



STAFF REPORT TO COMMITTEE

DATE OF REPORT November 24, 2023
MEETING TYPE & DATE Electoral Area Services Committee Meeting of December 6, 2023
FROM: Development Services Division
Land Use Services Department
SUBJECT: Application No. RZ23E01 (Appaloosa Way, PID 009-845-119, PID:
009-849-637, and PID: 009-849-581)
FILE: RZ23E01

PURPOSE/INTRODUCTION

The purpose of this report is to present an application to modify the Comprehensive Development Residential ([R-5](#)) Zone, within the Electoral Area E – Cowichan Station/Sahtlam/Glenora Zoning Bylaw No. 1840.

The application is proposing to modify Section 8.9(c) [Density and Density Bonus provisions] of Bylaw No. 1840 to accommodate a seventeen (17) lot subdivision.

At this preliminary stage of the application process, the Board is asked to consider information to support a fulsome understanding of the proposal and referral to external agencies. External agency feedback will be addressed through a subsequent staff report.

RECOMMENDED RESOLUTION

That it be recommended to the Board:

1. That the following information be provided to support Application No. RZ23E01 (Appaloosa Way, PID 009-845-119, PID: 009-849-637, and PID: 009-849-581):
 - a. A revised subdivision plan to demonstrate substantial compliance with DPA 1 (Riparian Protection), DPA 2 (Sensitive Ecosystem Protection) and DPA 4 (Aquifer Protection) design guidelines, including:
 - i. Modifications to minimize crossings of riparian areas and maximize the distance between roads and riparian areas.
 - ii. Modifications to minimize the number of proposed non-contiguous lots bisected by riparian areas.
 - iii. A revised map clearly differentiating TLC covenanted areas, P-2 Zoned Areas, Natural Boundaries of watercourses, Streamside Protection and Enhancement Areas (SPEAs), stream crossings, and proposed road networks.
 - iv. Setback information related to wells and septic discharge areas as set out in Island Health's Subdivisions Standards;
 - v. Confirmation from a qualified BC Land Surveyor ([ABCLS](#)) of the minimum lot sizes (1 ha) after removal of the SPEAs associated with wetlands, watercourses and streams;
 - b. Confirmation from a qualified environmental professional (QEP) that:
 - i. The revised subdivision plan would have no adverse effect on the natural features, functions and conditions that support fish life processes in the 30 m riparian assessment area (*where a non-contiguous lot (bisected by riparian areas) is*

unavoidable, recommendations from a QEP shall be provided to ensure that the development will not harm natural features, functions and conditions in the riparian assessment area).

- ii. The revised subdivision plan will have no adverse effect on Western Toad Habitat.
- c. Conceptual site plans showing building envelopes within allowable footprints, driveway access, sewerage & water infrastructure, and parking areas.
- d. Details on proposed parkland dedication areas, including topographic and environmental constraints for the 2.8 ha of P-2 Zoned lands that are not within the covenant area.
- e. Trail construction standards and locations within the proposed development to provide connectivity between subdivision blocks and the proposed park.

2. That following receipt of the information, Application No. RZ23E01 (Appaloosa Way, PID 009-845-119, PID: 009-849-637, and PID: 009-849-581), be referred to the following external agencies and First Nations:

- a. Cowichan Tribes;
- b. Lake Cowichan First Nation;
- c. Penelakut Tribe;
- d. Halalt First Nation;
- e. Lyackson First Nation;
- f. Stz'uminus First Nation;
- g. Ministry of Transportation & Infrastructure;
- h. Ministry of Forests;
- i. Ministry of Environment and Climate Change Strategy;
- j. Electoral Area E – Parks Advisory Commission (PAC);
- k. Ministry of Water, Land and Resource Stewardship;
- l. BC Hydro;
- m. Electoral Area E – Advisory Planning Commission (APC); and
- n. The Land Conservancy.

LOCATION MAP

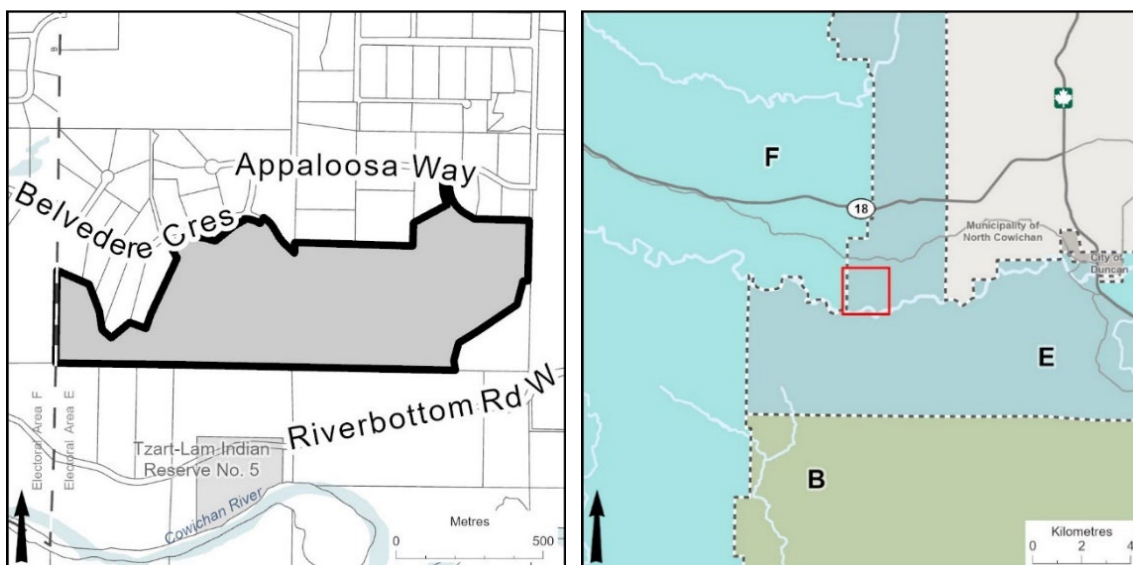
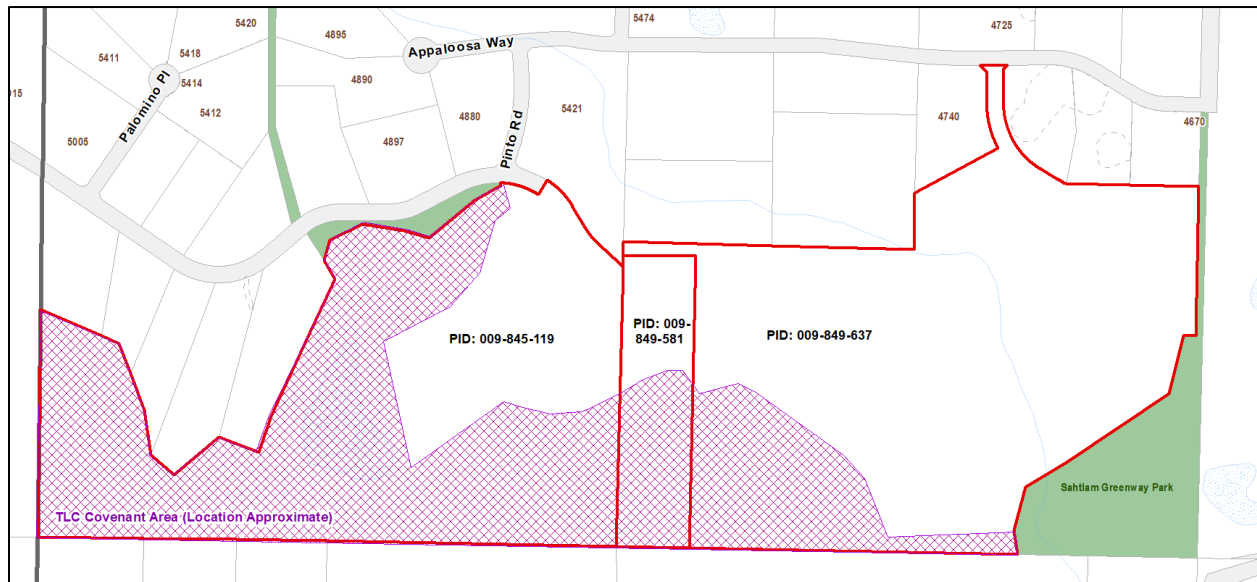


Figure 2 – TLC Covenant Area:



For background: On July 11, 2007, the Board passed the following motion (07-432):

That the proposed gifting of approximately 136 acres (54.5 hectares) of lands to the CVRD for nature park purposes, encompassing portions of both Section 5, Range 6, Sahtlam Land District along with a portion of Section 6 and 7, Range 7 Sahtlam District, be approved, inclusive of a conservation covenant registered on title in favour of The Land Conservancy of BC, which limits the use of the lands for nature park purposes and also permits the Regional District to hold the lands as an undeveloped “park reserve” within the Electoral Area E and F community park functions until such time additional funds are determined available by the Board to complete and implement a park management plan for the lands.

This anticipated donation of covenanted lands was purposely separate from the rezoning of the subject properties, and was not a condition of rezoning or tied explicitly to the rezoning application. The purpose of the 2007 motion was to proactively accept the covenanted lands for park purposes. The owner had provided a letter indicating their intention to provide the entire covenanted area to the CVRD as a gift. They drafted the TLC covenant in a manner that envisioned future CVRD ownership of the covenanted lands for park purposes.

Staff surmise that the previous owner had intended to donate the land as park for tax purposes (e.g. to receive a tax receipt for the appraised value of the donation), concurrently with the last subdivision phase.

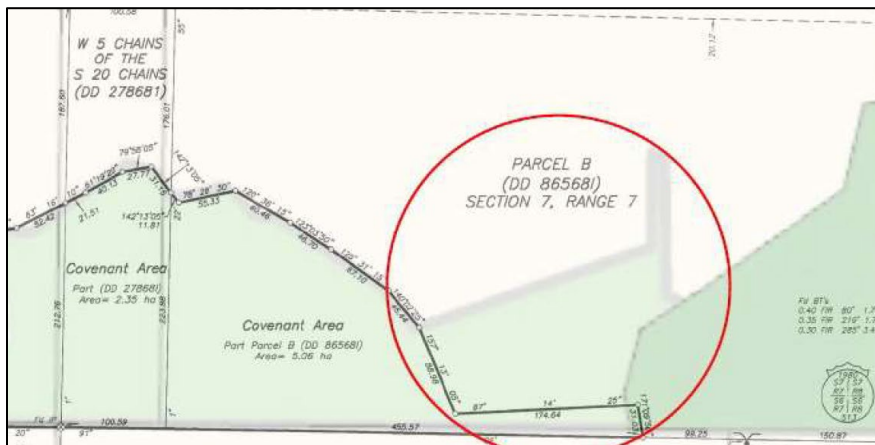
Current Proposal:

As an alternative to transferring 3 fee-simple lots to the CVRD, the applicant proposes to transfer the entirety of the TLC covenant lands as well as the transfer of the P-2 Zoned land that is not within the TLC covenanted area.

- The TLC covenant lands are approximately 23 ha (59 acres);
- The area of the P-2 Zoned lands that are not within the covenant area is roughly 7 acres (2.8 ha) and is largely constrained by wetlands and SPEAs; and
- These areas are not clearly labeled in the conceptual subdivision plan. Should the Board advance this application, staff will recommend that a more detailed survey plan be provided to indicate the streams, watercourses, SPEAs, Wetlands, TLC Covenant, and P-2 Zoned lands.

While both the Covenanted Area and P-2 Zoned portions of the lands can presently only be used for conservation and/or park purposes, there is currently no mechanism to trigger the transfer of these lands to the CVRD.

Figure 3 – P2 Zoned Lands outside of the Covenanted Area:



OFFICIAL COMMUNITY PLAN / POLICY CONSIDERATIONS

Official Community Plan for the Electoral Areas Bylaw No. 4270 (OCP):

The P-2 Zoned portions of the subject properties are designated as Parks in both the regional and local area plans (LAP).

<i>Official Community Plan</i>	<i>Local Area Plan</i>
The Parks designation is intended to identify lands appropriate and sustainable for outdoor recreational opportunities while maintaining and supporting enhancement of the various ecosystems across the region.	The Parks designation is intended to ensure that adequate parkland and park amenities are available to all residents in the plan area.

The R-5 Zoned portions of the subject properties are designated as Residential in the OCP and Rural Residential in the local area plan.

<i>Official Community Plan</i>	<i>Local Area Plan</i>
The Residential Designation is intended to provide a wide range of housing and lifestyle options for various stages of life and different community lifestyles.	The Rural Residential designation is intended to provide a rural residential lifestyle option that creates a buffer between resource lands and residential areas with parcel areas ranging from 2 to 5 ha in size.

Development Permit Areas

The subject property is currently subject to the following Development Permit Areas (DPA):

- DPA1: Riparian Protection
- DPA2: Sensitive Ecosystem Protection
- DPA4: Aquifer
- DPA5: Wildfire

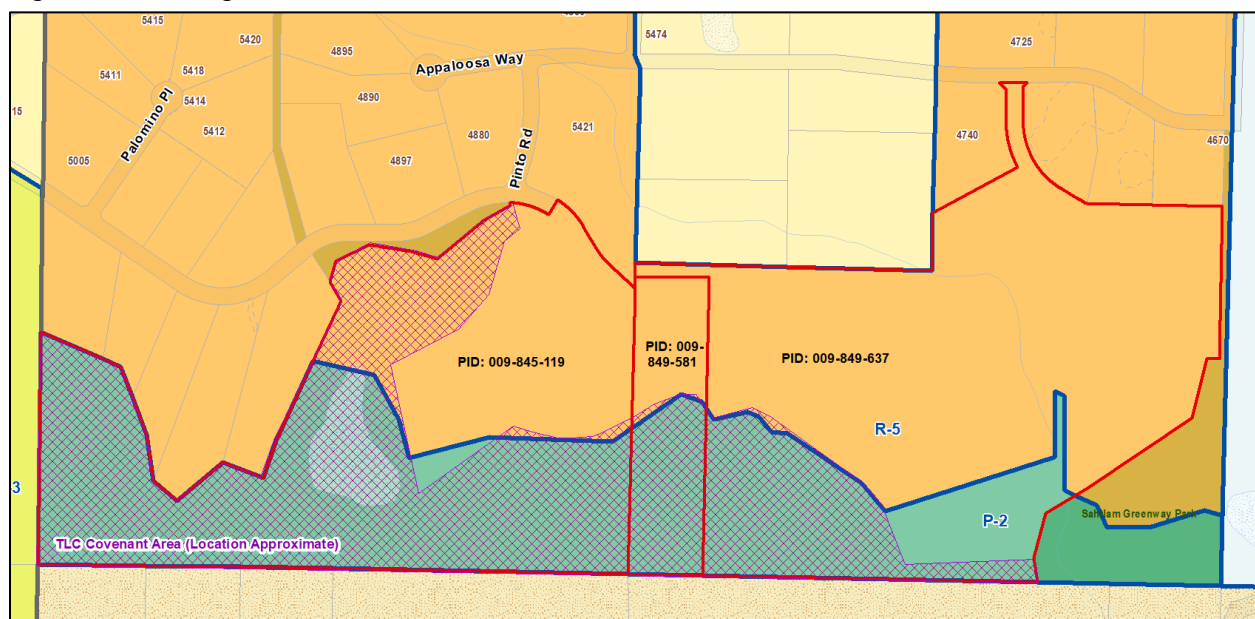
Future development of the property shall require development permits.

Area E – Cowichan Station/Sahtlam/Glenora Zoning Bylaw No. 1840:

The subject property is split into two distinct zones:

- The properties are currently split-zoned [R-5](#) (comprehensive Development Residential Zone) and [P-2](#) (River Corridor Conservation);
- The R-5 Zone allows for further subdivision, subject to amenity contributions in the form of fee-simple lots to be transferred to the Regional District (the sale of which will be used for community park purposes or the provision of fire protection services);
- The P-2 Zone was established as part of the R-5 zoning and was intended to match the boundaries of a conservation area volunteered by the previous land owner. This conservation area was not a condition of rezoning and is covered by a conservation covenant between the land owner and The Land Conservancy (TLC).

Figure 4 – Zoning Boundaries Vs. Covenant Boundaries



R-5 Zone Density Bonusing Provisions:

Section 8.9(c)(6) of Bylaw No. 1840 requires that for each 4 parcels created in excess of 22, one parcel must be provided to the CVRD. These fee-simple parcels can be sold by the CVRD and the proceeds would be used for community park purposes and/or the provision of fire protection services.

Watercourse Regulations:

In addition to the requirements of the R-5 and P-2 zones, Section 12.12 of Bylaw No. 1840 notes that *“the area of a water body, watercourse or wetland shall not be included in the area of the parcel for the purposes of calculating the permitted number of parcels.”*

- In order to achieve the minimum parcel size within the R-5 Zone, the land available after excluding all wetlands and Streamside Protection and Enhancement Areas (SPEAs) must meet or exceed 1.0 ha.
- It is unclear how the “useable area” in the conceptual site plan (Attachment C) was calculated, as some of the proposed lots appear to show less than 1.0 ha in area exclusive of watercourse and/or wetlands.

Conservation Covenant (No. FB208158):

In addition to the density bonusing provisions of the R-5 Zone, a [Land Conservancy of British Columbia \(TLC\)](#) covenant is applicable to 59 acres of the property.

- The covenant requires that the owner prepare and adopt a Management Plan for managing the covenant area as a public regional park.
- The Covenant area cannot be sold, subdivided or transferred without written approval of the TLC.
- The covenant also permits the land owner to transfer the covenant area to the CVRD (or another party approved by the TLC).
- There is presently no mechanism to trigger the transfer of the park area to the CVRD (or another approved party).

The P-2 Zone boundaries was based on the proposed boundary of the Covenant area; however, there is a slight discrepancy between the P-2 zone and the TLC covenant. This is because the TLC Covenant was registered after the property was split zoned, and the CVRD is not a signatory to the TLC covenant.

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

The application was referred to internal divisions, and preliminary comments have been received from the Parks & Trails, Emergency Management and Community Planning Divisions (Attachment D).

The Parks & Trails Division has noted that:

- The covenanted (Land Conservancy of B.C.) lands represent an important trail linkage between Sandy Pool Regional Park and Inwood Creek Park (as part of the Sahtlam Greenway Trail).
- Additional information on the proposed park land may be necessary (*e.g. the area of the P-2 Zoned lands that are not within the covenant area (roughly 7 acres/2.8 ha) may not be suitable for park purposes*). Lands not suitable for park purposes could be incorporated within the proposed subdivision.

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- Under the existing Density Bonusing Provisions, 2 lots have been received and 4 additional lots were expected to be transferred to the CVRD Parks & Trails Division to be sold with the proceeds to be split 50/50 between Electoral Area E and Electoral Area F. Based on the applicant's anticipated density, only 3 additional lots are anticipated at this time; however, the request before the Board is that none of these lots be required.
 - There is currently no Park Advisory Commission for Electoral Area F for this application to be referred to so a decision will need to be made at the Board in regard to both Electoral Areas.

The Community Planning Division has noted that:

- There are environmental constraints that may limit the number of parcels that can ultimately be achieved through subdivision. The layout should be reviewed in accordance with the policies and guidelines of DPA 1 (Riparian Protection), DPA 2 (Sensitive Ecosystem Protection) and DPA 4 (Aquifer Protection).
- The preliminary subdivision plan shows many of the proposed parcels to be encumbered by riparian areas, which ultimately does not preserve the integrity of this sensitive environment.
- In order for the application to be considered, the subject properties should be consolidated as a condition of approval of rezoning (Note: it appears that a one of the parcels, PID: 009-845-119, is listed for sale).

The Emergency Management Division noted that:

- In light of the potential firehall relocation study that is being considered in conjunction with the Paldi development, additional contributions to the statutory reserve fund could help to offset the construction costs of a firehall or fire infrastructure.
- If the CVRD Board advances this application and directs staff to negotiate contributions to statutory reserve funds in lieu of lots, Fire Rescue Services would welcome additional contributions to the Sahtlam Fire Protection Service Area statutory reserve fund.

If the Board advances the application, these comments and the external agency feedback will be addressed through a subsequent report to the EASC, prior to consideration of bylaw readings.

External Agency Referrals:

Should the Board choose to proceed with the application, external referrals to the following agencies are recommended:

- Ministry of Transportation & Infrastructure
- Ministry of Forests
- Ministry of Environment and Climate Change Strategy
- Electoral Area E – Parks Advisory Commission (PAC)
- First Nations
- Ministry of Water, Land and Resource Stewardship
- BC Hydro
- Electoral Area E –Advisory Planning Commission (APC)
- The Land Conservancy

NOTE: A Parks Advisory Commission (PAC) for electoral Area F has not been appointed at this time.

First Nations:

Nations who may have interests within the area include:

- Cowichan Tribes
- Lake Cowichan First Nation
- Penelakut Tribe
- Halalt First Nation
- Lyackson First Nation
- Stz'uminus First Nation

PLANNING ANALYSIS

Next Steps:

If the Board wishes to advance this application, the EASC may recommend to the Board that staff be directed to forward the application to external agencies once the recommended additional information is received. Staff would return to the EASC for consideration of referral comments, analysis of the application based on additional information, and next steps.

Development Permits:

The applicant has provided a letter of rationale (Attachment A) and a conceptual subdivision plan (Attachment C). The applicant notes that the plan is conceptual in nature and requires further refinement as septic field locations are confirmed, wells are drilled, and access is established.

Development Permits will still be required irrespective of any changes to the amenity contribution requirements within the R-5 Zone. Development permits would generally be required prior to subdivision approval and prior to any land clearing/alteration.

Previous Density Bonusing:

Under the existing Density Bonusing Provisions 7 lots would be transferred to the CVRD.

- 27 lots have been created to date which have triggered the transfer of 2 lots;
 - 1 lot was provided to the Sahtlam Fire Department. It has been sold, and the proceeds have been used for the provision of fire protection services).
 - The second lot is being held by the CVRD. Its proceeds are expected to be split 50/50 between Area E and Area F parks.

On July 11, 2007, the Board passed the following motion (07-433):

That the methodology for receipt of funds derived from the sale of lots transferred in fee simple to the CVRD as outlined in proposed Bylaw No. 2909 (Caromar Sales) be as follows:

- *Funds derived from the first lot acquired and subsequently sold under direction of the Board be allocated to the Sahtlam Fire Protection Service Area statutory reserve fund, and,*
- *Funds derived from the second and all additional lots acquired and subsequently sold under direction of the Board be allocated equally between the Electoral Area E Community Parks statutory reserve fund and the Electoral Area F Community Parks statutory reserve fund.*

And furthermore, that expenditure of funds derived through the sale of such lots be limited to within the broader Sahtlam community of Electoral Areas E and F.

With the reduced density, a maximum of 44 lots will be created in the R-5 Zone:

- The subdivision that creates the 31st lot triggers the transfer of the 3rd lot;
- The subdivision that creates the 35th lot triggers the transfer of the 4th lot;
- The subdivision that creates the 39th lot triggers the transfer of the 5th lot;
- The 6th lot will not be transferred as 46 lots will not be constructed; and
- The 7th lot will not be transferred as 50 lots will not be constructed.

If the application were to proceed under the current density bonusing provisions three additional lots would be provided to the CVRD (for a maximum of 4 lots to be split between Area E and Area F parks); however, the applicants propose to eliminate the future transfer of three fee-simple residential lots (leaving the one lot currently held by the CVRD to be split between Area E and Area F parks).

In lieu of lots, the applicant proposes to dedicate the TLC covenanted lands and P-2 zoned portions of the property. These lands represent a trail linkage between Sandy Pool Regional Park and Inwood Creek Park (as part of the Sahtlam Greenway Trail). Per the Parks & Trails Division referral comments, additional information on the proposed park land may be necessary (*e.g. the area of the P-2 Zoned lands that are not within the covenant area (roughly 7 acres.2.8 ha) may not be suitable for park purposes*). Lands not suitable for park purposes could be incorporated within the proposed subdivision.

Additional Information:

Based on the feedback received during the initial referral process, additional information may be required. The Board may direct that these items be resolved prior to advancing bylaws. These items could include:

1. A lot consolidation to ensure that the TLC covenanted lands are transferred to the CVRD in advance of any further development/subdivision;
2. Contributions to the Electoral Area F community parks statutory reserve fund and/or Fire Rescue Services;
3. A revised subdivision plan to demonstrate substantial compliance with DPA 1 (Riparian Protection), DPA 2 (Sensitive Ecosystem Protection) and DPA 4 (Aquifer Protection) design guidelines, including:
 - a. Modifications to minimize crossings of riparian areas and maximize the distance between roads and riparian areas.
 - b. Modifications to minimize the number of proposed non-contiguous lots bisected by riparian areas.
 - c. A revised map clearly differentiating TLC covenanted areas, P-2 Zoned Areas, Natural Boundaries of watercourses, Streamside Protection and Enhancement Areas (SPEAs), stream crossings, and proposed road networks.
 - d. Setback information related to wells and septic discharge areas as set out in Island Health's Subdivisions Standards;
 - e. Confirmation from a qualified BC Land Surveyor ([ABCLS](#)) of the minimum lot sizes (1 ha) after removal of the SPEAs associated with wetlands, watercourses and streams;
4. Confirmation from a qualified environmental professional (QEP) that:
 - a. The revised subdivision plan will have no adverse effect on the natural features, functions and conditions that support fish life processes in the 30.0m riparian assessment area (*where a non-contiguous lot (bisected by riparian areas) is*

unavoidable, recommendations from a QPE shall be provided to ensure that the development will not harm natural features, functions and conditions in the riparian assessment area).

