

**CORPORATION OF THE CITY OF COURTENAY
COUNCIL MEETING AGENDA**

DATE: November 06, 2017
PLACE: City Hall Council Chambers
TIME: 4:00 p.m.

1.00 ADOPTION OF MINUTES

1. Adopt October 16th, 2017 Regular Council meeting minutes and October 30th, 2017 Committee of the Whole meeting minutes

2.00 INTRODUCTION OF LATE ITEMS

3.00 DELEGATIONS

1. Kyle Cheyne – Leaf Compassion Incorporated Business Licence

4.00 STAFF REPORTS/PRESENTATIONS

(a) CAO and Legislative Services

- 1 1. Leaf Compassion Business Licence

(b) Development Services

- 21 2. Zoning Amendment Bylaw No. 2900 to Allow for a Secondary Detached Dwelling at 191 Willemar Avenue

(c) Financial Services

- 47 3. Former Fields Sawmill (Kus Kus Sum) Site
- 53 4. 2018 - 2022 Municipal Solid Waste, Recyclables, and Yard Waste Budgets
- 61 5. Assessment Appeals Reserve

5.00 EXTERNAL REPORTS AND CORRESPONDENCE FOR INFORMATION

6.00 INTERNAL REPORTS AND CORRESPONDENCE FOR INFORMATION

73

1. Heritage Advisory Commission Meeting Minutes September 27, 2017

7.00 REPORTS/UPDATES FROM COUNCIL MEMBERS INCLUDING REPORTS FROM COMMITTEES

8.00 RESOLUTIONS OF COUNCIL

1. In Camera Meeting

That notice is hereby given that a Special In-Camera meeting closed to the public will be held November 6th, 2017 at the conclusion of the Regular Council Meeting pursuant to the following sub-sections of the *Community Charter*:

- 90 (1) (c) labour relations or other employee relations;

9.00 UNFINISHED BUSINESS

10.00 NOTICE OF MOTION

11.00 NEW BUSINESS

12.00 BYLAWS

For First and Second Reading

- 75
1. "Zoning Amendment Bylaw No. 2900, 2017"
(to Allow for a Secondary Detached Dwelling, 191 Willemar Avenue)

For First, Second and Third Reading

- 77
1. "Assessment Appeals Reserve Bylaw No. 2896, 2017"
(Create a reserve to provide funding for Assessment Appeal losses exceeding current year budgeted dollars)

- 81
2. "City of Courtenay Fees and Charges Amendment Bylaw No. 2904, 2017"
(to repeal Solid Waste Collections Fees Amending Bylaw 2865, 2016)

For Third Reading and Final Adoption

- 85
1. "Zoning Amendment Bylaw No. 2895, 2017"
(Rezoning from (R-1) to (R-1S), 1290 – 10th Street East)

For Final Adoption

- 87 1. “Revenue Anticipation Borrowing Bylaw No. 2908, 2017”
 (To enable payment of City expenses until the annual property tax revenues have
 been collected)

13.00 ADJOURNMENT



STAFF REPORT

To: Council
From: Chief Administrative Officer
Subject: Leaf Compassion Incorporated Business Licence

File No.: 4020-20 (2017)
Date: November 6th, 2017

PURPOSE:

The purpose of this report is for Council to reconsider the staff decision to deny the issuance of a business licence for Leaf Compassion Incorporated.

CAO RECOMMENDATIONS:

That based on the November 6th, 2017 staff report "Leaf Compassion Business Licence", Council pass a resolution from the following options along with any other terms or conditions:

1. That Council confirm the business licence denial for Leaf Compassion Incorporated; or
2. That Council uphold the business licence refusal but direct that staff bring forward a report regarding options for temporarily licencing dispensaries via Temporary Use Permit or other bylaw amendments to allow dispensaries.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

Leaf Compassion Inc. opened a "medical cannabis dispensary" located at 379 4th Street on October 1st, 2017 without a business licence. A municipal ticket was issued in the amount of \$500.00 on Monday October 2nd, 2017 for operating without a business licence.

On October 5th, 2017 Leaf Compassion Inc. applied for a business licence.

DISCUSSION:

Section 2.5 of the *City's Business Licence Bylaw No. 2523, 2008* requires applicants for business licences to comply with all bylaw requirements in the City prior to licence issuance.

The proposed business premises are zoned C-1 pursuant to the City's *Zoning Bylaw No. 2500, 2007*. Section 4.1 of the Zoning Bylaw prohibits all uses of land that are not expressly permitted by the Bylaw. "Medical Cannabis dispensary" is not a permitted use in the C-1 zone. In addition, retail sale of cannabis is not lawful in Canada at this time.

Based on the above, the application for a business licence was denied on October 11th, 2017. A copy of the denial letter is attached for Council's reference.

Where an applicant has been refused a licence, the applicant may appeal the decision to Council. The licence inspector must notify the applicant or the licensee affected by the decision of their right to have the matter reconsidered by Council.

On appeal, Council may confirm or set aside the refusal.

Option 2 provides Council the option to uphold the business licence refusal but explore options for temporary licencing. This would require additional research by staff. Regarding a Temporary Use Permit, this would require an amendment to the City of Courtenay Official Community Plan.

FINANCIAL IMPLICATIONS:

Depending on the decision of Council and subsequent actions of the applicant, the financial implications are unknown at this time.

ADMINISTRATIVE IMPLICATIONS:

Staff have spent approximately 10 hours in relation to this situation. Additional staff resources may be required depending on the decision of Council and subsequent actions of the applicant.

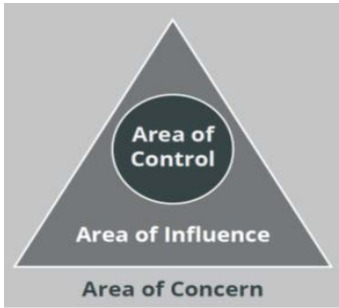
ASSET MANAGEMENT IMPLICATIONS:

None.

STRATEGIC PRIORITIES REFERENCE:

We focus on organizational and governance excellence

- We support meeting the fundamental corporate and statutory obligations
- We recognize staff capacity is a finite resource
- We responsibly provide services at a level which the people we serve are willing to pay



- **Area of Control**
The policy, works and programming matters that fall within Council’s jurisdictional authority to act.
- ▲ **Area of Influence**
Matters that fall within shared or agreed jurisdiction between Council and another government or party.
- **Area of Concern**
Matters of interest outside Council’s jurisdictional authority to act.

OFFICIAL COMMUNITY PLAN REFERENCE:

None.

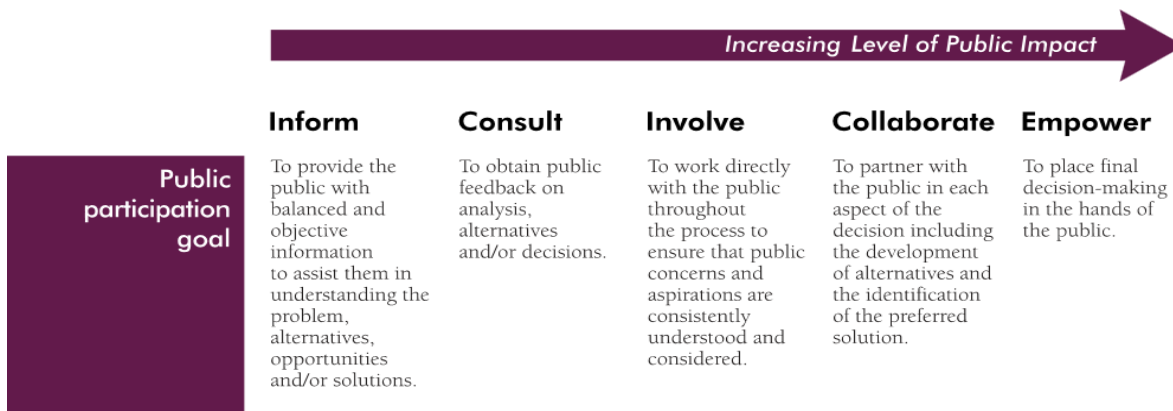
REGIONAL GROWTH STRATEGY REFERENCE:

None.

CITIZEN/PUBLIC ENGAGEMENT:

No public engagement is recommended at this stage based on the IAP2 Spectrum of Public Participation:

http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/imported/IAP2%20Spectrum_vertical.pdf



OPTIONS:

OPTION 1: That Council confirm the business licence denial for Leaf Compassion Incorporated.

OPTION 2: That Council uphold the business licence refusal but direct that staff bring forward a report regarding options for temporarily licencing dispensaries via Temporary Use Permit or other bylaw amendments to allow dispensaries.

Prepared by:

A handwritten signature in black ink, appearing to read "John Ward".

John Ward, CMC
Director of Legislative and Corporate Services
Deputy Chief Administrative Officer

Attachments:

1. *Leaf Compassion Incorporated Business Licence Application*
2. *City of Courtenay Business Licence Application Denial*
3. *City demand letter dated October 11, 2017*
4. *Leaf Compassion response to demand letter dated October 25, 2017*
5. *City response dated October 30, 2017*



CITY OF COURTENAY
 Building Services
 830 Cliffe Avenue
 Courtenay, BC V9N 2J7
 Tel: 250-703-4862 Fax: 250-334-4241
 Email: building@courtenay.ca

BUSINESS LICENCE APPLICATION COPY

PRIMARY APPLICANT INFO.		JOINT APPLICANT INFO.	
Name: Kyle Cheyre	Address: 950 Gales Street	Name: Charles Philip	Address: 2503 Bule drive
City: Victoria Victoria	Postal: V8V 3M2	City: Sooke	Postal: V9Z 0X8
Tel: 250-415-9782	Cel:	Tel: 250 589 6557	Cel: -
Fax:	DOB: June 16 th 1987	Fax: -	DOB: June 09, 1983
Email:		Email: charles@leafcompassion.com	

I/WE THE UNDERSIGNED MAKE APPLICATION FOR A BUSINESS LICENCE IN ACCORDANCE WITH THE INFORMATION GIVEN AND DECLARE THE STATEMENTS ARE TRUE AND CORRECT. I/WE UNDERTAKE, IF GRANTED THE LICENCE APPLIED FOR, TO COMPLY WITH EACH AND EVERY OBLIGATION CONTAINED IN BYLAWS NOW IN FORCE OR WHICH MAY HEREAFTER COME INTO FORCE IN THE CITY OF COURTENAY.

Signature of Primary Applicant:	Date: October 5 th 2017
Signature of Joint Applicant:	Date: October 5 th 2017

GENERAL INFORMATION

New Business Change of Mailing Address Change of Business Location Change of Owner Change of Trade Name

Previous Location or Trade Name:

Business Trade Name: Leaf - Compassion Incorporated

Business Location: 379 4th Street

Select the Primary Mailing Address for Business: Primary Applicant Joint Applicant Business Location

Proposed Opening Date: October 1 2017

Number of Employees: 3-5 Parking Spaces Available: 4-6 Street

Retail Area (sq. ft.): 400 Previous Use of Space: retail

IMPROVEMENTS OR ALTERATIONS PLANNED - INTERIOR AND OR EXTERIOR: NO YES

If yes, describe (in full): Security, Alarms, Camera System, Paint, Decals, Flooring, re film windows

SIGNAGE: NO YES (IF YES - NEW ADDITIONAL ALTERATIONS)

If yes a Sign Permit may be required. Please follow up with staff for application information.

DESCRIPTION OF BUSINESS (IN FULL) TO BE CONDUCTED

Medical Cannabis Dispensary

GENERAL CONTRACTORS TRADES & MOBILE BUSINESSES

TRADE QUALIFICATION (TQ)#

OPERATING IN COURTENAY ONLY

INTER MUNICIPAL (COMOX & COURTENAY) \$150.00 PER YEAR

INTER COMMUNITY (DUNCAN TO CAMPBELL RIVER) \$250.00 PER YEAR

CRIMINAL RECORD INFORMATION

DO YOU HAVE A CRIMINAL RECORD? NO YES If yes please specify:

I AUTHORIZE THE CITY OF COURTENAY TO DO A CRIMINAL RECORD CHECK IF NECESSARY

OFFICE USE ONLY

CLASSIFICATION:	REFERRALS: <input type="checkbox"/> Fire <input type="checkbox"/> Bldg Dept <input type="checkbox"/> Planning <input type="checkbox"/> VIHA <input type="checkbox"/> Comox
FEE:	PAYMENT DATE:
ROLL #:	LICENCE NO:
DATE OF APPROVAL:	APPROVED BY:

THE CORPORATION OF THE CITY OF COURTENAY

Legislative Services Department
830 Cliffe Avenue
Courtenay, B.C.
V9N 2J7



Phone (250) 334-4441
Fax (250) 334-4241
info@courtenay.ca

City File No. 4020-20 (2017)

October 11, 2017

Leaf Compassion Incorporated
c/o
Kyle Cheyne
950 Yates Street
Victoria, B.C V8V 3M2

Charles Philp
2503 Brule Drive
Sooke, B.C.V9Z 0X8

Re: Business Licence Application

We are in receipt of your application for a business licence dated October 5th, 2017 to operate a medical cannabis dispensary at 379 4th Street in the City of Courtenay.

Section 2.5 of the City's Business Licence Bylaw No. 2523, 2008 requires applicants for business licences to comply with all bylaw requirements in the City prior to licence issuance.

The proposed business premises are zoned C-1 pursuant to the City's Zoning Bylaw No. 2500, 2007. Section 4.1 of the Zoning Bylaw prohibits all uses of land that are not expressly permitted by the Bylaw. Medical cannabis dispensary is not a permitted use in the C-1 zone. In addition, retail sale of cannabis is not lawful in Canada at this time.

Accordingly, the application for a business licence for a medical cannabis dispensary is hereby denied.

Pursuant to section 2.8 of Business Licence Bylaw No. 2523, 2008 and section 60 (5) of the *Community Charter, [SBC 2003] Chapter 26*, you are entitled to have Council reconsider this decision. If you wish Council to reconsider this decision, please make this request in writing to the undersigned, and your request will be placed before Council at the next available regular Council meeting.

Yours truly,

A handwritten signature in blue ink, appearing to read 'John Ward', is written over a horizontal line.

John Ward, CMC
Director of Legislative and Corporate Services
Deputy Chief Administrative Officer

LIDSTONE & COMPANY
BARRISTERS AND SOLICITORS

October 11, 2017

BY COURIER

Leaf Compassion Inc.
c/o Cook Roberts LLP
7th Floor, 1175 Douglas Street
Victoria BC V8W 2E1

Re: Marihuana Dispensary at 379 4th Street, Courtenay BC
Our File 10163-080

We act for the City of Courtenay. We are instructed to assist the City in obtaining compliance with its Business Licence Bylaw No. 2523, 2008 and Zoning Bylaw No. 2500, 2007 in respect of the premises located at 379 4th Street, which are zoned C-1.

We are advised that Leaf Compassion Inc. began operating a marihuana dispensary at the premises on October 3, 2017.

Section 4.1 of the Zoning Bylaw prohibits all uses of land that are not expressly permitted by the Bylaw. Medical cannabis dispensary is not a permitted use in the C-1 zone. The retail sale of cannabis is also prohibited pursuant to the *Controlled Drugs and Substances Act*.

We are advised that Leaf Compassion Inc. applied to the City for a business licence on October 5, 2017. The application has been denied, as the City does not issue business licences for uses of land that are not permitted under the applicable zoning or that are prohibited by criminal law. A copy of the denial letter is enclosed.

The Business Licence Bylaw prohibits the operation of a business within the City without a valid licence, and the Zoning Bylaw prohibits the use of land, buildings and structures in contravention of the applicable zoning.

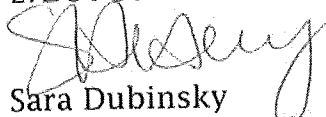
Breaches of the Business Licence Bylaw are punishable by issuance of tickets in the amount of \$500, per day. The City's bylaws are also enforceable by statutory injunction and *Offence Act* prosecution.

SUITE 1300 - SUN TOWER - 128 PENDER STREET WEST - VANCOUVER BC - V6B 1R8
TELEPHONE 604-899-2269 - FACSIMILE 604-899-2281 - TOLL FREE 1-877-339-2199
(00433176: 1)

Leaf Compassion Inc. is directed to cease the unlawful activities at 379 4th Street, immediately. Failure to comply will result in the City commencing enforcement proceedings without further notice.

Sincerely,

LIDSTONE & COMPANY



Sara Dubinsky
dubinsky@lidstone.info

SD/sd

c. Client

encl. Business Licence Denial Letter



TOUSAW LAW CORPORATION

October 25, 2017

City of Courtenay
c/o Sara Dubinsky
Lidstone & Company
128 West Pender Street
Vancouver, BC V6B 1R8

VIA EMAIL: dubinsky@lidstone.info

Dear Ms. Dubinsky:

RE: Leaf Compassion
379 4th Street, Courtenay, BC
Your file # 10163-080

My firm is counsel to Leaf Compassion. This letter responds to your letter of October 11.

In your letter you make reference to the allegedly unlawful status of medical cannabis dispensaries. I can advise that my view is that the current government regulations are constitutionally deficient and of no force and effect. The activities of medical cannabis dispensaries provide patients with *Charter* mandated "reasonable access" to medical cannabis consistent with the various decisions of the courts that have considered this issue.

The courts have had occasion to consider the issue of access the medical cannabis and a reasonable source of supply many times over the past two decades. The decisions are almost universally favourable to patients and their sources of supply. It is my client's position that the *Canadian Charter of Rights and Freedoms* protects reasonable access by patients and therefore dispensaries as their source of supply.

Indeed, the most recent decision of the Federal Court in this area is a case called *Allard v. Canada*, 2016 FC 236 which included Justice Phelan commenting on medical cannabis dispensaries and calling them the "heart of access" to medical cannabis.

There is currently litigation ongoing in Federal Court Trial Division filed by a medical cannabis dispensary seeking a declaration of invalidity of the *CDSA* and

the current medical exemption scheme due to violations of sections 7 and 15 of the *Canadian Charter of Rights and Freedoms*. I am counsel to the Plaintiff in that action and expect that Leaf Compassion would have similar arguments should it be forced to defend itself from any bylaw infractions or other action by the City.

