



## ELECTORAL AREA SERVICES COMMITTEE MEETING AGENDA

WEDNESDAY, JULY 5, 2017  
BOARD ROOM  
175 INGRAM STREET, DUNCAN, BC

1:30 PM

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	<u>PAGE</u>
1. <u>APPROVAL OF AGENDA</u>	
2. <u>ADOPTION OF MINUTES</u>	
M1 Regular Electoral Area Services Committee meeting of June 21, 2017	1
<b>Recommendation</b> That the minutes of the regular Electoral Area Services Committee meeting of June 21, 2017, be adopted.	
3. <u>BUSINESS ARISING FROM THE MINUTES</u>	
4. <u>DELEGATIONS</u>	
5. <u>CORRESPONDENCE</u>	
C1 Grant-in-Aid Request, Electoral Area C - Cobble Hill Re: Cowichan Secondary School	9
<b>Recommendation</b> That it be recommended to the Board that a Grant-in-Aid, Electoral Area C - Cobble Hill, in the amount of \$500 be provided to Cowichan Secondary School as an extra Bursary.	
C2 Grant-in-Aid Request, Electoral Area I - Youbou/Meade Creek Re: Cowichan Lake Days	11
<b>Recommendation</b> That it be recommended to the Board that a Grant-in-Aid, Electoral Area I - Youbou/Meade Creek, in the amount of \$550 be provided to Cowichan Lake Days to support Lake Days Celebration Breakfast.	

- C3 Grant-in-Aid Request, Electoral Area F - Cowichan Lake/South Skutz Falls 13  
Re: Vancouver Island Windsport Society (Windfest)

**Recommendation** That it be recommended to the Board that a Grant-in-Aid, Electoral Area F - Cowichan Lake South/Skutz Falls, in the amount of \$1,000 be provided to Vancouver Island Windsport Society (Windfest).

- C4 Grant-in-Aid Request, Electoral Area F - Cowichan Lake South/Skutz Falls 17  
Re Honeymoon Bay Firefighters Association

**Recommendation** That it be recommended to the Board that a Grant-in-Aid, Electoral Area F - Cowichan Lake South/Skutz Falls, in the amount of \$1,500 be provided to Honeymoon Bay Firefighters Association to support their 70th Anniversary Celebrations Summer 2017

**6. INFORMATION**

- IN1 Letter dated June 13, 2017, from Lindley Little, RPF, Planning Forester, BCTS 19  
Strait of Georgia, Ministry of Forests, Lands and Natural Resource Operations,  
Re: Replacement of BCTS Strait of Georgia Business Area's East and Southwest  
Coast Forest Stewardship Plan

**Recommendation** For information.

- IN2 1. Area D Advisory Planning Commission Minutes - June 15, 2017; 23  
2. Area C Parks Commission Minutes - June 5, 2017; and  
3. Area E Special Parks Commission Minutes - June 8, 2017.

**Recommendation** For information.

**7. REPORTS**

- R1 Application No. 10-D-15DP - Report from Development Services Division 27

**Recommendation** That it be recommended to the Board that:  
1. That Development Permit Application No. 10-D-15DP (1725 Cowichan Bay Road) be approved subject to:  
a) Receipt of cash-in-lieu of parking in the amount of \$4,000; and  
b) Removal of the hanging signs from the corridor.  
2. That the General Manager of the Land Use Services Department be authorized to permit minor revisions to the permit in accordance with the intent of development permit guidelines of Official Community Plan Bylaw No. 3605.

- R2 License of Use and Occupation Agreement for Camp Woodlands - Report from Parks & Trails Division 55

**Recommendation** That it be recommended to the Board:

1. That a 25 year License of Use and Occupation Agreement with Scout Properties (BC/Yukon) Ltd. for use of 3.21 hectares of Bald Mountain Community Park to operate as a wilderness scout camp (Camp Woodlands), for a fee of \$10 be approved; and
2. That a Notice of Land Disposition, along with Notice of Intention to Provide Assistance be published pursuant to Sections 272 and 286 of the *Local Government Act* to advise the public of the CVRD's intent to enter into a 25 Year License of Use and Occupation Agreement with Scout Properties (BC/Yukon) Ltd., for the use of approximately 3.21 hectares of Bald Mountain Park as a wilderness scout campsite for a \$10 fee.

- R3 2182 Lakeside Road (Area E) - Blue Grouse Estate Winery Ltd Application: Winery Lounge & Special Event Endorsement 73

**Recommendation** That it be recommended to the Board that the Cowichan Valley Regional District does not wish to provide comments or recommendations to the Liquor Control and Licencing Branch with regard to the Application for a Winery Lounge & Special Event Area (SEA) Endorsements by Blue Grouse Estate Winery Ltd. located at 2182 Lakeside Road, Cowichan Station (Area E) and consideration be made to Agricultural Land Commission policy regarding "Gathering for an Event in the Agricultural Land Reserve".

- R4 Amendments to the Dog Regulation Bylaw - Report from Inspection & Enforcement Division 89

**Recommendation** For information and direction.

- R5 Soil Deposit Bylaw - Inspection & Enforcement Division 135

**Recommendation** For information and direction.

- R6 Fisher Road Park Parcels Update - Verbal Report from Brian Farquhar, Manager, Parks & Trails Division

**Recommendation** For information.

**8. UNFINISHED BUSINESS**

**9. NEW BUSINESS**

**10. QUESTION PERIOD**

**11. CLOSED SESSION**

Motion that the Closed Session Agenda be approved, and that the meeting be closed to the public in accordance with the *Community Charter* Part 4, Division 3, Section 90, subsections as noted in accordance with each agenda item.

CS M1 - Closed Session Electoral Area Services Committee Meeting Minutes of June 21, 2017

CS R1 - Report from Parks & Trails Division, Re: Potential Litigation {Sub (1)(g)}

CS R2 - Report from Inspection & Enforcement Division, Re: Legal Opinion {Sub (1)(i)}

CS R3 - Report from Inspection & Enforcement Division, Re: Law Enforcement {Sub (1)(f)}

CS R4 - Verbal Report from the Manager, Inspection & Enforcement Division, Re: Law Enforcement {Sub (1)(f)}

**12. ADJOURNMENT**

The next Electoral Area Services Committee Meeting will be held Wednesday, July 19, 2017 at 1:30 PM, in the Board Room, 175 Ingram Street, Duncan, BC.

**Committee Members**

Director I. Morrison, Chairperson  
Director M. Marcotte, Vice-Chairperson  
Director S. Acton

Director M. Clement  
Director K. Davis  
Director M. Dorey

Director L. Iannidinaro  
Director K. Kuhn  
Director A. Nicholson

Minutes of the Electoral Area Services Committee Meeting held on Wednesday, June 21, 2017, in the Board Room, 175 Ingram Street, Duncan BC at 1:32 PM.

**PRESENT:** Director I. Morrison, Chair  
Director S. Acton  
Director M. Clement  
Director K. Davis  
Director M. Dorey  
Director L. Iannidinardo  
Director K. Kuhn  
Director A. Nicholson  
Alternate Director K. Daniels

**ALSO PRESENT:** B. Carruthers, Chief Administrative Officer  
M. Tippett, A/General Manager, Land Use Services Department  
R. Conway, Manager, Development Services  
B. Farquhar, Manager, Parks & Trails  
R. Blackmore, Manager, Inspection & Enforcement  
B. Dennison, Manager, Water Management  
G. Breckenridge, Chief Building Inspector  
T. Soroka, Parks & Trails Planner  
S. Herrera, Planner II  
R. Rondeau, Planner II  
K. Biegun, Planner I  
E. Young, Planning Technician  
J. Hughes, Recording Secretary  
K. Madge, Development Officer

**ABSENT:** Director M. Marcotte

**APPROVAL OF AGENDA**

**It was moved and seconded that the agenda be amended by moving Item R2 directly after Delegation Item D2, and the addition of one New Business Item:**

**NB1 Grant-in-Aid Request, Electoral Area A – Mill Bay/Malahat Re: Mill Bay Community League; and**

**that the agenda, as amended, be approved.**

**MOTION CARRIED**

**R6 It was moved and seconded that Item R6, Application No. 01-I-16RS – Report from Development Services Division, be deferred to a future Electoral Area Services Committee meeting.**

**MOTION CARRIED**

**ADOPTION OF MINUTES**

**M1** Regular Electoral Area Services Committee meeting of June 7, 2017

**It was moved and seconded that the minutes of the Regular Electoral Area Services Committee meeting of June 7, 2017, be adopted.**

**MOTION CARRIED**

**DELEGATIONS**

Prior to the start of the Delegation portion of the meeting, and at the request of the Delegation, the Committee agreed to extend Delegation D2 by 5 minutes.

**D1** Sherry Durnford provided a PowerPoint presentation outlining her concerns regarding proposed Development Variance Permit Application No. 01-G-17DVP (Lot 10, Skye Road).

At the request of the delegate, the Committee agreed by consensus to extend the delegation by 5 minutes.

Randy Martin stated that his property borders the proposed lot and addressed the Committee regarding his concerns over the proposed Development Variance Permit Application.

Dick Graham also provided his concerns over the proposed variance and requested denial of the application.

**D2** Joanne Allin and Raymond Moschuk provided the Committee with the details of Development Variance Permit Application No. 01-G-17DVP (Lot 10, Skye Road).

**R2** Application No. 01-G-17DVP - Report from Development Services Division

**It was moved and seconded that it be recommended to the Board that Application No. 01-G-17DVP (Lot 10, Skye Road) to vary Section 5.7.7 of Zoning Bylaw No. 2524 to reduce the landscape buffer from 7.5 m to 4.5 m, be approved.**

**MOTION DEFEATED**

**It was moved and seconded that it be recommended to the Board that Application No. 01-G-17DVP (Lot 10, Skye Road) to vary Section 5.7.7 of Zoning Bylaw No. 2524 to reduce the landscape buffer from 7.5 m to 4.5 m, be denied.**

**MOTION CARRIED**

**CORRESPONDENCE**

**C1** Grant-in-Aid Request, Electoral Area D - Cowichan Bay Re: Cittaslow Cowichan

**It was moved and seconded that it be recommended to the Board that a Grant-in-Aid, Electoral Area D - Cowichan Bay, in the amount of \$2,000 be provided to Cittaslow Cowichan to support their 2017 events.**

**MOTION CARRIED**

**C2** Grant-in-Aid Request, Electoral Area D - Cowichan Bay Re: Kaatza Historical Society

**It was moved and seconded that it be recommended to the Board that a Grant-in-Aid, Electoral Area D - Cowichan Bay, in the amount of \$1,000 be provided to Kaatza Historical Society to support continued fundraising for the addition of the Kaatza Station Museum.**

**MOTION CARRIED**

**C3** Grant-in-Aid Request, Electoral Area D - Cowichan Bay Re: Cowichan Bay Improvement Association

**It was moved and seconded that it be recommended to the Board that a Grant-in-Aid, Electoral Area D - Cowichan Bay, in the amount of \$500 be provided to the Cowichan Bay Improvement Association to support the upcoming Cowichan Bay Boat Festival.**

**MOTION CARRIED**

**INFORMATION**

**IN1**

Items 1 and 2 were received for information:  
1. Area B Advisory Planning Commission Minutes - June 1, 2017; and  
2. Area C Parks Commission Minutes - May 1, 2017.

**REPORTS**

**R1** Application No. 02-C-17DVP - Report from Development Services Division

**It was moved and seconded that it be recommended to the Board that Application No. 02-C-17DVP (3582 Pechanga Close) to vary Section 10.3.4 of Zoning Bylaw No. 3520 to reduce the rear parcel line setback for an accessory building from 4.5 metres to 1.0 metre, be approved.**

**MOTION CARRIED**

**R2** Item R2 was dealt with earlier in the meeting.

**R3** Application No. 09-B-16DP - Report from Development Services Division

**It was moved and seconded that it be recommended to the Board that consideration of Development Permit Application No. 09-B-16DP (2786 Meadowview Road) be deferred until the Ministry of Transportation and Infrastructure has confirmed in writing if it accepts the recommendations of the Hydrology Report prepared by J.E. Anderson & Associates dated February 27, 2017, and the proposed drainage ditch right-of-way.**

**MOTION CARRIED**

**R4** Application No. 01-G-16ALR - Report from Development Services Division

**It was moved and seconded that it be recommended to the Board that Application No. 01-G-16ALR (4001 Saltair Road/Residence for Relative) to permit the subdivision of 4001 Saltair Road be denied and not forwarded to the Agricultural Land Commission.**

**MOTION CARRIED**

**3:29 PM** The Committee took a recess at 3:29 PM.

**3:38 PM** The meeting resumed at 3:38 PM.

**R5** Application No. 01-D-16DP/S/VAR - Report from Development Services Division

**It was moved and seconded that it be recommended to the Board:**

- 1. That Signage Development Permit with Variance Application No. 01-D-16DP/S/VAR (1681 Botwood Lane) be approved;**
- 2. That Section 7.1(c) of CVRD Sign Bylaw No. 1095 be varied to permit a rooftop sign; and**
- 3. That the General Manager of Land Use Services be authorized to permit minor revisions to the permit in accordance with the intent of development permit guidelines of Official Community Plan Bylaw No. 3605.**

Directors Clement, Dorey and Kuhn were absent during the vote.

**MOTION CARRIED**

**R6** Application No. 01-I-16RS - Report from Development Services Division was deferred to a future Electoral Area Services Committee meeting earlier in the meeting.

**R7** Application No. 02-F-08RS - Report from Development Services Division

**It was moved and seconded that it be recommended to the Board:**

- 1. That Official Community Plan and Zoning Amendment Bylaws for Application No. 2-F-08RS (9931 South Shore Road) be forwarded to the Board for consideration of 1st and 2nd Readings;**
- 2. That the referrals to the Ministry of Transportation and Infrastructure, Island Health, School District 79, Lake Cowichan RCMP, Town of Lake**



- Cowichan, Honeymoon Bay Volunteer Fire Department, Ditidaht First Nation, Lake Cowichan First Nation and Cowichan Tribes be accepted; and
3. That a public hearing be scheduled with Directors from Electoral Areas F, I and D and other Electoral Area Directors be delegated to the hearing.

Director Clement was absent during the vote.

**MOTION CARRIED**

- R8** Development Application Procedures & Fees Amendment Bylaw & Sign Amendment Bylaw - Report from Development Services Division

**It was moved and seconded that Development Application Procedures & Fees Amendment Bylaw No. 4131 and Sign Amendment Bylaw No. 4132 be forwarded to the Board for consideration of three readings and adoption.**

**MOTION CARRIED**

- R9** Request for Proposal No. 2017-PRK-001 - Playground Design/Build - Report from Parks & Trails Division

**It was moved and seconded that it be recommended to the Board that a non-low bid award in the amount of \$113,666 plus GST be awarded to Habitat Systems Inc. based on their proposal dated April 19, 2017, submitted in response to Request for Proposals No. 2017-PRK-001 for replacement of park playgrounds in Electoral Areas B, C, and E.**

**MOTION CARRIED**

- R10** Saddleview Estates 5 Lot Subdivision: Lot Transfer to CVRD - Report from Parks & Trails Division

**It was moved and seconded that it be recommended to the Board:**

1. That Lot 5 from Subdivision Application No. 01-E-10SA (Saddleview Estates) be selected as the parcel to be transferred to the Regional District as per the terms and conditions outlined in "CVRD Electoral Area E – Cowichan Station/Sahtlam/Glenora Zoning Bylaw No. 1840, 1998"; and
2. That, following transfer of ownership to the Regional District, Lot 5 from Subdivision Application No. 01-E-10SA (Saddleview Estates) be listed for public sale and the proceeds of the sale be deposited equally into the Electoral Area E and Electoral Area F Community Parks Statutory Reserve funds.

**MOTION CARRIED**

- R11** Update on the Empress Park Subdivision and Disposal Process - Electoral Area B, Shawnigan Lake - Report from Parks & Trails Division

**It was moved and seconded that it be recommended to the Board that the Empress Park Subdivision and Disposal Process – Electoral Area B – Shawnigan Lake, be held in abeyance at this time.**

**MOTION CARRIED**

**R12** May 2017 Building Inspections Report was received for information.

**R13** May 2017 Bylaw Enforcement Report was received for information.

**R14** Ticketing Bylaw Amendments - Report from Inspections & Enforcement Division

**It was moved and seconded that it be recommended to the Board that Schedule 2 of CVRD Ticketing Bylaw No. 3209 be amended as set out in the May 29, 2017, Staff Report from the Inspections & Enforcement Division, to reflect recent amendments to CVRD Building Regulation Bylaw No. 3422.**

**MOTION CARRIED**

#### **UNFINISHED BUSINESS**

**UB1** Directors Report from Matteus Clement, Director, Electoral Area C - Cobble Hill, Re: Accessory Dwelling Units as a Permitted Use in the A-1 Zone

**It was moved and seconded that the Directors Report from Matteus Clement, Director, Electoral Area C - Cobble Hill, dated May 31, 2017, Re: Accessory Dwelling Units as a Permitted Use in the A-1 Zone, be referred to staff.**

**MOTION CARRIED**

#### **NEW BUSINESS**

**NB1** Grant-in-Aid Request, Electoral Area A - Mill Bay/Malahat Re: Mill Bay Community League

**It was moved and seconded that a Grant-in-Aid, Electoral Area A - Mill Bay/Malahat, in the amount of \$1,000 be provided to Mill Bay Community League to support their Canada 150 Dance.**

**MOTION CARRIED**

#### **CLOSED SESSION**

**4:58 PM** It was moved and seconded that the meeting be closed to the public in accordance with the *Community Charter* Part 4, Division 3, Section 90 Sub (1)(e) Land Acquisition; (1)(g) Potential Litigation; and (1)(f) (Law Enforcement).

**MOTION CARRIED**

#### **RISE FROM CLOSED SESSION**

**5:18 PM** It was moved and seconded that the Committee rise without report, and return to the Open portion of the meeting.

**MOTION CARRIED**

**ADJOURNMENT**

**5:18 PM**            **It was moved and seconded that the meeting be adjourned.**

**MOTION CARRIED**

The meeting adjourned at 5:18 PM.

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

Dated: \_\_\_\_\_





CVRD RECEIVED JUN 21 2017

COWICHAN VALLEY REGIONAL DISTRICT

Finance Division

SUBMISSION FOR A GRANT-IN-AID (ELECTORAL AREAS)

Submitted by Director CLEMENT Area C

Grantee: Grant Amount \$ 500.

NAME: Cowichan Secondary School

ADDRESS: 2652 James St  
Duncan BC V9L 2X2

Contact Phone No: (250) 746-4435 Ext. 212

PURPOSE OF GRANT: Extra Bursary for Cowichan Secondary

REQUESTED BY: [Signature]  
Director's Signature

ACCOUNT NO.	AMOUNT
01-2-1950-0205-113	500.00

**FOR FINANCE USE ONLY**

BUDGET APPROVAL [Signature]

Approval at Regional Board Meeting of \_\_\_\_\_

Finance Authorization \_\_\_\_\_





COWICHAN VALLEY REGIONAL DISTRICT Finance Division

SUBMISSION FOR A GRANT-IN-AID (ELECTORAL AREAS)

Submitted by Director KVHN Area I

Grantee: Cowichan Lake Days Grant Amount \$ 550.-

NAME: Pam Birk

ADDRESS: P.O. Box 1357  
Lake Cowichan VOR 260

Contact Phone No: \_\_\_\_\_

PURPOSE OF GRANT: Lake Days Celebration Breakfast

REQUESTED BY: [Signature]  
Director's Signature

ACCOUNT NO.	AMOUNT
01-2-1950-0043-118	550.00

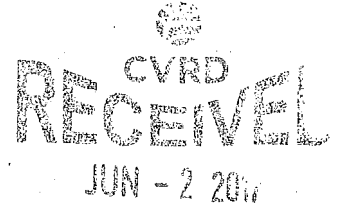
**FOR FINANCE USE ONLY**

BUDGET APPROVAL [Signature]

Approval at Regional Board Meeting of \_\_\_\_\_

Finance Authorization \_\_\_\_\_

# Lake Days



June 4<sup>th</sup>-11<sup>th</sup>, 2017  
PO Box 1357  
Lake Cowichan, BC V0R2G0  
cowichanlakedays@hotmail.ca  
250-709-1168

CVRD  
175 Ingram Street  
Duncan, BC  
V9L 1N8

Attention: Area I Director

Dear Klaus Kuhn,

It is with great gratitude that I take this opportunity to thank you for your years of continued and generous support of our Lake Days Celebration Society.

Once again we will be hosting the annual Pancake Breakfast during the Lake Days 2017 celebrations and we are approaching you as a past supporter of this community event. Specifically we would like to ask you for a \$550.00 donation to go towards the Pancake Breakfast that is provided to the residents of Area F, Area I, the Town of Lake Cowichan and visitors from afar.

The Pancake Breakfast continues to be a huge success during the week long Lake Days Celebrations. Should you have any questions please feel free to contact me.

We look forward to hearing back from you.

Thank you in advance.

Sincerely,

Parm Birk  
Chair person, Lake Days Celebration Society

Original: <i>Parm Birk</i>	Copies to:
Board:	
Committee(s):	Date: <i>June 5</i>
Title #	





COWICHAN VALLEY REGIONAL DISTRICT Finance Division

SUBMISSION FOR A GRANT-IN-AID (ELECTORAL AREAS)

Submitted by Director MORRISON Area F

Grantee: (WINDFEST) Grant Amount \$ 1000<sup>00</sup>

NAME: VANCOUVER ISLAND WINDSPORT SOCIETY

ADDRESS: 7283 BELL MCKINNON RD  
DUNCAN, B.C. V9L 6A8

Contact Phone No: LUKE ACKER 250-884-6408

PURPOSE OF GRANT: SUPPORT AND SPONSOR THE  
2017 WINDFEST EVENT IN NITINAT  
LAKE

REQUESTED BY: [Signature]  
Director's Signature

ACCOUNT NO.	AMOUNT
<u>01-2-1950-0412-116</u>	<u>1000.00</u>

**FOR FINANCE USE ONLY**

BUDGET APPROVAL A

Approval at Regional Board Meeting of \_\_\_\_\_

\_\_\_\_\_  
Finance Authorization

Thank you very much Ian!

Windfest 2017 will showcase the kiteboarding tourism potential of the CVRD. If we close this \$2500 gap we will have a very successful event.

Our non-profit society name and address is:

Vancouver Island Windsport Society  
7283 bell McKinnon Rd,  
Duncan BC, V9L 6A8

More information:

[www.Windfest.ca](http://www.Windfest.ca)

<https://www.facebook.com/WindfestNitinaht/>

On Tue, Jun 27, 2017 at 10:45 AM, Ian Morrison <[imorrison@cvrd.bc.ca](mailto:imorrison@cvrd.bc.ca)> wrote:

Luke,

I've cc'd your request to my colleagues on the Electoral Area Services Committee. I plan to request a \$1000 grant and perhaps the other Directors will contribute also, to meet your \$2500 request.

Can you reply with you society's full name and mailing address so I can complete the grant request form asap.

In service,

Ian Morrison - Director

Cowichan Lake South/Skits Falls

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Luke Acker <[lukeacker@gmail.com](mailto:lukeacker@gmail.com)>

Date: 2017-06-26 4:02 PM (GMT-08:00)

To: Ian Morrison <[imorrison@cvrd.bc.ca](mailto:imorrison@cvrd.bc.ca)>, Golden Rule <[Brendanhessels@gmail.com](mailto:Brendanhessels@gmail.com)>

Cc: [ned@oceanrodeo.com](mailto:ned@oceanrodeo.com), Todd Horn <[todd@oceanrodeo.com](mailto:todd@oceanrodeo.com)>, "Litke, Tony ENV:EX" <[Tony.Litke@gov.bc.ca](mailto:Tony.Litke@gov.bc.ca)>

Subject: Windfest 2017

Hi Ian

Thank you very much for allowing Windfest to present to the CVRD regional directors. We really appreciate the exposure. I watched the video, and could see that you're a clear champion for our event, and see the value it has in developing regional tourism.

We are facing a funding gap of \$2500 this year. Would it be possible to find this amount in grants from the district directors, as you had suggested in the meeting?

We're also looking for boat support, if the district has one to lend.

Thank you, the event is only a few weeks away and we're stretching to make it happen.

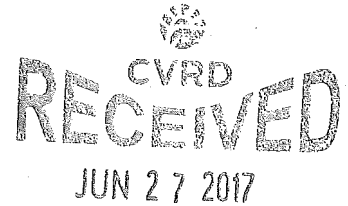
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Luke Acker  
250-884-6408

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Luke Acker  
250-884-6408





COWICHAN VALLEY REGIONAL DISTRICT

Finance Division

SUBMISSION FOR A GRANT-IN-AID (ELECTORAL AREAS)

Submitted by Director MORRISON Area F

Grantee: \_\_\_\_\_ Grant Amount \$ 1500<sup>00</sup>

NAME: HONEYMOON BAY FIREFIGHTERS ASSN

ADDRESS: P.O. BOX 133, HONEYMOON BAY  
B.C. V0R 1Y0

Contact Phone No: SHANE GAIGER 250-749-6355

PURPOSE OF GRANT: SUPPORT HBFA 70<sup>TH</sup> ANNIVERSARY  
CELEBRATIONS SUMMER 2017

REQUESTED BY: [Signature]  
Director's Signature

ACCOUNT NO.	AMOUNT
<u>01-2-1950-0267-116</u>	

**FOR FINANCE USE ONLY**

BUDGET APPROVAL [Signature]

Approval at Regional Board Meeting of \_\_\_\_\_

Finance Authorization \_\_\_\_\_



# Honeymoon Bay Fire Rescue

C4

(250) 749-6355

hbvfd@cvrd.bc.ca

Grant in Aid Request. June 2017.

Ian Morrison  
Area F Director  
Cowichan Valley Regional District

Hi Ian.....

Thank You for your ongoing support towards Honeymoon Bay Fire Rescue and the efforts of the Honeymoon Bay Firefighters Association on the celebration of our  
**70 th ANNIVERSERY**

Starting in 1947 as a department whos sole purpose was to provide protection for Western Forrest Industres saw mill and townsite to now protecting and servicing a 5 square klm. area with over 550 residents. Things sure have changed over the last 70 years!

We have 3 days of events planned and are requesting financial aid from you to help off set some of these costs.

We are requesting a Grant in aid for \$1500.00.

Please make the check to: Honeymoon Bay Fire Fighters Association

Thank you again for your support.

Shane Gaiger, Honeymoon Bay Firefighters Association



File: 18046-30/PM2017

June 13, 2017

Cowichan Valley Regional District

Via Email: ds@cvr.bc.ca

**Re: Replacement of BCTS Strait of Georgia Business Area's East and Southwest Coast Forest Stewardship Plan**

Dear Sir or Madam,

The purpose of this letter is for BC Timber Sales (BCTS), Strait of Georgia Business Area to provide notification of the commencement of the review and comment period for the replacement of its East and Southwest Coast Forest Stewardship Plan (FSP) with its new Pacific Maritime FSP. Otter Point Timber Ltd., Timco Trading Ltd., Rosewall Forest Tenure Holdings Ltd., and Qala:yit Forestry Limited Partnership will also be parties signatory to the Pacific Maritime FSP.

FSPs are the main strategic-level planning document for forest practices under the *Forest and Range Practices Act*. The FSP will have a five year term and will govern how practices of FSP signatories meet legal requirements in the portions of the Rosewall, Little Qualicum, Nanoose, Millstone, Nanaimo, Chemainus, Cowichan, Koksilah, San Juan, Loss, Gordon, and Nitinat Landscape Units that overlap the Plan area, all of which are located in the South Island Natural Resource District.

The areas covered by this plan are shown in the attached overview map. Please note that the FSP covers strategic-level practices on landscape level planning units called "Forest Development Units". Site-specific planning of cutblocks and the roads accessing them takes place further along in the planning horizon. If you have an interest in a specific geographic area where you wish to be notified of cutblocks and roads under development, please respond to this letter (as below), outlining your interest and its location. Once made known, we will be able to follow up with you during future site-specific planning processes.

The draft FSP document and associated maps can be viewed online at: [http://www.for.gov.bc.ca/bcts/areas/TSG/TSG\\_FSP.htm](http://www.for.gov.bc.ca/bcts/areas/TSG/TSG_FSP.htm). A copy can be viewed by appointment at either of the following BCTS Timber Sales Offices:

Page 1 of 2

Ministry of Forests,  
Lands and Natural  
Resource Operations

BC Timber Sales  
Strait of Georgia Business Area

Location:  
370 South Dogwood Street  
Campbell River

Mailing Address:  
370 South Dogwood Street  
Campbell River, BC V9W 6Y7

Tel: (250) 286-9300  
Fax: (250) 286-9420

- 370 South Dogwood Street, Campbell River, V9W 6Y7
- 4885 Cherry Creek Road, Port Alberni, V9Y 8E9

Please contact Lindley Little, Planning Forester, by phone at (250)286-9349 or by email at [Lindley.Little@gov.bc.ca](mailto:Lindley.Little@gov.bc.ca) to arrange a time to view the documents.

The FSP is available for public review and comment until August 11, 2017. Please provide any comments or questions about the FSP (or your request for future, site-specific notifications) in writing to Lindley Little at [Lindley.Little@gov.bc.ca](mailto:Lindley.Little@gov.bc.ca) , via fax at (250)286-9420, or to the Campbell River mailing address noted above. In order that feedback from this referral period can be considered prior to the final submission of the FSP document, written comments must be received on or before August 11, 2017.

Thank you for your consideration.

Sincerely,

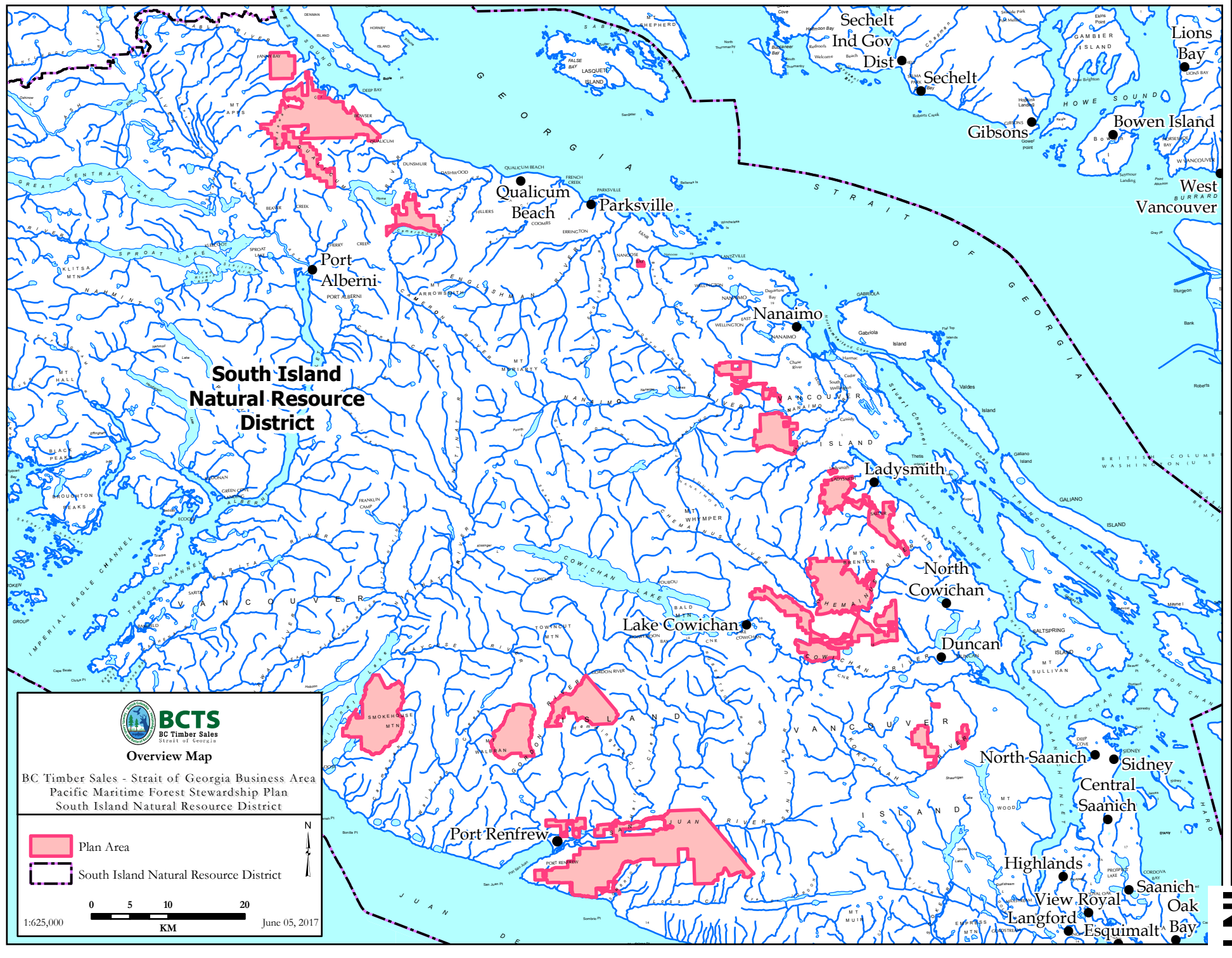
A handwritten signature in black ink, appearing to read 'Lindley Little', written in a cursive style.

Lindley Little, RPF  
Planning Forester  
BCTS Strait of Georgia

Attachment(s): Proposed Pacific Maritime FSP Overview Map

Pc: Rhonda Morris, District Manager, South Island Natural Resource District  
Nick Clarke, Woodlands Supervisor, BCTS Port Alberni









**Minutes of the APC Meeting**  
**Electoral Area D – Cowichan Bay**

**Date: June 15, 2017**

**Time: 8:04 p.m.**

**Location:** Bench Elementary School

**Members Attending:** Robert Stitt (Chair), Joe Kinrade (Vice Chair), Hilary Abbott, Larry Gray, Kevin Maher, Kerrie Talbot, Peter Holmes, Ken Olive & David Slang.

**Ex-Officio:** Lori Iannidinardo (Director Area D), CVRD Staff Rob Conway, Manager, Development Services; Kasia Biegun, Planner.

**For the Applicant:** Rob James, Operations Manager, Western Stevedoring; Dave Dunbar, Chief Financial Officer, Western Stevedoring; Brian Thacker, President, Pacific Industrial & Marine; Sharon Horsburgh, Applicant, Bayshore Planning Services.

**Business: Rezoning Application for Tidal Harmony Holdings Ltd.**  
**(Former Westcan Terminal)**

Moved that a recommendation be made to the CVRD to amend Electoral Area D Marine Zoning Bylaw No. 1015 to:

1. Permit “marine manufacturing” and “storage and operation of marine safety operations” as permitted uses in the I-3 Transportation-Based Industrial Zone;
2. Remove “Petroleum terminal facility, including storage facilities but excluding liquefied natural gas” as permitted use in the I-3 Transportation-Based Industrial Zone; and,
3. Reduce the size of the W-7 Water Industrial Zone to W-1 Water Conservancy Zone for the water surface located adjacent to the subject property.

Motion carried unanimously.

Recommendations:

1. That CVRD staff consider the following enhancement (in bold) of the draft definition of Marine Manufacturing:
  - An industrial use which is marine-orientated and dependent on a waterfront location; includes but is not limited to the manufacturing of wharves, docks and bridges; **and which excludes industry which would degrade the current estuary ecology.**
2. That the results of the applicant-initiated environmental audit, with remediation plans where appropriate, be made available as part of the application process.
3. That on-going environmental monitoring and remediation be conducted at the site with an emphasis on-site surface water run-off and storm-water outfall monitoring. If results exceed accepted water quality standards, then an approved mitigation process be undertaken.
4. That the applicant be encouraged to implement an environmental management system that addresses its own activities and those of its tenants, to minimize risks to the estuary.

5. That a landscaping plan be prepared and adopted as part of the application process to incorporate vegetation to screen the on-site industrial structures, storage items and activities. Planting should blend the property with other natural plantings of estuary trees, shrubs and vegetation.
6. That the applicant be encouraged to continue its work on park, trail and footbridge development to ensure the public has safe access to the nature reserve that forms part of the shared community estuary.

Moved to adjourn the meeting at 9:35 p.m.



## MINUTES

### **Cobble Hill Parks Commission Meeting Monday, June 5, 2017 Youth Hall 3665 Watson Avenue, Cobble Hill, BC**

Present: John Krug - Chair, Jennifer Symons, Annie Ingraham, Gord Dickenson, Alan Seal, Ruth Koehn, Shelley Balme, Lynn Wilson, Bill Turner

Also present: Matteus Clement – Regional Director, Area “C”

Regrets: Dennis Cage

John Krug Called the meeting to order at 7:04 p.m.

Moved/seconded *that the agenda is approved as amended to include Common Work Plan under New Business.* Carried

Moved/seconded *that the minutes of the May 1, 2017 regular meeting are adopted as circulated.* Carried

Volunteer Hours: 4

Report: Memorandum from Staff regarding Parks Commissions was circulated.

Business arising From the Minutes:

- Trail from Shawnigan Lake: Investigated at the Shawnigan Lake Parks Commission meeting and found that some of the trail is on private property.

New Business:

- Composition and Function of Parks Commissions: Answers were developed for the eight points in the memorandum from Staff.
- Cobble Hill Common Porta Potty: Moved/seconded *that a Porta Potty be supplied in the Common for the summer months.* Carried
- Cobble Hill Common Work Plan: A site visit with Staff reviewed the work to be done after the Cobble Hill Fair.
- Extension of Meeting: Moved/seconded *that the meeting be extended past 8:30 p.m. until the Staff Memorandum points are completely discussed.* Carried

Director’s Report: Director Clements reported on various Parks issues.

Adjournment: 9:25 p.m.

The next meeting of the Cobble Hill Parks Commission will be at the call of the Chair.

Submitted by John Krug



**Time, Date and Location: 7:30 p.m, Thursday, June 8, 2017 at Genora Hall.**

**MINUTES** of Special Meeting of Area E Parks and Recreation Commission to consider Memorandum of May 10, 2017, from Brian Farquhar (Manager, Parks & Trails Division, CVRD) concerning Parks Commission Bylaws Review.

**PRESENT:** Frank McCorkell (Chair), Gregg Shoop (Vice-Chair and Secretary), Irene Evans, Gretchen Hartley, Howard Heyd, Mike Lees and Paul Slade. **ALSO PRESENT:** Director Alison Nicholson.

