

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

DATE: November 7, 2016
PLACE: City Hall Council Chambers
TIME: 4:00 p.m.

1.00 ADOPTION OF MINUTES

1. Adopt October 17, 2016 Regular Council and October 31, 2016 Committee of the Whole meeting minutes

2.00 INTRODUCTION OF LATE ITEMS

3.00 DELEGATIONS

Pg #

- 1 1. Richard Cook, Chair, C.V. Development & Construction Association re: Tree Protection Bylaw
- 3 2. Residents of Royal Vista Way re: speeding
- 5 3. Old Orchard Residents Association re: Local Area Plan

4.00 STAFF REPORTS/PRESENTATIONS

(a) Recreation and Cultural Services

- 15 1. Volunteer Appreciation Options
- 35 2. BC Hydro Stat Right of Way – Puntledge River Public Safety Project

(b) CAO and Legislative Services

(c) Development Services

- 47 3. Tree Protection and Management Bylaw No. 2850
- 95 4. Encroachment Agreement – 430-5th Street
- 111 5. Zoning Amendment – 2945 Muir Road
- 135 6. Zoning Amendment – 560 Pidcock Avenue
- 145 7. Development Variance Permit – 2963 Cascara Crescent

(d) Financial Services

(e) Engineering Services

- 157 8. Sandwick Waterworks District Changeover – CWWF Grant Support
- 163 9. Clean Water and Wastewater Fund

(f) Public Works Services

5.00 EXTERNAL REPORTS AND CORRESPONDENCE FOR INFORMATION

- 171 1. C.V. Conversation Strategy re: Tree Management Bylaw

6.00 INTERNAL REPORTS AND CORRESPONDENCE FOR INFORMATION

- 173 1. Briefing Note: 5th Street Complete Streets Pilot Project-Public Engagement
175 2. Heritage Advisory Commission Minutes

7.00 REPORTS FROM COUNCIL MEMBERS REGARDING CITY RELATED ACTIVITIES INCLUDING REPORTS FROM COUNCIL AND EXTERNAL COMMITTEES

8.00 RESOLUTIONS OF COUNCIL

In Camera Meeting:

That notice is hereby given that a Special In-Camera meeting closed to the public will be held November 7, 2016 at the conclusion of the Regular Council Meeting pursuant to the following sub-sections of the *Community Charter*:

- 90(1)(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- 90(1)(k) negotiations and related discussion respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public.

9.00 UNFINISHED BUSINESS

10.00 NOTICE OF MOTION

11.00 NEW BUSINESS

12.00 BYLAWS

For First and Second Reading

- 177 1. "Zoning Amendment Bylaw No. 2860, 2016"
(to permit a secondary residence at 560 Pidcock Avenue)
179 2. "Zoning Amendment Bylaw No. 2861, 2016"
(to allow a secondary suite at 2945 Muir Road)

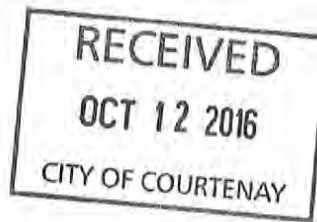
For Third Reading

- 181 1. "Tree Protection and Management Bylaw No. 2850, 2016"

13.00 ADJOURNMENT

October 11, 2016

Mayor and Council, City of Courtenay
City of Courtenay
830 Cliffe Avenue
Courtenay, BC V9N 2J7



Dear Mayor and Council,

**CITY OF COURTENAY PROPOSED TREE PROTECTION BYLAW UPDATE – BYLAW 2850
COMOX VALLEY DEVELOPMENT AND CONSTRUCTION ASSOCIATION FEEDBACK**

The Comox Valley Development and Construction Association appreciates the opportunity to provide input to the City of Courtenay in the preparation of a Tree Protection Bylaw that is practical and attainable, while meeting the community's needs. Our organization wholeheartedly supports the need for a comprehensive plan to preserve and manage our shared environmental amenities. A functional, equitable tree management bylaw is key in the implementation of an Urban Forest Management Strategy.

Unfortunately, it is the opinion of the Comox Valley Development and Construction Association that the proposed Tree Protection Bylaw Update, Bylaw 2850, is premature in its development and implementation. An Urban Forest Management Strategy must be in place to clearly establish the community values that are to be protected, and to develop a framework to manage urban canopy cover, and greenspace in general. The amended bylaw proposed is, in reality, a new bylaw, sharing only name with its predecessor. Implementing a new bylaw of this significance, in the absence of an overarching, guiding strategy, is akin to implementing a zoning bylaw without the community direction provided by an Official Community Plan, or to erecting a building before preparing the construction plans.

Some of the more significant issues arising from the proposed bylaw, include the following:

- The bylaw requires existing tree retention as a priority, with no consideration to the financial impacts this could have on private property owners. The inequitable financial burden imposed by this bylaw on private land owners with different levels of native tree cover is patently unfair.
- The negative impacts that this bylaw (in its current form) will have on the price of a typical single family building lot in the City are staggering. This bylaw, as proposed, will have a direct negative impact on housing affordability, and growth within the City.
- The targeted number of stems per hectare noted in this bylaw is very aggressive, in comparison to many other jurisdictions. More concerning, the implementation framework developed in the bylaw is far more onerous than any other community we are aware of.
- It is not clear how the City intends to enforce the requirements of this bylaw on existing property owners. Specifically, it is unclear how the City intends to monitor every tree within its boundary. Failure to enforce the requirements of any bylaw will lead to legal challenges.

...continued


- The only practical means of managing retained groves of trees or greenways in new residential areas is through dedication of these lands to the City, yet the Bylaw is silent on public dedication, implying that preserved trees remain with the landowner in perpetuity. This bylaw implicitly creates the need, if not requirement, for lands far in excess of statutory parkland requirements to be given to the City. We have been advised that this may be in contravention of the Community Charter.
- Given that community tree retention areas/greenways are not yet identified, (nor generally are the environmental goals of the community), it is unclear why the City would prioritize this method of “protection” above all others. Consideration should rightly be given to reinstating canopy in areas of exceptionally sparse tree cover, or areas of particular environmental significance. An Urban Forest Strategy would provide clarity and guidance in this regard.
- The current levels of tree canopy cover within the City of Courtenay exist exclusively because of land use decisions made by the community in the past. Our community has been shaped by councils of the past, with direct input from their constituents. If this current Council believes that reinstating tree canopy to any level is a *Community* priority, then the *Community* as a whole should be tasked with being part of the solution. The financial onus to mitigate, or restore tree canopy to the targets noted within the proposed Tree Cutting Bylaw, is not rightly borne solely by new development. We fear, as is the case with Affordable Housing, the onus of fixing this *Community* issue will be placed squarely, and very unfairly, on new development.

We would therefore challenge Council to act strongly and decisively. Fund this initiative in the very same way that other *Community priorities*, including recreational facilities and City infrastructure are funded – through taxation.

In closing we ask that you delay passing of a comprehensive Tree Protection Bylaw until the directive for it is provided in a well thought out Urban Forest Management Strategy (UFMS). Only then can you develop a proper and equitable bylaw that implements the Community’s policy directives. For the reasons highlighted in this letter, and for others that will be brought forth to Council, we ask that you direct staff to develop the UFMS **before** adopting any Tree Protection Bylaw.

Thank you for allowing our association to provide input into these important policy decisions. We remain available, and look forward to assisting the City in the preparation of an Urban Forest Strategy and Tree Protection Bylaw.

Yours Truly,



J. Murray Presley
Chair, Comox Valley Development and Construction Association

cc: Ian Buck, Director of Development Services
Nancy Gothard, Environmental Planner

Mayor Jangula and Councilors:

As residents of Royal Vista Way in Crown Isle, we are deeply concerned and troubled with the ongoing problem of speeding vehicles on our street.

Several residents have complained to the RCMP on many occasions with no noticeable resolution.