History

Medical cannabis dispensaries, or “compassion clubs,” are organizations that exist to provide access to medical cannabis to patients that consume it for the treatment of the medical conditions and/or symptoms. These entities currently operate outside the federal regulatory framework for medical cannabis (under the *MMAR*, the initial regulatory scheme, or under the *MMPR*, the last regulatory scheme or the *ACMPR*, the current system) though Licensed Producers under the *MMPR* and *ACMPR* can be considered a form of dispensary that is restricted in its distribution to mail order sales only.

Despite urging the federal government to regulate their operations for more than a decade, all of the government regulations failed to do so. This omission has led to a number of *Charter*-based constitutional challenges. The various regulatory schemes have been found to arbitrarily restrict the supply options of medical cannabis patients, in violation of section 7 of the *Charter of Rights and Freedoms*, in cases in both the civil and criminal courts. Below I set out excerpts from the decisions with the most relevance to the operation of dispensaries.

On July 31, 2000, the Ontario Court of Appeal confirmed the existence of a constitutional right to consume cannabis as medicine. The government chose not to appeal this decision and the *Parker* case became the seminal case on the constitutional requirement that the government provide a means by which medical cannabis users can be exempted from the operation of the criminal law. The following excerpts from the decision outline the key components of the ruling:

a) The Liberty Interest

Liberty includes the right to make decisions of fundamental personal importance. Deprivation of this right must also accord with the principles of fundamental justice. I have little difficulty in concluding that **the choice of medication** to alleviate the effects of an illness with life-threatening consequences is such a decision ... [This decision] is a right that Robins J.A. ranked as “fundamental and deserving of the highest order of protection To intrude into that decision-making process through the threat of criminal prosecution is a serious deprivation of liberty (paragraphs 92 & 103).

b) The Security Interest

[Section 7] protects the right to make choices concerning one's own body and

control over one's physical and psychological integrity free from interference by criminal prohibition. **Preventing Parker from using marijuana to treat his condition by threat of criminal prosecution constitutes an interference with his physical and psychological integrity** (paragraph 110).

d) Common Law Right of Access to Treatment

While there is obviously a difference between a right to refuse treatment and a right to demand treatment, they can also be seen as two points on a continuum rooted in the common-law right to self-determination with respect to medical care. **This includes the right to choose to select among alternative forms of treatment...**Some common-law support for access to drugs with a therapeutic value can also be found in the defence of necessity...**Permitting access to medicine that may relieve debilitating symptoms of illness is consistent with the common understanding about the purpose of proper medical care** (paragraphs 135,136 & 138).

e) Restricting Access to New Drugs

There may be circumstances in which the state interest in regulating the use of new drugs prevails over the individual's interest in access. This, however, is not one of those circumstances. The evidence establishes that the danger from the use of the drug by a person such as Parker for medical purposes is minimal compared to the benefit to Parker and the danger to Parker's life and health without it. It may be that the state is entitled to require the approval of the patient's choice by a physician in much the same way that in *Morgentaler*, Beetz J. contemplated that even if there was a right of access to abortion founded upon the right to liberty, a second medical opinion as to the mother's health could be justified in some circumstances (Wilson J. suggested the second trimester) because of the state interest in the protection of the foetus. However, the current legal and administrative structure completely deprives Parker of any choice, even with the approval of his physician (paragraph 161).

***R. v. Parker* (2000), 188 D.L.R. (4th) 385 (Ont. C.A.) (emphasis supplied).**

Subsequent to *Parker* the government promulgated the MMAR.

Shortly after the MMAR were promulgated, the regulations became the subject of litigation launched by a group of medical cannabis consumers. The newly-minted MMAR were found to be constitutionally defective in *Hitzig v. Canada*, (2003), 171 C.C.C. (3d) 18 (*Hitzig I*) because they "fail[ed] to provide individuals who have

a serious medical need to use marijuana with a legal source and safe supply of their medicine.”

Lederman, J's decision in *Hitzig I* was upheld by a unanimous Ontario Court of Appeal in *Hitzig et al v. Canada* (2003) 177 CCC (3d) 449 decided October 7, 2003 (*Hitzig II*). The overly restrictive scheme for accessing a legal supply of marijuana set out in the MMAR were found to pose unconstitutional obstacles to medical users' access to a legal source of supply. The *Hitzig II* court urged the government to, in effect, regulate dispensaries:

[162] **As the record makes clear, there are a number of people who already have a source of marihuana and wish to engage in compassionate supply of it to those in medical need. Indeed the Government's case rested in large part on their existence. It argued that they effectively serve as "unlicensed suppliers" for ATP holders.** It may be that not all of these people would satisfy the requirements to become DPL holders set out in the MMAR. However, we are satisfied that, on this record, enough would do so that taken together with existing DPL holders, the DPL mechanism as modified could then provide a licit source of supply to ATP holders. Once this modification is implemented, ATP holders would therefore no longer need to access the black market to get the marihuana they need.

[173]...a central component of the Government's case is that there is an established part of the black market, which has historically provided a safe source of marihuana to those with the medical need for it, and that there is therefore no supply issue. **The Government says that these “unlicensed suppliers” should continue to serve as the source of supply for those with a medical exemption. Since our remedy in effect simply clears the way for a licensing of these suppliers, the Government cannot be heard to argue that our remedy is unworkable.**

***Hitzig II* at 162, 173**

Instead of doing so, the government chose to re-enact, verbatim, the unconstitutional restrictions on supply that had been stricken by the Court in *Hitzig II*.

This prompted further litigation.

On January 10, 2008, the Federal Court Trial Decision issued its ruling in *Sfethopoulos et.al. v. Attorney General of Canada*, 2008 FC 33. The Federal Court found the MMAR to be unconstitutional, agreeing that one of the restrictions

stricken by the *Hitzig II* Court and re-enacted verbatim by Health Canada (the 1:1 Ratio) should be declared constitutionally invalid and, again, be stricken:

Consequently, I have concluded that the restraint on access which subsection 41(b.1) provides [the 1:1 Ratio] is not in accordance with principles of fundamental justice...It does not adequately respond to the concerns motivating the Ontario Court of Appeal judgment in *Hitzig*...the only factor which has changed since the *Hitzig* case arose is the advent of PPS as a licensed dealer...**In my view it is not tenable for the government, consistently with the right established in other courts for qualified medical users to have reasonable access to marihuana, to force them either to buy from the government contractor, grow their own or be limited to the unnecessarily restrictive system of designated producers."**

Sftekopoulos at paragraphs 10 and 25 (emphasis added).

This decision was upheld on appeal *Canada (Attorney General) v Sftekopoulos*, 2008 FCA 233.

Subsequently, the British Columbia Supreme Court decided *R v. Beren*, 2009 BCSC 429, leave to appeal to the Supreme Court of Canada denied. This case involved a producer for a medical cannabis dispensary located in Victoria, BC. In the result, the Court determined that the government should have the opportunity to amend its unconstitutional Regulatory Scheme to license medical cannabis dispensaries:

[72] **Thus, the evidence in this trial demonstrates that the source, the form, and the atmosphere in which cannabis is obtained, in all probability increases the effectiveness of the substance. Barriers to obtaining this type of cannabis, from a safe and supportive source which the patient believes will provide effective pain relief, contributes to the frustration of seriously ill patients.** In the MMAR regime, generally patients must spend months, if not years, persuading their physicians of the benefits of cannabis for them, finding a specialist who is sympathetic to their perceived need for such unorthodox medication, completing an application and finally, if successful, receiving cannabis from the government. However, it is alleged, that this source lacks a supportive network of belief in the efficacy of different strains, lacks the benefits of belief in organic growing methods, and, perhaps most important, lacks a supportive environment in using an unorthodox medication.

[115] The trial court decision in *Sftekopoulos*, affirmed by the federal Court of Appeal in October 2008, dealt specifically with the issue of whether, given

the government supply as a third source of medical marihuana, the restrictions created by the MMAR in ss. 41(b.1) and 54.1, pass constitutional muster. The trial court's decision was in relation to a judicial review of the Minister's disallowance of an application by an organization, similar to a compassion club, to produce medical marihuana for sale to more than two applicants. The trial court found that the disallowance illustrated that those specific provisions were unconstitutional.

[127] Adopting the reasoning in *Hitzig and Sfetkopoulos*, further bolstered by the evidence before this court, I find ss. 41(b.1) and 54.1 of the MMAR contrary to s. 7 of the Charter.

[134] Such regulation and licensing requires careful thought in drafting. Consistent with the reasoning in *Schachter v. Canada*, [1992] 2 S.C.R. 679, 93 D.L.R. (4th) 1, these provisions, unduly restricting DPLs from growing for more than one ATP or growing in concert with two other DPLs, are hereby severed from the MMAR.

[135] **The government, in my view, will need time to put in place appropriate monitoring and enforcement mechanisms in relation to such compassion clubs. Thus, it is appropriate to stay the effect of this declaration of invalidity for one year.**

Beren at paragraphs 72, 115, 127, 134 and 135.

The government sought, unsuccessfully, to appeal *Beren* to the Supreme Court of Canada.

Further, in the decision of the Federal Court in *Allard v. Canada* 2016 FC 236, the Court held the *MMPR* regime to be unconstitutional because of barriers to access the regime interposed between patients and a reasonable source of medicine. In coming to his conclusion, Justice Phelan considered the role of medical cannabis dispensaries (despite that dispensaries were not central to the claims raised in the case) and called them the "heart of access" to medical cannabis (see paragraph 162).


Further, the prohibition on accessing non-dried forms of medical cannabis was stricken by in a *per curiam* decision of a unanimous Supreme Court of Canada in *R v. Smith* [2015] 2 S.C.R. 602. The government's response to that decision (issuing a series of exemptions pursuant to s. 56 of the *CDSA* and codifying those exemptions in the *Access to Cannabis for Medical Purposes Regulation*, which replaced the *MMPR*) is insufficient and does not address the constitutional shortcomings identified by the Court in *Smith*.

In response to the *Allard* decision the federal government implemented the *ACMPR*, which is essentially a blend of the two prior regimes. Dispensaries continue to be unregulated at the federal level, though many municipalities have enacted, or are considering, regulating dispensaries using zoning and business bylaws. The clearest examples are Vancouver and Victoria, but other local jurisdictions such as Cumberland, Port Alberni and Squamish have also stepped in to fill the legislative void.

As you can see from this summary, the courts have repeatedly found that the *Charter* is violated by unduly restrictive regulations that impede patient access to a supply of medical cannabis and medicines derived from cannabis. The courts have also repeatedly urged the government to expand its regulations to include dispensaries. Because the government has, thus far, chosen not to do so, medical cannabis dispensaries continue to, as they have for more than two decades, fill the supply gaps created by the government's unconstitutional programs and, as such, are a vital component of providing patients with access to medicine.

I again urge the City to reconsider its position in this regard. Rather than depriving its residents of an essential and *Charter*-protected right to reasonable access to medical cannabis, the City could take a leadership role and implement sensible regulations and/or issue my client a Temporary Use Permit or analogous permit to allow its continued operation. My client stands ready to work with the City on this matter.

Yours very truly,



Kirk Tousaw
Tousaw Law Corporation

LIDSTONE & COMPANY
BARRISTERS AND SOLICITORS

October 30, 2017

BY EMAIL

Kirk Tousaw
Tousaw Law Corporation
2459 Pauline Street
Abbotsford BC V2S 3S1

Re: Marihuana Dispensary at 379 4th Street, Courtenay BC
Our File 10163-080

We are in receipt of your letter of October 25, 2017, which refers to the "allegedly unlawful status of medical cannabis dispensaries" and your view that the current government regulations are constitutionally deficient.

We understand that you will be appearing as a delegation at the Council meeting at which Courtenay City Council will be reconsidering the denial of your client's business licence application. While it is certainly open to you to raise the matters addressed in your letter with Council, the position that dispensaries are unlawful and municipalities are entitled to enforce their business licence and zoning bylaws is well supported: between January 2016 and as recently as last month we have successfully enforced municipal bylaws against a multitude of dispensaries located in Abbotsford, Delta, Campbell River, Richmond and Kent.

In addition, we note the following jurisprudence:

1. *R. v. Malmo-Levine; R. v. Caine*, [2003] 3 S.C.R. 571:

- a) "depriving the general user of the freedom to smoke "pot" is not the violation of a freestanding constitutional right." (para. 145);
- b) [185] **A taste for marihuana is not a "personal characteristic"** in the sense required to trigger s. 15 protection: *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143. As Malmo-Levine argues elsewhere, **it is a lifestyle choice**. It bears no analogy with the personal characteristics listed in s. 15, namely race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. It would trivialize this list to say that "pot" smoking is analogous to gender or religion as a "deeply personal characteristic

that is either unchangeable or changeable only at unacceptable personal costs”: *Egan v. Canada*, [1995] 2 S.C.R. 513, at para. 5; *Vriend, supra*, at para. 90. **Malmo-Levine’s equality claim therefore fails at the first hurdle** of the requirements set out in *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 S.C.R. 497. The true focus of s. 15 is “to remedy or prevent discrimination against groups subject to stereotyping, historical disadvantage and political and social prejudice in Canadian society”: *Swain, supra*, at p. 992, *per* Lamer C.J.; and *Rodriguez, supra*, at p. 616. **To uphold Malmo-Levine’s argument for recreational choice (or lifestyle protection) on the basis of s. 15 of the Charter would simply be to create a parody of a noble purpose.**

2. *R. v. Boehme*, 2016 BCSC 2014:

- a) The constitution recognises no free-standing right to use or supply marihuana (para. 29);
- b) The decision to use marihuana for therapeutic purposes, without physician approval, is not constitutionally protected (para 43);
- c) [74] ... There is no doubt that Parliament has the constitutional authority, in the interests of public health and safety, to prohibit the circulation of marihuana outside a licenced commerce created by regulatory exemption for authorised medical use. While it seems that this long-standing government policy may soon be changed — Parliament has the power to legalize as well as criminalize — for present purposes I will simply say that unregulated, unlimited patient choice in the matter of medical marihuana is not constitutionally mandated. No unlicensed individual has a constitutional right to produce, distribute or use marihuana.

3. *Abbotsford (City) v. Mary Jane’s Glass & Gifts Ltd.*, 2017 BCSC 237:

- a) Zoning bylaws that prohibit cultivating, growing, producing, packaging, storing, distributing, dispensing, trading or selling of cannabis are a valid exercised of provincial (and therefore municipal) jurisdiction;
- b) Zoning bylaws that prohibit marihuana dispensaries do not restrict access to medical marihuana, as federal law establishes that medical marihuana is not available through retail dispensaries (para. 60);

- c) [74] I find the City's Business Licence and Zoning Bylaws to be constitutionally valid. I decline to declare the bylaws unduly restrict access to medical marihuana and unjustly infringe ss. 7 and 15 of the Charter, or that they are of no force and effect.

4. *Toronto (City) v. Lanova Outsourcing Corp.*, 2017 ONSC 5743:

- a) Municipalities may enforce their zoning bylaws to prohibit the storage or distribution of marihuana by dispensaries via interlocutory injunction pending the hearing of a constitutional challenge to the *CDSA*, the *ACMPRs* and the zoning bylaw.

Please advise whether you would like your letter of October 25, 2017 to form part of the agenda package for the reconsideration meeting scheduled for November 6, 2017. If so, this letter will also be placed on the agenda.

Sincerely,

LIDSTONE & COMPANY



Sara Dubinsky
dubinsky@lidstone.info

SD/sd

c. Client



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 3360-20-1712

From: Chief Administrative Officer

Date: November 6, 2017

Subject: Zoning Amendment Bylaw No. 2900 to allow for a secondary detached dwelling at 191 Willemar Avenue.

PURPOSE:

The purpose of this report is for Council to consider an application for a zoning amendment to permit a detached secondary residence (referred to as a 'Granny Flat' by the applicant) at 191 Willemar Avenue. The proposed site specific zoning amendment would permit the construction of a detached ground floor secondary dwelling on the subject property.

CAO RECOMMENDATIONS:

THAT based on the November 6, 2017 Staff report, "Zoning Amendment Bylaw No. 2900 to allow for a secondary detached dwelling at 191 Willemar Avenue", Council support approving OPTION 1 and proceed to First and Second Readings of Zoning Amendment Bylaw No. 2900, 2017; and

THAT Council direct staff to schedule and advertise a statutory public hearing with respect to Zoning Amendment Bylaw No. 2900, 2017 on November 20, 2017 at 5:00 pm in City Hall Council Chambers.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

The subject property is an approximately 1122m² residential lot located at the intersection of Willemar Avenue and 2nd Street in West Courtenay, legally described as Lot D, Section 79, Comox District, Plan 18822 (Figure 1). The property is currently developed with a one-storey single residential dwelling. Figures 2 and 3 on the following page show images of the dwelling from the Willemar Avenue and 2nd Street frontages respectively.

The property is zoned Residential Two (R-2) which allows for two residences to be located on the property



Figure 1: Location Map. Property shown in yellow.
Morrison Creek shown in blue.

in the form of a duplex or single family residence with a secondary suite. Additionally, a carriage house or detached ground level secondary residence is permitted on any R-2 property that is larger than 1250m² in addition to a single family dwelling. The subject property is approximately 1122m² in lot area and therefore does not meet the minimum size requirement for a detached form of secondary residence. A text amendment to the R-2 zone is proposed which, if approved, would permit the detached secondary one story residence. There are no servicing concerns related to adding an additional dwelling unit at this address.

The rezoning application was made because the applicant wishes to create a secondary residence for a family member, and recognizes the value the unit could provide to the general rental housing stock.

The property and proposed secondary residence are within 30 metres of Morrison Creek, which flows on adjacent Crown land, and therefore are subject to the Environmental Development Permit (EDP) guidelines and must first obtain an EDP prior to construction. The applicant has included the necessary Riparian Areas Regulation (RAR) report requirements to demonstrate that the proposed secondary residence layout can conform to the RAR, which is the minimum EDP setback requirement.

A variance for side yard setback from 4.5 meters to 1.0m will be required to accommodate the desired secondary residence layout as shown in the site plan in Figure 4. A separate application for Development Variance Permit and Environmental Development Permit will be made should the application for Zoning Amendment be successful.

Because the secondary residence is detached, it will also require a form and character Development Permit. All three development permits may be applied for and issued concurrently.

DISCUSSION:

OCP Review

The proposed application represents infill development within an established neighbourhood. The Official Community Plan (OCP) and the Affordable Housing Policy



Figure 2. Front yard view from Willemar Ave.