Director Nicholson stated there was strong support amongst Directors for CVRD planning commissions and summarized events that led to the memorandum of May 10<sup>th</sup> sent to all Area Parks Commissions for discussion. The Chair indicated that the meeting of chairs, directors and key staff referred is scheduled for June 21<sup>st</sup>. A commissioner noted that, in addition to the hiring of staff, there have been many other changes, such as the increased 'catchment area' of several Area E parks, to be considered as the review goes forward. Discussion then turned to the eight questions posed in Mr. Farquhar's memorandum:

1. There was general support for the principle that the Commission continue to work with the Parks and Trails Division on amenities in Area E; in particular, that it make recommendations, contribute to the development, and support staff in oversight of the same.
2. To increase awareness and interest, commissioners should be recruited from local community associations, recreational facilities nearby and a range of present and future user groups. 'Appreciation Days' should continue to be used to evaluate established facilities and sound out new ones. Appreciation for the Director's community notice e-mails was expressed and links with local networks and newsletters suggested.
3. Term length must ensure continuity, so terms should be staggered, a minimum of two years and re-newable. Most members are happy with a mix of elected and appointed commissioners. One observed that election at an AGM is not necessarily the best way to select commissioners and suggested instead that guidelines be imbedded in the bylaws, by which the area directors select and submit names for approval by the Board.
4. The agenda for regular meetings of Area E are determined in accordance with current bylaws, with emphasis reflecting matters raised by the director, chair or members. For a special meeting, the agenda normally focuses on a single matter, such as the annual budget, determined by Mr. Farquhar.
5. Attendance of staff often allows a recommendation to be acted upon quickly; but good results are achieved by the frequent contact of our Chair with the office.
6. Minuting is not an issue and is done by a dedicated individual, as per the bylaws.
7. Commissioners feel that some additional resources and direction would be beneficial, for example, notice of meetings needs clarification, the information binder could be updated and an orientation workshop established.
8. Regarding opportunities for volunteers, we suggest that the CVRD articulate a policy and appoint a recruiter/co-ordinator.

**NEXT REGULAR MEETING:** 7:30 p.m., Thursday, July 18, 2017 at Glenora Hall.

**ADJOURNMENT:** 8:40 p.m.

Certified as Correct:

Secretary:

Date:

Chairperson:



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** June 27, 2017

**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of July 5, 2017

**FROM:** Development Services Division  
Land Use Services Department

**SUBJECT:** Development Permit Application No. 10-D-15DP (1725 Cowichan Bay Road)

**FILE:** 10-D-15DP

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## PURPOSE/INTRODUCTION

The purpose of this report is to present a Development Permit Application for an approximately 15 m<sup>2</sup> (160 sq. ft.) addition to an existing building located at 1725 Cowichan Bay Road. The addition is presently used as a real estate office.

## RECOMMENDED RESOLUTION

That it be recommended to the Board that:

1. That Development Permit Application No. 10-D-15DP (1725 Cowichan Bay Road) be approved subject to:
  - a) Receipt of cash-in-lieu of parking in the amount of \$4,000; and
  - b) Removal of the hanging signs from the corridor.
2. That the General Manager of the Land Use Services Department be authorized to permit minor revisions to the permit in accordance with the intent of development permit guidelines of Official Community Plan Bylaw No. 3605.

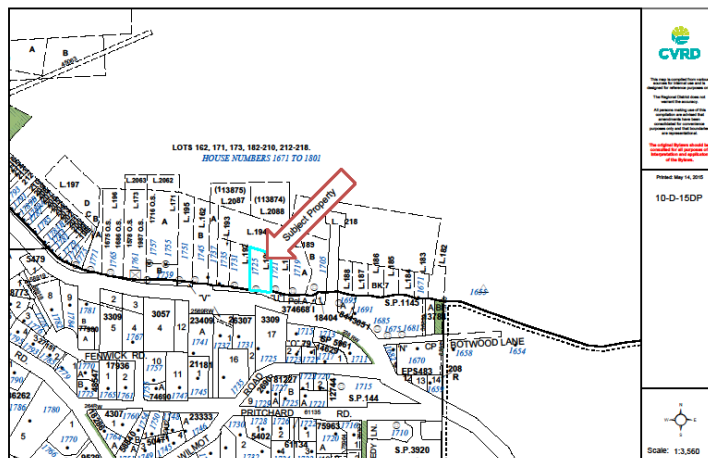
## BACKGROUND

This was formerly a Development Permit with Variance Application that was on the agenda for consideration by the Electoral Area Services Committee at the March 15, 2017 meeting.

Upon request of the applicants, it was deferred to a subsequent meeting in order to provide an opportunity to address concerns around view protection and parking.

For reference, please see Attachment A – Revised Building Elevations and Attachment B – March 15, 2017, Report to Electoral Area Services Committee

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**LOCATION MAP****APPLICATION SUMMARY**

The application proposes to authorize an approximately 15 m<sup>2</sup> (160 sq. ft) addition that was constructed without issuance of a Development Permit or Building Permit. If the current Development Permit application is approved, a building permit will be required.

The subject property is part of the Pier 67 Marina and includes upland commercial areas. The addition was built over an existing impervious surface, which created no additional shading over Cowichan Bay. As a result, the addition does not require approval of the Cowichan Estuary Environmental Management Plan Committee.

The application no longer requests a variance to the parking requirements of the Cowichan Bay (Marine) Zoning Bylaw No. 1015. The applicants are proposing cash-in-lieu of parking in accordance with Section 5.5 of Bylaw No. 1015.

**COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS**

The Electoral Area D Advisory Planning Commission recommended approval of the application subject to a professional survey, and that the applicants commit to:

- *“Applying for a development permit for any future project;*
- *Reviewing signage to align with the requirements of the OCP in terms of number, form, sightlines and public safety;*
- *Sending a letter to certain tenants regarding potential structures being built without permits, notably a patio area.”*

**OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS**

The subject property is designated as Marine Village in Cowichan Bay Official Community Plan (OCP) Bylaw No. 3605, and is zoned as W-3 (Water Marina) within Zoning Bylaw No. 1015. The use is permitted as an office accessory use pursuant to the zoning of the subject property.

The Marine Village Development Permit Area (DPA), as defined in the OCP, was established in part for the form and character of development, but also to consider environmental protection (including landscaping and rainwater management), outdoor lighting, signs, and other site layout considerations.



A summary of the guidelines is presented in Attachment B.

For an office use, one parking space per 40 m<sup>2</sup> of gross floor area is required. Creating additional parking spaces in Cowichan Bay at this location is currently not possible. The guidelines specify that where parking cannot be provided onsite, the development will contribute cash-in-lieu of parking to be placed in a reserve fund for parking and transportation facilities in Electoral Area D – Cowichan Bay. The intention being that in the future, these funds would be used to create alternative transportation opportunities or offsite parking in Electoral Area D – Cowichan Bay.

## PLANNING ANALYSIS

Since the March 15, 2017, Electoral Area Services Committee meeting, this application has been revised by:

- Including a new window 0.9 m x 1.5 m (3ft x 5ft) on the south side of the addition to allow for increased light penetration through the addition to the entrance of one business and to the patio area of another;
- Removal of the hanging signs in the corridor; and
- Payment of \$4,000 cash-in-lieu of parking for one required new parking space.

Any infill of development on the lower side of Cowichan Bay Road is likely to have some impact to views. In this particular case, the impact to views is not to adjacent residences, rather there is some diminishment of views from pedestrians and other passerby's.

The applicants have opened up a walkway on the north side of the buildings (Attachment C) to facilitate public access along the waterfront.

The proposed revisions to the application address the concerns presented in the March 15, 2017, staff report to Electoral Area Services Committee (Attachment B), and staff recommend approval of the Development Permit application.

Option 1 is recommended.

## OPTIONS

### Option 1:

That it be recommended to the Board:

1. That Development Permit Application No. 10-D-15DP (1725 Cowichan Bay Road) be approved subject to:
  - a) Receipt of cash-in-lieu of parking in the amount of \$4,000;
  - b) Removal of the hanging signs from the corridor.
2. That the General Manager of the Land Use Services Department be authorized to permit minor revisions to the permit in accordance with the intent of development permit guidelines of Official Community Plan Bylaw No. 3605.

### Option 2:

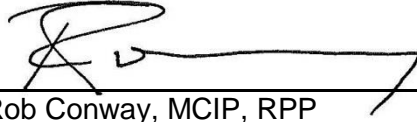
That it be recommended to the Board that Development Permit Application No. 10-D-15DP (1725 Cowichan Bay Road) be denied, based on stated inconsistency specific guidelines.

Prepared by:



Rachelle Rondeau, MCIP, RPP  
Planner II

Reviewed by:



Rob Conway, MCIP, RPP  
Manager



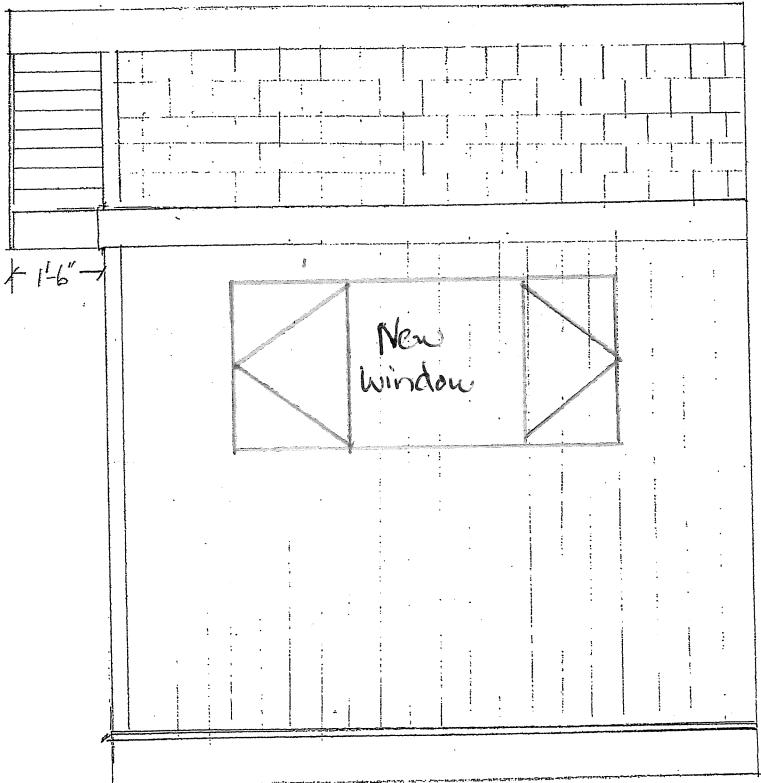
Mike Tippett, MCIP, RPP  
A/General Manager

**ATTACHMENTS:**

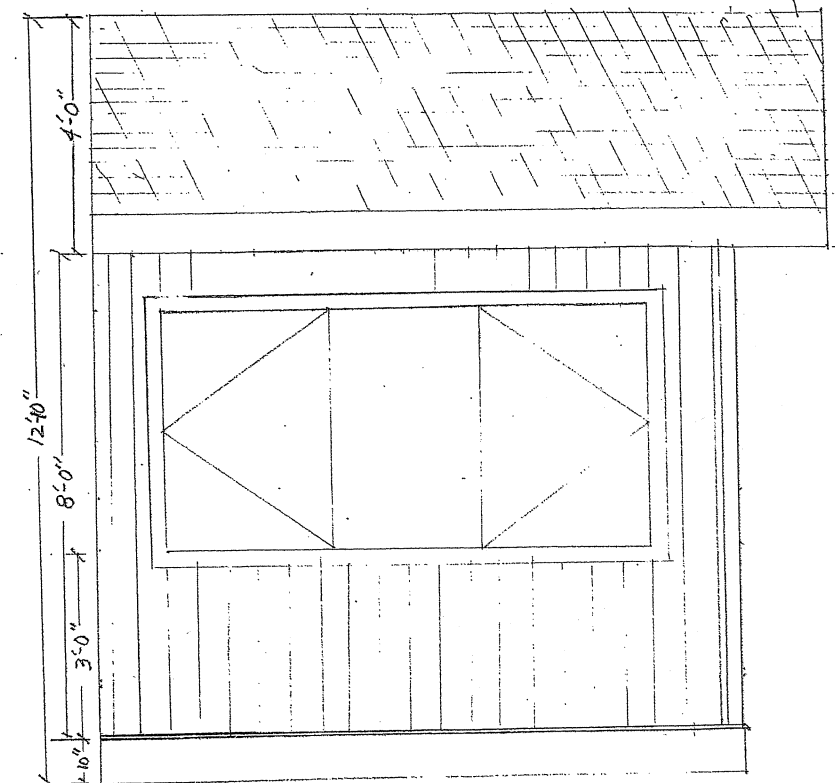
- Attachment A – Revised Building Elevations
- Attachment B – March 15, 2017 Staff Report to Electoral Area Services Committee
- Attachment C – Photos of Addition
- Attachment D – Site Plan
- Attachment E – Draft Development Permit

**ATTACHMENT A**

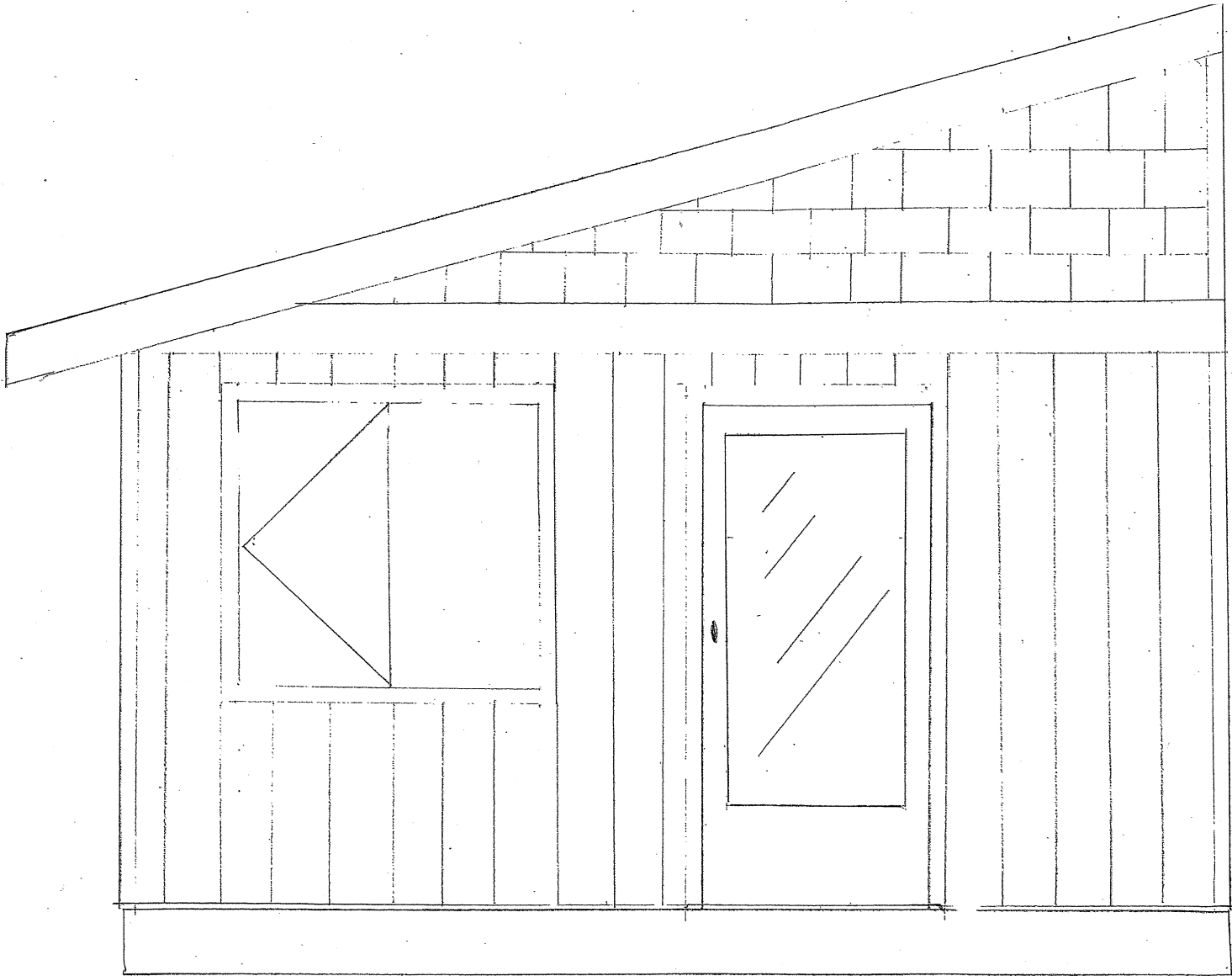
July 15, 2012, Revised  
June, 2017  
Addition @ 1719 Cowichan Bay Rd.  
Pier 67  
Scale 1/2" = 1'  
Drawn By: P. Roby/ab



South Elevation



North Elevation



July 15, 2015  
West Elevation  
Addition @ 179  
Concha Bay Rd  
Scale 3/4" = 1'  
Drawn By: P. Raleigh



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** March 6, 2017

**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of March 15, 2017

**FROM:** Development Services Division  
Planning & Development Department

**SUBJECT:** Development Permit with Variance Application No. 10-D-15DP/VAR  
(1725 Cowichan Bay Road)

**FILE:** 10-D-15 DP/VAR

## PURPOSE/INTRODUCTION

The purpose of this report is to consider a Development Permit Application for an approximately 15 m<sup>2</sup> (160 sq. ft.) addition to an existing building located at 1725 Cowichan Bay Road. The addition operates as a real estate office.

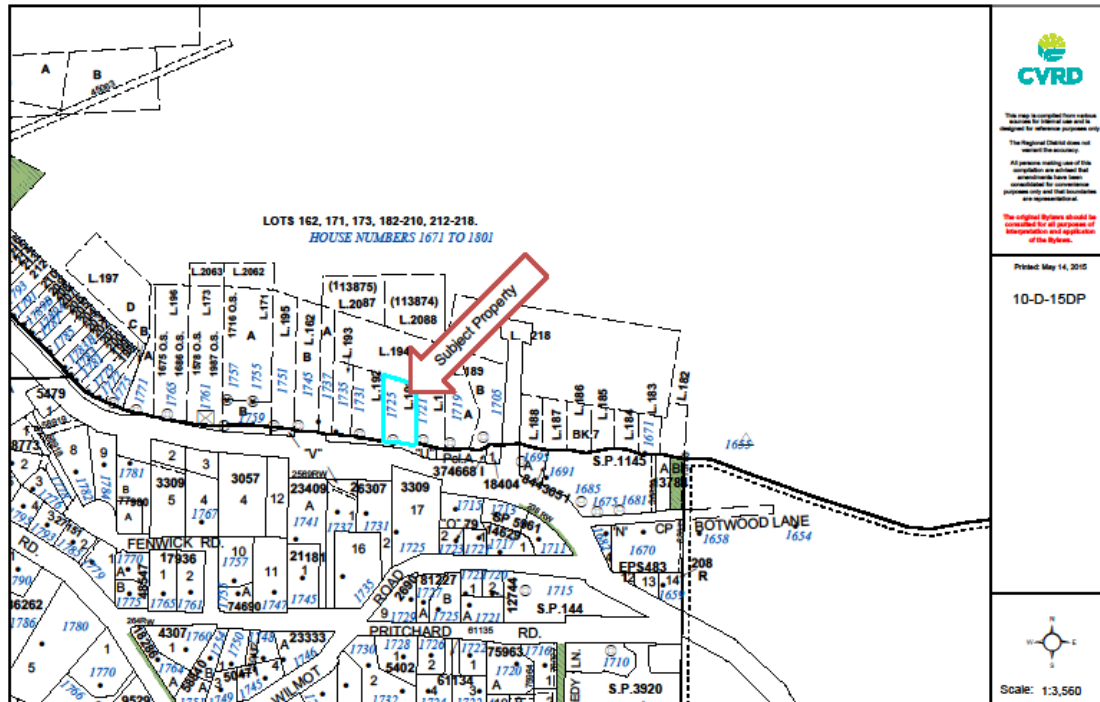
## RECOMMENDED RESOLUTION

That it be recommended to the Board that Development Permit Application No. 10-D-15DP/VAR (1725 Cowichan Bay Road) be denied as it is contrary to the view protection guidelines of the Marine Village Development Permit Area of Electoral Area D – Official Community Plan No. 3605.

## BACKGROUND

<u>Location of Subject Property:</u>	1725 Cowichan Bay Road
<u>Legal Description:</u>	Lease No. 111603 – District Lots 192, 193, 2087, Block A of District Lot 162 and Part West of Northerly Production of the Easterly Boundary of District Lot 192, District Lot 194, all within the Cowichan District.
<u>Date Application Received:</u>	May 13, 2015
<u>Owner:</u>	Province of BC (Lease No. 111503)
<u>Applicants:</u>	Jim Money and Doug MacAlpine
<u>Size of Parcel:</u>	1 ha (includes upland and marine areas)
<u>Existing Zoning:</u>	W-3 (Water Marina)
<u>Existing Plan Designation:</u>	Marine Village
<u>Existing Use of Property:</u>	Marina slips and commercial rentals
<u>Use of Surrounding Properties:</u>	
	North: Marina Boat slips and Cowichan Bay
	South: Residential
	East: Commercial and Marina
	West: Commercial and Marina
<u>Road Access</u>	Cowichan Bay Road
<u>Water:</u>	Cowichan Bay Waterworks District
<u>Sewage Disposal:</u>	Cowichan Bay Sewer
<u>Environmentally Sensitive Areas:</u>	The Cowichan Valley Environmental Planning Atlas identifies a “Shoreline Sensitive Area” on the upland portion of the subject land. Cowichan Bay is also subject to the Cowichan Bay Estuary and Environmental Management Plan
<u>Archaeological Site:</u>	None identified

**LOCATION MAP**



**APPLICATION SUMMARY**

The application proposes to issue a Development Permit that would authorize an approximately 15 m<sup>2</sup> building addition. The addition has been constructed without a Development Permit or Building Permit and is currently used as a realty office. If approved, a building permit will be required.

The subject property is part of the Pier 67 Marina and includes upland commercial areas. The addition was built over an existing impervious surface, which created no additional shading over Cowichan Bay. As a result, the addition does not require approval of the Cowichan Estuary Environmental Management Plan Committee.

**COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS**

**Surrounding Property Owner Notification and Response:**

A total of 20 letters were mailed-out or hand delivered as required pursuant to CVRD *Development Application and Procedures and Fees Bylaw No. 3275*. The notification letter described the purpose of the variance application to reduce the number of parking spaces provided from 1 to 0, and requested comments within a recommended time frame. To date, two letters in support and one letter opposed to the variance request have been received (Attachment G).

**Advisory Planning Commission**

Please see Attachment F for a full record of the Electoral Area D Advisory Planning Commission meeting. Their recommendation was to issue the Development Permit subject to a professional survey, and that the applicants commit to:

- “Applying for a development permit for any future project;
- Reviewing signage to align with the requirements of the OCP in terms of number, form, sightlines and public safety;
- Sending a letter to certain tenants regarding potential structures being built without permits, notably a patio area.”

#### **OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS**

The subject property is designated as Marine Village in Cowichan Bay Official Community Plan (OCP) Bylaw No. 3605, and is zoned as W-3 (Water Marina) within Zoning Bylaw No. 1015. The use is permitted as an office accessory use pursuant to the zoning of the subject property.

The Marine Village Development Permit Area (DPA), as defined in the OCP, was established in part for the form and character of development, but also to consider environmental protection (including landscaping and rainwater management), outdoor lighting, signs, and other site layout considerations.

#### **Development Permit Guidelines**

For a complete set of guidelines, please consult OCP Bylaw No. 3605, Sections MV.5 General Guidelines, MV.6 Guidelines for Commercial, Industrial, & Mixed Use Development and MV.8 Sign Guidelines.

#### ***Site and Environmental Design***

No additional shading was created as a result of this proposal. This addition is covered by a large roof structure, so no new impervious surfaces have been established. No additional parking areas requiring oil-water separators were created.

#### ***Public Access, Walkways and Amenity Areas***

The DPA guidelines emphasize protection of view corridors and, when redevelopment occurs, to increase public access and view opportunities to the ocean.

This structure fills in an area that was currently vacant but contiguous with other developed upland areas. There is a café patio that the addition was built in line with, and directly in front of (towards the water side).

#### ***Landscaping***

Due to the historic development of the site, extensive landscaping is not possible. However, the guidelines suggest that large planters constructed of natural materials should be used to accommodate plantings.

#### ***Vehicular Access***

There is no direct vehicular access to the addition, therefore pedestrian pathways and circulation on the site is not affected.

#### ***Parking, Storage & Service Areas***

For an office, one parking space per 40 m<sup>2</sup> of gross floor area is required. Creating additional parking spaces in Cowichan Bay at this location is currently not possible. The guidelines specify that where parking cannot be provided onsite, the development will contribute cash-in-lieu of parking to be placed in a reserve fund for parking and transportation facilities in Electoral Area D – Cowichan Bay. The intention being that in the future, these funds would be used to create alternative transportation opportunities or offsite parking in Electoral Area D – Cowichan Bay.

Cowichan Bay Zoning Bylaw No. 1015 (Marine Lands) specifies that for an office use, \$4,000 per

parking space is required as an alternative to meeting the parking requirements.

Instead of providing the parking space, or paying the fee, the applicants have requested a variance to the parking standards due to the minor nature of the addition. The applicants have showed the number and location of parking spaces to the office (Attachment C – Site Plan), and have indicated that the office will not generate new traffic. The plan shows three spaces of the existing parking allotment dedicated to the office use. With parking at a premium in Cowichan Bay, these spaces were likely occupied by other users prior to the realty office, so in staff's opinion, no net increase in parking was created. The applicants partnered in a project several years ago whereby a retaining wall and backfilling occurred, and which created two new parking spaces.

When pre-existing development is deficient in parking, only the new development is required to provide the number of parking spaces specified in accordance with the zoning bylaw. For example, a development would not be required to retroactively supply parking for existing uses. In the case of the office, one parking space is therefore required.

### ***Building Design, Scale & Massing, Efficiency***

Generally, the guidelines encourage the use of natural materials including board and batten siding, shakes, wood plank with particular emphasis on wood trim around doors, windows and along eaves. A photo of the addition is attached for the Commission's reference. It is consistent with the guidelines through its use of natural materials and adherence to a west coast theme.

### ***View Protection***

As noted above, the guidelines place priority on maintaining views of the ocean from Cowichan Bay Road, and also views from the waterside into the village. The location of the proposed addition is located within an existing view corridor and is fronting a café patio. The structure has solid walls, which do not provide any view opportunities where there was formerly. Staff is of the opinion that through design and the addition of glazing on the upper portions of the wall, views could have been preserved from the patio and Cowichan Bay Road to the ocean.

### ***Heritage Preservation***

New buildings and structures should be in harmony with existing historic buildings and features within the Cowichan Bay village.

### ***Exterior Lighting***

Minor lighting is provided at the entrance to the office.

### ***Guidelines for Commercial, Industrial & Mixed Use Development (MV. 6)***

With respect to this section, the applicable guideline states that "buildings will be designed in keeping with the west coast climate with particular attention given to rain-related design with protective overhangs above windows, walls and pedestrian walkways". For reference, please see attached building elevations and photos of the existing addition and covered structure.

### ***Sign Guidelines (MV. 8)***

The guidelines discourage multiple, free-standing signs and specify that these should be kept to a number needed to inform and direct pedestrian and vehicular traffic. There is no road frontage for the realty office, therefore to address signage there is hanging signage near the entrance through the corridor fronting the addition (for reference, see Attachment E – Photos of the Addition).

## **PLANNING ANALYSIS**

As an alternative to meeting the parking standards of the Zoning Bylaw, the required off-street parking spaces may be located on a different parcel than where the use/development is



occurring, provided that a written agreement is established and the CVRD approves and is a co-signatory. This is not the case in this situation. Additionally, the applicants may pay cash-in-lieu of parking as a contribution to creating alternative transportation opportunities in Electoral Area D – Cowichan Bay or to support development of offsite parking infrastructure.

This addition was built without a building permit or Development Permit, and had one been applied for, staff would have evaluated the application in terms of compliance with the Development Permit guidelines, including those around view protection, parking and landscaping. The application as proposed would likely not have been approved, given the impact to the view corridor.

Although the finishes applied to the addition fit well within the character of Cowichan Bay, and the building addition is small, the placement of the structure in an established view corridor is contrary to the guidelines of the OCP, and could have been designed better to preserve views had a Development Permit been requested prior to construction of the structure.

Option 1 is recommended.

## OPTIONS

### Option 1:

That it be recommended to the Board that Development Permit with Variance Application No. 10-D-15DP/VAR (1725 Cowichan Bay Road) be denied as it is contrary to the view protection guidelines of the Marine Village Development Permit Area of Electoral Area D – Official Community Plan No. 3605.

### Option 2:

That it be recommended to the Board:

1. That the request to vary the parking requirement associated with Development Permit with Variance Application No. 10-D-15DP/VAR (1725 Cowichan Bay Road) be denied;
2. That Development Permit with Variance Application No. 10-D-15DP/VAR (1725 Cowichan Bay Road) be approved with cash-in-lieu of parking provided in the amount of \$4,000;
3. That the hanging signs be removed from the corridor; and
4. That the General Manager of Planning & Development be authorized to permit minor revisions to the permit in accordance with the intent of development permit guidelines of Official Community Plan Bylaw No. 3605.

### Option 3:

That it be recommended to the Board:

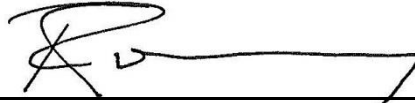
1. That Development Permit with Variance Application No. 10-D-15DP/VAR (1725 Cowichan Bay Road) be approved;
2. That Section 5.1(a) be varied to reduce the required parking spaces from one parking space to zero;
3. That the hanging signs be removed from the corridor; and
4. That the General Manager of Planning & Development be authorized to permit minor revisions to the permit in accordance with the intent of development permit guidelines of Official Community Plan Bylaw No. 3605.

Prepared by:

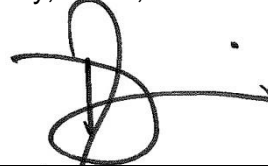


Rachelle Rondeau, MCIP, RPP  
Planner II

Reviewed by:



Rob Conway, MCIP, RPP  
Manager



Ross Blackwell, MCIP, RPP, A. Ag.  
General Manager

**ATTACHMENTS:**

- Attachment A – Zoning Map
- Attachment B – Orthophoto Map
- Attachment C – Site Plan
- Attachment D – Building Elevations
- Attachment E – Photos of the Addition
- Attachment F – APC Minutes
- Attachment G – Letters from Adjacent Property Owners

# ATTACHMENT A Bay



This map is compiled from various sources for internal use and is designed for reference purposes only.

The Cowichan Valley Regional District does not warrant the accuracy.

All persons making use of this compilation are advised that amendments have been consolidated for convenience purposes only and that boundaries are representational.

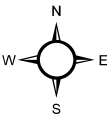
The original Bylaws should be consulted for all purposes of interpretation and application of the Bylaws.

File: 10-D-15DP

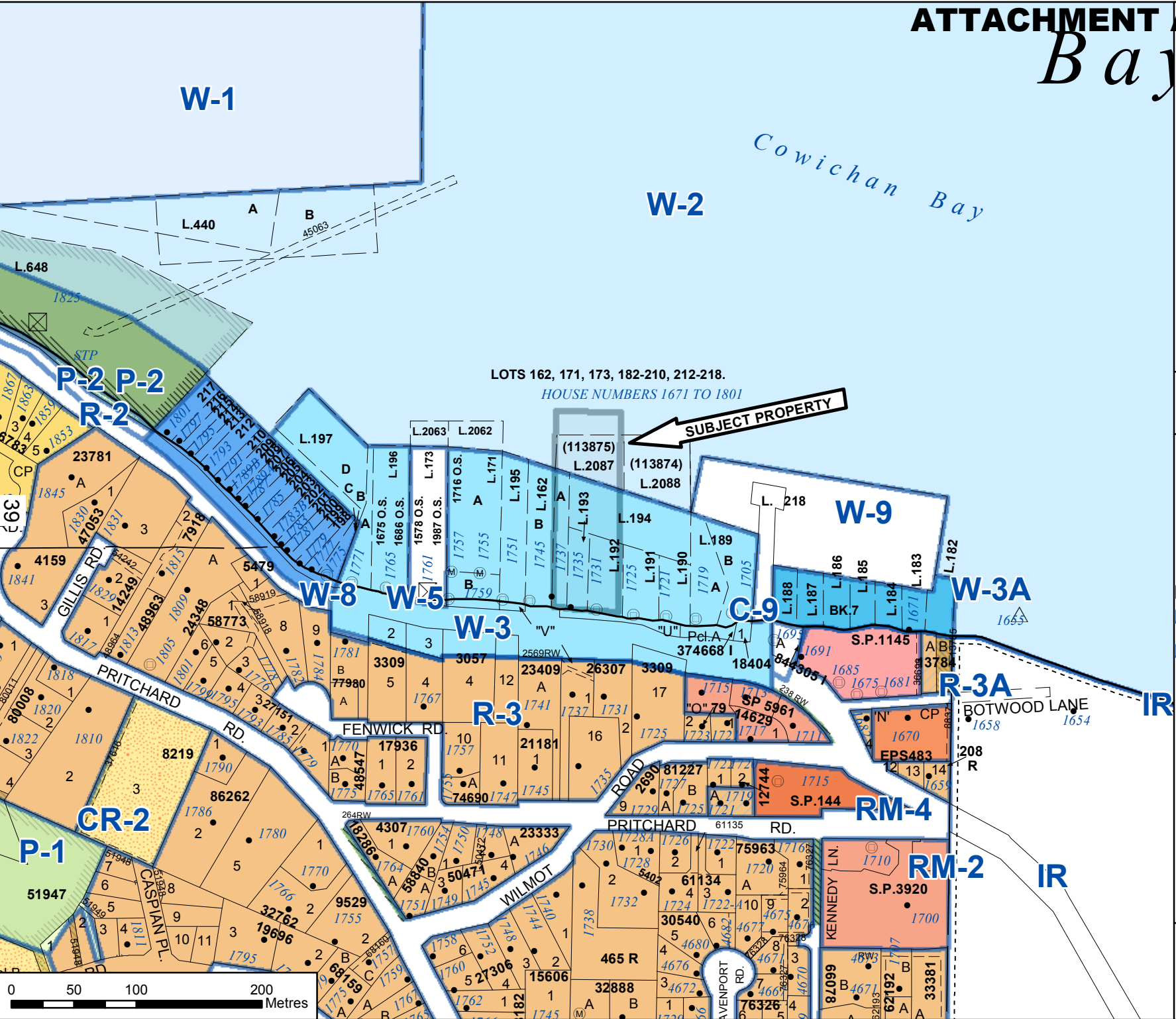
## ZONING

Legend

- Subject Property
- Zoning D Marine
- Zoning D Uplands



R1





This map is compiled from various sources for internal use and is designed for reference purposes only.

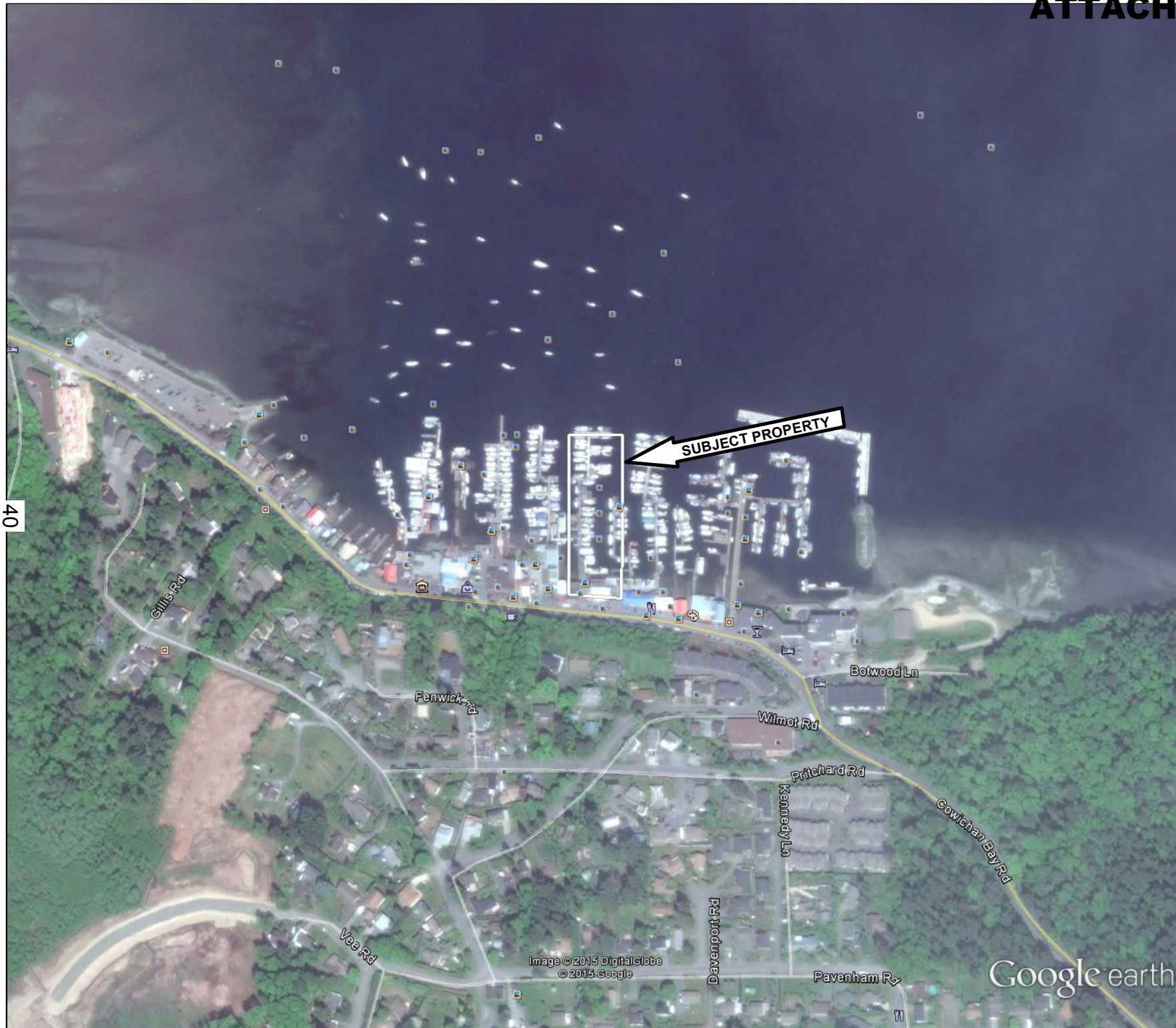
The Cowichan Valley Regional District does not warrant the accuracy.