As noted below, a traffic count was carried out by the City between July 20 and 28 of this year. This study confirms that there is a problem with speeding vehicles in our neighbourhood.

July 20 to 28, 2016

Total number of vehicles: 15,686

85th percentile: 54 kph

95th percentile: 58.3 kph

Max speed: 103.3 kph

35.62% of vehicles are exceeding 50 kph

Speed bins:

Speeds	Number of vehicles
10 – 20 kph	198
20 – 30 kph	401
30 – 40 kph	1713
40 – 50 kph	7787
50 – 60 kph	5076
60 – 70 kph	489
70 – 80 kph	20
80 – 90 kph	1
90 – 100 kph	0
100 – 110 kph	1

The speed LIMIT on Royal Vista Way is 50 kph. As noted, more than 50% of vehicles travelling along our street exceed this limit and a large number travel at speeds greater than 60 kph.

Further, we are aware of three fairly major motor vehicle accidents on our street within the past year. A fourth accident occurred on Majestic Drive, just beyond the intersection with Royal Vista Way this summer.

Ours is an active community, with folks walking, jogging and cycling throughout the day and evening hours. Further, there are golf cart crossings on our street. Vehicles travelling at the speeds noted above present a danger to pedestrians, cyclists and carts.

It is our understanding that speed bumps are not an option, and would request that traffic calming in the form of road narrowing similar to that utilized on some streets in Courtenay as well as Campbell River and close to schools be considered as an effective method to control the problem of speeding vehicles on Royal Vista Way.

We respectfully request that consideration be given in the upcoming budget to undertake whatever measures are necessary to control the problem of speeding vehicles on our street. We are aware that police resources are limited and believe that a permanent solution is necessary to deal with this problem.

Thank you for your consideration. We look forward to your response and assistance.

Hello Mayor and Council,

Thank you for the opportunity to address concerns in the Old Orchard area. Members of the community joined in a lengthy process in 2007 and 2008 to create the Old Orchard and Area Local Area Plan. The advisory committee put in place a vision for the preservation of our heritage, and a mechanism to control the types of development that take place in our neighbourhood. The city approved this plan in September of 2008. There are several aspects of the plan that the Old Orchard Residents Association would like to review with Council because the latest development appears to have lost sight of this vision.

Preservation of Heritage



While our Local Area Plan address many aspects of future development in the Old Orchard area, the single most important consideration was, at the time of our meetings in 2008, and continues to be the preservation of our heritage. We worked hard to produce guidelines that would allow development, as long as heritage was preserved. **You will find the directive to preserve heritage 22 times in the 37 page document (5/6).**

On page 5 of our Local Area Plan you will find the list of objectives, including a directive to the city **“to identify, celebrate and maintain heritage values”** of our neighbourhood. It is very difficult to see how the development on the north side of 3rd follows this directive (7). The new development moves the street and sidewalk north, displacing front yards that have existed for over 100 years and replacing them with a sidewalk and green boulevard.

There is nothing unique, distinct, original, or heritage about this new boulevard design. It could, in fact, be anywhere. The new position of the sidewalk also has an extremely negative impact on the privacy of homes on 3rd, moving within a few feet of our front doors.

On page 18 of the Plan is a picture of one of the homes negatively affected by the current development. We used this home as a model of what “identify, celebrate and maintain” means (8). This section of the report goes on to indicate that future development should “preserve significant heritage trees...and to preserve existing vegetation wherever possible.”

A quick look at the picture of our model home past, and how it looks after recent developments calls into question the city’s commitment to our Local Area Plan. Similar adverse effects took place on other homes along the north side of 3rd. Page 30 of our Local Area Plan indicates that **“it is vital to the success of maintaining the established neighbourhood context that existing buildings serve as inspiration for new development” (9).**

It goes on to say that **“Existing architecture, landscaping, parking , made up of the existing homes, drive and walkways provide the basic patterns upon which new development should be based.”** It seems clear that the intent of the Local Area Plan should come first, and that all subsequent plans should fit in with the directives approved by Council in 2008. Why else make a long-term plan?



Driveways over Heritage

While the development plan was unable to adjust its route to accommodate the heritage yards mentioned above, it was able to adjust to make room for added driveway space on two homes on the east side of Duncan on 3rd. Is this an example of celebrating heritage? More importantly, does this reflect an understanding of the priorities that the city agreed to when it adopted our Old Orchard Area Plan?



Process

In the spring of 2016 the city held an open house to inform the community of the planned development. Craig Perry informed us that this was an “information” open house, which unlike an “engagement” open house, was meant simply to inform us of what the city had planned, not to engage in a dialogue.

The city did take comments, which included a request the sidewalk be returned to the development plan, assuming that should the city respond, the sidewalk would be returned to its “heritage” location.

Without notice to members of the neighbourhood, the city requested a change be made to the original plan presented to the community at the open house. This new plan was voted on and passed by council on June 13. No notice was given to residents of this change of plan or certainly we would have attended.

On September 9, a letter was delivered informing residents on 3rd of the upcoming removal of a tree. This was the first official notice to the resident on 3rd that the plan put forward in the open house had changed. Because of the destructive nature of the new plan, all the residents on the north side of 3rd signed a petition requesting the city return to the plan presented to the community in the open house. Numerous residents from throughout the Old Orchard wrote and called and emailed Mayor, Council and city staff, requesting that the city not proceed with this unnecessary destruction of our heritage.

Our petition was declined by David Allen on procedural grounds. City bylaw 40 (5)(c) indicates that “Council may only reconsider a matter that has not been acted on by an officer, employee or agent of the city.” This is a problematic defence in that it ignores the original plan presented at the open house, a plan that was already acted on by agents of the city, and was then changed. In his letter declining the resident's

petition, David Allen confirmed that “The city issued a change order to the project's general contractor, and both parties have made a contractual obligation for an additional cost of approximately \$23,500 for the sidewalk installation.” City bylaw 40 (5)(c) was waived in order to make changes to the plan presented to the community in the spring, but was then used to decline the petition when members of the community responded in shock to a new plan they had not seen, a change that no one wanted.

It is very difficult to see how this process fits in with any normal sense of consultation. We understand that the city aspires to the IAP2 Spectrum of Public Participation to Consult, Involve, Collaborate, and Empower. If the city simply intended to inform residents of the plan, then the plan presented at the open house should have been followed. If the city wanted to also consult, it should have consulted in a meaningful way.

Ants

Attached is a statement about unnecessary risks of ant migration from the new plan for 3rd (10).

Conclusion

We would like to thank Mayor and Council for your good intentions to make our city a better place for all of us. However, the damage done by the current plan is significant, and completely unnecessary. Those pieces of Old Orchard heritage are gone forever. As you can see from the attached list of quotes taken from the Old Orchard Area Plan, preservation of heritage appears 22 times in the 37 page report.

There are several questions we would like to present to Council:

The process could have functioned in a consultative manner if the residents on the north side of 3rd had been contacted about the June 13 meeting when voting on the new plan took place. Why weren't we contacted?

The city planners were able to accommodate two driveways on the north side of 3rd at Duncan. Why was it possible to adjust the plan for driveways and not for two heritage yards?

Bylaw 40 (5)(c) was central to the reasons given that no change to the plan was possible. However, the request by the community to stay with the plan presented to the community would not have resulted in any additional cost or project delays. If there were no added costs or delays, was the bylaw simply protecting the bad parts of the plan?

Why was the dominant directive to preserve heritage not respected in the new plan?

Thank you,
Old Orchard Residents Association

http://www.courtenay.ca/assets/Departments/Development-Services/LAP_Old%20Orchard.pdf

This is a partial list of quotes that identify maintaining heritage as the most prominent goal in our Local Area Plan. The directive to maintain heritage is mentioned 22 times in the 37 page report. Numbers in parenthesis indicate the page location in the Local Area Plan.

