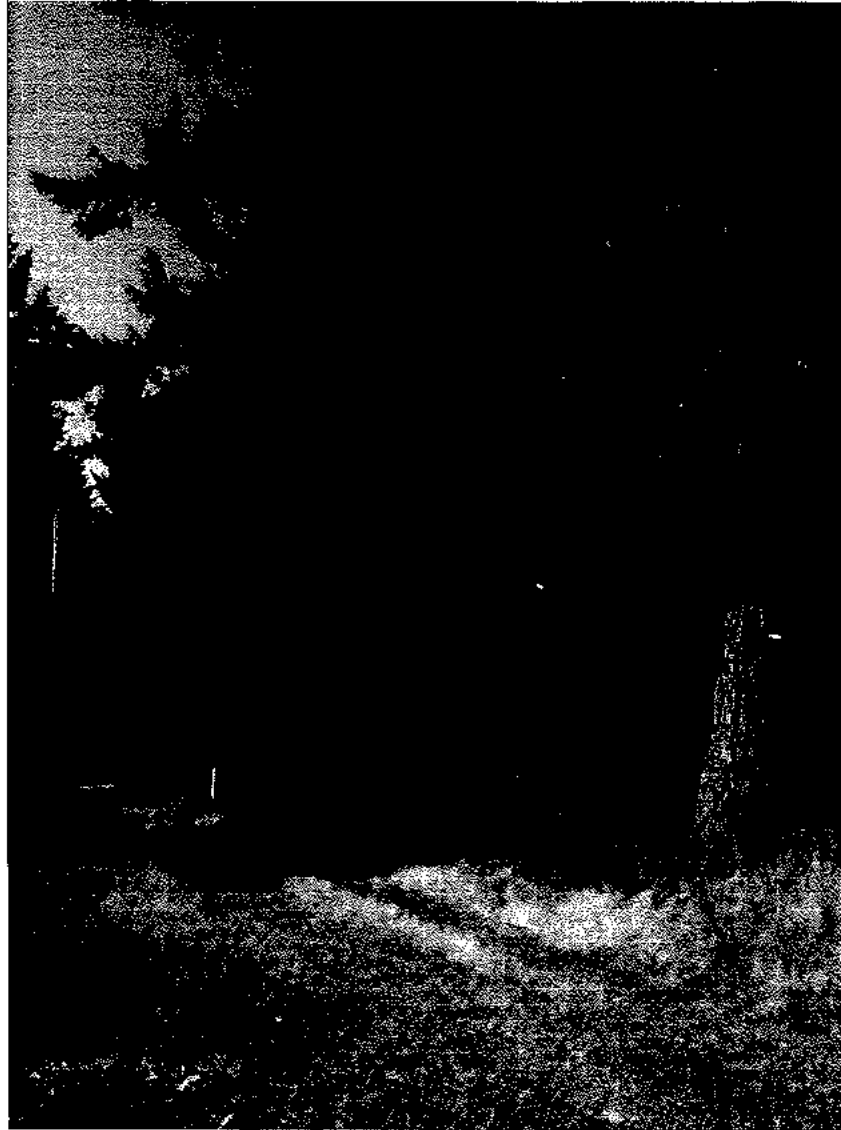


Figure 8: Photo showing 6 Douglas-fir trees located adjacent the development along the western boundary.

Numerous smaller trees <20cm DBH (mostly fruit trees) exist within the development area. Some of these trees will be removed as they either overlap with the property enclosure or the access road alignment.

The park dedication area consists of a scattered to patchy immature to mature second growth timber (including Douglas-fir, black locust, bigleaf maple, and various fruit trees) amongst open areas with tall grass / sedges. Significant amounts of invasive species exist within the park area, consisting primarily of Himalayan blackberry, Scotch broom, and various thistle species (with scattered English holly). Invasive species removal will be required in this area to return the site to a natural state with native plant species. Refer to the recommendations within Section 4.0 Invasive species, for recommendations on invasive species removal throughout the development site (including the park dedication area).



Refer to Appendix I for Tree Inventory Map (showing all retention and removal trees, trees <20 cm, the danger tree, and trees identified adjacent to the development) and Appendix II for Tree Inventory Data / Recommendations (including for the danger tree and trees located adjacent the development).

As a note, old barbed wire fenceline and significant amounts of garbage exist throughout the property which poses a safety hazard. Crews should be aware of this when working within this area.

The recommendations are as follows:

- For the trees assessed, general recommendations were noted for removal or retention. The general recommendations allow the developer some flexibility to remove or retain trees based on their final development design.
- The Garry oak tree to be retained (Tree 33) is located adequately away from other trees and should not be impacted through falling activities. A 7.0m radial tree protection zone (with snow fencing supported by rebar stakes as well as signage) is recommended for this tree in order to minimize any damage to the stem, branches, and roots from machinery. Refer to tree protection zone requirements within the recommendations for further details.
- Trees 45 to 48 and 51 (all Douglas-fir trees) are located within the rear yard setback of residential Lot 12. Even though located within the setback area, the trees do exist closer to development activities and tree protection zones are recommended around the radius of these trees (with snow fencing supported by rebar stakes as well as signage) in order to minimize any damage to the stems, branches, and roots from machinery. Refer to tree protection zone requirements within the recommendations for further details. Trees 45 and 46 require 5.0m tree protection zones and Trees 47 and 48 require 4.0m tree protection zones.
- Tree 66 (Douglas-fir) is located within Lot 15 where the lot design has not been finalized yet. If this tree does not conflict with the development design then it should be retained. A 9.5m radial tree protection zone (with snow fencing supported by rebar stakes as well as signage) is recommended for this tree in order to minimize any damage to the stem, branches, and roots from machinery. Refer to tree protection zone requirements within the recommendations for further details.
- For the trees located outside and directly adjacent the lot (along the western boundary), tree protection zones are also recommended. The recommended tree protection zones around these trees are the following (refer to Appendix I – Tree Inventory Map which identifies the locations of these trees):
 - the 6 mature Douglas-fir trees require 7.5m tree protection zones,
 - the 3 smaller immature Douglas-fir trees require 3.5m tree protection zones, and



- the 1 bigleaf maple tree requires a 6.0m tree protection zone.

With the exception of the bigleaf maple all these trees were marked with pink ribbon from a previous arborist assessment at the neighbouring property. These trees are not to be removed and may require ribbon removal or ribboning with a different colour prior to commencement of falling and construction activities (in order to avoid confusion with removal trees).

- The remainder of the retention trees associated with the development should not require tree protection zone measures as they are located far enough back from development within the park and road dedication areas.
- A certified arborist should work closely with the developer and construction crews to ensure that adequate tree protection measures are abided by throughout the various phases of development. This is required to ensure the retained trees or their root systems are not negatively impacted during construction activities.
- **Tree protection zones (TPZs)** are recommended to be installed around the identified leave trees at a radius equal to the length of the longest branch (drip-line) prior to any development activity. The critical root zone (CRZ) of trees lay within the dripline area. Tree protection zones should be clearly visible with adequate signage (recommended plastic mesh or snow fencing with secured with adequate posts (e.g. rebar stakes) to ensure stability throughout the construction phases). Refer to Figure 9 for a diagram showing the critical root zone and the tree protection zone fencing required. These areas should be discussed with construction crews to ensure limitations within TPZs are understood. Within designated TPZs, there should be no construction works (surface and / or sub-surface), no movement of vehicles and equipment, and no storage of any materials of any kind. If the full recommended TPZ cannot be maintained, or if any construction activities must be completed within a TPZ, a certified arborist should be consulted to determine the potential impacts to the tree(s). Specific instructions for required tree protection zones (including protected species such as the Garry oak) have been indicated within Appendix II – Tree Inventory Assessment Data.