All persons making use of this compilation are advised that amendments have been consolidated for convenience purposes only and that boundaries are representational.

The original Bylaws should be consulted for all purposes of interpretation and application of the Bylaws.

File: 10-D-15DP

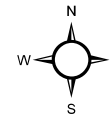
Google Earth Photo (2014)



40

Image © 2015 DigitalGlobe  
© 2015 Google

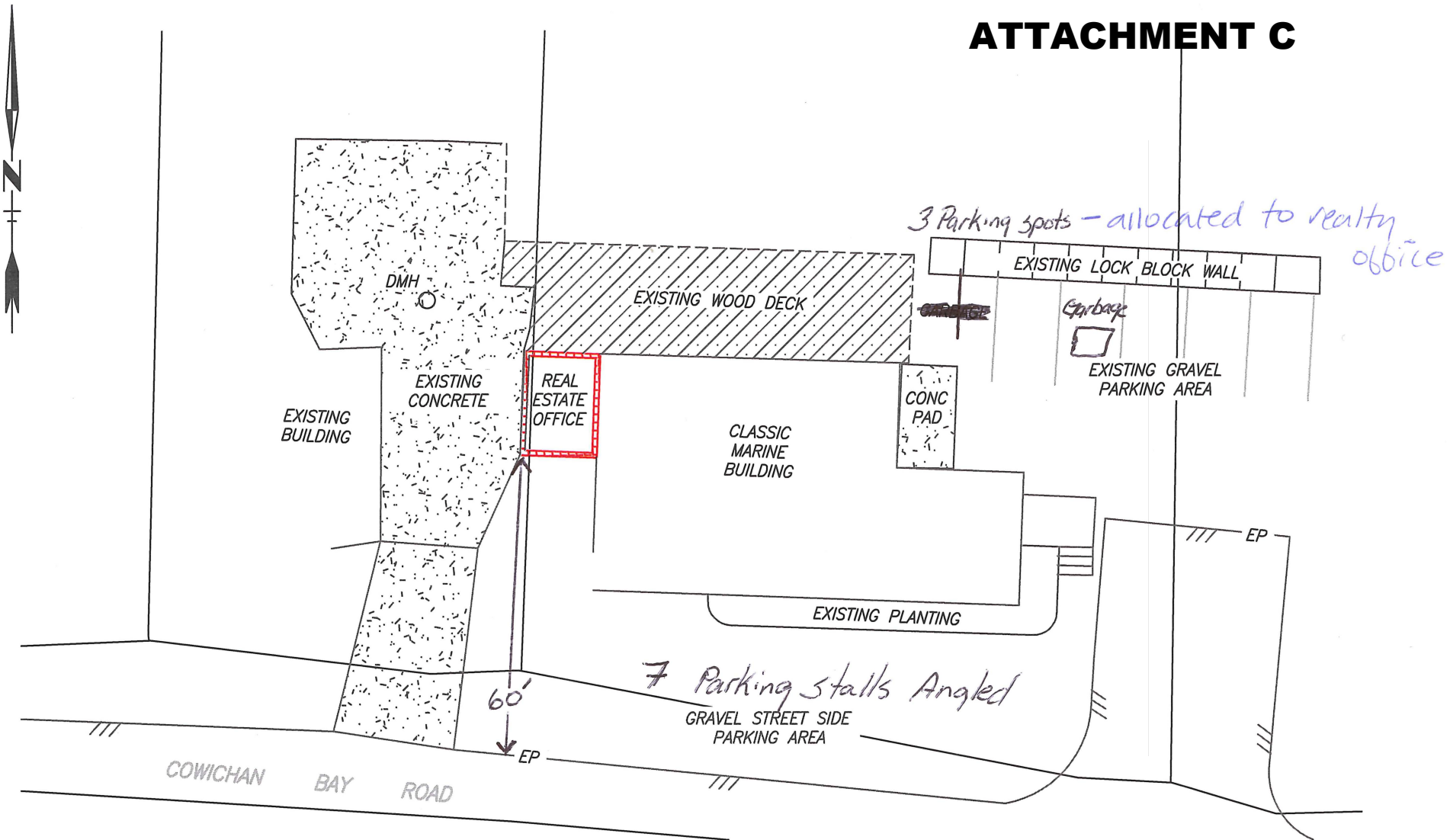
Google earth



**R1**


# ATTACHMENT C

41



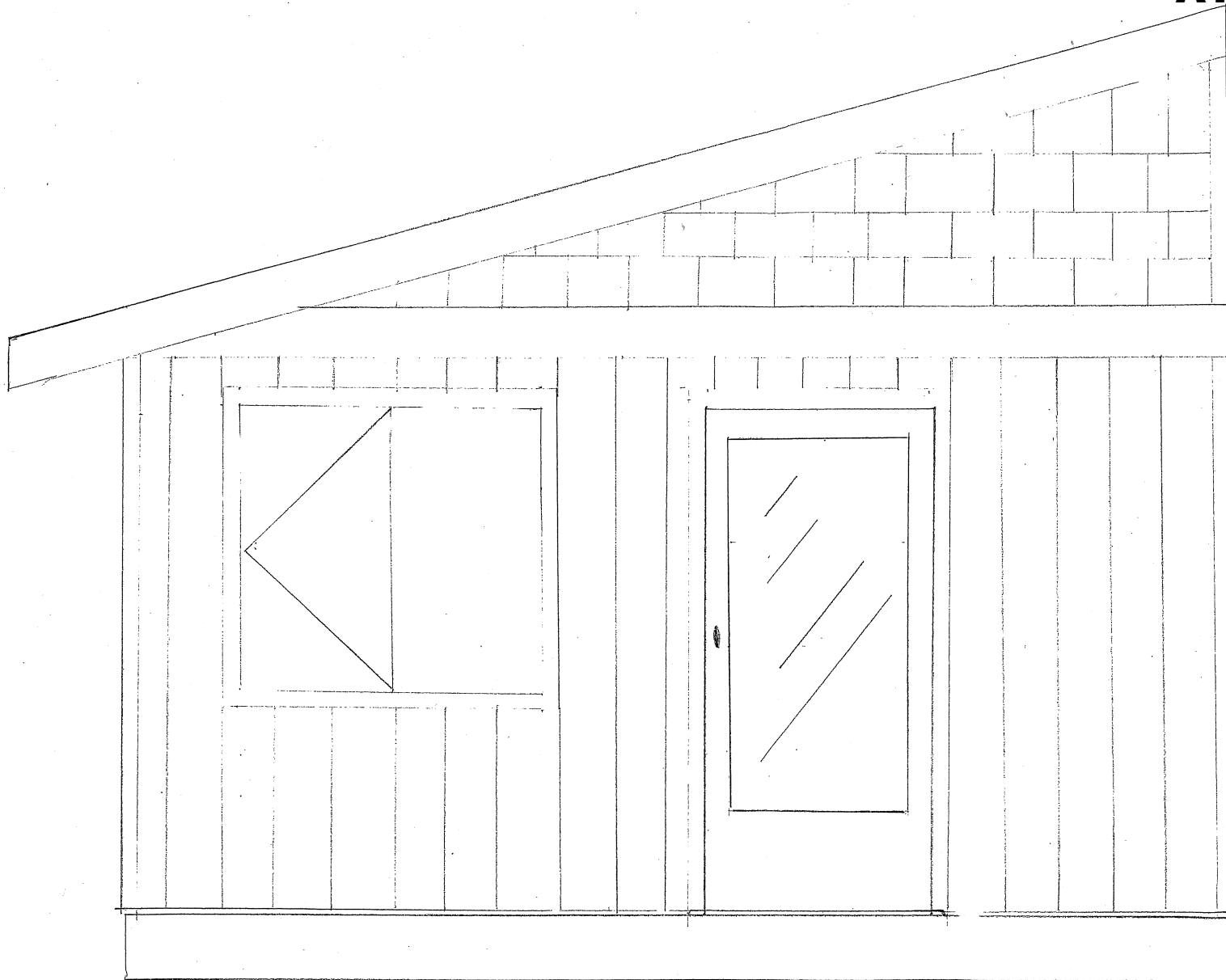
SITE PLAN 1:250

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CLIENT:	JIM MONEY & DOUG MacALPINE		
SHEET TITLE:	SITE PLAN TO ACCOMPANY A DEVELOPMENT PERMIT WITH VARIANCE APPLICATION FOR DL 192 LEASE/PERMIT/LICENSE # 111603, DL 193, DL 2087, BLK A OF DL 162 & PT WEST OF NORTHERLY PRODUCTION OF EASTERLY		
 CREATIVE ENGINEERING SERVICES 715 CANADA AVENUE DUNCAN, BC V9L 1Y1 creativeengineering@shaw.ca	DRAWN:	SB	DATE: JUNE
	CHECKED:	CW	FILE: 1273-4
	SCALE:	1:250	DWG: 1273-4
	LAYOUT:		

R1

**ATTACHMENT D**



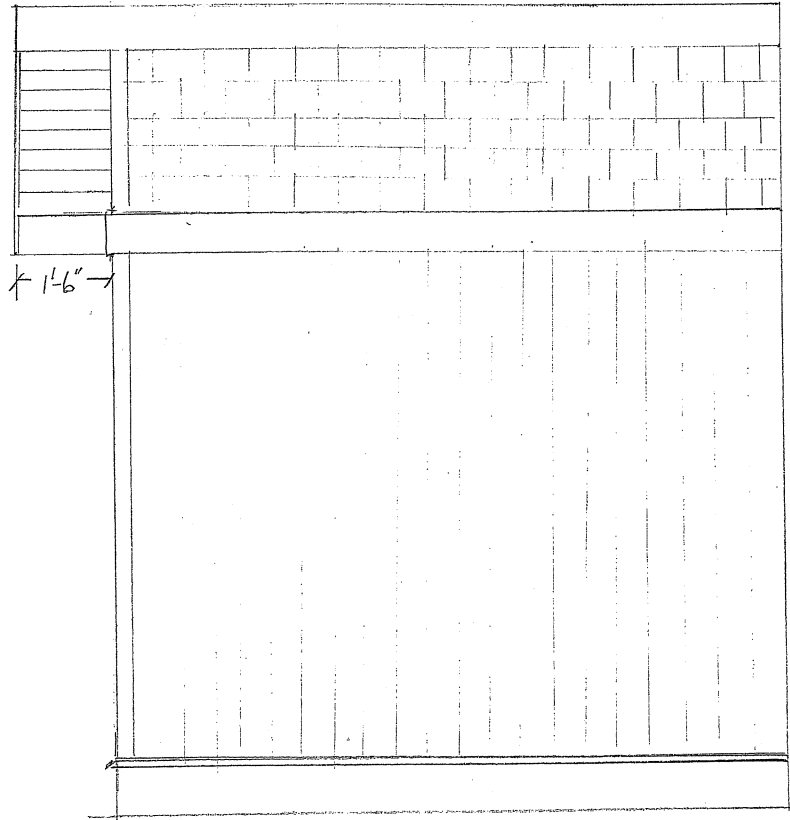
July 15; 2015  
West Elevation  
Addition @ 1719  
Concho Bay Rd.  
Scale 3/4" = 1'  
Drawn By: P. Reitzoff

July 15, 2015

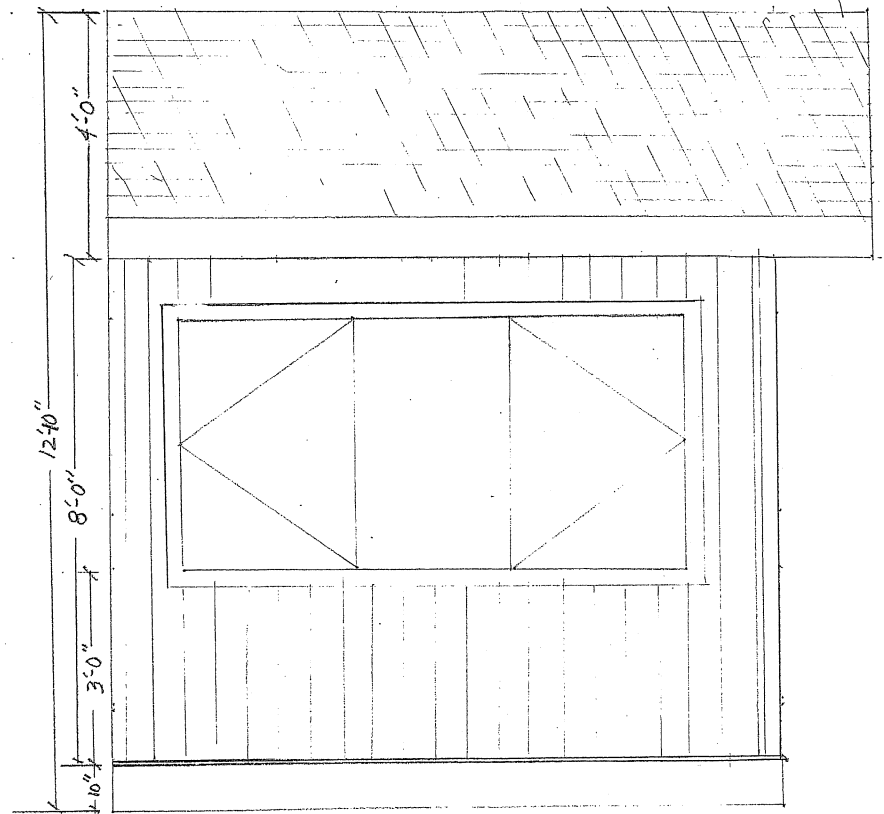
Addition @ 1719 Cowichan Bay Rd.  
Pier 67

Scale 1/2" = 1'

Drawn By: P. Rob Joff



South Elevation



North Elevation

R1





**Minutes of APC Meeting – Area D****July 21, 2016 7:00pm @ Cowichan Estuary Nature Centre****Agenda:** Development Permit Application No. DPA 10-D-15DP (J Money / D MacAlpine, Pier 67)Call to order: 7:05Members Attending: Joe Kinrade, Peter Holmes, Ken Olive, Larry Gray, Hilary Abbott, Kerrie Talbot (Note Taker), Robert Stitt (Chair), Lori Iannidinardo (Director, Area D).Regrets: Kevin MaherApplicants Attending: Jim Money and Doug MacAlpineGuests: 0Purpose: Application for a Development Permit for the addition of an office.

Applicants briefly described the project following a site visit by APC members the previous day.

- The office has already been built, without a permit
- The office is occupied by a developer/loan broker with most transactions via the Internet
- Two parking lots have been created on the water side at the east end of property by removing stored materials

Topics raised by APC:

- Noted that the applicants had not followed the required process including obtaining a permit. While the challenges of maintaining a business in Cowichan Bay are well known and the OCP encourages business development, this approach puts all parties in a difficult position.
- The applicants stated that they were not aware they needed a permit as there is no plumbing and the office, which has its own roof, is located under an existing roof. The applicant also noted it is increasingly normal for builders to build without permits since they are building to increasingly high standards.
- CVRD Planning staff confirmed that applications are forwarded to the APC regardless of whether or not a project has been built with a permit.
- Questions regarding loss of views and sightlines to the water, intended to be protected under the OCP. Approximately 30% of the horizontal sightline when viewed from the edge of the road has been lost with the addition of the office.
- Two Pier 67 tenants have added overhead signs in the laneway which further obstruct the view of the Bay.
- The original laneway to the water has become more constrained by construction over time and concerns were expressed about fire truck access and fire spread. The applicants expressed that fire spread is a significant concern in Cowichan Bay village.

- Queried percentage of building to lot coverage – applicants stated it is 'less than 40%'.
- Marina owners for Pier 66 & 67 have connected their wharves for public enjoyment and resident safety. They support the idea of a boardwalk along the entire waterfront but not all marina operators and tenants are in favour.

Other topics raised:

- Some parking in the Bay has been modified from parallel to angle parking which is observed to be more dangerous
- Buildings in the Bay need to be surveyed regarding fire lanes and encroachments
- Potential parking solutions for the summer, ideally to be led by businesses and marina owners

**Motion:**

Moved by Hilary Abbot:

That issue of a Development Permit is recommended as presented, subject to a professional survey being undertaken for structures at 1725, 1731, 1735 & 1737 Cowichan Bay Road.

Seconded: Ken Olive

Discussion: None

All in favour.

**Recommendations:**

- The CVRD sends a friendly information bulletin to businesses in Cowichan Bay village regarding the intent of the OCP regarding sightlines and signage, and the criteria and benefits for acquiring Building and Development Permits, to be followed up with an information meeting.
- The applicants (J. Money & D. MacAlpine) be required to obtain the required permits and undergo the appropriate inspections for this structure.

**The applicants committed to:**

- Applying for development permits for any future projects.
- Reviewing signage to align with the requirements of the OCP in terms of number, form, sightlines and public safety.
- Sending a letter to certain tenants regarding potential structures being built without permits, notably a patio area.

Meeting adjourned at 8:00 pm.

**Rachelle Rondeau**

---

**From:** Lance Underwood <captnlance@gmail.com>  
**Sent:** Sunday, January 15, 2017 6:00 PM  
**To:** LORI IANNIDINARDO  
**Cc:** Rachelle Rondeau  
**Subject:** Re: Village Issue and where to direct complaints

To Whom It May Concern:

My name is Lance Underwood. My wife and I have been residents and business owners in Cowichan Bay for over a decade. I am currently the president of our strata at Villas on the Bay, co owner of the Mud Room Clayworks, a captain at Ocean Ecoventures Whale Watching and owner of a commercial prawn and crab vessel based out of Cowichan Bay. My wife operates the pottery business full time and is the Vice President of the CBIA (Cowichan Bay Improvement Association).

Cowichan Bay is a wonderful community. We have watched over the last decade as Cowichan Bay residents have worked their butts off, and put their hearts and souls into cleaning up the town and making it a true destination for travellers and a gem within the Cowichan Valley. We have decided to spend our lives here, and are raising our three year old son in this unique place.

Over the last couple of years, we have been witnessing our community slowing moving backwards. Jim Money and his business partner Doug MacAlpine came into the community in a whirlwind, immediately making changes to the marinas, buildings, and businesses with absolutely zero forethought.

Recently, Money and MacApline have built multiple structures in the Bay without obtaining proper permits for building and without any consideration for existing businesses. The main instance was when Money and MacAlpine decided to add on the the building where my wife's pottery studio has been for over two decades. These guys not only built without permits, but did not use licensed, bonded, or insured professionals to build. My wife and I went along with the construction as Money and MacAlpine are our land lords, skeptical about the building that was happening and about the future tenants. The current tenant of the new structure is David Salmon of Worthy Real Estate Investments. Firstly, this new structure which was erected without permits or consultation has further restricted a very restricted lane to the water. The structure blocks sightlines to the water, restricts access to the marina for boat owners and live boards, and restricts a fire lane. As you are probably aware, parking is a major issue in Cowichan Bay, and has become more of a problem with the addition of this business / structure. Up until this summer, we rarely had issues with people parking in the fire lane, but Dave Salmon of Worthy Real Estate Investments and his employees decided to start parking in the fire lane in between True Grain Bakery and our business, The Mud Room Clayworks. Despite there being signs stating that it was a "Fire Lane, Do Not Block!", Salmon and his associate continued to do so, blocking the fire lane, and the access to our pottery studio. When my wife confronted them about the problem, she was screamed at and berated by both Dave Salmon and his employees until we was crying. We are not the only people that have experienced problems. The owners of Classic Marine asked Dave Salmon to have some courtesy for business owners and not park his trucks in front of local businesses, and park outside of the village core and walk in like the rest of the business owners do, and Salmon proceeded to attempt to run Rick Carpentier of Classic Marine over with his truck. Salmon has been rude and attempted to intimidate other members of the community. The list of problems with these tenants (Worthy Real Estate Investments) goes on, including public use of illegal drugs directly in front of our pottery studio while my son who was two years old at the time was playing in front of our pottery studio.

Recently, One of Dave Salmon's "friends" has rented a unit in the same building as our pottery studio from our land lords Money and MacApline. They have been blocking parking continuously with vehicles as they come and go during the process of altering their rented unit. These men, who have also been rude and have attempted to intimidate community members are attempting to open up a Marijuana Dispensary, which according to the RCMP, is illegal.

We used to live in a peaceful community where we didn't need to worry about who was wandering around our children. We never had to worry about other business owners bullying or threatening us. We could have respectful conversations with one another about issues and that the rules and bylaws of our community would be followed and that there would be a certain measure of respect for fellow business owners and residents of our community. That does not seem to be the case these days. I am pleading with you to hold Money and MacAlpine accountable for their actions. Make these men follow the same rules that we all have to follow. I'm also asking that you help to discourage our land lords from welcoming criminals and thugs into our peaceful community for their own personal gain. Both of these businesses go against our Official Community Plan, and the spaces would be better suited for other retail businesses to rent, businesses that would draw the right people into our community.

If you would like to contact me, you can reach me at this email address, or by phone at 250 710 7344.

Sincerely,  
Lance Underwood

On Sun, Jan 8, 2017 at 11:16 AM, LORI IANNIDINARDO <[lianni@shaw.ca](mailto:lianni@shaw.ca)> wrote:

To Me [liannidinardo@cvrld.bc.ca](mailto:liannidinardo@cvrld.bc.ca)

To Rachelle Planner at CVRD [rroudeau@cvrld.bc.ca](mailto:rroudeau@cvrld.bc.ca)

To Ross Blackwell Manager of Planning [rblackwel@cvrld.bc.ca](mailto:rblackwel@cvrld.bc.ca)

Sent from my iPad

--

Lance D Underwood  
PO Box 2326  
Cowichan Bay, BC, V0R1N0  
SLC Fisheries LTD  
Ocean Ecoventures Whale Watching  
250 710 7344

**Rachelle Rondeau**

---

**From:** Planning and Development  
**Sent:** Thursday, December 15, 2016 2:14 PM  
**To:** Rachelle Rondeau  
**Subject:** FW: File #10-D-15DP/VAR

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

From: Dungeness Marina [<mailto:info@dungenessmarina.com>]  
Sent: December-15-16 11:00 AM  
To: Planning and Development  
Subject: File #10-D-15DP/VAR

Dear Rachelle,

We have no objection to the Development Permit with Variance application by Jim Money and Doug McAlpine. File #10-D-15DP/VAR.

Thank you,

Carrie and Rob Hokanson  
Dungeness Marina



## Cowichan Bay Marina Ltd.

Box 2517 Cowichan Bay, BC VOR-1N0  
Tel: (250) 701-9033 E-mail: CowichanBayMarina@shaw.ca

---

Dec 14, 2016

Rachelle Rondeau, Planner II  
Development Services Division  
Planning & Development Department  
CVRD – 175 Ingram St, Duncan, BC V9L 1N8

Dear Ms. Rondeau:

**RE: 1725 Cowichan Bay Rd. – Parking Variance**

**File: # 10-D-15DP/VAR**

Thank you for providing the opportunity to comment on the Parking Variance request by my immediate neighbors 1725 Cowichan Bay Rd. (Pier67 Marina).

We are in favour of CVRD granting the parking variance. Our rationale is below:

1. The tenants of the space remain the same. It is not an additional tenant. Current parking for the tenant works no different with the addition as it did before the addition.
2. The addition did not take any existing parking out of the Village supply. It has always been a pedestrian/emergency vehicle corridor & can still be one.
3. The current tenant is a low volume client business. It doesn't attract dozens of car/clients daily as some of the basic retail businesses do.
4. Parking in Cowichan Bay can be problematic at various times, particularly the summer season. The Village suffers from its success at attracting visitors, shoppers, & tourists over the past decade. The village layout & buildings were created long before parking standards & bylaws related to parking existed. It is impractical to apply rigid 21<sup>st</sup> century parking practices to a Village which has largely taken its current configuration over 75 years ago. I believe all application of bylaw enforcement in Cowichan Bay Village needs a practical, case by case examination due to the unique nature of the Village.

Yours truly,

Gary Marshall  
Per: Cowichan Bay Marina Ltd.

0204CowichanBayMarina\_1725ParkingVariance



Walkway in front of addition – includes planters and benches.

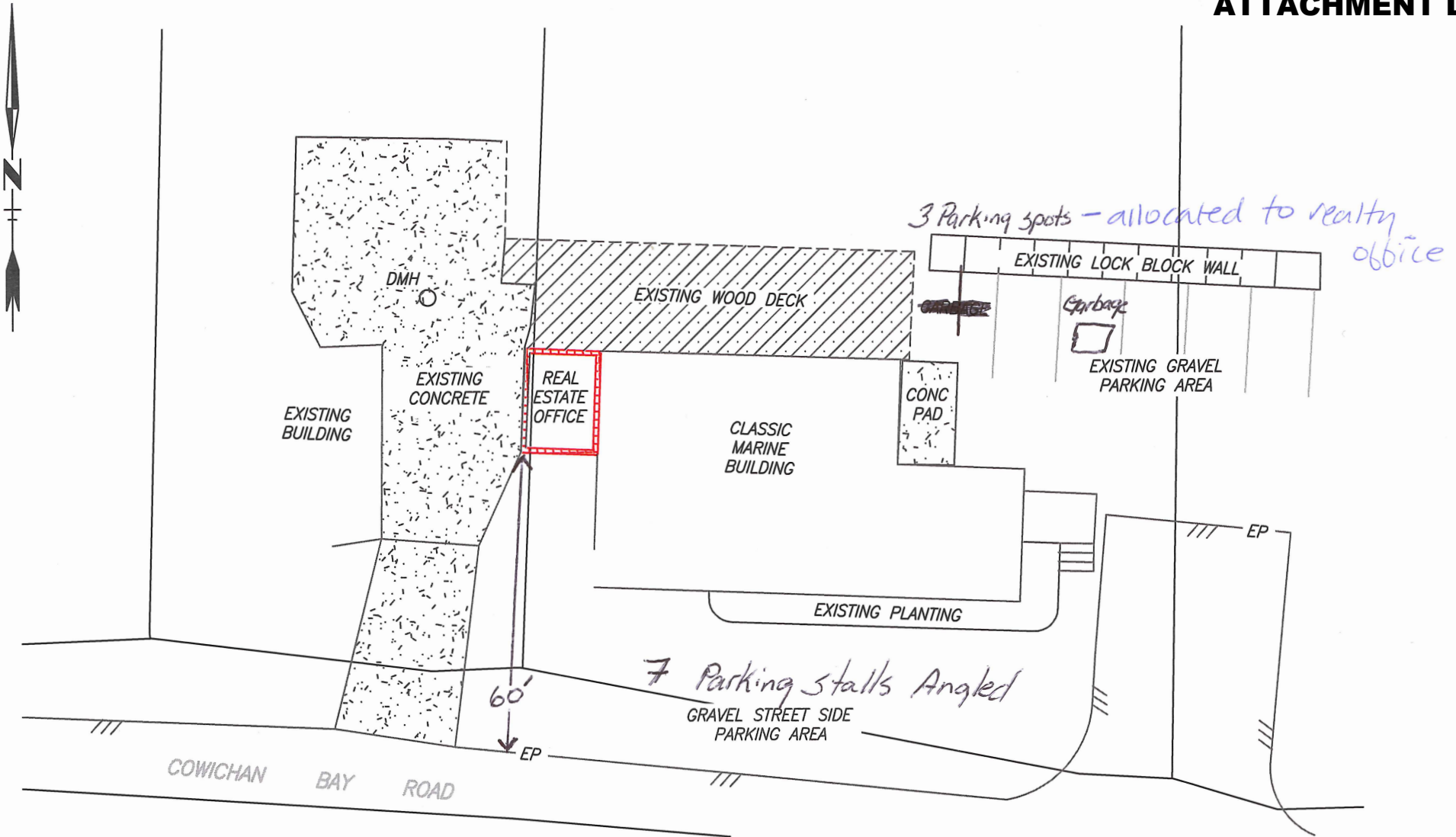
Hanging signage to be removed.



New window to be inserted in this wall.




Exterior finishes and main entry to realty office.



SITE PLAN 1:250

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CLIENT:		JIM MONEY & DOUG MacALPINE	
SHEET TITLE:			
SITE PLAN TO ACCOMPANY A DEVELOPMENT PERMIT WITH VARIANCE APPLICATION FOR DL 192 LEASE/PERMIT/LICENSE # 111603, DL 193, DL 2087, BLK A OF DL 162 & PT WEST OF NORTHERLY PRODUCTION OF EASTERLY			
 CREATIVE ENGINEERING SERVICES 716 CANADA AVENUE DUNCAN, BC V9L 1V1 creativeengineering@shaw.ca	DRAWN:	SB	DATE:
	CHECKED:	CW	FILE:
	SCALE:	1:250	DWG:
		LAYOUT:	

**R1**





## COWICHAN VALLEY REGIONAL DISTRICT

**DEVELOPMENT PERMIT**FILE NO: 10-D-15DP

DATE: \_\_\_\_\_

**REGISTERED PROPERTY OWNER(S):****JIM MONEY AND DOUG MACALPINE**  
\_\_\_\_\_  
\_\_\_\_\_

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 (legal description):

*Lease No. 111603 – District Lots 192, 193, 2087, Block A of District Lot 162 and Part West of Northerly Production of the Easterly Boundary of District Lot 192, District Lot 194, all within the Cowichan District.*

3. **Authorization is hereby given for construction of an 16 m<sup>2</sup> commercial addition in accordance with the following requirements:**
  - Compliance with Schedules A, B, and C
  - Payment of \$4,000 cash-in-lieu of parking;
  - Removal of the hanging signs in the corridor;
4. 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.
5. The following Schedules are attached:
  - Schedule A – Building Elevations
  - Schedule B – Site Plan
  - Schedule C – Hanging Signs to be removed
6. **This Permit is not a building permit or subdivision approval.** No certificate of final completion or recommendation of subdivision approval by the Cowichan Valley Regional District shall be issued until all items of this Development Permit have been complied with to the satisfaction of the Planning & Development Department.

ISSUANCE OF THIS PERMIT HAS BEEN AUTHORIZED BY RESOLUTION NO. XXXX PASSED BY THE BOARD OF THE COWICHAN VALLEY REGIONAL DISTRICT THE X<sup>TH</sup> DAY OF MONTH, 2017.

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.

I HEREBY CERTIFY that I have read the terms and requirements of the Development Permit contained herein. I understand and agree that the Cowichan Valley Regional District has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with JIM MONEY and DOUG MACALPINE, other than those contained in this Permit.

\_\_\_\_\_  
Owner/Agent (signature)

\_\_\_\_\_  
Witness (signature)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

DRAFT



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** June 27, 2017

**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of July 5, 2017

**FROM:** Parks & Trails Division  
Land Use Services Department

**SUBJECT:** License of Use and Occupation Agreement for Camp Woodlands

**FILE:**

## PURPOSE/INTRODUCTION

The purpose of this report is to request approval to enter into a 25 year License of Use and Occupation Agreement with Scout Properties (BC/Yukon) for their Camp Woodlands located in Bald Mountain Community Park in Electoral Area I.

## RECOMMENDED RESOLUTION

That it be recommended to the Board:

1. That a 25 year License of Use and Occupation Agreement with Scout Properties (BC/Yukon) Ltd. for use of 3.21 hectares of Bald Mountain Community Park to operate as a wilderness scout camp (Camp Woodlands), for a fee of \$10 be approved; and
2. That a Notice of Land Disposition, along with Notice of Intention to Provide Assistance be published pursuant to Sections 272 and 286 of the *Local Government Act* to advise the public of the CVRD's intent to enter into a 25 Year License of Use and Occupation Agreement with Scout Properties (BC/Yukon) Ltd., for the use of approximately 3.21 hectares of Bald Mountain Park as a wilderness scout campsite for a \$10 fee.

## BACKGROUND

In 2009 lands were transferred to the CVRD for park purposes as part of the Woodland Shores residential development under terms of the approved rezoning, inclusive of relocation of an existing Scouts Canada youth camp in Marble Bay to the new park. The scout camp had been operating on private forest lands in Marble Bay since 1991 under a lease, and Scouts Canada was agreeable to relocation as part of the residential development on the former forestry zoned property. It was acknowledged by all parties involved at the time that Scouts Canada's relocation to the new wilderness camp in Bald Mountain Park would take time, given their transition to the new site was being done entirely by volunteers. There was also recognition by Scouts Canada and CVRD that developing a long-term license agreement for the new camp location would benefit from this initial settling in period, so it was mutually agreed that CVRD would issue an interim license of use and occupation to Scouts Canada while details for a long term agreement were resolved by both parties.

The initial one year interim use agreement was issued July 29, 2009, to Scouts Properties (BC/Yukon), the legal regional entity associated Scouts Canada to enter into such agreements involving property interests. This interim agreement included an automatic one-year renewal clause, so as to allow the scouts to formally occupy the new camp, covering 3.21 ha of the community park on the north arm of Lake Cowichan (see attachment). Subsequent renewals of this interim license were approved by the Board due to additional time required by Scout Properties (BC/Yukon) to assess their use of the site, as well as changes in local Scouts Canada representatives that resulted in delays on completing a long term license agreement agreeable to both parties.

**ANALYSIS**

Scout Properties (BC/Yukon) remains committed to the operation of Camp Woodlands and is agreeable to the terms and conditions presented in the attached 25 year License of Use and Occupation agreement, which includes an option to renew for a further 25 years. The terms of the agreement include provisions that Scout Properties (BC/Yukon) be responsible for the use and liability of the camp, as well as all improvements made to the site. The use agreement also acknowledges the historical presence of a scout camp on the Bald Mountain Peninsula and that the wilderness scout campsite in Bald Mountain Park is complimentary to the overall management and public use of the semi-wilderness natural area park.

The original scout camp on the south arm of Cowichan Lake was under a long term nominal rent lease agreement that was relinquished by Scouts Canada upon agreement to relocate to the new wilderness camp location in Bald Mountain Park. The park area was dedicated to CVRD in 2008 as part of the community amenity contributions associated with rezoning of lands on the peninsula (Woodland Shores Development). The agreement by Scouts to relinquish the prior camp location and relocate to the park was on the understanding that similar terms applied to the license of use and occupancy agreement would be inclusive of a nominal rent tenure for the not-for-profit operation of the wilderness camp. A nominal license fee of \$10.00 would apply for the 25 year term per the attached License of Use and Occupation proposed for issuance to Scout Properties (BC/Yukon).

Access to the scout camp in the park is by way of a one-lane unpaved road across undeveloped private lands. A right of access easement in favour of CVRD on these lands also provides for use of this private road by Scouts Canada to reach their wilderness camp from Marble Bay Road. These private lands (part of the Woodland Shores Development) are zoned for rural residential development and will provide for public road access to the camp at such time the lands are developed. Any changes to the configuration of the wilderness camp, inclusive of new buildings or structures, will require the approval of the Regional District.

**FINANCIAL CONSIDERATIONS**

Preparation of the 25 year term License of Use and Occupation Agreement was through CVRD's solicitor at a cost in the order of \$1,500, with these costs to be funded by the Electoral Area I (Youbou/Meade Creek) Community Parks budget.

**COMMUNICATION CONSIDERATIONS**

Issuance of a less than market rent value license of use and occupation agreement for the 25 year term will require a Land Disposition and Intention to Provide Assistance Notice be advertised pursuant to Sections 272 and 286 of the *Local Government Act*, RSBC 2015, c1.

**STRATEGIC/BUSINESS PLAN CONSIDERATIONS**

N/A

Referred to (upon completion):

- Community Services (*Island Savings Centre, Cowichan Lake Recreation, South Cowichan Recreation, Arts & Culture, Public Safety, Facilities & Transit*)
- Corporate Services (*Finance, Human Resources, Legislative Services, Information Technology, Procurement*)
- Engineering Services (*Environmental Services, Recycling & Waste Management, Water Management*)
- Land Use Services (*Community & Regional Planning, Development Services, Inspection & Enforcement, Economic Development, Parks & Trails*)
- Strategic Services

Prepared by:

Reviewed by:




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Brian Farquhar  
Manager

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Not Applicable  
Not Applicable



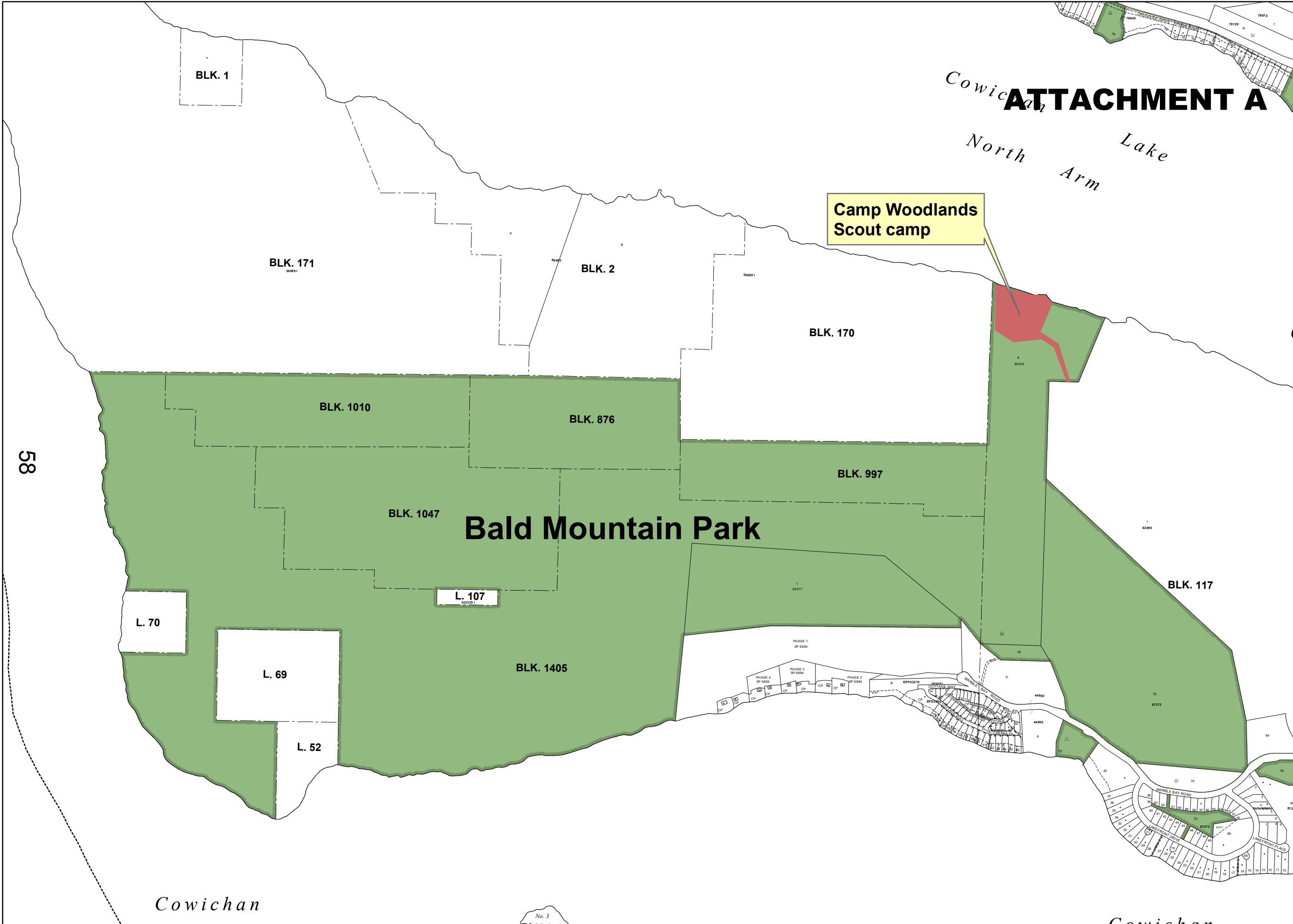
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Mike Tippett, MCIP, RPP  
A/General Manager

**ATTACHMENTS:**

Attachment A – Map Location of Scouts Camp Woodlands in Bald Mountain Community Park

Attachment B – License of Use and Occupation Agreement between CVRD and Scout Properties  
(BC/Yukon) Ltd.