This plan identifies the neighbourhood's unique features, establishes a vision for the neighbourhood, and sets a course forward for planning in the neighbourhood. It was clear early on in the process that the residents of this neighbourhood care deeply about where they live and want to preserve and enhance the existing sense of community and the neighbourhood's heritage character (4).

To identify, celebrate and maintain heritage values;
To develop a strategy to preserve significant heritage trees; (5)

Plan Preparation and Consultation Process

The plan was prepared by the Planning Services Department in consultation with the Old Orchard and Area Local Area Plan Advisory Committee, the public and other City departments. Numerous meetings were held with the neighbourhood advisory committee and neighbourhood public information meetings were conducted to seek community input to ensure that the plan is effective in balancing the interests of stakeholders. The scope of the consultation process is outlined in more detail below (6).

This neighbourhood is an important part of Courtenay's history. The form and character of the development in this neighbourhood has the ability to remind us of times past. New developments have the ability to reinforce, as well as weaken this integrity (12).

Encourage the preservation of existing vegetation and the installation of fruit trees, landscape trees and native species in new developments (14).

Strengthen the heritage character of the neighbourhood by developing smaller commercial properties on 3rd Street rather than encouraging the consolidation of properties into large sites (19)

Preserve existing vegetation wherever possible. A landscaped streetscape is encouraged to provide continuity between the heritage character of the residential area and commercial properties (19).

Preserve existing vegetation wherever possible. A landscaped streetscape is encouraged to provide continuity between the heritage character of the residential area and industrial properties (20).

The success of the Old Orchard and Area Local Area Plan depends on the implementation of its policies with the support of City Council, all City Departments, property owners and businesses in the neighbourhood. All of these groups are key stakeholders and play an important role in the success of the plan.

The Old Orchard and Area Local Area Plan represents a shift to a new direction of development standards for the preservation of the heritage character of the Old Orchard neighbourhood. Directly supported by the residents of the neighbourhood, the implementation methods and policies supported in this plan were not only intended to emphasize the unique heritage qualities of the area but were established to create a more sustainable neighbourhood that speaks to the values and desires of the people who live and work there (27).

The purpose of these guidelines is to maintain the existing character of the Old Orchard and Area neighbourhood. They encourage new development or additions to existing structures to enhance the form and character of the existing context, and advocate the retention of the neighbourhood's historic character (30).

Existing architecture, landscape, and parking elements, made up of the houses, landscaping, drive and walkways, provide the basic patterns upon which new development should be based (30).

Any proposed design should be derived from the existing building, in the case of an addition, or from the neighbourhood context in the case of new construction (30).

Front yard landscape plantings, walkways, and other landscape alterations are encouraged to be derived from the context of adjacent sites (31).

Plan Objectives

The objectives of the development of a local area plan for the Old Orchard and Area is to review the existing OCP policies and formulate a detailed framework for considering development applications in this neighbourhood. Staff suggest that the local area plan for the Old Orchard and Area will set out a policy framework for land use and density that incorporate the following objectives:

- To involve neighbourhood residents and the public in the development of the plan;
- To develop land use and other development policies that incorporate smart growth principles;
- To consider and explore alternate housing types, styles and densities;
- To establish design principles that would require new developments to be sensitive to existing residences and seek innovative design solutions;
- To employ sustainable development principles in the planning and design of new development;
- To achieve development with a high quality of urban design, architecture and landscaping;
- To provide for a pedestrian oriented neighbourhood;
- To promote and encourage traffic calming and street beautification;
- To identify, celebrate and maintain heritage values;
- To develop a strategy to preserve significant heritage trees;
- To identify opportunities to protect, access, or acquire lands adjacent to the Puntledge River;
- To ensure that development of the area adjacent to the downtown commercial area provides an appropriate land use interface and transition between the commercial corridor and the traditional residential qualities of the Old Orchard neighbourhood;
- To review all existing servicing studies for the area to identify any capacity issues and potential infrastructure requirements;
- To develop a servicing strategy that considers the necessary infrastructure improvements, consideration of alternative development standards, methods of financing, and implementation;
- To identify and prioritize the need for additional neighbourhood amenities; and,
- To undertake a financial analysis that will demonstrate potential costs of carrying out the plan and cost recovery options.

COMMERCIAL

Background

The Old Orchard and Area is adjacent to downtown. Several lots on 3rd Street are designated Commercial One Zone (C-1) which is the same zone as downtown or as a specifically designated commercial property in the Residential Two Zone (R-2). A new commercial zone is proposed to be placed on most of the commercially zoned properties in the study area (dark orange area on the Proposed Zoning Plan attached as Appendix 1). The proposed commercial zoning regulations are being proposed in order to allow an improved transition from downtown commercial to a residential neighbourhood. A new zone is recommended that would remove several of the permitted uses such as: night club, hotel, licensed premises, and transportation depot.

Proposed permitted uses for the Old Orchard and Area Commercial Zone are: bed and breakfast, day care, office, personal service, retail limited to 200 square metres, studio, home occupation, and combined commercial-residential uses.

Policy

1. Adopt Old Orchard and Area Design Guidelines for commercial properties to maintain the heritage character of the neighbourhood.
2. Utilizing development permits and the design guidelines attached to this plan as Appendix 2; ensure that new development contributes positively to the heritage character and strong sense of neighbourhood for commercial developments.
3. Contain commercial development in the neighbourhood to sites currently zoned for commercial uses.
4. Ensure that commercial developments on 3rd Street reflect and/or complement the residential character of the neighbourhood.
5. Promote the improvement of building facades to enhance the heritage character.
6. Encourage small-scale mixed use developments that provide locally appropriate retail and community services that complement the residential surroundings.
7. Commercial buildings on 3rd Street should not greatly differ in scale from residential housing.



Appendix 2 - Old Orchard and Area Design Guidelines

The following are landscape and architectural guidelines to be applied to additions or new construction that require a development permit application in the Old Orchard and Area Local Planning Area. These guidelines are to be used in conjunction with the applicable development permit guidelines for the area.

These guidelines are made up of illustrations and photographs of typical examples of the architectural style and characteristics that are encouraged in the neighbourhood. Development permit applications will be evaluated in context with a range of quality designs found in the Old Orchard, rather than just in the context of the immediate block of the subject development. Development permit applications require owners to consider the following guidelines and the applicable development permit area guidelines when designing an addition or new construction within the Old Orchard Development Permit Area.

The purpose of these guidelines is to maintain the existing character of the Old Orchard and Area neighbourhood. They encourage new development or additions to existing structures to enhance the form and character of the existing context, and advocate the retention of the neighbourhood's historic character. Although the incorporation of current architectural design, materials, and styles are encouraged, it is vital to the success of maintaining the established neighbourhood context that existing buildings serve as inspiration for new development.

The guiding principles for development in the Old Orchard are:

Existing architecture, landscape, and parking elements, made up of the houses, landscaping, drive and walkways, provide the basic patterns upon which new development should be based.

Any proposed design should be derived from the existing building, in the case of an addition, or from the neighbourhood context in the case of new construction.

The selection of materials and the detailing of the building shall be derived from the architectural characteristics of the existing building, in the case of additions, or by the revival of the traditional elements of the dominant architectural styles of the neighbourhood.

Hello Mayor and Council,

Thank you for the opportunity to raise some of our concerns about ants.

It's important to note from the start that I'm not an expert on the European fire ants. However, I have done quite a bit of research and I've been in touch with Rob Higgins, the expert on fire ants.

We raise these concerns because the development on 3rd does not appear to be following best practices when it comes to developments around an ant area.

While residents in an ant area can do a lot by simply not transplanting plants or dirt from their yards, a big development needs to be much more rigorous because so much more material can be moved, and with the removal of streets and sidewalks, new opportunities for ant migration appear.

I contacted Rob Higgins and he told me that ants prefer not to cross a road, but that they do on occasion, so he suggests that "the wider the barrier the better." On 2nd street the sidewalk was joined directly to the new street. Residents wondered why the city does not follow this safety precaution on 3rd. When I asked Higgins about a green boulevard, he offered that a "green boulevard could be an added risk, depending on local factors." It would seem an unnecessary risk to not follow the precautions taken, intentionally or not, on 2nd.