- b. The revised subdivision plan will have no adverse effect on Western Toad Habitat.
5. Conceptual site plans showing building envelopes within allowable footprints, driveway access, Sewerage & water infrastructure, and parking areas;
6. Details on the proposed parkland dedication areas, including, topographic and environmental constraints for the 2.8 ha of P-2 Zoned lands that are not within the covenant area.
7. Trail construction standards and locations within the proposed development (to provide connectivity between subdivision blocks and the proposed CVRD/TLC park)

This list will be further refined following the external agency feedback. These and other items may be addressed through a subsequent report to EASC, prior to consideration of bylaw readings.

OPTIONS

Option 1 (Request Information and Refer the Application):

That it be recommended to the Board:

1. That the following additional information be provided to support Application No. RZ23E01 (Appaloosa Way, PID 009-845-119, PID: 009-849-637, and PID: 009-849-581):
 - a. A revised subdivision plan to demonstrate substantial compliance with DPA 1 (Riparian Protection), DPA 2 (Sensitive Ecosystem Protection) and DPA 4 (Aquifer Protection) design guidelines, including:
 - i. Modifications to minimize crossings of riparian areas and maximize the distance between roads and riparian areas.
 - ii. Modifications to minimize the number of proposed non-contiguous lots bisected by riparian areas.
 - iii. A revised map clearly differentiating TLC covenanted areas, P-2 Zoned Areas, Natural Boundaries of watercourses, Streamside Protection and Enhancement Areas (SPEAs), stream crossings, and proposed road networks.
 - iv. Setback information related to wells and septic discharge areas as set out in Island Health's Subdivisions Standards;
 - v. Confirmation from a qualified BC Land Surveyor ([ABCLS](#)) of the minimum lot sizes (1 ha) after removal of the SPEAs associated with wetlands, watercourses and streams;
 - b. Confirmation from a qualified environmental professional (QEP) that:
 - i. The revised subdivision plan will have no adverse effect on the natural features, functions and conditions that support fish life processes in the 30.0m riparian assessment area (*where a non-contiguous lot (bisected by riparian areas) is unavoidable, recommendations from a QPE shall be provided to ensure that the development will not harm natural features, functions and conditions in the riparian assessment area).*
 - ii. The revised subdivision plan will have no adverse effect on Western Toad Habitat.
 - c. Conceptual site plans showing building envelopes within allowable footprints, driveway access, Sewerage & water infrastructure, and parking areas.

-
- d. Details on the proposed parkland dedication areas, including, topographic and environmental constraints for the 2.8 ha of P-2 Zoned lands that are not within the covenant area.
 - e. Trail construction standards and locations within the proposed development (to provide connectivity between subdivision blocks and the proposed CVRD/TLC park).
2. That on receipt of the additional information, Application No. RZ23E01 (Appaloosa Way, PID 009-845-119, PID: 009-849-637, and PID: 009-849-581), be referred to the following external agencies and First Nations:
- a. Cowichan Tribes;
 - b. Lake Cowichan First Nation;
 - c. Penelakut Tribe;
 - d. Halalt First Nation;
 - e. Lyackson First Nation;
 - f. Stz'uminus First Nation;
 - g. Ministry of Transportation & Infrastructure;
 - h. Ministry of Forests;
 - i. Ministry of Environment and Climate Change Strategy;
 - j. Electoral Area E – Parks Advisory Commission (PAC);
 - k. Ministry of Water, Land and Resource Stewardship;
 - l. BC Hydro;
 - m. Electoral Area E –Advisory Planning Commission (APC); and
 - n. The Land Conservancy,


Option 2 (Request Additional Information):


That it be recommended to the Board that the preliminary staff report for Application No. RZ23E01 (Appaloosa Way, PID 009-845-119, PID: 009-849-637, and PID: 009-849-581), be referred back to staff for the following information [*requested information to be provided by the Board*], prior to further consideration.

Option 3 (Deny): That it be recommended to the Board that Application No. RZ23E01 (Appaloosa Way, PID 009-845-119, PID: 009-849-637, and PID: 009-849-581), be denied, [*specific reasons to be identified by the Board*].

Prepared by:

Reviewed by:


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Reviewed for form and content and approved for submission to the Committee:

Resolution:

Corporate Officer

Financial Considerations:

Chief Financial Officer

ATTACHMENTS:

Attachment A – Rationale Letter

Attachment B – Additional Rationale

Attachment C – Conceptual Subdivision Plan

Attachment D – Internal Referral Responses

Attachment E – Environmental Report

Attachment F – Existing Covenant

Attachment G – Development Permit No. DP23E05

APPALOOSA WAY

Zoning Bylaw Amendment



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Date:

August 29, 2023

Submitted To:

Cowichan Valley Regional District
Development Services Department
175 Ingram Street
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V9L 1N8

1 Overview

This application is to amend the Area E Zoning Bylaw No. 1840 to support subdivision of the remaining parcels in the R-5 Comprehensive Development Residential Zone. Due to several factors described in Section 7 of this report, an amendment to subsection 8.9 (c) (6) regarding the transfer of one of every four lots to the Regional District is proposed. An adjustment to the P-2 zoning boundary is also proposed.

2 Location & Context

The proposed subdivision is accessed from both Belvedere Crescent and Appaloosa Way in Area E (Sahtlam). The subject property consists of three titles (PID 009-845-119, 009-849-581, 009-849-637) comprising a total of 149.7 acres.

A single parcel of F-1 borders the property to the east. North of the property consists of 2.5 to six-acre parcels that were previously subdivided under the R-5 Comprehensive Development Zoning. River Corridor RC-1 parcels border the property to the south that are generally undeveloped.

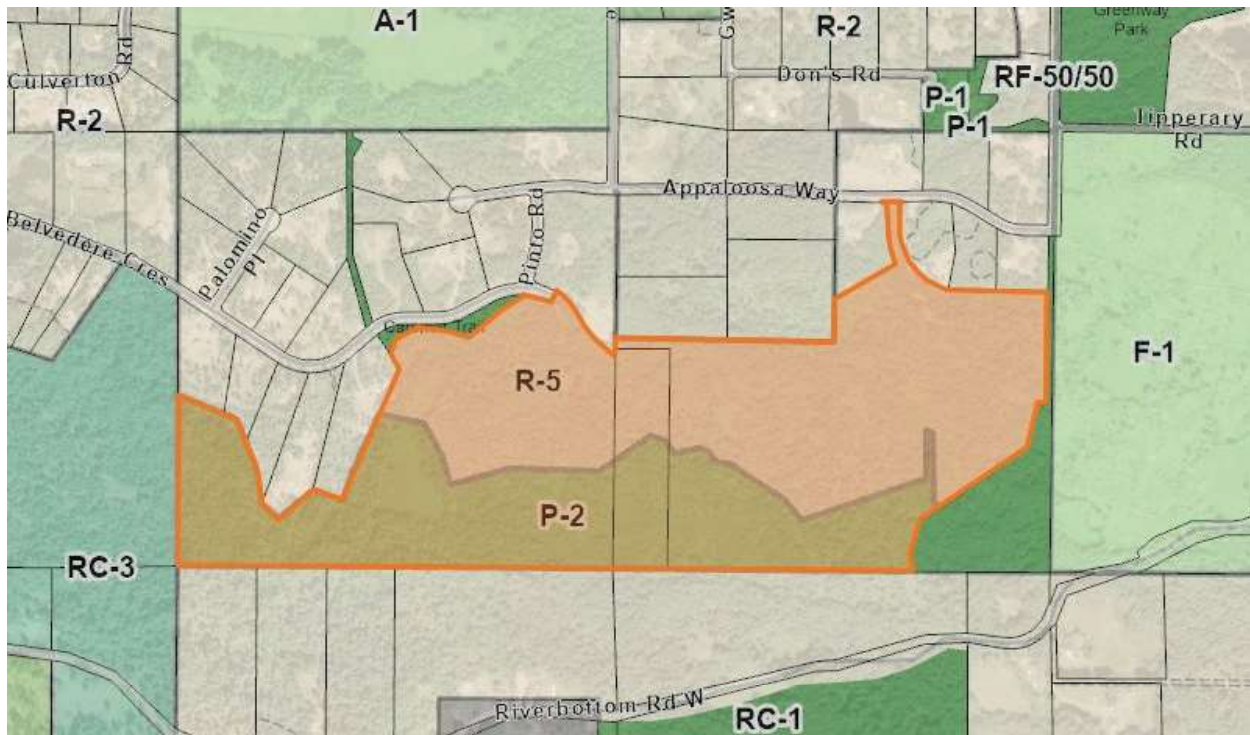


Fig. 1: Project Location

3 Subdivision Plan

A conceptual subdivision plan has been included with this application. The plan was developed to adhere to the R-5 zoning requirements and Section 12 of the Zoning Bylaw.

A substantial amount of riparian area is contained within the subject property. The subdivision plan adheres to the Riparian Area Protection Regulations including the calculated allowable footprint of a site containing riparian areas.

Changes to the conceptual Subdivision Plan are expected prior to submission for Preliminary Layout Approval to address further limitations on developable land imposed by the Riparian Protection Development Permit requirements and Island Health requirements.

Input from the Regional District into trail corridors is welcome should this subdivision be supported.

An extension to Belvedere Crescent and two additional cul-de-sac roads are proposed.

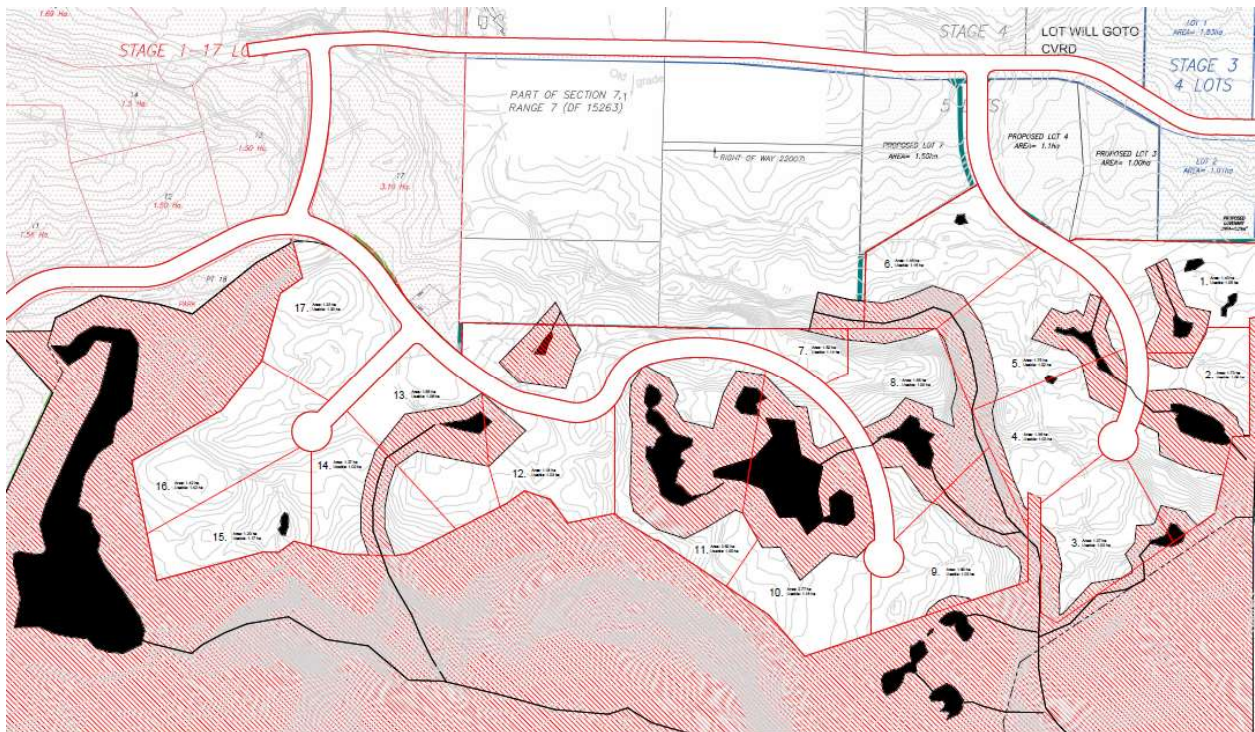


Fig.2: Preliminary Subdivision Plan indicating SPEA

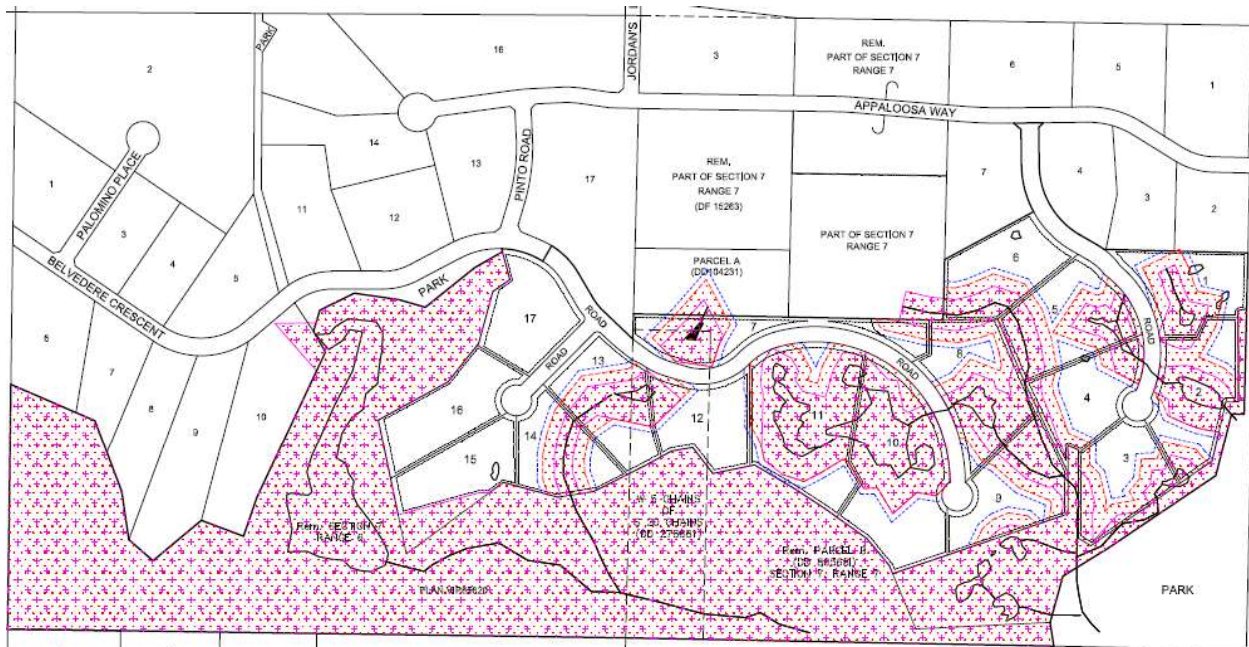


Fig.3: Preliminary Subdivision Plan indicating Riparian Protection Development Permit Setbacks

4 Land Use Policy

The subject properties are currently designated as Rural Residential and Parks in the Official Community Plan. The proposed subdivision is intended to maintain the rural character associated with the Rural Residential designation while supporting the respective goals and complying with the policies of the Official Plan, Area E Local Plan, and Sahtlam Neighborhood Plan.

The subject property falls under four development permit areas:

- Development Permit Area 1: Riparian Protection
- Development Permit Area 2: Sensitive Ecosystem
- Development Permit Area 4: Aquifer Protection
- Development Permit Area 5: Wildfire Hazard

A preliminary environmental report has been included with this application for information only. If this development is pursued, an updated report will be submitted to the Ministry of Environment and Climate Change to fulfill the requirements of the Riparian Area Protection Regulations, and to the Regional District to support the DP 1&2 requirements. Aquifer and wildfire DP requirements will also be addressed at this time.

It is the intention of DU-APP GP Ltd. to propose, discuss and incorporate measures during the subdivision and development permit process to address policies in the OCP that apply to the land use designation (e.g. minimize reliance on groundwater for irrigation purposes, encourage rainwater harvesting, minimize impervious surfaces).

5 Current Zoning

The south portion of the property is zoned P-2 River Corridor Conservation and coincides with a Land Conservancy of British Columbia (TLC) covenant (59 acres). The remaining portion of the property (84 acres) is zoned R-5 - Comprehensive Development Residential. This unique zone was established to support the development of what is now Saddle View Estates and the remaining parcels that are the subject of this application.

There is a discrepancy between the P-2 zone and the TLC covenant. The Subdivision Plan was developed in recognition of both the P-2 zone and TLC covenant.

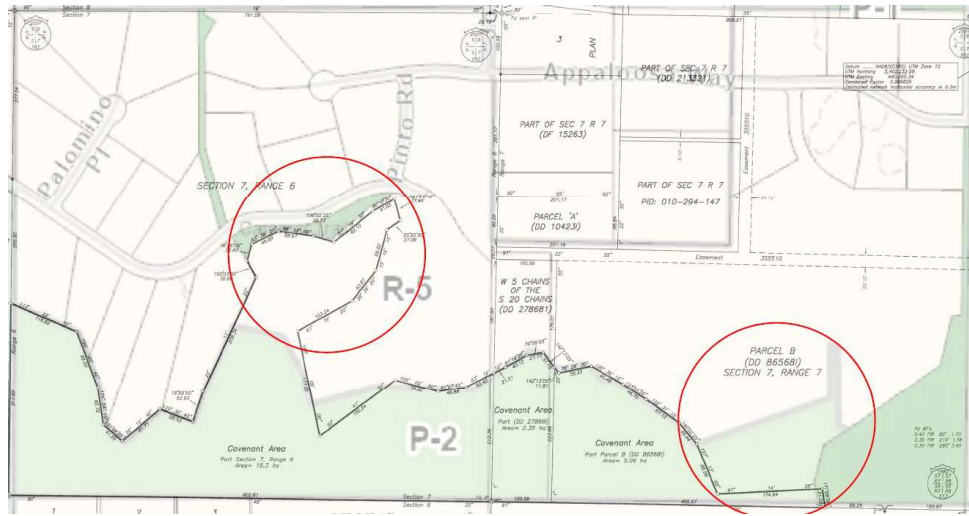


Fig.4: P-2 and Covenant Discrepancies

6 Zoning Amendment

The proposed Subdivision Plan was developed to comply with the Zoning Bylaw. No changes are being requested that impact density, lot area or dimensions. Two amendments are proposed:

- 1) The deletion of Subsection 8.9 (c) (6) and subsequent references to the lot transfer:

(6) In respect of each 4 parcels created in excess of 22, one of the parcels must be transferred to the Regional District in fee simple for nominal consideration, free and clear of all encumbrances of a financial nature, including mortgages, assignments of rents, options to purchase and rights of first refusal, and all other encumbrances including any statutory building scheme not specifically approved in writing by the Regional District, to be used for the purposes set out in Section 8.9(c)(10), and the costs of transfer including the Regional District's actual, reasonable legal costs must be paid by the subdivider.
- 2) Adjustment to Schedule B, *Consolidated CVRD Electoral Area E - Cowichan Station/Sahtlam/Glenora Zoning* map to extend the P-2 boundary in the north west of the property to coincide with the TLC boundary, without retracting the P-2 boundary in the south east. This will result in a net increase in P-2 of approximately seven acres.

7 Rationale

The R-5 Comprehensive Development Residential Zone was established to facilitate subdivision. Two factors have since been introduced that have a drastic impact on the number of lots that can be subdivided:

- 1) Subsection 12.12 of the Area E Zoning Bylaw was amended to remove wetland area from the usable land calculation, thus reducing lot yield. This resulted in a reduction of the calculated useable land by approximately 30%.
- 2) Riparian development permit requirements were introduced (i.e. AR 9&10), that create setbacks based on the Riparian Assessment Area and are over and above the requirements of the zoning bylaw and RAPR. While this does not factor into the useable land calculation referenced above, it imposes setbacks that are generally an additional 10-20 m beyond those imposed by the zoning bylaw and RAPR, posing challenges to accommodating roads, driveways, build sites and septic fields, and ultimately reducing lot yield.

The lot transfer was created to provide funding to Area E parks or the Sahtlam fire department. The two factors listed above were created to protect sensitive riparian areas. In combination, they prevent financially viable subdivision in a comprehensive development zone that was established to facilitate such development.

No change to Subsection 12.12 is being sought to maintain the environmental integrity of the development. However, modification of Subsection 12.12 to support this development is welcome, as well as discussion around other environmental protection measures, park dedication, land improvements and financial contribution.

The proposed amendments produce additional park land and support the intent of Subsection 8.9 (c) (6). Additionally, trails can be incorporated into the development with the R-5 and P-2 areas, in collaboration with the Regional District and community.

The proposed zoning amendments would facilitate the development of the last remaining undeveloped parcel in the R-5 zone, and consequently the transfer of the TLC covenant lands to the CVRD. The transfer of lands would take place once and increase in number of lots from the current three titles is registered at the land titles office upon final subdivision approval.

The community would benefit from additional park and trails and a modest increase in housing supply at a time when housing supply is limited.

8 Summary

Changes to the Zoning Bylaw (e.g. Subsection 12.12) and the Development Permit Area requirements (e.g. RP-AR 9&10) have created the condition where subdivision is not financially viable when 25 percent of the lots must be transferred to the Regional District.

The proposed zoning bylaw amendments will facilitate the subdivision of the remaining parcels of land for which the R-5 Comprehensive Development zoning was created for while creating an additional seven acres of park.

The environmental integrity of the subdivision will be maintained through adherence to Subsection 12.12 of the Zoning Bylaw and development permit requirements, with opportunity to address additional OCP policies related to environmental and aquifer protection during the subdivision and development permit process.

Subdivision of the subject property will result in the transfer of all P-2 zoned land to the CVRD with opportunity for land improvements (e.g. trails).

Thank you for your consideration of this application and we look forward to continued discussion and a deeper understanding of the needs and priorities of the community and Regional District in relation to this last remaining undeveloped portion of the R-5 Comprehensive Development zone.

Sincerely,

A handwritten signature in black ink, appearing to read 'Guy Bouchard', is positioned above a horizontal blue line.

Guy Bouchard (Aug 29, 2023 14:55 PDT)

Guy Bouchard
President
Top Down Investments Inc.



November 6, 2023

Richard Buchan
Planner III
Development Services Division
Land Use Services Department
Cowichan Valley Regional District

Re: Additional Rationale for Appaloosa Way/Belvedere Crescent Zoning Bylaw Amendment (File No. RZ23E01)

On behalf of DU-APP GP Ltd. we would like to offer this letter of additional rationale to support the proposed zoning bylaw amendment.

History

Top Down Investments Inc. (via DU-APP GP Ltd.) purchased these properties from the previous developer, Carramar Holdings, in early 2022. This property was marketed as a 23-lot subdivision. Although the requirement to transfer 25% of the parcels in excess of 22 was provided in the sales package, it was not made clear that most of the developer's commitment to parkland dedication and lot transfers were pushed off to this last phase. The purchase was made in good faith only to realize that pertinent information regarding the status of the development was not made available. We have been working on this development for almost two years trying to find a balance between previous commitments that were made and financial viability of development.

It is our conclusion that today's costs far exceed the amount needed to see this project through under the current regulatory environment. It is our intention in this report to showcase the time and effort that has gone into the exploring many different options and scenarios, and the constraints that have led to our request for the zoning amendment to remove any further lot transfer, aside from the approximately 27 hectares of current and proposed parkland.

Subdivision Plan Background

The subdivision plan that was included with the zoning bylaw amendment application is conceptual in nature and requires further refinement before being submitted to the Ministry of Transportation and Infrastructure for preliminary layout review. If the general concept of the subdivision is supported by the Regional District via the zoning amendment, the activities outlined in this letter will be undertaken to prepare a subdivision application to the MOTI and respective development permit application to the Regional District.

The only physical constraint that had a major impact on the site plan is the network of riparian area. The main factors that influenced the plan are:

- Minimum lot size of 1 ha per Section 8.9 C) of the Zoning Bylaw, after removal of the SPEA per Section 12.12 of the Zoning Bylaw.
- Minimum lot size for properties serviced by private water supplies, as set out in Table B of Island Health's Subdivision Standards.

- Allowable footprint in each lot after removal of the SPEA as to not create undue hardship per subsection 11 3) of the Riparian Area Protection Regulations.

The site plan was developed to meet the DPA1 requirements for subdivision (RP9-13). The site plan shows the Provincial SPEA setback (pink line), the RP9 30m setback (orange line) and additional 7.5m RP10 setback (blue line).

Alternate Concepts – Not Feasible

Protecting sensitive riparian area while maintaining a feasible subdivision is the focal point of this development. Clustering housing away from riparian area was considered, including proposing an amendment to the 1 ha minimum lot size required by the R-5 zone or pursuing a bare land strata. The constraint preventing this concept is Island Health's Subdivision Standard. In the absence of a community water system, the minimum lot size, as set out in the Subdivision Standard, remains 1 ha. The development of a community water system was investigated for the purposes of reducing minimum lot sizes. However, the uncertainty around provincial water licensing and further zoning amendments related to water systems serving less than 50 residential units is an unacceptable risk. Feasibility of common water or sewer systems is also problematic unless density is increased, which is not supported by the Official Community Plan. The result is riparian area incorporated into the proposed lots for the sake of achieving Island Health's minimum lot size in the absence of common water and sewer systems.

While many of the proposed lots include wetlands, they are well protected by a 37.5m setback (RP9 + RP10). Protective measures during development are set out in the Environmental Report. Restrictive covenants can be placed on the sensitive areas for long term protection, as well as other physical measures (e.g., fencing and signage), to be addressed through the development permit process.

As proposed, approximately 80% of the total 60.6 hectares of property will be protected through park dedication and RAPR / DPA1 setbacks (and potentially restrictive covenants, if required for development permit approval).