# ATTACHMENT A



This map is compiled from various sources for internal use and is designed for reference purposes only.

The Regional District does not warrant the accuracy.

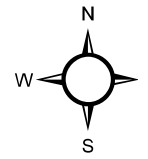
All persons making use of this compilation are advised that amendments have been consolidated for convenience purposes only and that boundaries are representational.

**The original Bylaws should be consulted for all purposes of interpretation and application of the Bylaws.**

Printed: June 26, 2017

## Camp Woodlands Scout camp

## Bald Mountain Park



# R2

Scale: 1:11,4

**LICENCE OF USE AND OCCUPATION**

**THIS AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

BETWEEN:

**COWICHAN VALLEY REGIONAL DISTRICT**

175 Ingram Street  
Duncan, B.C. V9L 1N8

(the "**Regional District**")

OF THE FIRST PART

AND:

**SCOUT PROPERTIES (B.C./YUKON)**

(Inc. No. XS-0064904)

**[Address]**

(the "**Licensee**")

OF THE SECOND PART

**W H E R E A S :**

- A. The Regional District is the owner of land described as:
- PID: 027-339-203
- Lot A, Block 117, Cowichan Lake District, Plan VIP84239
- (the "**Land**")
- B. The Land is located within and forms part of Bald Mountain Peninsula Community Park (the "**Park**"), which is part of the Regional District's network of community parks within Electoral Area I (Youbou/Meade Creek).
- C. The Regional District and the Licensee both acknowledge the historical presence of an established scout camp on the Bald Mountain Peninsula and that it was the consensus of both parties to see the camp relocated to its present location within the park, concurrent with the lands for the park being dedicated to the Regional District.

- D. The Regional District and the Licensee both agree that the use of the Land as a wilderness campsite on a non-profit basis is complimentary to the overall management and public use of the Park as a semi-wilderness uplands natural park.
- E. The Licensee wishes to be granted this licence to use and occupy that portion of the Land identified as the "Licence Area" in the plan attached as Schedule "A" to this Agreement and containing approximately 3 hectares, more or less (the "**Licence Area**") and the Regional District has agreed.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the licence fee to be paid by the Licensee to the Regional District and in consideration of the premises and covenants and agreements contained in this agreement (the "**Agreement**"), the Regional District and the Licensee covenant and agree with each other as follows:

## **1.0 RIGHT TO OCCUPY**

- 1.1 The Regional District, subject to the performance and observance by the Licensee of the terms, conditions, covenants and agreements contained in this Agreement and to earlier termination as provided in this Agreement, grants to the Licensee a right by way of licence for the Licensee, its agents, employees, and invitees to use the Licence Area for the purpose of a wilderness campsite on a non-profit basis for Scouts Canada or such other non-profit institutions, clubs and organizations permitted by and under the direction of Scouts Canada (the "**Permittees**"), and for no other purpose unless specifically permitted in writing by the Regional District.
- 1.2 The Licensee covenants and agrees to use Licence Area in accordance with the terms of use attached to this Agreement as Schedule "B".
- 1.3 The Licensee acknowledges the lack of direct highway access to and from the Land and the Licence Area. Until such time as a public road provides service to the Licence Area, the Licensee will have access to and from the Licence Area across the lands legally described as PID 026-953-374, Lot 1, Blocks 117 and 180, Cowichan Lake District, Plan VIP82490, except part in Plan VIP84239, by means of the logging roads referred to in Easement No. FB306859 (the "**Access Easement**"). The Licensee covenants and agrees to comply with and observe all of the terms and conditions of the Access Easement governing use of the logging roads, and to require such compliance on the part of all of the Permittees.

## **2.0 RESERVATION OF RIGHTS**

- 2.1 The Regional District hereby reserves to itself from the grant and the covenants made by it to the Licensee under section 1 above the right for the Regional District, its agents, employees, contractors and subcontractors to have full and complete access to the Licence Area to carry out any



operations associated with the Regional District's use of the Land and the Licence Area. The Regional District agrees that except in cases of emergency when the provision of notice is not practicable, the Regional District shall provide the Licensee with advance notice (the timing of such notice to be reasonable in the circumstances) of its intention to enter onto the Licence Area.

- 2.2 The Regional District may at any time and from time to time prohibit or restrict the exercise of any of the rights hereby granted to the Licensee for such period or periods of time as the Regional District or the British Columbia Forest Service Protection Branch considers such prohibition or restriction justified on account of hazardous weather conditions or fires or for any other reason and the Licensee will at all times observe and conform with such prohibitions or restrictions.

### **3.0 LICENCE FEE**

- 3.1 In consideration of the right to use and occupy granted under this Agreement the Licensee agrees to pay to the Regional District a licence fee of Ten (\$10.00) Dollar for the Term.

### **4.0 TERM**

- 4.1 The Term of the licence granted under this Agreement is for twenty-five (25) years commencing on the 28<sup>th</sup> day of July, 2017 to the 27<sup>th</sup> day of July, 2042 unless earlier terminated under this Agreement.

### **5.0 TAXES AND UTILITIES**

- 5.1 The Licensee must pay all taxes, rates, duties and assessments whatsoever, whether federal, provincial, regional or otherwise charged upon the Licensee or the Regional District as a result of the Licensee's occupation of or use of the Licence Area. Without in any way restricting the generality of the foregoing, the Licensee must pay to the Regional District, any goods and services tax payable on the licence fee.
- 5.2 The Licensee shall, during the Term or any renewal thereof, promptly pay for its gas, other fuel, electricity and water consumed on or for the benefit of the Premises, and all charges for telephone services, garbage pick-up services and other like services rendered to the Licence Area. The Licensee will pay to the Regional District forthwith on demand any amounts paid by the Licensee in respect of any such services rendered to or in respect of the Licence Area except that the Licensee shall pay for the original installation charges of all Public Utilities on the Licence Area.

## 6.0 CONSTRUCTION AND SIGNAGE

- 6.1 The Licensee must not construct or place, other than those existing as of the commencement of this Agreement (the “**Existing Buildings**”), any buildings or structures or make any improvements on the Licence Area, unless:
- (a) prior to construction, it has obtained the Regional District's approval in writing to the site plans, working drawings, plans, specifications, and elevations; and
  - (b) prior to construction, it has obtained a building permit from the local government authority having jurisdiction authorizing the construction of the buildings and structures set out in the permits and the plans and specifications attached to it; and
  - (c) during construction, it obtains all required inspections, and carries out the work in accordance with all enactments; and
  - (d) on completion of construction, it deliver final as built drawings to the Regional District.
- 6.2 The Licensee must not occupy any building (other than the Existing Buildings) without first having obtained the required occupancy certificate.
- 6.3 The Licensee shall not place, affix or have exposed any sign, notice, or other indication of the occupation of the Regional District on or within one half kilometre of the Land without the prior written consent of the Regional District, which consent may not be unreasonably withheld. Any such signage shall be designed, constructed and placed in accordance with the Regional District's Parks signage policies, standards and guidelines, from time to time. In case any sign, notice or other indication of the occupation of the Licensee is placed, affixed or exposed without the consent of the Regional District, then the Regional District shall be at liberty by its servants or agents to remove such sign, notice or other indication of the occupation of the Licensee at the expense of the Licensee.
- 6.4 If the Licensee carries out construction of any buildings, structures or improvements on the Licence Area it must do so only at its cost and must afterwards at its cost maintain any buildings, structures or improvements constructed or placed on the Licence Area during the Term.

## 7.0 INSURANCE

- 7.1 (a) The Licensee must take out and maintain during the term of the Licence a policy of comprehensive general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Land by the Licensee and its Permittees in the amount of

not less than two million dollars (\$2,000,000.00) per single occurrence or such greater amount as the Regional District may from time to time designate, acting reasonably, naming the Regional District as an additional insured party thereto and must provide the Regional District with a certified copy of such policy or policies.

- (b) All policies of insurance must contain a clause requiring the insurer not to cancel or change the insurance without first giving the Regional District thirty days prior written notice.
- (c) If the Licensee does not provide or maintain in force the insurance required by this Agreement, the Regional District may take out the necessary insurance and pay the premium for periods of one year at a time and the Licensee must pay to the Regional District as additional Licence fees the amount of the premium immediately on demand.
- (d) If both the Regional District and the Licensee have claims to be indemnified under any insurance required by this Agreement, the indemnity must be applied first to the settlement of the claim of the Regional District and the balance, if any, to the settlement of the claim of the Licensee.
- (e) The deductible on the policy of insurance must be not more than fifty thousand dollars (\$50,000.00).

## **8.0 INDEMNIFICATION**

- 8.1 The Licensee releases, discharges and must indemnify and save harmless the Regional District, its elected officials, appointed officers, employees and agents from and against all lawsuits, damages, costs, expenses, liability or fees (including fees of solicitors on a solicitor and own client basis) which the Licensee, a Permittee, or any of them or anyone else may incur, suffer or allege by reason of the use of the Licence Area or the Access Easement by the Licensee or the Permittees, or by any person or the carrying on upon the Land of any activity in relation to the Licensee's or a Permittee's use of the Licence Area of the Access Easement.

## **9.0 BUILDERS LIENS**

- 9.1 The Licensee must indemnify the Regional District from and against any builder's liens and must upon the request of the Regional District immediately cause any registered lien to be discharged from title to the Licence Area.

## 10.0 NOTICES

### 10.1 It is hereby mutually agreed:

Any notice required to be given under this Agreement must be deemed to be sufficiently given:

- (a) if delivered at the time of delivery;
- (b) if mailed from any government post office in the Province of British Columbia by prepaid registered mail addressed as follows:
- (c) if delivered by fax or email during ordinary business hours of the Regional District 12 hours after the time of sending:

if to the Regional District:

175 Ingram Street  
Duncan, B.C. V9L 1N8

if to the Licensee:

800 – 1070 Douglas Street,  
Victoria, BC, V8W 2S8

a party may from time to time designate, then the notice must be deemed to have been received forty-eight hours after the time and date of mailing. If, at the time of mailing the notice, the delivery of mail in the Province of British Columbia has been interrupted in whole or in part by reason of a strike, slow-down, lock-out or other labour dispute, then the notice may only be given by actual delivery, fax, or email.

## 11.0 TERMINATION

- 11.1 If the Licensee is in default on the payment of any sum payable under this Agreement, or is otherwise in breach of this Agreement, and if the default continues after the giving of notice in writing by the Regional District to the Licensee, then the Regional District may terminate this Agreement and reenter the Licence Area and the rights of the Licensee with respect to the Licence Area lapse and are absolutely forfeited.

## **12.0 FORFEITURE**

- 12.1 If the Regional District, by waiving or neglecting to enforce the right to forfeiture of this Agreement or the right of reentry upon breach of this Agreement, does not waive the Regional District's rights upon any subsequent breach of the same or any other provision of this Agreement.

## **13.0 FIXTURES**

- 13.1 That, unless the Licensee upon notice from the Regional District removes them, all buildings, structures or improvements constructed on the Licence Area by the Licensee must at the termination of the Agreement, become the sole property of the Regional District at no cost to the Regional District.

## **14.0 FIRES**

- 14.1 The Licensee covenants and agrees with the Regional District that the Licensee:
- (a) will not start or permit or suffer any open fires (including camp fires except for controlled campfires in designated fire rings constructed and maintained for that purpose) or any fire menace on the Licence Area at any time, except as may be permitted, in writing, by the Regional District and then only in strict compliance with all the requirements of the British Columbia Forest Service Protection Branch and in compliance with all bylaws of the Regional District;
  - (b) will take every reasonable precaution to prevent the escape of fire on or to any of the Lands outside the Licence Area or other neighbouring lands; and
  - (c) will conform to and observe all applicable provisions of and regulations under the *Wildfire Act*, S.B.C., 2004, c.31 and any other statute that has been or may hereafter be made in respect of the prevention and suppression of fires.

## **15.0 REPAIRS AND MAINTENANCE**

- 15.1 The Licensee must repair and maintain the Licence Area and any building, structure or other improvement thereon, in accordance with Schedule "B" to this Agreement.
- 15.2 (a) If the Licensee fails to repair or maintain the Licence Area or any building structure or other improvements on the Licence Area in accordance with this Agreement, the Regional District may, by its agents, employees or contractors enter the Licence Area and make the required repairs or do the required maintenance and the cost of

the repairs or maintenance is a debt due from the Licensee to the Regional District.

- (b) In making the repairs or doing the maintenance the Regional District bring and leave upon the Licence Area the necessary materials, tools and equipment and the Regional District is not liable to the Licensee for any inconvenience, annoyance, loss of business or other injuries suffered by the Licensee by reason of the Regional District effecting the repairs or maintenance.

## **16.0 REMEDIAL ACTION**

- 16.1 (a) If the Licensee fails to do anything required of the Licensee under this Agreement, (the "**Licensee Requirement**") the Regional District may fulfill or complete the Licensee Requirement at the cost of the Licensee and may, if necessary, by its agents, employees or officers enter into the Licence Area to fulfill in complete the Licensee Requirement.
- (b) The Licensee releases the Regional District, its elected officials, appointed officers, employees and agents from and waives any claim, right, remedy, action, cause of action, loss, damage, expense, fee or liability which the Licensee may have against any or all of them in respect of an act of the Regional District under this section or section 15.0 except insofar as such claim, right, remedy, action, cause of action, loss, damage, expense, fee or liability arises from the negligence of the Regional District, its elected and appointed officers, employees and agents.

## **17.0 TREE CUTTING, EXCAVATIONS AND HAZARDOUS SUBSTANCES**

- 17.1 (a) Except as provided for in subparagraphs (b) and (c), the Licensee must not carry on or do or allow to be carried on or done on the Licence Area any cutting, clearing or removal of trees, bushes or other vegetation or growth or any excavation or disturbance of the surface of the Licence Area and must not bring on or deposit any soil or fill on the Licence Area, except with the written consent of the Regional District.
- (b) The Licensee may remove and dispose of any invasive plant species that become established in the Licence Area, provided the removal and disposal is done in accordance with invasive species removal practices that are acceptable to the Regional District.
- (c) The Licensee may cut down or remove from the Licence Area any trees that in the written opinion of an ISA certified arborist are hazardous, provided that a copy of the arborist's report is forwarded to the Regional District in advance where possible, or in the event of

an imminent hazard or other emergency requiring immediate removal of the tree, is provided to the Regional District within a reasonable time frame after the removal of the tree.

- (d) The Licensee must not bring on, deposit, store, spray or apply nor cause or permit to be brought on, deposited, stored, sprayed or applied on the land or to any trees, bush or vegetation on the Licence Area any chemical fertilizer, herbicide, pesticide or other chemical or petroleum product or any substance which is capable of contaminating the Licence Area or any water on the Licence Area.

## **18.0 CLEAN UP**

- 18.1 At the end of the Term, the Licensee must clean up the Licence Area and if directed by the Regional District, remove any or all of the Licensee's buildings, structures or improvements from the Licence Area, as the Regional District directs.

## **19.0 WASTE AND NUISANCE**

- 19.1 Except as permitted under this Agreement, the Licensee must not:
  - (a) commit or permit or suffer to be committed any waste on the Licence Area; or
  - (b) cause or permit or suffer to be caused any nuisance with respect to the Land outside the Licence Area or other adjacent lands.

## **20.0 REGULATIONS**

- 20.1 The Licensee must:
  - (a) comply promptly at its own expense with the legal requirements of all authorities, including an association of fire insurance underwriters or agents, and all notices issued under them that are served upon the Regional District or the Licensee and obtain all permits, licences and approvals required thereunder;
  - (b) comply promptly at its own expense with all laws and regulations governing the Licensee's use of the Licence Area including but not limited to all of the Regional District's park bylaws as amended or replaced from time to time; and
  - (c) indemnify the Regional District from all lawsuits, damages, loss, costs or expenses that the Regional District may incur by reason of non-compliance by the Licensee with legal requirements or by reason of any defect in the Licence Area or any injury to any person or to any personal property contained on the Licence Area. The

Licensee must be responsible for any damage to the Licence Area occurring while the Licensee is exercising its rights under this Agreement.

## **21.0 PARK MANAGEMENT PLAN**

- 21.1 The Licensee acknowledges that the Licence Area is located within the Park and agrees that the Licensee shall not do or permit anything to be done on the Licence Area that interferes with the use of the Land as a Park.
- 21.2 Both parties agree to work together in the interest of protecting and enhancing the natural attributes of the Park in accordance with the policies and objectives for the Park that may be established through completion, and update from time to time, of a Park management plan by the Regional District for the overall Park.

## **22.0 RENEWAL**

- 22.1 The Licensee, provided it is not in breach of any term or condition of this Agreement during the Term may renew this Agreement for a further 25 year Term (the “**Renewal Term**”) by giving the Regional District notice thereof not earlier than one hundred and eighty (180) days before and not later than ninety (90) days before the end of the Term. If the Licensee exercises this option to renew, the Renewal Term shall be on the same terms and conditions as the initial Term of this Agreement, except for this option to renew.

## **23.0 NO COMPENSATION**

- 23.1 The Licensee is not entitled to compensation for any loss or injurious affection or disturbance resulting in any way from the termination of the Licence or the loss of the Licensee's interest in any building, structure or improvement built or placed on the Licence Area.

## **24.0 MISCELLANEOUS**

- 24.1 (a) The Licensee warrants and represents that the execution of this Agreement by the Licensee on behalf of a group or organization is a warranty and representation to the Regional District that the Licensee has sufficient power, authority, and capacity to bind the group or organization with his or her signature.
- (b) In consideration of being granted the use of the Licence Area, the Licensee agrees to be bound by the terms and conditions of this Agreement and, if the Licensee represents a group or organization, the Licensee agrees to inform all responsible persons associated with the group or organization of the terms and conditions of this Agreement.



- (c) This Agreement must not be interpreted as granting any interest in the Licence Area to the Licensee.
- (d) Waiver of any default by a party must not be interpreted or deemed to be a waiver of any subsequent default.

## **25.0 INTERPRETATION**

- 25.1
- (a) That when the singular or neuter are used in this Agreement they include the plural or the feminine or the masculine or the body politic where the context or the parties require.
  - (b) The headings to the clauses in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.
  - (c) That this Agreement must enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.
  - (d) This Agreement must be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
  - (e) All provisions of this Agreement are to be construed as covenants and agreements as though the word importing covenants and agreements were used in each separate paragraph.
  - (f) A provision in this Agreement granting the Regional District a right of approval must be interpreted as granting a free and unrestricted right to be exercised by the Regional District in its discretion.

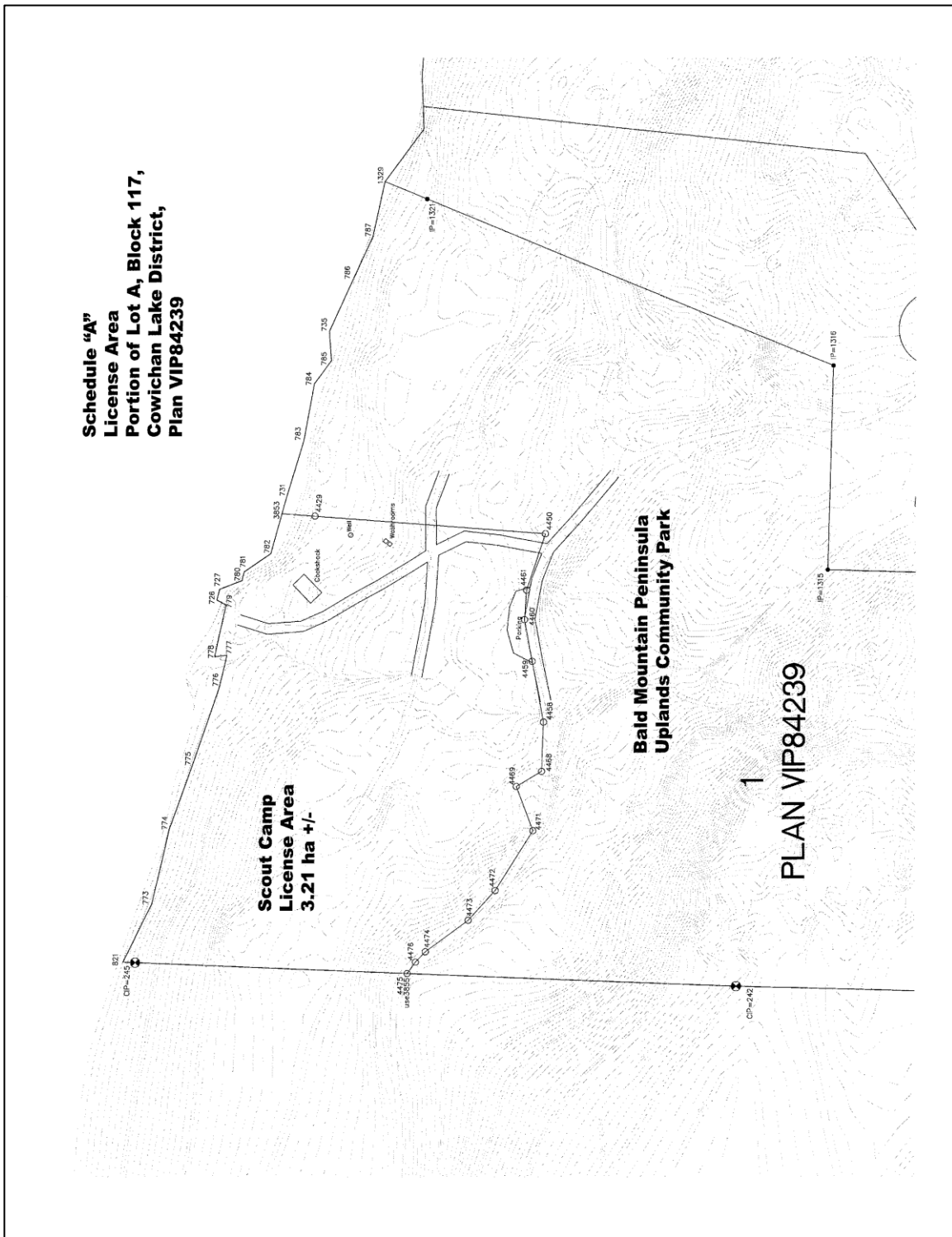
**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the day and year first above written.

**COWICHAN VALLEY REGIONAL** )  
**DISTRICT** by its authorized signatories: )  
 )  
 \_\_\_\_\_ )  
 Jon Lefebure, Chair )  
 )  
 \_\_\_\_\_ )  
 Joseph Barry, Corporate Secretary )

**SCOUT PROPERTIES (B.C./YUKON)** )  
 by its authorized signatories: )  
 )  
 \_\_\_\_\_ )  
 Name: Richard Druce, Director )  
 )  
 \_\_\_\_\_ )  
 Name: Chris Jennings Director )

SCHEDULE "A"

LICENCE AREA



## SCHEDULE “B”

### Terms of Use

#### Other Users

1. The Licensee must cooperate with the Regional District to permit other persons and organizations to have access to the Land at reasonable times.

#### Repair and Maintenance

1. The Licensee must ensure that the Licence Area and any building, structure or other improvement thereon is clean and litter free during and after every use of the Licence Area, to the satisfaction or the direction of the Regional District.
2. The Licensee must maintain the Licence Area including any building, structure or other improvement thereon in a good state of repair and condition, reasonable wear and tear excepted, to the satisfaction or at the direction of the Regional District.

#### Safety and Risk Management

1. The Licensee must ensure that its use and occupation of the Licence Area, and all programs carried out within and in the vicinity of the Licence Area, are consistent with the generally accepted standards for the operators of similar non-profit recreational and camping activities located within public parks in British Columbia. Without limiting the foregoing, to the extent the Licensee uses the foreshore and waters of Cowichan Lake for and in connection with its programs operated on the Licence Area, the Licensee shall implement, maintain and use only watercraft, safety equipment, signage (including warning and instructive signage), markers, floats, wharves or other devices and equipment that conform to or exceed the standards utilized by the Regional District at the Regional District's recreational facilities.



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** June 26, 2017

**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of July 5, 2017

**FROM:** Inspection & Enforcement Division  
Land Use Services Department

**SUBJECT:** 2182 Lakeside Road (Area E) – Blue Grouse Estate Winery Ltd  
Application: Winery Lounge & Special Event Endorsement

**FILE:** 23-E-17BE

## PURPOSE/INTRODUCTION

The purpose of this report is to satisfy a liquor licence application requirement for local government input submitted by Blue Grouse Estate Winery Ltd.

## RECOMMENDED RESOLUTION

That it be recommended to the Board that the Cowichan Valley Regional District does not wish to provide comments or recommendations to the Liquor Control and Licencing Branch with regard to the Application for a Winery Lounge & Special Event Area (SEA) Endorsements by Blue Grouse Estate Winery Ltd. located at 2182 Lakeside Road, Cowichan Station (Area E) and consideration be made to Agricultural Land Commission policy regarding “Gathering for an Event in the Agricultural Land Reserve”.

## BACKGROUND

An application for a Winery Lounge & Special Event Area (SEA) Endorsements has been submitted by Blue Grouse Estate Winery Ltd located at 2182 Lakeside Road (Area E).

## ANALYSIS

Blue Grouse Estate Winery Ltd. has applied to include a Winery Lounge and Special Event Area (SEA) Endorsements to their existing liquor licence. The following are pertinent excerpts from this application:

**“The Lounge Endorsement**, if approved, allows a licenced winery to sell and serve their products by the glass or bottle in a designated interior lounge and/or patio area on the manufacturing site. In a manufacturer lounge, sale and service may also include any kind of liquor for consumption on site, provided the cost of products other than the manufacturer’s own product does not exceed 20% of the total cost of products for sale in any given quarter. Food and non-alcoholic beverages must be available at reasonable prices to customers during all hours of liquor service. Hours of service and capacity are subject to local government consideration and comment. Minors are permitted when accompanied by a parent or guardian.”

**“The Special Event Area Endorsement**, if approved, allows a licenced winery to sell and serve their products by the glass or bottle, in conjunction with the hosting of special events such as weddings, concerts, private parties or promotional events open to the public within a designated area(s) of the winery. In a manufacturer SEA, sale and service may also include any kind of liquor for consumption on site, provided the cost of products other than the manufacturer’s own product does not exceed 20% of the total cost of products for sale in any given quarter. Food and non-alcoholic beverages must be available at reasonable prices to customers during all hours of liquor service. Hours of service and capacity are subject to local government consideration and comment. Minors are permitted when accompanied by a parent or guardian.”

SEA's are event driven only and not intended to be an extension or alternative to a winery lounge."

Attached is the entire "Application Summary" for more detailed information. At this point, the CVRD must choose either to "opt out" of this process and entrust the LCLB to process the application entirely or "opt in" and provide comments to the LCLB.

If the CVRD chooses to "opt in" and provide comments, criteria will need to be taken into account including:

- Gather public input from the community within the immediate vicinity of the establishment.
- Consider these factors which must be taken into account when providing resolution/comment.
- Provide a resolution/comment.
- Provide any reports that are referenced in, or used to determine, the resolution/comment.

Choosing to "opt in" will require staff time to further examine this application and organize one or more public meetings.

If the CVRD chooses to "opt out" of this process, there will be complete reliance on the LCLB to manage and take full responsibility of this licence.

#### **FINANCIAL CONSIDERATIONS**

#### **COMMUNICATION CONSIDERATIONS**

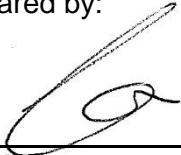
Liquor Control & Licencing Branch

#### **STRATEGIC/BUSINESS PLAN CONSIDERATIONS**

Referred to (upon completion):

- Community Services** (*Island Savings Centre, Cowichan Lake Recreation, South Cowichan Recreation, Arts & Culture, Public Safety, Facilities & Transit*)
- Corporate Services** (*Finance, Human Resources, Legislative Services, Information Technology, Procurement*)
- Engineering Services** (*Environmental Services, Recycling & Waste Management, Water Management*)
- Land Use Services** (*Community & Regional Planning, Development Services, Inspection & Enforcement, Economic Development, Parks & Trails*)
- Strategic Services**

Prepared by:



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Nino Morano  
Bylaw Enforcement Officer

Reviewed by:



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Robert Blackmore, BSc., MSc.  
Manager



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Mike Tippett, MCIP, RPP  
A/General Manager

**ATTACHMENTS:**

Attachment A – Application Summary – Winery Lounge & SEA Endorsement



**APPLICATION SUMMARY**  
For Applicant and Local Government/First Nation

**Winery Lounge & SEA Endorsement**

Date: March 25, 2017 (revised June 5)

Job #2380402-25 & 26

Created by: Janine Lind  
Senior Licensing Analyst

Re: Application for Winery Lounge & Special Event Area (SEA) Endorsements  
Winery Name: Blue Grouse Vineyards (Winery Licence #300139)  
Applicant Name: Blue Grouse Estate Winery Ltd.  
Proposed Location: 4365 Blue Grouse Road (& adjoining 2182 Lakeside Rd), Duncan

### 1. APPLICATION INFORMATION

Date Application deemed complete: March 18, 2017

Local Government or First Nation Jurisdiction: Cowichan Valley Regional District

The primary business focus of the proposed Lounge & SEA: Food and Beverage

Person Capacity/Occupant Load Requested (person capacity is patrons plus staff):

Lounge Interior (main floor)	= 65 persons
Lounge Patio (main floor)	= 60 persons
SEA 1 Interior (main floor)	= 8 persons
SEA 2 Interior (mezzanine)	= 39 persons
SEA 3 Patio (mezzanine)	= 18 persons
SEA 5 Exterior (crush pad)	= 80 persons
SEA 6 Exterior (grass area)	= 200 persons

\*Lounge interior & SEA 1 & 2 - Combined interior capacity not to exceed 142 persons when all areas are in use.

\*Lounge interior, patio & SEA 1, 2, & 3 - Combined interior & patio capacity not to exceed 150 persons when all areas are in use.

#### Lounge & SEA (all areas) Liquor Service Hours Requested:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM
11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM

Statutory Prohibitions to Consider: none identified

Terms and Conditions Requested: none

**The Lounge Endorsement**, if approved, allows a licensed winery to sell and serve their products by the glass or bottle in a designated interior lounge and/or patio area on the manufacturing site. In a manufacturer lounge, sale and service may also include any kind of liquor for consumption on site, provided the cost of products other than the manufacturer's own product does not exceed 20% of the total cost of products for sale in in any given quarter. Food and non-alcoholic beverages must be available at reasonable prices to customers during all hours of liquor service.



Hours of service and capacity are subject to local government consideration and comment. Minors are permitted when accompanied by a parent or guardian.

**The Special Event Area Endorsement**, if approved, allows a licensed winery to sell and serve their products by the glass or bottle, in conjunction with the hosting of special events such as weddings, concerts, private parties or promotional events open to the public within a designated area(s) of the winery. In a manufacturer SEA, sale and service may also include any kind of liquor for consumption on site, provided the cost of products other than the manufacturer's own product does not exceed 20% of the total cost of products for sale in in any given quarter. Food and non-alcoholic beverages must be available at reasonable prices to customers during all hours of liquor service. Hours of service and capacity are subject to local government consideration and comment. Minors are permitted when accompanied by a parent or guardian. SEAs are event driven only and not intended to be an extension or alternative to a winery lounge.

## 2. LOCATION/SITE FACTORS

The legal description of the site is: PID 000-484-733 Parcel B Section 1&2 Range 2, Cowichan District, Plan 751R. The proposed lounge is an interior area on the main floor of the winery facility overlapping the on-site store and includes an abutting patio area. The proposed SEAs consist of: an interior area on the main floor adjacent to on-site store; an interior area on the mezzanine with an abutting patio; an interior area overlapping the barrel aging room; an exterior area overlapping the crush pad that abuts the on-site store; and an exterior grassy area of the winery site adjacent to the applicant's private residence.

As the winery is located within the Agricultural Land Reserve (ALR), it is the applicant's responsibility to ensure compliance with all ALR requirements and/or restrictions.

*The following sections are compiled from information provided by the applicant except where indicated otherwise.*

The Applicant's "Letter of Intent" (attached) provides information relative to the categories noted below. The information or statements included in the letter of intent have not been confirmed unless otherwise stated in this report.

### Community Indicators

#### Contravention Statistics

- The Liquor Control and Licensing Branch can provide contravention statistics for liquor primary and liquor primary club establishments within your area upon request.

#### Population and Socio-Economic Information:

- Circle population statistics for 2006 are available from BC Stats by emailing your request to [BC.Stats@gov.bc.ca](mailto:BC.Stats@gov.bc.ca)

## 3. PUBLIC INTEREST

In providing the resolution on the proposed licence application, Local Government must consider and comment on each of the regulatory criteria indicated below.

The written comments must be provided to the general manager by way of a resolution within 90 days after the Local Government receives notice of the application, or any further period

authorized by the General Manager, Liquor Control and Licensing Branch, in writing. LG/FN can delegate staff with the authority to provide comment.

To provide a resolution or comment:

- Gather public input for the community within the immediate vicinity of the establishment.
- Consider these factors which must be taken into account when providing resolution/comment:
  - The location of the establishment.
  - The person capacity and hours of service of the establishment.
- Provide a resolution/comment with comments on:
  - The impact of noise on nearby residents.
  - The impact on the community if the application is approved.
  - The view of residents and a description of the method used to gather views.
  - The LG/FN recommendations (including whether or not the application be approved) and the reasons on which they are based.
- Provide any reports that are referenced in, or used to determine, the resolution/comment.

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If LG/FN opts out, written notification must be provided to the Branch, and the Branch will gather public input and contact LG/FN staff for information to assist the Branch in considering the regulatory criteria.

If more than 90 days is required, provide a written request for extension to the Branch.

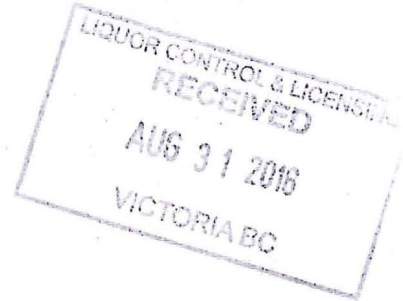
**ATTACHMENT 1**  
**APPLICANT'S LETTER OF INTENT**



ESTATE WINERY and VINEYARD

March 31, 2016

ATTN: BC Liquor Control and Licensing Branch  
Re: LETTER OF INTENT – Lounge Endorsement



**Dear Sir or Madam:**

The purpose of our application for a Lounge Endorsement is to be able to offer our community unique experiences that complement our wine products and enhance our brand. We would like the opportunity to host additional customers on special occasions for concerts, weddings, dinners, corporate events and similar activities.

Some of our planned events would include:

- **Winemaker Dinners** – We are looking to pair our wines with local food suppliers or restaurants. Our offerings would range from farm to table outdoor dinners in our vineyard to special white cloth dinners in our barrel room (cellar).
- **Daytime or Early Evening Concerts** - We would like to hold a small, intimate outdoor concert series in the summer, with music ending no later than 11:00 pm.
- **Corporate Events** – We envision company staff parties and teambuilding get-togethers held in our tasting room area, on our mezzanine deck or on our outdoor crush pad.
- **Weddings** – We have had numerous requests for wedding ceremonies and receptions set in our lovely winery tasting room, patio, and crush pad. Our expectation is for groups of about 100 people.

**Target Market**

Our target market includes the neighboring Cowichan Valley communities of Duncan, Cowichan Bay, Cobble Hill and Mill Bay, as well as Nanaimo and Victoria. We also expect some tourists from the Mainland, the Western Provinces and the United States.

**Composition of the neighborhood**

We are located on a 65 acre property in rural Cowichan Valley about 8 kilometers south of Duncan and 1.5 kilometers off of the Trans Canada Highway. There are seven (7) residential homes within 500 meters of the property, two (2) of which belong to us. Trees and farmland surround the remainder of our property. We are also located next to the Waldorf School, which is used during daytime hours from September to early June and closed during the summer months (our busy season).

**Benefits to the Community**

Our proposed lounge will support tourism and local activities at our wine processing facility. This is something that our tasting room customers, and other visitors, constantly ask about. The Cowichan Valley wine region has been bringing more tourists to the surrounding areas every year. Collectively, all of the wineries and local food businesses support each other and are working to develop a meaningful agritourism industry for the benefit of all. We are part of that effort and a lounge

license would allow Blue Grouse opportunities to host industry events with other local wineries and alcoholic beverage producers for a complete destination experience.