The work on 3rd involved quite a bit of machinery digging and moving soil, and Higgins recommends that it's important to quarantine soil removed from site because it's easy for heavy machinery to spread colonies. This may have happened, but in conversations with one of the workers on site, I was told that they were instructed to "watch for ants." Knappett may have a good system in place to identify and safely deal with ants, but it wasn't obvious. I have lifted a paver and can attest to how quickly they race for a new home. What was obvious was the complete removal of the existing barriers to ant migration with the removal of the sidewalk and street. It has been over a month with this reduced barrier. Higgins confirms that local conditions will vary, but generally, a dirt road such as 3rd street is now, "presents much less of a barrier than a paved street" to ant migration.

According to Higgins, it is much better to "put in the effort now than trying to control them when they spread." It is not obvious what, if any, precautions Knappett is taking to prevent migration across 3rd during this extended time of greater risk. For example, the stone wall at 367 3rd is a good habitat for the ants. They like stones and pavers to store the heat of the sun. Disrupting this habitat so close to the dirt road could cause the ants to cross the road. Higgins suggested the use of Permethrin around the boarder of the ant area if the road barrier was removed for more than a week.

Additionally, shifting the street and sidewalk north as is happening in the current plan increases the amount of ant area disturbed. Again, It appears that a number of unnecessary risks have been taken when the new plan for the north side of 3rd was developed. These risks include

- *The use of a green boulevard rather than a sidewalk joined directly to street as done on 2nd to create the widest barrier possible.
- *The extended time with a much less efficient dirt road as barrier.
- *The movement of the street north, deeper into the ant territory.

Thank you for your concern,
Steve Schoenhoff



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Mayor and Council
From: Chief Administrative Officer
Subject: Volunteer Appreciation Options

File No.: 8100-01-Volun

Date: November 7, 2016

PURPOSE:

The purpose of the report is to present options for Council's consideration on the timing and format of the annual volunteer appreciation dinner.

CAO RECOMMENDATIONS:

That based on the October 17th 2016 staff report "Volunteer Appreciation Options", Council direct that staff request that the City's partner volunteer organizations provide the names of their representative volunteers annually during National Volunteer Appreciation Week (April 23-29, 2017) to attend the City's Volunteer Appreciation Dinner held in the Fall each year.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

A volunteer appreciation dinner is held annually as an opportunity for Mayor and Council to show that they value the City's community volunteers. The event has changed in scope several times in the past, and may be due for another review. In the summer of 2016 the Mayor asked staff to consider changes to the event so that it is more effective in recognizing volunteers. Over time the invitation list has grown, now including organization administration, and has arguably become less effective at recognizing front-line volunteers.

DISCUSSION:

The City of Courtenay and the Comox Valley has a strong culture of volunteerism. Many major projects and events are the result of the initiation and efforts of community volunteers. In the City Recreation and Cultural Services Department, volunteers are recognized at the program level. The same is done in the programs run through the Courtenay Recreational Association (CRA). As a program ends for the year, staff recognize the volunteers through a small gathering or a token of appreciation. This approach has been well received by the participants.

Annually the CRA Evergreen club holds a volunteer appreciation event. The City also takes the opportunity provided by National Volunteer Week (April 23-29, 2017) to thank volunteers through social media posts,

and messages to volunteers. However, there are many volunteers that participate outside of recreation programs. This is the purpose for a broader volunteer appreciation event.

The invitation lists from the 2014 and 2015 volunteer appreciation events is attached. The event held in 2015 was larger since it was a centennial event.

In general terms, the past lists include:

Committee members,
Board members of partnering
organizations,
Service club members,

Freedom of the City,
Advisory groups,
Press,
RCMP auxiliaries,

City staff,
Elected Officials,
Heads of adjacent authorities

The Mayor expressed concerns that the event may not be effectively recognizing ground-level volunteers. Key factors include:

- The event may have grown too large.
- The invitation list has moved farther from the ground level volunteers to focus on the leadership from organizations.
- There are concerns about those who have not been invited.

With effective program based recognition, the Annual Volunteer Appreciation Dinner fills a gap by recognizing the volunteers associated with committees, partners and event organizers. To do this more effectively, the following process is proposed by staff.

- During National Volunteer Week, staff contact listed organizations to request nominations of key volunteers.
- Staff assembles an invitation list for approval by Council with the cost set out in the annual budget.
- The event is then held in the Fall each year.

For 2016, staff propose that the request for nominations be issued in November with the event held early in 2017.

FINANCIAL IMPLICATIONS:

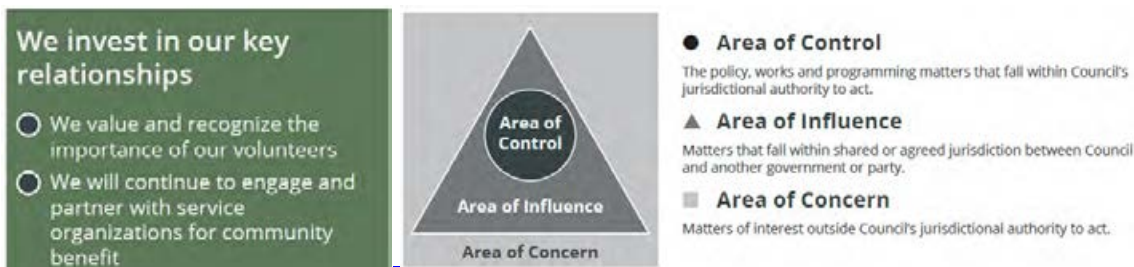
The budget for the event is within the council administration budget. There are no proposed changes that would exceed the existing budget allocation. With the event postponed for 2016, funds will be allocated in 2017 for this year's event.

ADMINISTRATIVE IMPLICATIONS:

The event is coordinated through the Recreation and Cultural Services Department. No additional staff time is required to organize the event.

STRATEGIC PLAN & PRIORITIES REFERENCE:

City of Courtenay Strategic Priorities 2016 – 2018 identifies that we value and recognize the importance of our volunteers and that we invest in our key relationships we will continue to engage and partner with service organizations for community benefit, as per the graphic below.



OFFICIAL COMMUNITY PLAN REFERENCE:

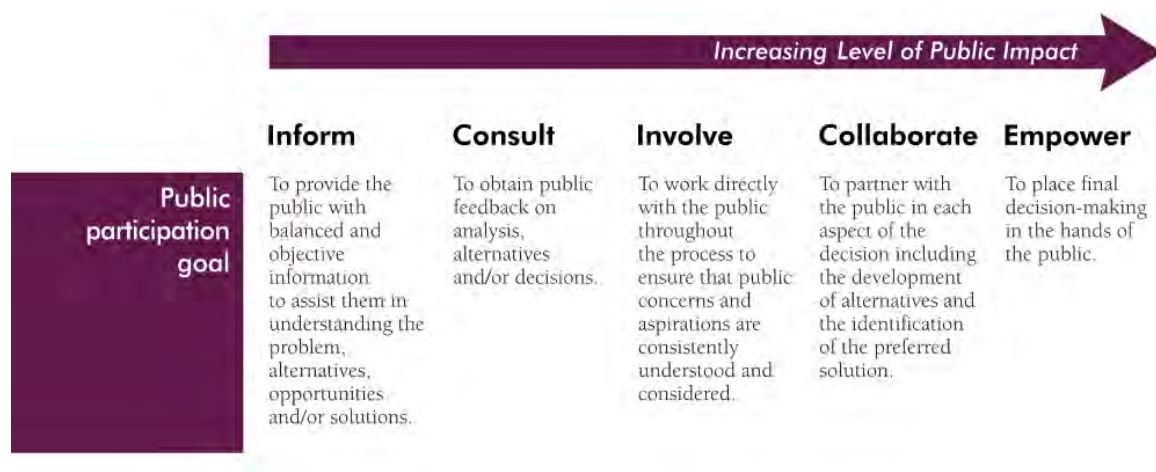
Not applicable.