Alternate Concepts – Feasible

Without changes to the OCP, Zoning Bylaw, and Works and Services bylaw to support clustered, high density development with common water and sewer system, there are two other feasible concepts:

- 1) An amendment to Section 12.12 to include the SPEA in the minimum lot size calculation would create a larger lot yield. This was not specifically requested in the proposed zoning bylaw amendment because of concerns around environmental integrity. We feel environmental integrity can still be maintained through the DPA1 setbacks, reinforced through restrictive covenants, fencing, signage and other measures to be addressed through the development permit process.
- 2) Re-structuring the existing three parcels such that they are all accessible would create three sellable estate lots. A frontage variance would be required but no zoning amendment would be required. This is not our preferred concept and feel it is not the intent of the R-5 Zone.

Additional Constraints to be Addressed During Subdivision

The setbacks related to wells and septic discharge areas, as set out in Island Health's Subdivision Standards, have not yet been considered on an individual lot basis. Changes to the conceptual

Subdivision Plan are expected when percolation and monitoring holes are dug. Changes are generally expected to be minor in nature but lot lines are expected to move and total lot yield to decrease.

Most of the proposed lots will be able to accommodate building sites, driveways, wells, and septic discharge areas while maintaining the setbacks imposed by RP9 & 10. However, some instances are anticipated where encroachment into the RP9 & 10 setbacks may be necessary to accommodate the building, driveway, well or septic. These instances will be addressed through the development permit process and will likely involve restrictive covenants, fencing, and signage where RP9 & 10 setbacks cannot be achieved and additional protective measures are required to meet the intent of DPA1. In no instance will there be encroachment into the SPEA. In no instance will there be a septic discharge area within 30m from the highwater mark. For the few instances where RP9 & 10 are not fully complied with, there will be a development permit with supporting rationale from a QEP that describes the justification for the departure, identifies acceptable alternative measures taken to ensure the intent of DPA 1 is maintained, and confirms that the project as a whole substantially complies with CVRD guidelines.

The Environmental Report identified several small wetlands that are not RAPR eligible. The area of these water bodies are considered negligible compared to the tolerances used for creating the conceptual subdivision plan and have not been factored in to area calculations. Prior to submission of the subdivision plan to MOTI and the respective development permit application to the Regional District, these areas will be surveyed, areas calculated, and setbacks indicated in accordance with Subsection 5.18 of the Zoning Bylaw.

Area E and F Benefit

Regarding the loss of the lot transfers to Area E and F, we feel this development has a wide enough community benefit that can be accessed by both Area E and F residences to justify the removal of said clause. We are open to discussing the construction of trails as part of the development, however, more details on the length and type of trails would need to be discussed further before commitments can be made.

Sale of PID 009-845-119 & Relocated Homes

The feasibility of this development is uncertain, pending the outcome of the proposed zoning amendment. One title was put up for sale to test the market for an estate lot. As previously mentioned, this is not the preferred path forward. There are no immediate plans to sell any of the existing lots. Notice will be provided if a sale of any of the existing lots is planned.

Relocating homes that are surplus from another project was another concept being entertained but there are no immediate plans to do so.

The Land Conservancy of British Columbia Engagement

The Land Conservancy was only recently contacted to communicate the development plans. No response has been received. We will keep you informed of any correspondence with TLC.

Summary

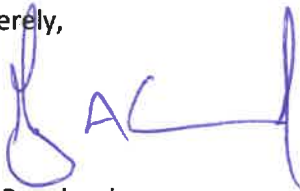
It is our opinion that the mutually beneficial outcome for the community, Regional District and developer is the Zoning Bylaw be amended as proposes so we can move forward with the proposed

subdivision. Subdivision would immediately trigger the transfer of all P2 land to the Regional District. The local community (i.e., Area E and F) would benefit from the additional park land and potential creation of a trail system and registration of restrictive covenants over environmentally sensitive areas.

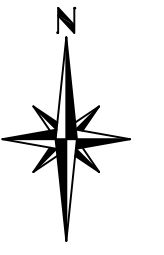
The alternative is that the zoning amendment is not approved, this development does not move forward, park land is not transferred to the Regional District. The properties will remain in private ownership and subdivision would rely on the desire for the owners (either current or future) to navigate this process at a future date.

We understand the challenges of managing growth while protecting our natural environment and watershed. We look forward to progressing this conversation and remain committed to the desired outcome for the community and environment.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Guy Bouchard', is written over the typed name.

Guy Bouchard
President
Top Down Investments Inc.



**PROPOSED
SUBDIVISION**

DU-APP GP LTD.

PARCEL B (DD86568) OF
SECTION 7, RANGE 7, SAHTLAM
DISTRICT, EXCEPT PART IN
PLAN EPP18482, EPP26101
AND EPP67975

SECTION 7, RANGE 6, SAHTLAM
DISTRICT, EXCEPT PART IN
PLAN EPP18482

THE WEST 5 CHAINS OF THE
SOUTH 20 CHAINS, SECTION 7,
RANGE 7, SAHTLAM DISTRICT,
OUTLINED IN RED ON
PLAN DD 278681

ADDRESS : APALOOSA WAY,
DUNCAN, B.C.
PROJECT SURVEYOR : D.W. HOLME
DRAWN BY : CDB DATE : AUG. 8/23
OUR FILE : 90625 REVISION :

JEA J.E. ANDERSON
& ASSOCIATES
SURVEYORS - ENGINEERS
1A - 3411 SHENTON ROAD, NANAIMO, B.C. V9T 2H1
TEL: 250 - 758 - 4631 FAX: 250 - 758 - 4680
E-MAIL: nanamot@jeanderson.com
NANAIMO - VICTORIA - PARKSVILLE - CAMPBELL RIVER

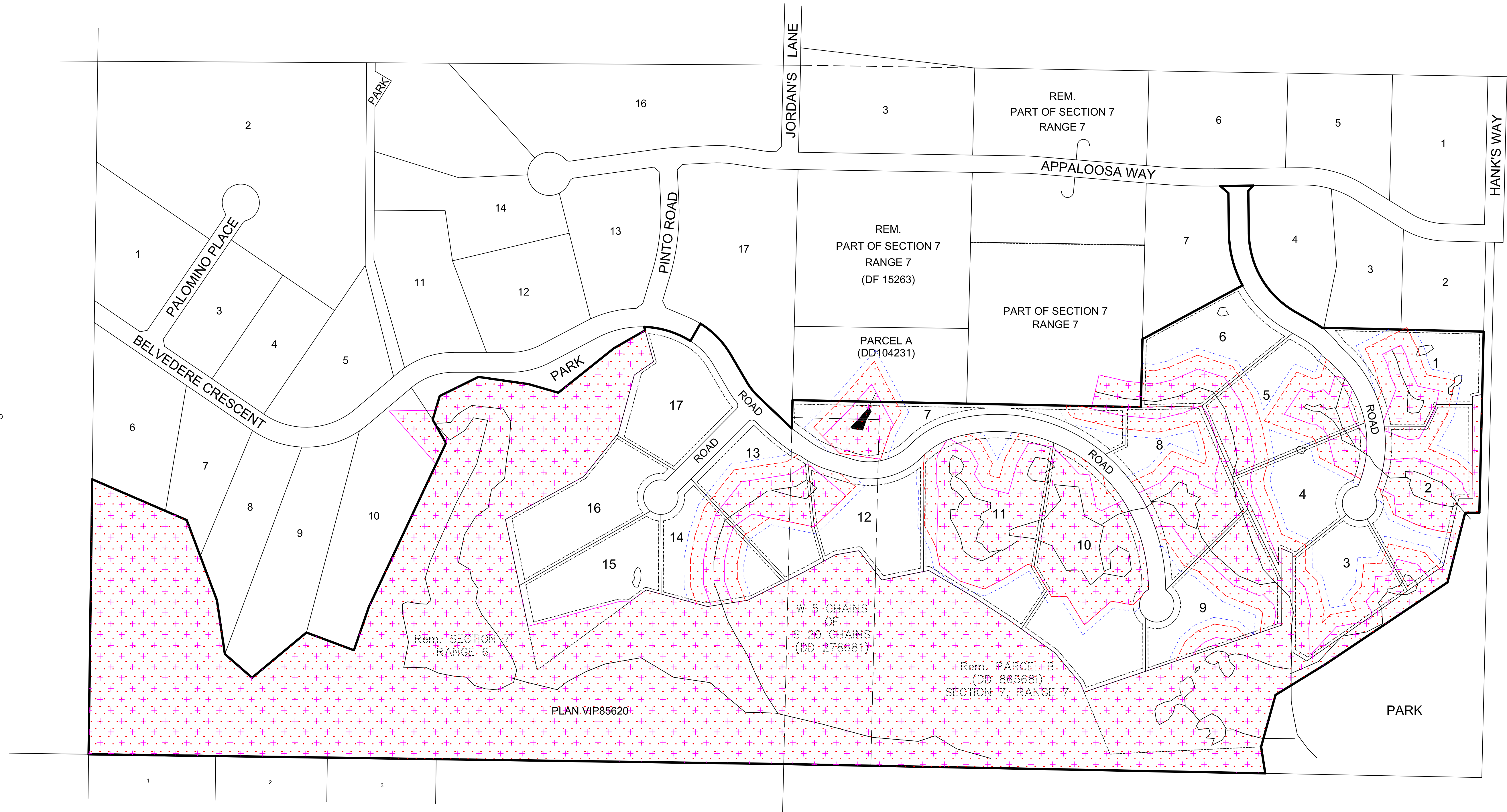
LEGEND

ALL DIMENSIONS ARE IN METRES
SUBJECT TO CHARGES SHOWN
ON TITLE NO. CBS19066
(P.I.D. 009-849-637)
ON TITLE NO. CBS19068
(P.I.D. 009-845-119)
ON TITLE NO. CBS19067
(P.I.D. 009-849-581)

DIMENSIONS ARE DERIVED FROM
LAND TITLE OFFICE RECORDS
THIS PLAN HAS BEEN PREPARED IN
ACCORDANCE WITH THE PROFESSIONAL
REFERENCE MANUAL

- CVRD ZONING SETBACK
- STREAMSIDE PROTECTION AND
ENHANCEMENT AREA (SPEA)
- RIPARIAN ASSESSMENT AREA
- 7.5 METRE RP10 SETBACK

LOT	AREA	USEABLE AREA
1	1.40 ha	1.05 ha
2	1.73 ha	1.00 ha
3	1.37 ha	1.03 ha
4	1.36 ha	1.03 ha
5	1.75 ha	1.02 ha
6	1.46 ha	1.16 ha
7	1.52 ha	1.14 ha
8	1.85 ha	1.00 ha
9	1.60 ha	1.03 ha
10	2.77 ha	1.18 ha
11	2.62 ha	1.00 ha
12	1.18 ha	1.03 ha
13	1.55 ha	1.06 ha
14	1.27 ha	1.02 ha
15	1.20 ha	1.17 ha
16	1.42 ha	1.42 ha
17	1.33 ha	1.33 ha





REFERRAL RESPONSE FORM

COWICHAN VALLEY REGIONAL DISTRICT
 175 Ingram Street, Duncan, B.C. V9L 1N8
 Tel: 250.746.2620 | Fax: 250.746.2621

CVRD File No.:	RZ23E01 (Appaloosa)
Application Type:	Rezoning
Subject Property:	PID:009-845-119 (66.75 acres), PID: 009-849-637 (72.98 acres), and PID: 009-849-581 (10.00 acres).
Proposal:	The purpose of this report is to present an application to amend the Density Bonusing Provisions of the R-5 – Comprehensive Development Residential Zone
Planner Assigned to File:	Richard Buchan, Planner III
Parks & Trails Division <i>Tanya Schroeter</i>	<p><input checked="" type="checkbox"/> Application supported subject to the recommendations outlined below.</p> <p><i>With respect to our Division's goals/interests, we offer the following comments:</i></p> <ul style="list-style-type: none"> • The Covenanted (Land Conservancy of B.C.) lands represent an important trail linkage between Sandy Pool Regional Park and Inwood Creek Park (as part of the Sahtlam Greenway Trail). Since there is no mechanism in the existing Land Conservancy Covenant to transfer these lands to the CVRD, there may be some merits to re-negotiating aspects Park Amenities to include the transfer of these lands; however, as there are considerable changes to the amenity contributions (parks) from the initial rezoning of the property, the application should be referred to the Electoral Area E Park Advisory Commission for comment. • The Electoral Area E Park Advisory Commission may recommend that the Board request additional information on the proposed park land. For instance, P-2 Zoned land that is not contained within the covenant may require further evaluation for inclusion into the proposed community park. Lands not suitable for park purposes could be incorporated within the proposed subdivision. • There is currently no Park Advisory Commission for Electoral Area F for this application to be referred to so a decision will need to be made at the Board in regards to both electoral areas • Under the existing Density Bonusing Provisions, 2 lots have been received and 4 additional lots were expected to be transferred to the CVRD Parks & Trails Division to be sold with the proceeds to be split 50/50 between Electoral Area E and Electoral Area F. Based on the applicant's anticipated density, only 3 additional lots are anticipated at this time; however, the request before the Board is that none of these lots be required: <ul style="list-style-type: none"> ○ While the applicant's proposal to provide parkland in lieu of lots may have a benefit for Electoral Area E, nothing would be provided to Electoral Area F community parks function. ○ Following input from the Electoral Area E Advisory Parks Commission, the Board may wish to direct the Parks & Trails Division to seek a contribution towards the Electoral Area F

	<p>community parks capital reserve fund for their portion in lieu of the remaining lots.</p>
<p>Emergency Management Division Robb Schoular</p>	<p><input checked="" type="checkbox"/> Application supported for the reasons outlined below.</p> <ul style="list-style-type: none"> • <i>The proposed application is dropping a land contribution from 4 additional lots to 0 lots being turned over to the CVRD for either Parks or Fire Dept usage</i> <ul style="list-style-type: none"> ○ <i>For the six lots that were anticipated, we understand that:</i> <ul style="list-style-type: none"> ▪ <i>1 lot was provided to the Sahtlam Fire Department (which has been sold, and the proceeds have been used for the provision of fire protection services).</i> ▪ <i>The remaining 5 lots were to be split 50/50 between Area E and Area F parks. One of these 5 lots have been received.</i> • <i>If the CVRD Board advances this application and directs staff to negotiate contributions to statutory reserve funds in lieu of lots, Fire Rescue Services would welcome additional contributions to the Sahtlam Fire Protection Service Area statutory reserve fund.</i> • <i>In light of the potential firehall relocation study that is being considered in conjunction with the Paldi development, additional contributions to the statutory reserve fund could help to offset the construction costs of a firehall or fire infrastructure.</i> • Development Services Division Note: <i>For context, the Paldi development requires the developer (of the Paldi lands) to provide a fire servicing review for the area. The applicant of on the Paldi lands is in active discussions with the CVRD to satisfy the covenant requirement. The CVRD intends to review the area, and there is the potential that the review may recommend more fire protection infrastructure. However, until the review is complete future servicing needs are unknown.</i>
<p>Community Planning Division Lauren Wright</p>	<p><input checked="" type="checkbox"/> Application supported subject to the recommendations outlined below.</p> <p>The parcel is regionally designated residential and locally designated rural residential.</p> <p><i>The following policies are in line with the proposal:</i></p> <ul style="list-style-type: none"> • Policy 4.10.2 (1) - Encourage innovative housing and subdivision designs such as clustered residential developments, particularly for sloped upland areas; the Regional District will provide flexibility in regulatory bylaws. • Cowichan/Koksilah LAP: Objective 2.9.1 – [...] parcel sizes should range from 2-5 ha within residential development not to exceed one principal dwelling per parcel. • Policy 2.9.2 (3) Encourages small footprints and clustering of buildings. <p>It is noted that there are environmental constraints that may limit the number of parcels that can ultimately be achieved through subdivision. Although the OCP supports clustered developments, these clusters should be sited so that the riparian areas are not negatively impacted by the surrounding development. The preliminary subdivision plan shows many of the proposed parcels to be encumbered by riparian areas, which ultimately does not preserve the integrity of this sensitive environment.</p>

	<p>This layout should be reviewed in accordance with the policies and guidelines of DPA 1 (Riparian Protection), DPA 2 (Sensitive Ecosystem Protection) and DPA 4 (Aquifer Protection).</p> <p>Note: it appears that a one of the parcels (PID 009-845-119) is listed for sale, independent of the other parcels subject to this application. In order for the application to be considered, the subject properties should be consolidated as a condition of approval of rezoning.</p>
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KIMBERLEY · VICTORIA · CALGARY

ENVIRONMENTAL REPORT

for Zoning Amendment Application

of Parcel B Appaloosa Way, Duncan, BC

August 2023

REPORT COMPLETED FOR:

Top Down Investments
Suite 106, 225 Canada Avenue
Duncan, BC V9L 1T6

REPORT COMPLETED BY:

Asio Environmental Consulting Inc.
6 – 100 Sullivan Drive
Kimberley, BC V1A 0A7

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1 INTRODUCTION

Parcel B Appaloosa Way (the property) is an assembly of three parcels in the Sahtlam Area, west of Duncan, BC. The property details are provided below in Table 1.

TABLE 1. PARCEL B APPALOOSA WAY PROPERTY DETAILS

PID	SIZE	DETAILS/NOTES
PID:009-845-119	66.75 acres	Western most parcel. Contains existing historical roads. A large portion of this parcel, surrounding the largest wetland, is designated as a covenant for the Nature Conservancy.
PID: 009-849-581	10.00 acres	Middle parcel. The southern half of this parcel is within the NCC covenant.
PID: 009-849-637	72.98 acres	Eastern most parcel. A portion of the southern part of this parcel is within the NCC covenant.

The property is currently zoned as R-5 within the Cowichan Valley Regional District (CVRD) Electoral Area E - Cowichan Koksilah/Quw'utsun Xwulqw'selu. The property is currently undeveloped. A series of overgrown historical logging roads criss-cross the property. The property is forested and contains a complex stream and wetland network.

The owner is planning to develop the property into residential lots. Details of the development options are discussed in the accompanying Development Report by Asio. This document addresses the requirements in Schedule C of Bylaw No. 4270 and provides an assessment on the environmental conditions on the property, potential impacts of the proposed development, and recommendations on the protection of environmentally sensitive features and methods to minimize impacts of the proposed development. The activities considered as part of the preliminary development of the property are: road-building, building site preparation, lot servicing, and installation of utilities.

A Riparian Areas Protection Regulation (RAPR) assessment has been completed for the wetland and watercourses on the property. Once the development plans are finalized, the RAPR assessment will be finalized and will be submitted to the province for approval in support of the Riparian Development Permit Applications to the CVRD for development of the property.

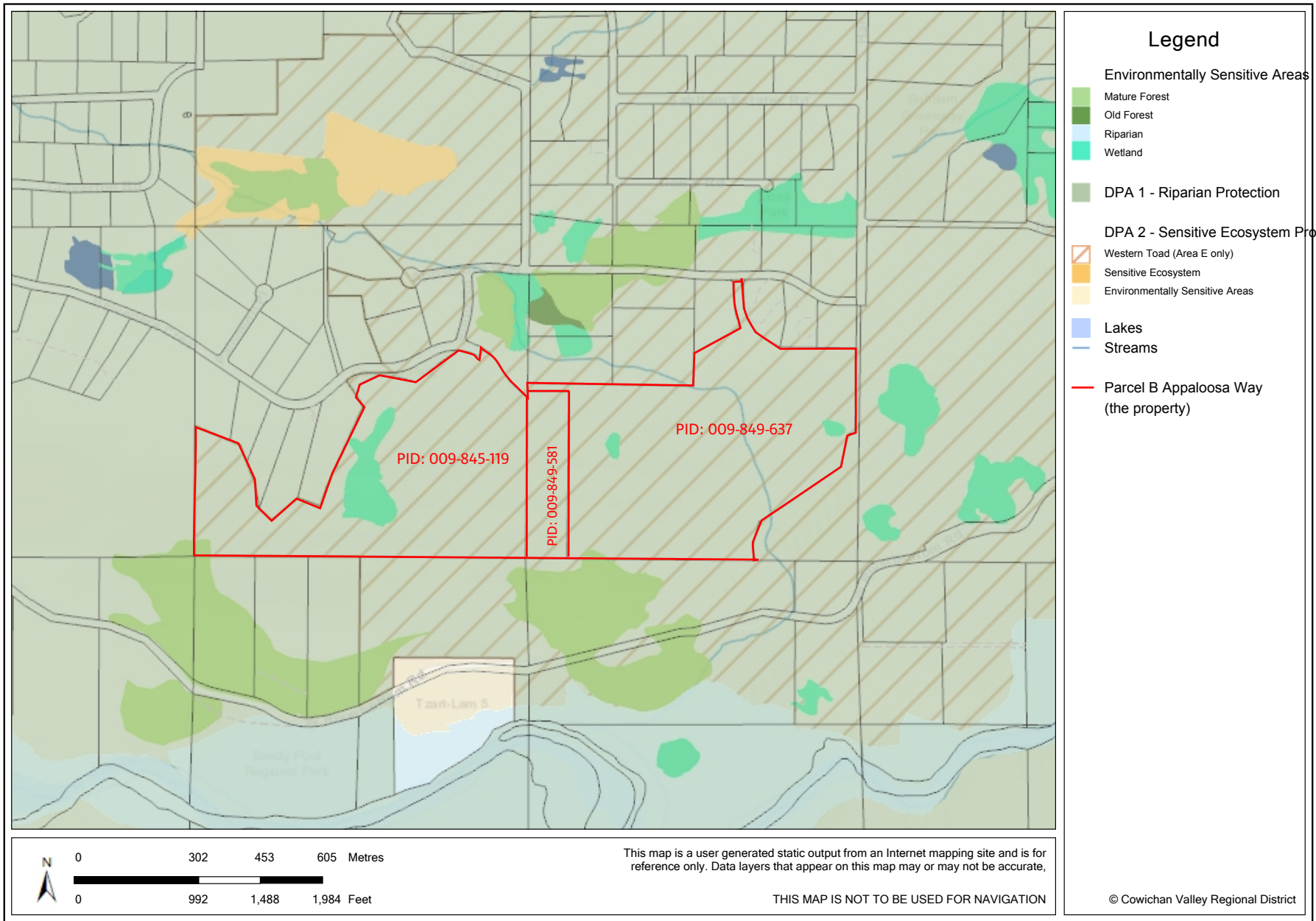
2 DEVELOPMENT PERMIT AREAS

The property is located within the CVRD, specifically within Electoral Area E. The property is overlapped by four CVRD development permit areas (DPAs): riparian, sensitive ecosystems, aquifer protection and wildfire hazard. This report will address the riparian and sensitive ecosystem DPAs.

Figure 1 shows the environmental DPAs overlapping the property and Table 1 outlines the primary considerations pertinent to this development. The designation and objectives of these DPAs are summarized below and can be found in full in Section 14.5 of the CVRD Official Community Plan (CVRD 2021a) and Schedule C of the CVRD Development Permit Areas (CVRD 2021b).

TABLE 2. ENVIRONMENTAL DEVELOPMENT PERMIT AREAS FOR PARCEL B APPALOOSA WAY

DPA	KEY REQUIREMENTS
DPA 1: Riparian Protection	<p><u>Subdivision</u></p> <p>RP9. At the time of subdivision, allocate an area at least 30 m in width from the high-water mark of the watercourse or top of ravine bank to be designated in the development permit to remain free of buildings, structures and alterations of land; designate the riparian assessment area in the development permit as an area that must remain free of development; and lay out subdivision parcels accordingly.</p> <p>RP10. Design subdivisions so that all parcels allow for a suitable building envelope and driveway that is set back from the riparian assessment area at least 7.5 m.</p> <p>RP11. Design subdivisions to avoid crossings of riparian areas and to maximize the distance between roads and riparian areas.</p> <p>RP12. Where a crossing of a riparian area is unavoidable, locate and design crossings to minimize the environmental impact.</p> <p>RP13. Design subdivisions to avoid disruption of wildlife corridors in riparian areas.</p>
DPA 2: Sensitive Ecosystem Protection	<p><u>Measures for Protecting Natural Attributes of Sensitive Areas</u></p> <p>SE1. Maintain a minimum 15 m natural buffer adjacent to sensitive ecosystem areas [...]</p> <p>SE2. Include in the environmental site plan measures to maintain connectivity and linkages with adjacent sensitive ecosystems and other habitat areas through the use of corridors and greenways to minimize fragmentation. [...]</p> <p>SE3. Where the development site contains or is adjacent to a natural watercourse a. prevent access to the watercourse by construction activities, except as approved by government agencies having jurisdiction; b. preserve and restore the watercourse to natural condition, including the planting and retaining of vegetation and trees to preserve and protect fish habitat and riparian areas, control drainage and erosion and protect banks; and c. ensure the environmental site plan complies with provisions of the B.C. Water Sustainability Act, Canada Fisheries Act and B.C. Riparian Areas Protection Regulation.</p> <p>SE4. Design and implement a sediment and erosion control plan to protect sensitive ecosystems from silt smothering of low-growing plants where land disturbance is planned or likely.</p> <p>SE5. Where utilities, servicing and infrastructure are required near sensitive ecosystems a. locate these works within sensitive ecosystem areas and associated buffers only where the installation is necessary, such as essential public roads, utilities, public works and pathways, and where there is no other physical alternative, by the determination of the local government; b. manage construction to avoid adverse effects on sensitive ecosystem functions and conditions; c. locate and design installations through the environmental site plan so that sensitive ecosystems can be maintained when adjacent lands are developed; and d. restore and enhance any disturbed sensitive ecosystems to maintain previously existing natural conditions and functions of the sensitive ecosystem.</p> <p>SE6. Use only native plant species where development occurs within or adjacent to a sensitive ecosystem, and do not use invasive plant species as identified by the Invasive Species Council of BC.</p> <p>SE7. Create and implement a plan to control the introduction or spread of invasive plant species. This plan may include removal of invasive species by hand clearing, pruning, mowing, excavation or other appropriate method. Disturbed sites are to be planted with appropriate native species.</p> <p>SE8. Avoid development activities in areas that would disturb wildlife during nesting and breeding seasons. Ensure that wildlife agencies and experts are consulted as necessary to determine the best times and practices for development.</p> <p>SE9. Minimize activities that disturb wildlife, compact or expose soils, or damage native vegetation, such as intensive recreation and livestock grazing. Where such activities are unavoidable, use designs that avoid public and livestock access to sensitive and important ecosystems (e.g., via roads and trails).</p> <p>SE10. Minimize the presence of trails and other crossings within environmentally sensitive areas or sensitive ecosystems.</p>



3 PROVINCIAL AND FEDERAL REGULATIONS

The provincial and federal legislation in Table 2 may apply to the project. Mitigation measures provided later in this report are designed to comply with the applicable legislation as required.