**Impact of Noise on Surrounding Community**

We anticipate little noise impact on the local community for a few key reasons:

1. There are no homes to the east or west of the Blue Grouse property. To the East is the Green Dragon property, which belongs to the winery and to the west is the Waldorf School, which is used only during the school year and daytime hours. There is a home to the north of us and a farm to the south, both about ½ a kilometer or more from the winery. To the north is one residential home surrounded by farmland and separated from us by trees and hills. To the South is a dairy farm also separated by trees and situated on the far side of the Nanaimo & Esquimalt railroad tracks. We have good relations with these neighbors and do not think they would be affected by noise generated from events at the winery.
2. We have a good neighbor policy. We make an extra effort to know our neighbors, keep them advised of what we are doing and be seen as a significant contributor to the sustainability and enjoyment of the Cowichan Station farm community
3. We will adhere to local noise bylaws established by local government and will limit operations to reasonable hours.

**Other Impacts on the Surrounding Community**

We do not see any negative impacts on the surrounding community. We anticipate a positive response from our neighbors, as we work to become a local gathering spot and develop new business for the Cowichan Station area.

**Other information**

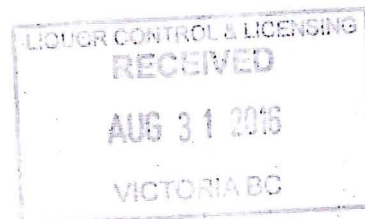
Blue Grouse has ample parking for the events we plan and our winery building has bathrooms designed and licensed to accommodate the number of people we expect to host. We respect our neighborhood and want to bring others to us to enjoy what we see every day.

For any further questions or additional information, please don't hesitate to contact us.



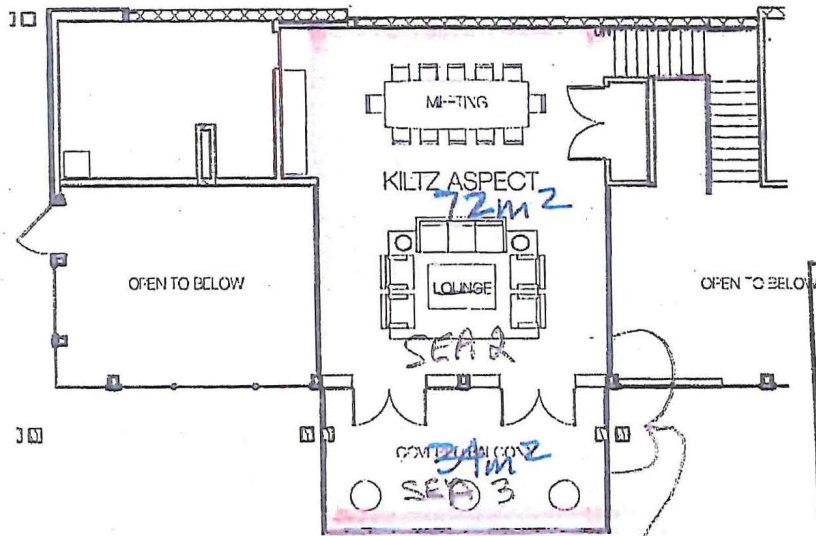
Jenny Garlini

Director of Administration



# Blue Grouse

ESTATE WINERY and VINEYARD



**TOTAL OCCUPANT LOAD (ALL AREAS)**

150 PERSONS

SEE ATTACHED

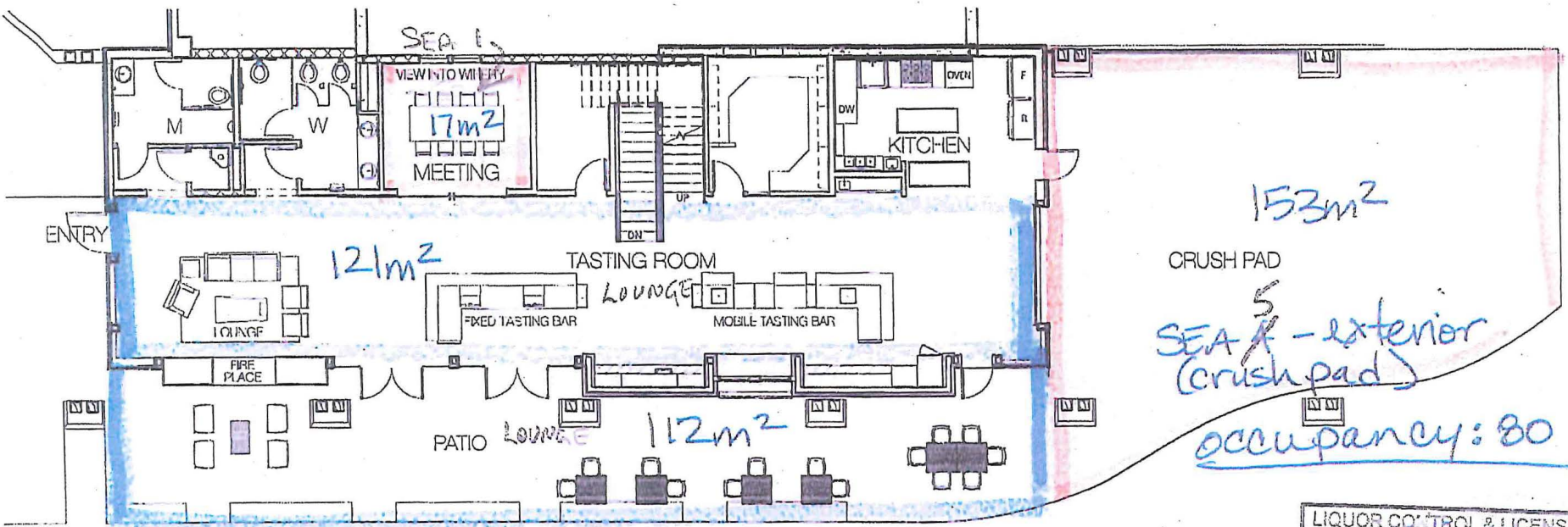
Special event areas

Lounge endorsement

BUILDING INSPECTOR

KILTZ ASPECT: 72 m<sup>2</sup> + 34 m<sup>2</sup> COVERED BALCONY  
 OCCUPANT LOAD: 39 INSIDE + 18 OUTSIDE

82



occupancy

lounge interior - 65

lounge patio - 60

TASTING ROOM, MEETING, & KITCHEN: 121.5 m<sup>2</sup> OCCUPANT LOAD: 95  
 MEETING: 17 m<sup>2</sup> OCCUPANT LOAD: 8  
 KITCHEN: 20 m<sup>2</sup>  
 PATIO: 112 m<sup>2</sup> OCCUPANT LOAD: 60  
 CRUSH PAD: 153 m<sup>2</sup> OCCUPANT LOAD: 82

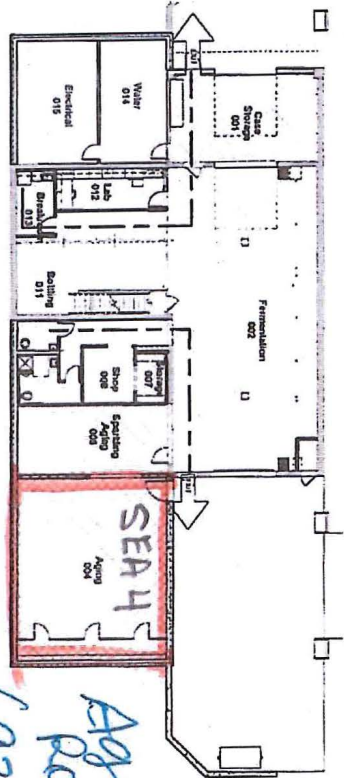
**Total interior capacity 142**

LIQUOR CONTROL & LICENSING  
**RECEIVED**  
 MAR 23 2017  
 VICTORIA BC

R3



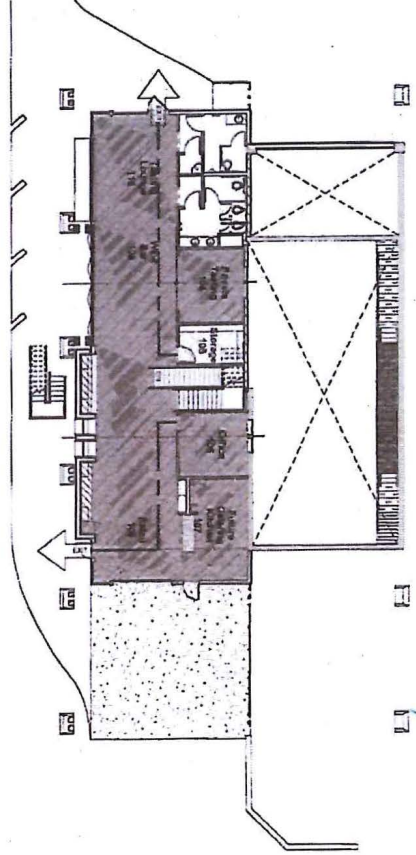
① Lower Level Floor Plan



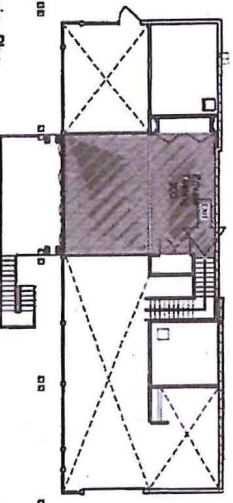
Occupancy: 20 / 93m<sup>2</sup>  
 Aging Room

- CODE LEGEND
- A-2
  - F-3
  - STORAGE
  - UNOCCUPIED

② Ground Floor Plan



③ Mezzanine Plan



LIQUOR CONTROL & LICENSING  
 RECEIVED  
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 VICTORIA BC

**CODE INFORMATION**

Occupancy: 20 / 93m<sup>2</sup>  
 Area: 93m<sup>2</sup>  
 Height: 2.5m  
 Use: Storage  
 Fire Rating: 1/2 hr  
 Fire Separation: 1/2 hr  
 Fire Protection: 1/2 hr  
 Fire Alarm: 1/2 hr  
 Fire Extinguisher: 1/2 hr  
 Fire Escape: 1/2 hr  
 Fire Exit: 1/2 hr  
 Fire Exit Sign: 1/2 hr  
 Fire Exit Door: 1/2 hr  
 Fire Exit Window: 1/2 hr  
 Fire Exit Staircase: 1/2 hr  
 Fire Exit Lift: 1/2 hr  
 Fire Exit Ramp: 1/2 hr  
 Fire Exit Platform: 1/2 hr  
 Fire Exit Landing: 1/2 hr  
 Fire Exit Corridor: 1/2 hr  
 Fire Exit Room: 1/2 hr  
 Fire Exit Staircase: 1/2 hr  
 Fire Exit Lift: 1/2 hr  
 Fire Exit Ramp: 1/2 hr  
 Fire Exit Platform: 1/2 hr  
 Fire Exit Landing: 1/2 hr  
 Fire Exit Corridor: 1/2 hr  
 Fire Exit Room: 1/2 hr

	<b>BOXWOOD</b> 1200 UNIVERSITY STREET, SUITE 100 VANCOUVER, BC V6P 4K6
	PROJECT NO: 1210 DATE: 6/22/14 DRAWN BY: J.D. CHECKED BY: J.D.
PERMIT SET	<b>BLUE GROUSE</b> BLUE GROUSE VINEYARD & WINERY 2182 LAKESIDE ROAD, DUNCAN, BC V9L6M3
Code Plan <b>A03</b>	83

aps 4365 Blue Grouse Road, Duncan

Proposed  
Special Event Area  $\approx$  200 persons





Google Maps 2182 Lakeside Rd



Imagery ©2016 Google, Map data ©2016 Google 20 m

VICTORIA BC  
 AUG 18 2016  
 RECEIVED  
 LICENSING  
 VICTORIA BC

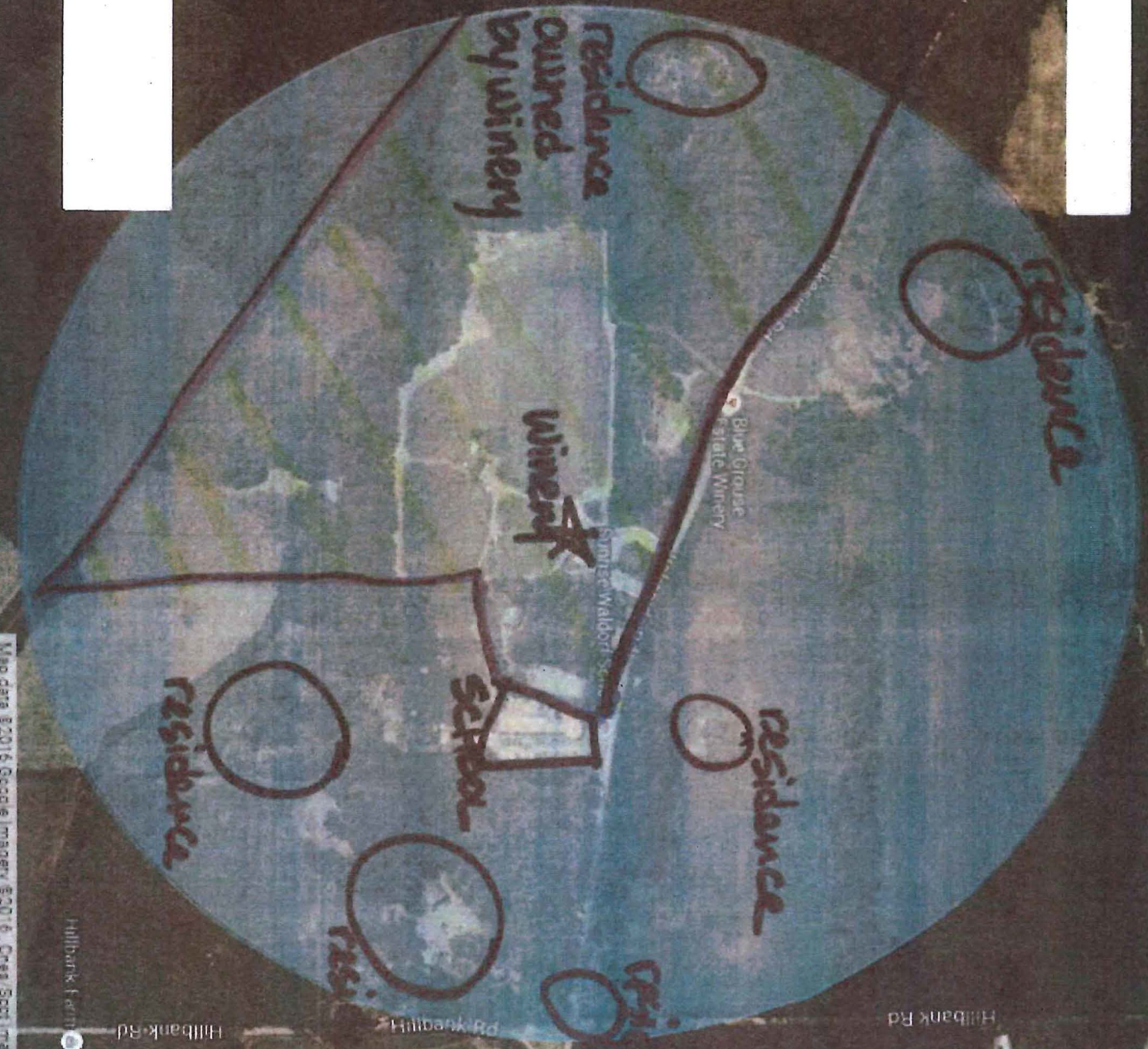
500 meter radius  
of winery  
highlighted area is  
owned by Blue Grouse  
winery

LABOUR CONTROL & LICENSING  
RECEIVED  
APR 21 2016  
VICTORIA BC

Radius 500 Units Metres  
Click to place a circle, right click to remove

Google

radius/



Map data ©2016 Google Imagery ©2016, Open Street Map, DigitalGlobe



Google

Imagery ©2015 Google, Map data ©2016 Google 100 m

DEVELOPMENT  
AUG 15 2015  
VICTORIA  
BRITISH COLUMBIA





# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** June 27, 2017

**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of July 5, 2017

**FROM:** Inspection & Enforcement Division  
Planning & Development Department

**SUBJECT:** Amendments to the Dog Regulation Bylaw

**FILE:**

## PURPOSE/INTRODUCTION

The purpose of this report is to update the Committee on the results of the Dog Regulation Bylaw public consultation process and recommendations for the proposed amendments to the Dog Regulation Bylaw.

## RECOMMENDED RESOLUTION

For information and direction.

## BACKGROUND

As a key priority of the Electoral Area Services Committee (EASC), CVRD staff undertook a public engagement process between; May 18 – June 9, 2017, to gauge public opinion on the proposed amendments to the Dog Regulation Bylaw.

This included a number of public consultation events and the creation of a PlaceSpeak page which stakeholders could provide their ideas and opinions on the suggested amendments to the bylaw.

Below is a summary of the results of this process, which included online and paper surveys, suggestions on how to regulate dangerous and aggressive dogs, questions around breeders and what issues the public have been encountering regarding dogs within the electoral areas of the CVRD. There was a free text section on the PlaceSpeak page to ensure that the public opinion was heard and taken into consideration.

## ANALYSIS

PlaceSpeak page resulted in;

- Views: 1561;
- Comments: 64;
- Connects: 158; and
- Surveys: 113.

PlaceSpeak online survey, (113 completed) results:

Question	Yes (%)	No (%)	N/A (%)
Are you a dog owner within the electoral areas of the CVRD?	63	25	14
Are you experiencing dog related issues within the CVRD's electoral areas?	31	55	14

Would you like to see more regulation around leashing?	35	51	14
Would you like to see more regulations around dog waste?	57	29	14
Would you like to see more regulations around noise from excessive barking?	47	39	14
Would you like to see more regulations around dogs who have bitten a person or another domestic animal?	62	24	14
Do you feel there is enough protection for the public from aggressive or dangerous dogs with the new designations of "considered aggressive" and "declared dangerous?"	61	25	14
Are you aware of the new dog licensing program and the benefits of dog licensing for the community?	61	25	14
Is dog licensing important to you?	62	24	14

Public consultation paper surveys (6 completed)

2 positive and agree with suggestions;  
2 middle ground with little concern but agree with suggestions; and  
2 negative indicating no issues with dogs.

PlaceSpeak discussion section results:

What issues with dogs are you experiencing within the CVRD's electoral areas?

- 9 positive comments; and
- 8 negative comments.

Generally, the positive comments focused on the fact the bylaw requires renewal and that the suggested changes are breed neutral and owner focused. Any changes to the bylaw need to be enforced however, key issues identified:

- Off leash dogs;
- Waste; and
- Attacks on livestock.

Generally, the negative comments were anti-CVRD and anti-bylaw manager, claiming this is all tax grab and we are hiring new staff to enforce this at the cost to the tax payer? Unknown were that came from. Other comments include:

- "Less regulation not more";
- "Is this required?";
- "Tags leave silver residue on the dog's coat";
- "Farmers should have a right to kill a dog before it starts killing livestock"; and
- "Cats".

Do you think more regulations are required to protect the public from aggressive and dangerous dogs compared to the existing bylaw?

- 9 positive comments; and
- 4 negative.

Generally, once the public were told that it was breed neutral and owner focused, they were happy with the new designations of;

“Considered aggressive” and “Declared Dangerous” and the restrictions that they bring.

Should breeders produce annual reports on litters and ensure licensing?

Generally the public thought this was a good idea and it would target puppy mills.

Generally the breeders believed that they were under enough scrutiny as it is, and that those who breach the code of ethics of the CKC, will continue to do so regardless of this provision.

Other figures of note:

The SCPA cover CVRD animal control calls and I have liaised with them during this process. Here's the breakdown of total animal control calls and dog attacks since 2014

Year	Total calls	Number of attacks (animals and humans)
2014	Unknown	38
2015	332	44
2016	396	41
2017	193 (to date)	24 (to date)

Total dogs Declared Vicious between 2014 – 2016: 29

Key messages from the public:

- Breed neutral owner focus was well recieved.
- Rural community's vs city consideration – i.e. leashing is seen as less of an issue (51%) do not want more leashing regulations, however at large dogs are a problem.
- Focus on protection of livestock in addition to domestic animals and people.
- Enforcement of any new regulations is key – Current staff will enforce the amended bylaw, however should the public demand more enforcement, then this will be reviewed for the 2018 budget as the animal control contract is up for renewal.
- More clarity in relation to investigations and complaints.
- Generally, most of the public were happy to be included and once they discovered that breed specific legislation was not being considered, they accepted and supported the suggested changes.
- Negative comments were generally aimed at CVRD and Bylaw enforcement, claiming this is all a cash grab to increase taxes.

With over 1500 views, there were 64 comments, with around 14 negative. Around 18 emails were received, 7 positive, 11 negative. Negative comments were mostly from Cobble Hill residents as a result of one member of the public disseminating information. Staff met with this individual and clarified the concerns that they had, who then relayed the information to the other concerned residents in addition to my replies.

Key decisions which require Committee direction:

Of the suggested changes and based on the input by the public would the committee like to include:

- The designations of “Considered Aggressive and “Declared Dangerous” and the associated restrictions to replace the “Declared Vicious” designation.
- Leashing restrictions, when and where?
- Breeder 12 month litter reports, yes or no? Licensing requirement prior to puppy being released, yes or no?
- Penalties and fines for infractions against the bylaw - \$250?
- Any other review of highlights amendments within the draft bylaw?

**FINANCIAL CONSIDERATIONS**

**COMMUNICATION CONSIDERATIONS**

**STRATEGIC/BUSINESS PLAN CONSIDERATIONS**

Attachment A - Draft CVRD Dog Regulation Bylaw

Attachment B - CVRD Dog Regulation Bylaw Amendments Public Engagement Results Summary

Attachment C - Investigation and Enforcement Standards for Dog Regulation Bylaw

Attachment D - Public Protection Form Aggressive and Dangerous Dogs

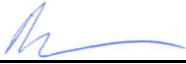
Referred to (upon completion):

- Community Services (*Island Savings Centre, Cowichan Lake Recreation, South Cowichan Recreation, Arts & Culture, Public Safety, Facilities & Transit*)
- Corporate Services (*Finance, Human Resources, Legislative Services, Information Technology*)
- Engineering Services (*Environmental Services, Capital Projects, Water Management, Recycling & Waste Management*)
- Planning & Development Services (*Community & Regional Planning, Development Services, Inspection & Enforcement, Economic Development, Parks & Trails*)
- Strategic Services



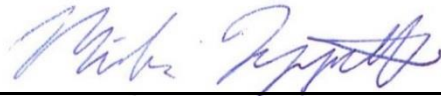
Prepared by:

Reviewed by:



Robert Blackmore, BSc., MSc.  
Manager

Not Applicable  
Not Applicable



Mike Tippett, MCIP, RPP  
A/General Manager

**ATTACHMENTS:**

- Attachment A – Draft CVRD Dog Regulation Bylaw
- Attachment B – CVRD Dog Regulation Bylaw Amendments Public Engagement Results Summary
- Attachment C – Investigation and Enforcement Standards for Dog Regulation Bylaw
- Attachment D – Public Protection Form Aggressive and Dangerous Dogs



## COWICHAN VALLEY REGIONAL DISTRICT

### BYLAW No. 4065

#### A Bylaw to Regulate the Keeping of Dogs within Electoral Areas of the Cowichan Valley Regional District

**WHEREAS** the Board of the Cowichan Valley Regional District (CVRD) converted its *Animal Control* function to a service under the provisions of CVRD Bylaw No. 3031, cited as "CVRD Bylaw No. 3031, cited "CVRD Bylaw No. 3031 – Animal Control Service Establishment Bylaw, 2007", with all of the electoral areas in the Cowichan Valley Regional District participating in the service;

**AND WHEREAS** pursuant to Chapter 1, Part 9, Division 5, Section 318 - 1 (a) of the *Local Government Act*, the Board may, by bylaw, regulate or prohibit the keeping of dogs, horses, cattle, sheep, goats, swine, rabbits or other animals and define areas in which they may be kept or may not be kept;

**AND WHEREAS** it is deemed expedient to regulate the keeping of dogs within the Cowichan Valley Regional District and to provide for the fixing, imposing and collecting of licence fees from the issuance of licences to any person who owns, possesses or harbours any dog;

**NOW THEREFORE** the Board of Directors of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

#### 1. CITATION

This Bylaw shall be cited for all purposes as "CVRD Bylaw No. 4065 – Dog Regulation Bylaw, 2016".

#### 2. DEFINITIONS

In this Bylaw:

- a) "**Regional District**" shall mean the nine (9) Electoral Areas within the Cowichan Valley Regional District: Electoral Areas A, B,C,D,E,F,G,H and I
- b) "**Regional Board**" means the Board of Directors of the Cowichan Valley Regional District holding office.
- c) "**Treasurer**" shall mean the Treasurer of the Cowichan Valley Regional District.
- d) "**Manager**" means the Manager of Building Inspection and Bylaw Enforcement Division of the Cowichan Valley Regional District

- e) "**Dog**" means an animal of the canine species regardless of age or sex.
- f) "**Impounded**" shall mean seized, delivered, received, or taken into the Pound, or in the custody of, the Animal Control Officer.
- g) "**Owner**" in respect of any dog, includes any person who owns, is in possession of, harbours or has the care or control of the dog.
- h) "**Animal Control Officer**" means any person(s) appointed by the Regional Board of the Cowichan Valley, to administer and enforce the provisions of this Bylaw, and includes Animal Control Officers, Bylaw Enforcement Officers and Bylaw Enforcement Manager(s) and any person designated by the CVRD Board to assist in the enforcement of the provisions of this Bylaw. Animal Control Officer also includes police officers, RCMP and peace officers.
- i) "**Pound**" means any building or enclosure or place established for the impoundment of dogs by the Regional District under the provisions of this Bylaw.
- j) "**Person**" shall mean and includes any individual, corporation, partnership or party and the heirs, executors, administrators or other legal representatives of the same, to whom the context can apply according to law.
- k) "**At Large**" being elsewhere than on the property of the person who keeps the dog, or of a person who has care, custody or control of the dog, and not being under the immediate charge and effective control of a responsible person.
- l) "**Unlicensed Dog**" means any dog over the age of 3 months for which the licence for the current year has not been paid as provided herein, or to any dog to which the tag provided for herein is not attached or available for immediate inspection by Animal Control Officer upon request if owner is immediately present with dog.
- m) "**Breeding Kennel**" means a house, or building or range of buildings or parcel of more than 2 hectares (5 acres), in which dogs are kept for the purpose of commercial breeding.
- n) "**Short Term Boarding Facility**" means any place or business, that watches or houses animals for a fee, for the owner of said dog(s) and includes; day cares, overnight boarding facilities and dog training facilities.
- o) "**Rescues / Shelters**" means any premises where 6 or more dogs are kept and a person(s) provides temporary housing or care of dogs, for the purposes of placing them into a permanent home.
- p) "**Floating License**" means a license that is allocated to a rescue / shelter, and can be temporarily assigned to any dog within its care, until that dog is adopted and obtains its own permanent license. At that time, the floating license then becomes available again for the rescue / shelter to use.

- q) **"Aggressive Dog"** means:
1. a dog on a street or other public place, that acts in a menacing, threatening or aggressive manner *and* displays behaviour(s) such as but not limited to teeth baring, deep growling, hair standing on end, dilated pupils, lunging rushing, pursuing, aggressive body language, attack stance;
  2. a dog with a known or witnessed propensity, tendency, or disposition to attack other domestic animals, livestock or human beings. Acts in the above manner must be documented, with the authority having jurisdiction, to be considered
  3. a dog which has bitten another domestic animal or human;
- r) **"Dangerous Dog"** means:
1. a dog with a known propensity, tendency, or disposition to attack without provocation other domestic animals or human beings; or
  2. a dog which has bitten another domestic animal or human without provocation;
- s) **"Heat Distress"** means a dog or animal from suffering distress, discomfort or heat related injury that is in a state requiring immediate veterinary care, including but not limited to:
1. being present in a vehicle with an inside temperature above 22 degrees Celsius / 71 degrees Fahrenheit and displaying signs and behaviours including; but not limited to:
  2. a dog which is excessively panting or drooling; the Dog's tongue has turned dark purple or grey which indicates the Dog's internal temperature has risen to a dangerous degree; the Dog is behaving frantically – pawing at the window, or trying to stick its nose out; loss of bowels; lethargic and unresponsive behaviour;
  3. Without "Adequate Ventilation" means fresh air ventilation by means of open windows or operating mechanical device that supplies fresh or cooled air to ensure a dog is not in distress.

### **3. TABLE OF CONTENTS**

The Table of Contents for this Bylaw is for convenient reference only, and is not for use in interpreting or enforcing this Bylaw.

### **4. SCHEDULES**

The Schedule A – Fees and Charges attached to this Bylaw forms part of this Bylaw.

### **5. SEVERABILITY**

A decision by a court that any part of this Bylaw is illegal, void, or unenforceable severs that part from this Bylaw, and is not to affect the balance of this Bylaw.

## **6. AUTHORITY AND POWERS**

Authority is derived from Chapter 1, Part 9, Division 5 *Regulation of Animals* sections 317-322 of the *Local Government Act 2015* ; and Chapter 26 Part 3, Division 6, of the *Community Charter* Section 47 – 49.

## **8. ADMINISTRATION**

### **8.1 Establishing the Pound**

The Cowichan Valley Regional District has established and maintained, and will continue to maintain, a pound.

### **8.2 Assisting with Bylaw Enforcement**

The Cowichan Valley Regional District Board may appoint a person to enforce and carry out the provisions of this Bylaw, and such assistants, as the Regional Board may determine.

## **9. OPERATING THE ANIMAL SHELTER**

### **9.1 Establishment of Animal Shelter**

An animal shelter is hereby established, and the Regional District may enter into an agreement with a Contractor to operate such animal shelter.

## **10. DUTIES AND OBLIGATIONS OF THE CONTRACTOR**

The agreement specified in section 3.1 may establish the duties of the Contractor with regard to:

- (a) the operation of an animal shelter, including but not limited to,
  - (i) hours of operation,
  - (ii) building maintenance and operating costs;
  - (iii) payment of utilities, including electricity, natural gas and telephone services;
  - (iv) an automated telephone answering system for emergency messages;
  - (v) cleanliness and sanitation; and
  - (vi) the care and feeding of, and the provision of veterinary care, where necessary, for all impounded animals and birds;
  
- (b) the provision of animal control services, including but not limited to,
  - (i) the provision of equipment, including vehicles and communication systems;
  - (ii) the impoundment of animals and birds;
  - (iii) the undertaking of patrols;
  - (iv) the keeping of records of impoundment, finances and animal disposal;

- (v) the disposal by sale, or by humane destruction, of impounded animals and birds;
  - (vi) dealing with public complaints about animals including dog bites; and
  - (vii) attending to, and transporting, animals running at large;
- (c) the provision and supplying of an adequate number of trained Animal Control Officers;
- (d) Proactively increase dog licensing in association with the Regional District and its associates;
- (e) the issuing of tickets under the provisions of the Municipal Ticket;
- (f) attend court and give evidence when required in relation to Bylaw infractions involving dogs; and
- (g) Use of municipal Ticket Information Authorization Bylaw, and court attendance as and when necessary.

## 11. **DOG LICENCES**

### 11.1 **No Keeping of Dog Without a License**

- (a) A person must not keep a dog that is older than three months unless such person has acquired an annual license for the dog, and has paid the annual license fee.
- (b) A person who keeps dogs for the purposes of commercial, breeding must purchase a Kennel License in accordance with Schedule A.
- (c) Not for profit dog organisations, Rescues and shelters, must register with the CVRD and apply for a suitable number of floating licenses, charged at the same rate as a Kennel License in schedule A of this bylaw.
- (d) Day cares and overnight boarding facilities must register with CVRD and ensure that dogs attending are fully licensed.

### 11.2 **Applying for License**

A person who keeps a dog must apply for an annual license, when the person acquires the dog and in the manner specified by the Regional District.

### 11.3 **Paying for License**

A person who applies for a license to keep a dog must pay to the Regional District the annual fee specified in Schedule A of this Bylaw.

### 11.4 **Waiving License Fee**

If the Manager of Bylaw Enforcement is satisfied that a dog has been specially trained to guide or assist a person who is disabled, and if such a person applies for a license to keep the dog, no fee is payable under section 11.3, with valid Provincial certification under the Guide Dog and Service Dog Act. Whilst in training, a license is required.

**11.5 Wearing Dog Tag** A person who keeps a dog must ensure that the dog at all times, displays, a valid tag furnished by the Regional District.

**11.6 Presentation of Dog Tag and Government Identification to Animal Control Officer**

- (a) Upon request by an Animal Control Officer, the harbourer of a dog must stop and present to the Animal Control Officer, a valid dog tag.
- (b) Upon request by an Animal Control Officer, the harbourer of a dog which is in contravention of any provision of this Bylaw must stop and provide to the Animal Control Officer, a valid dog tag, and, official Government photographic identification showing proof of his or her full name and current address, and if not the owner of the dog must provide the address where the dog and its owner regularly reside.
- (c) Failure or refusal to produce identification may lead to an obstruction charge as detailed in Appendix A of this Bylaw.

**11.7 Replacement Dog Tag –**

One tag shall be provided by the Regional District when the dog is licensed for the first time. A replacement tag shall be provided upon payment of the fee set out in Schedule A, Replacement Dog Tag, \$5.00.

**11.8 Breeding Kennel Licensing**

A person, who runs a kennel for the purposes of commercial breeding, must purchase a breeding kennel license as set out in Schedule A. All Breeding kennels must adhere to the following conditions, regardless of zoning;

- Setbacks must be a minimum of 50 feet from a property line. This can be reduced if a landscape buffer is used such as hedges, sight screening or other noise reducing material.
- Be aware and ensure adherence to the noise bylaw.
- Dogs permitted in runs between certain hours 07:00 – 21:00
- Kennels are permitted within zones that have a minimal parcel size of 2 hectares (5 acres).
- Adherence to the conditions set out in section 14.3 of this bylaw, in relation to contracts with new owners and annual reports on numbers of litters.

## **12. CONTROL OF DOGS**

**12.1 Dogs “At Large”**

A person who keeps a dog must not permit, suffer, or allow the dog to be ‘at large’.

**12.2 Leashing Dogs**

A person who keeps a dog must not permit, suffer, or allow the dog to be on a street or other public place unless the dog is under the immediate charge and effective control of a responsible and competent person by means of; a leash that is not more than 2.5 m long; or another bylaw that allows the dog to be off-leash under certain circumstances.

### 12.3 Tethering Dogs

A Person must not cause, allow, or permit a dog to be tied and unattended in a public place including:

- (a) Tethered to a fixed object or vehicle where:
  - (i) a choke collar forms part of the securing apparatus, or
  - (ii) where a rope, cord or chain is tied directly around the Dog's neck; or
  - (iii) the collar is not properly fitted, or attached in a manner that could injure the Dog or enable the Dog to injure itself, or allow the dog to escape by pulling on the tether or slipping out of a incorrectly fit collar.
- (b) Tethered to a fixed object, except with a tether of sufficient length to enable the full and unrestricted movement of the Dog.
- (c) Tethered unattended to a fixed object for longer than 2 hours within a 24 hour period, unless specified at the specific location as permitted.
- (d) Tethered to a traffic control device or support thereof; any fire hydrant or fire protection equipment, handrails or any other object in such a way as to obstruct or interfere with the public's right-of-way without contact with the dog, or create a nuisance.
- (e) Tethered within three (3) metres of an entrance or exit from any public building.

### 12.4 Muzzling Aggressive / Dangerous Dogs

In addition to complying with section 12.2, a person who keeps an aggressive dog must not permit, suffer, or allow the dog to be on a street or other public place or on any other property that such person does not own or control unless such person has muzzled the dog in an effective manner as to prevent it from the ability of biting another animal or a person. Exceptions may be made when the dog is participating in an event sanctioned by the Canadian Kennel Club. The muzzle must be in good working condition, of sufficient strength and, should be a properly fitted, basket style, to safely allow the dog to eat, drink and pant.

### 12.5 Securing Aggressive / Dangerous Dogs on Private Property

A person who keeps an aggressive / dangerous dog must, at all times while the dog is on property owned or controlled by such person, securely confine the dog, either indoors or in an enclosed pen or other structure capable of preventing the entry of young children and adequately constructed to prevent the dog from escaping or from biting a domestic animal or human being. This must be completed within a reasonable time frame and inspected by and Animal Control Officer upon completion to assess suitability.

A person who keeps a dangerous dog must post signs on their property entrance / exit, clearly indicating that a dangerous dog is present. This sign must be posted within 48 hours of a dog being declared dangerous and inspected by an Animal Control Officer.

A person who keeps an aggressive or dangerous dog must immediately notify Animal Control Officer if dog is "at large".



**12.6 Control of Dogs at a designated swimming area**

- (a) A person who keeps a dog must not permit, suffer, or allow the dog to be in a designated swimming area otherwise than where permitted, in a designated off leash area or where the Parks Control Bylaw permits. A person who allows a dog in the water must be more than 50 meters from a designated swimming area, and be in immediate control of the dog.
- (b) A person deemed not in control of their dog by an Animal Control Officer will be in breach of Section 12.2 and 12.6 of this Bylaw.

**12.7 Limiting Number of Dogs**

Except for a person licensed under this Bylaw as a kennel keeper, a person must not keep more than five dogs at any one time or at any one place or property within the Cowichan Valley Regional District.

**12.8 Confining Dogs in Heat**

A person who keeps a female dog must confine and house the dog during the period it is in heat. Exceptions may be made when the dog is participating in an event sanctioned by the Canadian Kennel Club.

**12.9 Confining Dogs with Communicable Diseases**

A person who keeps a dog, and who knows or suspects that the dog has a communicable disease, must:

- (a) isolate the dog, during the period such person knows or suspects that the dog has a communicable disease, in a manner that will prevent further spread of the disease and in a manner prescribed at law;
- (b) seek the assistance of a veterinarian; and
- (c) follow the orders of such veterinarian, the Bylaw Enforcement Manager, and any government officials who have authority to issue such orders.