REGIONAL GROWTH STRATEGY REFERENCE:

Not applicable.

CITIZEN/PUBLIC ENGAGEMENT:

The development of an invitation list will be shared with the public through council proceedings. The City will consult with partnering organizations as identified in the *IAP2 Spectrum of Public Participation*.



OPTIONS:

OPTION 1: Council direct that staff request that the City's partner volunteer organizations provide the names of their representative volunteers annually during National Volunteer Appreciation Week (April 23-29, 2017) to attend the City's Volunteer Appreciation Dinner held early each year.

OPTION 2: Use the 2014 list of volunteers with amendments as council directs and hold similar events as in past years.

OPTION 3: Refer the issue back to staff for further consideration and recommendations.

Prepared by:



Dave Snider, MBCSLA

Director of Recreation and Cultural Services

Attachments:

- 1 – 2014 Volunteer Appreciation Dinner Invitation List
- 2 – 2015 Volunteer Appreciation Dinner Invitation List
- 3 – 2017 Volunteer Appreciation Dinner - proposal

2014 Volunteer Appreciation Dinner Invitation List

Agricultural Advisory Committee Attn: Andrea Burch	Agricultural Advisory Committee Attn: John Grayson	Agricultural Advisory Committee Attn: George Hamilton
	Agricultural Advisory Committee Attn: Gerry McClintock	Agricultural Advisory Committee Attn: Wendy Prothero
Salvation Army Attn: Brent Hobden	Board of Variance Attn: John Wilson	Board of Variance Attn: Mike Meyer
Board of Variance Attn: Joseph Schommer	C.V. Art Gallery Attn: Lee White	North Island College Bruce Calder, Board Chair
C.V. Community Arts Council Attn: Jamie Bowman	C.V. Airport Commission Chair Attn: George van Gisbergen	
	C.V. Chamber of Commerce Helen Furgate, Pres	C.V. Community Justice Centre Betty Donaldson, Pres
	C.V. Economic Development Attn: Ian Whitehead, Pres	C.V. Emergency Program Attn: Mike Fournier
C.V. Emergency Social Services Attn: Terry Lewis	C.V. Exhibition Attn: Andrew Quinn, Pres	C.V. Ground Search & Rescue Attn: Paul Berry, Pres

COPS	Courtenay Airpark Association	Courtenay Marina Society
Attn: Cindy Von Kampen, Pres	Attn: Morris Perrey	Attn: Jim Linderbach
Courtenay Recreation Assoc	Courtenay Rotary	
Attn: Vern Nichols, Volunteer	Attn: Ron Perrin, Pres	
Roger McKinnon	DCBIA, President	Strathcona Sunrise Rotary
Mayor's Charity Golf	Attn: Deana Simkin	Attn: Keith Currie, Pres
Puntledge River Restoration	Purple Ribbon Campaign	Dawn to Dawn
Attn: Roy Fussell	Attn: Heather Ney	Richard Clark, Chair
St. John Ambulance	Habitat for Humanity	Centennial Committee
Attn: Christie Kiers, Br. Manager	Attn: Deb Roth, Executive Director	Rod Hunter
Centennial Committee	Centennial Committee	Centennial Committee
Wendy Lewis	Sharon Farquharson	Bob McQuillan
Centennial Committee		
Wayne & Melissa Webb		
	CRA Board	CRA Board
	Attn: Carolyn Janes	Attn: Mary Crowley
C.V. Accessibility Committee	CRA Board	CRA Board
Attn: Heather Crites, Chair	Attn: Iris Churchill	Attn: Sally Fenneman

CRA Board	CRA Board	CRA Board
Attn: Al Gray	Attn: Marsha Webb	Attn: Wayne King
CRA Board	CRA Board	CRA Board
Attn: Hans Petersen	Attn: Allan Douglas	Attn: Wayne Friesen
CRA Board	Drug Strategy Committee	Drug Strategy Committee
Attn: Sebastien Braconnier	Anne House	Sandie Jordan
Drug Strategy Committee	Drug Strategy Committee	Drug Strategy Committee
Bryon McNicol	Attn: Karen Rushton	Sue Slater
Drug Strategy Committee	Drug Strategy Committee	Drug Strategy Committee
Attn: Ian Lidster	Attn: Sam Sommers	Attn: Craig Olson
Drug Strategy Committee	Drug Strategy Committee	Drug Strategy Committee
Cindy Jesse	Attn: Vicki Luckman	Attn: Sarah Sullivan
	John Howard Society	AIDS, Van Isle
	Elected Official	Elected Official
	Doug Hillian	Ronna-Rae Leonard
Elected Official	Elected Official	Elected Official
Manno Theos	Bill Anglin	Starr Winchester

Elected Official	Elected Official	Evergreen Seniors
Jon Ambler	Mayor Jangula	Attn: Gord Kruger
Evergreen Seniors	Evergreen Seniors	Evergreen Seniors
Attn: Nettie Webers	Attn: Dianne Bruon	Attn: Fred Greene
Evergreen Seniors	Evergreen Seniors	Evergreen Seniors
Attn: Ellen Whitelaw	Attn: Rick Forward	Attn: Bob Bruon
Freedom of the City	Freedom of the City	
Attn: Lawrence Burns	Attn: Beryl Regier	
Freedom of the City	Freedom of the City	Freedom of the City
Attn: Mike Butler	Attn: Maude Hobson	Attn: Ron Webber
	Freedom of the City	Freedom of the City
	Attn: Edwin Grieve	Attn: Doris Weislein
	Heritage Advisory	Heritage Advisory
	Attn: Judy Hagen	Attn: Dorothy Levett
Heritage Advisory	Heritage Advisory	Heritage Advisory
Attn: Roberts Smith	Attn: Julie Fortin	Attn: Linda Grant
Heritage Advisory	Heritage Advisory	Heritage Advisory
Attn: Harry Squire	Attn: Cliffe Piercy	Attn: Debra Griffiths

July 1 st Committee	July 1 st Committee	July 1 st Committee
Attn: Dianna Burgess	Andrew Gower	Attn: Bob Farthing
July 1 st Committee	July 1 st Committee	July 1 st Committee
Attn: Marion Holland	Jin Lin	Attn: Karen Whitworth
July 1 st Committee	July 1 st Committee	July 1 st Committee
Samantha Christiansen	Brian Morissette	Attn: Ken & Alice Hansen
July 1 st Committee	July 1 st Committee	July 1 st Committee
Attn: Marlene Oolo	Attn: Milo Yakibchuk	Erika Nessman
July 1 st Committee	July 1 st Committee	July 1 st Committee
Wendy Harris	Marlene Lally	Derek Vinge
July 1 st Committee	July 1 st Committee	July 1 st Committee
Attn: Mike Gould	Attn: Joan & Andy Rainey	Attn: Penny Leslie
July 1 st Committee	July 1 st Committee	
Jolene McElwain	Terry Law	
Press-Record Newspaper	Press – Echo Newspaper	Press – Jet FM
Press – Eagle FM	Press – Shaw TV	RCMP Auxiliary Coordinator
	Courtenay, BC V9N 3A6	Attn: Cst. Don Sinclair