Figure 3. Side yard view from 2nd St.

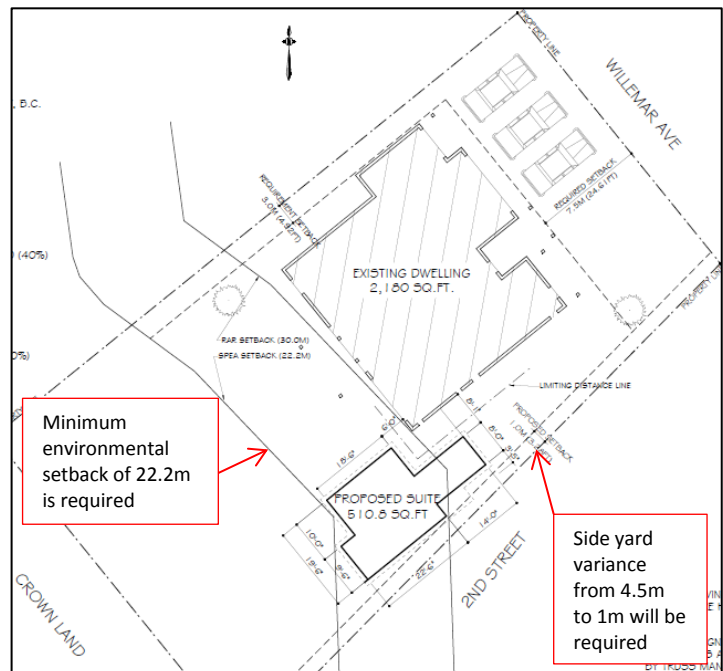


Figure 4. Site plan showing variance requirement and environmental setback (permits for which to be issued after rezoning).

support infill development within existing urban residential areas provided it is in keeping with the character and scale of the surrounding neighbourhood. Infill housing provides more rental housing stock, diversity of housing types, and promotes more efficient use of land that is already serviced.

The property is located within 30 metres of Morrison Creek, a fish bearing watercourse, and therefore must conform to the Environmental Development Permit area guidelines.

The location of this proposal is in approximately 1 kilometre from the downtown core, a reasonable walking distance, is close to a transit route, parks and trails and Puntledge Elementary. The property is not within a Local Area Plan area.

Zoning Review and Analysis

The primary residence conforms to the zoning and environmental setbacks and other zoning requirements. The addition of the proposed detached secondary residence would continue to conform with a number of the zoning requirements described in the Table 1 below, but will require a side yard variance.

	<u>Required</u>	<u>Secondary Residence Proposal</u>
Total Floor Area of secondary residence (maximum)	90 m ²	47.5m ²
Yard setbacks (minimum)	Front: 7.5m Side interior: 1.5m Side adjacent a street: 4.5m Rear: 9.0m	Front: 8.76m (of principle residence) Side interior: 1.5m (of principle residence) Side adjacent a street: 1.0m *will require a variance Rear: 13.6m
Height of secondary residence (maximum)	5.5m	4.47m
Lot coverage (maximum)	40%	22%
Parking Spaces (minimum)	Three (2 for the principle dwelling unit and 1 for the secondary residence)	Six (A three car garage and adequate space for three spots in front yard driveway)
Parking coverage of frontage (maximum)	50%	46%

Other Policy Implications

Affordable Housing Policy

The City's Affordable Housing Policy sets out a number of strategies that support increasing the provision of affordable housing, including secondary residences, within the community. In this instance, the property

is permitted an additional residence in the form of an attached secondary suite or duplex. When property size does not permit the detached form of secondary residence, Council's practice to-date has been to consider such rezoning applications on a case-by-case basis taking into account land use planning policy, servicing capacity and neighbourhood interests.

Evaluations

Although the subject property does not permit the detached form of secondary residence under the current zoning, the proposal for a secondary residence is consistent with the intent of the R-2 zone to allow for a secondary dwelling. Prior to applying for the Zoning Amendment, the applicant explored the option of constructing an attached ground level secondary suite, as permitted under the current zoning, but concluded that a secondary suite configuration would limit the functionality of the principle residence layout and decrease privacy. The principle residence is a one-storey single family home with attic and crawl space and therefore does not have the ability to affordably accommodate a secondary suite other than at ground level.

The property contains environmentally sensitive lands in the form of a riparian area within the rear yard, and as such is required to adhere to the Environmental Development Permit guidelines contained within the OCP. The OCP states that "minimum buffers for aquatic ecosystems should generally be thirty (30) metres on either side of the watercourse. Alternate buffers may be explored where based on scientific research and professional observation, as outlined in provincial Riparian Areas Regulation (RAR)." In this instance the proposed setback (buffer) distance as determined by the RAR methodology is 22.2 metres. The proposed secondary residence is outside the 22.2 metre setback.

Referral comments from the Morrison Creek Streamkeepers indicate a lack of support for the proposal on the basis that the higher standard of required environmental setback should apply and concern over the cumulative impact of many small developments within the Morrison Creek watershed, particularly given the presence of federally Species at Risk listed Morrison Creek Lamprey. Full referral comments from this organization are included in **Attachment No.4**. Staff consider the environmental impacts of a secondary residence to be similar to that of a secondary suite, which is permitted under the current zoning.

As a condition of hazardous tree removal the applicant is required to restore a portion of the environmental setback area with native shrubs and trees as determined by a Registered Professional Biologist. The applicant has conducted these activities and will be required to provide as a condition of the EDP a physical barrier between the lawn portion of her property and the newly restored area in order to ensure that the restored area is not disturbed.

Public comments submitted through the Public Information Meeting process highlight two common themes: there is generally support of the secondary residence proposal from a land use perspective, however a number of individuals indicate their lack of support for the secondary residence being located within the 30 metre creek setback area. Specifics on the public comments are provided in the appropriate section below and **Attachment No.3**.

FINANCIAL IMPLICATIONS:

Application fees have been collected in order to process the rezoning application. Should the proposed Zoning Amendment Bylaw be adopted, Development Variance Permit, Development Permit, Environmental Development Permit and Building Permit application fees will apply.

Properties with a secondary residence are charged a second utility fee (sewer, water, garbage) for the additional dwelling unit. Should the rezoning application be approved, the additional utility fees will be

charged to the property at the time of occupancy permit. Secondary residences are exempt from paying Development Cost Charges to the City and Regional District.

ADMINISTRATIVE IMPLICATIONS:

Processing zoning bylaw amendments is a statutory component of the work plan. Staff has spent approximately 20 hours processing the application to date. Should the proposed zoning amendment proceed to public hearing, an additional 2 hours of staff time will be required to prepare notification for public hearing and to process the bylaw.

ASSET MANAGEMENT IMPLICATIONS:

The proposed development utilizes existing infrastructure and is connected to City Water and City Sewer. There are no direct asset management implications associated with this application.

STRATEGIC PRIORITIES REFERENCE:

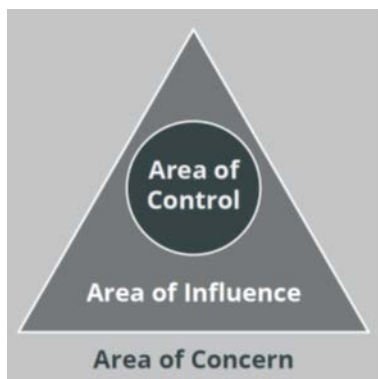
Development applications fall within Council’s area of control and specifically align with the strategic priority to support meeting the fundamental corporate and statutory obligations of the City. This application also meets the goal to support densification aligned with the Regional Growth Strategy.

We support diversity in housing and reasoned land use planning

- Support densification aligned with community input and regional growth strategy

We focus on organizational and governance excellence

- We support meeting the fundamental corporate and statutory obligations



- **Area of Control**
The policy, works and programming matters that fall within Council’s jurisdictional authority to act.

OFFICIAL COMMUNITY PLAN REFERENCE:

The proposed zoning amendment is consistent with the urban residential land use designation, and many other policies of the Official Community Plan. It represents infill residential development near existing amenities and services. Also, the proposed rezoning application fulfils the intent and the purpose of section 4.4.3 4 a) of the OCP - limited infill will be considered only in keeping with the character and scale of an existing neighbourhood.

REGIONAL GROWTH STRATEGY REFERENCE:

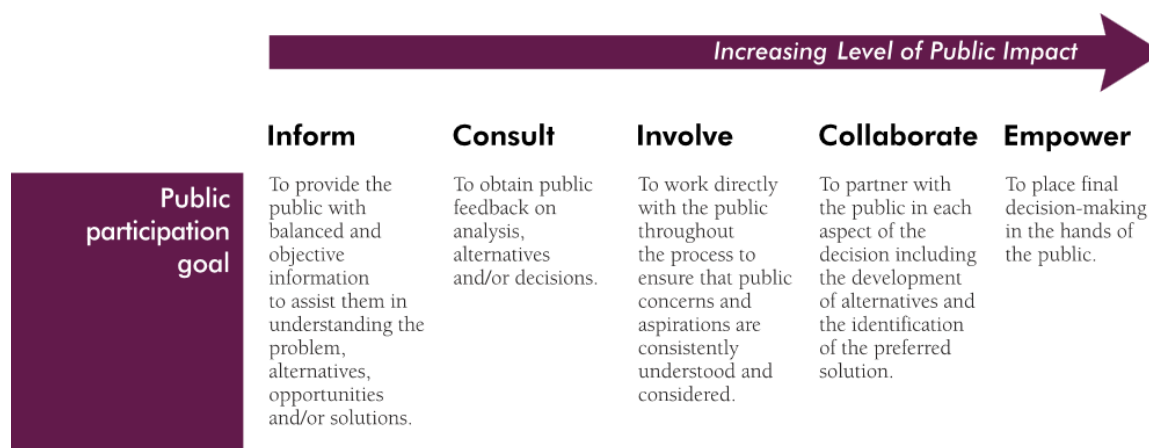
The development proposal is consistent with the RGS Housing Goal to “ensure a diversity of affordable housing options to meet evolving regional demographics and needs” including:

- Objective 1-A: Locate housing close to existing services; and
- Objective 1-C: Develop and maintain a diverse, flexible housing stock.

CITIZEN/PUBLIC ENGAGEMENT:

Staff will “Consult” the public based on the IAP2 Spectrum of Public Participation:

http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/imported/IAP2%20Spectrum_vertical.pdf



Should Zoning Amendment Bylaw No. 2900, 2017 receive First and Second Readings, a statutory public hearing will be held to obtain public feedback in accordance with the *Local Government Act*.

Prior to this application proceeding to Council, the applicant held a public information meeting on September 8, 2017 at the subject property. According to the meeting summary 4 people attended the meeting representing 4 property addresses. Ten people submitted comment sheets to the City representing 10 property addresses, some of which were also in attendance at the public information meeting. A summary of the public information meeting has been included as **Attachment No. 3**.

Concerns regarding parking and privacy can be addressed through the zoning bylaw parking requirements and Development Permit form and character guidelines. The Discussion section of this report provides staff responses to public comments regarding environmental concerns.

OPTIONS:

OPTION 1: THAT based on the November 6, 2017 Staff report, “Zoning Amendment Bylaw No. 2900 to allow for a secondary detached dwelling at 191 Willemar Avenue”, Council support approving

OPTION 1 and proceed to First and Second Readings of Zoning Amendment Bylaw No. 2900, 2017; and

THAT Council direct staff to schedule and advertise a statutory public hearing with respect to Zoning Amendment Bylaw No. 2900, 2017 on November 20, 2017 at 5:00 pm in City Hall Council Chambers (recommended).

OPTION 2: Defer consideration of Bylaw No. 2900 with a request for more information.

OPTION 3: Defeat Bylaw No. 2900.

Prepared by:



Nancy Gothard, MCIP, RPP
Environmental Planner

Approved by:



Ian Buck, MCIP, RPP
Director of Development Services

Blamire, Susan

From: Magnusson, Joy <Joy.Magnusson@viha.ca>
Sent: August-16-17 4:07 PM
To: Blamire, Susan
Cc: Gothard, Nancy
Subject: Letter of Introduction/Rationale for Rezoning Request

Request: Text Amendment for Rezoning in R2 to allow for single story 'Granny Flat'.

Reason: Lot size does not meet minimum area requirement.

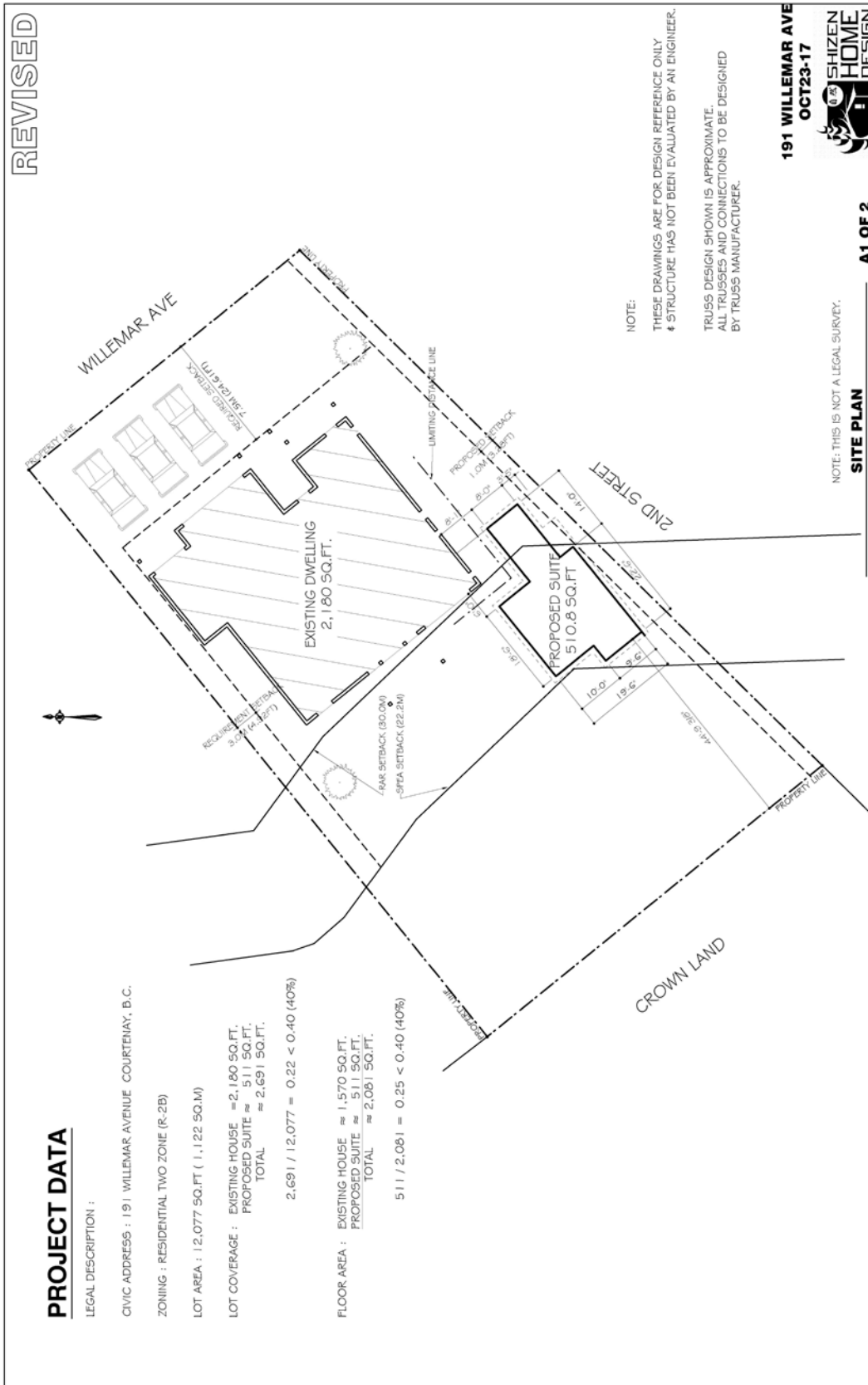
Rationale: My mother is in her late-60s and if approved I intend to build a 'barrier-free', single story, granny flat so that she can age-in-place at home rather than need early admission to a long-term care facility. I am an Occupational Therapist and very knowledgeable about the design principles required for barrier-free, wheelchair accessible design. In the interim (until such time that my mother needs to relocate into a single story home with supports nearby) this secondary suite can be utilised as a private, low-cost rental suite within easy walking distance to downtown and also as student housing for my son should he choose to attend North Island College once he graduates from high school.