**12.10 Removing Excrement**

A person who keeps a dog, or a person who has care, custody or control of a dog, except for a service dog in the company of a handler who is physically disabled or a guide dog in the company of a handler who is blind, must immediately remove any excrement deposited by the dog, and keep it on their person or deposit it in a designated public waste receptacle.

**12.11 Removing Excrement from Owner's Property**

Section 5.10 does not apply to excrement deposited by a dog on property owned by or in the exclusive possession of a person who keeps, or who has care, custody or control, of the dog.

**12.12 Securing Dogs in Vehicles**

A person who keeps a dog, or a person who has care, custody or control of a dog, must not keep the dog in an open vehicle unless such person secures the dog in a manner that prevents the dog from falling or being thrown out of the vehicle. (As defined in the *Prevention of Cruelty to Animals Act 1996* and the *Motor Vehicle Act 1996*.)

### 12.13 Preventing Heat Distress

A person who keeps a dog must prevent the dog from suffering distress, discomfort or heat related injury, entering into a state requiring immediate veterinary care, including but not limited to;

- (a) Being present in a vehicle when the inside temperature is above 22 degrees Celsius / 71 degrees Fahrenheit and displaying signs and behaviours including but not limited to;
- (b) a Dog which is excessively panting or drooling; the Dog's tongue has turned dark purple or grey which indicates the Dog's internal temperature has risen to a dangerous degree; the Dog is behaving frantically – pawing at the window, or trying to stick its nose out; loss of bowels; lethargic and unresponsive behaviour.
- (c) Without "Adequate Ventilation" means fresh air ventilation by means of open windows or operating mechanical device that supplies fresh or cooled air to ensure a dog is not in distress.

A dog in heat distress can only be removed by a Police officer or SPCA special constable officer and transported directly to a veterinarian for care.

**12.14 Barking or Howling**

A person who owns or occupies premises must not permit, suffer, or allow a dog to excessively, persistently and frequently bark, howl or cry in a manner that unreasonably and persistently disturbs the quiet, peace rest, enjoyment and comfort of a neighbourhood or of multiple persons in the vicinity or neighborhood.

Crowing rooster complaints can be dealt with in the same manner as barking dogs, for the purposes of this Bylaw.

**12.15 Biting or Attacking Persons or Domestic Animals**

A person who keeps a dog must not permit, suffer, or allow the dog to bite, attack or injure a person or domestic animal.

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### 13.4 Considered Aggressive Designation

A dog may be "Considered Aggressive" by Animal Control officers, Bylaw officers, the Bylaw Enforcement Manager, and any authorized government officials who have authority to delegate such designation, if a dog has displayed the aggressive behaviors described in definition (q) of this Bylaw.

The following restrictions would then be **recommended** to the dog owner, for adherence for public protection, as detailed within this Bylaw:

Keeping a dog "**Considered Aggressive**" within CVRD:

- (a) a person who keeps an aggressive dog must not permit, suffer, or allow the dog to be on a street or other public place unless the dog is under the effective immediate charge and control of a competent person by means of a leash that is not more than 2.5 m long or another bylaw allows the dog to be off-leash under certain circumstances.
- (b) a person who keeps an aggressive dog must not permit, suffer, or allow the dog to be on a street or other public place or on any other property that such person does not own or control unless such person has muzzled the dog to prevent it from biting another animal or a person, except when the dog is participating in an event sanctioned by the Canadian Kennel Club. The muzzle should be a basket style, to safely allow the dog to eat, drink and pant.
- (c) a person who keeps an aggressive dog must, at all times while the dog is on property owned or controlled by such person, securely confine the dog, either; indoors or in an enclosed pen or other structure capable of preventing the entry of young children and adequately constructed to prevent the dog from escaping or from biting a domestic animal or human being. This must be completed within a reasonable time frame and inspected by and Animal Control Officer upon completion to assess suitability.
- (d) a person who keeps an aggressive dog must post signs on their property entrance / exit, clearly indicating that an aggressive dog is present. This sign must be posted within 48 hours of a dog being considered aggressive and inspected by an Animal Control Officer.
- (e) a person who keeps an aggressive dog is advised to attend a minimum of 5 training sessions at an appropriate school, to address the type of aggression (human/animal), and provide evidence, to the CVRD, of attendance, within 6 months of the designation date. A behavioural assessment by a veterinarian is also recommended.
- (f) a person who keeps an aggressive dog must pay the increased premiums detailed in schedule A of this Bylaw and adhere to the additional above restrictions or be liable to additional fines detailed in Schedule A.

Incidents that result in either a "Considered Aggressive" Declaration or a "Declared Dangerous" Designation will be for the lifetime of the dog.

### 13.5 Declared Dangerous Designation

A dog may be "Declared Dangerous" by Animal Control officers, Bylaw officers, the Bylaw Enforcement Manager, and any government official who has authority to delegate such designation, if the dog has displayed the aggressive behaviours described in definition (r) of this Bylaw.

- (a) a dog with a known propensity, tendency, or disposition to attack without provocation other domestic animals or human beings, or
- (b) a dog which has bitten another domestic animal or human without provocation;

In addition, under section 49 of the *Community Charter*, a dog may also be "Declared Dangerous" that:

- (a) has killed or seriously injured a person,
- (b) has killed or seriously injured a domestic animal, while in a public place or while on private property, other than property owned or occupied by the person responsible for the dog, or
- (c) an animal control officer has reasonable grounds to believe is likely to kill or seriously injure a person.

The following restrictions would then be instructed to the dog owner, for mandatory adherence for public protection, as detailed within this Bylaw:

A dog "**Declared Dangerous**" within CVRD:

- (a) a person who keeps a dangerous dog must not permit, suffer or allow the dog to be on a street or other public place unless the dog is under the immediate charge and control of a competent person by means of a leash that is not more than 2.5 m long or another bylaw allows the dog to be off-leash under certain circumstances.
- (b) a person who keeps a dangerous dog must not permit, suffer, or allow the dog to be on a street or other public place or on any other property that such person does not own or control unless such person has muzzled the dog to prevent it from biting another animal or a person, except when the dog is participating in an event sanctioned by the Canadian Kennel Club. The muzzle should be a basket, to safely allow the dog to eat, drink and pant.
- (c) a person who keeps a dangerous dog must, at all times while the dog is on property owner or controlled by such person, securely confine the dog, either; indoors or in an enclosed pen or other structure capable of preventing the entry of young children and adequately constructed to prevent the dog from escaping or from biting a domestic animal or human being. This must be completed within a reasonable time frame not to exceed 6 months and inspected by an Animal Control Officer upon completion to assess suitability.
- (d) A person who keeps a dangerous dog, must undergo mandatory micro chipping with the number provided to the Regional District for recording and tracking purposes, at

- their own expense. A person who keeps a dangerous dog must allow the Pound keeper or Animal Control Officer to photograph the dog. This information will be shared in any future dangerous dog database creation.
- (e) A person who keeps a dangerous dog must post signs on their property entrance / exit, clearly indicating that a dangerous dog is present. This sign must be posted within 48 hours of a dog being declared dangerous, and inspected by an Animal Control Officer.
  - (f) A person who keeps a dangerous dog **must spay or neuter** the dog within 2 weeks of the dangerous designation, and provide proof to the Regional District.
  - (g) A person who keeps a **dangerous** dog must, pay the increased premiums detailed in appendix "A" of this bylaw and adhere to the additional above restrictions or be liable to additional fines detailed in appendix "A".
  - (h) a person who keeps a dangerous dog is advised to attend a minimum of 5 training sessions at an appropriate school, to address the type of aggression (human / animal), and provide evidence, to the Regional District, of attendance, within 6 months of the designation date. A behavioural assessment by a veterinarian is also recommended. Proof Successful completion may lead to reduced licensing fee.

Incidents that result in either a Considered Aggressive Declaration or a Declared Dangerous Designation will be for the lifetime of the dog unless successfully appealed.

### 13.6 Appeals to Considered Aggressive/Declared Dangerous Designation

The intention of the above designations is to protect the public from any further incidents occurring, and is valid for the lifetime of the dog.

Appeals against these designation(s) must be made in writing to the Manager of Bylaw Enforcement, and satisfy the following criteria:

- (a) there have been no further recorded incidents of biting or aggression in a 12 month period since the designation was given.
- (b) the dog has attended a minimum of 5 training sessions at an appropriate school, to address the type of aggression (human / animal), and provide evidence, to the Regional District, of attendance, within 6 months of the designation date. A behavioural assessment by a veterinarian or behavioral professional has also been obtained detailing that the aggression has been addressed.
- (c) The dog and owner have adhered to all restrictions placed upon them at the time of the designation, including but not limited to; use of leash and muzzle in public, construction and inspection of a containment structure and warning signs, microchipping and number provided, sterilization of dangerous dogs and proof provided.

(d) Continued adherence to all elements of this bylaw, with any infraction leading to the re-instatement of the designation.

(e) The final decision will be at the discretion of the Manager of Bylaw Enforcement.

## **14. KEEPING OF DOGS**

### **14.1 Giving Basic Care to Dogs**

A person who keeps a dog must provide;

- (a) Sufficient clean, potable drinking water;
- (b) Suitable food of sufficient quantity and quality to allow for normal growth and the maintenance of normal body weight;
- (c) Clean and disinfected food and water receptacles that are located so as to avoid contamination by excreta;
- (d) The opportunity for regular exercise sufficient to maintain good health

### **14.2 Enclosing Dogs**

A person who keeps a dog, or a person who has care, custody or control of a dog, must not confine the dog in an enclosure, including a vehicle, unless the air ventilation, temperature, and size of the enclosure are sufficient to maintain the dog in good health.

### **14.3 Commercial Dog Breeders**

It is a mandatory requirement for dog breeders to include;

- A contract between new owners and the breeder, ensuring that the new owner will obtain a dog license, prior to, the dog being released to the new owners, regardless of jurisdiction. Should the new owner live in an area that does not require dog licensing, the onus is on the new owner to provide proof of this.
- Breeders to supply a 12 month report on litters of dogs, how many animals were born and adopted out, with jurisdictions and licenses obtained. Fines would be applicable to breeders who fail to provide a 12 month report. This can be avoided by presentation of a valid membership to the Canadian Kennel Club to CVRD upon request.

This will ensure that new dog owners are aware of licensing and will bring some level of monitoring to dog breeding in the CVRD, targeting puppy mills and facilitating breeders who adhere to the bylaw and codes of ethics as determined by the Canadian Kennel Club.

### **14.4 Dog Boarding Facilities / Rescues and Shelters**

Short Term Boarding Facilities such as; day care, overnight boarding and dog training facilities, that watch or house animals for a fee from the dog owner, are required to be registered with the CVRD, but do not require a kennel license. They must ensure that all dogs who attend have a valid dog license.

Rescues or Shelters, are any premises where 6 or more dogs are kept and a person(s) providing temporary housing or care of dogs, for the purposes of placing them into a permanent home. These are required to be registered with CVRD require a suitable number of floating licenses, charged at the same rate as a Kennel License in schedule A of this bylaw.

CVRD registered dog rescues will be allocated a number of floating licenses, ensuring that all dogs temporarily present at the rescue, will be licensed to the rescue. Once a dog is adopted out to its new owner, with a license must be obtained prior to adoption, then the floating license then becomes available for the rescue to use again.

A contract must exist between the new owners and the rescue, ensuring that the new owner will obtain a dog license, prior to, the dog being released to the new owners, regardless of jurisdiction. Should the new owner live in an area that does not require dog licensing, the onus is on the new owner to provide proof of this.

## **15. IMPOUNDMENT OF DOGS**

### **15.1 Seizing Dogs under this Bylaw**

The Animal Control officer or a police officer may seize a dog on public property;

- (a) in respect of whom the person who keeps a dog does not have a license;
- (b) in respect of whom payment of the license fee referred to in section 11.3 is in arrears;
- (c) who is not wearing the dog tag referred to in section 11.5;
- (d) who is on a street, park or other public place unlawfully including running at large; or in contravention of the Parks Bylaw (No. 736)
- (e) who has bitten or who is alleged to have bitten a human being or domestic animal;
- (f) a police officer or BCSPCA Special Constable has removed a dog from a hot car, as in a state of "Heat Distress" and transported directly to a veterinarian.

### **15.2 Impounding Dogs**

Promptly, upon receiving a dog under section 15.1, the Animal Control Officer can impound the dog at the pound, or if the dog is in need of immediate medical care, must take the dog to a veterinarian.

The Animal Control Officer should make enquiries if the dog is licensed and, if eligible, be taken to its home address.



Fully licensed dogs will be eligible to one ride home free per year, with no impound fees. at the discretion of the Manager of Bylaw Enforcement.

### 15.3 Detaining Impounded Dogs

The Regional District may detain for:

- (a) 72 hours, a dog impounded under section 15.1; and
- (b) 21 days, a dog who has bitten or who is alleged to have bitten a human being or domestic animal; after the date and time of impoundment. This is in order to obtain:
  - An assessment by a dog behavior specialist
  - Seek a destruction order through the court

Should during the assessment and/or through the seeking of a destruction order, should the dog be deemed too dangerous to be released into the public, the Regional District may detain the dog until

- The dog is deemed eligible for release, with restrictions by a court
- Euthanized by court order
- Voluntary euthanization is agreed upon by the dog owner, and carried out at the owner's expense.

### 15.4 Euthanizing Dogs for Humane Reasons

Despite section 15.3, if the Regional District believes that an impounded dog is suffering from injury, disease, sickness, or other cause and is unlikely to survive or from which it is unlikely to recover, and that euthanizing the dog would be humane, the Regional District may **take the dog immediately to a licensed veterinarian to euthanize** immediately.

### 15.5 Caring for Dogs

The Regional District, as considered necessary and humane, may maintain and care for impounded dogs including the provision of food, water, and shelter, and may arrange for veterinary care and medication.

### 15.6 Disposing of Dogs

After expiry of the 72 hours referred to in section 15.3, the Regional District may foster, adopt, sell or destroy an impounded dog.

### 15.7 Reclaimed Dogs

At any time before destruction or sale of a dog under section 15.6, the person who keeps the dog may apply to the Regional District to reclaim the dog, and, when applying, must:

- give the Regional District proof of ownership by such person of the dog;
- Provide photographic government identification to be added to the dog license file
- Pay all outstanding charges and fees under this Bylaw that apply to such dog, including a full dog license and

- Pay all outstanding fines or penalties imposed on such person for breach of this Bylaw.

## **16. CHARGES AND FEES**

**16.1** A person who keeps a dog or other animal which the Regional District has impounded under this Bylaw must pay on demand, with respect to that dog:

- (a) The impound fee set out in Schedule A of this Bylaw;
- (b) The license fee if unlicensed at the time of impound
- (c) The daily charge for maintaining the dog or other animal set out in Schedule A of this Bylaw; and
- (d) The costs for veterinary care and medication incurred by the Regional District.

### **16.2 Adoption Fees**

A person who wishes to adopt an animal from the pound must pay the applicable fee set out in schedule A of this Bylaw.

## **17. OFFENCES, PENALTIES AND ENFORCEMENT**

**17.1** A person must not remove, or attempt to remove, from the pound an impounded dog or other animal except as allowed under this Bylaw.

### **17.2 Obstructing an Animal Control Officer**

A person must not interfere with, resist, or otherwise obstruct the Animal Control officer, or other person authorized under this Bylaw, in the performance of his or her duties is liable upon summary conviction to a fine of not more than \$10,000.00, plus the cost of prosecution.

Failure to produce photographic Government Identification, or provide a Animal Control Officer with a name and address when requested, will be treated as obstruction and pursued in the above manner.

### **17.3 Offences under Bylaw**

A person who:

- violates any provision of this Bylaw, or does any act or thing which violates any provision of this Bylaw, or suffers or allows any other person to do any act or thing which violates any provision of this Bylaw;
- neglects to do or refrains from doing anything required to be done by any provision of this Bylaw; or
- suffers or allows any person to fail to comply with an order, direction, or notice given under any provision of this Bylaw;

Is guilty of an offence against this Bylaw, and liable to the penalties imposed under this Section 17.4 and set out in Schedule A of this bylaw.

**17.4 Fine for Offence**

Every person who commits an offence against this Bylaw is punishable on conviction by a fine of not less than \$250.00 and not more than \$10,000.00 for each offence.

**17.5 Fine for Continuing Offence**

Every person who commits an offence of a continuing nature against this Bylaw is liable to a fine not less than \$250.00 and not more than \$10,000.00 for each day such offence continues. Repeated offences may be escalated to court, for court ordered penalties or restrictions.

**17.6 Fines for Particular Offences**

Despite the minimum fine referred to in section 17.3 of this Bylaw, a person who keeps a "Considered Aggressive" or "Declared Dangerous" dog who is guilty of an offence against this Bylaw:

- is liable to a fine of not less than \$500.00 for each offence; or
- court ordered fines or restrictions.

**18. REPEAL**

CVRD Bylaw No. 3032 – Dog Regulation and Impounding Bylaw, 2007, and all amendments thereto, is hereby repealed.

READ A FIRST TIME this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

READ A SECOND TIME this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

READ A THIRD TIME this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary



## SCHEDULE "A"

To CVRD Bylaw No. 4065

**Year 2017 Fees and Charges:****LICENSE FEES****COST****Dog License**

Purchased before March 31 <sup>st</sup>	\$25
Purchased after April 1 <sup>st</sup>	\$35
Replacement tag	\$5
Kennel License	\$175

**Bylaw Infractions**

Per offence	\$250
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**Impound Fees**

Licensed dog	\$50
Unlicensed dog	\$75 + License Fee

**Boarding Fees**

Maintenance of a dog	\$15 per day
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**Dog "Considered Aggressive" or "Declared Vicious"**

License for Aggressive Dog	\$70
License for a Dangerous Dog	\$100
Bylaw infractions per offence	\$500
Licensed Impound	\$200
Unlicensed Impound	\$400 + License fee
Maintenance of a dog	\$20 per day

**Obstruction Charge in the Course of Officers Duty:**

Liable on summary conviction to a fine of not more than	\$10,000
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**Adoption fees**

Large dog	\$311.43 + license fee (2016)
Small dog	\$411.43 + license fee (2016)

CVRD Dog regulation bylaw updates; Summary of results:

PlaceSpeak page resulted in:

Views: 1561

Comments: 64

Connects: 158

Surveys: 113

PlaceSpeak online survey results (113 surveys):

Are you a dog owner within the electoral areas of the CVRD?

Yes = 72 = 63%

No = 26 = 25%

n/a = 15 = 14%

Are you experiencing dog related issues within the CVRD's electoral areas?

Yes = 36 = 31%

No = 62 = 55%

n/a = 15 = 14%

Would you like to see more regulation around leashing?

Yes = 40 = 35%

No = 58 = 51%

n/a = 15 = 14%

Would you like to see more regulations around dog waste?

Yes = 65 = 57%

No = 33 = 29%

n/a = 15 = 14%

Would you like to see more regulations around noise from excessive barking?

Yes = 54 = 47%

No = 44 = 39%

n/a = 15 = 14%

Would you like to see more regulations around dogs who have bitten a person or another domestic animal?

Yes = 70 = 62%

No = 27 = 24%

n/a = 15 = 14%

Do you feel there is enough protection for the public from aggressive or dangerous dogs with the new designations of "considered aggressive" and "declared dangerous?"

Yes = 67 = 61%

No = 29 = 25%

n/a = 15 = 14%

Are you aware of the new dog licensing program and the benefits of dog licensing for the community?

Yes = 69 = 61%

No = 29 = 25%

n/a = 15 = 14%

Is dog licensing important to you?

Yes = 70 = 62%

No = 28 = 24%

n/a = 15 = 14%

PlaceSpeak discussion topics – summaryWhat issues with dogs are you experiencing within the CVRD’s electoral areas?

9 positive comments

8 negative comments

Generally, the positive comments focused on the fact the bylaw requires renewal and that the suggested changes are breed neutral and owner focused. Any changes to the bylaw need to be enforced however.

Key issues identified:

Off leash dogs

Waste

Attacks of livestock

Generally the negative comments were anti-CVRD and anti-bylaw manager, claiming this is all tax grab and we are hiring new staff to enforce this at the cost to the tax payer? Unknown were that came from.

Other comments include:

“Less regulation not more”

“Is this required?”

“Tags leave silver residue on the dog’s coat”

“Farmers should have a right to kill a dog before it starts killing livestock”

“Cats”

Do you think more regulations are required to protect the public from aggressive and dangerous dogs compared to the existing bylaw?

9 positive comments

4 negative

Generally, once the public were told that it was breed neutral and owner focused, they were happy with the new designations of;

“Considered aggressive” and “Declared Dangerous” and the restrictions that they bring.

Should breeders produce annual reports on litters and ensure licensing?

Generally the public thought this was a good idea and it would target puppy mills.

Generally the breeders believed that they were under enough scrutiny as it is, and that those who breach the code of ethics of the CKC, will continue to do so regardless of this provision.

Results of paper survey:

6 completed

2 positive and agree with suggestions.

2 middle ground with little concern but agree with suggestions.

2 negative indicating no issues with dogs.



**BYLAW ENFORCEMENT POLICY:****INVESTIGATION AND ENFORCEMENT STANDARDS FOR DOG REGULATION BYLAW CASES****General Investigations:**

An Animal Control Officer, Bylaw Officer, Manager of Bylaw Enforcement or any other person designated by this Bylaw, may investigate or enforce any infraction of this Bylaw in the above sections when;

- (a) The Animal Control Officer personally witnesses an infraction, recording evidence in a pocket note book or statement with supporting photographic / video evidence of an infraction if available.
- (b) The Animal Control officer receives a complaint from a member of the public who has provided their name and address and details of the complaint.
- (c) Anonymous calls will be screened, and only responded to when public safety is a concern.
- (d) The Animal Control officer is provided with a witness statement and or supporting photographic / video evidence of an infraction if available, by a member of the public.
- (e) The Animal Control Officer is provided with a witness statement and or supporting photographic/video evidence, of an infraction if available, by a government official.
- (f) The Animal Control officer has reasonable grounds to believe that the infraction has taken place.

Response options include:

- License enquiry / offence history enquiry
- Verbal warning
- Written warning
- MTI
- Prosecution report to court

Where possible, Animal Control officers should request presentation of a valid dog tag and government identification to an Animal Control Officer, regardless of what response option is being exercised. Upon request by an Animal Control Officer, the owner of a dog which is in contravention of any provision of this Bylaw must stop and provide to the Animal Control Officer photographic identification showing his or her full name and current address, as per section 11.6 of this Bylaw.

A person who refuses to provide this information may be charged with obstruction of an officer during the course of their duties and liable on summary conviction to a fine of not more than \$10,000.

Any witnesses to the infraction and the complainant should be approached and provide witness statements to complete. It should be discussed at the earliest stage, that evidence provided may be used in court if the offence is disputed.

### **Barking or Howling Investigations:**

When investigating a barking or howling complaint under section 12.14 of this Bylaw, the primary witness to the complainant and evidence will be required to investigate the complaint further than advice/warning.

In order to prove the elements of this offence, the onus is on the complainant, to prove that the barking is unreasonable. In order to do this, the complainant must, record over a two-week period, a barking package that shows:

- Day
- Date
- Time
- Duration
- Type of barking

In addition, the complainant must record the impact that the barking is having on their life. This evidential recording is essential in proving that the level of barking is unreasonable in court.

This should be outlined at the earliest stage to the complainant. If the complainant is not willing to complete a barking package and attend court, then a long-term solution may not be possible.

A number of short-term options are still available however.

Response options:

Anonymous barking complaints or complaints without a specific address should be referred back for further information or closed if not provided. The information is essential as outlined above; barking is not a "ticket-able" offence and can only be correctly investigated with all information available.

1<sup>st</sup> Barking complaint:

An Animal Control Officer should check the address provided for a current dog license / history. A dog license should be purchase as soon as possible if not current.

Animal Control Officer should call complainant and listen to their concerns. Animal Control Officer should explain all of the options available, and stress at this early stage, that the long-term solution to this type of complaint, is to submit a barking package and attend court. Short-term options include:

- Phone call to dog owner
- Written letter to dog owner
- Written warning to dog owner

The Animal Control Officer should ask the complainant, if the barking is disturbing any other of the neighbours, and if they would also be willing to supply barking packages and

attend court. If so, package can be supplied. The case will have more credibility in court with multiple complainants.

Animal Control Officer is required during the 1<sup>st</sup> barking complaint, to make acknowledged contact with the dog owner, to make them aware that their dog is barking, and disturbing the peace, quiet, rest and relaxation of their neighbours.

This acknowledged contact, can be in the form of the following:

Phone call discussion with dog owner

Email to dog owner, which they reply to

Knock on the door of the dog owner with face-to-face discussion

A warning ticket written, with a business card can be left asking for contact to be made with Animal Control Officer.

The Animal Control Officer can provide solutions to the dog owner such as training, use of a barking collar, screens, etc.

The Animal Control Officer should then tell the dog owner that, should the barking persist, then the complainant will be advised to begin recording the barking in a diary for a period of two weeks. This evidence may then be used in court. The Dog owner will be made aware of any further calls.

2<sup>nd</sup> barking complaint (or more):

Following a second (or more) barking complaint about the same dog at a specific address, the same Animal Control Officer will be assigned to investigate. This maintains continuity of evidence and known history of the address, dog, owner, etc.

The complainant at this stage must be willing to provide a barking package and willing to attend court, or the Animal Control Officer is unable to assist further.

The Animal Control Officer can email or drop off the barking package to the complainant / neighbours.

The Animal Control Officer should again make acknowledged contact with the dog owner, and advise them that the evidence gathering process has begun towards court proceedings. Animal Control Officer should stress again at this point the importance of controlling the dogs barking, and re-suggest any methods not yet tried to quell the barking. Animal Control Officer can offer to attend the residence to help further assist the dog owner in stopping the barking by providing suggestions.

After the 2-week monitoring period is complete, the complainant should provide the complete barking package to the Animal Control Officer.

Animal Control Officer will then complete a prosecution report and submit the barking package for charge approval at court.

Animal Control Officer should make all parties aware that the barking package has been submitted possible future court hearings may arise.

**Crowing Rooster Complaints:** For the purposes of this Bylaw, a person who keeps a rooster, must not permit, suffer, or allow the sound of a crowing rooster, that a person not on the same premises can easily hear and that disturbs or tends to disturb unreasonably the quiet, peace, rest, enjoyment, comfort or convenience of such person.

In order to prove the elements of this offence, the onus is on the complainant, to prove that the crowing is unreasonable and above the sound, typically made by a rooster. In order to do this, the complainant must, record over a two-week period, a crowing package that shows:

- Day
- Date
- Time
- Duration
- Type of crowing

In addition, the complainant must record the impact that the crowing is having on their life. This evidential recording is essential in proving that the level of crowing is unreasonable in court.

This should be outlined at the earliest stage to the complainant. If the complainant is not willing to complete a crowing package and attend court, then a long-term solution may not be possible.

A number of short-term options are still available however.

Response options:

Anonymous crowing complaints or complaints without a specific address should be referred back for further information or closed if not provided. The information is essential as outlined above; crowing is not a "ticket-able" offence and can only be correctly investigated with all information available.

1<sup>st</sup> crowing complaint:

Animal Control Officer should call complainant and listen to their concerns. Animal Control Officer should explain all of the options available, and stress at this early stage, that the long-term solution to this type of complaint, is to submit a crowing package and attend court. Short-term options include:

- Phone call to rooster owner
- Written letter to rooster owner
- Written warning to rooster owner

The Animal Control Officer should ask the complainant, if the crowing is disturbing any other of the neighbours, and if they would also be willing to supply crowing packages and attend court. If so, package can be supplied. The case will have more credibility in court with multiple complainants.

Animal Control Officer is required during the 1<sup>st</sup> crowing complaint, to make acknowledged contact with the rooster owner, to make them aware that their rooster is crowing, and disturbing the peace, quiet, rest and relaxation of their neighbours.

This acknowledged contact, can be in the form of the following:

Phone call discussion with rooster owner

Email to rooster owner, which they reply to

Knock on the door of the rooster owner with face-to-face discussion

A warning ticket written, with a business card can be left asking for contact to be made with Animal Control Officer.

The Animal Control Officer can provide solutions to the rooster owner such as adherence to set backs, putting the rooster in the coop at night, removal of the rooster, screens or other sound reducing measures etc.

The Animal Control Officer should then tell the rooster owner that, should the crowing persist, then the complainant will be advised to begin recording the crowing in a diary for a period of two weeks. This evidence may then be used in court. The rooster owner will be made aware of any further calls.

2<sup>nd</sup> crowing complaint (or more):

Following a second (or more) crowing complaint about the same rooster(s) at a specific address, the same Animal Control Officer will be assigned to investigate. This maintains continuity of evidence and known history of the address, rooster(s), owner, etc.

The complainant at this stage must be willing to provide a crowing package and willing to attend court, or the Animal Control Officer in unable to assist further.

The Animal Control Officer can email or drop off the crowing package to the complainant / neighbours.

The Animal Control Officer should again make acknowledged contact with the rooster owner, and advise them that the evidence gathering process has begun towards court proceedings. Animal Control Officer should stress again at this point the importance of controlling the rooster's crowing, and re-suggest any methods not yet tried to quell the crowing. Animal Control Officer can offer to attend the residence to help further assist the dog owner in stopping the crowing by providing suggestions.

After the 2-week monitoring period is complete, the complainant should provide the complete crowing package to the Animal Control Officer.

Animal Control Officer will then complete a prosecution report and submit the crowing package for charge approval at court.

Animal Control Officer should make all parties aware that the crowing package has been submitted possible future court hearings may arise.

### **Aggression or Bite Investigation; Human / Animal:**

Dogs acting aggressively may breach section(s): 12.2, 12.4, 12.5, and 12.15 of this Bylaw.

Aggression can be defined as:

- (a) a dog on a street or other public place, acts in a menacing or aggressive manner, displaying behavior(s) such as but not limited to;  
Teeth bearing, deep growl, hair standing on end, dilated pupils, lunging, rushing, pursuing, pulling on lead, aggressive body language
- (b) a dog with a known propensity, tendency, or disposition to attack other domestic animals or human beings, or
- (c) a dog which has bitten another domestic animal or human;
- (d) a dog that has shown repeated, documented acts in the above manner, where injury is not required for this designation.

Response options:

For anonymous or general calls, they will be screened and may be selected for deployment. Further calls or continued dog aggression are escalation factors.

Animal Control Officer should attend within 60 minutes and try to locate dog and owner, as public safety calls are a priority.

If dog is located, the Animal Control Officer should try to observe and record the dog's aggressive behavior.

If at large, the Animal Control Officer should impound the dog, with safety precautions taken.

If with an owner, the owner should be approached. The Animal Control Officer has the following options to use at their discretion:

- License enquiry – aggression / bite history
- Verbal warning
- AC warning
- MTI
- Prosecution report

Any witnesses / the complainant should be approached and provided witness statements to complete. It should be discussed at the earliest stage, that evidence provided may be used in court.

The dog may be seized under section 49 (1) of the *Community Charter* if the Animal Control Officer believes that the dog:

- (a) has killed or seriously injured a person,

- (b) has killed or seriously injured a domestic animal, while in a public place or while on private property, other than property owned or occupied by the person responsible for the dog, or
- (c) an animal control officer has reasonable grounds to believe is likely to kill or seriously injure a person.

Under this bylaw, the dog can be seized for a period of 21 days to allow:

- (a) the dog to be assessed by a registered dog behaviour professional and / or
- (b) to seek a destruction order from the courts.

The file should be updated as soon as possible with the following information:

- Day
- Date
- Time
- Officer
- Action
- Dog information including: name, breed, M/F, S/N, tattoo, microchip, kennel number, and animal ID.

Any paperwork including notes, statements, MTI/prosecution report to be completed as soon as practicable.

Low to mid-level cases may, at the discretion of the Animal Control Officer, be dealt with by issuance of MTI, or escalated to court, in order to obtain court ordered penalties and restrictions, to protect the public.

Mid-level to serious dog bites may, at the discretion of the Animal Control Officer, be escalated to court, in order to obtain court ordered restrictions, to protect the public. Each case will be looked at on its own merit and include full details of the aggression and any relevant history regarding the dog.

Cases with contradicting accounts may, at the discretion of the Animal Control Officer, be escalated to court, to determine culpability and obtain court ordered penalties and restrictions, to protect the public.

Cases involving children being bitten or serious risks to public safety will be escalated to court, to obtain court ordered penalties and restrictions, to protect the public.

### **Aggression / Bite Investigation Process**

For the Regional District to provide a fair and consistent approach to dog bite investigation, the following process will be adhered to. Cases must be proved to a standard above the balance of probabilities, 51% or more that the offence took place, for appropriate action to be taken.

In cases where euthanization is being sought, the case must be proved to a standard of a criminal case, proving beyond a reasonable doubt, 90% or more that the offence took place.

Neither investigation would bring a criminal record, as infractions of section 12.15 of this Bylaw are civil bylaw infractions.

Some dog bite / attack complaints may result in an immediate voluntary surrender of the dog for euthanization. It is not necessary to designate these dogs as Dangerous, aggressive or dangerous as long as the CVRD or dog pound has physical and lawful possession of the dog. The owner of the dog shall be presented a copy of the dangerous dog definitions under section 49 of the *Community Charter* and made aware of the voluntary surrender provisions. Should an owner choose to volunteer the dog for immediate euthanization, it is at their own expense.

During the course of an investigation and as a means of identifying witnesses or offenders, the Animal control contractor, who has entered into an information sharing agreement with the Regional District, may use vehicle license plate information, to trace persons of interest, through data held by ICBC.

Response options:

#### **(a) Create a New File and Assign Number**

Obtain basic details from the complainant / defendant – direct them to write out a statement which can be provided, hand written or typed.

Prepare file for Animal Control Officer to commence investigation.

#### **(b) Interview complainant and Gather Evidence**

- a. When possible, visit the complainant. For high level cases, personal service is essential to establish a high level of service.
- b. Assess and record the dog's behavior while in Animal Control Officer's presence. It may / may not display human / animal aggression.
- c. Take/obtain photographs of injuries sustained by complainant or their animal as soon as possible, emailed photographs are acceptable. Document who took the photographs, when and where they were taken. Identify who / what is being shown in the photographs. Photographs should ideally use a scale, a coin or pen is acceptable. Photographs should show full length image of bite area and close up of



- bite wound. The Animal Control Officer must initial the photographs and date-stamp them when received. Email showing a date is acceptable.
- d. Pickup/ obtain a written statement from the complainant; email statements are acceptable if complainant provides their name, residential address and phone number (all complainants must provide a written statement). In some circumstances it may be necessary to obtain a dictated statement from the complainant.
  - e. Ask open ended questions, get all the details, thoroughly understand and clarify what took place from the complainants point of view.
  - f. What was the complainant/defendant doing at the time of the attack?
  - g. Ensure time/date/exact location is identified.
  - h. Were there other witnesses? If so, interview other witnesses and obtain witness statements if possible.
  - i. Get copy of vet bills/medical report from the complainant.
  - j. Establish at earliest stage, how the complainant would like us to deal with this case, taking into account the bite and any other bylaw infractions by the victim / defendant;
    - Civil, with vet bills being paid (no Bylaw involvement) or Via Enforcement which includes:
      - Warning
      - MTI
      - Court Proceedings. Some cases, at the discretion of the Animal Control Officer, may be escalated to court regardless of the victim's stipulations to protect public safety.
  - k. Animal Control Officer's role is to objectively gather evidence from both, parties, evaluating all evidence, and escalating higher when required.

### **(c) Check Records**

- a. Check computer records and files for history about the dog and its owner. If the dog has come from another area or had previous owners, check records again and contact other animal control agencies and make appropriate enquiries.
- b. History should be taken into account when deciding response options i.e. first offence with minor injuries / multiple offences, significant injuries.
- c. ICBC trace of vehicle information if necessary, to obtain the name and address of a person of interest.

### **(d) Identify and Interview Defendant and Gather Evidence**

- a. If the defendant is identified, make an appointment to meet with/visit the defendant.
- b. Use PPE (Personal Protective Equipment) and attend with RCMP if required.
- c. Is the dog licensed? Who owns the dog?
- d. Who had care and control of the dog at the time of incident? Was the dog leashed? Was it tethered and/or unattended? Did the incident occur in a designated off leash area? Did incident occur on the owner's residence or property? Did the incident occur on private property other than the dog owner's own private property?
- e. Assess and record the dog's behavior while in Animal Control Officer presence. It may/may not display human/dog aggression.
- f. Take/obtain photographs of injuries sustained by defendant their animal, as soon as possible, emailed photographs are acceptable. Document who took the

- photographs, when and where they were taken. Identify who/ what is being shown in the photographs. Photographs should ideally use a scale, a coin or pen is acceptable. Photographs should show full length image of bite area and close up of bite wound. The Animal Control Officer must initial the photographs and date-stamp them when received. Email showing a date is acceptable.
- g. Pick up/ obtain a written statement from the defendant; email statements are acceptable if defendant provides their name, residential address and phone number. In some circumstances it may be necessary to obtain a dictated statement from the defendant.
  - h. Ask open ended questions, get all the details, thoroughly understand and clarify what took place from the defendant's point of view.
  - i. Does the Subject of Complaint, or the dog owner, admit to any other aggression/biting incidents regarding the dog? Any previous aggression or bite history not documented?
  - j. Determine whether a bylaw violation(s) took place in the course of the incident.
  - k. What was the complainant/defendant doing at the time of the attack?
  - l. Ensure time/date/exact location is identified.
  - m. Were there other witnesses? If so, interview other witnesses and obtain Witness statements if possible.
  - n. Get copy of vet bills/medical report from the defendant if appropriate.
  - o. Explain at earliest stage, how the case may be dealt with, taking into account the bite and any other bylaw infractions by the victim/defendant;
    - Civil, with vet bills being paid (no Bylaw involvement) or Via Enforcement which includes:
      - Warning
      - MTI
      - Court Proceedings. Some cases, at the discretion of the Animal Control Officer, may be escalated to court regardless of the victim's stipulations, to protect public safety.
  - p. Animal Control officer's role is to objectively gather evidence from both, parties, evaluating all evidence, and escalating higher when required.