	RCMP Auxiliary Attn: Trent Balon	RCMP Auxiliary Attn: Jordan Barnes
RCMP Auxiliary Attn: Bill Borland	RCMP Auxiliary Attn: Jennifer Calow	RCMP Auxiliary Attn: Larry Cheslock
RCMP Auxiliary Attn: Denise Laforest	RCMP Auxiliary Attn: Vicki Eaton	RCMP Auxiliary Attn: Rick Gaiga
RCMP Auxiliary Anthony Gray		
RCMP Auxiliary Attn: Glen Greenhill	RCMP Auxiliary Attn: Brandon Hopkins	RCMP Auxiliary Attn: Chris Kippel
RCMP Auxiliary Attn: Adam Knickle	RCMP Auxiliary Attn: Jerad Langille	RCMP Auxiliary Attn: Scott Larsen
RCMP Auxiliary Attn: Angelica Lauzon	RCMP Auxiliary Attn: Lane Litke	RCMP Auxiliary Attn: James Matsuda
RCMP Auxiliary Attn: Gregory McWilliam	RCMP Auxiliary Attn: Dave Mellin	RCMP Auxiliary Attn: Mariah Moraes
RCMP Auxiliary Attn: Hillary Murray	RCMP Auxiliary Attn: Loren Nickerson	RCMP Auxiliary Attn: Bonnie Shaver

RCMP Auxiliary	RCMP Auxiliary	RCMP Auxiliary
Attn: Linda Thomas	Attn: Alfredo Tura	Attn: Cindy Vonkampen
RCMP Auxiliary	RCMP Auxiliary	Staff – City Hall
Attn: Daniel Woods	Attn: Eleanor Young	Attn: David Allen, CAO
Staff – City Hall		
Attn: Randy Wiwchar		
		Sid Williams Theatre Society
		Attn: Wayne Anderson, President
CFB Comox	HMCS Quadra	Town of Comox
Col. Tom Dunne, CD	Cmdr. M. McCormick	Mayor Paul Ives
Village of Cumberland	MLA – Don McRae	MP – John Duncan
Mayor Leslie Baird		
K’omoks First Nation	RCMP	
Chief Rob Everson	Inspector Tim Walton	

2015 CENTENNIAL APPRECIATION LIST

Association	name	street
Centennial Committee	Ron Webber	
Centennial Committee	Doug Hillian	
Centennial Committee	Starr Winchester	
Centennial Committee	Randy Wiwchar	Staff
Centennial Committee	Edwin Grieve	Freeman
Centennial Committee	Rod Hunter	
Centennial Committee	Wendy Lewis	
Centennial Committee	Sharon Farquharson	
Centennial Committee	Bob McQuillan	
Centennial Committee	Lawrence Burns	
Centennial Committee	Wayne & Melissa Webb	
Centennial Committee	Mark Middleton	
Centennial Committee	Jim Benniger	
C.V. Art Gallery	Sharon Karsten	
C.V. Chamber of Commerce	Diane Hawkins	
C.V. Community Justice Centre	Bruce Curtis	
C.V. Economic Development	John Watson	
C.V. Exhibition	Jim Lilburn	
Courtenay Airpark Assoc. Pres	Morris Perrey	
DCBIA, Pres	Deana Simkin	
	Roger McKinnon	
	Iris Churchill	
	Allan Douglas	

Association	name	street
Elected Official	Rebecca Lennox	City Hall
Elected Official	Manno Theos	City Hall
Elected Official	Bob Wells	City Hall
Elected Official	Erik Eriksson	City Hall
Elected Official	David Frisch	City Hall
Elected Official	Mayor Jangula	City Hall
Evergreen Seniors Executive Pres	Gord Kruger	Filberg Centre
Freedom of the City – 1998	Beryl Regier	
Freedom of the City – 2000	Mike Butler	
Freedom of the City – 2001	Maude Hobson	
Freedom of the City – 2004	Hermie Blain	
Freedom of the City – 2008	HMCS Quadra	
Freedom of the City – 2009	Doris Weislein	
Freedom of the City – 2015	Stocky Edwards	
Courtenay Museum	Debra Griffiths	
July 1 st	Derek Vinge	
July 1 st	Marlene Lally	
July 1 st	Wendy Harris	
July 1 st	Erika Nessman	
July 1 st	Jin Lin	
July 1 st	Terry Law	
July 1 st	Dianna Burgess	
July 1 st	Bob Farthing	
July 1 st	Marion Holland	

Association	name	street
July 1 st	Karen Whitworth	
July 1 st	Ken & Alice Hansen	
July 1 st	Marlene Oolo	
July 1 st	Milo Yakibchuk	
July 1 st	Joan and Andy Rainey	
July 1 st	Penny Leslie	
July 1 st	Brian Morissette	
July 1 st	Mike Gould	
Press-Record Newspaper	Christine Bowker	
	Terry Farrell	
Press-Echo Newspaper	Keith Currie	
	Debra Martin	
Press-GOAT FM	Marc Mulvaney	
Press-Eagle FM	Richard Skinner	
	Glen Greenhill	
Staff	David Allen	
Staff	Lisa Zervakis	
Staff	Anne Guillo	
Staff	Susie Karvalics	
Staff	Don Bardonnex	
Staff	Kurt MacDonald	
Staff	Dennis Henderson	
Staff	Tony Hryko	
Staff	Dave Snider	

Association	name	street
Staff	Trevor Kushner	
Staff	Susan Murphy	
Staff	Cary Kerr	
Sid Williams Theatre Society	Deb Renz	
VIP – CFB	Col. Tom Dunne, CD	
VIP – MLA	Don McRae	
VIP – MP	John Duncan	
VIP – K’omoks First Nation	Chief Rob Everson	
VIP – RCMP	Inspector Tim Walton	
	Roger Plamondon	
Brian Rice		
Robert Buckley		
Dale Pateman		
Audrey Craig		
Lynn Gray		
Mark Villanueva		
Don Sinclair		
Jim Stevenson		
Ryan Thornburn		
Pat Lewis		
Paul West		
Jay Daniels	Raiders Football	
Meaghan Cursons		
Dallas Stevenson		

Association	name	street
	Laura Thede	
	Mark Purcell	
	Maya Villanueva	
	Lisa Henderson	
	Ericka Black	
	Kyle Timms	
	Tracey Croonen	
	Dan Costain	
	Michele Morton	
	Terri Odeneal	
	Norm Carruthers	
	Sue McKeeman	
	Ian Heselgrave	
	Mary Ruth Harris	
	Deb & Bayne Mann	
	Robb and Brenda Flannery	
	Caitlyn Hawkins	
	Greg Phelps	
	Betsy Hunt	
	Lucy Wallis	
	Colleen Hambley	
	Margaret Neal	
	Sharon MacDonald	
	Lynn Black	

Association	name	street
Richard Clark		
Janice Thornburn		
Garret & Monique Hansen		
Kindle Parsons		
Alison Mackensie		
Steve Swing		
Garf Baxandall		
Judy Hagen		
Ken MacLeod		
Andrea Farquarson		
Bruce Muir		

SPONSORS – INVITES WILL BE DELIVERED

YQQ

Royal Bank

Scotia Bank

BC Hydro

CIBC

J.R. Edgett x 3

T.D. Canada Trust

V.I. Insurance Centre x 2

Slegg Lumber

Tim Hortons

Canadian Tire

Association	name	street
Rice Toyota		
Coastal Community Credit Union		
Quality Foods x 2		
Old House Inn and Suites		
Pilon Rentals		
C.V.R.D.		
Canadian Western Bank		
MNP		
Hot Chocolates		
40 Knotts		

2017 - Volunteer Appreciation Dinner proposal

Committees - Invite ALL volunteers

Partners - Invite organizer who will nominate volunteer representative

Committees	#
Agricultural Advisory	5
Board of Variance	3
Centennial	6
CV Accessibility	6
Drug Strategy	11
Heritage Advisory	8
July 1st	22
Total	61

Volunteer Public Safety	#
COPS	7
RCMP Auxiliary	30
Total	37

Non-Profit Associated Partners	#
CV Art Gallery	2
CV Community Arts Council	2
CV Airpark Association	2
CRA Board	2
Courtenay Marina Society	2
Courtenay & District Museum	2
Evergreen Club	2
Sid Williams Theatre Society	2
Total	16

Annual Events	#
Mayor's Golf Charity Classic	2
Total	2

Partner Organizations	#
CV Airport Commission	2
CV Chamber of Commerce	2
CV Community Justice	2
CV Economic Development	2
CV Emergency Program	2
CV Emergency Social Services	2
CV Exhibition	2
CV Ground Search & Rescue	2
Courtenay Rotary	2
Sunrise Rotary	2
DCBIA	2
Dawn to Dawn	2
Salvation Army	2
Habitat for Humanity	2
St. John Ambulance	2
Total	30

Environmental	#
Broom Busters	2
Total	2

Elected	#
City Mayor and Council	7
Total	7

City Staff	#
Director of RCS and CAO	2
Total	2

PROPOSED TOTAL 157

This lower list includes groups that are not included in the proposal above. Council may choose to include them as well.