TABLE 3. PROVINCIAL AND FEDERAL LEGISLATION

LEGISLATION	YEAR	SUMMARY	REQUIREMENTS ¹
PROVINCIAL			
Riparian Areas Protection Regulation	2019	Protect the many and varied features, functions and conditions (FCCs) that are vital for maintaining stream health and productivity. In the RAPR, a Streamside Protection and Enhancement Area (SPEA) is defined as “an area (a) adjacent to a stream that links aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential adjacent upland vegetation that exerts an influence on the stream, and (b) the size of which is determined according to this regulation on the basis of an assessment report provided by a qualified environmental professional in respect of a development proposal.”	The RAPR report will be finalized when the development plan is finalized. The report is valid for 5 years, however, any significant changes to the development plan must be reassessed and incorporated.
Water Sustainability Act	2016	Protects the quality of water, fish and wildlife habitat, and the rights of licensed water users. Any activities that result in changes in or about a stream require notification or approval under Section 11	Notification or approval under Section 11 for stream crossings.
Weed Control Act	1996	Designates provincially and regionally noxious weeds (Schedule A). Provides guidelines for noxious weed prevention and management and imposes a responsibility on all land occupiers to control designated noxious plants.	Apply best practices to prevent spread of weeds.
Wildlife Act; Wildlife Amendment Act	1996, 2004	Protects vertebrate animals from direct harm, except as allowed by regulation within B.C. (e.g. hunting, trapping). This includes all active bird nests.	Avoid or mitigate activities that may impact wildlife (see sdxl;fjadkls).
FEDERAL			
Fisheries Act	2019	Prohibits the harmful alteration, disruption or destruction of fish habitat (HADD). Includes, but not limited to, the release of a deleterious substance.	Considered in WSA Section 11 notification/application.
Species At Risk Act (SARA)	2002	Provides legal protection for wildlife and wildlife habitat as designated under Schedule 1 of the Act.	n/a
Migratory Bird Convention Act	1994	Protects migratory birds and nests from indiscriminate harvesting and destruction.	If disturbance of vegetation is to occur during the sensitive nesting period for migratory birds, a pre-disturbance nest survey by a biologist is required.

¹Potentially required for the project activities.

4 SCOPE OF WORK AND METHODOLOGY

Asio Environmental Consulting was engaged to complete an environmental assessment of the property to specifically address the requirements of the development permit areas. Background information was reviewed and site conditions were documented during a field assessment. The following biophysical features were considered in this report:

- Areas of sensitivity, including aquatic ecosystems and riparian areas.
- Areas of habitat and biodiversity values.
- Plant communities and plant species in the area.
- Wildlife presence and wildlife habitat.

The impacts of the riparian disturbance and the future restoration activities on the environmental features were assessed and specific mitigation to reduce any residual impacts have been recommended.

5 DESKTOP REVIEW

A desktop review of existing data was completed to reveal known occurrences of species at risk and fish species on or near the property.

5.1 ECOSYSTEM DESCRIPTION

The property is located within the Moist Maritime subzone of the Coastal Douglas-fir biogeoclimatic zone (CDFmm; Province of BC 2022a). This ecosystem is typically dominated by Douglas-fir trees, with some grand fir, western redcedar, and bigleaf maple. The understory within this zone typically contains salal, dull Oregon-grape, sword fern and red huckleberry (Green and Klinka 1994). A well-developed moss layer is generally present, particularly in riparian areas.

5.2 SPECIES AT RISK

No species or ecosystems at risk occurrence records overlap the property. Nearby occurrences include red-listed ecosystems, red listed species, and blue-listed species (Table 3; BC CDC 2022a).

TABLE 4. SPECIES AT RISK IN THE VICINITY OF THE PROPERTY

ENGLISH NAME	SCIENTIFIC NAME	BC STATUS ¹	FEDERAL STATUS ²
SPECIES AT RISK			
Dun Skipper	<i>Euphyes vestris</i>	Blue	Threatened
Three-way sedge	<i>Dulichium arundinaceum</i>	Red	
ECOSYSTEMS AT RISK			
Black cottonwood - red alder/salmonberry	<i>Populus trichocarpa</i> - <i>Alnus rubra</i> / <i>Rubus spectabilis</i>	Blue	--
Grand fir/dull Oregon-grape	<i>Abies grandis</i> / <i>Mahonia nervosa</i>	Red	
Labrador-tea /western bog-laurel /peat-mosses	<i>Rhododendron groenlandicum</i> / <i>Kalmia microphylla</i> / <i>Sphagnum spp.</i>	Blue	

ENGLISH NAME	SCIENTIFIC NAME	BC STATUS ¹	FEDERAL STATUS ²
Red alder/salmonberry/common horsetail	<i>Alnus rubra</i> / <i>Rubus spectabilis</i> / <i>Equisetum arvense</i>	Blue	
Red alder/slough sedge [black cottonwood]	<i>Alnus rubra</i> / <i>Carex obnupta</i> [<i>Populus trichocarpa</i>]	Red	
Western redcedar / common snowberry	<i>Thuja plicata</i> / <i>Symphoricarpos albus</i>	Red	
Western redcedar / common snowberry	<i>Thuja plicata</i> / <i>Symphoricarpos albus</i>	Red	
Western redcedar / salmonberry	<i>Thuja plicata</i> / <i>Rubus spectabilis</i>	Red	

5.3 FISH OCCURRENCE RECORDS

The only stream that is mapped on the property in the provincial databases is a tributary to the Cowichan River. Several wetland complexes and streams are tributaries to that stream and were mapped as part of this assessment. The new streams are detailed in the Field Results Section below.

The BC HabitatWizard database was searched and there are no occurrence records in the previously mapped stream that crosses the property. The Cowichan River, into which the watercourses on the property flow, has records of coho salmon, chum salmon, chinook salmon, rainbow trout, and threespine stickleback within a kilometre of the property (Province of BC 2022b).

6 FIELD RESULTS

A qualified professional biologist (R.P.Bio) from Asio Environmental Consulting completed a number of site surveys and inventory on the property between February and August 2023. The riparian area and aquatic ecosystems, and other potentially sensitive ecosystems, were assessed – including the collection of stream data, vegetation and wildlife observations, and site photographs.

6.1 RIPARIAN AREAS AND AQUATIC ECOSYSTEMS

A total of 19 wetlands and 15 stream and stream segments were mapped on the property (Figure X). Each watercourse segment or waterbody is described in Table 4. Several of the wetlands are low saturated areas but are isolated from the stream network.

TABLE 5. WETLANDS AND WATERCOURSES THE PROPERTY

LABEL	DESCRIPTION	RAA ¹	SPEA ²
Wetland A	Large wetland within the covenant on the western part of the properties. Drains into stream 1. This wetland is located within the covenant.	30m	15-30m
Wetland B	Isolated wetland in low-lying area. No connection to other watercourse or waterbody; not RAPR eligible.	n/a	n/a
Wetland C	Small shrubby wetland at the head of stream 2.	30m	15-30m
Wetland D	Large wetland with marshy open water in deciduous forest at the north and shrubby emergent vegetation covering the southern 2/3 of the area.	30m	15-30m
Wetland E	Small open water wetland in the forest. Connects directly to wetland F.	30m	15-30m
Wetland F	Large wetland with some open water and some shrubby emergent vegetation.	30m	15-30m
Wetland G	Large marsh with some areas of open water.	30m	15-30m
Wetland H	Large wetland with some open water and some shrubby emergent vegetation.	30m	15-30m
Wetland I	Isolated wetland in low-lying area. No connection to other watercourse or waterbody; not RAPR eligible.	n/a	n/a
Wetland J	Large wetland with some open water and some shrubby emergent vegetation.	30m	15-30m
Wetland K	Large wetland with some open water and some shrubby emergent vegetation.	30m	15-30m
Wetland L	Isolated wetland in low-lying area. No connection to other watercourse or waterbody; not RAPR eligible.	n/a	n/a
Wetland M	Large wetland with deep open water and stumps from wetland creation due to historical road building.	30m	15-30m
Wetland N	Isolated wetland in low-lying area. No connection to other watercourse or waterbody; not RAPR eligible.	n/a	n/a
Wetland O	Shrubby wetland.	30m	15-30m
Wetland P	Shrubby wetland	30m	15-30m
Wetland Q	Small muddy wetland with emergent vegetation. Fed by small stream from the north. Discharge could not be determined at time of survey.	30m	15-30m
Wetland R	Isolated wetland in low-lying area. No connection to other watercourse or waterbody; not RAPR eligible.	n/a	n/a
Wetland S	Isolated wetland in low-lying area. No connection to other watercourse or waterbody; not RAPR eligible.	n/a	n/a
Wetland T	Shrubby wetland in low-lying area between the existing logging road and Stream 9.	30m	15-30m
Stream 1	Permanent stream in small gully. Stream is rocky and average width is approximately 3 m.	30m	10m
Stream 2	Permanent stream in small gully. Stream is rocky and average width is approximately 1.5 m.	30m	10m
Stream 3	Small ditch that connects the two large wetlands. Ditch is cut through existing road.	30m	10m
Stream 4	Small stream that flows through the forest between large wetlands.	30m	10m
Stream 5	Tributary to Stream 9 that drains from wetland G. Stream is shallow and wide on the flat plateau and then steep and narrow into the ravine.	30m	10m
Stream 6	Seasonal drainage that carries overflow from wetland J into the ravine and stream 9.	30m	10m
Stream 7	Seasonal drainage that connects wetland H and K	30m	10m
Stream 8	Seasonal drainage that carries overflow from wetland K into the ravine and stream 9.	30m	10m
Stream 9	Moderately sized stream in a ravine. Stream is shallow and rocky. Has a riffle-pool structure with the exception of infrequent small cascades over rocks and debris. Average width is approximately 5 m. This stream is a tributary to the Cowichan River (joins off property to the south).	30m	20m
Stream 10	Tributary to stream 9. Drains from wetland M. Narrow rocky stream.	30m	10m
Stream 11	Small muddy stream that flows into wetland O.	30m	10m
Stream 12	Seasonal stream that connects wetland O and P.	30m	10m
Stream 13	Small seasonal outflow from wetland P.	30m	10m
Stream 14	Small seasonal stream that flows into wetland Q.	30m	10m
Stream 15	Small stream that drains from wetland T into stream 9 to the north of the property.	30m	10m

¹ the riparian assessment area for a stream consists of a 30 m strip on each side of the stream, measured from the stream boundary.

² details of the calculation of the SPEA will be provided in the RAPR assessment report

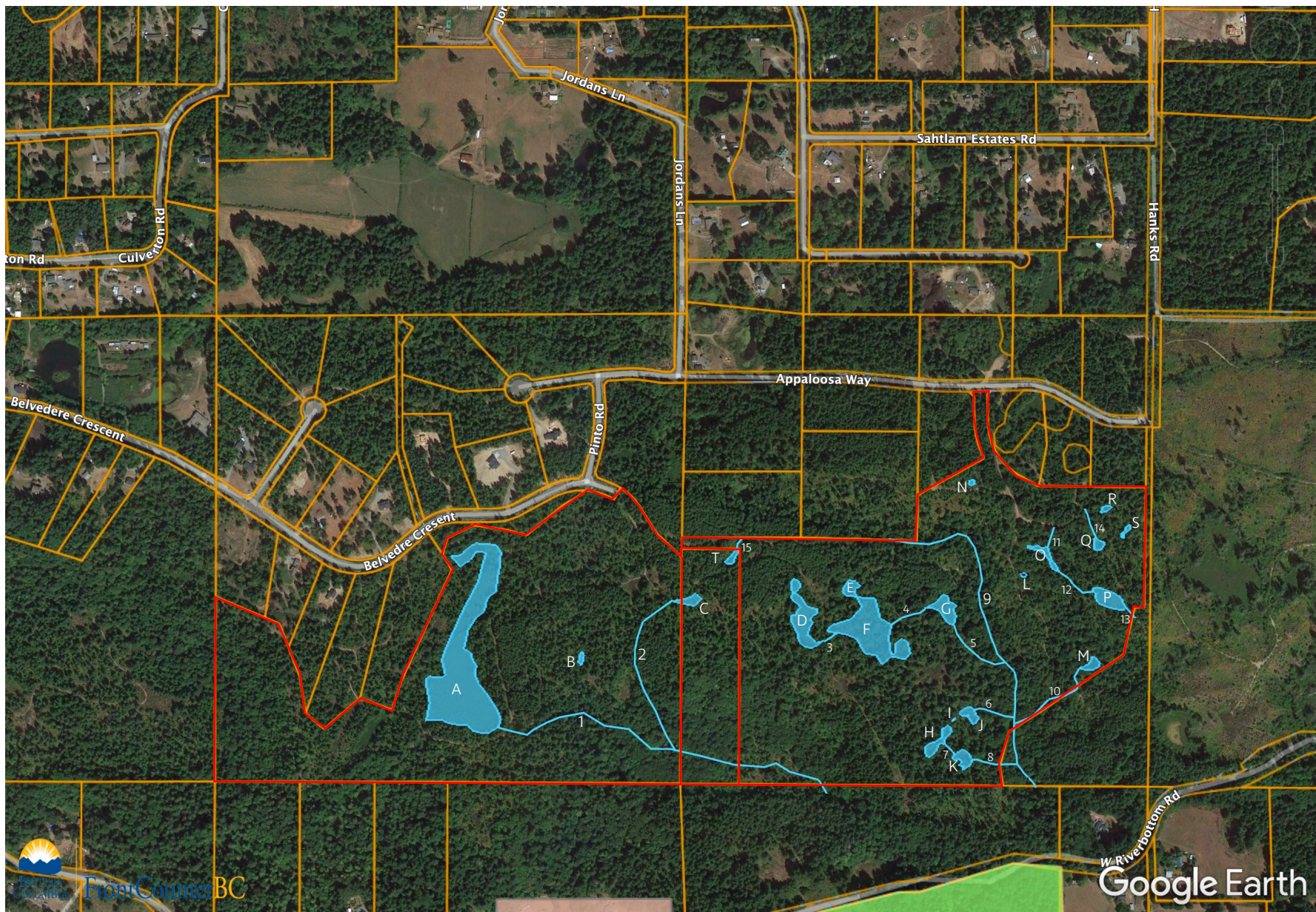


FIGURE 2. WATERCOURSES AND WETLANDS AT PARCEL B APPALOOSA WAY

- Wetlands
- Streams
- Parcel boundaries

**PROPOSED
SUBDIVISION**

DU-APP GP LTD.

PARCEL B (DD86568) OF
SECTION 7, RANGE 7, SAHTLAM
DISTRICT, EXCEPT PART IN
PLAN EPP18482, EPP26101
AND EPP67975

SECTION 7, RANGE 6, SAHTLAM
DISTRICT, EXCEPT PART IN
PLAN EPP18482

THE WEST 5 CHAINS OF THE
SOUTH 20 CHAINS, SECTION 7,
RANGE 7, SAHTLAM DISTRICT,
OUTLINED IN RED ON
PLAN DD 278681

ADDRESS : APALOOSA WAY,
DUNCAN, B.C.

PROJECT SURVEYOR : D.W. HOLME

DRAWN BY : CDB DATE : AUG. 8/23

OUR FILE : 90625 REVISION :

JEA J.E. ANDERSON
& ASSOCIATES
SURVEYORS - ENGINEERS

1A - 3411 SHENTON ROAD, NANAIMO, B.C. V9T 2H1
TEL: 250-758-4631 FAX: 250-758-4680
E-MAIL: nanaimo@jeaanderson.com
NANAIMO - VICTORIA - PARKSVILLE - CAMPBELL RIVER

LEGEND

ALL DIMENSIONS ARE IN METRES

SUBJECT TO CHARGES SHOWN
ON TITLE NO. CBS19066
(P.I.D. 009-849-637)

ON TITLE NO. CBS19068
(P.I.D. 009-845-119)

ON TITLE NO. CBS19067
(P.I.D. 009-849-581)

DIMENSIONS ARE DERIVED FROM
LAND TITLE OFFICE RECORDS

THIS PLAN HAS BEEN PREPARED IN
ACCORDANCE WITH THE PROFESSIONAL
REFERENCE MANUAL

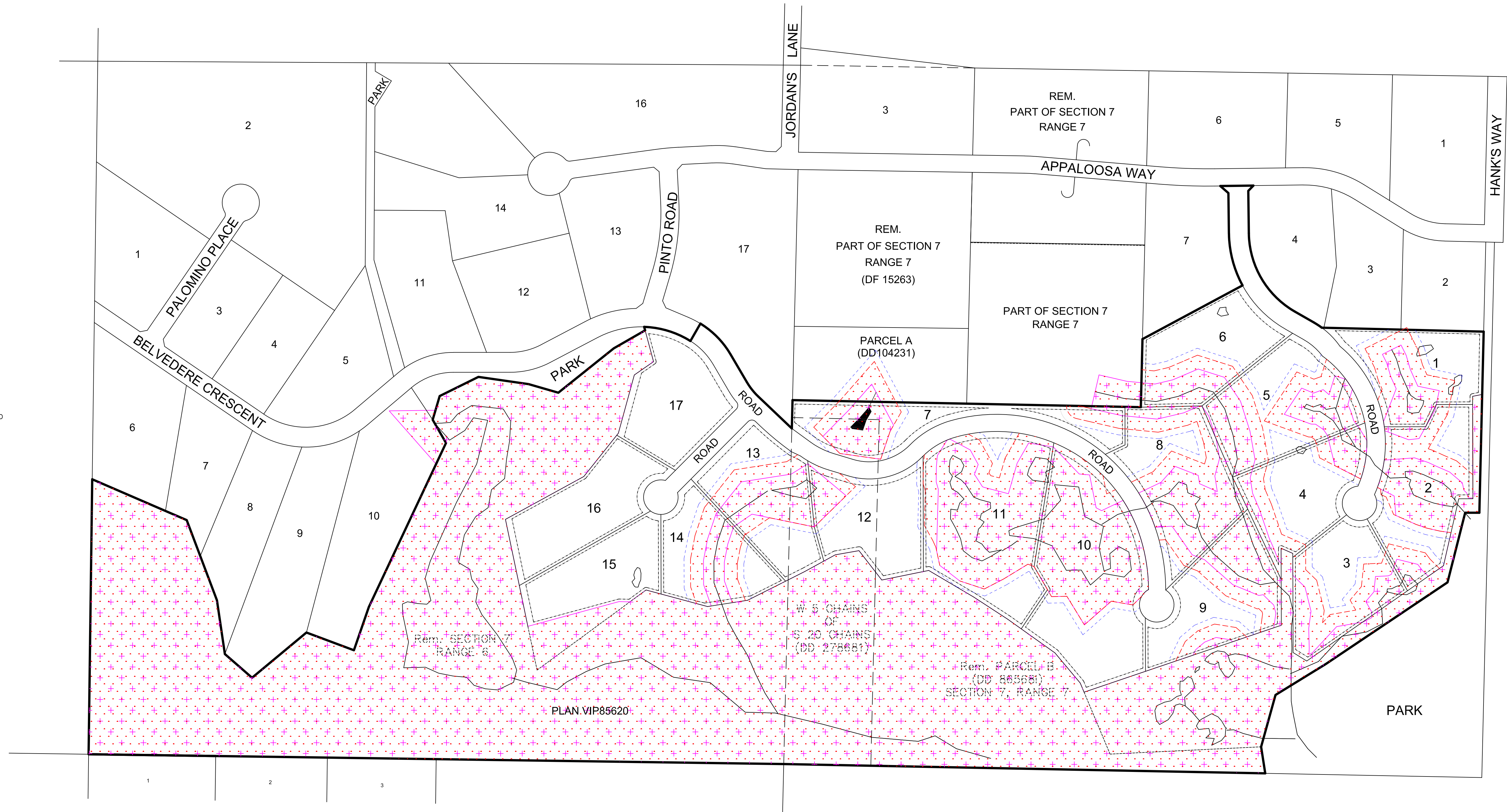
----- CVRD ZONING SETBACK

 - STREAMSIDE PROTECTION AND
ENHANCEMENT AREA (SPEA)

 - RIPARIAN ASSESSMENT AREA

----- 7.5 METRE RP10 SETBACK

LOT	AREA	USEABLE AREA
1	1.40 ha	1.05 ha
2	1.73 ha	1.00 ha
3	1.37 ha	1.03 ha
4	1.36 ha	1.03 ha
5	1.75 ha	1.02 ha
6	1.46 ha	1.16 ha
7	1.52 ha	1.14 ha
8	1.85 ha	1.00 ha
9	1.60 ha	1.03 ha
10	2.77 ha	1.18 ha
11	2.62 ha	1.00 ha
12	1.18 ha	1.03 ha
13	1.55 ha	1.06 ha
14	1.27 ha	1.02 ha
15	1.20 ha	1.17 ha
16	1.42 ha	1.42 ha
17	1.33 ha	1.33 ha



6.2 VEGETATION AND WILDLIFE OBSERVATIONS

The property is mostly forested, predominantly mature, second growth forest (Douglas-fir, grand fir, western redcedar, red alder, and bigleaf maple trees) with an understory dominated by sword ferns and salal. There are a number of openings due to historical clearing and use. These areas are dominated by scotch broom and other weedy species. The wetlands on the property are mostly shrubby, dominated by hardhack, or marshy, dominated by sedges. Riparian areas adjacent to the wetlands and streams contain salmonberry, sword fern and bracken fern. During the site assessments the species in Table 1 were found on the site.

TABLE 6. VEGETATION SPECIES OBSERVED AT PARCEL B APPALOOSA WAY

COMMON NAME	SCIENTIFIC NAME	SPECIES STATUS
TREES AND SHRUBS		
Bigleaf maple	<i>Acer macrophyllum</i>	Yellow ¹
Douglas-fir	<i>Pseudotsuga menziesii</i>	Yellow ¹
Dull Oregon-grape	<i>Berberis nervosa</i>	Yellow ¹
Grand fir	<i>Abies grandis</i>	Yellow ¹
Hardhack	<i>Spiraea douglasii</i> var. <i>douglasii</i>	Yellow ¹
Nootka rose	<i>Rosa nutkana</i>	Yellow ¹
Oceanspray	<i>Holodiscus discolor</i> var. <i>discolor</i>	Yellow ¹
Pacific dogwood	<i>Cornus nuttallii</i>	Yellow ¹
Baldhip rose	<i>Rosa gymnocarpa</i>	Yellow ¹
Red alder	<i>Alnus rubra</i>	Yellow ¹
Salal	<i>Gaultheria shallon</i>	Yellow ¹
Salmonberry	<i>Rubus spectabilis</i>	Yellow ¹
Thimbleberry	<i>Rubus parviflorus</i>	Yellow ¹
Trailing blackberry	<i>Rubus ursinus</i>	Yellow ¹
Western hemlock	<i>Tsuga heterophylla</i>	Yellow ¹
Western redcedar	<i>Thuja plicata</i>	Yellow ¹
Willow sp.	<i>Salix</i> sp.	--
FORBS, FERNS AND GRAMNOIDS		
Bracken fern	<i>Pteridium aquilinum</i>	Yellow ¹
Cleavers	<i>Galium aparine</i>	Yellow ¹
Common horsetail	<i>Equisetum arvense</i>	Yellow ¹
Fringecup	<i>Tellima grandiflora</i>	Yellow ¹
Licorice fern	<i>Polypodium glycyrrhiza</i>	Yellow ¹
Orange honeysuckle	<i>Lonicera ciliosa</i>	Yellow ¹
Pacific bleeding heart	<i>Dicentra formosa</i> ssp. <i>formosa</i>	Yellow ¹
Pacific water parsley	<i>Oenanthe sarmentosa</i>	Yellow ¹
Red columbine	<i>Aquilegia formosa</i>	Yellow ¹
Sedge sp.	<i>Carex</i> sp.	--
Siberian miner's lettuce	<i>Claytonia sibirica</i>	Yellow ¹
Skunk cabbage	<i>Lysichiton americanus</i>	Yellow ¹
Slough sedge	<i>Carex obnupta</i>	Yellow ¹

COMMON NAME	SCIENTIFIC NAME	SPECIES STATUS
Starflower	<i>Lysimachia latifolia</i>	Yellow ¹
Stinging nettle	<i>Urtica dioica</i>	Yellow ¹
Sword fern	<i>Polystichum munitum</i>	Yellow ¹
Vanilla leaf	<i>Achlys triphylla</i>	Yellow ¹
INVASIVE SPECIES AND EXOTIC SPECIES		
Canada thistle	<i>Cirsium arvense</i>	Invasive; Exotic
Cut-leaf blackberry	<i>Rubus laciniatus</i>	Exotic
Hairy cat's ear	<i>Hypochaeris radicata</i>	Exotic
Scotch broom	<i>Cytisus scoparius</i>	Invasive; Exotic
BRYOPHYTES		
Coastal leafy moss	<i>Plagiomnium insigne</i>	Yellow ¹
Electrified cat's-tail moss	<i>Rhytidiadelphus triquetrus</i>	Yellow ¹
Flat-moss	<i>Buckiella undulata</i>	Yellow ¹
Haircap moss	<i>Polytrichum piliferum</i>	Yellow ¹
Oregon beaked moss	<i>Kinbergia oregana</i>	Yellow ¹
Step moss	<i>Hylocomium splendens</i>	Yellow ¹
Tree ruffle liverwort	<i>Porella navicularis</i>	Yellow ¹

¹ BC CDC 2021

The property provides abundant and varying wildlife habitat. The property’s mature trees provide nesting, roosting and foraging habitat for forest songbirds, owls and woodpeckers. The shrubs in the riparian area may provide nesting and foraging habitat for water-associated birds and mammals, and breeding and terrestrial habitat for amphibians and reptiles. A list of the animal species observed during the field visits is provided in Table 3.