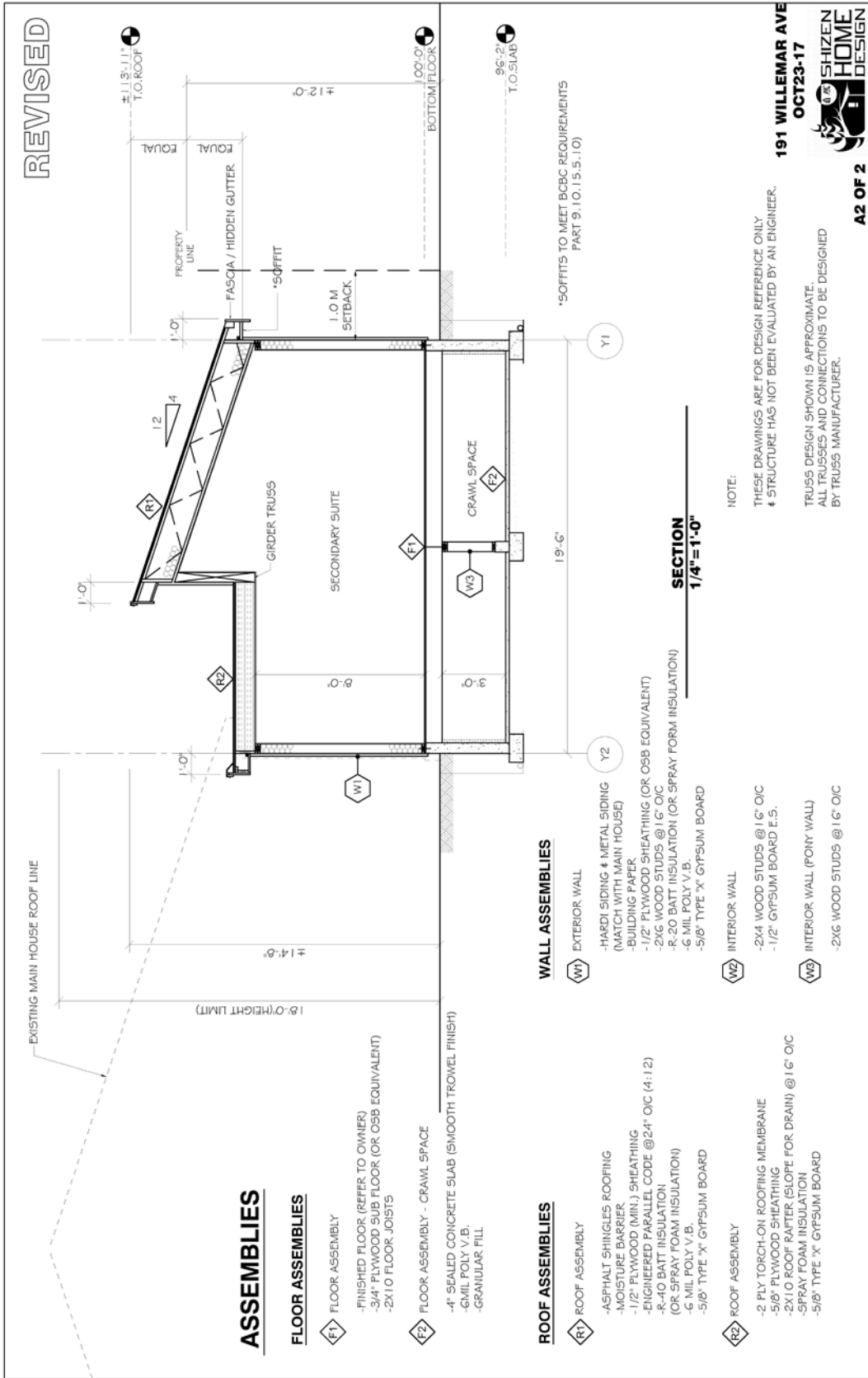
Joy Magnusson, BSc(OT)
Occupational Therapist

Home and Community Care
941A England Avenue
Courtenay BC V9N 2N7
Phone: 250-331-8522 Ext. 68382
Fax: 250-331-8523



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From: [Magnusson, Joy](#)
To: [Gothard, Nancy](#)
Cc: [REDACTED]
Subject: FW: Outcome of meeting on Friday
Date: September-11-17 10:01:53 AM
Attachments: [IMG_2011.JPG](#)

Hi Nancy,

Attached is the public information meeting attendance list. My mom and I posted all of the plans Kana had drawn up on the fence facing 2nd street. I had copies of our emails to date as well as the RAR report from Warren Fleenor available for review.

[REDACTED] expressed some concerns around parking, noise and privacy.

Parking: I let them know that my property has 3 parking spots in the driveway in addition to the 3 car garage. There is also street parking on Willemar Ave in front of my house. ←

Noise: The suite is suited for 1 person and I reside on the property and value my peace and quiet. If the tenant is not my mother or son it will be someone who is respectful of others regarding noise. [REDACTED] [REDACTED] listened to the discussion and voiced her support for the project. She noted that her property is 1/2 the size and 5 people currently reside in her single dwelling.

Privacy: I designed the granny flat so that there are few openings that face 2nd street and I pointed out that they will be 'frosted glass' of the same type on the main building. I also indicated that I would welcome their input re: fencing/landscaping for privacy and esthetics along 2nd street just as long as it is also in line with the goals of the RAR/Morrison Steam keepers Association.

[REDACTED] expressed concern about the trimming of the maple tree and would like to know the outcome of Chad's assessment. I recounted the events that I outlined in my previous email. I am happy to follow your direction on this matter. Both of them took the time to answer many questions I had regarding invasive and native plants which I appreciated. I will provide more details in response to [REDACTED] email. I let everyone know that they can submit comments to you up until Sept 15/17.

Please let me know what the next steps are in the rezoning process.

Thank-you!

Joy

Staff note that as per the Zoning Bylaw, parking requirements must be achieved on the property, which this property achieves.

Public Information Meeting Re: Rezoning Proposal for 191 Willemar Ave. to Accommodate Building of a Granny Suite.

The meeting will take place at the end of Willemar and 2nd Street Courtenay by 191 Willemar Ave. on Friday September 8, 2017 at 6pm

Rationale: My mother is in her late-60s and if approved I intend to build a 'barrier-free', single story, granny flat so that she can age-in-place at home rather than need early admission to a long-term care facility. I am an Occupational Therapist and very knowledgeable about the design principles required for barrier-free, wheelchair accessible design. In the interim (until such time that my mother needs to relocate into a single story home with supports nearby) this secondary suite can be utilised as a private, low-cost rental suite within easy walking distance to downtown and also as student housing for my son should he choose to attend North Island College once he graduates from high school.

Applicant: Joy Magnusson, 191 Willemar Ave., Courtenay. Phone: 250-792-0621

PUBLIC INFORMATION MEETING

Friday Sept 8th at 6pm

SIGN IN SHEET

FOR

Rezoning for a text amendment in R2 at 191 Willemar Ave.

NAME (Please Print)	ADDRESS
[REDACTED]	1540 Embleton Cres
[REDACTED]	473 Leighton Ave
[REDACTED]	203 WILLEMAR AVE [REDACTED]
[REDACTED]	1330 2nd [REDACTED]

PUBLIC INFORMATION MEETING

Friday September at 8th at 6pm

Rezoning for a text amendment in R2 at 191 Willemar Ave



COMMENT SHEET

Name: _____

Email: _____

Address: 1350 First St. Courtenay, BC

Phone: 791-883

(Joy Magnusson) has applied to the City of Courtenay for an (Rezoning application for a text amendment). (Granny Flat - Single Story). This project is under review by staff in the Planning Department of the City.

Given the information you have received regarding this project do you have any comments or questions?

I ~~am~~ have no objection to having a Granny suite in Joy's house. I am ^{older than} her mother age and think it's a great idea

Please return your comments by: (Thursday Sept 7/17)

Comment sheets can be submitted by one of the following methods:

1. Drop your comment sheet off at the Development Services Department, City of Courtenay
830 Cliffe Avenue
2. Email your comment sheet to planning@courtenay.ca
3. Fax your comment sheet to 250-334-4241

PUBLIC INFORMATION MEETING

Friday September at 8th at 6pm

Rezoning for a text amendment in R2 at 191 Willemar Ave

COMMENT SHEET

Name: Email:

Address: 240 WILLEMAR AVE Phone:

(Joy Magnusson) has applied to the City of Courtenay for an (Rezoning application for a text amendment). (Granny Flat - Single Story). This project is under review by staff in the Planning Department of the City.

Given the information you have received regarding this project do you have any comments or questions? .

I SUPPORT THIS REZONING APPLICATION

Please return your comments by: (Thursday Sept 7/17)

Comment sheets can be submitted by one of the following methods:

1. Drop your comment sheet off at the Development Services Department, City of Courtenay
830 Cliffe Avenue
2. Email your comment sheet to planning@courtenay.ca
3. Fax your comment sheet to 250-334-4241

From: [Redacted]
To: [PlanningAlias](#)
Cc: [Gothard, Nancy](#)
Subject: Rezoning 191 Willemar Ave
Date: September-05-17 1:41:00 PM
Attachments: [191 Willemar Rezoning 2017.pdf](#)

Hi,

Although generally in favour of in-fill within the existing City limits I cannot support such an addition so close to an important salmon stream. One, moreover, that is also home to a unique and endangered species whose largest threat is development along the watercourse. I am definitely opposed to this change for the reasons stated in my attached comment sheet. I will be at the Public Information Meeting.

[Redacted]

This comment sheet accompanies this email cover letter.

PUBLIC INFORMATION MEETING

Friday September at 8th at 6pm

Rezoning for a text amendment in R2 at 191 Willemar Ave

COMMENT SHEET

Name: [Redacted] Email: [Redacted]
 Address: 1540 Embleton Cres Phone: [Redacted]

(Joy Magnusson) has applied to the City of Courtenay for an (Rezoning application for a text amendment). (Granny Flat - Single Story). This project is under review by staff in the Planning Department of the City.
 Given the information you have received regarding this project do you have any comments or questions?

What do you mean by text amendment? What is to stop others along the creek from doing the same?
Is this going to be an addition to the existing building or a separate building entirely?
How much impermeable surface is this going to add to the riparian area? How will this affect Morrison Creek?
If this change is going to impact the riparian area and the endangered species it protects then it should not be considered. A large maple tree was removed from the riparian zone recently which was protected under the old tree bylaw and the new. Did they have a permit to remove it? Will it be replaced? Was a RAR report done before the present house was built there? Have all of the conditions of that RAR permit been carried out? Has any monitoring been done to ensure there has been no negative impact to the creek? Although the present owner plans to use this second building as a 'granny flat' for her mother there is no guarantee that subsequent owners will do so.
As the neighbour immediately behind this one I am aware that this property is very close to easy access for children to go down to the creek and make changes to the watercourse that negatively impact the salmon and endangered lamprey. I have also actively discouraged children from using this access to harrass the spawning salmon and would be very unhappy to see an increase in the number of residents immediately beside the creek.

Please return your comments by: (Thursday Sept 7/17)
 Comment sheets can be submitted by one of the following methods:
 1. Drop your comment sheet off at the Development Services Department, City of Courtenay
 830 Cliffe Avenue
 2. Email your comment sheet to planning@courtenay.ca
 3. Fax your comment sheet to 250-334-4241

From: [REDACTED]
To: [PlanningAlias](#)
Subject: Rezoning for a text amendment in R2 at 191 Willemar Avenue
Date: September-07-17 4:01:33 PM

Hello. I have no objection to rezoning application of the above mentioned property. Thank you.

[REDACTED]
203 Willemar Avenue
Courtenay, BC

From: [REDACTED]
To: [PlanningAlias](#)
Cc: [REDACTED]
Subject: Rezoning Proposal 191 Willemar Avenue Courtenay
Date: September-07-17 7:12:16 AM

To whom it may concern,

Please accept this email as support for the rezoning proposal submitted by Joy Magnusson. The curb appeal of her house greatly improves the overall aesthetic of the neighborhood and I have no doubt the proposed 'Granny Flat' will contribute as well.

I am the owner of neighboring properties 162 Willemar Ave, 174 Willemar Ave and 190 Willemar Ave. I support any improvements that will make more families feel welcome and safe in the Puntledge Park neighborhood.

Regards,

[REDACTED]

From: [REDACTED]
To: [PlanningAlias](#)
Cc: [Gothard, Nancy](#)
Subject: 191 Willemar Rezoning
Date: September-02-17 1:51:08 PM

Hello,

I have some questions and concerns regarding the notice I received re 191 Willemar rezoning.

1. What is a "text amendment" in general and what wording is proposed, or what requires changing to accommodate the "Granny Flat"?
2. Would it apply to all other R2 properties?
3. Will this not set a precedent for other properties along the creek?
4. How would this affect the application of the Tree Bylaw on the property?
5. When the existing house was built, a RAR assessment was done. Have the conditions set out in that document been followed?

If this is a detached building or even an addition behind the existing, the entire structure would be within the 30 meter riparian buffer and I have grave concerns about further encroachment into stream setback. The property is adjacent to Morrison Creek, the most productive salmon stream in the City and one of the most productive for its size on east coast Vancouver Island. One of the primary reasons is that, for an urban stream it has a relatively intact, healthy riparian zone throughout its course. Most other urban streams have suffered "death by a thousand cuts" and this must not be allowed to occur on such an important stream.

I have no objection to a granny suite on the property and suggest exploring the addition of a second storey. If height restrictions need to be bent this would be my preference.

There is a large body of research which indicates a forested 30 meter riparian zone is needed for long term health of salmon streams. It is vital that further encroachments into Morrison Creek's riparian buffer are avoided and all other options should be explored first.

This should not be considered a simple zoning amendment.

Thanks for answering my questions,

[REDACTED]
neighbour and member of Morrison Creek Streamkeepers
[REDACTED]

From: [REDACTED]
To: [PlanningAlias](#)
Cc: [Gothard, Nancy](#)
Subject: Re: 191 Willemar Rezoning
Date: September-04-17 10:04:22 AM
Attachments: [191 Willemar Rezoning 2017.pdf](#)

Hi,

I am a member of the Morrison Creek Streamkeepers and I am familiar with the history of the watercourse at the location of the proposed rezoning at 191 Willemar. I have spent most of my working career focusing on mapping and habitat assessment of, as well as protection and enhancement efforts among the small streams in the Comox Valley. I worked for nearly 20 years with Project Watershed Society, leading their Salmon Stream Stewardship Program, and Morrison Creek was a major focus of our program. We worked to increase the awareness of, and interest in stream stewardship within the community, and worked closely with many local government planning professionals in our projects.

I am not in favour of any re-zoning or permitting that would allow a development to affect the established 30m ESA protection zones of any RAR watercourse. It is disappointing to me to see that encroachment in these zones is still being proposed by landowners. Planning staff should be discouraging this type of proposal at their earliest opportunity, as it consumes money, time, and effort by planning staff and landowners. I expect that this application will be turned down.

I have attached a copy of your comments form for this application, which has the following questions:

1. What specifically is the text amendment? Does it apply only to this property? Does approving this one set a precedent for other properties?
2. Is the proposed development attached to the existing building, or is it detached?
3. Does the development occur within the RAR 30m setback zone? If so, then the owner should be discouraged from even applying for a rezoning. The reason for the ESA setback is to protect riparian zones, which in the vicinity of this property are in recovery phases after a recent stream restoration project.
4. A maple tree was removed from the ESA setback zone recently. Was this approved by the city? Will there be any replanting?
5. Have all of the conditions of the RAR report associated with the development of the existing building been addressed? Has the city done any follow-up regarding this RAR permit?

Staff have not included the referenced separate comment sheet as it is identical to the questions listed here.

I plan on attending the meeting on the 8th.

Thanks,
 [REDACTED]

From: [Redacted]
To: [Redacted]
Subject: Property at 191 Willemar
Date: September-06-17 8:59:05 PM

Hello all,
 I regret to say that neither [Redacted] nor I will be at the information session on the 8th. I have a precious week of holidays starting tomorrow and will be out of town.

I have so far hesitated to submit official comments. Having been the one to help organize recent volunteer efforts at the public riparian area at 2nd and Willemar I was conscious of feeling and appearing a little too vested in "ownership" of the riparian "park" site, but also reluctant to interfere with a property owners laudable and understandable aspirations and lose a good ally. Being that I am involved and very familiar with the site I should comment. MCS board has not met to submit a common comment, our separate voices reflect similar views but not exactly the same.

I am rather dismayed by having to submit comments, as per Joy's delivered notice, by Sept. 7th, before the information meeting. Not knowing if this would be our only chance to comment (is it?) has lead to a lot of research, (now I know a lot more about zoning) and a rather dizzying amount of emails. How could I or anyone fairly comment without information?

Thank you to Nancy Gothard for answering questions and connecting us to necessary information. Thank you to all for speaking up for creeks and resolutions. Thank you to Joy for taking the time in advance of the meeting to give us her perspective. I feel confident to add my thoughts.

Precedent is a main concern on allowing this proposal near a stream and other sensitive ecosystems that are within an Environmental Development Permit Area (EDPA). It looked like after years of persuading the City to respect and regulate around streams the barn door would be thrown open. As the text amendment is limited to this property, which is a bit unusual in its situation, I doubt there will be a stampede of creek side secondary dwellings, so I feel a bit better about this proposal. However, I still have concerns about the amount of work and effort a property owner has to go through for approval which makes it hard to turn down a proposal and leads to putting stewardship groups, who may not favour a proposal, at odds with owners and weakening the support for ecosystem protection. I do realize that the planners cannot obstruct an owners right to apply for amendments. I hope the planners give plenty of warning to applicants about concerned stewards!

There has been a very recent Riparian Areas Regulation (RAR) Assessment done by Current Environmental on 191 Willemar, dated June 30/17. If a property with a proposed development is within 30 meters of a creek, it requires the RAR assessment. From there the Stream-side Protection and Enhancement Area (SPEA) is determined by a standard methodology. Both the first and most recent RAR assessment agree: the SPEA is 22.2 meters. The proposed flat appears to be outside the SPEA. The back of the property is inside the SPEA. This property does not back directly onto or over the creek. Not certain if on the ground measurements have verified location of flat vis-a-vis the SPEA boundary.

Staff note that the comment sheets are not required to be submitted prior to the meeting. This was clarified to this respondent and everyone in attendance at the applicant's meeting.



Having the RAR assessment before any zoning changes in an EDPA is extremely important, to avoid conflict between zoning permitted uses and EDPA requirements resulting from assessments. Is this standard practice? Are criteria for a text amendment accessible to the public, including RAR assessments or other Environmental assessments, so the reasoning about why a property is exceptional, is understood and why it may not be extended to other proposals? The City states in the EDPA text it "may require" a security deposit and/or a report to "confirm the required conditions of a development permit". How often are the conditions laid out in a RAR assessment included in a development permit and when are security deposits and/or reporting required? As a streamkeeper, I'd be willing to guide an owner, better communication about a RAR assessment and environmental development permit requirements would be helpful. As the City is depending on the EDPA's, RAR and other assessments to regulate development in sensitive ecosystems follow up is essential.

It is my understanding that the city has the obligation to adopt the RAR as a *minimum* standard, it can "meet or beat" the RAR directive. (*Review of Local Government Compliance with the Riparian Areas Regulation June 2015*) EDPA text state: "Minimum buffers for aquatic ecosystems should generally be thirty (30) meters on either side of the watercourse". But the RAR Assessment can reduce that, but the city can exceed that standard. Why not make the 30 meters not "general" but consistent?

Staff note that the applicant subsequently provided an arborist report which deemed the 8-stemmed maple to be hazardous. The applicant is required to restore the area as a condition of the EDP.