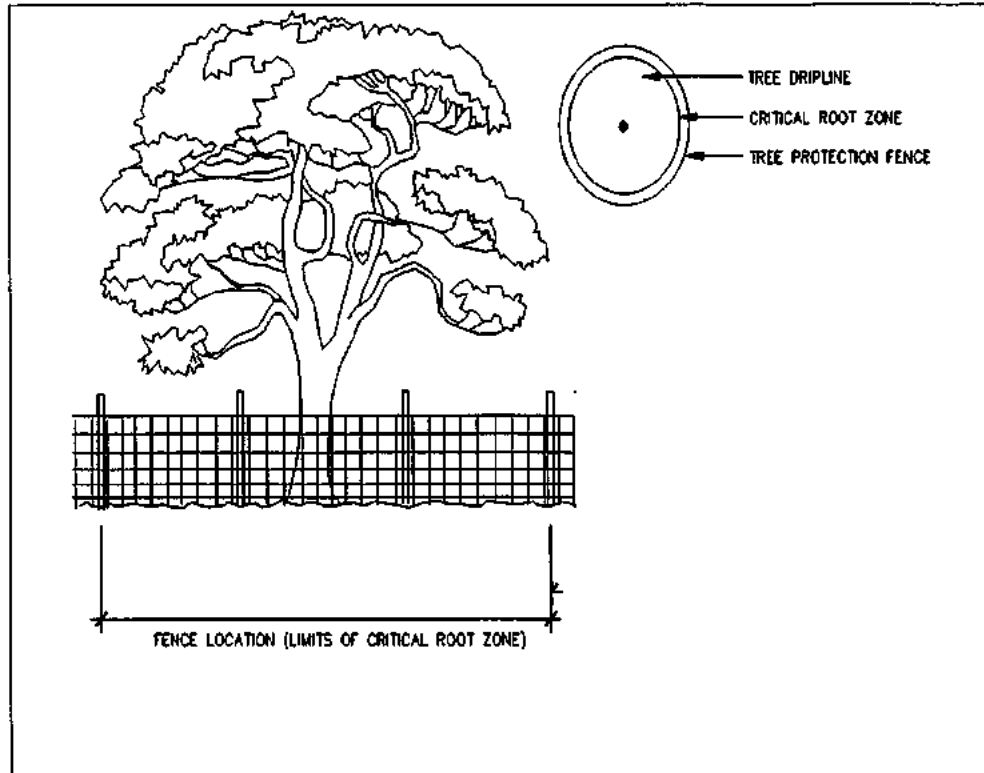


Figure 9: Diagram showing the critical root zone and tree protection zone fencing requirements.

- For retention Trees 53 (plum tree) and 54 (apple tree), crown cleaning (pruning) of any dead branches is recommended to enhance to health and aesthetics of these trees. Refer to Figure 10 which shows dead branching on Tree 53.

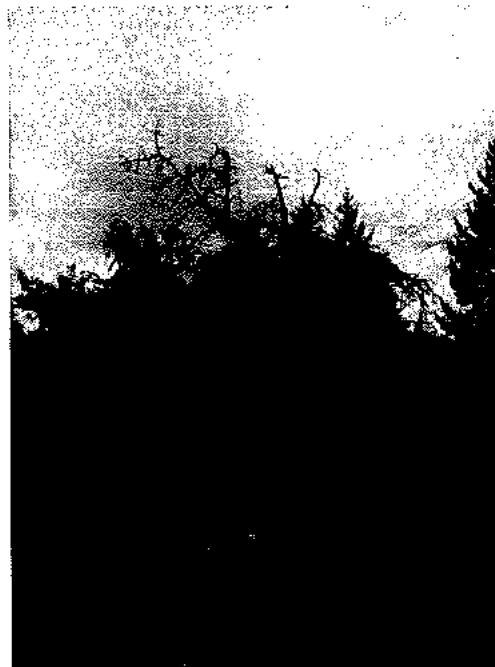


Figure 10: Photo showing Tree 53 (plum) with Dead branches requiring removal.

Invasive Species Management:

Himalayan blackberry, Scotch broom, various thistle species and minor English holly are patchy to scattered on the site. Refer to Figure 11 which shows a section of heavier Himalayan blackberry occurrence.



Figure 11: Photo showing invasive Himalayan blackberry patch.

The following general recommendations have been made for the eradication, control, and minimization of further spread of the above species within the site and into other neighboring sites. These recommendations were taken from the Coastal Invasive Species Committee website (www.coastalisc.com/priority-invasive-plants).

- Recommend removal of all invasive species plants prior to development through manual (cut / pull by hand or with heavy machinery), chemical or a combination thereof, with the goal of minimizing further spread during the construction phases. The method and timing of removal used should be tailored to the specific invasive species as indicated on the Invasive Species Committee website (ISC).
- During construction activities, ensure that all equipment (hand tools) and machinery are free of plant parts or soil prior to entering and leaving the worksite to minimize spread of invasive seed or plant parts. Consider utilizing a wash-down station for machinery at a designated location.



- For landscaping purposes, it is recommended to plant with suitable alternative (native) species as soon as possible within the eradicated areas. A layer of mulch may be incorporated within planted areas to minimize re-establishment of invasive species.

During invasive species removal work, ensure that the tree protection zones for the identified trees are respected in order to minimize any damage to these trees or their critical root zones. Over the long term, repeated manual and / or chemical treatments of invasive plants may be required to effectively control some species.

Long term planning recommendations:

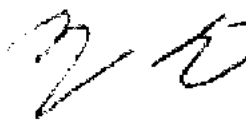

- The developer should work closely with an arborist throughout the planning / development process, to ensure that the net benefits acquired through retention trees are maximized and that associated hazards are effectively mitigated.
- Specifically, a certified arborist should be present / consulted at the following times:
 - To advise on any new works and / or changes to development plans occurring near retention trees or those that have the potential to affect retention trees.
 - To monitor construction works occurring directly adjacent to trees (e.g. grading, ditching, trenching etc.) that have the potential to affect tree roots and / or the tree stems / branches.
 - After significant weather events (high winds, storms, etc.), that may have the potential to create new hazards and / or change the suitability of retention trees.
- A post construction hazard tree assessment should be completed to ensure that retention areas are free from construction damages and / or other damaging agents.

Limitations:

- Field observations and treatment recommendations during the tree inventory were based on the preliminary schematic for the proposed development provided by engineers of McElhanney Consulting Services Ltd (Drawing # SK-2 / Project # 2211-47484-00, dated August 16, 2017). If there are significant variances to this plan, it is recommended a certified arborist be consulted to review and field visit the site if required.
- The tree inventory assessment was completed under the site conditions (weather, natural / unnatural disturbances etc.) present at the time of the assessment and with the tools available (laser, iPad, D-tape, mallet). If the site conditions change significantly, it is recommended a certified arborist field review the site to determine if the risk to retention trees has changed.



Field work and Report completed by: Walter Ernst, RPF (#4071), ISA Certified Arborist (PN-7288A), Certified Tree Risk Assessor (CTRA 1467).

Signature and Seal	
	
01/09/17	
Date (dd/mm/yy)	



[REDACTED]





Tree Inventory Assessment Form:

Location: 1170 Lato Road Development
 Completed By: Walter Ernst, RPF, Cert Arb., PMP
 Date: 18-Aug-17