TABLE 7. WILDLIFE SPECIES OBSERVED AT PARCEL B APPALOOSA WAY

COMMON NAME	SCIENTIFIC NAME	SPECIES STATUS
BIRDS		
American robin	<i>Turdus migratorius</i>	Yellow ¹
Chestnut-backed chickadee	<i>Poecile rufescens</i>	Yellow ¹
Crow	<i>Corvus brachyrhynchos</i>	Yellow ¹
Dark-eyed junco	<i>Junco hyemalis</i>	Yellow ¹
Marsh wren	<i>Cistothorus palustris</i>	Yellow ¹
Pacific wren	<i>Troglodytes pacificus</i>	Yellow ¹
Pileated woodpecker	<i>Dryocopus pileatus</i>	Yellow ¹
Song sparrow	<i>Melospiza melodia</i>	Yellow ¹
Swainson’s thrush	<i>Catharus ustulatus</i>	Yellow ¹
Varied thrush	<i>Ixoreus naevius</i>	Yellow ¹
MAMMALS		
Black bear	<i>Ursus americanus</i>	Yellow ¹
Black-tailed deer (scat)	<i>Odocoileus hemionus columbianus</i>	Yellow ¹
Cougar	<i>Puma concolor</i>	Yellow ¹
Red squirrel	<i>Tamiasciurus hudsonicus</i>	Yellow ¹

Roosevelt elk	<i>Cervus elaphus roosevelti</i>	Blue ¹
AMPHIBIANS AND REPTILES		
Northern red-legged frog	<i>Rana aurora</i>	Blue ¹ ; Special Concern ²
Northwestern gartersnake	<i>Thamnophis ordinoides</i>	Yellow ¹
Pacific tree frog	<i>Pseudacris regilla</i>	Yellow ¹
Western toad	<i>Anaxyrus boreas</i>	Yellow ¹ ; Special Concern ²

¹ BC CDC 2021

7 ENVIRONMENTAL IMPACTS AND RECOMMENDED MITIGATION MEASURES

The disturbance from the future development of the property may have impacts on the environment (Table 8), specifically:

- Disturbance in sensitive ecosystem areas, such as riparian habitat,
- Loss of vegetation,
- Spread of invasive and exotic plant species,
- Change in wildlife habitat availability and wildlife mortality risk, and
- Sediment movement in the project area that may impact wetlands and watercourses.

TABLE 8. POTENTIAL IMPACTS OF ACTIVITIES ON THE PROPERTY

POTENTIAL IMPACT	MECHANISMS OF IMPACT
Disturbance in sensitive ecosystem areas (e.g., riparian habitat)	The removal of vegetation in the riparian area can result in the loss of features, functions and conditions that are vital for maintaining stream health and productivity. This may include sources of large organic debris, such as fallen trees and tree roots; vegetative cover and shade to help moderate water temperature; provision of food, nutrients and organic matter to the stream; stream bank stabilization; and buffers for streams from excessive silt and surface run-off pollution.
Loss of vegetation	The effects of tree removal may include loss of biodiversity of plant species and increased susceptibility to invasive plants not only in the cleared area but also in adjacent plant communities. Vegetation in the riparian area immediately adjacent to cleared areas may experience changes to the canopy structure and understory plant species due windthrow and increased light and moisture penetration.
Spread of invasive plant species	Invasive plants are particularly adept at colonizing degraded plant communities and disturbed soils. Invasive plants establish readily in disturbed areas as they have a wide ecological tolerance and grow and propagate quickly. The effects of invasive plant establishment may be the reduction or displacement of native species by monopolizing on open spaces and occupying habitats.
Change in wildlife habitat availability and wildlife mortality risk,	Habitat loss and alteration from vegetation clearing can cause displacement of wildlife, use of less suitable habitat, reduced foraging ability, increased energy expenditure and lower reproductive success. Removal of riparian habitat can result in the direct loss of habitat for wildlife species that specifically require riparian vegetation and proximity to water. Damage or degradation of soil surfaces can increase soil compaction, resulting in changes to turtle terrestrial and nesting habitat. The area has a significant amount of previous disturbance, reducing the current habitat quality. Restoration may improve the habitat for painted turtles beyond the current value.

POTENTIAL IMPACT	MECHANISMS OF IMPACT
Sediment movement in the project area towards wetlands and watercourses.	Removal of vegetation can expose soils to erosion and can result in the movement of sediment. Sediment may enter the stream, causing changes in light penetration, pH and turbidity. Damage or degradation of soil surfaces can result in loss of soil structure, increased erosion, and soil compaction, which can negatively affect reclamation efforts.

The residual environmental impacts of the future development activities on the property will be reduced by the implementation of the mitigation and restoration measures recommended in the sections below. Mitigation measures were developed according to the mitigation hierarchy: 1) avoid, 2) minimize, and 3) restore (BC Ministry of Environment 2014) and include provincial best management practices (BC MOE 2014, BC Ministry of Water, Land and Air Protection 2004a, b).

Riparian Protection

The SPEA must be a non-disturbance area, except for invasive species removal by hand and removal or modification of danger trees, to be completed under supervision of a certified arborist and QEP. No native trees or shrubs should be removed from the SPEA or disturbed during road building or site preparation activities. If work require in or about a stream (e.g., road crossings) is required, contact the province prior to commencing work to discuss submission of a Section 11 notification or application to the province under the Water Sustainability Act (note: notifications have a 45-day review period).

As per the RAPR Technical Manual, in order to maintain and protect the integrity of the SPEA from development activities, site-specific measures to protect the SPEA must be identified, including tree protection zones, a windthrow buffer, and protection of steep slopes. Some measures will result in areas beyond the preliminary SPEA being identified as areas requiring special protection, or limited activity, to maintain integrity of the SPEA. These measures mitigate any potential hazards posed by the proposed development to natural features, functions or conditions in the SPEA (Table 9).

TABLE 9. MEASURES TO PROTECT THE SPEA

ASPECT	MITIGATION MEASURES
Danger trees	If the snag or any other trees of concern are identified in the RAA or SPEA during site preparation activities, a certified arborist or professional forester needs to be obtained to confirm the tree(s) as a danger prior to any removal by a certified arborist. If danger trees are identified, the riparian QEP will provide recommendations and mitigation to protect the integrity of the SPEA during danger tree modification or removal.
Windthrow	Where previous clearings exist, the remaining few trees have been exposed to varying annual wind conditions and are therefore likely windfirm. A 5m windthrow buffer will be added to the SPEA for new clearings, in which the windfirmness of trees shall be determined to prevent windthrow along the edge of the SPEA.
Slope stability	The design of the site avoided steep (>30%) slopes on the property. The steep slope in the south portion of the property will remain undisturbed as it is located within the covenant. Other steep slopes are located within the ravine and will be protected by the SPEA. Exposed soils on the property should be stabilized by the planting of native vegetation species including trees and shrubs.

ASPECT	MITIGATION MEASURES
Protection of trees	The edge of the SPEA will be clearly marked to ensure that trees within the SPEA are protected. Where trees in the SPEA have root zones that extend outside of the SPEA, the fencing should be placed so as to protect the root zones of trees. A general rule of thumb is the crown canopy matches the root protection area.
Encroachment	The edge of the SPEA must be clearly marked with snow fencing to ensure that no encroachment of clearing, site preparation or construction activities into the SPEA will occur unless permitted under Section 11 of the WSA.
Sediment and erosion control	Site specific controls have been developed based on a site visit and experience from past projects. The erosion control measures are provided in the Sections below.
Stormwater management	<p>Additional overland drainage will occur during storm and rainfall events due to the clearing of the site and addition of impermeable surfaces. Erosion and sediment controls discussed below will be used to prevent contaminated run-off from entering the aquatic ecosystem.</p> <p>Stormwater management planning for the project will include dissipation of run-off that is intercepted by buildings outside the SPEA into vegetated areas (as per the Riparian Assessment Manual). A detailed stormwater management plan will be submitted to the City of Langford as part of the permitting process to meet the local municipal requirements for an engineered rainwater management design.</p>
Floodplain concerns (channel mobility)	The streams on the property are largely constrained by topography, and therefore, changes in the stream boundary are unlikely to occur. Within the flat wetland complex areas, changes in the stream boundary are likely to be contained within the larger SPEAs of the wetlands.

Invasive Weeds

Invasive weed control is difficult for established populations. Species should be removed using the most appropriate methods, at the correct time of year, and plant material must be disposed of correctly to avoid re-establishment or spread. Following removal, re-seed bare soil with desirable, competing vegetation. For some species, chemical control is possible but not recommended due to the sensitive riparian ecosystem adjacent to the property.

Scotch broom removal should occur mid-April through early June, before its seed pods begin to open. Small broom plants can be pulled easily from the ground by hand without disturbing the soil. Larger plants should be cut below the root crown using loppers or a pruning saw. Avoid disturbing the soil which can stimulate dormant broom seeds to sprout. Invasive species should be bagged and disposed of properly in a landfill.

Mitigation measures to control and minimize the spread of invasive weeds on the site include:

- Clean all machinery before arrival onto the site to ensure that more weed seeds and other propagules (e.g. pieces of root) are not brought into the project area.
- Use available fill and soil from on site where possible. If fill or topsoil is imported from external areas, ensure that it is from a weed-free source.

Areas disturbed by road buildings and site servicing that are not part of the permanent road or service footprint should be replanted with native trees and shrubs and/or seeded with native seed mix (e.g., clover, Coastal Revegetation Mix by Pacific Premier, or

equivalent). Overall plant density should be approximately one plant per 1 to 2 m². Native vegetation species that should be considered for revegetation include sword ferns, nootka rose, salmonberry and salal. The purpose of using native species is to not require irrigation in the future. The optimal time for revegetation is in the fall, prior to the wet winter season. However, planting at any time of the year (with irrigation as needed) is acceptable to prevent invasive species.

Wildlife and Wildlife Habitat

Mitigation measures to minimize impacts on wildlife and wildlife habitat include:

- Avoid or limit the removal of established trees and shrubs, where possible. No trees will be removed in the SPEA.
- Vegetation alteration or danger tree removal should be completed outside of the migratory bird window (early-March to mid August; Government of Canada 2022).
- If vegetation clearing, including tree cutting, brushing, or clearing and grubbing, is scheduled within the sensitive time period for breeding birds, a QEP should conduct nest search surveys prior to the start of activities to identify any nesting birds that may be potentially impacted by the project. The survey must be completed within 5 days of the planned clearing/disturbance, and the results are valid for 5 days. If an active nest is discovered during nest search or site preparation activities, the nest will be subject to site-specific mitigation measures (e.g. protective buffer around the nest or unobtrusive monitoring) until the young have naturally fledged/left the area.
- A raptor nest survey should be completed prior to development activities. A QEP must perform a multi-visit nest survey to identify any nests that may be potentially impacted by the project. If nesting raptor activity is detected, then the QEP will recommend the appropriate mitigation, such as protective buffers.
- Where suitable and safe, retain habitat that provides shelter for wildlife, such as standing dead trees and rocky outcrops.
- In the event that an amphibian or reptile is encountered during clearing or construction, the QEP will recommend the appropriate mitigation, such as avoidance or relocation. All salvage must be done by the QEP and with the appropriate wildlife permit.

Erosion and Sediment Control

The primary focus of erosion and sediment control planning is erosion control; if there is no erosion then there is no sediment. Erosion control is far more cost effective to implement and manage than sediment control.

Erosion controls, including the recommendations listed below, are recommended to be maintained for the duration of the project to minimize the potential effects of the project on the natural environment.

- Install a silt fence barrier outside of the SPEA edge and tree protection zones between the building site and the construction area to prevent sediment laden runoff from entering the wetland.
- Regularly inspect and maintain the erosion and sediment control measures during all activities.

- Store materials and soils in dry, flat areas at least 15m outside the edge of the SPEA.
- Heed weather advisories and scheduling work to avoid wet and rainy periods that may result in high surface water flow volumes and/ or increase erosion and sedimentation.
- Regularly monitor the aquatic environment for signs of sedimentation during all phases of the work, undertaking or activity and taking corrective action if required.
- Keep the erosion and sediment control measures in place until all disturbed ground has been permanently stabilized with native plant revegetation.
- Minimize amount of time soils are exposed by seeding and planting as soon as disturbance is complete. Cover exposed soil areas with tarps or mulch if for a prolonged period or during rainfall events.

Work in or about a Stream

If work require in or about a stream is required for road crossings or site preparation, Section 11 notification or application will be submitted to the province under the Water Sustainability Act (note: notifications have a 45-day review period). The following mitigation measures should be implemented to minimize the impacts of the road crossing installation on the riparian area and aquatic ecosystem.

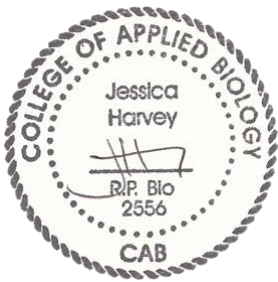
- Protect soil from compaction and rutting by laying down mats or pads for heavy machines or vehicles to travel over.
- Keep an emergency spill kit on site, including absorbent pads (hydrocarbons and antifreeze), absorbent socks (oil, gas & diesel), granular bentonite absorbent (peat moss equivalent is acceptable), hazmat disposal bags, large nitrile gloves and a spill instruction sheet.
- In case of a spill, stop work and containing deleterious substances to prevent dispersal.
- Report any spills of oil, fuel or other deleterious material including sediment.
- Clean up and appropriately dispose of spilled deleterious substances.
- Maintain all machinery on site in a clean condition and free of fluid leaks.
- Wash, refuel and service machinery and store fuel and other materials for the machinery at least 30 m from the high-water mark.
- If water is present in the stream, an isolation bypass and pump technique should be implemented to prevent sedimentation of the watercourse and downstream aquatic environment.

8 CONCLUSION

The observations from multiple site visits to the property have been detailed in this report. No permanent habitat features (e.g. bat roosts in rocky outcrops, raptor stick nests) were observed during the field visits to date. Two amphibian species at risk were observed, highlighting the need for the included riparian and wetland protection actions. Subsequent field visits should be completed to update the biophysical observations and refine the riparian protection measures as the development planning is finalized and prior to the beginning of site preparation activities.

During the future development at Parcel B Appaloosa Way, implementation of the mitigation measures recommended in this report, including the protection of the riparian area and revegetation of cleared areas to prevent invasive species, will minimize the impacts of the proposed development on the environment.

Report Prepared By:



Jessica Harvey, M.Sc., R.P. Biol.
Principal and Senior Biologist
Asio Environmental Consulting Inc.
403.200.8236

PROFESSIONAL CERTIFICATION

This report has been prepared with the best information available at the time of writing, including the Official Community Plan, communications with the client, site visits, and review of other documentation relevant to the project. This report has been developed to assist the project in remaining in compliance with relevant environmental regulations, acts and laws pertaining to the project and to identify and mitigate the expected impacts of the project and reclamation activities directly related to the project.

9 REFERENCES

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- British Columbia Ministry of Water, Land and Air Protection. 2004. Standards and Best Practices for Instream Works. Available at: <https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/best-management-practices/iswstdsbpsmarch2004.pdf>.
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- Cowichan Valley Regional District (CVRD). 2021. Schedule C Development Permit Areas. Available at: https://cvrd.ca/DocumentCenter/View/99165/2020_12_09-Development-Permit-Areas
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- Province of British Columbia. 2022. HabitatWizard. Available at: <http://maps.gov.bc.ca/ess/hm/habwiz/>.

10 APPENDIX A – SITE PHOTOS

PHOTO 1. STEEP SLOPE LOOKING DOWN TO STREAM 2 NEAR ITS CONFLUENCE WITH STREAM 1;



PHOTO 2. EXISTING ROAD OVERGROWN WITH SCOTCH BROOM



PHOTO 3. MARSHY WETLAND AT THE TOP OF WETLAND D



PHOTO 4. SHRUBBY WETLAND D



PHOTO 5. WILDLIFE SNAG IN THE RIPARIAN AREA OF WETLAND H



PHOTO 6. STREAM 9



PHOTO 7. STEEP SLOPE OF THE RAVINE CONTAINING STREAM 9



PHOTO 8. WETLAND M AT THE TOP OF STREAM 10



PHOTO 9. STREAM 10



PHOTO 10. WETLAND G



PHOTO 11. DENSE UNDERSTORY IN UPLAND FOREST



-2 SEP 2008 14 48

FB0208158

Page 1 of 20

LAND TITLE ACT
FORM C

Province of
British Columbia

GENERAL INSTRUMENT - PART I (This area for Land Title Office Use)

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

JOHN H. FRASER LAWSON LUNDELL LLP, 1600-925
WEST GEORGIA STREET, VANCOUVER, BC V6C 3L2
604-685-3456 CLIENT NO. 1043

cc West Coast Title Search Ltd.

10104

Askin

2. Parcel Identifier(s) and Legal Description(s) of Land:

- 009-845-119 SECTION 7, RANGE 6, SAHTLAM DISTRICT
- 009-849-581 THE WEST 5 CHAINS OF THE SOUTH 20 CHAINS, SECTION 7, RANGE 7, SAHTLAM DISTRICT, OUTLINED IN RED ON PLAN DD 278681
- 009-849-637 PARCEL B (DD 865681) OF SECTION 7, RANGE 7, SAHTLAM DISTRICT

3. Nature of Interest:

DESCRIPTION	DOCUMENT REFERENCE	PERSON ENTITLED TO INTEREST
Section 219 Covenant	Entire Instrument	Transferee

4. Terms: Part 2 of this instrument consists of (select one only)

- (a) Filed Standard Charge Terms D.F. No.
- (b) Express Charge Terms X Annexed as Part 2
- (c) Release There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in item 3 is released or discharged as a charge on the land described in item 2.

5. Transferor(s):*

CAROMAR SALES LTD. is a corporation registered in British Columbia (INC. NO. 286799), P.O. Box 91217, West Vancouver, BC, V7V 3N6.
616-1641 LONSDALE AVENUE, NORTH VANCOUVER, BC
V7M 2J5

6. Transferee(s): (Including occupation(s), postal address(es) and postal code(s))*

TLC THE LAND CONSERVANCY OF BRITISH COLUMBIA, a society registered in British Columbia (Registration No S-36826), with its registered office at 301-1195 Esquimalt Road, Victoria, B.C. V9A 3N6.

7. Additional or Modified Terms:
N/A

HN 08/09/02 14:48:52 01 VI 816625
CHARGE \$66.15

1/2

IB

1B


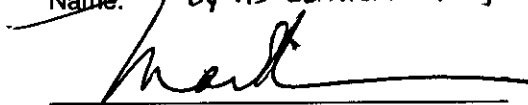
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LAND TITLE ACT
FORM C


Province of
British Columbia

GENERAL INSTRUMENT - PART I

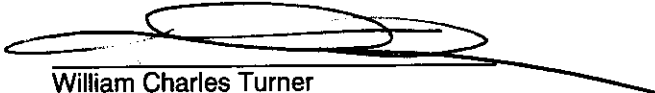
8. Execution(s): ****This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.**

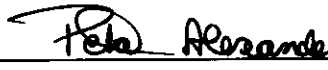
Officer Signature(s):	EXECUTION DATE			Party(ies) Signature(s)
	Y	M	D	
	08	08	27	<u>CARDMAR SALES LTD</u> Name: _____ by its authorized signatory
JOHN H. FRASER Barrister & Solicitor 1600 - 925 W. GEORGIA ST. VANCOUVER, B.C. V6C 3L2 (as to both signatories) (604) 685-3456				 Name: DIRECTOR MARK WIMMER

TLC THE LAND CONSERVANCY
OF BRITISH COLUMBIA
by its authorized signatories

 080401

DEREK E. ASHURST
Barrister and Solicitor
~~(as to both signatories)~~
1620 Cedar Hill X Road
Victoria, BC
V8P 2P6


William Charles Turner


Name: PETA ALEXANDER.

*OFFICER CERTIFICATION: Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1979, c. 116 to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space is insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space is insufficient, continue executions on additional pages in Form D

TERMS OF INSTRUMENT - PART 2
Section 219 Conservation Covenant

The Agreement is dated for reference the _____ day of _____, 2008 and is

AMONG:

CAROMAR SALES LTD. is a corporation registered in British Columbia (INC. NO. 286799) and having an office at P.O. Box 91217, West Vancouver, BC, V7V 3N6.

AND:

TLC THE LAND CONSERVANCY OF BRITISH COLUMBIA, a society registered in British Columbia (Registration No. S-36826), with its registered office at 301-1195 Esquimalt Road, Victoria, B.C. V9A 3N6

(collectively, the "Parties")

WHEREAS:

- A. The Owner is the registered owner of the Land;
- B. The Covenant Area contains significant amenities, including flora, fauna and natural features, of great importance to the Owner, to the Covenant Holder, and to the public;
- C. The Owner wishes and has agreed to grant the Covenant Holders a covenant pursuant to section 219 of the *Land Title Act* (British Columbia), to restrict the use of the Covenant Area;
- D. TLC The Land Conservancy of British Columbia has been designated by the Government of British Columbia as a person authorized to accept covenants under s. 219 of the *Land Title Act*; and

NOW THEREFORE in consideration of the payment of two dollars (\$2.00) now paid by each of the Covenant Holder to the Owner (the receipt and sufficiency of which is acknowledged by the Owner), and in consideration of the promises exchanged below, the parties agree as follows, in accordance with section 219 of the *Land Title Act* (British Columbia):

1. Definitions and Interpretation

1.1 In this Agreement:

- (a) "Amenity" includes any natural, scientific, environmental, wildlife, plant life, agricultural or cultural value relating to the Covenant Area;

- (b) "Business Day" means, a day on which the Land Title Office in Victoria BC is open;
- (c) "Covenant Area" means that part of the Land as shown on the Plan, a reduced copy of which is attached as Schedule A;
- (d) "Covenant Holder" means, unless the context otherwise requires, TLC The Land Conservancy of British Columbia, a society registered in British Columbia (Registration No.S-36826) and includes its permitted successors and assignees;
- (e) "Land" means the parcels of land legally described as: PID: 009-845-119, SECTION 7, RANGE 6, SAHTLAM DISTRICT, PID: 009-849-581, THE WEST 5 CHAINS OF THE SOUTH 20 CHAINS, SECTION 7, RANGE 7, SAHTLAM DISTRICT, OUTLINED IN RED ON PLAN DD 27868I and PID: 009-849-637, PARCEL B (DD 86568I) OF SECTION 7, RANGE 7, SAHTLAM DISTRICT;
- (f) "Management Plan" means the Park Management Plan as prepared under section 5;
- (g) "Owner" means CAROMAR SALES LTD., a corporation registered in British Columbia (INC. NO. 286799) and having an a at P.O. Box 91217, West Vancouver, BC, V7V 3N6;
- (h) "Plan" means the "REFERENCE PLAN OF COVENANT OVER PART OF SECTION 7, RANGE 6; PART OF PARCEL B (DD865681) OF SECTION 7, RANGE 7; PART OF THE WEST 5 CHAINS OF THE SOUTH 20 CHAINS, SECTION 7, RANGE 7, OUTLINED IN RED ON PLAN DD278681, ALL WITHIN THE SAHTLAM DISTRICT." certified correct by Kelly Stofer, B.C.L.S. dated October 1st, 2007, and deposited in the Victoria Land Title Office under number VIP 85620, a reduced copy of which is attached to the Agreement as Schedule A;
- (i) "Successor" means a person who, at any time after registration of this Agreement, becomes the registered Owner of the Land or any part thereof by any means, including a beneficial owner; and
- (j) "The Land Conservancy" means TLC The Land Conservancy of British Columbia, a society registered in British Columbia (Registration No.S-36826) and includes its permitted successors and assignees.

1.2 Where this Agreement says something is in the "sole discretion" of a party, that thing is within the sole, absolute and unfettered discretion of that party.

1.3 This Agreement shall be interpreted in accordance with the laws of British Columbia and the laws of Canada applicable in British Columbia.

1.4 This Agreement is comprised of the recitation of the parties, the recitals to this Agreement, the Schedules to this Agreement and Part 1 of the *Land Title Act* Form C to which this Agreement is attached.

1.5 In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) where a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement.
- (e) the word "enactment" has the meaning given to it in the *Interpretation Act* (British Columbia) on the reference date of this Agreement;
- (f) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (g) reference to a "party" or the "parties" is a reference to a party, or the parties, to this Agreement and their respective successors, assigns, trustees, administrators and receivers; and
- (h) reference to a "day", "month" or "year" is a reference to a calendar day, calendar month, or calendar year, as the case may be, unless otherwise expressly provided.