The large 8 big leaf maple with 8 trunks on Joy's property was inside the SPEA. The removal of a large tree always leaves a gap. I felt perplexed and inconvenienced by its removal, not undone. I did not ask Joy about it as she seems a conscientious landowner and I assumed that permits and all had been acquired. The removal of trees is always a bit sensitive. The tree had a swing and tree fort, hence my perplexity, as Joy's account of its fate has explained; it was well liked. My main inconvenience was I prescribed shade plants for the Puntledge students to plant in the area shaded by the maple. They are surviving, with help from a recent watering. Deer, dryness, foot traffic, and competition from invasives have a greater impact than the removal of the maple. The sun loving invasives have been given a sunshine boost with the maple gone, but they were having a quiet party in the shade already, now they are more riotous. The equipment and rock dumping from the in stream projects had an impact on vegetation, this is mainly what we are mitigating; the area's return to a more native state just did not need another challenge. Joy did voice a concern at one time about possible damage to the maple's roots by equipment used in the last in stream project, so I think it is important to get the report from Above and Beyond Tree Service. I accept that removal of a hazard tree is appropriate and allowed., I am not clear on whether or what replacement criteria is in place.

I was forwarded the following recommendation in an email from Tim Ennis executive director of Comox Valley Land Trust and Comox Valley Conservation Partnership.

"My sense is that the way Morrison Creek and its fish/biota could win in this case, would be for the City to:

1. *Require and updated RAR to confirm the 22.2m*
2. *Allow the construction of the suite, and in exchange require the owner to restore the SPEA such that it is re-vegetated with riparian trees and shrubs.*
3. *Require monitoring to ensure success of the re-vegetation."*

I am willing to **consider** this idea, following input from fellow MC Streamkeepers and Joy Magnusson, with the following suggestions:

#1 is done.

#2 removal of invasives down the slope from Joy's property would allow natives to grow. Sweat equity on the invasives can work as well or better than plant purchase and planting.

#3 MCS could use an organizer and recruiter for managing the site. The Ivy League, Blackberry Busters, Thistle Thwackers. A couple or 3, (more if possible) weeding or planting events per year and recruiting waterers if needed. Getting volunteers to water any installed plants for 2 seasons. No use just watching the plants. We have a battery pump being used by two volunteers on Arden Creek at Puntledge School with good effect.

Indian Hellebore, Rice root, Fasl Solomon's Seal, Trilliums Fawn lilies and more grow here. The salmon come home almost all the way from Japan.

We have a duty to protect.


President
Morrison Creek Streamkeepers

From: [REDACTED]
To: [Planning/Alia](#)
Subject: Rezoning for a text amendment in R2 at 191 Willemar Ave
Date: September-18-17 11:31:38 PM

Re: Rezoning for a text amendment in R2 at 191 Willemar Ave

Comment sheet

Name: [REDACTED]
Email: [REDACTED]
Address: 1330 2nd Street
Phone: [REDACTED]

Staff note that the referenced 'city land' is Crown Land.

This is a late comment with regards to application for rezoning for a text amendment in R2 at 191 Willemar Ave (Granny Flat- Single Story).

The dead-end street at 2nd and Willemar is a special spot. Morrison Creek is especially lovely there since the streamkeepers did their work, and the city land is beautiful. We bought our property here because it feels like we're living in a quiet, spiritual place that is nevertheless very close to town. We feel that our enjoyment of this area will be diminished if there were to be a granny suite in the proposed location. Adding to car and foot traffic on this street will have a significant impact on this quiet corner of Courtenay. We understand that the suite is eventually intended for the applicant's mother, however we are concerned about the noise and behaviour of other tenants that could rent in the interim and/or should Ms. Magnusson move.

We are also concerned about the health of Morrison Creek, the salmon, and the surrounding ecosystem. When we purchased our own property, it was with the expectation that any changes we wanted to make to the property would be subject to rigorous ecological scrutiny, and we trust that the City of Courtenay will do the same.

We hope that you are able to take our comments into consideration despite our not meeting the deadline.

Sincerely,

[REDACTED]

The Morrison Creek Streamkeepers are not in favour of this development for the following reasons:

- Morrison Creek is home to an endangered Lamprey whose primary threat is urban development, according to the Species at Risk Profile (<http://www.dfo-mpo.gc.ca/species-especies/profiles-profil/lampreyMorrisonCreek-lamproie-eng.html>). “Some land-based activities can alter aquatic habitat directly or indirectly by changing water quality with sedimentation or pollutants, impacting riparian habitat, or altering run-off rates. The primary concern for land use in the Morrison Creek watershed is development”. There are so many unknowns about habitat requirements for the lamprey that it is incumbent upon us to err on the side of caution in regard to this species and it’s only known home. This is even more important in regard to the unknown changes that will be wrought by climate change. Due to the sensitivity of Morrison Creek we should use the precautionary principal and treat all the land bordering it as if it were a greenfield area and protect a minimum of 30 m to either side from further development.
- The property in question is already considered too small for an additional unit to be added to it. According to the BC Government Develop with Care document (<http://www.env.gov.bc.ca/wld/documents/bmp/devwithcare/DWC-Section-2.pdf>) it suggests that “Decisions made at a site-by-site level can affect the natural environment well beyond the boundaries of the development. The cumulative impact of seemingly innocuous choices made at the site level can result in significant unintended consequences.” This development proposal needs a text amendment because the property in question is considered too small for an additional structure. An additional rental unit adds impervious surfaces as well as potential for other deleterious materials to be introduced to the riparian area.
- As well, in the BC Government Environmental Concerns document it states that (http://www2.gov.bc.ca/assets/gov/environment/plants-animals-and-ecosystems/fish-fish-habitat/riparian-areas-regulations/environmental_concerns.pdf) “Based on the current knowledge of the science of stormwater management, certain guidelines can be identified for all land development projects, especially those sites adjacent to watercourses. These include:
 - Maintain effective impervious surfaces close to zero;
 - Infiltrate or re-use runoff from the development area;
 - Retain significant natural (forest) cover across the development site, and
 - Maintain an undisturbed SPEA to ensure proper filtration and maintenance of water quality.”
- The City’s own 2014 State of the Environment report (http://r.search.yahoo.com/_ylt=A86.J7vdK7hZbFMAc2YnnllQ;_ylu=X3oDMTByb2lvXVvBGNvbG8DZ3ExBHBvewMxBHZ0aWQDBHNIYwNzcg--/RV=2/RE=1505270877/RO=10/RU=http%3a%2f%2fwww.courtenay.ca%2fassets%2fCommunity%2fEnvironment%2f2014_state_of_the_environment.pdf/RK=1/RS=.8Jcqz_nBnbeXNrhDoNs5FWutQ-) states that “Ecological studies indicate that a stream should have around 30 metres of native riparian cover on each side to help ensure the stream stays healthy for all those who use it.” It also provided a comparison of Morrison and Glen Urquhart Creeks showing Morrison had only 12.4% impervious cover as opposed to the less healthy 23.5% for Glen Urquhart. This addition would increase that by a small percentage but if every property increased by a small percent then the cumulative effect would be enormous.

- The RAR completed by Jeff Whetter in 2010 prior to construction of the existing house on the property recommended re-vegetation of native species within the SPEA in conjunction with local streamkeepers. The Morrison Creek Streamkeepers were not contacted in this regard and to our knowledge re-vegetation was not done. Another recommendation was for all trees within the Riparian Assessment Area (30 m) be left in place. It also appears that the protection of this area may be ‘falling through the cracks’ with the City. We would like to see a higher priority given to follow-ups on RAR and Tree Protection recommendations. There is also no guarantee that subsequent homeowners will respect the highly sensitive ecosystem of Morrison Creek and the salmon and endangered lamprey species that it provides a unique home for.

The Morrison Creek Streamkeepers have always been, and will always be, willing to work with anyone, (City, school district, or landowner) to protect and improve this amazingly productive watershed.



STAFF REPORT

To: Council
From: Chief Administrative Officer
Subject: Former Fields Sawmill (Kus Kus Sum) Site

File No.: 3200-00
Date: November 6, 2017

PURPOSE:

This report is provided in response to Council's request to identify tax exemption options for the proposed habitat banking and restoration project (Kus Kus Sum) on the former Fields Sawmill site.

BACKGROUND:

On September 18th Tim Ennis, Project Watershed made a presentation updating Council on the habitat banking and restoration project of the former Fields Sawmill (Kus Kus Sum) site supported by project partners Chief Nicole Rempel and Band Administrator Tina McLean, K'omoks First Nations. Tim Ennis announced that they have reached an agreement with Interfor Corporation to purchase the property. As part of the agreement they have been permitted 2 years to raise the necessary project funds estimated at \$6.3 million dollars and will enter into a net lease agreement during this period. They are requesting support from staff and Council to aid in the negotiation of a purchase and sale contract with Interfor and to consider an exemption from property taxes for the 2 year period of the net lease agreement, which Project Watershed is required to pay for under the agreement with Interfor.

Later in the September 18th meeting, Council passed the following resolution:

Moved by Hillian and seconded by Wells that

WHEREAS on June 8th, 2017, Courtenay City Council unanimously approved support in principle for a land partnership with K'omoks First Nations as proposed by Project Watershed to facilitate the restoration of the Kus Kus Sum lands, the former Field's Sawmill site; and

WHEREAS this restoration will bring significant aesthetic, recreational, environmental and economic benefit to the City in the form of flood mitigation, new park land with walking and cycling trails, and restored fish habitat; and

WHEREAS Project Watershed is about to reach agreement with Interfor and K'omoks First Nation on a two year lease for the site to facilitate a fund raising drive to purchase the lands;

THEREFORE be it resolved that, subject to a staff report and the implementation of the lease agreement, Courtenay City Council agrees to support the fund raising drive towards purchase of the lands by approving an exemption from municipal taxation during the lease period, starting in fiscal year 2018.

EXECUTIVE SUMMARY:

Legislative requirements restrict municipalities from providing an exemption on a tax or fee to a business (Section 25 (1)(b) of the *Community Charter*), but the City has two options when looking at exempting an organization from municipal tax. One is a Permissive Property Tax exemption and the other is a Revitalization Tax Exemption. Both of these options have stringent legislative regulations and timelines. The process of finalizing the 2018 permissive property tax exemptions occurred last month making an

exemption for 2018 impossible. The only option available is to proceed with a tax exemption for 2019. A formal agreement between Interfor and Project Watershed needs to be completed before the tax exemption can be finalized.

A more suitable and timely option for the City to assist Project Watershed is for Council to approve the use of Gaming Funds to pay the equivalent of 2 years of property taxes for the former Field Sawmill site, up to a maximum of \$135,000. As a non-profit organization, the payment could be made directly to Project Watershed without the legislative restrictions of providing a tax exemption to a business.

CAO RECOMMENDATIONS:

That based on the November 6, 2017 staff report, "Former Fields Sawmill (Kus Kus Sum) Site", Council approve a one-time lump-sum contribution of up to \$135,000 to Project Watershed.

Respectfully submitted,



David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

DISCUSSION:

The *Community Charter* Sections 224 – 227 identifies options to facilitate a municipal tax exemption. They are:

- Permissive Property Tax Exemption *or*
- Revitalization Tax Exemption.

The City is required, by legislation, to have its Permissive Property Tax Exemption bylaws finalized by October 31st of the preceding year. The 2018 tax exemption bylaws have already been given all three readings. Had this matter been presented earlier and a formal lease agreement between Interfor and Project Watershed finalized, it could have been incorporated into the 2018 Permissive Property Tax Exemption process. Staff could, upon direction of Council, include an exemption for 2019, but providing one for 2018 is not possible.

A Revitalization Property Tax Exemption requires a significant amount of administrative time and effort. A Revitalization tax exemption program and bylaw must be established before this type of exemption can be considered. It also follows the same timeline restrictions as a Permissive Property Tax Exemption, requiring completion by October 31st. The ability to provide a revitalization property tax exemption in 2018 is not possible, but it could be completed as part of the 2019 Tax Exemption process once an Agreement between Interfor and Project Watershed is signed.

Both of the above options provide a commercial organization with the benefit of a property tax exemption. This results in a reduction of commercial property taxes and requires the community to cover the lost revenue or a service to be changed to accommodate the revenue loss. To safeguard Council's intentions, the agreement between Interfor and Project Watershed should stipulate that any exemption must be forwarded to Project Watershed's efforts to purchase and restore the site.

Staff believe a better option is the use of Gaming Funds, under the category of Green Initiatives. The benefits of this option are:

1. An amount equivalent to the permissive property tax exemption can be paid directly to Project Watershed rather than provided as an exemption to a business. Council is providing funding to a not-for-profit organization, rather than contravening Section 25 of the *Community Charter*.
2. Statutory timing constraints do not restrict Council when allocating Gaming Funds. Council can make a contribution to Project Watershed at any time.
3. Gaming Funds are external sources of revenue. Commercial property taxes for 2018 and 2019 continue to be paid by Interfor until the property is transitioned to Project Watershed.

FINANCIAL IMPLICATIONS:

The 2017 commercial taxes for Interfor totalled \$64,500. A two year contribution equivalent of up to \$135,000 could be made to Project Watershed via Gaming Funds under the Green Capital Projects category. This should cover any possible increases if commercial taxes change in 2018 and 2019

ADMINISTRATIVE IMPLICATIONS:

About 1 hour of staff time to provide a payment to Project Watershed if Gaming funds are used and will take a minimum of 5 hours to meet the necessary legislative requirements to provide a permissive property tax exemption or revitalization tax exemption for 2019.

ASSET MANAGEMENT IMPLICATIONS:

Should the restoration project proceed, it is possible that there will be benefits related to flood mitigation, stormwater management, and restoring the site to a natural state.

In the last few years there has been an increasing interest in the role of natural assets in the provision of asset management and sustainable service delivery.

Municipal natural assets refers to the stock of natural resources or ecosystems that is relied upon, managed, or could be managed by a municipality, regional district, or other form of local government for the sustainable provision of one or more municipal services.

The City has recently been selected as one of four local governments across Canada to receive funding and expert assistance in identifying the role and benefits of natural asset management and restoration. Additional details are available at the following links:

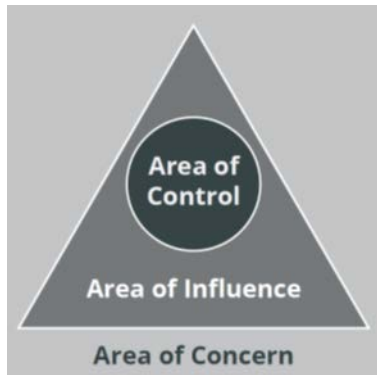
<https://www.assetmanagementbc.ca/mnai-call-for-expression-of-interest/>

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

STRATEGIC PRIORITIES REFERENCE:

We proactively plan and invest in our natural and built environment

- Continued support for social, economic and environmental sustainability solutions
- ▲ We look for regional infrastructure solutions for shared services to our community



- **Area of Control**
The policy, works and programming matters that fall within Council’s jurisdictional authority to act.
- ▲ **Area of Influence**
Matters that fall within shared or agreed jurisdiction between Council and another government or party.
- **Area of Concern**
Matters of interest outside Council’s jurisdictional authority to act.

OFFICIAL COMMUNITY PLAN REFERENCE:

OCP, Section 4.10.2 Goals

“6. To work with watershed and stream stewardship groups on environmental related matters”

REGIONAL GROWTH STRATEGY REFERENCE:

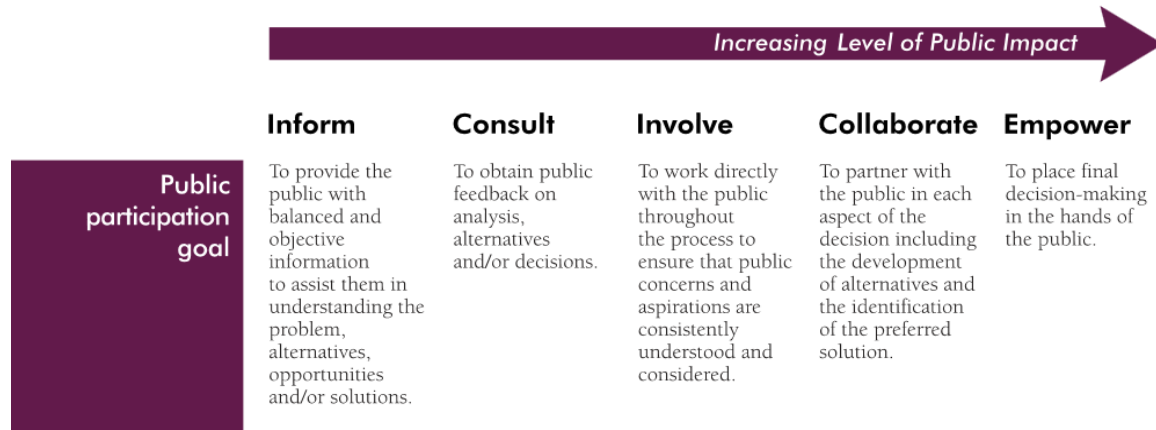
This effort is consistent with Goal 2: Ecosystems, Natural Areas and Parks of RGS “to protect the environment, with a strong need for a regional and coordinated approach to environmental protection and enhancement that emphasizes protection, enhancement and connectivity.” This involves

- Objective 2-A: Identify and map areas for conservation; and,
- Objective 2-D: Ensure access to parks, recreation areas.

CITIZEN/PUBLIC ENGAGEMENT:

Staff would inform the public based on the IAP2 Spectrum of Public Participation:

http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/imported/IAP2%20Spectrum_vertical.pdf



OPTIONS:

1. That Council approve the use of Gaming Funds to provide a one-time lump-sum contribution of \$129,000 to Project Watershed;
2. That Council direct staff to report back on other options to support Project Watershed in moving forward on the Kus Kus Sum Restoration Project.
3. That a subsequent report be provided to Council pending the results of a legal opinion and prior to any financial commitment being provided by the City.

Prepared by:

Brian Parschauer, BA, CPA-CMA,
Director of Finance



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 1705-20 / 1830 - 05

From: Chief Administrative Officer

Date: November 6, 2017

Subject: 2018 - 2022 MUNICIPAL SOLID WASTE, RECYCLABLES, AND YARD WASTE BUDGETS

PURPOSE:

The purpose of this report is to consider the 2018 - 2022 operating budget for Municipal Solid Waste (MSW) and to establish the applicable solid waste, recyclables, and yard waste user fees.

POLICY ANALYSIS:

Section 194 of the *Community Charter* allows Council to charge a user fee to cover the cost of delivery of a service.