ID	Species	DBH	Height	Form	Location	Health	Notes	Action
1	Fdc	40.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
2	Fdc	35.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
3	Fdc	40.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
4	Fdc	25.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
5	Fdc	25.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
6	Fdc	25.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
7	Fdc	27.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
8	Fdc	25.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
9	Fdc	21.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
10	Fdc	30.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
11	Fdc	25.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
12	Fdc	21.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
13	Fdc	25.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
14	Fdc	20.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
15	Fdc	20.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
16	Fdc	45.0	10.0	L	Road dedication	4.5	Tree heavily topped and pruned for distribution lines. Edge of Lato Road. Moderately healthy and still has significant live foliage.	Retain.
17	Apple	11.5	5.5	L	Park dedication	3.5	Healthy apple tree. Minor small dead branches.	Retain.
18	Mb	35.0	12.5	L-M	Park dedication	7.0	Codominant stem joined at base with 2 other maples. Healthy. Old scar at base 1.5m with hole at joint where fork. Some rot likely Monitor.	Retain.
19	Mb	30.0	12.5	L	Park dedication	7.0	Codominant stem joined at base with 2 other maples. Healthy.	Retain.
20	Mb	38.0	14.0	L	Park dedication	7.0	Codominant stem joined at base with 2 other maples. Healthy.	Retain.
21	BL	45.0	10.5	L	Road dedication	4.0	Significantly declining locust tree. Most leaves gone. Has lean parallel to road dedication so will most likely fall into this area. Good wildlife tree potential. Retain and monitor.	Retain.
22	BL	13.0	18.8	L-M	Park dedication	7.5	Old decadent locust tree. Codominant with 3 other stems. Scar at 3.3m with rot showing. Tree looks healthy otherwise. If fell has lean parallel in park dedication.	Retain.
23	BL	45.0	19.0	M	Park dedication	7.5	Old decadent locust tree. Codominant with 3 other stems. Scar at 3.3m with rot showing. Tree looks healthy otherwise. If fell has lean towards road.	Retain and monitor.
24	BL	42.0	13.6	M	Park dedication	7.5	Old decadent locust tree. Codominant with 3 other stems. Scar at 3.3m with rot showing. Tree looks healthy otherwise. If fell has lean parallel / towards rd.	Retain and monitor.
25	BL	45.0	18.8	M	Park dedication	7.5	Old decadent locust tree. Codominant with 3 other stems. Scar at 3.3m with rot showing. Tree looks healthy otherwise. If fell has lean into park dedication away from rd.	Retain and monitor.
26	Holly	20.0	11.0	L	Park dedication	N/A	Moderate to poor health holly trees. Seemed sound at base. Short trees. Not very tightly. Some rot evident with bark flaking. Sapsucker holes.	Remove as non native. Replace with native spp.
27	Holly	20.0	11.0	L	Park dedication	N/A	Moderate to poor health holly trees. Seemed sound at base. Short trees. Not very tightly. Some rot evident with bark flaking. Sapsucker holes.	Remove as non native. Replace with native spp.
28	Holly	30.0	11.0	L	Park dedication	N/A	Moderate to poor health holly trees. Seemed sound at base. Short trees. Not very tightly. Some rot evident with bark flaking. Sapsucker holes.	Remove as non native. Replace with native spp.
29	Holly	35.0	11.0	L	Park dedication	N/A	Moderate to poor health holly trees. Seemed sound at base. Short trees. Not very tightly. Some rot evident with bark flaking. Sapsucker holes.	Remove as non native. Replace with native spp.
30	Holly	35.0	11.0	L	Park dedication	N/A	Moderate to poor health holly trees. Seemed sound at base. Short trees. Not very tightly. Some rot evident with bark flaking. Sapsucker holes.	Remove as non native. Replace with native spp.
31	BL	45.0	17.0	M-H	Road dedication	N/A	Old decadent locust tree. Codominant with 3 other stems. Scar all along base and up stem with significant rot showing. Tree has heavy lean to road. Tree is declining (crown dieback and thinning) with poor to moderate health.	Remove for safety purposes.
32	BL	45.0	17.0	M-H	Road dedication	N/A	Old decadent locust tree. Codominant with 3 other stems. Scar all along base and up stem with significant rot showing. Tree has heavy lean to road. Tree is declining (crown dieback and thinning) with poor to moderate health.	Remove for safety purposes.
34	Hazel	20.0	6.0	L	Rear yard setback / property enclosure border	3.5	Hazel tree in poorer health with significant crown decline. Numerous (17) suckers from stem. Some rot in stem.	Directionally hand fall.
35	HC	48.0	11.0	L	Building envelope	N/A	Fairly healthy crown. Sapsucker holes along stem so rot likely. Fork near base.	Directionally hand fall.
36	Mb	37.0	11.5	L	Building envelope	N/A	Scar at base with rot. Moderate health.	Directionally hand fall.
37	Fdc	30.0	26.6	L	Building envelope	N/A	Mature older wolly fdc. Significant forking. Old pruning on stem noted.	Directionally hand fall or piece down.
38	Fdc	32.0	15.3	L	Building envelope	N/A	Younger fdc in good health.	Directionally hand fall.
39	Vo	43.0	9.9	M	Rear yard setback	N/A	Cherry in declining health. Small scar with rot outside. Fork with poor union and rot.	Directionally hand fall.
40	Fdc	30.0	26.6	L	Building envelope	N/A	Healthy tree, mature. Some pitching near base.	Directionally hand fall.
41	Fdc	60.0	24.0	L	Building envelope	N/A	Healthy mature tree with irregular swelling into development.	Directionally hand fall.
42	Fdc	70.0	26.6	L	Park dedication	6.5	Healthy mature tree.	Retain.
43	Fdc	85.0	26.6	L	Park dedication	6.5	Healthy mature tree.	Retain.
44	Fdc	70.0	26.6	L	Park dedication	6.5	Healthy mature tree.	Retain.
45	Fdc	37.0	26.6	L	Rear yard setback	5.0	Moderately healthy mature tree. Chlorotic or burned needles scattered throughout crown.	Retain and monitor. **TPZ fencing required around tree.
46	Fdc	45.0	26.6	L	Rear yard setback	5.0	Moderately healthy mature tree. Chlorotic or burned needles scattered throughout crown.	Retain and monitor. **TPZ fencing required around tree.
47	Fdc	25.0	4.0	L	Rear yard setback	4.0	Close to dead tree. Almost no needles. Support from other trees and is a small tree.	Retain. **TPZ fencing required around tree.
48	Fdc	37.0	7.0	L	Rear yard setback	4.0	Smaller fdc with poorer form. Moderate health.	Retain. **TPZ fencing required around tree.
49	Fdc	60.0	26.6	L	Rear yard setback	7.0	Mature fdc of good health overall. Warped stem form in upper 1/3.	Retain.

50	Holly	25.0	8.0	L	Rear yard setback	N/A	Holly in declining health. Crown thinning significant.	Directionally hand fall.
51	Fdc	70.0	25.6	L	Rear yard setback	7.0	Healthy tree	Retain. **TP2 tending required around tree.
52	Apple	37.0	10.0	L	Park dedication	4.5	Old apple tree but still healthy enough. Potential rot but small tree.	Retain.
53	Plum	43.0	1.0	L	Park dedication	4.5	Significant rot at base of stem. Crown dieback. Small tree. As in park law (Bk of falling on someone).	Retain and prune dead branches (crown clear).
54	Apple	30.0	4.0	L	Road dedication	3.0	Old apple tree.	Retain and prune dead branches (crown clear).
55	Wx	40.0	8.0	L-M	Within road alignment	N/A	Old scouler willow tree. Codominant with 5 other stems. Significant rot. Crown in moderate health.	Directionally hand fall
56	Wx	35.0	8.0	L-M	Within road alignment	N/A	Old scouler willow tree. Codominant with 5 other stems. Significant rot. Crown in moderate health.	Directionally hand fall
57	Wx	35.0	8.0	L-M	Within road alignment	N/A	Old scouler willow tree. Codominant with 5 other stems. Significant rot. Crown in moderate health.	Directionally hand fall
58	Wx	35.0	8.0	L-M	Within road alignment	N/A	Old scouler willow tree. Codominant with 5 other stems. Significant rot. Crown in moderate health.	Directionally hand fall
59	Wx	28.0	8.0	L-M	Within road alignment	N/A	Old scouler willow tree. Codominant with 5 other stems. Significant rot. Crown in moderate health.	Directionally hand fall
60	Wx	34.0	8.0	L-M	Within road alignment	N/A	Old scouler willow tree. Codominant with 5 other stems. Significant rot. Crown in moderate health.	Directionally hand fall
61	Wx	35.0	6.0	L-M	Within building envelope	N/A	Pacific willow with 2 other codominant stems. Significant rot and root issues.	Directionally hand fall.
62	Wx	35.0	6.0	L-M	Within building envelope	N/A	Pacific willow with 2 other codominant stems. Significant rot and root issues.	Directionally hand fall.
63	Wx	35.0	6.0	L-M	Within building envelope	N/A	Pacific willow with 2 other codominant stems. Significant rot and root issues.	Directionally hand fall.
64	Pala	21.0	5.0	L	Within road alignment	N/A	Older tree. Moderately healthy.	Directionally hand fall.
65	Apple	38.0	4.5	L-M	Within road alignment	N/A	Older apple tree with significant rot at base. Crown declining.	Directionally hand fall.
66	Fdc	100.0	30.4	L	Lot design uncertain	9.5	Multiforked Larger fir which appears in good health. Good fork unions.	Retain if possible. **TP2 tending required around tree. If removal required then directionally hand fall.
67	Apple	38.0	6.0	M	Lot design uncertain	N/A	Older apple tree with significant rot at base. Crown declining.	Directionally hand fall.
68	Apple	21.0	4.0	L-M	Within road prism	N/A	Older apple tree with some rot at base. Multiforked.	Directionally hand fall.
69	Apple	37.0	4.0	L-M	Within road alignment	N/A	Older apple tree with significant rot at base. Crown declining.	Directionally hand fall.
70	Apple	33.0	4.5	L-M	Within road alignment	N/A	Older Apple tree with rot at base. Crown declining significantly 5 forks.	Directionally hand fall.
71	Apple	38.0	5.0	L-M	Within road alignment	N/A	Older apple tree with 3 forks.	Directionally hand fall.
72	Apple	38.0	5.0	L-M	Within road alignment	N/A	Older apple tree with some rot at base. 4 forks.	Directionally hand fall.
73	Apple	38.0	5.5	L-M	Within road alignment	N/A	Older apple tree with 3 forks.	Directionally hand fall.
74	As	35	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
75	As	35	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
76	As	33	18	L	Edge of enclosure	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
77	As	35	18	L	Edge of enclosure	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
78	As	33	18	L	Edge of enclosure	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
79	As	20	18	L	Lot design uncertain	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
80	As	24	18	L	Lot design uncertain	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
81	As	24	18	L	Lot design uncertain	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
82	As	23	18	L	Lot design uncertain	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
83	As	23	18	L	Lot design uncertain	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
84	As	20	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
85	As	22	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
86	As	21	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
87	As	20	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
88	As	20	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
89	As	20	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
90	As	20	18	L	Within road prism	3.5	Aspen in good condition. Windthrow prone next storm season as western timber edge failed.	Directionally hand fall.
AVG:		58.2	13.7					