2. Representations and Warranties

2.1 The Owner warrants that the facts set out in Recital A are true as of the date of this agreement.

2.2 The Land Conservancy represents and warrants that the facts set out in Recital D are true as of the date of this Agreement.

2.3 The parties each agree that Recitals B and C are true as of the date of this Agreement.

3. Intent of Agreement

3.1 The parties each agree that the general intent of this Agreement is:

- (a) to protect, preserve, conserve and maintain portions of the Covenant Area and the Amenities, in a natural state, and to manage the Covenant Area as a public park with allowance for limited recreational uses as contemplated under the Management Plan; and
- (b) to prevent any occupation or use of the Covenant Area that will significantly impair or interfere with the current state of the Covenant Area or the Amenities;

and the parties agree that this Agreement is to be interpreted, performed and applied accordingly.

3.2 This Agreement shall be perpetual to reflect the public interest in the protection, preservation, conservation, maintenance, enhancement, and restoration of the natural state of the Covenant Area and the Amenities.

4. Baseline Documentation Report

4.1 The parties agree that the Covenant Area and Amenities are described in the Report, a copy of which is on file with each of the parties at the addresses set out in section 13, an overview of which is attached as Schedule B to this Agreement.

4.2 The parties agree that the Report is intended to serve as an objective information baseline for monitoring compliance with the terms of this Agreement and the parties each agree that the Report and Schedule B provide an accurate description of the Covenant Area and the Amenities at the date of this Agreement.

4.3 The parties each acknowledge that the flora and fauna on the Covenant Area will evolve through natural succession over time and, unless otherwise expressly stated, references to the Report in this Agreement are intended to take into account the natural succession of the flora and fauna over time, without human intervention other than as expressly permitted by this Agreement.

5. Management Plan

5.1 The Owner shall prepare and adopt a Management Plan for the management of the Covenant Area including the provision of parking, access routes, trails, signage, washroom facilities, park interpretation and educational facilities or such other park improvements as may be considered necessary or appropriate.

5.2 Prior to and until the adoption of the Management Plan, the Owner shall classify the Covenant Area as Park Reserve. In the Management Plan, the Covenant Area shall be given a park classification consistent with the Intent of Agreement.

5.3 The Owner agrees to consult with the Covenant Holder on the provisions in the Plan and take the Covenant Holder's comments into consideration.

6. Restrictions on Land Use

6.1 Except as expressly permitted in this Agreement, the Owner shall not do anything, omit to do anything, allow anything to be done, or allow the omission of anything, that does or could reasonably be expected to destroy, impair, diminish, negatively affect, or alter the Covenant Area or the Amenities from the condition described in the Report.

6.2 Without restricting the generality of section 5.1, the Owner shall not, except with the prior written approval of the Covenant Holder, in the sole discretion of the Covenant Holder, use or permit the use of the Covenant Area for any of the following activities or uses;

- (a) subdivide, sell, transfer, or grant any easement, right of way, license or lease over all or part of the Covenant Area;
- (b) remove, destroy or cut, or permit the removal, destruction or cutting of any indigenous vegetation on the Covenant Area except as is necessary to implement the park management plan referred to in section 5 herein or with the prior written approval of the Covenant Holder. Notwithstanding the foregoing, if any living or dead tree on the Covenant Area poses an imminent threat to the safety of any person, that tree may be cut down or trimmed. The Owner shall leave any cut tree or trimmings on the Covenant Area unless such action shall constitute a fire hazard;
- (c) use pesticides, herbicides or any other deleterious substance of any kind on the Covenant Area;
- (d) build, construct, erect or alter any structure, building or improvement on the Covenant Area except in accordance with the park management plan prepared in accordance with section 5 herein;
- (e) lay down, install, place or deposit any impervious material or surface on or within the Covenant Area for road, parking or trail purposes; and
- (f) design and construct any park improvements on the Covenant Area so as to cause substantial disturbance to the natural drainage patterns of the Covenant Area.

7. **Dispute Resolution**

- 7.1 If a breach of this Agreement occurs or is threatened, or if there is disagreement as to the meaning of this Agreement, the Covenant Holder or the Owner may give notice to the other party requiring a meeting of all parties within 10 Business Days of receipt of the notice.
- 7.2 All activities giving rise to breach or threatening a breach of this Agreement, or giving rise to a disagreement as to the meaning of this Agreement must immediately cease upon receipt of the notice.
- 7.3 The parties must attempt to resolve the matter, acting reasonably and in good faith, within 20 Business Days of receipt of the notice.
- 7.4 If the parties are not able to resolve the matter within that time, the parties may appoint a mutually acceptable person to mediate the matter. If the parties are unable to agree on the appointment of a mediator within 15 days after the mediation process is invoked, any party may apply to the British Columbia Mediator Roster Society, or its successor, or such other organization or person agreed to by the parties in writing, for appointment of a mediator. The parties must act reasonably and in good faith and

cooperate with the mediator and with each other in an attempt to resolve the matter within 60 days after the mediator is appointed.

- 7.5 The cost of the mediation will be borne equally between the parties, which costs will not include costs incurred by a party for representation by counsel at the mediation.

8. **Owner's Reserved Rights**

8.1 Subject to sections 6.1 and 6.2, the Owner reserves all of its rights as owner of the Land, including the right to use, occupy and maintain the Land in any way that is not expressly restricted or prohibited by this Agreement, so long as the use, occupation or maintenance are consistent with the intent of this Agreement.

8.2 Without limiting the generality of section 8.1 and subject to sections 6.1 and 6.2, the following rights are expressly reserved to the Owner:

- (a) To maintain, restore, rebuild or resurface the existing trails and build new trails according to the Management Plan.
- (b) All other rights and activities that are necessary for and incidental to the operation of a regional district park, and that are contemplated by or consistent with the Management Plan.

8.3 Subject to section 8.5, nothing in this Agreement restricts or affects the right of the Owner or any other party to do anything reasonably necessary to:

- (a) prevent, abate or mitigate any damage or loss to any real or personal property; or
- (b) prevent potential injury or death to any individual.

8.4 If the Owner or any other party intends to do anything described in section 8.3, the Owner shall give at least 30 days' prior written notice to the Covenant Holder, describing in reasonable detail the intended action, the reason for it, and its likely effect on the Covenant Area or the Amenities. Despite the rest of this Agreement, the Owner shall permit the Covenant Holder to enter upon and inspect the Covenant Area if any action is proposed under section 8.3. The Covenant Holder may comment on the proposed action and the Owner and any other party must take those comments into consideration before doing anything under that section.

8.5 Despite section 8.4, in an emergency situation, such as fire or threat to human safety, a living or dead tree on the Covenant Area may be cut down or trimmed, and any other action as is reasonably required to prevent, abate or mitigate the emergency may be taken by the Owner, without the consent of the Covenant Holders, but the Owner shall notify the Covenant Holders of the circumstances of such action within 30 days, including the actual or likely effect on the Covenant Area or the Amenities.

9. Owner's Obligations

9.1 The Owner retains all responsibilities and bears all costs and liabilities related to the ownership, use, occupation and maintenance of the Land, including any improvements expressly authorized by this Agreement.

9.2 The Owner shall indemnify the Covenant Holder, its directors, officers, employees, agents and contractors, from and against any and all liabilities, damages, losses, personal injury or death, causes of action, actions, claims, and demands by or on behalf of any person, arising out of any act or omission, negligent or otherwise, in the use, occupation and maintenance of the Covenant Area or the Amenities by the Owner.

9.3 The Owner is liable for any and all breaches of this Agreement by the Owner, but the Owner is not liable for:

- (a) breaches of this Agreement which occurred prior to the Owner becoming the registered owner of any interest in the Land;
- (b) injury or alteration to the Covenant Area or the Amenities resulting from natural causes, or causes beyond the Owner's reasonable control, including accidental fire, flood, storm, pest or fungal infestation, vandalism, trespass and earth movement, but excluding injury or alteration resulting from actions of the Owner or any other person acting with the actual or constructive knowledge of the Owner; or
- (c) any prudent action taken by the Owner under emergency conditions to prevent, abate, or mitigate significant injury to the Covenant Area or the Amenities resulting from natural causes, including accidental fire, flood, storm and earth movement.

9.4 Without limiting the generality of sections 9.1, 9.2 and 9.3, the Owner:

- (a) as between the Owner and the Covenant Holder, is solely responsible and liable for any loss or damage, or liability of any kind (whether civil, criminal or regulatory), in any way connected with the existence in, on, from, to or under the Land (whether through spill, emission, migration, deposit, storage or otherwise) of any pollutant, contaminant, waste, special waste, or any matter that impairs the environment ("Contaminant"); and
- (b) shall indemnify each Covenant Holder from and against any loss, damage, liability, cause of action, action, penal proceeding, regulatory action, order, directive, notice or requirement, including those of any government agency, incurred, suffered, brought against or instituted against the Covenant Holders, jointly or severally, in any way associated with anything described in section 9.4(a).

9.5 Where, as provided under section 9.3(b), the Owner is not responsible for damage or theft due to trespass or vandalism, the Owner in its sole discretion may take all reasonable steps to identify and prosecute the person responsible and to seek financial restitution for the damage or theft.

9.6 The Owner shall pay when due all taxes, assessments, levies, fees and charges of whatever description which may be levied on or assessed against the Land and shall pay any arrears, penalties and interest in respect thereof.

9.7 The Owner shall indemnify the Covenant Holder from and against any fee, tax, or other charge which may be assessed or levied against the Owner pursuant to any enactment, including the *Income Tax Act* (Canada) with respect to the Land or with respect to this Agreement, including any fee, tax or other charge which may be assessed or levied against the Owner as a result of the amendment or termination of this Agreement.

9.8 Any debts or other amounts due from the Owner to the Covenant Holder under this Agreement, if not paid within 30 days after notice, shall bear interest at the annual interest rate that is 1 percent greater than the prime rate of interest. For the purposes of this section, the "prime rate of interest" is the annual rate of interest charged from time to time by the Bank of Montreal, at its main branch in Vancouver, British Columbia, for demand Canadian dollar commercial loans made to its most creditworthy commercial customers and designated from time to time by the Bank of Montreal as its prime rate.

9.9 For clarity, the indemnities granted by the Owner to the Covenant Holder under sections 9.2, 9.4 and 9.7 are indemnities granted as an integral part of the section 219 *Land title Act* covenant created by this Agreement.

10. Enforcement Remedy of the Covenant Holder

10.1 If the Covenant Holder believes that the Owner has neglected or refused to perform any of the obligations set out in this Agreement or is in breach of any term of this Agreement, the Covenant Holder may serve on the Owner a notice setting out particulars of the breach and requiring the Owner to remedy the breach.

10.2 The Owner has 60 days from receipt of the notice given under section 10.1 or from the conclusion of a dispute resolution process under section 7 if it is invoked, to remedy the breach or make arrangements satisfactory to the Covenant Holder for remedying the breach, including with respect to the time within which the breach shall be remedied.

11. Successor of the Owner

11.1 This Agreement shall enure to the benefit of and be binding upon the Owner and the Owner's Successor.

11.2 The Owner shall not lease or license the Covenant Area or any part thereof unless the lease or license is expressly made subject to the provisions of this Agreement and unless the lease or license expressly entitles the Owner to terminate the lease or license and re-enter the Covenant Area if the tenant or licensee breaches any of the provisions of this Agreement.

11.3 Failure by the Owner to comply with the provisions of this section shall not affect the enforceability of this Agreement against the Owner or any Successor.

12. Assignment of Agreement or Dissolution of the Covenant Holder

12.1 This Agreement shall be transferable by a Covenant Holder, but the Covenant Holder may assign its rights and obligations under this Agreement only to an entity or person qualified at the time of transfer to hold covenants under s. 219 of the *Land Title Act* (or any successor provision then applicable) and any applicable regulations.

12.2 The Covenant Holder agrees that before it assigns its rights and obligations under this section, it shall consult with the Owner, and consider the Owner's comments, with respect to the proposed assignee. The Covenant Holder must give notice to the Owner of the proposed assignment, setting out in reasonable detail the identity of the proposed assignee and the qualifications and experience of the proposed assignee relevant to performance by the assignee of the rights and obligations of the Covenant Holder under this Agreement. If the Owner does not provide comments to the Covenant Holder regarding the proposed assignee within 10 Business Days after receipt from the Covenant Holder to the Owner under this section, the Owner is conclusively deemed to have declined to comment on the proposed assignee and to have consented to the assignment. For clarity, the Owner agrees that the Covenant Holder is only required to consult the Owner and that the Covenant Holder is entitled to assign its rights and obligations so long as it has consulted the Owner.

12.3 In the event of the winding-up or dissolution of a Covenant Holder, the Covenant Holder shall use its best efforts to assign and transfer all of its interest under this Agreement to a person or entity authorized to accept covenants under section 219 of the *Land Title Act*. If the Covenant Holder does not assign and transfer all of its interests under this Agreement as set out in this section, it shall be deemed to have assigned and transferred all of its interest under this Agreement to the other Covenant Holder, to hold temporarily until another Covenant Holder can be found, or if the other Covenant Holder is not available, to Her Majesty the Queen in Right of the Province of British Columbia. For clarity, the consultation process set out in section 13.2 does not apply to this section.

13. Notice

13.1 Any notice or other communication (collectively "notice") required or permitted under this Agreement shall be:

- (a) delivered in person; or
- (b) sent by pre-paid registered mail to the address of the parties at their respective addresses as set out in section 14.4.

13.2 If notice is delivered in person, the party receiving the notice shall forthwith acknowledge receipt of same in writing, and the notice shall be deemed

to have been received on the earlier of the date of such acknowledgment and the date that is 5 days after the notice is sent.

13.3 If notice is sent by pre-paid registered mail, it shall be deemed to have been received on the fourth Business Day following the day on which the notice was sent.

13.4 The addresses of the parties' representatives for notice are as follows:

The Owner:
CAROMAR SALES LTD.
P.O. Box 91217,
West Vancouver, BC, V7V 3N6.

The Covenant Holder:
THE LAND CONSERVANCY OF BRITISH COLUMBIA
301-1195 Esquimalt Road
Victoria, BC V9A 3N6

13.5 Each party agrees to immediately give written notice to the others of any change in its address from that set out in section 13.4.

13.6 If a party refuses to sign an acknowledgment of receipt of notice, the person delivering the notice may swear an affidavit of service and the notice shall be deemed to have been received on the date of service set out in the affidavit.

14. Notice of Covenant

14.1 The Owner agrees to allow the Covenant Holder to publicize the existence of this Agreement in a tasteful manner, provided that the Covenant Holder first consults with the Owner as to the content of such publicity.

14.2 Without restricting the generality of the foregoing, the Owner agrees to allow the Covenant Holder to erect a plaque or other signage on the Covenant Area, in a tasteful manner and at the Covenant Holders' expense, indicating that the Covenant Holder holds a covenant on the Covenant Area, provided that the location of the plaque or signage is to be approved in advance by the Owner, and the Covenant Holder is responsible for any repair, maintenance or replacement of the plaque or sign.

15. No Liability in Tort

15.1 The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this Agreement as a covenant under seal. Without limiting the generality of the foregoing, the parties agree that no tort or fiduciary obligations or liabilities of any kind are created or exist between the parties in respect of this Agreement and nothing in this Agreement creates any duty of care or other duty on any of the parties to anyone else. For clarity, the intent of this section is to, among other things, exclude tort liability of any kind

and to limit the parties to their rights and remedies under the law of contract and the law pertaining to covenants under seal.

16. Waiver

16.1 An alleged waiver of any breach of this Agreement is effective only if it is an express written waiver signed by each of the Covenant Holders, and is only effective to the extent of that express waiver and does not operate as a waiver of any other breach.

16.2 The failure of either or both Covenant Holders to require performance by the Owner at any time of any obligation under this Agreement does not affect either Covenant Holder's right to subsequently enforce that obligation.

17. Joint and Several Obligations

17.1 Where there is more than one party comprising the Owner under this Agreement, the obligations of those parties as the Owner are joint and several.

18. Remedies not Exhaustive

18.1 Exercise or enforcement by a party of any remedy or right under or in respect of this Agreement does not limit or affect any other remedy or right that party may have against the other parties in respect of or under this Agreement or its performance or breach.

19. Covenant runs with the Land

19.1 Unless it is otherwise expressly provided in this Agreement, every obligation and covenant of the Owner in this Agreement constitutes a personal covenant and also a covenant granted under s. 219 of the *Land Title Act* (British Columbia). This Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated.

19.2 Notwithstanding section 19.1, if the Covenant Area is subdivided from the Land, the Covenant Holder will, if requested by and at the cost of the Owner or its successor in title to the Land, discharge this Agreement from that portion of the Land not included within the Covenant Area.

19.3 In the event that the Owner transfers title to the Covenant Area to the Cowichan Valley Regional District or another party approved by the Covenant Holder, the Owner will be released from further obligation under this Agreement.

20. Registration

20.1 The Owner agrees to do everything necessary at the Owner's expense to ensure that this Agreement, and the interests it creates, is registered against title to the Land.

20.2 The Owner agrees to do everything necessary, at the Owner's expense, to ensure that this Agreement, and the interests it creates, are registered priority over all financial charges, liens and encumbrances registered or pending registration in the Land Title Office at the time of application for registration of this Agreement, including options to purchase and rights of first refusal. Registered or pending registration in the Land Title Office at the time of application for registration of this Agreement.

21. Severance

21.1 If any part of this Agreement is held by a court to be invalid, illegal or unenforceable, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement is to remain in force unaffected by that holding or by the severance of that part as if the part was never part of this Agreement.

22. No other agreements

22.1 This Agreement is the entire agreement between the parties and it terminates and supersedes all other agreements and arrangements regarding its subject. This Agreement may only be changed by a written instrument signed by all the parties.

23. Binding on successors

23.1 This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

24. Independent Advice

24.1 The Owner acknowledges and agrees that the Owner has sought and obtained to the Owner's satisfaction independent advice from an accountant or other income tax expert with respect to the income tax implications of this Agreement and acknowledges that it does not and has not relied on either Covenant Holder for advice in this regard and that they have given no representation or warranty in that regard.

24.2 The Owner acknowledges and agrees that the Owner has been advised by the Covenant Holder that the Owner should seek legal advice as to the meaning and effect of this Agreement, and the Owner further acknowledges and agrees that no legal advisor of the Covenant Holder has advised the Owner on the meaning or effect of this Agreement or in connection with this Agreement.

25. Deed and Contract

25.1 By executing and delivering this Agreement, each of the parties intends to create both a contract and a deed and covenant executed and delivered under seal.

26. Rights of the Covenant Holder

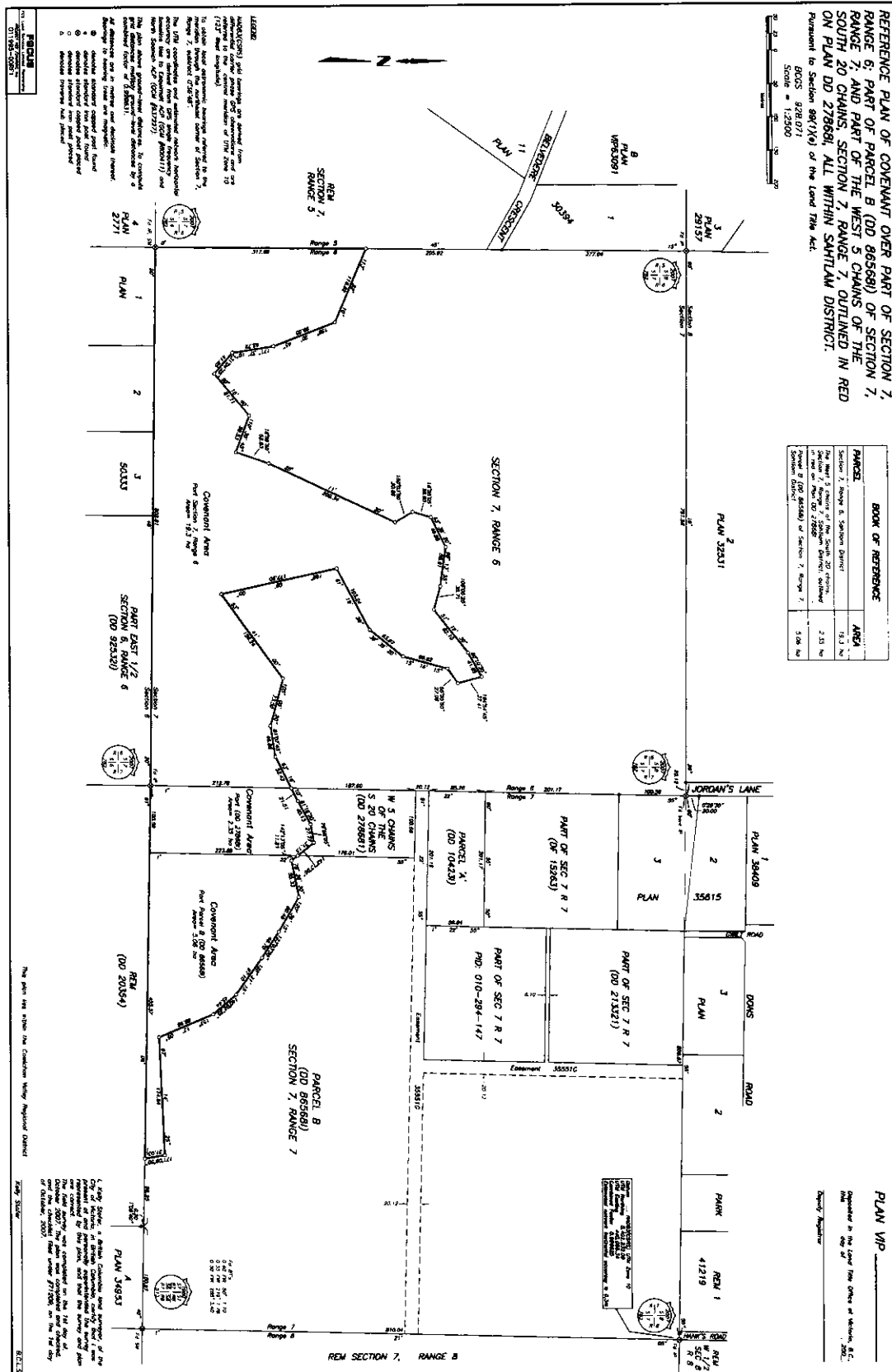
26.1 The Covenant Holder may exercise its rights under this Agreement through its directors, officers, employees, agents or contractors.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

The Schedules referred to throughout the document are attached after this page.

SCHEDULE A

Attached to and forming part of the Covenant Agreement between the CAROMAR LAND SALES LTD, the Owner, and TLC THE LAND CONSERVANCY OF BRITISH COLUMBIA, Covenant Holder, dated as of the ___ day of ___, 2008.



SCHEDULE B

Attached to and forming part of the Covenant Agreement between the CAROMAR LAND SALES LTD, the Owner, and TLC THE LAND CONSERVANCY OF BRITISH COLUMBIA, Covenant Holder, dated as of the ___ day of _____, 2008.

BASELINE DOCUMENTATION REPORT

1.0 Acknowledgment

1.1 The Owner hereby acknowledges and agrees that the following is an accurate description of the Covenant Area, as of the reference date of this agreement.

2.0 Covenant Area Location and description.

2.1 The property is located in the Sahtlam District of the Cowichan Valley Regional District (Electoral Area E).

2.2 Driving Directions: From the Trans-Canada Highway at Duncan: Turn off the Trans-Canada and head west on Truck Road. Follow Truck Road until it turns into Government St. and then Cowichan Lake Road. Keep left on Cowichan Lake Road. You will stay on Cowichan Lake Road for approximately 7 km. Turn left on Colverton Road, then left on Aquino Road, then left on Belvedere Crescent. At the dead end of Belvedere you can walk to the Covenant Area.

2.3 The Covenant Area is currently a portion of each of three legal parcels:

009-845-119 SECTION 7, RANGE 6, SAHTLAM DISTRICT (19.3 Ha)

009-849-581 THE WEST 5 CHAINS OF THE SOUTH 20 CHAINS, SECTION 7, RANGE 7, SAHTLAM DISTRICT, OUTLINED IN RED ON PLAN DD 278681 (2.34 Ha)

009-849-637 PARCEL B (DD 865681) OF SECTION 7, RANGE 7, SAHTLAM DISTRICT (5.08 Ha)

2.4 The total Covenant Area is 26.7 hectares in size and primarily young forest dominated by Douglas-Fir. The southern boundary follows a steep ridge. The central bulk of the property contains a significant wetland approximately 4 hectares in size.

3.0 Significance of the Land and Amenities

3.1 The most significant feature of the Covenant Area is the large wetland in the centre of the property. This wetland is approximately 4 hectares in size with about half of that being permanently flooded and the rest seasonally wet.

3.2 The rest of the Covenant Area is young forest, with a few older trees left from the most recent logging approximately 10 years ago.

3.3 The Conservation Data Centre in BC's Ministry of Environment has documented the presence of Macoun's groundsel (*Senecio macounii*) in the area, a blue listed species on the property, but its presence in the Covenant Area has not been confirmed.

4.0 The Management Vision

4.1 The current owner plans to donate the Covenant Area to the Cowichan Valley Regional District to become a regional park. The Covenant Area will then be managed as a regional park for natural heritage protection and recreation. It is possible that the Covenant Area will be connected to Sandy Pool Regional Park via another property south of the covenanted land.