EXECUTIVE SUMMARY:

The costs associated with providing solid waste, recyclables, and yard waste collection are reviewed annually as are the calculation of user fees to cover projected service delivery costs. In order to avoid using funding from general tax dollars, a user fee increase of 3.75% is requested for 2018 to cover operating expenditures totalling \$3,197,400. 2019 – 2022 user fee rates are projected to increase by 1.0%. Reasons for the higher MSW service costs are due to higher volumes of materials entering the landfill, rising costs for collection, materials and supplies, and labour.

CAO RECOMMENDATIONS:

That based on the November 6, 2017 staff report "2018 - 2022 Municipal Solid Waste, Recyclables, and Yard Waste User Fees Budgets" Council approve OPTION 1 and increase 2018 user fees by 3.75%, and;

That Bylaw Number 2904,2017 a bylaw to amend the "City of Courtenay Fees and Charges Bylaw No. 1673, 1992", proceed to first, second and third reading in order to revise the proposed 2018 Solid Waste, Recyclables and Yard Waste user fees.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

Council sets the Solid Waste user fee rate schedule by bylaw each year to ensure costs for the provision of solid waste, recyclables and yard waste collection services are fully recovered. In 2017 user fee rates were

increased by 2% to address rising costs caused by higher volumes of materials being recorded at the landfill as well as inflationary impacts on operational accounts.

There are three primary Municipal Solid Waste cost drivers:

1. MSW Contract to provide MSW/recyclables pickup and transport services.

The increase in the cost of the solid waste and recyclables collection contract is calculated using an agreed to weighted formula between Consumer Price Index and the Price of Diesel in BC. This blended formula results in a projected budget increase of about \$30,900.

2. Regional landfill fees for disposal of mixed waste.

In January 1, 2016, the regional landfill tipping fee increased from \$120 to \$130 per tonne. Historically, the rate was \$100 per tonne from January-June, 2014, \$110 per tonne from July-Dec, 2014, and \$120 per tonne for 2015. For 2018, landfill tonnage rates charged by the Regional District are expected to remain unchanged at \$130 per tonne and the minimum rate per load is also expected to remain at \$4.00 per load.

The impact of residential and commercial growth is higher volumes of solid waste and recycling materials being taken to the landfill (see Table below) which causes the City to incur higher annual landfill costs.

	Annual	Annual	Annual
Year	Tonnage	Change	Cost
2013	10,008,000		\$ 900,653
2014	10,074,433	66,433	\$ 1,061,357
2015	10,077,290	2,857	\$ 1,215,417
2016	10,411,430	334,140	\$ 1,358,743
2017	10,657,379	245,949	\$ 1,391,870

The 2018 landfill fees are expected to cost \$34,100 more than 2017.

3. In 2017, a three year program committing \$50,000 per year to replace litter baskets in the downtown area began. Once complete, this program will be modified to replacing litter baskets throughout the City at \$15,000 per year.

DISCUSSION:

2018 Operating Budget Expenditures:

The City provides:

- weekly curbside pickup of Municipal Solid Waste (MSW) and yard waste;
- bi-weekly pickup of recyclables for residential properties; and,
- scheduled MSW/cardboard pickup for commercial properties.

The 2018 budgeted operating expenditures total \$3,197,400. Employee contractual increases and inflationary increases for supplies and materials are contributing to higher operating costs.

2018 Operating Budget Revenues:

The two key revenue sources for the Solid Waste utility are:

1. The 2014 agreement with Multi-Material BC (MMBC) for recycled materials. The amount of revenue received since 2014 has been:
 - o \$194,462 in 2014 (Partial year),
 - o \$322,711 in 2015,
 - o \$366,198 in 2016; and,
 - o \$274,800 to-date for 2017.

Supplementing this revenue is an education grant MMBC provides in the amount of \$38,000 to promote residential recycling. For 2018, revenue from MMBC is projected to be \$371,200 or 12% of the total revenue for this service.

2. User fees.
 - o In 2017, \$2,728,000 was necessary to cover operating expenses. For 2018, \$2,827,400 is required.

2019 – 2022 Financial Plan:

Operating budget expenditures for 2019 – 2022 are projected to increase by about 2% annually based on population growth, building-development permit growth, and inflationary impacts. In order to ensure these cost increases are not a direct burden to the general tax base, it is projected that community growth of 1% and a user fee rate increase of 1% will provide revenues sufficient to offset the operating costs. However, these are estimations based on existing operational circumstances. Future rate adjustments may be needed based on updated information and changing requirements.

The City's agreement with the current solid waste contractor expires at the latter part of 2018. Contractual changes will be factored into future budgets and financial plans.

Future Considerations:

Two future considerations for the City's solid waste service is the impact of an organics program being considered by the CVRD, and the impact of contract negotiations with the City's solid waste service provider. Enhanced public education will be required once these future items are resolved. The cost implications are unknown at this time.

FINANCIAL IMPLICATIONS:

In order to provide the same level of service to consumers in 2018, a 3.75% user fee rate increase is required. The general impact to customers will be:

1. Annual flat levy fee for residential and commercial will increase from \$155.60 to \$161.40, a difference of \$5.83 or \$0.485 per month or \$0.02 per day;
2. Multi-family apartments and stratas (excluding yard waste and recyclables) will increase from \$136.70 to \$141.83 a difference of \$5.13 or \$0.427 per month or \$0.014 per day;
3. Additional service fee charges for extra yard waste pickup will change from \$18.40 to \$19.09, a difference of \$0.69 or \$0.058 per month.

Attachment number 1 identifies all applicable rate changes in comparison to 2017. This will create approximately \$99,500 of additional revenue necessary to generate \$2,827,400 to offset operating expenses.

ADMINISTRATIVE IMPLICATIONS:

Staff will update the utility billing system and Financial Plan documentation to reflect the approved rates for 2018 once the amending bylaw is adopted. This will take approximately 3 hours.

ASSET MANAGEMENT IMPLICATIONS:

Not applicable.

STRATEGIC PRIORITIES REFERENCE:

We focus on organizational and governance excellence

- We support and encourage initiatives to improve efficiencies
- We responsibly provide services at a level which the people we serve are willing to pay



- **Area of Control**
The policy, works and programming matters that fall within Council’s jurisdictional authority to act.
- ▲ **Area of Influence**
Matters that fall within shared or agreed jurisdiction between Council and another government or party.
- **Area of Concern**
Matters of interest outside Council’s jurisdictional authority to act.

OFFICIAL COMMUNITY PLAN REFERENCE:

Section 6.5 Solid Waste

Policy: 1

1. The City will pursue steps to reduce solid waste through a variety of approaches including:
 - education, promotion, advertising
 - encouraging recycling
 - encouraging home composting
 - review user fees
 - supporting recycling facilities within major commercial and industrial developments
 - encouraging mandatory garbage collection for the Comox Valley

REGIONAL GROWTH STRATEGY REFERENCE:

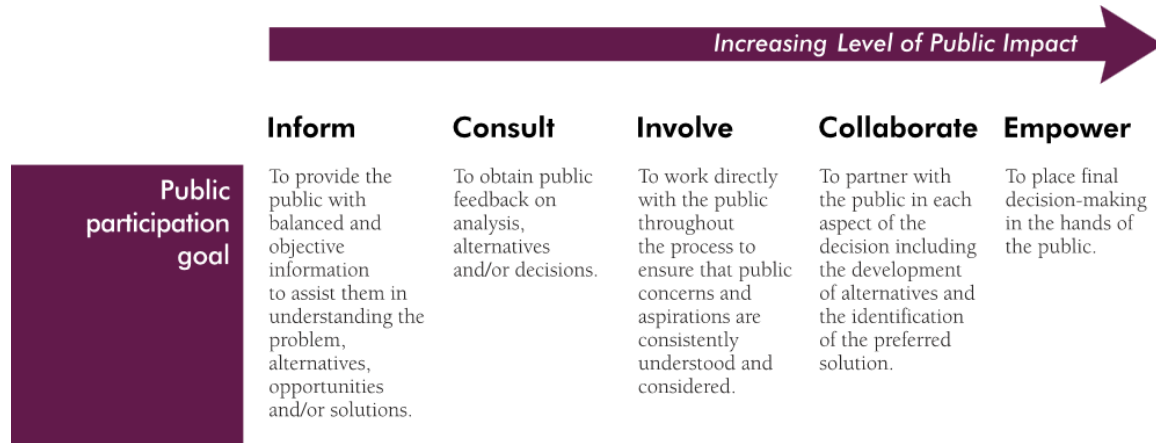
Goal 8: Climate Change:

Objective 8-C: Reduce GHG emissions in the solid waste sector

CITIZEN/PUBLIC ENGAGEMENT:

Staff will **inform** the public based on the IAP2 Spectrum of Public Participation:

http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/imported/IAP2%20Spectrum_vertical.pdf



OPTIONS:

OPTION 1: That Council endorse the proposed increases to the Solid Waste, Recyclables, and Yard Waste user fees as outlined in the attached table of this report; and,

That Bylaw Number 2904,2017 a bylaw to amend the “City of Courtenay Fees and Charges Bylaw No. 1673, 1992”, proceed to first, second and third reading to reflect the proposed 2018 Solid Waste, Recyclables and Yard Waste user fees.

OPTION 2: That Council defer endorsing the proposed increase to the 2018 Solid Waste, Recyclables and Yard Waste user fees for further discussion at a later Council meeting.

While Option 2 provides time for further discussion, it also impacts the schedule required for the 2018 Budget process. User fees are calculated to cover the costs associated with providing the service and it is beneficial to adopt them prior to the end of a calendar year.

OPTION 3: That Council leave all Solid Waste, Recycling and Yard Waste user rates unchanged for 2018.

Prepared by:

Brian Parschauer, BA, CPA-CMA
Director of Finance

Attachments:

- # 1: 2018 Solid Waste and Recycling User Fee Collection Rates
- # 2: 2018 – 2022 Solid Waste, Recycling and Yard Waste Financial Plan Summary

SOLID WASTE + RECYCLING COLLECTION FEES				2017	2018	
				Approved	Proposed	
				Rates	Rates	Change
a) Dwelling Basis Fee (included recycling & yard waste)				\$ 155.60	\$ 161.44	\$ 5.84
Extra Bag Ticket (50 litre) As of March 7				\$ 2.50	\$ 2.50	\$ -
b) Multifamily, Apt, Strata per unit (no blue box, no recycling)				\$ 136.70	\$ 141.83	\$ 5.13
	a) Recycling Pick Up per unit				\$ -	\$ -
	b) Yard Waste Pick Up per unit			\$ 18.40	\$ 19.09	\$ 0.69
c) Trade Premises - per Pick Up					\$ -	\$ -
Cans	1 Can or Equivalent			\$ 2.70	\$ 2.80	\$ 0.10
	Each Extra Can			\$ 2.70	\$ 2.80	\$ 0.10
DCBIA - Per Unit Per Year				\$ 297.80	\$ 308.97	\$ 11.17
Containers - Mixed Per Pick Up				Calculated Rates		
Bins	2 Yd ³	Base Rate		\$ 16.20	\$ 16.81	\$ 0.61
	3 Yd ³	2 yd3 mixed container base rate X		\$ 24.30	\$ 25.22	\$ 0.91
	6 Yd ³	2 yd3 mixed container base rate X		\$ 48.60	\$ 50.43	\$ 1.83
	12 Yd ³	2 yd3 mixed container base rate X		\$ 97.20	\$ 100.86	\$ 3.66
	20 Yd ³	2 yd3 mixed container base rate X		\$ 162.00	\$ 168.10	\$ 6.10
	***Sizes other than listed above charged at a rate per cubic yard			\$ 8.10	\$ 8.41	\$ 0.31
Compactors - Mixed Per Pick Up						
Bins	27 Yd ³	Base Rate		\$ 437.90	\$ 454.30	\$ 16.40
	28 Yd ³	27 yd3 compactor Base Rate +	2 yd3 mixed bins container rate	\$ 454.10	\$ 471.11	\$ 17.01
	30 Yd ³	27 yd3 compactor Base Rate +	2 yd3 mixed bins container rate	\$ 486.50	\$ 504.73	\$ 18.23
	35 Yd ³	27 yd3 compactor Base Rate +	2 yd3 mixed bins container rate	\$ 567.50	\$ 588.78	\$ 21.28
	40 Yd ³	27 yd3 compactor Base Rate +	2 yd3 mixed bins container rate	\$ 648.50	\$ 672.83	\$ 24.33
	***Sizes other than listed above charged the Applicable Year's 27 cubic yard base rate plus multiple of 2 cubic yard base rate			\$ 16.20	\$ 16.81	\$ 0.61
Containers - Cardboard Per Pick Up						
Bins	2 Yd ³	Base Rate		\$ 8.87	\$ 9.20	\$ 0.33
	3 Yd ³	2 yd3 containers-cardboard Base rate x		\$ 13.31	\$ 13.80	\$ 0.49
	6 Yd ³	2 yd3 containers-cardboard Base rate x		\$ 26.61	\$ 27.60	\$ 0.99
	***Sizes other than listed above charged at a rate per cubic yard			\$ 4.44	\$ 4.60	\$ 0.17
Compactors - Cardboard Per Pick Up						
Bins	27 Yd ³	Base Rate		\$ 146.00	\$ 151.48	\$ 5.48
	30 Yd ³	2 yd3 mixed container base rate X	plus Compactors Cardboard base rate	\$ 162.20	\$ 168.29	\$ 6.09
	35 Yd ³	2 yd3 mixed container base rate X	plus Compactors Cardboard base rate	\$ 189.25	\$ 196.36	\$ 7.11
	40 Yd ³	2 yd3 mixed container base rate X	plus Compactors Cardboard base rate	\$ 216.31	\$ 224.44	\$ 8.13
	***Sizes other than listed above charged the Applicable Year's 27 cubic yard base rate plus multiple of 2 cubic yard base rate			\$ 5.41	\$ 5.61	\$ 0.20

City of Courtenay
2018 - 2022 Five Year Financial Plan

Solid Waste Summary	Actual	Final Budget	Actual as Oct16.17	Final Budget	Proposed Budgets for Discussion			
	2016	2017	2017	2018	2019	2020	2021	2022
REVENUES								
Garbage Collection	2,663,095	2,728,000	2,762,458	2,827,400	2,898,800	2,942,600	2,988,900	3,035,000
Multi Materila BC Recycling revenue	366,198	326,700	274,796	333,200	339,900	343,300	346,700	350,200
MMBE Residential Eductaion Grant	43,969	38,000	32,829	38,000	38,000	38,000	38,000	38,000
Total Revenues	3,073,262	3,092,700	3,070,083	3,198,600	3,276,700	3,323,900	3,373,600	3,423,200
EXPENDITURES								
Collection Services								
General Services - Emterra	1,456,735	1,545,300	776,536	1,576,200	1,607,700	1,639,900	1,672,700	1,706,100
CVRD Services	1,399,469	1,374,100	959,185	1,408,200	1,436,400	1,465,100	1,494,400	1,524,300
Advertising	2,095	12,100	3,081	40,100	40,900	41,700	42,500	43,400
Sub-Total	2,858,298	2,931,500	1,738,802	3,024,500	3,085,000	3,146,700	3,209,600	3,273,800
Dog Stations	29,880	32,100	14,559	32,300	32,900	33,600	34,300	34,900
Miscellaneous	5,000	9,500	-	9,000	9,100	9,100	9,200	9,200
Litter Baskets - City Crew	71,446	128,900	56,732	131,600	134,400	101,900	104,000	105,900
Sub-Total	106,325	170,500	71,291	172,900	176,400	144,600	147,500	150,000
Total Expenditures	2,964,624	3,102,000	1,810,093	3,197,400	3,261,400	3,291,300	3,357,100	3,423,800
Net Suplus (Deficit)	108,638	(9,300)	1,259,990	1,200	15,300	32,600	16,500	(600)



STAFF REPORT

To: Council
From: Chief Administrative Officer
Subject: Assessment Appeals Reserve

File No.: 1871-01
Date: November 6, 2017

PURPOSE:

To inform Council of 2011 to 2017 assessment appeal losses and to request the creation of an Assessment Appeals Reserve to provide a funding source for future appeal losses.

POLICY ANALYSIS:

Section 188 (1) of the *Community Charter* states

“188 (1) A council may, by bylaw, establish a reserve fund for a specified purpose and direct that money be placed to the credit of the reserve fund.”

EXECUTIVE SUMMARY:

The City has no formal statutory reserve to cover tax revenue losses from assessment appeals. These losses occur when taxpayers challenge the assessment values assigned to their property or business. Assessment appeals can be settled in one year, but some appeals can take years to settle and may involve the courts before a resolution is reached. Once an appeal is settled, BC Assessment notifies the City and a tax adjustment, with accrued interest, is required.

BC Assessment recently notified City staff of assessment appeal settlements for 2011 to 2017 resulting in a cumulative tax revenue loss of \$237,139 split between the City and other taxing authorities. The City's portion is covered using current year budget dollars and prior year's surplus dollars. Tax revenues paid to other authorities is reduced to cover their share of the assessment appeal losses.

Staff recommend that an Assessment Appeals reserve be created to cover City tax revenue losses exceeding a fixed dollar amount rather than use a prior year's surplus.

CAO RECOMMENDATIONS:

That based on the November 6, 2017 staff report, "Assessment Appeals Reserve", Council approve Option 1 and give first, second and third reading to the "Assessment Appeals Reserve Bylaw No. 2896, 2017"; and approve a 2017 budgetary adjustment of \$204,639 (\$115,618 funded by Collections for other Authorities plus \$89,021 from the City's prior year surplus) to provide funding for tax appeal losses identified by BCAssessment; and

That Council authorize a transfer of \$50,000 from Prior Year's surplus to the new Assessment Appeals Reserve.

Respectfully submitted,



David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

Each year the budget includes an amount for lost tax revenue from supplementary assessment adjustments. These adjustments occur when BC Assessment notifies the City of an assessment change to the tax roll. When an assessment change occurs, the City is required to void the original tax levy and re-levy based on the revised assessment value. The difference between the original levy and the revised levy results in a tax refund. In addition, Section 239 of the *Community Charter* requires interest to be paid on the refund. In the past, the loss of tax revenue from assessment appeals was covered by current year's budget dollars and/or surplus from a prior year. The table below identifies 2010 – 2016 tax revenue losses due to supplementary assessment value changes.