Inventory Tree Summary

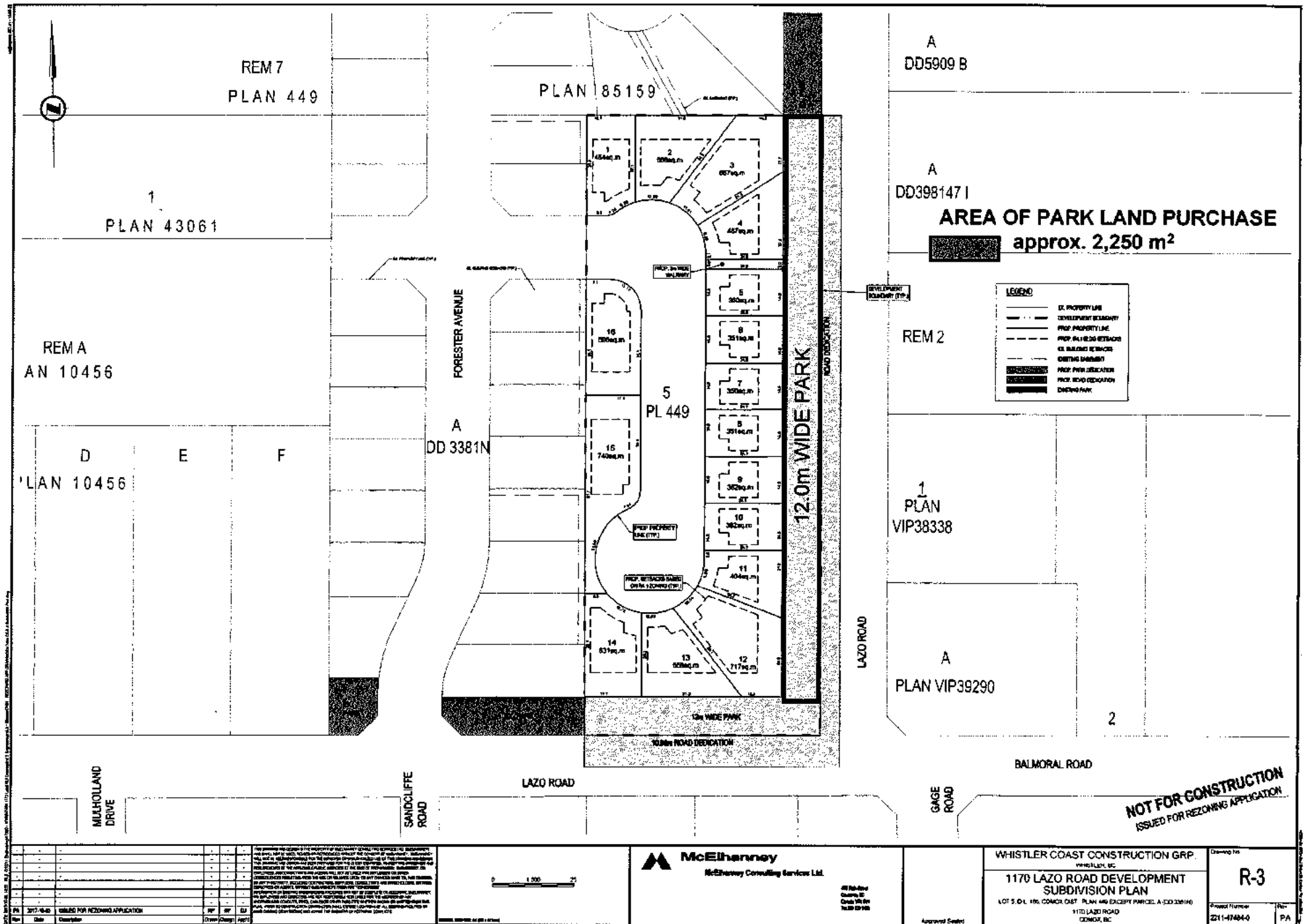
Fdc	30	33
Az	17	15
Apple	11	12
Wx	9	10
Bl	7	8
Thy	6	7
Ms	4	5
Yb	1	3
Og	1	3
Plum	1	1
Pala	1	1
Ma	1	1
HC	1	1
Total	90	100

Tree Species Abbreviations:

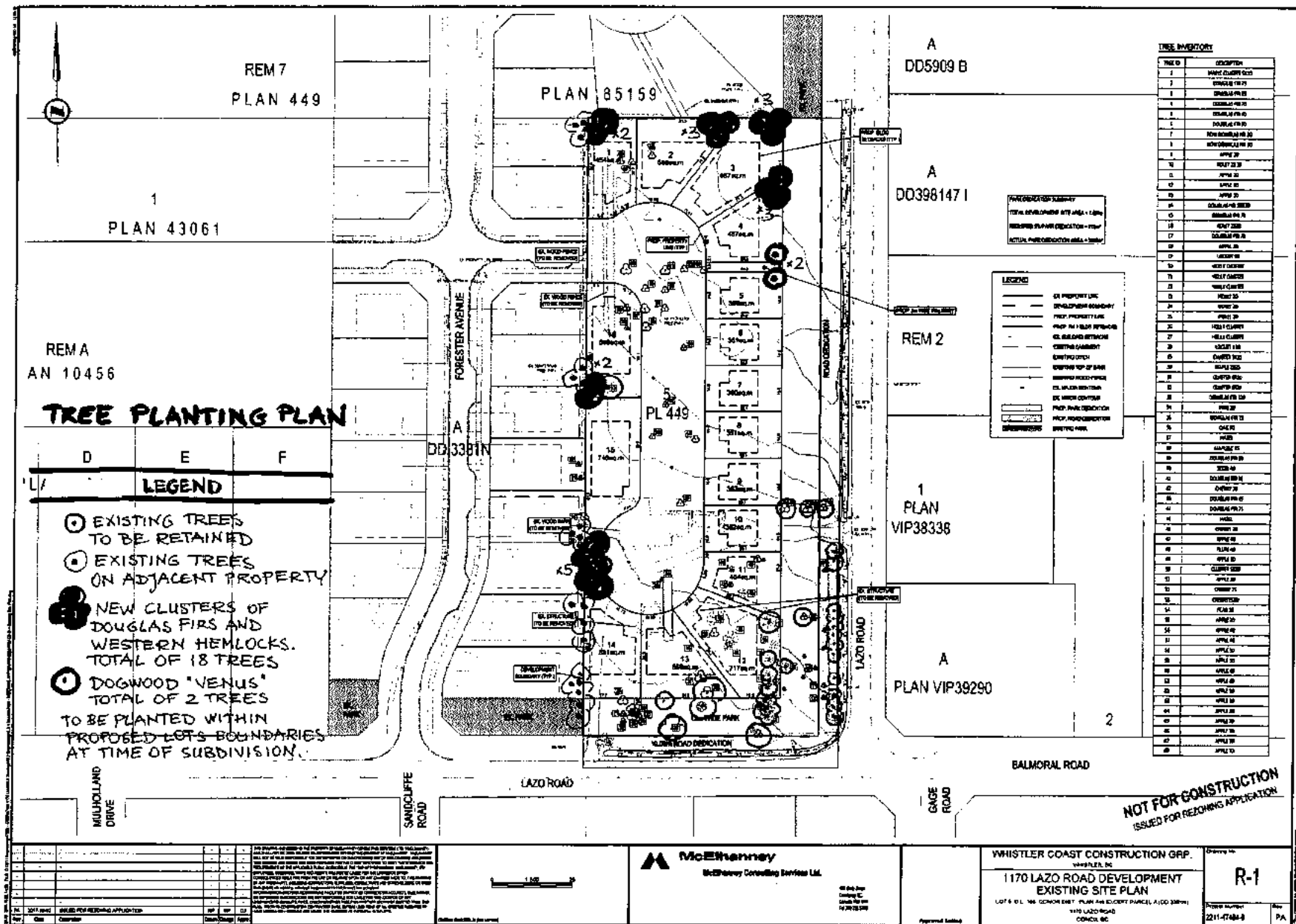
Fdc = Douglas fir
 Az = Trembling aspen
 Wx = Black cherry
 Og = Garry oak
 Mo = Big leaf maple
 Wx = Willow species
 Bl = Black locust
 HC = Horse chestnut



**SCHEDULE 2
AREA OF PARK LAND PURCHASE**



**SCHEDULE 3
TREE REPLANTING PLAN**



**SCHEDULE 4
LOT LAYOUT PLAN**

APRIL 18, 2018

**ATTACHMENT 4
PROCESSING PROCEDURES**


Processing steps that will allow Council's concurrent consideration of the Rezoning, Development Permit and Development Variance Permit Applications:


1. Third Reading of the proposed Bylaws;
2. Completion of any outstanding items; and
3. Adoption of Zoning Amendment Bylaw and Phased Development Agreement Authorization Bylaw;
4. Advertising of DVP
5. Council consideration of issuance of DVP and DP.


BLANK PAGE

TOWN OF COMOX PLANNING REPORT

TO:	RICHARD KANIGAN, CHIEF ADMINISTRATIVE OFFICER
FROM:	MARVIN KAMENZ, MUNICIPAL PLANNER GAIL ANDESTAD, PLANNER II
SUBJECT:	REZONING APPLICATION: RZ 18-2 CANNABIS REGULATION – STEP 1-THIRD READING REPORT
DATE:	RCM APRIL 18, 2018


 Submitted by


 Concurrence


 Approval

Recommendations:

1. That Comox Zoning Amendment Bylaw 1880 be given Third Reading (**Attachment 1**); and
2. That Comox Zoning Amendment Bylaw 1880 be Adopted.