Freedom of the City	#
Members	8
Total	8

Other Elected Officials	#
Mayors (Comox & Cumberland)	2
MLA, MP	2
Total	4

CV Organizations	#
North Island College	2
K'omoks First Nation	2
CFB Comox	2
HMCS Quadra	2
RCMP	2
Total	10

Press	#
Record, Echo, Goat, Eagle and Shaw	5
Total	5



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Mayor and Council
From: Chief Administrative Officer
Subject: BC Hydro Statutory Right of Way (SRW) for
the Puntledge River Public Safety Project

File No.: 5810-20 Puntledge Park BC Hydro SRW
Date: November 7, 2016

PURPOSE:

The purpose of the report is to approve a Statutory Right of Way between the City and BC Hydro.

CAO RECOMMENDATIONS:

Based on the November 7, 2016 staff report, "BC Hydro Statutory Right of Way (SRW) for the Puntledge River Public Safety Project", that subsequent to publication of notice, Council approve Option 1 and the Statutory Right of Way with the legal description as described; and that the Mayor and Director of Legislative Services be authorized to sign all documentation relating to the SRW.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

Since 1961, there has been an existing BC Hydro Statutory Right of Way (SRW) for an existing metal control building which supports the existing BC Hydro infrastructure in Puntledge Park. The existing siren in Puntledge Park is controlled by overhead wires and poles. BC Hydro does not have a Statutory Right of Way over the land that the siren and control wire occupy.

DISCUSSION:

BC Hydro has made a request to the City to replace the existing BC Hydro SRW with a new SRW so they may carry out upgrades to BC Hydro infrastructure and proceed with the Puntledge River Safety Project. The existing SRW limits the area which BC Hydro has access to.

The Puntledge River Safety Project includes the upgrade of several safety measures:

1. Replacement of an existing Public Safety Siren, water level gauge and communications antennas and
2. Replacement and burying of the communications and utility cabling. As part of the project, BC Hydro will be replacing the existing control building with a new building.

Council is required to dispose of municipal property at fair market value. Compensation for the area required for the SRW should be \$7,000 based on fair market value.

FINANCIAL IMPLICATIONS:

The cost for the Puntledge River Safety Project will be covered entirely by BC Hydro.

ADMINISTRATIVE IMPLICATIONS:

There will be minimal implications to the use of staff time. BC Hydro will register the SRW and the agreement will be administrated by the Department of Legislative Services.

STRATEGIC PLAN & PRIORITIES REFERENCE:

City of Courtenay Strategic Priorities 2016 – 2018 identifies that we invest in our key relationships we will continue to engage and partner with service organizations for community benefit.



- **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.

We invest in our key relationships

- We value and recognize the importance of our volunteers
- We will continue to engage and partner with service organizations for community benefit

OFFICIAL COMMUNITY PLAN REFERENCE:

Not referenced.

REGIONAL GROWTH STRATEGY REFERENCE:

Not applicable.

CITIZEN/PUBLIC ENGAGEMENT:

Public Notice required pursuant to Section 26 of the *Community Charter* is as follows:

(1) Before a council disposes of land or improvements, it must publish notice of the proposed disposition in accordance with section 94 *[public notice]*.

(3) In the case of property that is not available to the public for acquisition, notice under this section must include the following:

- (a) a description of the land or improvements;
- (b) the person or public authority who is to acquire the property under the proposed disposition;
- (c) the nature and, if applicable, the term of the proposed disposition;
- (d) the consideration to be received by the municipality for the disposition.

OPTIONS:

1. That subsequent to the publication of notice, Council approve the Statutory Right of Way over that Part of PID: 007-787-479, Lot 10, District Lot 118, Comox District, Plan 1405 and over that Part of PID: 007-787-487, Lot 10, District Lot 118, Comox District, Plan 1405.
2. That Council refer the item back to staff for further discussions with BC Hydro.

Prepared by:



Dave Snider

Director of Recreation and Cultural Services

Attachments:

1. Puntledge Park BC Hydro Final SRW
2. Site plans for the Puntledge Public Safety Project and new Control Building:
 - 1) 525-C13-00014-1
 - 2) 525-C13-00015-1
 - 3) 525-C13-00016 5898.1

LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 6 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.



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

Allison Elliott, agent for
 British Columbia Hydro and Power Authority
 Podium A03, 6911 Southpoint Drive
 Burnaby BC V2N 4X8

Telephone: (604) 528-1856
 File: 525-1206.0(5) Pt 2
 Puntledge Park SRW

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
 [PID] [LEGAL DESCRIPTION]

SEE SCHEDULE

STC? YES ☐

- | 3. NATURE OF INTEREST | CHARGE NO. | ADDITIONAL INFORMATION |
|-------------------------------|------------|------------------------|
| Statutory Right of Way | | Transferee |

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

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

THE CORPORATION OF THE CITY OF COURTENAY

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

333 DUNSMUIR STREET

VANCOUVER

V6B 5R3

BRITISH COLUMBIA

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

Execution Date		
Y	M	D
16		

Transferor(s) Signature(s)

The Corporation of the City of Courtenay by its authorized signatory(ies):

 Print Name

 Print Name

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM E****SCHEDULE****PAGE 2 OF 6 PAGES****2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND**STC for each PID listed below? YES ☐

[PID]

[LEGAL DESCRIPTION – must fit in a single text line]

007-487-479 LOT 10, DISTRICT LOT 118, COMOX DISTRICT, PLAN 1405**007-487-487 LOT 11, DISTRICT LOT 118, COMOX DISTRICT, PLAN 1405**

Terms of Instrument - Part 2

COMMUNICATIONS STATUTORY RIGHT OF WAY AGREEMENT

BACKGROUND:

- A. BC Hydro wishes to obtain from the Owner, and the Owner has agreed to grant to BC Hydro, a statutory right of way for the purposes of the Works.
- B. The statutory right of way is necessary for the operation and maintenance of the undertakings of BC Hydro.

AGREEMENTS:

In consideration of the promises and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties agree as follows:

DEFINITIONS

1.1 In this Agreement:

"Area of the Works" means that portion of the Land located within 1.5 metres of either side of the centre of the alignment of the Works;

"BC Hydro" means the Transferee(s) as described in Form C - Part 1 (Item 6) attached, and all Persons authorized by BC Hydro;

"Land" means the real property described in "Parcel Identifier(s) and Legal Description(s) of Land" in Form C - Part 1 (Item 2) attached;

"Owner" means the Transferor(s), as described in Form C - Part 1 (Item 5) attached;

"Person" means any association, society, corporation, individual, joint stock company, joint venture, partnership, trust, unincorporated organization, or any federal, provincial, regional, municipal, or other government or authorized agency, department or ministry thereof; and

"Works" means all things and works, in any combination and using any type of technology or means, necessary or convenient for the purposes of BC Hydro's telecommunications or communications by any method or process whatsoever, including: early warning siren systems, transmitters, poles, brackets, anchors and attachments, together with all ancillary appliances and fittings, any associated protective installations and related works, for the operation or use of the foregoing.