#### **(e) Evaluate the Facts of the Case**

- a. Why did the dog come into contact with the Victim/Complainant? (open gate/door, no leash, owner lack of attention, - describe circumstances)
- b. Did the owner intentionally or unintentionally allow the dog to be in circumstances that permitted the attack/ bite to take place? Could this incident have been prevented?
- c. Did the Victim/Complainant have a dog / animal with them at the time of the attack?
- d. At the time of the incident was the dog attempting to prevent a person from committing an unlawful act?
- e. Is there evidence that the dog is owned for the purpose of dog fighting?
- f. Was the dog purposefully provoked, teased or tormented or protecting itself?
- g. Was the dog responding to pain or injury?
- h. Was the dog protecting its offspring or its owner's personal property?
- i. Did the incident result over; a toy, territory, food, rough play?
- j. Did the Victim/Complainant recognize warnings (body language) from the dog?
- k. Does the victim know the difference between warning signs and danger signs in dog behavior?

- l. Did the dog leap up and bite or attempt to bite a person on their neck or face?
- m. Was the dog in heat or responding to a dog in heat?
- n. Are the Complainants or animals, injuries consistent with a dog bite?
- o. If there was no injury to the Victim/Complainant, determine and explain, why not. Did the Victim/Complainant use an item as a shield to ward off the dog? Was the Victim/Complainant just fortunate in managing to avoid a bite or did their clothing take the brunt of the attack?
- p. Consider the seriousness of the injuries: Minor/Moderate/Severe/Death.
- q. Consider the type(s) of injuries: bruising, swelling, scrape, cut, puncture(s), broken bones, disfiguring lacerations, multiple injury sites, paralysis, death.
- r. Do injuries suggest accidental contact or motivated wounds?
- s. Was the complainant injured owing to the actions of the dog, regardless of a bite injury?

**(f) Determine correct course of action**

Animal Control Officers must make decisions based on the facts of the case, and in order to protect the public.

There are two key questions that the Animal Control Officer's investigation must satisfactorily answer:

- a) Did an attack/bite occur? (always consider accidental tooth contact with Complainant)
- b) Did the Complainant or their animal, purposely or overtly provoke the dog thereby causing the attack?

If the answer is "Yes" to (a) and "No" to (b) an Animal Control Officer can lawfully make a Dangerous Dog Designation as per Bylaw regulations.

If provocation can be proved, then the Animal control officer may use the considered aggressive designation as an option to protect the public.

After analyzing the contributing factors of the incident an Animal Control Officer must determine if any enforcement action is required. The options may vary, from;

- Civil, with vet bills being paid (no Bylaw enforcement involvement) or

Via Enforcement action which includes:

- Warning
- MTI
- Court Proceedings. Some cases, at the discretion of the Animal Control Officer, may be escalated to court regardless of the victim's stipulations, to protect public safety.
- Seizing the dog under section 49 of the *Community Charter* and seeking a Destruction Order through the BC Courts.

Incidents that do result in either a considered aggressive Declaration or a Declared Dangerous designation will be for the lifetime of the dog. The owner is then expected to

adhered to the restrictions placed upon aggressive / dangerous dogs as set out in the bylaw.

The owner can appeal against this declaration, having met the criteria set out and in a manner described in the bylaw.

A Municipal Ticket should always be considered in incidents where a violation of a Bylaw regulation clearly occurred. Cases involving children being bitten, serious risks to public safety and fatality cases will be escalated to court, to obtain court ordered penalties and restrictions, to protect the public.

For short term public protection in these cases, the dog MUST have restrictions placed upon it, derived from;

- Considered aggressive designation
- Declared Dangerous designation
- Section 49 of the *Community Charter*

And require the dog to be leashed and muzzled in public and properly contained on the property.

Cases submitted to court must be completed inside of the 6 month statute of limitation from the date of the offence.

For cases when a dog attacks or bites a person or another animal and the nature of the incident is less serious, the Animal control officer may use their discretion in what action to take.

Whether or not to designate a dog aggressive or dangerous often depends on the answers to the following questions:

- a) Is the dog too great a safety risk to citizens for it not to be designated Aggressive or Dangerous?
- b) Is there any documented history of aggression or bites?
- c) What is the likelihood for another incident to occur?

But ultimately, the decision must be based on public protection, and not on human control factors.

Decisions must consider the seriousness of the attack, whether a person (adult/child) or a companion animal was the Victim/Complainant, the age of the Dangerous Dog, the apparent motivation for the attack, whether or not the dog is altered, the degree of concern/responsibility exhibited by the owner, the physical barriers in place to prevent another incident, previous history, and other factors.

Both complainants and defendants must be kept informed proceedings of the case and what information is required to allow it progress. Decisions will be made based on the facts of the case provided and a reasonable time frame will be provided for the submission of evidence. The statute of limitation for a bite case is 6 months from the date of the offence.

**(g) Serving a Considered Aggressive / Declared Dangerous Designation Letter**

The Animal Control Officer should complete the considered aggressive/declared dangerous letter (original copy for the file) and deliver copy to the dog owner. The Animal Control Officer should go over the letter with the dog owner and ensure they fully understand their additional responsibilities and consequences for non-compliance. The owner(s) should initial the restrictions individually, and sign the letter at the end. In the case of co-owned dogs, both owners should initial and sign the letter.

If the dog owner has a fixed residence, a dangerous dog sign must be posted by the dog owner within 48 hours. Shortly after the 48 hours has passed an Animal Control Officer must attend at the dog owner's residence to ensure the signage has been posted as required by the dog regulation bylaw section and enforce if required as per Schedule A of this Bylaw. No exceptions, signage requirements must be strictly enforced.

The dog license file must be updated to reflect that the dog is now considered aggressive/declared dangerous.

**(h) Discuss Voluntary Surrender for Destruction**

If the circumstances of the incident and/or history of aggression and/or lack of responsible ownership is a major concern the Animal Control Officer should consider approaching the dog owner to discuss the possibility of surrendering the dog for euthanization. Factors to consider: viciousness of the current attack; history of biting; the owner does not accept responsibility for dog's actions; the Victim/Complainant was a child; the Victim/Complainant was bitten on the face/head/neck; it was a prolonged attack; the dog disengaged and then attacked again; the dog bit and shook; the dog bit and held; the dog attacked and bit multiple Victim/Complainants; the attack occurred in a public place; the complainants dog was killed during the attack or died subsequently as a result of its injuries. This would be at the expense of the owner.

Depending on circumstances the Animal Control Officer may negotiate special services to ensure the surrender of the dog ie: pay for euthanization and cremation of the dog or any other thing within reason and the capabilities of the Animal Control Officer. This is at the discretion of the Bylaw Enforcement Manager.

**(i) Impoundment of a Dangerous/Aggressive Dog as per Bylaw**

Persons who have a dog that has been considered aggressive/declared dangerous who do not follow leash and muzzle requirements, may face additional fines listed in Schedule A or have their dog impounded. Animal Control Officers should not hesitate to use this authority in circumstances where they find anyone in violation of leash and muzzle requirements. Persons who do not claim their Dangerous Dog after 4 days risk having their dog euthanized because the Bylaw does not permit dogs that have been designated Dangerous to be sold or given away. Unclaimed Dangerous Dogs will be euthanized.

**(j) Seizure of a Dangerous Dog (under *Community Charter* Section 49)**

The Animal Control Officer must advise the dog owner that the dog is being seized under section 49 of the *Community Charter* and will be held for 21 days. If the owner

surrenders the dog, the dog should be secured and transported to the Pound without delay. The Regional District then has 21 days to commence legal proceedings to seek the court ordered euthanization of the dog. If the owner refuses to comply the Animal Control Officer will advise and consult with a Supervisor. If instructed to do so an Animal Control Officer will obtain a warrant and execute the warrant with the assistance of Police and seize the dog.

If a dog is seized per Section 49 of the *Community Charter* the incident must be reported to the courts for authorization to proceed to assessment or to seek a Destruction Hearing through the BC Courts.

A dangerous dog may also be seized for the purposes of assessment within 21 days, by an animal behavioral specialist to assess aggression type and suitability of release into the public. If unsuitable for release then a destruction order may be the only suitable option.

**Control of aggressive and dangerous dogs:** Breed neutral owner focus

The primary concern of the Dog Regulation Bylaw is public safety. As such, when addressing the issue of aggressive and dangerous dogs, the proposed bylaw creates a two tier system, which shifts the focus of responsibility from the animal to the owner.

The below designations and associated restrictions are breed neutral and designed to protect the public.

**Public Protection from dangerous dogs:****New definitions:**a) **"Aggressive Dog"** means:

1. a dog on a street or other public place, acts in a menacing or aggressive manner, displaying behaviour(s) such as but not limited to: teeth bearing, deep growl, hair standing on end, dilated pupils, lunging, rushing, pursuing, pulling on lead, aggressive body language;
2. a dog with a known propensity, tendency, or disposition to attack other domestic animals or human beings;
3. a dog which has bitten another domestic animal or human;
4. a dog has shown repeated documented acts in the above manner, where injury is not required for this designation.

b) **"Dangerous Dog"** means:

1. a dog with a known propensity, tendency, or disposition to attack without provocation to other domestic animals or human beings, or
2. a dog which has bitten another domestic animal or human without provocation;

**New designations and restrictions:****Considered Aggressive Designation**

A dog may be "Considered Aggressive" by Animal Control officers, Bylaw officers, the Bylaw Enforcement Manager, and any government officials who have authority to delegate such designation, if a dog has displayed the aggressive behaviors described in section 7.3 of this Bylaw.

The following restrictions would then be recommended to the dog owner, for adherence for public protection, as detailed within this Bylaw:

A dog **"Considered Aggressive"** within CVRD:

- (a) a person who keeps an aggressive dog must not permit, suffer, or allow the dog to be on a street or other public place unless the dog is under the immediate charge and control of a competent person by means of a leash that is not more than 2.5 m long or another bylaw allows the dog to be off-leash under certain circumstances.

- (b) a person who keeps an aggressive dog must not permit, suffer, or allow the dog to be on a street or other public place or on any other property that such person does not own or control unless such person has muzzled the dog to prevent it from biting another animal or a person, except when the dog is participating in an event sanctioned by the Canadian Kennel Club. The muzzle should be a basket style, to safely allow the dog to eat, drink and pant.
- (c) a person who keeps an aggressive dog must, at all times while the dog is on property owned or controlled by such person, securely confine the dog, either; indoors or in an enclosed pen or other structure capable of preventing the entry of young children and adequately constructed to prevent the dog from escaping or from biting a domestic animal or human being. This must be completed within a reasonable time frame and inspected by and Animal Control Officer upon completion to assess suitability.
- (d) a person who keeps an aggressive dog must post signs on their property entrance / exit, clearly indicating that an aggressive dog is present. This sign must be posted within 48 hours of a dog being considered aggressive and inspected by an Animal Control Officer.
- (e) a person who keeps an aggressive dog is advised to attend a minimum of 5 training sessions at an appropriate school, to address the type of aggression (human/animal), and provide evidence, to the CVRD, of attendance, within 6 months of the designation date. A behavioural assessment by a veterinarian is also recommended.
- (f) a person who keeps an aggressive dog must pay the increased premiums detailed in schedule A of this Bylaw and adhere to the additional above restrictions or be liable to additional fines detailed in Schedule A.

Incidents that result in either a "Considered Aggressive" Declaration or a "Declared Dangerous" Designation will be for the lifetime of the dog.



### Declared Dangerous Designation

A dog may be "Declared Dangerous" by Animal Control officers, Bylaw officers, the Bylaw Enforcement Manager, and any government official who have authority to delegate such designation, if a dog has displayed the aggressive behaviours described in section 6.5 of this Bylaw:

- (a) a dog with a known propensity, tendency, or disposition to attack without provocation other domestic animals or human beings, or
- (b) a dog which has bitten another domestic animal or human without provocation;

In addition, under section 49 of the *Community Charter*, a dog may also be "Declared Dangerous" if the dog has:

- (a) has killed or seriously injured a person,
- (b) has killed or seriously injured a domestic animal, while in a public place or while on private property, other than property owned or occupied by the person responsible for the dog, or
- (c) an animal control officer has reasonable grounds to believe is likely to kill or seriously injure a person.

The following restrictions would then be instructed to the dog owner, for mandatory adherence for public protection, as detailed within this Bylaw:

A dog "**Declared Dangerous**" within CVRD:

- (a) a person who keeps a dangerous dog must not permit, suffer or allow the dog to be on a street or other public place unless the dog is under the immediate charge and control of a competent person by means of a leash that is not more than 2.5 m long or another bylaw allows the dog to be off-leash under certain circumstances.
- (b) a person who keeps a dangerous dog must not permit, suffer, or allow the dog to be on a street or other public place or on any other property that such person does not own or control unless such person has muzzled the dog to prevent it from biting another animal or a person, except when the dog is participating in an event sanctioned by the Canadian Kennel Club. The muzzle should be a basket, to safely allow the dog to eat, drink and pant.
- (c) a person who keeps a dangerous dog must, at all times while the dog is on property owner or controlled by such person, securely confine the dog, either; indoors or in an enclosed pen or other structure capable of preventing the entry of young children and adequately constructed to prevent the dog from escaping or from biting a domestic animal or human being. This must be completed within a reasonable time frame and inspected by an Animal Control Officer upon completion to assess suitability.
- (d) A person who keeps a dangerous dog, must undergo mandatory micro chipping with the number provided to the Regional District for recording and tracking purposes, at their own expense. This information will be shared in any future dangerous dog database creation.

- (e) A person who keeps a dangerous dog must post signs on their property entrance / exit, clearly indicating that a dangerous dog is present. This sign must be posted within 48 hours of a dog being declared dangerous, and inspected by an Animal Control Officer.
- (f) A person who keeps a dangerous dog must sterilize the dog within 2 weeks of the dangerous designation, and provide proof to the Regional District.
- (g) A person who keeps a **dangerous** dog must, pay the increased premiums detailed in appendix "A" of this bylaw and adhere to the additional above restrictions or be liable to additional fines detailed in appendix "A".
- (h) a person who keeps a dangerous dog is advised to attend a minimum of 5 training sessions at an appropriate school, to address the type of aggression (human / animal), and provide evidence, to the Regional District, of attendance, within 6 months of the designation date. A behavioural assessment by a veterinarian is also recommended.

Incidents that result in either a Considered Aggressive Declaration or a Declared Dangerous Designation will be for the lifetime of the dog.

#### **Appeals to Considered Aggressive/Declared Dangerous Designation**

The intention of the above designations is to protect the public from any further incidents occurring, and is valid for the lifetime of the dog.

Appeals against these designation(s) must be made in writing to the Manager of Bylaw Enforcement, and satisfy the following criteria:

- (a) there have been no further recorded incidents of biting or aggression in a 12 month period since the designation was given.
- (b) the dog has attended a minimum of 5 training sessions at an appropriate school, to address the type of aggression (human / animal), and provide evidence, to the Regional District, of attendance, within 6 months of the designation date. A behavioural assessment by a veterinarian or behavioral professional has also been obtained detailing that the aggression has been addressed.
- (c) The dog and owner have adhered to all restrictions placed upon them at the time of the designation, including but not limited to; use of leash and muzzle in public, construction and inspection of a containment structure and warning signs, microchipping and number provided, sterilization of dangerous dogs and proof provided.
- (d) Continued adherence to all elements of this bylaw, with any infraction leading to the re-instatement of the designation.
- (e) The final decision will be at the discretion of the Manager of Bylaw Enforcement.



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** June 27, 2017

**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of July 5, 2017

**FROM:** Inspection & Enforcement Division  
Planning & Development Department

**SUBJECT:** Soil Deposit Bylaw

**FILE:**

## PURPOSE/INTRODUCTION

The purpose of this report is to update the Committee on the results of the proposed soil deposit bylaw public consultation process and recommendations for the proposed soil deposit bylaw.

## RECOMMENDED RESOLUTION

For information and direction.

## BACKGROUND

As a key priority of the Electoral Area Services Committee (EASC), CVRD staff undertook a public engagement process between April 22, 2017 – May 19, 2017, to gauge public opinion on the proposed soil deposit bylaw.

This included a number of public consultation events and the creation of a PlaceSpeak page where stakeholders could provide their ideas and opinions on the suggested bylaw.

Below is a summary of the results of this process, which included online and paper surveys, suggested soil volumes and penalties and the option for free text to ensure that the public opinion was heard and taken into consideration.

## ANALYSIS

PlaceSpeak page resulted in:

- 1086 Views;
- 109 Connects;
- 83 Comments; and
- 70 Surveys.

PlaceSpeak online survey, (70 completed) results:

Question	Yes (%)	No (%)	N/A (%)
Should the CVRD regulate soil deposits?	75	9	16
Should soil deposit be a user pay system?	74	9	17
Should there be penalties for infractions?	80	4	16

Public consultation paper surveys (25 completed)

Questions	Agree with suggested amounts (%)	Disagree with suggested amounts (%)
<p>What volumes of soil should require a permit?</p> <p>What awareness and responsibilities should depositors be aware of prior to deposit?</p> <p>What penalties, fines and remediation should be introduced for those who breach the proposed bylaw?</p>	53 %	47%

Additional comments:

- “Will it make a difference?”
- “We may end up getting stuck with contaminated soil”
- “Toxic soil should be fined the highest amounts”
- “RAR should be taken into account, 750 m minimum”

And

- “\$500 fines are peanuts to big companies”
- “Local companies only to complete assessments”
- “Bylaws are meaningless without enforcement”
- “Not enough penalties” “fees should be more” x 4
- “This is funny, bylaws don’t help”

PlaceSpeak discussion section results:

What are your thoughts on a soil deposit bylaw?	For soil to be deposited within the CVRD, what volumes should require a permit?	What requirements and responsibilities should depositors be aware of, prior to depositing of soil?	What penalties, fines and remediation should be introduced for those who deposit soil into the CVRD?
<p>Positive comments:</p> <p>Enforcement required</p> <p>CVRD bylaw to be equal to CRD’s</p> <p>CRD has Watershed protection areas</p> <p>Enforcement hotline, website and location</p>	<p>Positive comments:</p> <p>3 boxes or more should require a permit</p> <p>Fees should be \$1 per cubic meter for more than 10m<sup>3</sup></p>	<p>Positive comments:</p> <p>Guidelines and standards that would identify soil types and potential contaminations</p>	<p>Positive comments:</p> <p>Suggested amounts seem adequate</p> <p>Stiffest penalties for those who deposit without permit or deposit contaminated soil</p> <p>Higher fines for</p>

to upload photos			dumping within riparian zones  Soil removal or site remediation required  Initial campaign when bylaw is rolled out
Negative comments:  Bylaws are useless and not enforced  Unrealistic fine expectations  No need for further bureaucracy and tax residents more by greedy governments.	Negative comments:  Current system is adequate, no bylaws required - (DNC resident)  This is a cash grab by CVRD and not required, less CVRD staff not more	Negative comments:  Not required, provincial level is enough  Huge overkill – a content report should not be required for a truck load of soil  Soil should be tested by two professionals and results compared for accuracy	Negative comments:  Not required – DNC  Un-necessary

The industry also provided valuable input and comment and where in support of the bylaw as long as it did not negatively impact their businesses;

- Do not charge by the truck load or volume, simply ask for a large surety deposit e.g. \$100,000, and at the end of the depositing, return \$90,000. The conditions of the bylaw will be adhered to and the CVRD will receive revenue. (Using the suggested values for over 500m<sup>3</sup> would estimate \$28 per truck load, \$20 tipping fee per truckload plus \$8 per m<sup>3</sup>);
- Charge a flat fee for the industry;
- Longer permit times, minimum of 2-3 years, 5 is preferable;
- Charges applied by the box load (truckload) as is typical in the industry:
  - Truck: \$20;
  - Pup: \$40; and
  - 6 Axle: \$60.

Exemptions made for the following:

- Importation of clean soil for blending with granite and blast rock for resale (only soil free from contaminants can be used);
- Farmers, golf courses, stables import 100's of tons of sand, soil, gravel each year, which must be clean;
- In addition to the exemption for building footings and foundations, sand, gravel and stone which is re-sold (must be clean) and exemption for ongoing maintenance of properties, driveways etc., where aggregate is bought from a reputable source.

Based on the feedback provided and key directions obtained during the public consultation process, the attached proposed draft soil c<sub>137</sub>.it bylaw is brought forward for review and

comment.

Key message from the public:

**“Protect our watershed”**

Key decisions which require Committee direction include:

- For soil to be deposited within the CVRD, what volumes will require a permit?
- Before applying for a soil deposit permit, what requirements and responsibilities should you be aware of?
- What penalties would be appropriate for contraventions of the soil deposit bylaw?
- What remediation would be required if soil was determined to be contaminated?
- Within the draft bylaw, suggestions and ideas from the engagement process for comment and inclusion.
- With the authority provided by bylaw 3947 to convert the function of removal and deposit of soil to a service, and the identification of large drinking water watersheds, does the committee, under the proposed soil deposit bylaw, want to prevent the deposit of soil within CVRD watersheds unless exempt? The penalty will be the removal of the soil in consultation with a registered professional.
- Legal opinion suggests that the bylaw can be regulatory but not preventative. The relevant ministries are the approving body, and may deem a restriction to be preventative if it interferes with “Provincial interest” in relation to soil removal or deposit.

Below are some tables and suggestions for CVRD for the above key considerations;

Volumes

Suggested CVRD volumes and permits requirements:

Soil Quantity	Permit fee (per year)	Security Deposit	Renewal Fee	Requirements
Less than 10 m <sup>3</sup>	None	None	Na	Aware of Bylaw and contaminated soil remediation
10 – 500 m <sup>3</sup>	\$200 base fee	\$5000 / hectare	\$200	Authorized Professionals report of minimal standard or Preliminary Site Investigation level 1
500 m <sup>3</sup> or more	Base fee plus \$100 / additional 100 m <sup>3</sup> above 500 m <sup>3</sup>	\$10,000 for 1 <sup>st</sup> hectare plus \$5000 for each additional hectare	\$200	Authorized Professionals report of minimal standard or Preliminary Site Investigation level 2

FinesSuggested CVRD Violations and Penalties

Any person who contravenes any provision in this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed in this bylaw is guilty of an offence and:

- (a) On conviction of a ticket offence under the Municipal Ticket Information Bylaw, is liable for the fine imposed under that bylaw not less than \$500; or
- (b) For deposits of over 500 m<sup>3</sup> - \$1000 (\$1000 per offence per day, is the maximum permitted by MTI under the *Community Charter*);
- (c) On summary conviction, is liable to not more than \$4,000; imposed by a court (Section 263 of the *Community Charter*);
- (d) This Bylaw may be enforced by issuing of a ticket for contravention in accordance with "CVRD Bylaw No. 3209 – Ticket Information Authorization Bylaw, 2008".

A separate offence shall be deemed to be committed upon each day during and in which the contravention occurs or continues.

The penalties imposed shall be in addition to and not in substitution.

Remediation of contaminated soil will be the onus of the receiver, and can include measures up to removal of the contaminated soil.

Direction is also sought on the following aspects:

- What is the cost of this bylaw? Is it revenue neutral or funded through permitting?
- As this bylaw is being created with consideration towards the protection of public water sources, should requisition be used as a funding source for enforcement action against offenders?
- Highlighted sections of the bylaw based on suggestions by the public and industry for comment and direction for inclusion.

**FINANCIAL CONSIDERATIONS****COMMUNICATION CONSIDERATIONS****STRATEGIC/BUSINESS PLAN CONSIDERATIONS**

- Attachment A – Draft CVRD Soil Deposit Bylaw
- Attachment B – CVRD Soil Deposit Bylaw public engagement results summary
- Attachment C – Schedule E – CVRD watersheds
- Attachment D – Legal opinion

## Referred to (upon completion):

- Community Services (*Island Savings Centre, Cowichan Lake Recreation, South Cowichan Recreation, Arts & Culture, Public Safety, Facilities & Transit*)
- Corporate Services (*Finance, Human Resources, Legislative Services, Information Technology*)
- Engineering Services (*Environmental Services, Capital Projects, Water Management, Recycling & Waste Management*)
- Planning & Development Services (*Community & Regional Planning, Development Services, Inspection & Enforcement, Economic Development, Parks & Trails*)
- Strategic Services

Prepared by:

Reviewed by:




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 Robert Blackmore, BSc., MSc.  
Manager

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 Not Applicable  
Not Applicable




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 Mike Tippett, MCIP, RPP  
A/General Manager
**ATTACHMENTS:**

- Attachment A – Draft CVRD Soil Deposit Bylaw
- Attachment B – CVRD Soil Deposit Bylaw Public Engagement Results Summary
- Attachment C – Schedule E – CVRD Watersheds
- Attachment D – Legal Opinion





**COWICHAN VALLEY REGIONAL DISTRICT  
BYLAW NO. XXXX**

**A BYLAW TO REGULATE THE DEPOSIT OF SOIL ON LANDS  
WITHIN THE COWICHAN VALLEY REGIONAL DISTRICT**

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**WHEREAS** under the Supplementary Letters Patent issued on March 22, 1973 (Division XI), as amended by the Supplementary Letters Patent dated November 27, 1975, the Cowichan Valley Regional District was given authority to undertake the function of regulating the removal and deposit of soil within Electoral Areas A, B, C, D, E, F, G, H and I;

**AND WHEREAS** Section 723 of the *Local Government Act* authorizes a Regional District to regulate or prohibit the removal of soil, including sand, gravel, and rock, and the deposit of soil and other materials on any land within the electoral areas, to make different regulations and prohibitions for different areas, and to require permits and impose fees;

**AND WHEREAS** the Board of the Cowichan Valley Regional District wishes to regulate the deposit of soil and other materials within its Electoral Areas;

**NOW THEREFORE** the Board of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

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**1.0 DEFINITIONS**

In this bylaw, the following definitions apply:

**AGENT** means a person who has been authorized in writing by an owner to apply for a permit on the owner's behalf.

**APPLICANT** means an owner, or their agent, who has completed the permit application and has paid the prescribed fee.

**APPLICATION** means an application for a permit to deposit soil, in the form of Schedule "B" to this Bylaw.

**AUTHORISED PROFESSIONAL** means a professional person who can provide a certified opinion, such as a person qualified as; P.Eng, P.Geo, P.Ag, P.Chem, R.P.Bio, or Contaminated Sites Approved Professional (CSAP).

**BOARD** means the Cowichan Valley Regional District Board.

**BUILDING OFFICIAL** means a Registered Building Official employed by the Cowichan Valley Regional District to administer and enforce the CVRD Building Bylaw.

**BUILDING PERMIT** means a permit issued under authority of the Cowichan Valley Regional District Building Bylaw.



**BYLAW ENFORCEMENT OFFICIAL** means the person designated by the Board to administer and enforce bylaws within the Cowichan Valley Regional District.

**COMPOST** means a product which is:

- (a) a stabilized earthy matter having the properties and structure of humus;
- (b) beneficial to plant growth when used as a soil amendment;
- (c) produced by composting; and
- (d) primarily derived from organic matter.

**CONTAMINATED SITES REGULATION** means the Province of British Columbia's *Contaminated Sites Regulation*.

**CONTAMINATED SOIL** means the presence in *soil* of a hazardous waste or another prescribed substance in quantities or concentrations exceeding provincial environmental quality standards and subject to the *Contaminated Sites Regulation*.

**Deposit** means the placement, storage, filling, spilling or releasing, directly or indirectly, of soil or *other material* on lands in the *Regional District* where the *soil* or *other material* was not previously located.

**CVRD** means the Cowichan Valley Regional District.

**ELECTORAL AREA** means Electoral Areas A, B, C, D, E, F, G, H and I of the Cowichan Valley Regional District, either singularly or in any combination, as the context requires.

**ELECTORAL AREA SERVICES COMMITTEE** means the standing committee of the CVRD Board of that name.

**GENERAL MANAGER** means the General Manager, Planning and Development Department, Cowichan Valley Regional District, or a person authorized to act on his or her behalf.

**HOLIDAY** means:

- (a) Sunday, Christmas Day, Good Friday and Easter Monday,
- (b) Canada Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day, Family Day and New Year's Day,
- (c) December 26, and
- (d) a day set by the Parliament of Canada or by the Legislature, or appointed by proclamation of the Governor General or the Lieutenant Governor, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign, or as a public holiday.

**INDUSTRY** includes, but is not limited to, businesses that import soil, sand or gravel for the purposes of commercial resale, blending or other purpose.

**Other Material** includes, but is not limited to, construction and demolition waste, masonry rubble, concrete, asphalt, *wood waste*, unchipped lumber, drywall, refuse, undecomposed organic matter, *contaminated soil*, *soil* containing *invasive species*, and other similar matter.



**Organic Waste** means biodegradable, compostable waste of plant or animal origin from domestic or industrial sources.

**PARCEL** means a lot, block or other area in which real property is held or into which real property is subdivided, and includes a strata lot created under the *Strata Property Act*, with the exception of a strata plan that contains strata lots, all the boundaries of which are coterminous with the walls of a building, with the exception of a balcony or a private exterior space that does not exceed 20% of the total floor area of the strata lot.

**PERMIT** means the written authority in the form attached as Schedule "C" to this bylaw issued by the General Manager for the deposit of soil to any parcel.

**PERMIT AREA** means the area of land over which the soil deposit occurs, or is proposed to occur, within the subject parcel.

**REGISTERED PROFESSIONAL** means an, engineer, geoscientist, agrologist, environmental consultant, soil scientist, biologist, or land surveyor who is registered with a professional association that is regulated by a statute, appointed to act in the capacities described under the sections of this Bylaw requiring a registered professional, and within whose field of expertise they are qualified to offer expert advice.

**REMOVAL OR REMOVE** means to take, excavate, or extract soil from a lot on which it exists or has been *deposited*.

**SOIL** means clay, silt, topsoil, sand, gravel, cobbles, boulders, peat or other substance of which land is naturally composed, down to and including the bedrock and any other combination of these substances, that is free of manure from animals and household or farm compost material.

**STOCKPILE** means a man-made accumulation of *soil* or *other material* held in reserve for future use, distribution or *removal*.

**WOODWASTE** means wood residue in mechanically shredded form and includes sawdust, hog fuel, bark, chips, slabs, shavings, trimmings, edgings, or other such waste which is the result of any manufacturing process involved in the production of lumber or other wood products. Yard and garden waste is also included in this definition and which is clear of invasive species.

**QUALIFIED RIPARIAN AREA PROFESSIONAL** means a qualified environmental professional under the *Riparian Areas Regulation*, a registered professional biologist, a registered professional engineer or geoscientist, who is in good standing of their respective professional organization

**RIPARIAN AREA** means within 30m of a fish bearing water course. Riparian areas link water to land. They border streams, lakes, and wetlands. The blend of streambed, water, trees, shrubs and grasses in a riparian area provides fish habitat, and directly influences it.

**SECURITY DEPOSIT** means a cash deposit, certified cheque or irrevocable letter of credit provided by the applicant to ensure all works will be carried out in compliance with the conditions of the bylaw.



**SPEA** Streamside Protection Enhancement Area, means an area, 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 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.

**UNSUITABLE MATERIAL** means any rubbish, derelict vehicle, metals, demolition wastes, garbage or waste materials, including containers, packages, bottles, cans or parts thereof; or any abandoned or discarded article, product or goods of manufacture. Limited minor amounts of non-recyclable concrete, asphalt and pipe which are part of the excavation process is classified as acceptable material.

**"MUNICIPAL SOLID WASTE"** means

- (a) refuse that originates from residential, commercial, institutional, demolition, land clearing or construction sources, or
- (b) refuse specified by a director to be included in a waste management plan;

**"RECYCLABLE MATERIAL"** means a product or substance that has been diverted from disposal, and satisfies at least one of the following criteria:

- (a) is organic material from residential, commercial or institutional sources and is capable of being composted, or is being composted, at a site;
- (b) is managed as a marketable commodity with an established market by the owner or operator of a site;
- (c) is being used in the manufacture of a new product that has an established market or is being processed as an intermediate stage of an existing manufacturing process;
- (d) has been identified as a recyclable material in a waste management plan;
- (e) is any other material prescribed by the Lieutenant Governor in Council, or the minister under section 22 [minister's regulations — codes of practice];

**WATERCOURSE** means a permanent or non-permanent (containing water at least six months of the year) source of water supply that is natural or man-made, including a pond, lake, river, creek, brook, ditch, spring or wetland that is integral to a stream, with well-defined banks and a bed of 0.6 m or more below the surrounding land serving to give direction to or containing a current of water but does not apply to a man-made pond that does not connect to a stream.



## 2.0 PURPOSE

This bylaw has been enacted for the purpose of regulating the deposit of soil within all electoral areas of the Cowichan Valley Regional District in the general public interest. This bylaw regulates the deposit of soil internally within the CVRD and soils being deposited from external sources. Fees for the application process are to be revenue neutral.

The purpose of this bylaw does not extend:

- (a) to the protection of owners, occupiers or persons involved in the deposit of soil from economic loss;
- (b) to the assumption of the Cowichan Valley Regional District or any officer or employee of the Cowichan Valley Regional District of any responsibility for ensuring compliance by a person involved in the deposit of soil on land, his or her representatives, or any employees, contractors, or agents with this bylaw, or any other enactments applicable to the deposit of soil or the development of land;
- (c) to providing any person with a warranty that any deposit of soil will not violate this bylaw, any other enactment or create any nuisance of any type.

## 3.0 APPLICATION

This bylaw applies within Electoral Areas A, B, C, D, E, F, G, H and I of the CVRD.

## 4.0 SEVERABILITY

If any section, subsection, sentence, paragraph, or schedule forming part of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the section, subsection, paragraph, or schedule may be severed from the bylaw without affecting the validity of the bylaw or any portion of the bylaw or remaining schedules.

## 5.0 INCORPORATION OF SCHEDULES

Schedules "A", "B", and "C" attached hereto are hereby made a part of this bylaw.

## 6.0 PROHIBITIONS

No person shall do any of the following anywhere in an Electoral Area:

- (a) cause or permit the deposit of soil or other materials, on any parcel, unless or until a permit allowing the deposit has first been obtained or unless the deposit does not require a permit as set out in Section 7.0;
- (b) cause or permit the deposit of unsuitable material or contaminated soil on any parcel;
- (c) No soil is to be deposited within 750m of a watercourse, or
- (d) No deposit soil to be deposited within the CVRD watershed (drinking water and non drinking water) unless the deposit is:
  - in compliance with a development permit issued by the CVRD under the provincial *Riparian Area Regulation*, and any provincial approvals that may also be required have been obtained
  - Permitted under the exemptions section of this bylaw

CVRD watersheds that contain surface drinking water sources:



1. Chemainus River Watershed
  - a. Banon Creek and Holyoak Lake (North Cowichan's Chemainus Water System)
2. Cowichan River Watershed
  - a. Cowichan Lake (Town of Lake Cowichan)
  - b. Cowichan River (North Cowichan's Crofton Water System)
  - c. Youbou Creek (CVRD's Youbou Water)
3. Holland Creek Watershed
  - a. Holland Lake and Holland Creek (Town of Ladysmith, from their website)
4. Shawnigan Creek Watershed
  - a. Shawnigan Lake (CVRD's Shawnigan Lake North, Private Lidstech Holdings Ltd)
5. Stocking Creek Watershed
  - a. Stocking Lake (CVRD's Saltair Water, Town of Ladysmith, Diamond Improvement District)

Sources for all the water systems in the CVRD are given at this site:

<http://cvrldnewnormalcowichan.ca/water-systems/>

Schedule E of this bylaw is a map of CVRD watersheds where no soil is permitted to be dumped unless exempt.

## 7.0 PERMIT EXEMPTIONS

- 7.1 A person may deposit soil onto a parcel without a permit provided that at least one of the following conditions is satisfied:
- (a) All of the soil to be deposited is, in the opinion of a CVRD Building Official, necessary for the construction of basements, footings and foundations or the installation of works and services including septic fields and driveways in conjunction with a construction project that has a valid building permit. In addition, clean soil, sand or gravel from a reputable source for ongoing property maintenance. At the discretion of the Building Official, an engineers certificate may be required showing that the soil to be deposited is free from contamination;
  - (b) All of the soil to be deposited is, in the written opinion of an "Authorized person" as defined under the *Sewerage System Regulation*, required for the maintenance, repair or replacement of a septic tank or field and associated works and is free from contamination;
  - (c) If the soil deposit is not associated with a building permit, the total quantity of soil deposited for any purpose is less than 10 m<sup>3</sup> in any calendar year, or the material is sourced from a certified mine with a valid BC Mine Permit number, and such soil is free from contamination;
  - (d) If the deposit of soil is authorized under a Contaminated Soils Relocation Agreement from the Province of British Columbia. CVRD must be provided with the relevant documentation and assurances that Provincial guidelines will be adhered to, before soil is relocated into the CVRD boundaries;



- (e) If the deposit is required for the construction or repair of works, roads, highways or services by or on behalf of the Cowichan Valley Regional District, Partner Municipalities or the Ministry of Transportation and Infrastructure, and the deposit is onto a parcel owned or leased by one of these authorities;
- (f) If the deposit is to a parcel owned or leased by the federal or provincial government, excluding in all cases the deposit onto a parcel that is leased or licensed by the provincial or federal government to a third party;
- (g) If the soil is being relocated within the boundaries of the parcel from which it originates;
- (h) If the deposit of soil is on land used for commercial landscape supply, horticultural use or as a nursery in compliance with the applicable Zoning Bylaw and the *Agricultural Land Commission Act*, and such deposit is necessary as part of the landscape supply, horticultural or nursery operation. all fill sites need some form of reclamation plan of which horticultural use is a primary form of reclamation
- (i) The soil is being used for the reclamation of a mine, as regulated by the Ministry of Mines.
- (j) The importation of certified clean soil, sand or gravel for the process of industrial blending with blast rock and granite for re-sale.
- (k) Purchase of certified clean aggregate from a reputable source, soil, sand or gravel for the purposes of farming, golf courses, stables or other appropriate use.

7.2 The onus of demonstrating compliance with Section 7.1 shall be at all times on the person undertaking the deposit of soil, who shall provide to the Cowichan Valley Regional District sufficient documentation to confirm that the person meets the conditions for granting an exemption.