Proposal:

The RZ 18-2 application is a zoning amendment to prohibit the sale of cannabis in the Town. This is the first of two steps to adapt the Town's zoning bylaw to the pending federal and provincial legislation to legalize recreational cannabis use.

Background:

A Public Hearing on Bylaw 1880 was held on April 4, 2018. A copy of the Section 465 *Local Government Act* Public Hearing summary report is contained in the April 18, 2018 Regular Council Meeting Agenda.

Discussion

Issues raised at the Public Hearing include an expression of distrust in any Town intention to "undertake further study to determine where (or if) cannabis shops are to be allowed" given proposed Bylaw 1880's inclusion of the retail sale of cannabis in the list of prohibited uses.

The use of clear language in proposed Bylaw 1880 that avoids ambiguity is based on bylaw drafting best practice. The purpose of Bylaw 1880 is to avoid the establishment of cannabis retail sales under current zoning bylaw regulations that permit such sales wherever Retail Stores are permitted. Clear unambiguous language is used to aid in public understanding, public compliance, and legal enforceability.

April 18, 2018

At the Public Hearing, concern was also raised that Bylaw 1880 may prohibit the retail sale of pharmacist preparations of doctor's prescriptions for cannabinoids, in particular Nabilone, which is a **synthetic** cannabinoid.

Synthetic cannabinoids are not derived from the cannabis plant (*Cannabis sativa L.*) but have similar psychoactive properties to that of cannabis.

It was not the intention of Bylaw 1880 to inadvertently prohibit the legal sale of federally permitted **synthetic** "cannabinoids". Consequently, the definition of Cannabis contained in proposed Bylaw 1880 is specific to the cannabis plant:

Cannabis

Any part of the cannabis plant, including its preparations and derivatives; does not include:

- (1) a non-viable seed;
- (2) a mature stalk without any leaf, flower, seed, or branch;
- (3) fiber derived from such stalks; or
- (4) the roots of a cannabis plant.

PROCESS STEPS for CANNABIS REGULATION:

STEP 1:

- 1. Third Reading of proposed Zoning Amendment Bylaw 1880; and
- 2. Adoption of Zoning Amendment Bylaw 1880.

STEP 2:

- 1. Staff prepare a report to Council outlining proposed regulations;
- 2. Public notification of a Public Information Meeting via two newspaper ads;
- 3. Public Information Meeting to obtain comment on proposed regulations;
- 4. Report back to Council on Public comments and bring forward bylaw amendments for First and Second reading in the consideration of cannabis retail regulations;
- 5. Public notification of Public Hearing on any proposed Zoning Amendment Bylaw;
- 6. Public Hearing on any proposed Zoning Amendment Bylaw;
- 7. Third Reading of any Zoning Amendment Bylaw or other bylaws;
- 8. Adoption of any Zoning Amendment Bylaw or other bylaw.

MK/GA

Attachment: 1. Proposed Bylaw 1880

TOWN OF COMOX

BYLAW NO. 1880

A BYLAW TO AMEND THE COMOX ZONING BYLAW 1850

WHEREAS Council has the authority under the provisions of the Local Government Act to amend the Zoning Bylaw;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, enacts as follows:

1. Title

This bylaw may be cited for all purposes as the "Comox Zoning Amendment Bylaw 1880".

2. Amendments

Comox Zoning Bylaw 1850 is hereby amended by:

- (1) Adding, in section 3.2, the following new definition:

Cannabis

Any part of the cannabis plant, including its preparations and derivatives; does not include:

- (1) a non-viable seed;
 - (2) a mature stalk without any leaf, flower, seed, or branch;
 - (3) fiber derived from such stalks; or
 - (4) the roots of a cannabis plant.
- (2) Replacing, in section 3.2, the definitions of the terms "Medical Marihuana Production Facility" and "Retail Store" with the following definitions:

Medical Cannabis Production Facility

A building or part thereof used, in accordance with a licence issued under Part 1 of the Access to Cannabis for Medical Purposes Regulations or under the Narcotic Control Regulations, to produce cannabis for medical use, including cultivation, drying, testing and research laboratory, packaging and shipping; does not include a retail store.

Retail Store

A building or part thereof where merchandise is offered or kept for retail; does not include liquor stores, or the retail sale of cannabis.

- (3) adding the following use to the list of Prohibited Uses in Section 5.10:

the retail sale of cannabis, or any other method of distributing cannabis other than by the shipping methods authorized by Access to Cannabis for Medical Purposes Regulations undertaken by a **Medical Cannabis Production Facility**, and for clarity, this prohibition includes the distribution of cannabis at premises commonly known as compassion clubs, which distribute cannabis to club members or other persons at the premises, whether for use at the premises or at another location.

- (4) replacing, throughout the bylaw, the word marihuana with the word cannabis.

3. Adoption

- | | |
|---|-------------------------------------|
| (1) READ A FIRST AND SECOND time this | 7 th day of March, 2018 |
| (2) PUBLIC HEARING ADVERTISED A
FIRST time this | 22 nd day of March, 2018 |
| (3) PUBLIC HEARING ADVERTISED A
SECOND time this | 27 th day of March, 2018 |
| (4) PUBLIC HEARING HELD this | 4 th day of April, 2018 |
| (5) READ A THIRD time this | day of ,2018 |
| (6) ADOPTED this | day of ,2018 |

MAYOR

CORPORATE OFFICER

TOWN OF COMOX

BYLAW NO. 1881

A BYLAW TO ESTABLISH RULES AND REGULATIONS FOR THE USE OF PARKS IN THE TOWN OF COMOX

WHEREAS Section 8 of the *Community Charter* empowers a Council, by bylaw, to regulate, prohibit and impose requirements in relation to public places;

AND WHEREAS certain outdoor recreational places within the Town of Comox are used, reserved or dedicated for the use and enjoyment of the general public;

AND WHEREAS the Council of the Town of Comox deems it wise to establish rules and regulations for the use of parks and public spaces;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, enacts as follows:

1. Title

This bylaw may be cited for all purposes as the “Comox Parks Use Bylaw No. 1881, 2018”.

2. Definitions

The following definitions apply to this Bylaw:

“Council” means the Council of the Town of Comox;

“Body of Water” means any stream, river, pond, lake, marsh or ocean;

“Bylaw Enforcement Officer” means

- (a) the person appointed by the Town of Comox to enforce bylaws; and
- (b) the Corporate Officer, Deputy Corporate Administrator or Parks Superintendent for the Town of Comox;

“Controlled Substance” means a “controlled substance” as defined and described in Schedules I - V of the Controlled Drugs and Substances Act R.S.C. 1996 c.C-19., as amended from time to time, but does not include a substance the trade or manufacture of which is permitted under that Act or the Town’s Business Regulation Bylaw, as amended from time to time.

“Director” means the Recreation Director for the Town of Comox or his/her delegate;

“Highway” has the same definition as in the British Columbia *Motor Vehicle Act*, as amended from time to time;

“Liquor” means any alcoholic drink or drinkable liquid, produced by either distillation or fermentation, that is intoxicating;

“Mobile Vendor” means a person who, from a motor vehicle, trailer or cycle, as defined or licensed under the *Motor Vehicle Act*, as amended from time to time, offers for sale food or merchandise, or who advertises or takes orders for goods or services.

“Noxious” means injurious or harmful to the health of living things;

“Park” means,

- (a) any property or structure held by the Town for public use by Crown Lease or Crown Licence, by permit or lease from the Ministry of Transportation and Infrastructure, or by lease, statutory right-of-way or occupancy or access agreement with a private landowner; and
- (b) all play areas, playgrounds, play fields, trails, greenbelts, required buffer zones, public squares, open spaces, boulevards, beaches, beach accesses and other public places under the care, custody or jurisdiction of the Town of Comox for public recreation or community purposes;

“Parks Superintendent” means the Parks Superintendent for the Town of Comox or his/her delegate;

“Parks Use Permit” means a current and valid permit issued by the Parks Superintendent pursuant to Section 4 of this Bylaw for the purpose of undertaking activities listed in Section 3(5)(k) of this Bylaw;

“Refuse” means rubbish, trash or garbage;

“Structure” means anything built or constructed;

“Town” means the Town of Comox; and

“Vehicle” means a device or structure for transporting persons or things, except those devices designed to be propelled by human or battery power.

3. Regulations

(1) No person shall be permitted to be in any park within the Town of Comox between the hours of 11:00 p.m. and 6:00 a.m. of the following day.