Year	Budget	Actual tax Revenue Losses	Difference
2016	31,900	17,602	14,298
2015	45,000	31,263	13,737
2014	41,244	30,265	10,979
2013	46,000	74,724	(28,724)
2012	15,000	304	14,696
2011	10,000	12,988	(2,988)
2010	25,000	5,555	19,445
		Total	41,443

Historically appeals beyond the current year were tracked but no specific reserve set aside to address the potential for large tax revenue losses. Over the past seven years, annual tax revenue losses have never exceeded \$75,000.

DISCUSSION:

Assessment appeals predominantly come from the Industrial, Commercial, Institutional (ICI) sector. BCAssessment attempts to reach an appeal settlement as quickly as possible. Some appeals are settled in the current tax year but others can continue for many years, often progressing through the provincial court system. Appeals that span multiple years usually result in large tax revenue losses. Even after a resolution occurs, the ICI organization can continue to attempt to obtain further assessment changes in a subsequent year.

BCAssessment recently notified staff of assessment appeal settlements for several large retail stores over the timeframe of 2011 to 2017. Attachment # 1 summarizes the impact of the Assessment Appeal adjustments and Attachment # 2 provides the details.

The cumulative impact of the appeal settlements is a tax revenue loss of \$237,139 (including interest). The 2017 Budget did not include funds for this loss as the results of the assessment appeals were received after the 2017 Budget was finalized. Any dollar amount beyond the 2017 budgeted amount of \$32,500 must be covered by an alternative funding source or prior year's surplus dollars. Council must approve a budget adjustment to authorize the utilization of prior year's surplus dollars to cover the tax revenue loss.

In order to mitigate the impact of lost tax revenues from assessment appeal losses spanning several years, an Assessment Appeals reserve should be considered under the authority of Section 188, subsection 1 of the *Community Charter*. The table above shows the annual budget for Supplemental Adjustments varying from year to year. Rather than change the budget value every year, it could be increased to \$75,000 to cover current tax revenue losses and to provide a funding source for the Reserve. The aggregated dollars in this reserve would be used to provide a cushion to mitigate future assessment appeal tax revenue losses. It should have a minimum balance of \$100,000 and a limit of \$200,000. The Reserve could be seeded with \$50,000 from Prior Year's surplus.

FINANCIAL IMPLICATIONS:

To date, the total loss of tax revenue for all parties plus interest is \$237,139. The cost of assessment adjustments for the City is \$121,521. The 2017 budget covers \$32,500 leaving a balance of \$89,021 to be covered from prior year's surplus. An additional \$115,618 relates to taxes collected on behalf of other taxing authorities and will be deducted from their future tax revenue collections.

Attachment 3 provides a list of organizations with unresolved 2015 – 2017 assessment adjustment appeals. For these three years, the potential risk to only the Municipal portion of the tax roll is a cumulative tax revenue loss of \$422,546 (total of green highlights). BCAssessment continues to work at reducing this risk. The potential for this type of revenue loss is driving the need for a reserve.

ADMINISTRATIVE IMPLICATIONS:

Approximately two hours of staff time will be required to set up the statutory reserve and to process future deductions from the revenues collected from other taxing authorities.

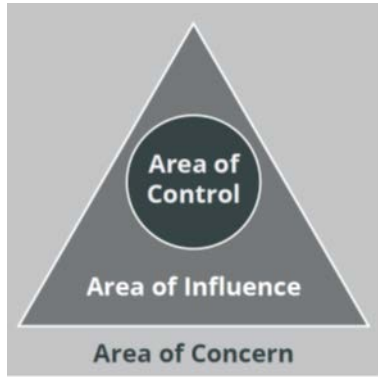
ASSET MANAGEMENT IMPLICATIONS:

N/A

STRATEGIC PRIORITIES REFERENCE:

We focus on organizational and governance excellence

- We support meeting the fundamental corporate and statutory obligations



- **Area of Control**
The policy, works and programming matters that fall within Council’s jurisdictional authority to act.
- ▲ **Area of Influence**
Matters that fall within shared or agreed jurisdiction between Council and another government or party.
- **Area of Concern**
Matters of interest outside Council’s jurisdictional authority to act.

OFFICIAL COMMUNITY PLAN REFERENCE:

N/A

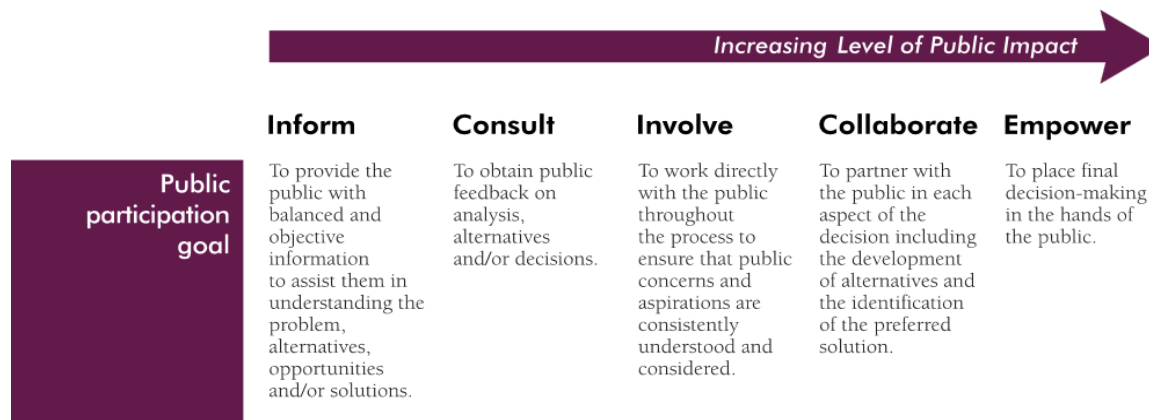
REGIONAL GROWTH STRATEGY REFERENCE:

N/A

CITIZEN/PUBLIC ENGAGEMENT:

Staff would **inform** the public based on the IAP2 Spectrum of Public Participation:

http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/imported/IAP2%20Spectrum_vertical.pdf

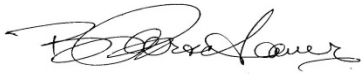


OPTIONS:

1. That Council approve a 2017 budgetary adjustment of \$204,639 (\$115,618 funded by Collections for other authorities plus \$89,021 from the City’s prior year surplus) to provide funding for tax appeal losses identified by BCAssessment; and,
 That Council provide first, second and third readings of the Assessment Appeals Reserve Bylaw No. 2896, 2017; and,
 That Council authorize a transfer of \$50,000 from Prior Year’s Surplus to the new Assessment Appeals Reserve. [Recommended]

2. That Council approve a 2017 budgetary adjustment of \$204,639 (\$115,618 funded by Collections for other authorities plus \$89,021 from the City's prior year surplus) to provide funding for tax appeal losses identified by BCAssessment; and,
That Council provide first, second and third readings of the Assessment Appeals Reserve Bylaw No. 2896,2017.
3. That Council approve a 2017 budgetary adjustment of \$204,639 (\$115,618 funded by Collections for other authorities plus \$89,021 from the City's prior year surplus) to provide funding for tax appeal losses identified by BCAssessment.

Prepared by:



Brian Parschauer, BA, CPA-CMA
Director of Finance

Attachment # 1 – 2011 – 2017 Assessment Adjustments Summary
Attachment # 2 – 2011 – 2017 Assessment Adjustments Detailed Breakdown
Attachment # 3 – 2015 – 2017 Assessment Adjustments – Risk to Tax Roll

SUMMARY
2011 - 2017 Assessment Adjustments

Attachment # 1

				Total SUPP's Received (2011 to 2017)			
				General and Debt (Municipal)	Interest	Collected for Other Authorities	Total
Address	Owner	Roll #	Class				
388 Lerwick Road	Home Depot Holdings Inc. #7177	001962.006	6	(59,509)	(2,776)	(58,957)	(121,243)
3175 Cliffe Ave	Calloway REIT (Courtenay) Inc.	001955.112	6	(45,229)	(5,186)	(48,691)	(99,106)
1095 Cliffe Avenue	1081061 BC LTD	000818.000	6	(1,157)		(1,058)	(2,215)
625 England Ave	Secret Venture Holdings Ltd.	000409.000	6	(2,223)		(1,823)	(4,045)
2248 Sussex Dr	L Brenkley	002502.252	1	(465)		(463)	(928)
2463 Rosewall Cres	516647 BC Ltd	002091.166	1/6	(427)		(351)	(778)
2311 Rosewall Cres	Saltwater Education Society	002091.190	6	(3,105)		(2,839)	(5,944)
2847 Gatehouse Pl	Provincial Rental Housing Corp	003400.214	1	(1,444)		(1,435)	(2,879)
Total SUPPs Processed incl. interest				(113,559)	(7,962)	(115,618)	(237,139)

Total - General and Debt - Municipal + Interest	(121,521)
Total - Collections for other Authorities + Interest	(115,618)
	(237,139)

DETAILS
2011 - 2017 Assessment Adjustments

Attachment # 2

				2017			2016		
				Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities	Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities
Address	Owner	Roll #	Class						
388 Lerwick Road	Home Depot Holdings Inc. #7177	001962.006	6	(2,100,000)			(1,374,000)	(15,548)	(14,576)
3175 Cliffe Ave	Calloway REIT (Courtenay) Inc.	001955.112	6	(13,700,000)			(3,149,000)		
1095 Cliffe Avenue	1081061 BC LTD	000818.000	6	(107,000)	(1,157)	(1,058)			
625 England Ave	Secret Venture Holdings Ltd.	000409.000	6	(184,300)	(2,223)	(1,823)			
2248 Sussex Dr	L Brenkley	002502.252	1	(117,000)	(465)	(463)			
2463 Rosewall Cres	516647 BC Ltd	002091.166	1/6		(427)	(351)			
2311 Rosewall Cres	Saltwater Education Society	002091.190	6	(287,100)	(3,105)	(2,839)			
2847 Gatehouse Pl	Provincial Rental Housing Corp	003400.214	1	(363,000)	(1,444)	(1,435)			
Total SUPPs Processed incl. interest				(1,058,400)	(8,821)	(7,969)	(1,374,000)	(15,548)	(14,576)

DETAILS
2011 - 2017 Assessment Adjustments

				2015			2014		
				Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities	Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities
Address	Owner	Roll #	Class						
388 Lerwick Road	Home Depot Holdings Inc. #7177	001962.006	6	(1,374,000)	(15,160)	(14,861)	(1,374,000)	(14,729)	(15,004)
3175 Cliffe Ave	Calloway REIT (Courtenay) Inc.	001955.112	6	(6,000,000)					
1095 Cliffe Avenue	1081061 BC LTD	000818.000	6						
625 England Ave	Secret Venture Holdings Ltd.	000409.000	6						
2248 Sussex Dr	L Brenkley	002502.252	1						
2463 Rosewall Cres	516647 BC Ltd	002091.166	1/6						
2311 Rosewall Cres	Saltwater Education Society	002091.190	6						
2847 Gatehouse Pl	Provincial Rental Housing Corp	003400.214	1						
Total SUPPs Processed incl. interest				(1,374,000)	(15,160)	(14,861)	(1,374,000)	(14,729)	(15,004)

DETAILS
2011 - 2017 Assessment Adjustments

				2013			2012		
				Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities	Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities
Address	Owner	Roll #	Class						
388 Lerwick Road	Home Depot Holdings Inc. #7177	001962.006	6	(1,323,000)	(14,072)	(14,516)			
3175 Cliffe Ave	Calloway REIT (Courtenay) Inc.	001955.112	6				(2,768,000)	(28,354)	(30,290)
1095 Cliffe Avenue	1081061 BC LTD	000818.000	6						
625 England Ave	Secret Venture Holdings Ltd.	000409.000	6						
2248 Sussex Dr	L Brenkley	002502.252	1						
2463 Rosewall Cres	516647 BC Ltd	002091.166	1/6						
2311 Rosewall Cres	Saltwater Education Society	002091.190	6						
2847 Gatehouse Pl	Provincial Rental Housing Corp	003400.214	1						
Total SUPPs Processed incl. interest				(1,323,000)	(14,072)	(14,516)	(2,768,000)	(28,354)	(30,290)

DETAILS
2011 - 2017 Assessment Adjustments

				2011		
				Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities
Address	Owner	Roll #	Class			
388 Lerwick Road	Home Depot Holdings Inc. #7177	001962.006	6			
3175 Cliffe Ave	Calloway REIT (Courtenay) Inc.	001955.112	6	(1,672,000)	(16,875)	(18,401)
1095 Cliffe Avenue	1081061 BC LTD	000818.000	6			
625 England Ave	Secret Venture Holdings Ltd.	000409.000	6			
2248 Sussex Dr	L Brenkley	002502.252	1			
2463 Rosewall Cres	516647 BC Ltd	002091.166	1/6			
2311 Rosewall Cres	Saltwater Education Society	002091.190	6			
2847 Gatehouse Pl	Provincial Rental Housing Corp	003400.214	1			
Total SUPPs Processed incl. interest				(1,672,000)	(16,875)	(18,401)

DETAILS
2015 - 2017 Assessment Adjustments - Risk to Tax Roll

Attachment # 3

				2017			2016			2015		
				Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities	Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities	Assessment Difference	General and Debt (Municipal)	Collected for Other Authorities
Address	Owner	Roll #	Class									
388 Lerwick Road	Home Depot Holdings Inc. #7177	001962.006	6	(2,100,000)	(22,711)	(20,768)	(1,374,000)	(15,548)	(14,576)	(1,374,000)	(15,160)	(14,861)
3175 Cliffe Ave	Calloway REIT (Courtenay) Inc.	001955.112	6	(13,700,000)	(148,164)	(135,488)	(3,149,000)	(35,634)	(33,406)	(6,000,000)	(66,200)	(64,894)
757 Ryan Road	Loblaws Properties West Inc.	001521.054	6	(2,300,000)	(24,874)	(22,746)						
588 Crown Isle Blvd	Costco Wholesale Canada Ltd.	002500.183	6	(3,100,000)	(33,526)	(30,658)						
278 Island Hwy N	Canadian Tire Real Estate Ltd.	001676.000	6		0	0				(1,069,000)	(11,795)	(11,562)
585 England Avenue	England Avenue Holdings Ltd.	000334.000	6	(150,000)	(1,622)	(1,483)						
1799 Cliffe Avenue	McDonald's Restaurants of Canada	001210.012	6	(170,000)	(1,839)	(1,681)						
2701 Cliffe Avenue	Driftwood Mall Ltd.	001720.050	6	(4,800,000)	(51,912)	(47,470)						
468 29th Street	Fernco Development Ltd.	001960.004	6	(1,087,200)	(11,758)	(10,752)	(466,000)	(5,273)	(4,943)			
468 29th Street	Fernco Development Ltd.	001960.004	6	(50,830)	(550)	(503)	(23,900)	(270)	(254)			
2966 Kilpatrick Ave	Fernco Development Ltd.	001960.006	6	(290,000)	(3,136)	(2,868)	(255,000)	(2,886)	(2,705)			
2966 Kilpatrick Ave	Fernco Development Ltd.	001960.006	6	(20,000)	(216)	(198)	(15,900)	(180)	(169)			
Total Potential Risk to Roll outstanding				(27,768,030)	(300,309)	(274,615)	(3,909,800)	(44,243)	(41,476)	(7,069,000)	(77,994)	(76,456)

Minutes of a City of Courtenay Heritage Advisory Commission meeting held September 27, 2017 at 10:00 a.m. at the City of Courtenay.

Present: L. Burns C. Piercy J. Hagen J. Fortin A. Ireson
R. Dingwall L. Grant Staff: E. Ferguson and Tatsuyuki Setta

Absent: D. Griffiths

MINUTES

Moved by R. Dingwall and seconded by J. Hagen that the June 28, 2017 minutes be adopted as circulated.

Carried

OLD BUSINESS

40 HOUSES

L. Burns reported that the thank you letters have been sent.

HERITAGE CLOCKS

A. Ireson reported that Ray Saunders visited and conducted an assessment of the two heritage clocks. A. Ireson will forward the report to Commission members once it is available.

PIONEER GRAVES TREE

R. Dingwall reported that tree has been removed and cookies have been cut. The cookies have not yet been transported for storage due to dry weather conditions. R. Dingwall will follow-up on current status.

RESIDENTIAL INVENTORY

E. Ferguson has printed copies for R. Dingwall. E. Ferguson to provide A. Ireson updated inventory sheets. Future updates to be emailed to planning@courtenay.ca. Members to flag nominations for heritage appreciation card program.

HERITAGE ARCHIVE STORAGE

L. Burns provided update on progress of inventory including reviewing personal heritage files. E. Ferguson noted that photos of panels have been taken and that the panels should be archived as soon as possible. T. Setta reported that City Hall will be undergoing interior renovation which may affect storage space.

TRAIN STATION

L. Burns and A. Ireson to schedule meeting with Mayor Jangula.

WORKSHOP REPORT

J. Hagen reported on workshop progress. Group has been continuing the research of the Urquhart Building (5th Street Florist and Laughing Oyster Books). Next

workshop is scheduled for Oct 5 at 9:15 am.

NEW BUSINESS

No report this month.

MUSEUM REPORT

IN KIND HOURS

Total 54.25 hours

- downtown inventory, July 12
Lawrence, Cliff, Andrew, Judy, Linda worked 2.75 hrs. each. Julie 2 hrs. **Total 15.75 hrs**
- downtown inventory, August 9
Julie, Cliff, Linda worked 2.5 hrs. each. Andrew 4.5 hrs and Judy 3hrs **Total 15 hrs**
- Overwaitea File
Judy 1.5 hrs
- Clocks, Andrew worked 10 hrs
- Downtown inventory, Sept 6
Judy, Andrew, Julie worked 2 hours each. **Total 6 hrs.**
- Pioneer Trees, Ross worked 1 hour
- Archives, Lawrence, worked 3hrs.
- Clocks, Andrew worked 2 hrs.

BUDGET

E. Ferguson to provide an update. (The Heritage Advisory Commission has \$3,658 left for 2017 and has used \$1,342).

PLAQUE COMMEMORATION

J. Fortin proposed a plaque be placed for the first multi-family building in Courtenay. Four-plex located at either 14th and Grieve or 17th and Fitzgerald.