5.0 Site History

5.1 The Covenant Area has been logged of all its significant timber, and is regenerating. There are a series old logging roads traversing the Covenant Area that have been used by off-road enthusiasts. The roads have also given access to hunters, as evidenced by the empty cartridge shells found on the Covenant Area. The site is also used by hikers. Some illegal dumping has occurred on the property, as evidenced by several small piles of garbage.

6.0 List of buildings, structures and other improvements

6.1 The Covenant Area does not contain any buildings and structures. There are several old logging roads in the Covenant Area and there were a few piles of dumped garbage including an abandoned car.

7.0 Inventory of Species.

7.1 An inventory of plant species was undertaken for the baseline inventory report as follows:

Trees

<i>Abies grandis</i>	grand fir
<i>Acer macrophyllum</i>	bigleaf maple
<i>Alnus rubra</i>	red alder
<i>Arbutus menziesii</i>	arbutus
<i>Cornus nuttallii</i>	flowering dogwood
<i>Malus fusca</i>	pacific crab apple
<i>Pinus contorta</i>	shore pine
<i>Populus balsamifera ssp trichocarpa</i>	black cottonwood
<i>Populus tremuloides</i>	quaking aspen
<i>Pseudotsuga menziesii</i>	Douglas-fir
<i>Quercus garryana</i>	Garry oak
<i>Rhamnus purshiana</i>	cascara
<i>Taxus brevifolia</i>	Western yew
<i>Thuja plicata</i>	Western redcedar
<i>Tsuga heterophylla</i>	Western hemlock

Shrubs

<i>Amelanchier alnifolia</i>	saskatoon
<i>Arctostaphylos uva-ursi</i>	kinnikinnick
<i>Cornus stolonifera</i>	red-osier dogwood
<i>Gaultheria shallon</i>	salal
<i>Goodyera oblongifolia</i>	Rattlesnake-plantain
<i>Holodiscus discolor</i>	oceanspray
<i>Linnaea borealis</i>	twinline
<i>Lonicera ciliosa</i>	western trumpet honeysuckle
<i>Mahonia aquifolium</i>	tall Oregon-grape
<i>Mahonia nervosa</i>	dull Oregon-grape
<i>Oplopanax horridus</i>	Devil's club
<i>Rosa gymnocarpus</i>	baldhip rose
<i>Rosa nootkatensis</i>	Nootka rose
<i>Rubus leucodermis</i>	blackcap
<i>Rubus parviflorus</i>	thimbleberry
<i>Rubus spectabilis</i>	salmonberry

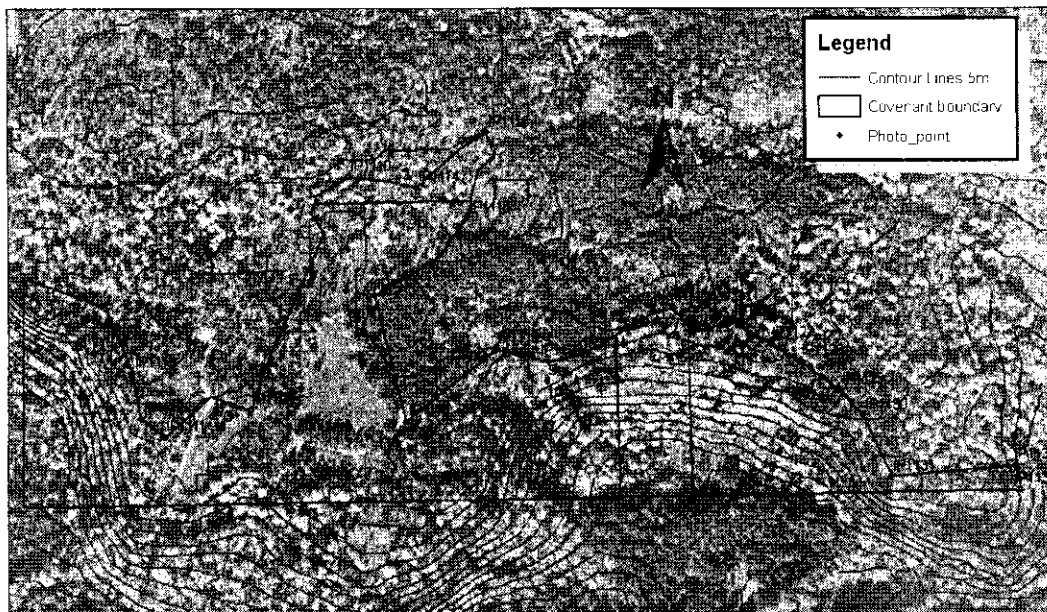
<i>Rubus ursinus</i>	trailing blackberry
<i>Salix</i> sp.	willows
<i>Sambucus racemosa</i>	red elderberry
<i>Spiraea douglasii</i> ssp. <i>douglasii</i>	hardhack
<i>Symphoricarpos albus</i>	snowberry
<i>Vaccinium parvifolium</i>	red huckleberry
Forbs	
<i>Achillea millefolium</i>	yarrow
<i>Achlys triphylla</i>	vanilla-leaf
<i>Anaphalis margaritacea</i>	pearly everlasting
<i>Anemone lyallii</i>	Lyall's anemone
<i>Aquilegia formosa</i>	red columbine
<i>Boschniakia hookeri</i>	vancouver groundcone
<i>Chimaphila umbellata</i>	prince's-pine
<i>Claytonia sibirica</i>	Siberian miner's-lettuce
<i>Dicentra formosa</i>	Pacific bleeding-heart
<i>Epilobium angustifolium</i>	fireweed, rosebay willowherb
<i>Epilobium ciliatum</i>	purple-leaved willowherb
<i>Fragaria vesca</i>	woodland strawberry
<i>Fragaria virginiana</i>	wild strawberry
<i>Fritillaria lanceolata</i>	chocolate lily
<i>Galium</i> sp.	bedstraw
<i>Hieracium</i> sp.	hawkweeds
<i>Hypochaeris radicata</i>	hairy cat's-ear
<i>Iris</i> sp.	
<i>Lilium columbianum</i>	tiger lily
<i>Lomatium nudicaule</i>	Indian consumption plant
<i>Lotus</i> sp.	lotus
<i>Lupinus</i> sp.	
<i>Lysichiton americanum</i>	skunk cabbage
<i>Maianthemum dilatatum</i>	false lily-of-the-valley
<i>Oenanthe sarmentosa</i>	pacific water-parsley
<i>Osmorhiza chilensis</i>	mountain sweet-cicely
<i>Polygonum</i> sp.	knotweed
<i>Pyrola asarifolia</i>	pink wintergreen
<i>Rumex occidentalis</i>	western dock
<i>Satureja douglasii</i>	yerba buena
<i>Sisyrinchium idahoense</i> var. <i>macounii</i>	Idaho blue-eyed grass
<i>Smilacina stellata</i>	star-flowered false solomon's seal
<i>Stachys cooleyae</i>	Cooley's hedge-nettle
<i>Tellima grandiflora</i>	fringecup
<i>Tolmiea menziesii</i>	piggy-back plant, youth-on-age
<i>Trientalis latifolia</i>	indian potato
<i>Trillium ovatum</i>	western trillium
<i>Urtica dioica</i>	stinging nettle
<i>Veronica americana</i>	American brooklime
<i>Veronica serpyllifolia</i>	thyme-leaved speedwell
<i>Viola adunca</i> (?)	early blue violet
<i>Viola palustris</i>	marsh violet
Ferns & Fern Allies	
<i>Adiantum pedatum</i>	maidenhair
<i>Athyrium felix-femina</i>	lady fern
<i>Polystichum munitum</i>	swordfern

<i>Pteridium aquilinum</i>	bracken fern
Graminoids	
<i>Juncus balticus</i>	baltic rush
<i>Juncus effusus</i>	common rush
Others	
<i>Equisetum arvense</i>	common horsetail
<i>Equisetum telmateia</i>	giant horsetail

8.0 Maps and Photos

8.1 A map of the Covenant Area follows showing photo points taken for the purposes of the baseline inventory report. Additional maps and photos are in the full baseline documentation report on file with all parties.

Caromar property photopoint inventory map



0 50 100 200 300 400 500 Meters
 Created by Scott Lehr & Christina Waddle 2008
 Sources: GeoBase, Base Mapping and Geomatic Services - BC Government, Cowichan Valley Regional District

END OF DOCUMENT

-2 SEP 2008 14 48

FB0208158

LAND TITLE ACT
FORM 11(a)
(Section 99(1)(e), (j) and (k))
APPLICATION FOR DEPOSIT OF REFERENCE
OR EXPLANATORY PLAN (CHARGE)

VIP 85620

IP
IA

I, John H. Fraser, Barrister & Solicitor Lawson Lundell, 1600 – 925 West Georgia Street,
Vancouver, B.C. V6C 3L2

[full name, address and occupation]

Agent of. ~~Garman Sales Ltd.~~ TLC THE LAND CONSERVANCY OF
BRITISH COLUMBIA

616 - 1641 Lonsdale Avenue, North Vancouver, BC, V7M 2J5

[full name, address and occupation]

the owner of a registered charge) apply to deposit reference plan _____


of Section 219 Covenant over PID 009-845-119, Section 7, Range 6, PID 009-849-581, The West 5
Chains of the South 20 Chains, Section 7, Range 7 outlined in red on Plan DD 27868I and PID 009-849-
637, Parcel B (DD 86568I) of Section 7, Range 7, all of Sahtlam District

I enclose:

1. The reference/explanatory plan.
2. The reproductions of the plan required by section 67 (u) (see below).
3. Fees of \$ _____

HN 08/09/02 14:48:34 01 VI 816625
PLANS \$55.00

Dated the 29 day of August 20 08


SIGNATURE

c/o West Coast Title Search Ltd.
10104

- NOTE:**
- (i) Under section 67 (u) the following reproductions of the plan must accompany this application:
 - (a) one blue linen original (alternatively white linen or original transparencies).
 - (b) one duplicate transparency.
 - (c) one whiteprint is required as a worksheet for the land title office.
 - (ii) The following further requirements may be necessary:
 - (a) If the parent property is in an Agricultural Land Reserve, a release is required unless the parent property is less than 2.0 acres (app. .8094 hectares) or where, for permitted uses, an approving officer has signed the plan under section 1(1)(a) and (b) of the Subdivision and Land Use Regulation (B.C. Reg. 7/81) under the *Agricultural Land Commission Act*.
 - (b) Where a notice respecting a grant under the *Home Purchase Assistance Act* is endorsed on title, an extra whiteprint must accompany the application, unless the Ministry of Lands, Parks and Housing agrees otherwise in writing. This extra print must contain the following endorsement:

"The eligible residence as defined by the *Home Purchase Assistance Act* is located on lot _____ created by this plan.

B.C.L.S. or solicitor for the owner"

- (c) Controlled access approval must be evident on the plan where parent property adjoins a highway that is designated as a controlled access highway.
- (d) Where the plan refers to a restrictive covenant to be made under section 215, the instrument containing the covenant must be tendered with the plan.



COWICHAN VALLEY REGIONAL DISTRICT

DEVELOPMENT PERMITREGISTERED PROPERTY OWNER(S):CVRD FILE NO.: **DP23E05**

DU-APP GP LTD., INC.NO. BC1384273
415 – 1788 WEST 5TH AVENUE
VANCOUVER, BC
V6J 1P2

DATE ISSUED: **July 28, 2023**

1. This Development Permit is issued and is subject to compliance with all of the bylaws of the Regional District applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Development Permit applies to and only to those lands within the Regional District described below:

Section 7, Range 6, Sahtlam District, Except Part in Plan EPP18482 (PID: 009-845-119), and Parcel B (DD 865681) Of Section 7 Range 7 Sahtlam District Except Part in Plan EPP18482, EPP26101 And EPP67975 (PID: 009-849-637).

3. Authorization is hereby given for **the clearing of of two private access roads (driveways) within the Environmental Protection Development Permit Area** subject to the following requirements:
 - No works shall occur on **PID 009-849-581**;
 - The private access roads may be compacted but shall not be hard surfaced. Further road works will require a development permit amendment;
 - Development shall occur in accordance with attached Schedules **A – D**;
 - Prior to the commencement of any land-clearing activities the 30m Riparian Assessment Area Boundary shall be flagged by a Qualified Environmental Professional and verified by a qualified land surveyor in accordance with Schedules C and D;
 - All flagged 30m Riparian Assessment Area Boundaries shall be defined with temporary fencing in accordance with Schedule C;
 - Invasive species in proximity to the proposed access road footprints and workspace and equipment laydown areas shall be removed in accordance with Schedule C;
 - Areas disturbed by road building that are not part of the permanent road footprint (as depicted in Schedule B) shall be re-vegetated in accordance with Schedule C;
 - Areas disturbed by road building that are part of the permanent road footprint (as depicted in Schedule B) shall be compacted and/or hydroseeded to prevent erosion/sedimentation to the satisfaction of the Qualified Environmental Professional;

- A raptor nest survey shall be completed by a QEP prior to development activities in accordance with Schedule C;
- Vegetation and tree removal shall be completed outside of the migratory bird window unless a QEP conducts nest search survey prior to the start of activities in accordance with Schedule C; and,
- A qualified environmental professional shall regularly monitor the site for signs of sedimentation during all phases of the work in accordance with Schedule C and Schedule D.

4. The following Schedules are attached to and form a part of this permit:


SCHEDULE A – Subject Property Map

SCHEDULE B – Site Plan

SCHEDULE C – Qualified Environmental Professional Memo, prepared by Asio Environmental Consulting May 2023

SCHEDULE D – Professional Engagement Letter, prepared by Asio Environmental Consulting June 2023

5. The land described herein shall be developed in substantial compliance with the terms and provisions of this Permit and any plans and specifications attached to this Permit shall form a part thereof.
6. Subject to the terms of this Permit, if the holder of this Permit does not substantially start any construction within 2 years of its issuance, this Permit will lapse.

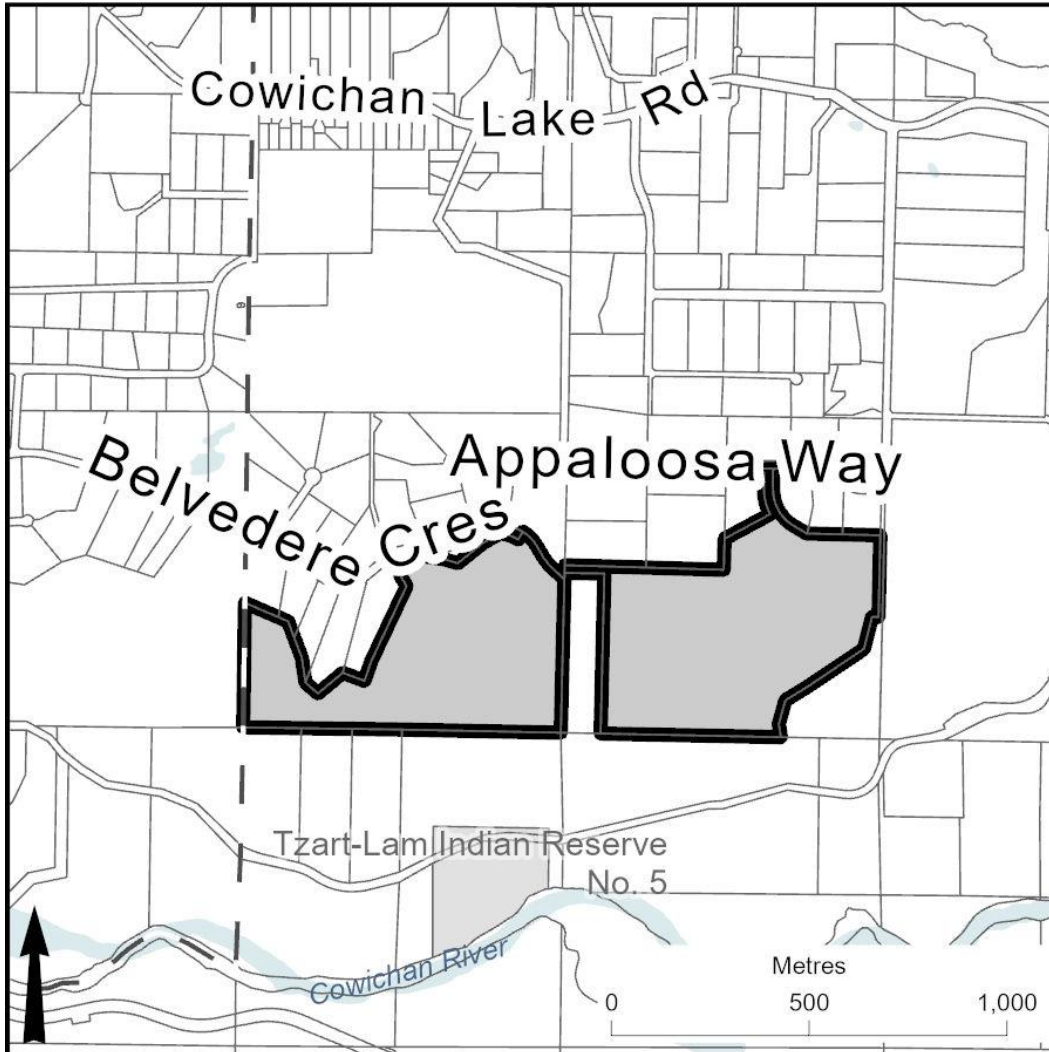


Mike Tippett, Acting General Manager
Land Use Services Department

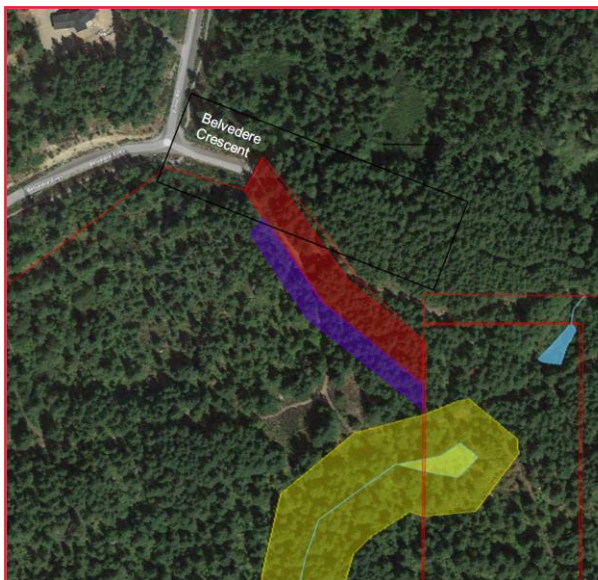
This Permit is not a Building Permit or subdivision approval. Where applicable, no occupancy certificate or final subdivision approval shall be issued until all items of this Development Permit have been complied with to the satisfaction of the Land Use Services Department.

This permit is not a Soil Deposit Permit. A Soil Deposit Permit Application may be required to ensure compliance with the CVRD Soil Deposit Bylaw - please call Bylaw Enforcement for further information 250.746.2655.

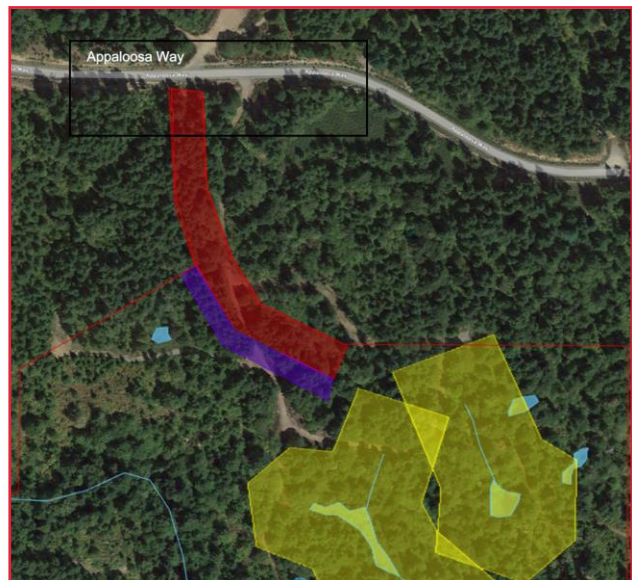
Subject Properties



Site Plan



NOTE:
Belvedere Cres:
Road Width = 30m & Length = 170m
Workspace Area Width = 20m & Length = 170m



NOTE:
Appaloosa Way:
Road Width = 30m & Length = 220m
Workspace Area Width = 20m & Length = 120m



May 12, 2023

Top Down Investments
 Suite 106, 225 Canada Avenue,
 Duncan, BC V9L 1T6

ENVIRONMENT MEMO FOR DRIVEWAY CONSTRUCTION AT PARCEL B, APPALOOSA WAY, DUNCAN, BC

INTRODUCTION

Parcel B Appaloosa Way (the property) is an assembly of three parcels in the Sahtlam Area, west of Duncan, BC. The property details are provided below in Table 1 and in Figure 1.

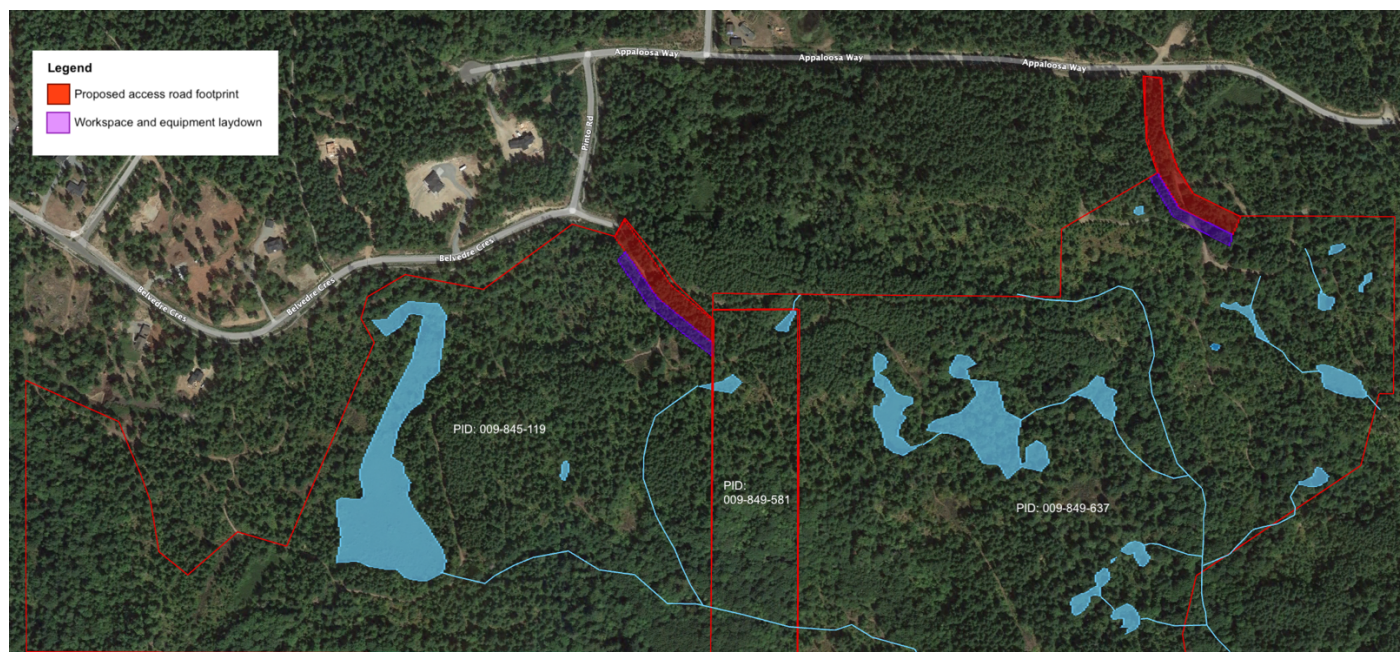
Table 1. Parcel B Appaloosa Way Property Details

PID	SIZE	DETAILS/NOTES
PID:009-845-119	66.75 acres	Property 1. Western most parcel. Contains existing historical roads. A large portion of this parcel, surrounding the largest wetland, is designated as a covenant for the Nature Conservancy.
PID: 009-849-581	10.00 acres	Property 2. Middle parcel. The southern half of this parcel is within the NCC covenant.
PID: 009-849-637	72.98 acres	Property 3. Eastern most parcel. A portion of the southern part of this parcel is within the NCC covenant.

The properties are currently zoned as R-5 within the Cowichan Valley Regional District (CVRD) Electoral Area E - Cowichan Koksilah/Quw'utsun Xwulqw'selu. The properties are currently undeveloped. A series of overgrown historical logging roads criss-cross the property. The property is forested and contains a complex stream and wetland network.

The owner is proposing to install access roads from the main, paved roads to the interior of each parcel: one road will extend from the end of Belvedere Crescent across the top of property 1 to the boundary of property 2; the other will provide access to property 3 from Appaloosa Way.

Figure 1. Parcel B properties, proposed access roads, and aquatic ecosystems



This memo addresses the requirements in Schedule C of Bylaw No. 4270 and provides an assessment on the environmental conditions on the property, potential impacts of the proposed access roads, and recommendations on the protection of environmentally sensitive features and methods to minimize impacts on the environment.

Asio Environmental Consulting Inc. (Asio) was engaged to complete an environmental assessment of the property to specifically address the requirements of the development permit areas. Background information was reviewed, and site conditions were documented during several field visits in 2022. The following biophysical features were considered in this report:

- Areas of sensitivity, including aquatic ecosystems and riparian areas.
- Areas of habitat and biodiversity values.
- Plant communities and plant species in the area.
- Wildlife presence and wildlife habitat.

The impacts of the proposed road building on the environmental features were assessed and specific mitigation to reduce any residual impacts have been recommended.