(2) Subsection 3(1) does not apply to

- (a) Comox Municipal Marina tenants while at the Comox Municipal Marina or Municipal Marina Parking Lot,

- (b) resident caretakers in any park, and
 - (c) users of trails, greenbelts, public squares, boulevards, beaches and beach accesses.
- (3) No person other than a Town employee or a person under the direction of a Town employee, shall be permitted to be in any park while it is temporarily closed to the public.
- (4) No person while in a park shall:
- (a) Light a fire, or throw, place or drop any lighted match, cigar, cigarette or other burning substance on the ground;
 - (b) Permit any animal, owned or harboured by the person, to enter any park except in accordance with the Comox Animal Control Bylaw, as amended from time to time, or unless otherwise permitted by Permit under this Bylaw;
 - (c) Permit any animal, owned or harboured by the person, to enter any body of water, except the ocean;
 - (d) Wilfully, negligently, or carelessly permit any animal, owned or harboured by the person, to break down, destroy or otherwise damage any tree, shrub or other plant material;
 - (e) Ride, lead or herd any animal, other than on trails, roads or lanes that have been designated for such use;
 - (f) Add, place, dump or leave any organic waste, noxious substance or refuse to any fountain or body of water;
 - (g) Defecate or urinate except in a facility designed for such use;
 - (h) Hit, propel, throw or direct an object in such a manner as to be dangerous, including but not limited to the hitting of golf balls, the shooting of arrows, or the launching of model rockets or airplanes;
 - (i) Engage in any conduct that may cause or is likely to cause injury, harm or danger to themselves or others;
 - (j) Use any structure or building for any other purpose than that of which the building or structure is intended;
 - (k) Use a tennis court for any sport or activity other than tennis;
 - (l) Use a pickleball court for any sport or activity other than pickleball;

- (m) Ride or operate any device designed to be propelled by human or battery power, except on trails or paved pathways and at speeds of less than ten kilometres per hour; or
 - (n) Interfere with any Town employee in the performance of his or her duties.
- (5) No person while in a park, other than a Town employee or a person under the direction of a Town employee, shall:
- (a) Destroy damage, climb, break, remove or injure any tree, shrub, plant, turf or flower;
 - (b) Deface, destroy, vandalize, damage, break, alter or remove any sign, notice or structure;
 - (c) Place, dump or leave any foreign material, including but not limited to sand, gravel, earth, leaves or branches;
 - (d) Remove any gravel, top soil, rock, or sand without the written permission of the Parks Superintendant;
 - (e) Deposit chemicals or pesticides;
 - (f) Deposit refuse other than into a refuse receptacle provided for such purpose;
 - (g) Deposit in a park or public place any refuse produced outside a park or public place;
 - (h) Drive, park or stand any vehicle in or on any area other than an established parking area, unless such vehicle is an emergency or Town vehicle, or authorized by the Town;
 - (i) Attempt to molest, disturb, frighten, injure, catch, trap or snare any wildlife.
 - (j) Disturb the peace or enjoyment of the park or public place by any other person or interfere with the exclusive use of any park or public place granted by the Town; or
 - (k) Without having first obtained a valid Parks Use Permit issued by the Town pursuant to this Bylaw,
 - (i) operate any amplification system or loud speaker;
 - (ii) build or cause to be built any structure;
 - (iii) post, paint or distribute any written information;

- (iv) enjoy the exclusive right to the use of all, or any portion of the park or public place;
- (v) carry on any commercial activity;
- (vi) erect, or occupy any camper, tent or other form of temporary shelter;
- (vii) take part in any procession, march, drill, performance, ceremony, concert, gathering or meeting;
- (viii) discharge any firearm, or set fire to or explode any combustible or explosive material; or
- (ix) sell, consume or possess any liquor.

4. Parks Use Permit

- (1) Each applicant for a Parks Use Permit must, for each event, accurately complete the prescribed form of application and submit to the Town.
- (2) Each applicant for a Parks Use Permit must pay to the Town an amount, as specified in Schedule “A”.
- (3) Any individual or organization requiring three or more permits for any one park in any calendar year may apply for a single Multi Use Permit.
- (4) No person shall undertake any of the activities listed in Section 3(5)(k) of this Bylaw without having possession of a valid Parks Use Permit.
- (5) The Parks Superintendent or Director may refuse to issue or renew a Parks Use Permit if the applicant or holder of a Permit has previously failed to comply with any condition as set out in the Permit or this Bylaw, or has any outstanding fines levied in accordance with this Bylaw.
- (6) Any person wishing to appeal the decision of the Parks Superintendant or Director regarding a Park Use Permit may do so in writing to the Town of Comox Council.
- (7) A Parks Use Permit is not transferable.

5. Conditions of Parks Use Permit

- (1) A Parks Use Permit is subject to certain conditions, which are attached to and form part of the Parks Use Permit.

- (2) Pursuant to Section 15(1)(d) of the *Community Charter*, authority is hereby delegated to the Parks Superintendent to establish conditions related to the following:
 - (a) time of activity,
 - (b) type of activity, or
 - (c) place of activity.
- (3) Mobile Vendors obtaining a Parks Use Permit shall:
 - (a) ensure that Mobile Vending trucks and trailers are no more than
 - (i) 2.5 metres wide, and
 - (ii) 8 metres long;
 - (b) establish in a permitted location, as specified in Schedule “B”;
 - (c) obtain Commercial General Liability insurance with a company satisfactory to the Town that meets the following minimum requirements:
 - (i) name the Town as an additional insured;
 - (ii) be written on a comprehensive basis with inclusive limits of not less than \$2,000,000;
 - (iii) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia;
 - (iv) be primary and non-contributing with respect to any policies carried by the Town and include a clause that any coverage carried by the Town is excess coverage;
 - (v) not be cancelled without the insurer providing the Town with 30 clear days written notice stating when such cancellation is to be effective; and
 - (vi) include a Cross Liability and a Separation of Insureds Clause
 - (d) enter into a Mobile Vending Agreement between the Mobile Vendor and the Town;
- (4) The holder of a Parks Use Permit is permitted to undertake the activities as outlined in the Permit in compliance with the requirements of this Bylaw and the conditions that form part of the Permit.

- (5) Failure to comply with any condition set out in the Parks Use Permit shall render the Permit subject to immediate cancellation by the Parks Superintendent or Director without prior notice.

6. Offences

- (1) Any person who contravenes any provision of this Bylaw is guilty of an offence and shall, upon summary conviction thereof, be liable to a minimum penalty of \$500.00 and a maximum fine of \$10,000.00.
- (2) Each day that an offence continues shall constitute a separate offence against this Bylaw.

7. Enforcement

- (1) This Bylaw is designated under the provisions of Section 264 of the *Community Charter* as a Bylaw that may be enforced by means of a ticket in the form prescribed, and in accordance with this Bylaw.
- (2) Bylaw Enforcement Officers and members of the RCMP are designated to enforce this Bylaw pursuant to Section 264(1)(b) of the *Community Charter*.
- (3) Pursuant to Section 269(1) of the *Community Charter*, authorization is hereby delegated to the Bylaw Enforcement Officer, Corporate Officer or Deputy Corporate Administrator to refer tickets issued with respect to this bylaw to the Provincial Court for a hearing.

8. Penalties

- (1) A Bylaw Enforcement Officer may direct a person to leave any park if that person is acting in contravention of this Bylaw, other municipal legislation, or any federal or provincial legislation, including using or possessing controlled substances, alcohol or other intoxicants.
- (2) A person directed to leave any park must do so immediately and shall not return within the following 24 (twenty-four) hours, or such longer period of time, up to seven consecutive days, as specified by a Bylaw Enforcement Officer.
- (3) No person shall interfere with a Bylaw Enforcement Officer in the exercise of their powers and duties pursuant to this Bylaw.
- (4) Pursuant to Section 264(1)(c) of the *Community Charter*, the words or expressions set forth below in Column 1 designate the offence committed under

the Bylaw section numbers appearing in Column 2 opposite the respective words or expressions.

- (5) Pursuant to Section 265(1)(a) of the *Community Charter*, the fine amount set forth below in Column 3 is the fine amount that corresponds to the section number and words or expressions set out in Columns 1 and 2 opposite the fine amount.

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine Amount
Present in park when closed	3(1)	\$50.00
Present in park when temporarily closed	3(3)	\$200.00
Light fire or place burning substance	3(4)(a)	\$200.00
Permit animal in water	3(4)(c)	\$100.00
Permit animal to damage plant material	3(4)(d)	\$200.00
Ride, lead or herd animal off path	3(4)(e)	\$100.00
Add noxious substance to water	3(4)(f)	\$200.00
Defecate or urinate outside of proper facility	3(4)(g)	\$100.00
Hit, propel or throw object in dangerous manner	3(4)(h)	\$200.00
Conduct that may cause injury or harm	3(4)(i)	\$100.00
Inappropriate use of a facility	3(4)(j)	\$50.00
Unlawful use of tennis court	3(4)(k)	\$50.00
Unlawful use of pickleball court	3(4)(l)	\$50.00
Unlawful operation of human or battery powered device	3(4)(m)	\$50.00
Interfere with Town employees in performance of duty	3(4)(n)	\$100.00
Damage, climb or remove natural vegetation	3(5)(a)	\$100.00
Deface or damage structure	3(5)(b)	\$200.00
Dump or leave foreign material	3(5)(c)	\$200.00
Unlawful removal of material	3(5)(d)	\$200.00
Deposit chemicals or pesticides	3(5)(e)	\$200.00
Deposit refuse other than in refuse receptacle	3(5)(f)	\$200.00
Deposit refuse from outside park	3(5)(g)	\$200.00
Drive or park in non-designated area	3(5)(h)	\$100.00
Disturb or catch wildlife	3(5)(i)	\$100.00
Disturb peace or enjoyment	3(5)(j)	\$100.00

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine Amount
Undertake activity without permit	3(5)(k)	\$200.00

9. Severability

The provisions of this Bylaw are severable and the invalidity of any part of this Bylaw shall not affect the validity of the remainder of this bylaw.