CORRESPONDENCE

Nothing to report

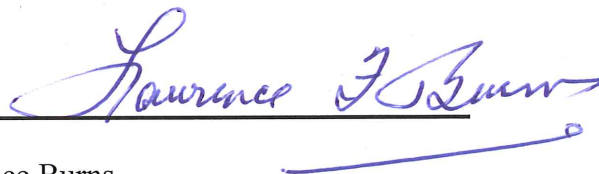
FOR YOUR INFORMATION

- J. Hagen presented letter she received regarding her article on the school
- Museum is looking for any information on the fire at the Woodhus Hotel

NEXT MEETING

October 25, 2017.

ADJOURNMENT at 11:10 am.



Lawrence Burns,
Chair

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2900

A bylaw to amend Zoning Bylaw No. 2500, 2007

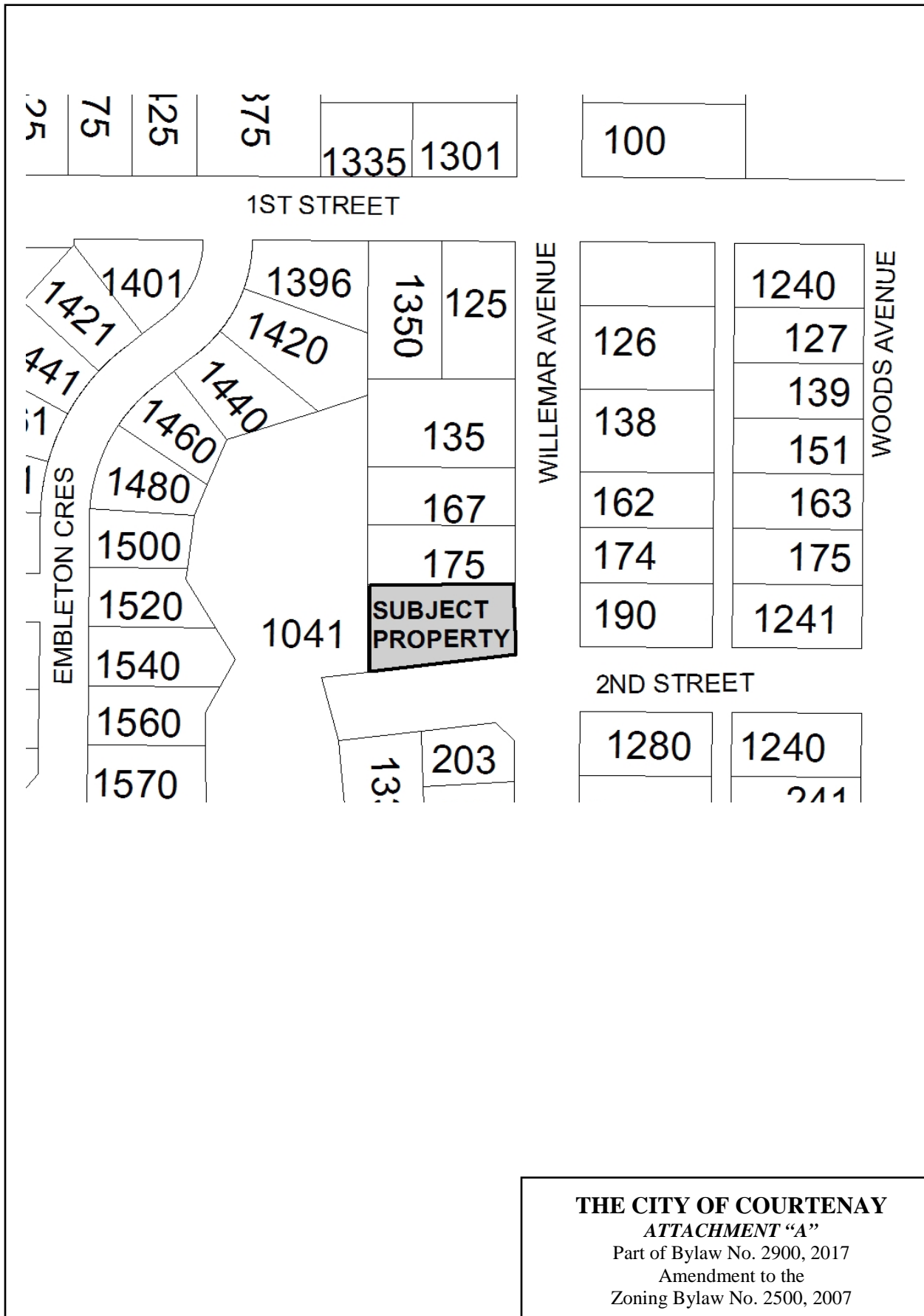
The Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

1. This bylaw may be cited for all purposes as **“Zoning Amendment Bylaw No. 2900, 2017”**.
2. That “Zoning Bylaw No. 2500, 2007” be hereby amended as follows:
 - (a) by amending Section 8.2.1(6) by adding “(h) notwithstanding the required lot size stated in (e), a secondary residence is permitted on Lot D, Section 79, Comox District, Plan 18822 (191 Willemar Avenue)”.
3. This bylaw shall come into effect upon final adoption hereof.

Read a first time this	day of	, 2017
Read a second time this	day of	, 2017
Considered at a Public Hearing this	day of	, 2017
Read a third time this	day of	, 2017
Finally passed and adopted this	day of	, 2017

Mayor

Director of Legislative Services



THE CITY OF COURTENAY
ATTACHMENT "A"
 Part of Bylaw No. 2900, 2017
 Amendment to the
 Zoning Bylaw No. 2500, 2007

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2896

A Bylaw to establish an Assessment Appeals Reserve

The Municipal Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

CITATION

1. This Bylaw may be cited for all purposes as the "**Assessment Appeals Reserve Bylaw No. 2896, 2017.**"

ESTABLISHMENT

2. Subject to section 188 of the *Community Charter*, this bylaw establishes a reserve for a specified purpose and directs that money be placed to the credit of the reserve.
3. Monies in this reserve and interest earned on it must be used only for the purposes for which the reserve was established.
4. Monies are to be received through budget transfers or other Council approved allocations as authorized by the *Community Charter* and other applicable legislation and regulations.
5. Any annual General Tax Supplementary Assessment general ledger account budget-to-actual variances contributing to the prior year's surplus, shall be allocated directly to this reserve.
6. Amounts included in the Financial Plan adopted under Section 165 of the *Community Charter* or other allocations approved by Council, may from time to time be paid into this reserve.

ADMINISTRATION

7. The accumulated funds in the Assessment Appeals Reserve shall be used solely for the funding of tax refunds resulting from Assessment Appeal adjustments identified by BC Assessment.
8. All expenditures of money from the Assessment Appeals Reserve shall be provided for in the annual Financial Plan or approved by Council amendment thereto.
9. Council hereby authorizes the administration of this bylaw to the Director of Finance.

SEVERANCE

10. If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed portion.

EFFECTIVE DATE

11. This Bylaw will come into force on the date of its adoption.

Read a first time this day of November, 2017

Read a second time this day of November, 2017

Read a third time this day of November, 2017

Finally passed and adopted this day of November, 2017

Mayor

Director of Legislative & Corporate Services

CITY OF COURTENAY

BYLAW REFERENCE FORM

BYLAW TITLE

Assessment Appeals Reserve Bylaw No. 2896, 2017

REASON FOR BYLAW

This Bylaw is presented to:

- create a reserve to provide funding for Assessment Appeal losses exceeding current year budgeted dollars.

STATUTORY AUTHORITY FOR BYLAW

Section 188 of the *Community Charter*

OTHER APPROVALS REQUIRED

N/A

STAFF COMMENTS AND/OR REPORTS

See SR-DFS-2017-11-06 Assessment Appeals Reserve report

OTHER PROCEDURES REQUIRED

November 6, 2017

B. Parschauer
Staff Member

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2904

A bylaw to amend City of Courtenay Fees and Charges Bylaw No. 1673, 1992

The Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

1. This bylaw may be cited for all purposes as **“City of Courtenay Fees and Charges Amendment Bylaw No. 2904, 2017.”**
2. That “City of Courtenay Fees and Charges Bylaw No. 1673, 1992” be amended as follows:
 - (a) That Schedule of Fees and Charges, Section III, Appendix IV “Garbage Collection Fees” be hereby repealed and substituted therefore by the following attached hereto and forming part of this bylaw:

“Schedule of Fees and Charges Section III, Appendix IV – Solid Waste Collection Fees”
3. This bylaw shall come into effect upon final adoption hereof.

Read a first time this day of , 2017

Read a second time this day of , 2017

Read a third time this day of , 2017

Finally passed and adopted this day of , 2017

Mayor

Director of Legislative Services

**SCHEDULE OF FEES AND CHARGES
CITY OF COURTENAY FEES AND CHARGES AMENDMENT BYLAW NO. 2904
SECTION III, APPENDIX IV
SOLID WASTE COLLECTION FEES**

- | | | |
|----|--|----------|
| A. | Dwelling Basis Fee per unit per year
-includes recyclables & yard waste pickup | \$161.44 |
| | Extra Bag Ticket (50 litre) - each | \$2.50 |
| B. | Residential Multifamily, Apartment, Strata per unit per year
(Fee for yard waste, recyclables not included) | \$141.83 |
| | Additional service fee – yard waste pickup, per unit per year | \$19.09 |
| C. | Trade Premises | |

Where mixed waste containers are determined to include recyclable materials, the fee imposed shall be two times the regular pickup fee.

	Per Pickup
Cans – mixed waste (contains no recyclable material)	
1 can or equivalent (1 can = 121 litres)	\$2.80
Every additional can or equivalent 121 litres shall be charged at the rate of	\$2.80
DCBIA – per unit/premise per year (includes two cans per week plus recyclables/cardboard pickup – this fee is charged to those units that are constrained by space and cannot implement a mixed waste bin or cardboard bin service)	\$308.97

Containers - Mixed, Non-compacted (contains no recyclable material)

2 cubic yards	\$16.81
3 cubic yards	\$25.22
6 cubic yards	\$50.43
12 cubic yards	\$100.86
20 cubic yards	\$168.10
Rate per cubic yard for sizes other than those listed above	\$8.41

Compactors – Mixed Waste (contains no recyclable material)	Per Pickup
27 cubic yards	\$454.30
28 cubic yards	\$471.11
30 cubic yards	\$504.73
35 cubic yards	\$588.78
40 cubic yards	\$672.83
For sizes other than those listed above: \$454.30 (27 cubic yard base rate) + [(Y – 27) * \$16.81 (2 cubic yard base rate)]	

Refuse to Recycling Centre (no tipping fees)	
DCBIA Recycle Toter Bin	\$2.30 per bin
<i>Containers</i>	Per Pickup
2 cubic yards	\$9.20
3 cubic yards	\$13.80
6 cubic yards	\$27.60
Sizes other than listed above charged at a rate per cubic yard of	\$4.60

<i>Compactors</i>	Per Pickup
27 cubic yards	\$151.48
30 cubic yards	\$168.29
35 cubic yards	\$196.36
40 cubic yard	\$224.44
For sizes other than those listed above: \$151.48 (27 cubic yard base rate) + [(Y – 27) * \$5.61 (2 cubic yard base rate)]	

CITY OF COURTENAY

BYLAW REFERENCE FORM

BYLAW TITLE

City of Courtenay Fees and Charges Amendment Bylaw 2904, 2017

REASON FOR BYLAW

This Bylaw is presented to repeal Solid Waste Collections Fees Amending Bylaw 2865,2016

STATUTORY AUTHORITY FOR BYLAW

Section 194 of the *Community Charter*

OTHER APPROVALS REQUIRED

N/A

STAFF COMMENTS AND/OR REPORTS

See SR-DFS-2017-11-06 2018 – 2022 Solid Waste, Recyclables and Yard Waste Budgets report

OTHER PROCEDURES REQUIRED

November 6, 2017

B. Parschauer
Staff Member

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2895

A bylaw to amend Zoning Bylaw No. 2500, 2007

The Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

1. This bylaw may be cited for all purposes as “**Zoning Amendment Bylaw No. 2895, 2017**”.
2. That “Zoning Bylaw No. 2500, 2007” be hereby amended as follows:
 - (a) by rezoning Lot 1, Section 14, Comox District, PLAN 20345 (1290 10th St. East), as shown in bold outline on **Attachment A** which is attached hereto and forms part of this bylaw, from Residential One Zone (R-1) to Residential One S (R-1S); and
 - (b) That Schedule No. 8, Zoning Map be amended accordingly.
3. This bylaw shall come into effect upon final adoption hereof.

Read a first time this 2nd day of October, 2017

Read a second time this 2nd day of October, 2017

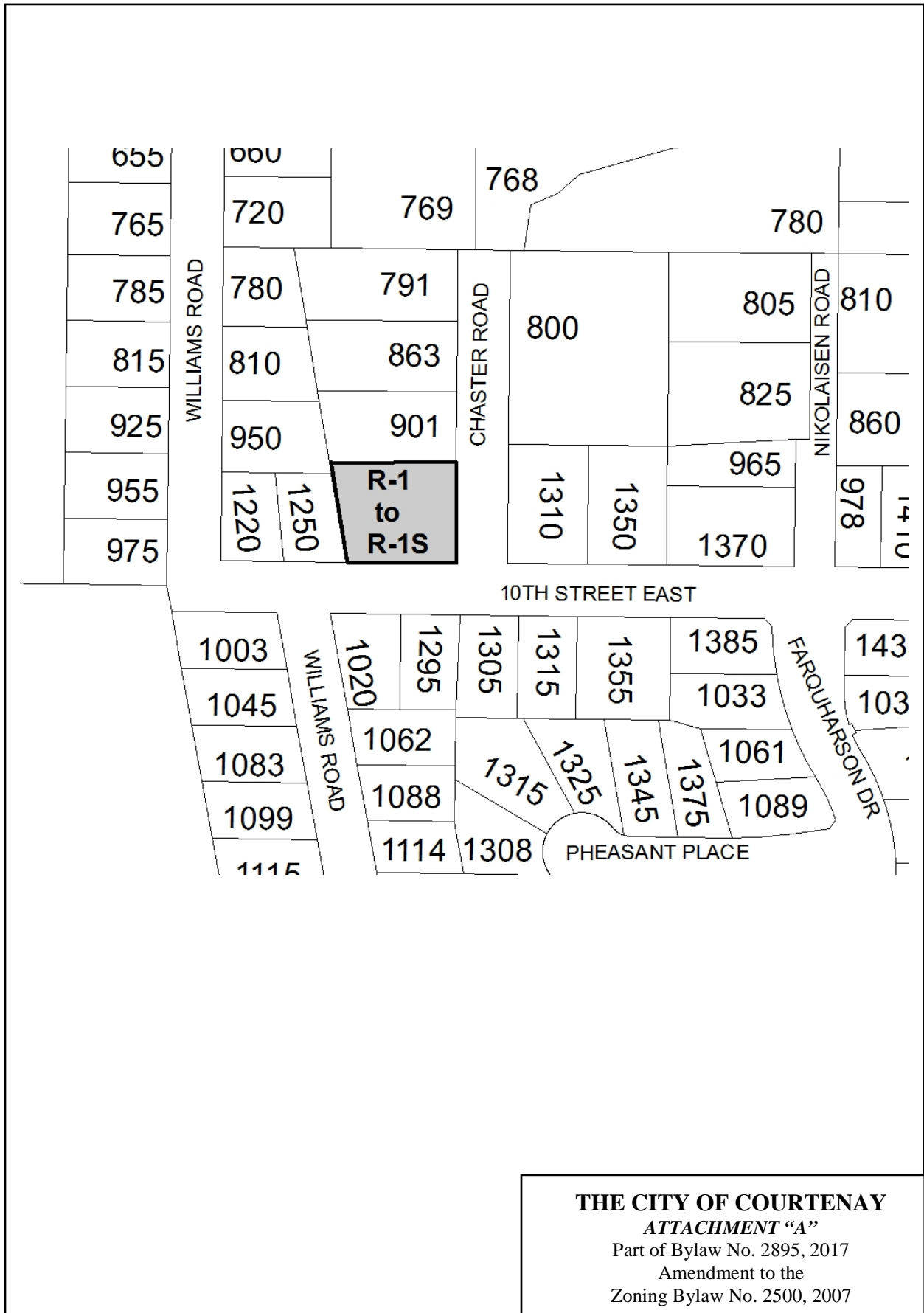
Considered at a Public Hearing this 16th day of October, 2017

Read a third time this day of , 2017

Finally passed and adopted this day of , 2017

Mayor

Director of Legislative Services



THE CITY OF COURTENAY
ATTACHMENT "A"
 Part of Bylaw No. 2895, 2017
 Amendment to the
 Zoning Bylaw No. 2500, 2007

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2908

A Bylaw authorizing the City of Courtenay to borrow the sum of Three Million, Five Hundred Thousand Dollars (\$3,500,000.00) to meet current expenditures of the Corporation

WHEREAS, pursuant to Section 177 of the *Community Charter*, Council may by bylaw, provide for the borrowing of money that may be necessary to meet current lawful expenditures of the municipality;

AND WHEREAS the debt outstanding under this section shall not exceed the sum of seventy-five percent (75%) of all taxes levied for all purposes in the preceding year and the money remaining due from other governments;

AND WHEREAS in order to borrow the said sum, the Corporation shall set aside as security the unpaid taxes from two consecutive prior years and the whole of the taxes for the current year, and the money borrowed shall be a first charge thereon.

NOW THEREFORE, the Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

1. This bylaw may be cited as **“Revenue Anticipation Borrowing Bylaw No. 2908, 2017”**
2. It shall be lawful for the Corporation to borrow the sum of Three Million Five Hundred Thousand Dollars (\$3,500,000.00) in such amounts and at such times as may be so required.
3. There shall be set aside as security for the payment of such money, the whole of the unpaid taxes for the two years prior to and the whole of the taxes for the current year.
4. The monies so borrowed and the interest thereon shall be paid on or before the 31st of July of the current year.
5. The form of obligation to be given as an acknowledgment of such liability shall be a promissory note or notes for sums as may be required and advanced from time to time, signed by the Mayor and Director of Financial Services and bearing the seal of the Corporation or other agreements as required by the lender.

Read a first time this 16th day of October, 2017

Read a second time this 16th day of October, 2017

Read a third time this 16th day of October, 2017

Finally passed and adopted this day of , 2017

Mayor

Director of Legislative Services