DEVELOPMENT PERMIT AREAS

The property is located within the CVRD, specifically within Electoral Area E. The property is overlapped by four CVRD development permit areas (DPAs): riparian, sensitive ecosystems, aquifer protection and wildfire hazard. This report will address the riparian and sensitive ecosystem DPAs. The pertinent objectives of these DPAs are summarized below and can be found in full in Section 14.5 of the CVRD Official Community Plan (CVRD 2021a) and Schedule C of the CVRD Development Permit Areas (CVRD 2021b).

The footprints of the proposed access roads have been planned to be at least 30m from any watercourses or waterbodies and are therefore located outside of the 30m riparian assessment area and no riparian development permit is required for the access road installation.

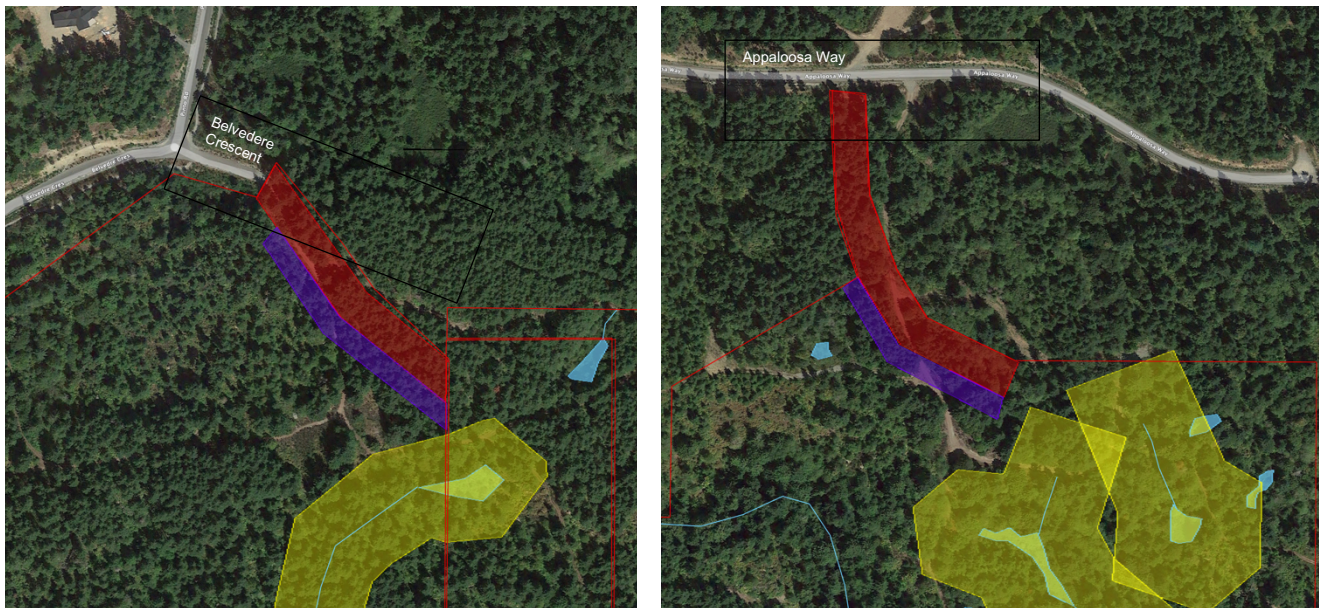


Figure 2. Areas immediately surrounding proposed access roads (west on the left, east on the right), including 30m Riparian Assessment Areas/DPAs

The footprints of the proposed access roads overlap DPA 2: Sensitive Ecosystem Protection for Western Toad. Pertinent measures for protecting natural attributes of sensitive areas, including terrestrial western toad habitat, include:

- SE2. Include in the environmental site plan measures to maintain connectivity and linkages with adjacent sensitive ecosystems and other habitat areas through the use of corridors and greenways to minimize fragmentation. [...]
- SE4. Design and implement a sediment and erosion control plan to protect sensitive ecosystems from silt smothering of low-growing plants where land disturbance is planned or likely.
- SE6. Use only native plant species where development occurs within or adjacent to a sensitive ecosystem, and do not use invasive plant species as identified by the Invasive Species Council of BC.

- SE7. Create and implement a plan to control the introduction or spread of invasive plant species. This plan may include removal of invasive species by hand clearing, pruning, mowing, excavation or other appropriate method. Disturbed sites are to be planted with appropriate native species.
- SE8. Avoid development activities in areas that would disturb wildlife during nesting and breeding seasons. Ensure that wildlife agencies and experts are consulted as necessary to determine the best times and practices for development.

PROVINCIAL AND FEDERAL LEGISLATION

Provincial and federal legislation that may apply to the access road installation are detailed in Table 2.

Table 2. Provincial and Federal Legislation

LEGISLATION	YEAR	SUMMARY	REQUIREMENTS ¹
PROVINCIAL			
Riparian Areas Protection Regulation	2019	Protect the many and varied features, functions and conditions (FCCs) that are vital for maintaining stream health and productivity. In the RAPR, a Streamside Protection and Enhancement Area (SPEA) is defined as “an area (a) adjacent to a stream that links aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential adjacent upland vegetation that exerts an influence on the stream, and (b) the size of which is determined according to this regulation on the basis of an assessment report provided by a qualified environmental professional in respect of a development proposal.”	No Riparian DPA required for activities outside of the 30m RAA, therefore no RAPR triggered.
Water Sustainability Act	2016	Protects the quality of water, fish and wildlife habitat, and the rights of licensed water users. Any activities that result in changes in or about a stream require notification or approval under Section 11	n/a
Weed Control Act	1996	Designates provincially and regionally noxious weeds (Schedule A). Provides guidelines for noxious weed prevention and management and imposes a responsibility on all land occupiers to control designated noxious plants.	Apply best practices to prevent spread of weeds.
Wildlife Act; Wildlife Amendment Act	1996, 2004	Protects vertebrate animals from direct harm, except as allowed by regulation within B.C. (e.g. hunting, trapping). This includes all active bird nests.	Avoid or mitigate activities that may impact wildlife (see Mitigation Section).
FEDERAL			
Fisheries Act	2019	Prohibits the harmful alteration, disruption or destruction of fish habitat (HADD). Includes, but not limited to, the release of a deleterious substance.	n/a
Species At Risk Act (SARA)	2002	Provides legal protection for wildlife and wildlife habitat as designated under Schedule 1 of the Act.	n/a
Migratory Bird Convention Act	1994	Protects migratory birds and nests from indiscriminate harvesting and destruction.	If disturbance of vegetation is to occur during the sensitive nesting period for migratory birds, a pre-disturbance nest survey by a biologist is required (see Mitigation Section below).

¹Potentially required for the project activities.

ENVIRONMENTAL DESKTOP RESULTS

A desktop review of existing data was completed to reveal known occurrences of species at risk on or near the property.

Ecosystem Description

The property is located within the Moist Maritime subzone of the Coastal Douglas-fir biogeoclimatic zone (CDFmm; Province of BC 2022a). This ecosystem is typically dominated by Douglas-fir trees, with some grand fir, western redcedar, and bigleaf maple. The understory within this zone typically contains salal, dull Oregon-grape, sword fern and red huckleberry (Green and Klinka 1994). A well-developed moss layer is generally present, particularly in riparian areas.

Species at Risk

No species or ecosystems at risk occurrence records overlap the property. Nearby occurrences include red-listed ecosystems, red listed species, and blue-listed species (Table 3; BC CDC 2023a).

Table 3. Species at Risk in the Vicinity of the Property

ENGLISH NAME	SCIENTIFIC NAME	BC STATUS ¹	FEDERAL STATUS ²
SPECIES AT RISK			
Dun Skipper	<i>Euphyes vestris</i>	Blue	Threatened
Three-way sedge	<i>Dulichium arundinaceum</i>	Red	
ECOSYSTEMS AT RISK			
Black cottonwood - red alder/salmonberry	<i>Populus trichocarpa</i> - <i>Alnus rubra</i> / <i>Rubus spectabilis</i>	Blue	--
Grand fir/dull Oregon-grape	<i>Abies grandis</i> / <i>Mahonia nervosa</i>	Red	
Labrador-tea /western bog-laurel /peat-mosses	<i>Rhododendron groenlandicum</i> / <i>Kalmia microphylla</i> / <i>Sphagnum spp.</i>	Blue	
Red alder/salmonberry/common horsetail	<i>Alnus rubra</i> / <i>Rubus spectabilis</i> / <i>Equisetum arvense</i>	Blue	
Red alder/slough sedge [black cottonwood]	<i>Alnus rubra</i> / <i>Carex obnupta</i> [<i>Populus trichocarpa</i>]	Red	
Western redcedar / common snowberry	<i>Thuja plicata</i> / <i>Symphoricarpos albus</i>	Red	
Western redcedar / common snowberry	<i>Thuja plicata</i> / <i>Symphoricarpos albus</i>	Red	
Western redcedar / salmonberry	<i>Thuja plicata</i> / <i>Rubus spectabilis</i>	Red	

¹BC CDC 2023b

²Government of Canada 2023

FIELD RESULTS

A qualified professional biologist from Asio Environmental Consulting completed a number of site surveys and inventory on the property between February and June 2022. The riparian area and aquatic ecosystems, and other potentially sensitive ecosystems, were assessed – including the collection of stream data, vegetation and wildlife observations, and site photographs.

Riparian Areas and Aquatic Ecosystems

A total of 19 wetlands and 15 stream and stream segments were mapped on the property (Figure 1). Several of the wetlands are low saturated areas but are isolated from the stream network. Each wetland or watercourse has a 30m riparian assessment area (RAA). None of the proposed activities for access road installation will enter the 30m RAA, therefore no further discussion of the wetland and watercourse characteristics are included in this memo.

Vegetation and Wildlife Observations

The property is mostly forested, predominantly mature, second growth forest (Douglas-fir, grand fir, western redcedar, red alder, and bigleaf maple trees) with an understory dominated by sword ferns and salal. There are a number of openings due to historical clearing and use. These areas are dominated by scotch broom and other weedy species. The wetlands on the property are mostly shrubby, dominated by hardhack, or marshy, dominated by sedges. Riparian areas adjacent to the wetlands and streams contain salmonberry, sword fern and bracken fern. No species or ecosystems at risk were observed. During the site assessment the species in Table 4 were found on the site.

TABLE 4. VEGETATION SPECIES OBSERVED at Parcel B Appaloosa Way

COMMON NAME	SCIENTIFIC NAME	SPECIES STATUS
TREES AND SHRUBS		
Bigleaf maple	<i>Acer macrophyllum</i>	Yellow ¹
Douglas-fir	<i>Pseudotsuga menziesii</i>	Yellow ¹
Dull Oregon-grape	<i>Berberis nervosa</i>	Yellow ¹
Grand fir	<i>Abies grandis</i>	Yellow ¹
Hardhack	<i>Spiraea douglasii</i> var. <i>douglasii</i>	Yellow ¹
Nootka rose	<i>Rosa nutkana</i>	Yellow ¹
Oceanspray	<i>Holodiscus discolor</i> var. <i>discolor</i>	Yellow ¹
Pacific dogwood	<i>Cornus nuttallii</i>	Yellow ¹
Baldhip rose	<i>Rosa gymnocarpa</i>	Yellow ¹
Red alder	<i>Alnus rubra</i>	Yellow ¹
Salal	<i>Gaultheria shallon</i>	Yellow ¹
Salmonberry	<i>Rubus spectabilis</i>	Yellow ¹
Thimbleberry	<i>Rubus parviflorus</i>	Yellow ¹
Trailing blackberry	<i>Rubus ursinus</i>	Yellow ¹
Western hemlock	<i>Tsuga heterophylla</i>	Yellow ¹
Western redcedar	<i>Thuja plicata</i>	Yellow ¹
Willow sp.	<i>Salix</i> sp.	--



COMMON NAME	SCIENTIFIC NAME	SPECIES STATUS
FORBS, FERNS AND GRAMNOIDS		
Bracken fern	<i>Pteridium aquilinum</i>	Yellow ¹
Cleavers	<i>Galium aparine</i>	Yellow ¹
Common horsetail	<i>Equisetum arvense</i>	Yellow ¹
Fringecup	<i>Tellima grandiflora</i>	Yellow ¹
Licorice fern	<i>Polypodium glycyrrhiza</i>	Yellow ¹
Orange honeysuckle	<i>Lonicera ciliosa</i>	Yellow ¹
Pacific bleeding heart	<i>Dicentra formosa ssp. formosa</i>	Yellow ¹
Pacific water parsley	<i>Oenanthe sarmentosa</i>	Yellow ¹
Red columbine	<i>Aquilegia formosa</i>	Yellow ¹
Sedge sp.	<i>Carex sp</i>	--
Siberian miner's lettuce	<i>Claytonia sibirica</i>	Yellow ¹
Skunk cabbage	<i>Lysichiton americanus</i>	Yellow ¹
Slough sedge	<i>Carex obnupta</i>	Yellow ¹
Starflower	<i>Lysimachia latifolia</i>	Yellow ¹
Stinging nettle	<i>Urtica dioica</i>	Yellow ¹
Sword fern	<i>Polystichum munitum</i>	Yellow ¹
Vanilla leaf	<i>Achlys triphylla</i>	Yellow ¹
INVASIVE SPECIES AND EXOTIC SPECIES		
Canada thistle	<i>Cirsium arvense</i>	Invasive; Exotic
Cut-leaf blackberry	<i>Rubus laciniatus</i>	Exotic
Hairy cat's ear	<i>Hypochaeris radicata</i>	Exotic
Scotch broom	<i>Cytisus scoparius</i>	Invasive; Exotic
BRYOPHYTES		
Coastal leafy moss	<i>Plagiomnium insigne</i>	Yellow ¹
Electrified cat's-tail moss	<i>Rhytidiadelphus triquetrus</i>	Yellow ¹
Flat-moss	<i>Buckiella undulata</i>	Yellow ¹
Haircap moss	<i>Polytrichum piliferum</i>	Yellow ¹
Oregon beaked moss	<i>Kinbergia oregana</i>	Yellow ¹
Step moss	<i>Hylocomium splendens</i>	Yellow ¹
Tree ruffle liverwort	<i>Porella navicularis</i>	Yellow ¹

¹ BC CDC 2023b

The property provides abundant and varying wildlife habitat. The property's mature trees provide nesting, roosting and foraging habitat for forest songbirds, owls and woodpeckers. The shrubs in the understory provide nesting and foraging habitat for water-associated birds and mammals, security habitat for ungulates, and terrestrial habitat for amphibians and reptiles. A list of the animal species observed during the field visit is provided in Table 5.

Table 5. Wildlife Species Observed at Parcel B Appaloosa Way

COMMON NAME	SCIENTIFIC NAME	SPECIES STATUS
BIRDS		
American robin	<i>Turdus migratorius</i>	Yellow ¹
Chestnut-backed chickadee	<i>Poecile rufescens</i>	Yellow ¹
Crow	<i>Corvus brachyrhynchos</i>	Yellow ¹
Dark-eyed junco	<i>Junco hyemalis</i>	Yellow ¹
Marsh wren	<i>Cistothorus palustris</i>	Yellow ¹
Pacific wren	<i>Troglodytes pacificus</i>	Yellow ¹
Pileated woodpecker	<i>Dryocopus pileatus</i>	Yellow ¹
Song sparrow	<i>Melospiza melodia</i>	Yellow ¹
Swainson's thrush	<i>Catharus ustulatus</i>	Yellow ¹
Varied thrush	<i>Ixoreus naevius</i>	Yellow ¹
MAMMALS		
Black bear	<i>Ursus americanus</i>	Yellow ¹
Black-tailed deer (scat)	<i>Odocoileus hemionus columbianus</i>	Yellow ¹
Cougar	<i>Puma concolor</i>	Yellow ¹
Red squirrel	<i>Tamiasciurus hudsonicus</i>	Yellow ¹
Roosevelt elk	<i>Cervus elaphus roosevelti</i>	Blue ¹
AMPHIBIANS AND REPTILES		
Northern red-legged frog	<i>Rana aurora</i>	Blue ¹ ; Special Concern ²
Northwestern gartersnake	<i>Thamnophis ordinoides</i>	Yellow ¹
Pacific tree frog	<i>Pseudacris regilla</i>	Yellow ¹
Western toad	<i>Anaxyrus boreas</i>	Yellow ¹ ; Special Concern ²

¹ BC CDC 2023b

Western toad movement encompasses adult movement to and from breeding ponds in the spring and summer, terrestrial movement during the remainder of the year, and en-masse juvenile dispersal from breeding ponds in summer. No western toads were observed in the vicinity of either proposed access road during any of the multiple site visit.



POTENTIAL ENVIRONMENTAL IMPACTS

The disturbance from the preliminary development of the property may have impacts on the environment (Table 6), specifically:

- Disturbance in sensitive ecosystem areas, such as terrestrial western toad habitat,
- Loss of vegetation,
- Spread of invasive and exotic plant species,
- Change in wildlife habitat availability and wildlife mortality risk, and
- Sediment movement in the project area that may impact wetlands and watercourses.

Table 6. Potential impacts of road building activities at Parcel B

POTENTIAL IMPACT	MECHANISMS OF IMPACT
Disturbance in sensitive ecosystem areas (e.g., western toad habitat)	Road construction can increase mortality risk for western toads as vehicles can kill toads crossing the road, as causing habitat fragmentation, which can disrupt migration and breeding patterns (Environment and Climate Change Canada 2016).
Loss of vegetation	The effects of tree removal may include loss of biodiversity of plant species and increased susceptibility to invasive plants not only in the cleared area but also in adjacent plant communities. Vegetation in the riparian area immediately adjacent to cleared areas may experience changes to the canopy structure and understory plant species due windthrow and increased light and moisture penetration.
Spread of invasive plant species	Invasive plants are particularly adept at colonizing degraded plant communities and disturbed soils. Invasive plants establish readily in disturbed areas as they have a wide ecological tolerance and grow and propagate quickly. The effects of invasive plant establishment may be the reduction or displacement of native species by monopolizing on open spaces and occupying habitats.
Change in wildlife habitat availability and wildlife mortality risk,	Habitat loss and alteration from vegetation clearing can cause displacement of wildlife, use of less suitable habitat, reduced foraging ability, increased energy expenditure and lower reproductive success.
Sediment movement in the project area towards wetlands and watercourses.	Removal of vegetation can expose soils to erosion and can result in the movement of sediment. Sediment may enter aquatic ecosystems, causing changes in light penetration, pH and turbidity. Damage or degradation of soil surfaces can result in loss of soil structure, increased erosion, and soil compaction, which can negatively affect reclamation efforts. As all work will occur at least 30m from aquatic environments, no direct impacts to sensitive ecosystems will occur.

RECOMMENDED MITIGATION MEASURES

The residual environmental impacts of the previous and planned activities on the property will be reduced by the implementation of the mitigation and restoration measures recommended in the sections below. Mitigation measures were developed according to the mitigation hierarchy: 1) avoid, 2) minimize, and 3) restore (BC Ministry of Environment 2014) and include provincial best management practices (BC MOE 2014, BC Ministry of Water, Land and Air Protection 2004a, b).

Protection of Riparian Areas

The 30m Riparian Assessment Area (RAA) boundary should be flagged by a QEP to ensure that no encroachment will occur as no DP for riparian areas will be in place. These areas must be clearly marked prior to the commencement of any activities on the site. This fencing will ensure that neither the SPEA nor RAA will be encroached upon during road construction.

Invasive Weeds

Invasive weed control is difficult for established populations. Species should be removed using the most appropriate methods, at the correct time of year, and plant material must be disposed of correctly to avoid re-establishment or spread. Following removal, re-seed bare soil with desirable, competing native vegetation.

Vegetation spoil and soil contaminated with scotch broom should be handled separately from other materials. Scotch broom plants should be cut below the root crown using loppers or a pruning saw and then bagged and disposed of properly in a landfill. Soil from scotch broom infested areas should be transported in dump trucks with heavy tarpaulins that cover the top, sides and back of the box to ensure that soil, seeds and fragments have no chance of escaping and are not spread.

Mitigation measures to control and minimize the spread of invasive weeds on the site include:

- Clean all machinery before arrival onto the site to ensure that weed seeds and other propagules (e.g. pieces of root) are not brought into the project area. Clean all machinery at the end of the project to reduce spread from the site to other environments.
- Use clean fill and soil. If fill or topsoil is imported from external areas, ensure that it is from a weed-free source.

Areas disturbed by road building that are not part of the permanent road footprint should be seeded with native seed mix (e.g., clover, Coastal Revegetation Mix by Pacific Premier, or equivalent). Native vegetation species that could also be considered for revegetation include sword ferns, nootka rose, salmonberry and salal. The purpose of using native species is to not require irrigation in the future. The optimal time for revegetation is in the fall, prior to the wet winter season. However, planting at any time of the year (with irrigation as needed) is acceptable to prevent invasive species.



Wildlife and Wildlife Habitat

Mitigation measures to minimize impacts on wildlife and wildlife habitat include:

- Vegetation and tree removal should be completed outside of the migratory bird window (March 7 to August 15; Government of Canada 2023).
- If vegetation and tree clearing is scheduled within the sensitive time period for breeding birds, a QEP should conduct nest search surveys prior to the start of activities to identify any nesting birds that may be potentially impacted by the project. The survey must be completed within 5 days of the planned clearing/disturbance, and the results are valid for 5 days. If an active nest is discovered during nest search or site preparation activities, the nest will be subject to site-specific mitigation measures (e.g. protective buffer around the nest) until the young have naturally fledged.
- A raptor nest survey should be completed by a QEP prior to development activities. If nesting raptor activity is detected, then the QEP will recommend the appropriate mitigation, such as protective buffers.
- In the event that an amphibian or reptile is encountered during clearing or construction, the QEP will recommend the appropriate mitigation, such as avoidance or relocation. All salvage must be done by the QEP and with the appropriate wildlife permit.

Erosion and Sediment Control

Erosion controls, including the recommendations listed below, are recommended to be maintained for the duration of the activities to minimize the potential effects of the road construction on the natural environment. The measures below, in addition to all work being conducted outside of well-marked 30m buffers on aquatic ecosystems, will ensure protection of sensitive environments on the properties.

- Store materials and soils in dry, flat areas.
- Heed weather advisories and scheduling work to avoid wet and rainy periods that may result in high surface water flow volumes, increase erosion and sedimentation, and/ or rutting and soil compaction.
- Regularly monitor the environment for signs of sedimentation during all phases of the work, undertaking or activity and taking corrective action if required.
 - If overland drainage or sediment movement is observed in the work area following clearing and grading for road construction, install silt fencing on the downslope edge of the cleared area to capture sediment laden water and to allow sediment to settle. Silt fencing should be keyed into the ground (buried) at least 15 cm and checked regularly for integrity and to remove sediment build up.
- Minimize amount of time soils are exposed by seeding and planting as soon as disturbance is complete. Cover exposed soil areas with tarps or mulch if for a prolonged period or during rainfall events.



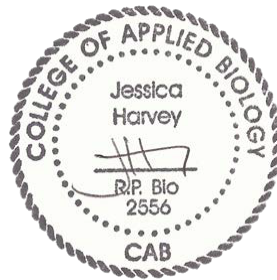
CONCLUSION

The observations from the site visits to the property have been detailed in this report. No permanent habitat features (e.g. bat roosts in rocky outcrops, raptor stick nests) were observed in the vicinity of the proposed access roads. The riparian and aquatic ecosystems on the properties are extensive, but all activities for the proposed access roads will occur outside of the 30m Riparian Assessment Areas. These areas must be clearly marked prior to the commencement of any activities on the site.

During the development at Parcel B Appaloosa Way, implementation of the mitigation measures recommended in this report, including the prevention of the spread of invasive species, will minimize the impacts of the proposed access road installation on the environment.

Sincerely,

Jessica Harvey, M.Sc., R.P. Biol.
 Principal and Senior Biologist
 Asio Environmental Consulting Inc.
 403.200.8236



PROFESSIONAL CERTIFICATION

This report has been prepared with the best information available at the time of writing, including the Official Community Plan, communications with the client, site visits, and review of other documentation relevant to the project. This report has been developed to assist the project in remaining in compliance with relevant environmental regulations, acts and laws pertaining to the project and to identify and mitigate the expected impacts of the project and reclamation activities directly related to the project.

REFERENCES

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PHOTOS

Photo 1. Upland forest and existing old road typical of where new proposed access roads will be constructed.



Photo2. Scotch broom infested opening typical of existing disturbed areas on the properties.





June 22, 2023

Attn: Richard Buchan
 Development Services Division
 Land Use Services Department
 Cowichan Valley Regional District
 175 Ingram Street, Duncan BC V9L 1N8
 Email: richard.buchan@cvrd.bc.ca

LETTER OF ENGAGEMENT FOR DP23E05

This letter of engagement is to confirm that Asio Environmental Consulting Inc. will be providing environmental monitoring services as needed for the development at PID 009-845-119 and PID 009-849-637, as per Development Permit DP23E05.

Our team of QEPs will be overseeing the monitoring of site activities at the subject property, and ensuring the environmental conditions are met for the DP. Site activities will be monitored throughout the course of tree falling, clearing and driveway construction for compliance with the DP. Asio will work with the landowner and contractors throughout each phase of the project to meet the requirements of the DP. This includes:

- Flagging/temporary fencing of the 30m Riparian Assessment Area Boundary Prior to the commencement of any land-clearing activities;
- Provide guidance on invasive species removal and seeding with native seed mix following disturbance;
- Conduct a raptor nest survey;
- Conducts nest search surveys if required; and
- Supervise regularly monitoring the site for signs of sedimentation during all phases of the work.

Please contact me with any questions or comments.

Sincerely,

Jessica Harvey, M.Sc., R.P. Biol.
 Principal and Senior Biologist
 Asio Environmental Consulting Inc.
 403.200.8236