10. Repeal

Comox Parks and Public Places Bylaw, 2014, as amended, is repealed.

11. Adoption

(1) READ A FIRST, SECOND and THIRD time this 4th day of April, 2018

(2) ADOPTED this day of , 2018

MAYOR

CORPORATE OFFICER

SCHEDULE “A”

Parks Use Permit Fees

	Permit Fee	Damage Deposit
Mobile Vendor – Truck / Trailer	\$50 / day \$500 / month \$2,500 / year	\$500 for monthly and annual permits
Mobile Vendor – Cart	\$15 / day \$150 / month \$750 / year	\$150 for monthly and annual permits

SCHEDULE "B"

Permitted Mobile Vending Locations



BLANK PAGE

TOWN OF COMOX

BYLAW NO. 1882

A BYLAW TO REGULATE AND PROVIDE FOR THE LICENSING OF BUSINESSES IN THE TOWN OF COMOX

WHEREAS the Town of Comox may regulate business by bylaw and may require that businesses be licensed;

WHEREAS the Council of the Town of Comox considers it expedient to impose a system of business licences;

AND WHEREAS the Council of the Town of Comox has given notice of its intention to adopt a bylaw regulating business and has provided interested persons with an opportunity to make representations.

NOW THEREFORE in open meeting assembled the Council of the Town of Comox enacts as follows:

1. Title

This Bylaw may be cited as the Comox Business Regulation Bylaw No. 1882, 2018

2. Interpretation

The following definitions apply to this Bylaw:

“Apartment Building Business” means the Business of renting, or making available for rent, three or more residences on a single parcel, where each residence has access through common corridors or stairways.

“Bed and Breakfast Business” means the Business of carrying on a bed and breakfast as defined under the Town’s Zoning Bylaw, as amended from time to time.

“Business” means

- (a) carrying on a commercial or industrial activity, or
- (b) providing professional, personal or other services

for the purpose of gain or profit, but does not include an activity carried on by the Provincial government, by corporations owned by the Provincial government, by agencies of the Provincial government or by the South Coast British Columbia Transportation Authority or any of its subsidiaries.

“Business Licence” and “Licence” means a Business Licence issued pursuant to this Bylaw, and includes an Intermunicipal Business Licence and an Inter-Community Business Licence.

“Bylaw Enforcement Officer” means

- (a) the person appointed by the Town of Comox to enforce bylaws; and
- (b) the Corporate Officer, Deputy Corporate Administrator or Parks Superintendent for the Town of Comox.

“Carnival” means the Business of holding an event at which admission is charged or concessions are sold that is held in the open as part of a temporary use of buildings or structures, and includes a festival and a circus.

“Contractor” includes general contractor, builder, electrician, excavating service provider, plumber, and roofer.

“Council” means Council of the Town of Comox.

“Eligible Intermunicipal Business” means a Business that is listed on Schedule 1 of the agreement authorized under the Comox Intermunicipal Business Licence Agreement Authorization Bylaw, as amended from time to time, but does not include Door-to-Door Sales.

“Eligible Inter-Community Business” means a Business defined as an Inter-Community Business in the Comox Inter-Community Business Licence Bylaw, as amended from time to time.

“Financial Institution” means a Business at which customers purchase, deposit, or borrow money or financial instruments.

“Flea Market” means an occasional or periodic sales activity held within a building, structure or open area where groups of individual sellers offer goods, new and used, for sale to the public and includes craft fairs.

“Highway” has the same definition as in the British Columbia *Motor Vehicle Act*, as amended from time to time.

“Home-Based Business” means a Business that is defined as a “Home Occupation” in the Comox Zoning Bylaw, as amended from time to time.

“Intermunicipal Business Licence” means a Business Licence that is for an Eligible Intermunicipal Business and is:

- (a) issued pursuant to an application for an Intermunicipal Business Licence under this Bylaw; or

- (b) issued pursuant to an application for an Intermunicipal Business Licence under a bylaw of the City of Courtenay.

“Inter-Community Business Licence” means a Business Licence that is for an Eligible Inter-Community Business and is:

- (a) issued pursuant to an application for an Inter-Community Business Licence under this Bylaw; or
- (b) issued pursuant to an application for an Inter-Community Business Licence under a bylaw of any of the Participating Municipalities, as defined in the Comox Inter-Community Business Licence Bylaw, as amended from time to time.

“Licence Inspector” means the Deputy Corporate Administrator, and also any person lawfully acting as delegate in that capacity.

“Mobile Vending Unit” means the operation of a food service or merchandise business from a truck, trailer or cart.

“Mobile Vendor” means a person who, from a motor vehicle, trailer or cycle, as defined or licensed under the *Motor Vehicle Act*, as amended from time to time, offers for sale food or merchandise, or who advertises or takes orders for goods or services.

“Park” means,

- (a) any property or structure held by the Town for public use by Crown Lease or Crown Licence, by permit or lease from the Ministry of Transportation and Infrastructure, or by lease, statutory right-of-way or occupancy or access agreement with a private landowner; and
- (b) all play areas, playgrounds, play fields, trails, greenbelts, required buffer zones, public squares, open spaces, boulevards, beaches, beach accesses and other public places under the care, custody or jurisdiction of the Town of Comox for public recreation or community purposes.

“Parks Use Permit” means a current and valid permit issued pursuant to the Comox Parks Use Bylaw, as amended from time to time.

“Peddler” means a person who,

- (a) not having any Place of Business within the municipality, sells or offers for sale by going door to door, goods, wares, merchandise, or foodstuffs, or any other effects whatsoever therein, or
- (b) being the agent for a person not resident within the municipality, sells or offers for sale, goods, wares, merchandise or foodstuffs, or carries on or exposes samples or patterns of any goods, wares, merchandise, or

foodstuffs to be afterwards delivered within the municipality to a person not being a wholesale or retail dealer in such goods, wares, merchandise or foodstuffs, or

- (c) carries or exposes samples or patterns or quotes prices for the selling of any goods, wares, or merchandise of food-stuffs, to be afterwards delivered within the municipality to any person.

“Place of Business” means:

- (a) the land, building or Mobile Vending Unit at which the customers of the Business are regularly served;
- (b) the location of the commercial or industrial undertaking; or
- (c) for a Business that only serves customers at property occupied by the patron, the residence or office of the Licence holder.

“Town” means the Town of Comox.

“Trade Show” means an event involving organizing a group merchants to gather in one location or building to offer or promote sales, such as the sale of goods, wares, merchandise, services, products or concepts.

3. General Requirements

- (1) No person shall carry on any Business within the Town unless the person is the holder of a valid and subsisting Business Licence for the Business.
- (2) No person shall carry on any Business within the Town contrary to the requirements of this Bylaw.
- (3) Every holder of a Business Licence shall post the Licence in a conspicuous place accessible to members of the public that attend the Place of Business.
- (4) No holder of a Business Licence shall carry on a Business at a Place of Business different from that stated on the Licence.
- (5) No holder of a Business Licence shall carry on a Business with a name different from that stated on the Licence.
- (6) If a person carries on a Business at more than one Place of Business,
 - (a) the person shall obtain a Business Licence for each Place of Business, and
 - (b) a Mobile Vending Unit requires only one Business Licence per Mobile Vending Unit in operation.

- (7) If a person carries on multiple Businesses at the same Place of Business, the person shall obtain a Business Licence for each Business.
- (8) If a holder of a Business Licence changes the type of Business that the Licence holder carries on, that person shall obtain a new Licence for the new type of Business.

4. Application Process

- (1) A person may apply for a new Business Licence by:
 - (a) accurately completing the prescribed form of application and submitting the form to the Licence Inspector;
 - (b) if eligible, indicating whether the Business Licence sought is an Intermunicipal, or an Inter-Community Business Licence; and
 - (c) paying to the Town the applicable fee set out in Schedule “A” of this Bylaw.
- (2) A person may apply to renew a Business Licence for the following year by accurately completing and submitting the prescribed form and declaration to the Licence Inspector and paying the applicable fee set out in Schedule “A” of this Bylaw.
- (3) A person may apply to amend a subsisting Business Licence by accurately completing and submitting the prescribed form of application to reflect the amendment and by paying the applicable fee set out in Schedule “A” of this Bylaw. A person must amend a Business Licence if the name of the Business or the Place of Business changes.
- (4) A Business Licence may not be transferred and every person who wishes to become a Business Licence holder shall apply for a new Licence.
- (5) A person who applies for a new, renewed or amended Business Licence must also provide to the Licence Inspector, upon request, all information necessary to determine whether the Business will comply with all conditions of the Licence.