## 8.0 PERMIT APPLICATION REQUIREMENTS

- 8.1 Every applicant for a permit must file with their application the following information about the parcel on which the permit area is located, as follows:
- (a) the street address;
  - (b) the legal description;
  - (c) a title search, and copies of all registered encumbrances, including water licenses obtained within 30 days of application;
  - (d) the name of the registered owner;
  - (e) the signature of the applicant and the owner if the owner is not the applicant;
  - (f) the applicable security deposit and permit fees (see Schedule "A");
  - (g) a plan of the property showing the location of any structures, the area where soil is to be deposited, and the access points to and from the property;
  - (h) the volume of soil to be deposited;
  - (i) the legal description and street address, (regional area for the industry) of the site from which the soil originates;
  - (j) the proposed completion dates for stages of soil deposit, if applicable;
  - (k) a content report of what the soil is comprised of / MOE regulations for the industry
  - (l) No soil is to be deposited within 750m of a watercourse;
  - (m) No soil dumped within the CVRD Watershed;
  - (n) the distance to the nearest watercourse, and the name of watercourse or waterbody.
  - (o) an assessment of the underlying soils: permeable, water restricting layer present like hardpan or bedrock.



- (p) vegetation remediation plan if any vegetation that grows back is invasive, with the assistance of an RPBio
- (q) For soil deposits of 10m<sup>3</sup> or less, it will be on an honor basis that the soil is clean, but the receiver will be bound to the bylaw to remediate or remove the soil, if an investigation is opened and contamination is proven.
- (r) 45 day referral process for any soil that is to be deposited adjacent to other local governments which are connected via waterbody to their jurisdictions.

8.2 For soil volumes that are 10 m<sup>3</sup> or more in a calendar year, the applicant shall provide an Engineer's Report and site remediation plan, which address the following:

- (a) plans, drawn to a scale of not less than 1:1000, showing the existing contours with contour intervals of not more than two (2) metres; and the location of buildings or structures; watercourses, tree cover, wells, known aquifers; sewage disposal fields, public utilities; the proposed permit area; driveways; and ingress and egress points from the proposed permit area to a highway.
- (b) the applicant is to provide certification by a British Columbia Land Surveyor, if in the opinion of the General Manager, the nature or type of deposit requires accurate topographic information or the determination of the location of natural features, structures, services and property lines;
- (c) the proposed contours of the parcel in its final state upon completion of the permit activities with contour intervals of not more than two (2) metres;
- (d) the proposed slopes, which will be maintained upon completion of the deposit;
- (e) the method proposed to control the erosion of the banks of the soil;
- (f) the proposed completion dates for stages of deposit, if applicable;
- (g) the proposed methods to control: dust, noise, odour, smoke, vibration and visual impacts caused by the deposit on adjacent parcels, and the tracking of soil or other material onto highways;
- (h) plans to ensure that no silt seeps or flows into any watercourse, well or aquifer on, under or flowing through the parcel;
- (i) the proposed methods of drainage control and protection of connecting or nearby watercourses, wells or aquifers during the proposed deposit; and
- (j) Methods to stabilize the slopes of the soil, including any re-vegetation upon completion of the deposit.

Should it be found that soil deposited under 10m<sup>3</sup> contains contaminates, the onus is on the applicant to remediate the soil.

- 8.3 If the applicant is not the owner of the parcel of land, the applicant must include with his application a signed letter from the owner of the parcel of land authorizing the applicant to carry out the works on behalf of the owner.
- 8.4 The applicant must supply an authorised professional's report, from both source and receiving site, showing content, locations moved from and to and any significant differences in soil





composition. The permit must confirm that all relocation and transportation provisions will be adhered to.

For soil amounts from 0 – 10 m<sup>3</sup>, onus is on the applicant to ensure that the soil is free from contamination and to remediate any contamination if later uncovered.

For soil amounts from 10 – 500 m<sup>3</sup>, the Authorised professional's report must be a minimum standard of Preliminary Site Investigation level 1.

For soil amounts greater than 500 m<sup>3</sup>, the certified professional's report must be a minimum standard of Preliminary Site Investigation level 2 and must also be accompanied by a Contaminated Sites Authorised Professionals report.

At the discretion of the General Manager of Planning and Development, a Contaminated Sites Approved Professionals (CSAP) report maybe requested, prior to the issuance of any permit, regardless of soil volume.

## **9.0 AUTHORITY TO ISSUE THE PERMIT**

9.1 The Board hereby delegates to the General Manager, or his / her designee, Planning and Development Department the authority to issue a soil deposit permit.

9.2 At the discretion of the General Manager, the application may be referred to the Electoral Area Services Committee for consideration and recommendation to the Board.

9.3 The General Manager or the Board, where a permit has been referred to the Board, may refuse to issue a permit where the applicant has not provided to the Cowichan Valley Regional District sufficient evidence that the deposit of soil can be carried out without creating a hazard to persons or property, damage to the environment, or irreparable damage to highways or other public property.

9.4 Any appeal for permits denied must be made in writing to the General Manager of Land Use Services.

## **10.0 COMMUNITY INVOLVEMENT**

10.1 Staff will provide notice in writing, by regular mail, to the owner of a parcel that abuts a parcel or parcels, with a pending soil deposit application a minimum of ten (10) working days prior to a decision on the permit application.

10.2 The General Manager may call for or receive public comment upon any permit or renewal application. If the General Manager decides that the community should have an opportunity to comment, then the General Manager may:

- (a) refer the application to the Electoral Area Services Committee for its consideration and recommendation to the Board; and/or
- (b) require that a public meeting be held with respect to the proposed soil deposit; or



(c) require notice to be placed in two consecutive local newspaper publications, paid for at the applicant's expense.

10.3 The CVRD will provide notice in writing, by regular mail, to the owner of a parcel that abuts a parcel subject to a soil permit, when the CVRD receives a request for a renewal of a soil deposit permit a minimum of ten (10) working days prior to a decision on the permit renewal.

10.4 The General Manager may make a decision regarding the renewal of a permit if he or she is satisfied that the CVRD made reasonable efforts to provide notice in accordance with Section 10.3.

## **11.0 PERMIT CONDITIONS**

11.1 The permit may include one or more conditions based on the application, pertaining to this bylaw.

11.2 The permit should include a pre-deposit report, prepared by a Qualified Professional to ensure compliance with the permit conditions.

11.3 No person shall engage in the deposit of soil:

- (a) on a Sunday or Holiday; or
- (b) between 19:00 – 06:00 on any day not referred to in Subsection 11.3 (a).
- (c) Must conform to the noise bylaw / bylaw for industry

11.4 A permit constitutes written authority under this bylaw to conduct only those activities described in the permit.

11.5 All plans, specifications and Engineer's Reports forming part of an application in respect of which a permit is issued shall form part of and be incorporated in the permit unless otherwise specified by the General Manager and, without limiting the foregoing; a permit issued shall specify the maximum volume of soil that is to be deposited.

11.6 A permit for the deposit of soil shall not be issued if the General Manager considers that such deposit would conflict with the policies and guidelines established in the Official Community Plan and/or the permitted uses pertaining to the parcel established by the Zoning Bylaws of an Electoral Area, or if the permit is not generally within the public interest.

11.7 A permit for the deposit of soil shall not be issued if the General Manager considers that such deposit would conflict with the policies and guidelines established within the CVRD solid waste bylaws.

11.8 The holder of the permit shall post a copy of the permit, or otherwise shall post a clear and legible sign, in English, indicating the duration and extent of the soil deposit at the point of entry to the property from the main road. The sign is to be, at a minimum, 1 m x 1 m square and must include the permit number on it and must be consistent with the Fees and Procedures bylaw.



- 11.9 The holder of the permit shall contact the Ministry of Transportation and Infrastructure and comply with its requirements for road maintenance and cleanup during and after the works.
- 11.10 The holder of the permit shall contact the Ministry of Environment, Ministry of Mines and the Agricultural Land Commission and comply with its requirements in relation to soil deposition, removal and distribution.
- 11.11 The General Manager requires a post-deposit report prepared by a Qualified Professional to ensure compliance with the permit conditions.

## **12.0 ADMINISTRATION**

- 12.1 Every permit issued under this bylaw expires upon the earlier of:
- (a) the deposit of the total amount of soil authorized to be deposited by the permit has occurred; or
  - (b) the expiry date expressly stated in the permit; or
  - (c) one (1) year after the date of permit issuance or
  - (d) Ten (10) year maximum for industry permits with submission of annual reports.
- 12.2 If the deposit authorized in a permit is not completed before the permit expires under Section 12.1, the General Manager may renew the permit provided that:
- (a) the applicant makes a written request to the General Manager for a renewal or extension a minimum of one (1) month prior to the expiry date;
  - (b) the applicant has paid the required renewal and security fees;
  - (c) the deposit is being carried out in compliance with the original permit, including any conditions of an Professional's Report which may apply;
  - (d) there is no change in scope from the original application; and
  - (e) adjacent land owners are notified as outlined in Subsection 10.3.
- 12.3 There is no limit on the number of times an applicant may apply for renewals, but no applicant has a vested right to receive any renewals. The terms and conditions that come into being at renewal time of the permit shall be those that are current at that time; there shall be no grandfathering of terms and conditions.
- 12.4 Requests for renewal which include a change in the scope of the original application will require a new application and fees to be submitted.

## **13.0 PERMIT SUSPENSION, CANCELLATION AND AMENDMENT**

- 13.1 If there is a contravention of any term or condition of the permit, or the permit was issued on the basis of statements made in an application for a permit, report, declaration or record required under this bylaw that were false or misleading with respect to a material fact, or that omitted to state a material fact, the omission of which made the statement false or misleading, the General Manager may:
- (a) suspend in whole or in part the rights of the applicant under the permit;



- (b) revoke the permit;
- (c) amend the permit; or
- (d) attach new conditions to a permit, without the consent of the applicant.

13.2 For any proposed material changes to the permit, the General Manager may require:

- (a) the submission of further, amended, or new information referred to in Section 8.1 or 8.2;
- (b) further community consultation as outlined in Section 10.0; and
- (c) the submission of a new permit application, along with applicable fees.

#### 14.0 FEES AND SECURITY DEPOSITS

14.1 A permit is in effect for a period of twelve (12) months from the date of issuance of the permit, or as otherwise established under Section 12.1.

14.2 The fee for the permit shall be as set out in Schedule "A", based upon the quantity of material to be deposited, and shall be paid in full before issuance of the permit and must be consistent with the Fees and Procedures bylaw.

14.3 As security deposit for the due and proper compliance with all the requirements and conditions of this bylaw, the applicant shall, before receiving a permit for the deposit of soil, provide a cash deposit, certified cheque, or irrevocable letter of credit drawn upon a chartered bank, in the amount as set out in Schedule "A", based upon the permit area within the subject parcel designated for soil deposit. The security provided under this section must remain valid from the date of issuance of a permit to a date that is not less than six (6) months after the expiration date of the permit with confirmation of compliance with the permit conditions.

14.4 Should an applicant not comply with the Engineer's Report provided in the permit, the Cowichan Valley Regional District may undertake the necessary remedial actions and the full costs shall be borne by the applicant.

14.5 In the case of an application for a permit for a parcel in respect of which a permit issued under the *Mines Act* has also been issued, where a security deposit has been provided to the Ministry of Energy and Mines for the purpose of site reclamation, Section 14.3 shall not apply.

#### 15.0 VIOLATIONS AND PENALTIES

15.1 Any person who contravenes any provision in this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed in this bylaw is guilty of an offence and:

- (a) Deposit without permit – double permit fee and registered professional paperwork mandatory.
- (b) on conviction of a ticket offence under the Municipal Ticket Information Bylaw, is liable for the fine imposed under that bylaw not less than \$500 or
- (c) For deposits of over 500 m<sup>3</sup> - \$1000 (\$1000 per offence per day, is the maximum permitted by MTI under the Community Charter).



- (d) Soil deposited within 750m of a watercourse \$1000, plus immediate removal or remediation of site with registered professional paperwork.
- (e) on summary conviction is liable to a fine of not more than \$4,000; imposed by a court
- (f) This bylaw may be enforced by issuing of a ticket for contravention in accordance with "CVRD Bylaw No.3209 – Ticket Information Authorization Bylaw, 2008".
- (g) Assessment by an engineer may be required. This can be in house or contracted out.
- (h) For soil dumped within the CVRD watershed, soil must be removed with consultation and advice from a registered professional.

15.2 A separate offence shall be deemed to be committed upon each day during and in which the contravention occurs or continues.

15.3 The penalties imposed under Subsection 15.1 and 15.2 hereof shall be in addition to and not in substitution for any other penalty or remedy imposed by this bylaw or any other statute, law or regulation.

15.4 For the remediation of contaminated soil, the onus will be on the receiver, and can include; measures up to removal of the contaminated soil.

## 16.0 INDEMNIFICATION

16.1 The holder of the permit is at all times responsible for compliance with the provisions of this bylaw and any other applicable enactment and for any claim, demand, damage, loss, costs, expense, fees, or fine that may arise from a deposit of soil.

16.2 The holder of a permit shall save harmless, indemnify and keep indemnified the Cowichan Valley Regional District, its officers, employees, contractors, and elected officials from any and all claims, demands, damages, losses, costs, expenses, fees, fines, actions, proceedings whatsoever brought by any person arising from the issuance of a permit under this bylaw with respect to the deposit of soil authorized under a permit.

## 17.0 TITLE

This bylaw may be cited for all purposes as the "Cowichan Valley Regional District Soil Deposit Bylaw No. XXXX, 2017".

READ A FIRST TIME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

READ A SECOND TIME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

APPROVED BY THE MINISTER OF ENVIRONMENT THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

APPROVED BY THE MINISTER OF ENERGY AND MINES THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

APPROVED BY THE MINISTER OF ENVIRONMENT THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.



READ A THIRD TIME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
CHAIR

\_\_\_\_\_  
CORPORATE OFFICER

DRAFT



## SCHEDULE "A"

SOIL QUANTITY (1)	PERMIT FEE (2)	SECURITY DEPOSIT (3)	RENEWAL FEE (4)	REQUIREMENTS (5)
less than 10 m <sup>3</sup>	none	none	N/A	Awareness of bylaw and contaminated soil remediation requirements
10 - 500 m <sup>3</sup> or greater	\$200 base fee	\$5,000 for the first hectare of land (or portion thereof) plus \$5000 for each additional hectare or portion thereof that will have soil deposited on it	\$200	Authorised Professionals report of minimal standard or Preliminary Site Investigation level 1
500 m <sup>3</sup> or greater	\$200 base fee plus \$100 for every additional 100 m <sup>3</sup> above 500	\$10,000 for the first hectare of land (or portion thereof) plus \$5000 for each additional hectare or portion thereof that will have soil deposited on it	\$200	Authorised Professionals report of minimal standard or Preliminary Site Investigation level 2 Must be accompanied by a contaminated sites authorised professionals report

- (1) The applicant is responsible for ensuring that any conditions governing deposit of soil as defined in the *Mines Act* are adhered to.  
 (2) The permit fee must be provided prior to the issuance of a permit.  
 (3) The security deposit as defined in section 14.3, is required prior to issuance of a permit and must be renewed and in effect prior to renewal of any permit. The security deposit will continue in effect for six (6) months after the permit has expired.  
 (4) The renewal fee is required prior to an extension to the permit.

(5) The applicant is responsible for the obtaining and adherence to professional's reports and guidance

At the discretion of the General Manager of Planning and Development, a Contaminated Sites Approved Professionals (CSAP) report maybe requested, prior to any permit, regardless of soil volume.



### SCHEDULE "B" Industry

SOIL QUANTITY (1)	PERMIT FEE (2)	SECURITY DEPOSIT (3)	RENEWAL FEE (4)	Requirements
less than 10 m <sup>3</sup>	none	none	N/A	Annual submission of Ministry of Mines report
10 - 500 m <sup>3</sup> or greater	\$500 base fee	\$10,000 for the first hectare of land (or portion thereof) plus \$3000 for each additional hectare or portion thereof that will have soil deposited on it	\$200	As above
500 m <sup>3</sup> or greater	\$500 base fee plus \$1.00 for every additional 100 m <sup>3</sup> above 500	\$10,000 for the first hectare of land (or portion thereof) plus \$3000 for each additional hectare or portion thereof that will have soil deposited on it	\$200	As above

- (1) The applicant is responsible for ensuring that any conditions governing deposit of soil as defined in the *Mines Act* are adhered to.  
 (2) The permit fee must be provided prior to the issuance of a permit.  
 (3) The security deposit as defined in section 14.3, is required prior to issuance of a permit and must be renewed and in effect prior to renewal of any permit. The security deposit will continue in effect for six (6) months after the permit has expired.  
 (4) The renewal fee is required prior to an extension to the permit.

When deemed appropriate by the General Manager of Land Use Services, an industry member can apply for an exemption permit, which allows a large surety deposit to be used, which would cover the cost of remediating the site, in place of the above costs. On completion of the importation or relation, and confirmation that the site is clear of contaminants and the bylaw was adhered to, a percentage of the surety deposit would be returned and the CVRD would receive the remainder as permit revenue. This would be on a case by case basis and calculated in accordance to the volume imported and clarified via the annual report presented the mines industry.





Whilst in possession of a CVRD soils permit, the site must comply with the requirements of the Ministry of Mines and supply the CVRD with the same annual report required by the Ministry of Mines.

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**SCHEDULE "C"  
SOIL DEPOSIT  
APPLICATION FORM**

Application Number: \_\_\_\_\_ (to be assigned by CVRD staff)

Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

email: \_\_\_\_\_

Address: \_\_\_\_\_

I/we being the registered owner(s) of: (legal description of land and PID)

hereby make application to deposit \_\_\_\_\_ cubic metres of soil onto the above mentioned property.

The purpose of the soil deposit is as follows:

The area from / upon which soil is to be deposited is as shown on the attached plan and consists of \_\_\_\_\_ hectare(s) and the maximum depth to which the soil will be deposited is \_\_\_\_\_ metre(s).

**Source of soil** - The soil to be deposited originates from the following parcel(s) (civic address & legal description or PID): \_\_\_\_\_

Upon approval of this application, I / we hereby guarantee to fulfill the following conditions prior to the issuance of a Soil Deposit Permit:

- Supply a Security Deposit in the amount of \$ \_\_\_\_\_ (see Schedule A for amount)
- Submit the Permit fee in the amount of \$ \_\_\_\_\_ (see Schedule A for amount)

**Authorised Professional or Contaminated Sites Approved Professional certification:**

I hereby certify that the soil to be deposited is not contaminated under the *Contaminated Sites Regulation*.

Signature of Professional:

Professional's Seal:

\_\_\_\_\_

\_\_\_\_\_

Signature of Applicant:

Date:

\_\_\_\_\_

\_\_\_\_\_



**SCHEDULE "D"  
SOIL PERMIT**

**FILE NO:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**INDSUTRY PERMIT?**    **YES**    **NO**

**Issued to the registered property owner(s):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. This Soil Permit is issued subject to compliance with all of the bylaws of the Regional District applicable thereto, as well as any Provincial or Federal laws and regulations.
2. This Soil Permit applies to and only to those lands within the Regional District described below:  
*Civic address, if any, plus legal description (PID: xxx-xxx-xxx)*
3. Authorization is hereby given for the deposit of soil in accordance with the conditions listed in Section 4, below.
4. The soil shall be deposited in compliance with the terms and conditions and provisions of this Permit and any schedules attached to this Permit shall form a part thereof.
  - a.
  - b.
  - c.
5. The following Schedules are attached:  
 Schedule A – Site Plan  
 Schedule B – Soil Deposition Plan  
 Schedule C – Authorized Professionals Report  
 Schedule D – If applicable
6. **This Permit is not a Building Permit.**

*Issuance of this permit has been authorized by Section 9.1 of CVRD Soil Deposit Bylaw No. **xxxx**.*



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**General Manager  
Planning & Development Department**

**NOTE:** Subject to the terms of this Permit, if the holder of this Permit does not substantially start any soil deposition within 1 year of its issuance, this Permit will lapse.

**I HEREBY CERTIFY** that I have read the terms and conditions of the Soil Permit contained herein. I understand and agree that the Cowichan Valley Regional District has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with \_\_\_\_\_ other than those contained in this Permit.

*The holder of the permit shall at all times bear full responsibility for any accident which may occur, or damage which may be done to any person or property whatsoever, caused directly or indirectly by the work authorized by the permit, and shall save harmless and keep indemnified the Cowichan Valley Regional District from all claims and demands whatsoever in respect of the work.*

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**SCHEDULE "E"**

**Watershed map (to be included)**

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CVRD Soil Deposit Bylaw – Public consultation results

CVRD staff undertook a public engagement process between April 22<sup>nd</sup> – May 19<sup>th</sup> 2017, to gauge public opinion on the proposed soil deposit bylaw.

This included a number of public consultation events and the creation of a place speak page which the public and industry could provide their ideas and opinions on the suggested bylaw.

Below is a summary of the results of this process, which included online and paper surveys, suggested soil volumes and penalties and the option for free text to ensure that the public opinion was heard and taken into consideration.

Place Speak survey results

Should the CVRD regulate soil deposits?

Yes: 53/70= 75%

No: 6/70 = 9%

N/A: 11/70 = 16%

Should soil deposit be a user pay system?

Yes: 52/70 = 74%

No: 6/70 = 9%

N/A: 12/70 = 17%

Should there be penalties for infractions?

Yes: 56/70 = 80%

No: 3/70 = 4%

N/A: 11/70 = 16%

Paper survey results

25 surveys completed

*16 agreed with what was suggested = 53%*

Comments include:

“Will it make a difference?”

“We may end up getting stuck with contaminated soil”

“Toxic soil should be fined the highest amounts”

“RAR should be taken into account, 750 m minimum”

*9 disagreed with what was suggested = 47%*

Comments include:

“\$500 fines are peanuts to big companies”

“All dumping should have fees and permits”

“Local companies only to complete assessments”

“Bylaws are meaningless without enforcement”

“Not enough penalties” “fees should be more” x 4

“Security deposit seems high (\$5000) x 2”

“Need to consider SFDs”

“Toxic soil should not be permitted for any fee”

“10m<sup>3</sup> or less can be bought from a local supplier with known history on the soil”

“Receiving sites use should be known, ie SFD, school, playground etc”

“Removal provision required”

“Testing for hay and straw for herbicides should be included in the bylaw”

“The cows are out, the barn doors been open for generations and something is better than nothing – the multinational companies think they have ownership over people, water, land and food production – make Cowichan valley GMO and petro-sides free”

“This is funny, bylaws don’t help”

Discussion Summary points:

What are your thoughts on a soil deposit bylaw:

**Positive:**

Enforcement required

CVRD bylaw to be equal to CRD’s

Enforcement hotline, website and location to upload photos

CVRD protection around watersheds like CRD is key

May be expensive but health is more important

Fees appropriate but the ability to enforce removal / remediation is essential

**Negative:**

Bylaws are useless and not enforced

Unrealistic fine expectations (bound by the community charter and BC offence act)

No need for further bureaucracy and tax residents more, greedy governments.

For soil to be deposited within the CVRD, what volumes should require a permit?

**Positive:**

3 boxes or more should require a permit

Fees should be \$1 per cubic meter for more than 10m<sup>3</sup>

**Negative:**

Current system is adequate, no bylaws required - (DNC resident)

This is a cash grab by CVRD and not required, less CVRD staff not more



What requires and responsibilities should depositors be aware of, prior to depositing of soil?

**Positive:**

Guidelines and standards that would identify soil types and potential contaminations

Any regulation should align three levels of government and develop a regulatory solution that is able to legally inspect and apply penalties and bonds to be in place when movement of mass quantities of soil is being moved.

CVRD must have the financial resources available to test soil and sites, and impose the removal of soil if warranted.

**Negative:**

Not required, provincial level is enough

Already adequately regulated – DNC

Huge overkill – a content report should not be required for a truck load of soil

Soil should be tested by two professionals and results compared for accuracy

What penalties, fines and remediation should be introduced for those who deposit soil into the CVRD?

**Positive:**

Suggested amounts seem adequate

Stiffest penalties for those who deposit without permit or deposit contaminated soil

Higher fines for dumping within riparian zones

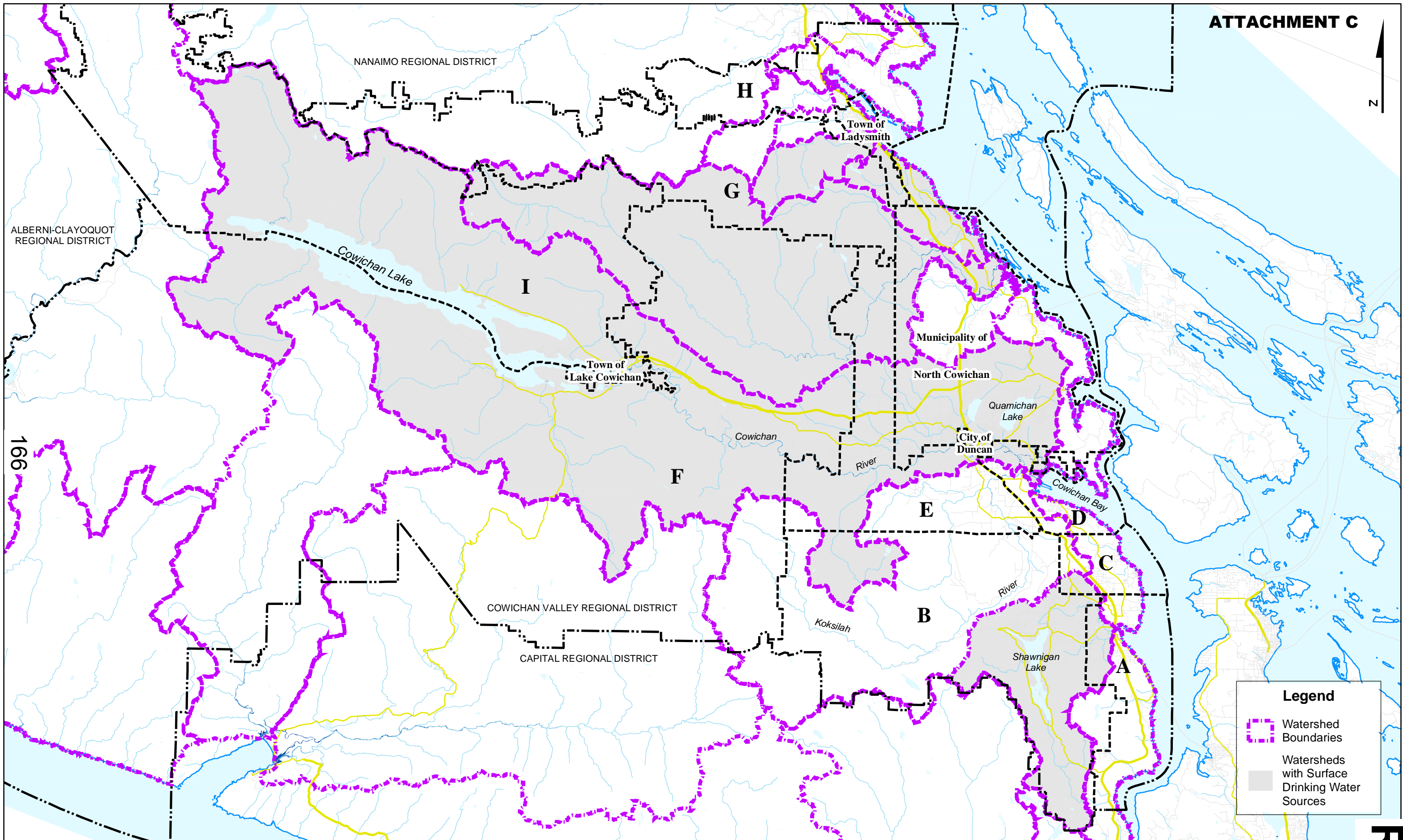
Soil removal or site remediation required

Initial campaign when bylaw is rolled out

**Negative:**

Not required – DNC

Un-necessary



ALBERNI-CLAYOQUOT REGIONAL DISTRICT

NANAIMO REGIONAL DISTRICT

166

Cowichan Lake

COWICHAN VALLEY REGIONAL DISTRICT

CAPITAL REGIONAL DISTRICT

H

G

I

Town of Lake Cowichan

Town of Ladysmith

Municipality of North Cowichan

Quamichan Lake

City of Duncan

Cowichan River

River

F

E

Cowichan Bay

D

B

Koksilah River

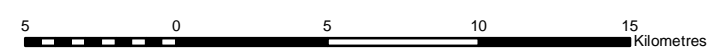
River

Shawnigan Lake

A

**Legend**

- Watershed Boundaries
- Watersheds with Surface Drinking Water Sources



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## Email Transmission

### PRIVILEGED AND CONFIDENTIAL

June 4, 2015

File No.: 130 017

**Email:** [mtippett@cvrd.bc.ca](mailto:mtippett@cvrd.bc.ca)

Mr. Mike Tippett  
 Manager  
 Community and Regional Planning Division  
 Planning and Development Department  
 Cowichan Valley Regional District  
 175 Ingram Street  
 Duncan, BC  
 V9L 1N8

Dear Mr. Tippett:

**RE: Regional District Soil Deposit and Removal Bylaws**

This is further to our recent telephone conversation in which you asked for some advice concerning the Regional District's authority to adopt a soil deposit and removal bylaw that regulates the deposit of soil making reference to the quality of the soil or contamination. Unfortunately, this is one of those situations where the law does not provide a simple answer to a straightforward question. Hopefully, my comments in this letter will at least provide a starting point for further discussion.

Section 723 of the *Local Government Act* provides as follows:

- “723 (1) This section applies to a regional district only if the regional district provides a service referred to in section 797.1 (1) (c).
- (2) The board may, by bylaw, regulate or prohibit
- (a) the removal of soil from, and
  - (b) the deposit of soil or other material on

- any land in the regional district or in any area of the regional district.
- (3) A bylaw under subsection (2) may make different regulations and prohibitions for different areas.
  - (4) Section 9 [*spheres of concurrent authority*] of the *Community Charter* applies to a provision in a bylaw under subsection (2) that
    - (a) prohibits the removal of soil, or
    - (b) prohibits the deposit of soil or other material and that makes reference to quality of the soil or material or to contamination.
  - (5) The board may, by bylaw, do one or more of the following:
    - (a) require the holding of a permit for
      - (i) the removal of soil from, or
      - (ii) the deposit of soil or other material
 on any land in the regional district or in any area of the regional district;
    - (b) impose rates or levels of fees for a permit referred to in paragraph (a);
    - (c) impose rates or levels of fees for the activities referred to in paragraph (a).
  - (6) Fees under subsection (5) (b) or (c) may vary according to the quantity of soil removed or the quantity of soil or other material deposited, and the rates or levels of fees may be different for different areas of the regional district.”

Section 723(1) refers to 797.1(1)(c) in order to confirm that in order to regulate soil deposit and removal, the Board must first establish a service for that purpose.

Section 723(4) makes it clear that the requirements for ministerial approval that apply to certain aspects of municipal soil removal and deposit bylaws, also apply to regional district bylaws. Accordingly, when section 723(4)(b) is read in combination with section 9(1)(e) of the *Community Charter*, if a regional district bylaw either:

- (a) prohibits the removal or soil; or
- (b) prohibits the deposit of soil or other material making reference to the quality of the soil or material or to contamination,

then the bylaw must be approved by the minister responsible before it is adopted by the Board.

You asked about the extent of the Regional District’s authority to adopt a bylaw that regulates (as opposed to prohibiting) soil deposit by reference to the quality of the soil or contamination. For example, you asked whether a bylaw could require that any person wishing to deposit soil must provide the Regional District with a report from a qualified professional or a testing facility as to the type and concentration of any contaminants present in the soil. As I understand it, the purpose would not be so much to attempt to prohibit the deposit of contaminated material, but would allow the Regional District to confirm with provincial authorities whether the

Mr. Mike Tippett  
 June 4, 2015  
 Page 3

necessary provincial authorizations (such as a contaminated soil relocation agreement) under the *Environmental Management Act* and *Contaminated Sites Regulation* had been issued.

The Schedule to the *Community Charter* defines the word “regulate” as:

“...includes authorize, control, inspect, limit and restrict, including by establishing rules respecting what must or must not be done, in relation to the persons, properties, activities, things or other matters being regulated.”

In *Peachland (District) v. Peachland Self Storage Ltd.*, the B.C. Court of Appeal recently considered the meaning of the word “prohibit” as used in section 9(1)(e) of the *Community Charter*, in relation to a soil removal bylaw that had been adopted by the District of Peachland. The bylaw imposed an annual limit on soil removal of 200 cubic metres per parcel, and had been adopted in response to an application that Peachland Self Storage Ltd., the petitioner, had made for a permit under the *Mines Act* in order to operate a temporary aggregate quarry on its property. After the adoption of the bylaw, the petitioner received a permit under the *Mines Act* permitting the extraction of up to 100,000 cubic metres of aggregate from its property each year. The petitioner challenged the bylaw as amounting an unlawful prohibition on soil removal. The bylaw had not been approved by the minister responsible.

The bylaw was held to be invalid in the B.C. Supreme Court, and the decision of the Supreme Court was upheld on appeal. Both levels of court rejected the municipality’s argument that a soil removal bylaw was not prohibitory unless it completely forbid all soil removal. The Court of Appeal found that the requirement for ministerial approval for bylaws that prohibit soil removal was to safeguard the provincial interest in permits that are issued under the *Mines Act*. The bylaw in question was prohibitory since the limits on soil removal were so low that no industrial scale extraction was possible. The court stated:

“Given that the reference to the “Provincial interest” in section 9(3) of the *Community Charter* must refer to an interest in the sort of industrial-scale extraction that is important to the Provincial economy, I agree with the chambers judge’s conclusion that the 2007 bylaw can only be characterized, for practical purposes, as a prohibition on soil removal.”

The type of bylaw you are contemplating is obviously different, but it is important to keep the *Peachland* case in mind as the Court of Appeal did observe that the dividing line between a bylaw that is regulatory, as opposed to one that is prohibitory, is difficult to discern, the result being that the limits of local government jurisdiction in this area are far from certain. In the *Peachland* case, the Court of Appeal referred to case law which suggests that the word “prohibit” can be given the broad connotation of something that is “impermissible” or “restrained”. In other words, a statute that forbids the doing of something that is contrary to a regulatory scheme could be characterized as “prohibitory”. I do not think a court would go so far in interpreting the legislation in issue in this case, but it would be a matter of argument, and ultimately for the court to decide, where the dividing line between regulation and prohibition lies.

The wording of section 723(4)(b) of the *Local Government Act*, and section 9(1)(e)(ii) of the *Community Charter*, does suggest on its face that a bylaw may *regulate* in regulation to soil

Mr. Mike Tippett  
June 4, 2015  
Page 4

deposit, by reference to the soil's quality or contamination, without the need for ministerial approval. The definition of the word "regulate" suggests that there must be at least some room for a local government bylaw which "authorizes, controls, inspects, limits and restricts" soil deposit by reference to contamination, without the necessity for obtaining ministerial approval, as long as the bylaw does not cross the line and become prohibitory in effect. As with the case of the soil removal bylaw in issue in the *Peachland* case, a court would likely consider where the "Provincial interest" lies in relation to the control of the deposit of contaminated soil, when considering whether a bylaw was regulatory or prohibitory.

In the course of considering your question, I reviewed a number of soil deposit and removal bylaws from other jurisdictions, and did find bylaws that included provisions such as the following:

- a requirement that the permit application include a description of the soil or other material to be deposited or removed and the purpose for its deposit or removal;
- a requirement that the permit application include copies of all permits and approvals of the provincial and federal authorities in relation to the proposed deposit or removal;
- a requirement that the permit application show the location of all watercourses, wells, ditches and so on within a stated distance of the land where the deposit or removal is to occur, and the measures proposed to protect them;
- a requirement that the permit application include plans for sediment control;
- a requirement that the permit application include a declaration that the soil is not contaminated;
- a requirement that the permit application show the proposed origin and destination of the soil;
- authority for the officer or employee charged with responsibility to issue permits to refuse a permit if the activity would damage, destroy, obstruct, divert or impede the flow of water or injuriously affect a watercourse, ditch, covenant area, and so on;
- authority to refuse a permit if the activity would threaten the health of drinking water, or the health or safety of the public;
- that permits are subject to the condition that only clean, non-contaminated soil may be deposited.

Some of these provisions appear designed to address concerns similar to those that the Regional District has in relation to the deposit of contaminated soil. Some of these provisions are of questionable legal authority. A requirement that the application include a declaration that the soil is not contaminated would suggest that if the declaration is not given, the application could be refused. A court would likely characterize this as a prohibition. In my opinion, a provision in the bylaw that permits are subject to the condition that the soil is not contaminated also crosses the line, and would likely be characterized as a prohibition against depositing contaminated soil.

One issue to consider is that a requirement for provision of soil testing results would serve no practical purpose, within the context of the Regional District's regulatory scheme, if the Regional District was not seeking to exert any control over the deposit of the soil. Requirements like that could be challenged as invalid if their sole purpose was to assist provincial authorities with the enforcement of provincial statutes and regulations. On the other

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hand, requiring an applicant to demonstrate that if the soil is contaminated, they have all permits and authorizations required from senior levels of government does not seem unreasonable, since the Regional District would presumably not want to issue a permit for an activity that was illegal under provincial or federal legislation. Additionally, there may be a sound legal basis for imposing conditions for the deposit of contaminated soil, as an aspect of regulating that activity, such as that contaminated soil must not be deposited within so many metres of a watercourse or other environmentally sensitive area.

As noted, the *Peachland* decision does suggest that there is a significant grey area between prohibition on the one hand, and regulation on the other. The *Peachland* decision leaves open the possibility that provisions which “regulate” soil deposit by reference to contamination could be challenged where the effect of the bylaw is prohibitory. In considering where the line is to be drawn, the courts would likely consider where the Provincial interest lies, given the requirement for Ministerial approval, and could conceivably decide that regulations which interfere significantly with the Provincial interest are “prohibitory”. One possible approach would be to develop a set of regulations and to ask Provincial officials to review them and to advise if anything in the Regional District’s regulatory scheme cause concern. The Regional District could even go so far as to ask the Minister responsible to approve the bylaw, whether or not there is an argument to be made that the bylaw is purely regulatory in its effect.

In addition, the Regional District needs to consider how effective any regulatory scheme would be. Would the limited regulations that could be put in place satisfy the concerns of the community? Further, if the Regional District establishes a permit system that regulates the deposit of contaminated soil, how will the Regional District determine the appropriate permit conditions? In permitting this activity, would the Regional District be assuming a duty of care in relation to persons or property owners who might be affected by the escape of contaminants from the contaminated soil?

I would be happy to answer any questions you may have.

Yours truly,

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