5. Licence Issuance and Term

- (1) Subject to section 5(2), once the Town has received:
 - (a) a complete application;
 - (b) all applicable fees, and
 - (c) all other information requested under section 4(5),

the Licence Inspector shall issue within a reasonable time and in the form prescribed a new, renewed or amended Business Licence.

- (2) The Licence Inspector may refuse to issue, amend or renew a Business Licence for a Business if:
 - (a) the Licence Inspector has reasonable cause; or
 - (b) the carrying on of the Business would contravene a condition specified in section 7 [Conditions of Licence].
- (3) Each new and amended Business Licence is valid as of the date the Licence is issued.
- (4) A renewed Business Licence is valid as of January 1 of the year for which it is renewed.
- (5) A Business Licence shall expire on January 31 of the year following the year it is issued or renewed, unless otherwise indicated on the Business Licence.
- (6) A person may only apply to renew a Business Licence between December 1 and January 31 of each year.
- (7) It is the sole responsibility of the holder of a Business Licence to renew it prior to the Business Licence's expiration and within the permitted period.

6. Licence Suspension and Cancellation

- (1) Subject to subsection (2), the Licence Inspector may:
 - (a) suspend a Business Licence until such time as all the conditions set out in section 7 [Conditions of Licence] have been restored; or
 - (b) cancel a Business Licence for reasonable cause.
- (2) The Licence Inspector shall not suspend or cancel a Business Licence until the Licence Inspector has given the Licence holder reasonable notice of an intention to suspend or cancel the Licence and has provided the Licence holder with an opportunity to provide written submissions.
- (3) The Licence Inspector may give notice pursuant to this section in writing sent by courier or registered mail to the address of the holder of the Business Licence stated on the most recent application.
- (4) Nothing in this Bylaw limits:
 - (a) a person's statutory entitlement to have Council reconsider a Licence Inspector's decision to suspend, cancel or refuse to grant a Business Licence;

- (b) Council's authority to suspend or cancel a Business Licence is independent of a decision of the Licence Inspector, if Council has given the Licence holder notice of Council's intention and an opportunity to be heard.

7. Conditions of Licence

It is a condition of each Business Licence that:

- (a) the Licence holder comply with the requirements of this Bylaw;
- (b) the Business not be conducted in a manner that contravenes the bylaws of the Town, including the Town's zoning bylaw, all as amended from time to time;
- (c) no equipment associated with the Business be located on a Highway or in a Park, unless permitted by a Parks Use Permit;
- (d) the Business only be carried on with all necessary permissions from all public authorities having jurisdiction over the carrying on of the Business; and
- (e) the Place of Business remain free of an order issued pursuant to the *Fire Services Act* or a Town bylaw in relation to buildings and structures or the health, safety or protection of persons or property, all as amended from time to time.

8. Specific Business Regulations

- (1) Building Contractors – At each work site at which the Contractor is working, every Contractor shall have immediately available for inspection upon demand of a customer, a Bylaw Enforcement Officer or the Licence Inspector:

- (a) a copy of the Business Licence; and
- (b) a copy of every Business Licence for every sub-Contractor engaged by the Contractor at the work site;

and no Contractor shall be excused from this requirement by the failure of the Contractor or any sub-Contractor to hold a valid Business Licence.

- (2) Mobile Vending – Every Mobile Vendor shall:

- (a) obtain and maintain a valid Business Licence for each Mobile Vending Unit;

- (b) obtain and maintain a valid Parks Use Permit for each Mobile Vending Unit locating in a Park;
- (c) provide a Discharge Management Plan, for each Mobile Vending Unit selling food or beverages, that describes how and where fats, oils and grease will be disposed;
- (d) provide proof of the following, as applicable,
 - (i) approval to operate in accordance with the *Public Health Act*, as amended from time to time;
 - (ii) approval to operate from the Comox Fire Department;
 - (iii) automobile liability insurance for mobile trucks and mobile trailers;
- (3) Peddler – Every Peddler shall at all times display on their person in a conspicuous place identification that states the Peddler's name and the person or company for whom they work as employee or agent, if any.

9. General Provisions

- (1) The fee payable to the Town for each new and renewed Licence is the amount in Column 2 of the table attached as Schedule "A" to this Bylaw that is opposite to the type of Business to be licensed identified in Column 1 of the table.
- (2) The fees payable for a new and first time Business Licence, excluding a seasonal or temporary Licence, are prorated by the following amounts:
 - (a) for a new Licence issued between April 1 and June 30, 75% of the applicable fee shown in Column 2; and
 - (b) for a new Licence issued between July 1 and December 31, 50% of the applicable fee shown in Column 2.
- (3) The Licence Inspector, Bylaw Enforcement Officers and members of the Royal Canadian Mounted Police are authorized to enter any property for the purpose of administering and enforcing this Bylaw, provided that the manner and timing of such entry is consistent with the *Community Charter*.
- (4) This Bylaw does not relieve any person from complying with any other statute, regulation or bylaw relating to the operation of a Business and the Place of Business, including those enactments relating to construction and repair, fire safety or public health.
- (5) In the event that any portion of this Bylaw is declared to be *ultra vires* by a Court of competent jurisdiction, then such portion shall be deemed to be

severed from the Bylaw to that extent and the remainder of the Bylaw shall continue in force and effect.

10. Offence

- (1) Every person who contravenes any provision of this Bylaw commits an offence and shall, upon summary conviction, be liable to a minimum fine of \$500.00 and a maximum fine of \$10,000.00 together with such other penalties that may be imposed by the court, including payment of the costs of prosecution and compensation for loss or damage suffered by the Town.
- (2) Each day that an offence continues shall constitute a separate offence against this Bylaw.

11. Municipal Ticketing

- (1) This Bylaw is designated under the provisions of section 264 of the *Community Charter* as a Bylaw that may be enforced by means of a ticket in the form prescribed, and in accordance with this Bylaw.
- (2) Bylaw Enforcement Officers and members of the Royal Canadian Mounted Police are persons designated to enforce this Bylaw pursuant to section 264(1)(b) of the *Community Charter*.
- (3) Pursuant to section 264(1)(c) of the *Community Charter*, the words or expressions set forth below in Column 1 designate the offence committed under the Bylaw section numbers appearing in Column 2 opposite the respective words or expressions.
- (4) Pursuant to section 265(1) of the *Community Charter*, but subject to section 9.3(c) of this Bylaw, the fine amount set forth below in Column 3 is the fine amount for the offence that corresponds to the section number and words or expressions set out in Columns 1 and 2 opposite the fine amount:

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine Amount
No Business Licence	3(1)	\$500.00
Fail to Display Licence	3(3)	\$100.00
Unlicensed Business Location	3(4)	\$100.00
Unlicensed Name Change	3(5)	\$100.00
Unlicensed Business Change	3(8)	\$250.00
Unlawful Placement of Equipment	7(c)	\$100.00
Fail to Obtain Permission	7(d)	\$100.00
Contractor-Fail to Produce Licence	8(1)(a)	\$500.00

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine Amount
Fail to Produce Sub Licence	8(1)(b)	\$200.00
No Mobile Vending Licence	8(2)(a)	\$100.00
No Parks Use Permit	8(2)(b)	\$100.00
No Discharge Management Plan	8(2)(c)	\$100.00
Insufficient Permission	8(2)(d)	\$100.00

12. Repeal

Comox Business Licence By-law, 1985, as amended, is repealed.

13. Adoption

- (1) READ A FIRST, SECOND and THIRD time this 4th day of April , 2018
- (2) Notice of intention to adopt given this 5th and 10th day of April , 2018
- (3) Representations to Council heard this day of , 2018
- (4) ADOPTED this day of , 2018

MAYOR

CORPORATE OFFICER

**Schedule “A”
BUSINESS LICENCE FEES**

Column 1	Column 2
ONGOING BUSINESSES	
Type of Business	Annual Fee
Apartment Building Business	\$6 per residence; \$60 minimum
Bed and Breakfast Business	\$100
Financial Institution	\$100
Home-Based Business	\$100
Hotels, Motels, Restaurant Not Liquor Licensed	\$100
Liquor Licensed	\$150
Intermunicipal Licence	\$150
Inter-Community Licence	\$150
Peddler	\$250 per peddler
Not for Profit Business	\$0
Business not specified above	\$100
TEMPORARY AND SEASONAL BUSINESSES	
Type of Business	Fee
Carnival or Circus	\$200 per day
Flea Markets	\$100 per day
Trade Shows	\$100 per day
Mobile vendors	\$10 per month; \$100 maximum
BUSINESS LICENCE AMENDMENT	
Business Licence Amendment Fee	\$10