GRANT OF RIGHT OF WAY

2.1 The Owner grants to BC Hydro, FOREVER, the right and statutory right of way to:

- (a) excavate for, construct, install, abandon, replace, upgrade, operate, maintain, remove and repair the Works on, in, under, over or across the Land;
- (b) clear the Area of the Works and to keep it cleared of all or any part of any obstruction, structure, building, improvement (except trail surfaces), tree, growth or other matter which, in the opinion of BC Hydro might:
 - (i) interfere with the exercise of its rights, or
 - (ii) create or increase any danger or hazard to persons or to the Works;
- (c) enter, work, pass and repass on and along the Area of the Works;

- (d) have reasonable unobstructed access over the Land to and from the Area of the Works for all purposes relating to the Works, including the use of any roads on the Land for such access purposes;
- (e) trim trees on the Land that, in the opinion of BC Hydro, might create or increase any danger to the Works or to persons;
- (f) conduct investigative studies and related work on the Land to ensure compliance with applicable government or regulatory requirements in relation to purposes permitted in this Agreement, including without limitation requirements under the *British Columbia Heritage Conservation Act*; and
- (g) do all things necessary or incidental to the undertakings of BC Hydro in connection with the above.

OWNER'S COVENANTS

- 3.1 The Owner covenants with BC Hydro that, unless BC Hydro gives its prior written permission (which permission may be given subject to terms and conditions), the Owner will not:
- (a) reduce the ground elevation in the Area of the Works by any method including, without limitation, creating any excavation, drain or ditch in the Area of the Works;
 - (b) carry out blasting or logging operations on or near any portion of the Area of the Works;
 - (c) make, place, erect, operate, use, maintain or permit any obstruction, structure, building, foundation, improvement (except trail surfaces) on, under or over the Area of the Works; and
 - (d) notwithstanding the generality of the foregoing, do or knowingly permit to be done, any act or thing which, in the opinion of BC Hydro, might in any way:
 - (i) interfere with the exercise of any rights granted to BC Hydro, or impair the operating efficiency of the Works or endanger any part thereof;
 - (ii) obstruct access to any part of the Works; or
 - (iii) by its operation, use, maintenance or existence on, under or over the Area of the Works, create or increase any danger to persons, the Works or property.

BC HYDRO'S COVENANTS

- 4.1 BC Hydro covenants with the Owner that if any damage is caused by BC Hydro to the Land or to any personal property of the Owner located anywhere on the Land in the exercise of BC Hydro's rights under this Agreement, to the extent that damage is not caused in any way by the Owner or those Persons that the Owner is responsible for at law, BC Hydro may at its option either:

- i) restore or repair the Land or personal property, as closely as is practicable to its prior condition; or
- ii) pay compensation to the Owner,

provided BC Hydro will not be required to compensate the Owner for the clearing of any obstructions within the Area of the Works pursuant to subsection 2.1(b).

- 4.2 BC Hydro covenants with the Owner that notwithstanding any other provision of this Agreement, including section 2.1, that BC Hydro will not place Works anywhere upon or within the Land, other than within that portion of the Land shown approximately in heavy black outline on Drawing No. 525-S11-00003-map7-SRW, a copy of which is attached hereto, unless prior written permission has been provided by the Owner, which permission will not be unreasonably withheld

or delayed

MUTUAL COVENANTS

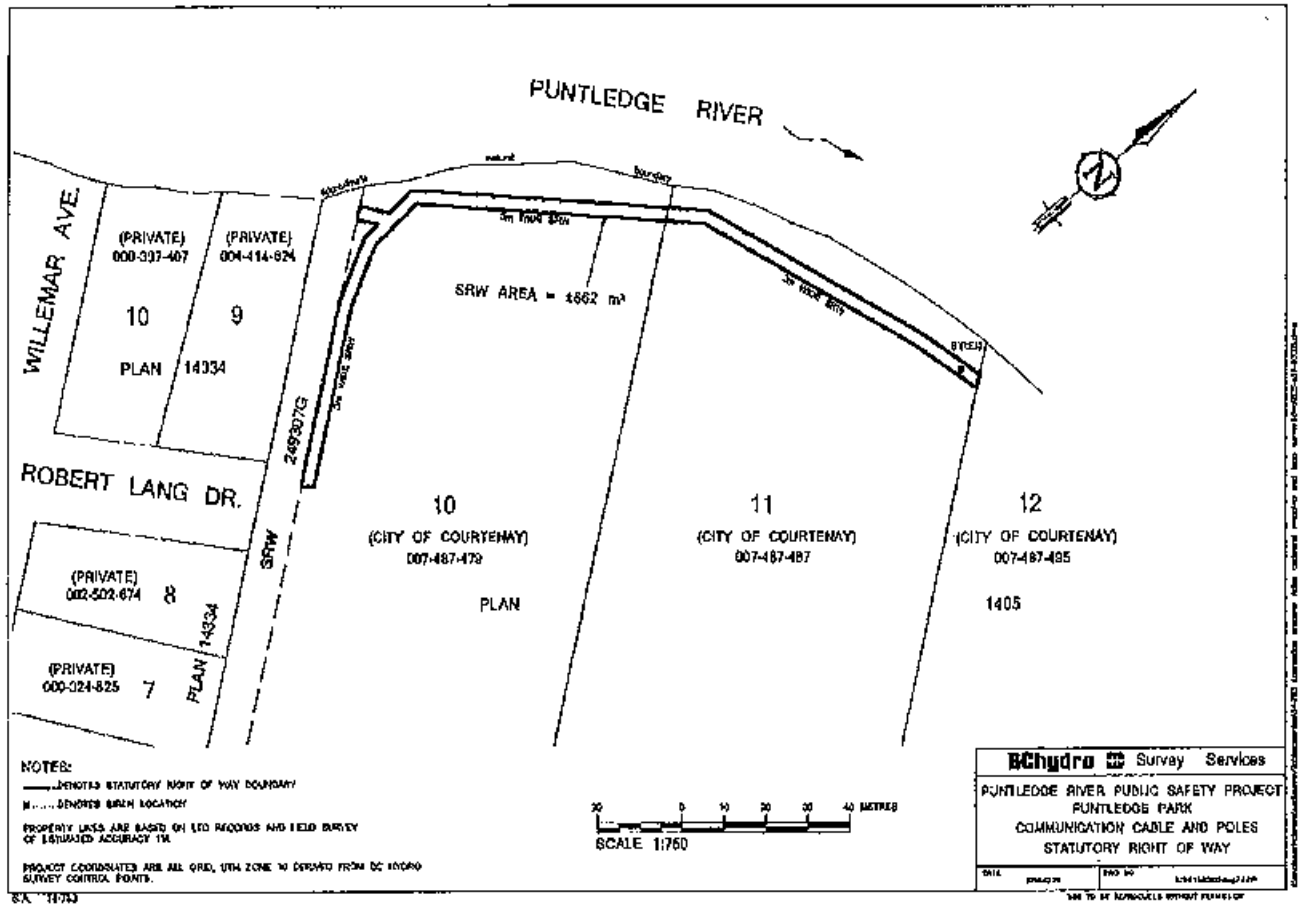
5.1 The parties mutually promise and agree as follows:

- (a) this Agreement will run with the Land and will bind all present and subsequent owners of the Land;
- (b) this Agreement will in no way abrogate from or affect any rights, powers or privileges which BC Hydro may have under any other agreement registered against the title to the Land or under any federal, provincial or local legislation;
- (c) if the Owner and BC Hydro cannot agree on the amount of any monetary compensation payable under section 4.1 then the matter may be settled by arbitration by a single arbitrator under the *Arbitration Act*, but the Owner will not dispute or appeal the amount of any compensation which BC Hydro has already paid and the Owner has already accepted;
- (d) no compensation will be payable for any matter for which BC Hydro has exercised its option to repair under subsection 4.1; and
- (f) failure to enforce any covenant or restriction contained in this Agreement for a breach or violation of any covenant or right contained in this Agreement will not constitute a waiver, in whole or in part, of any of the injured party's rights or remedies.

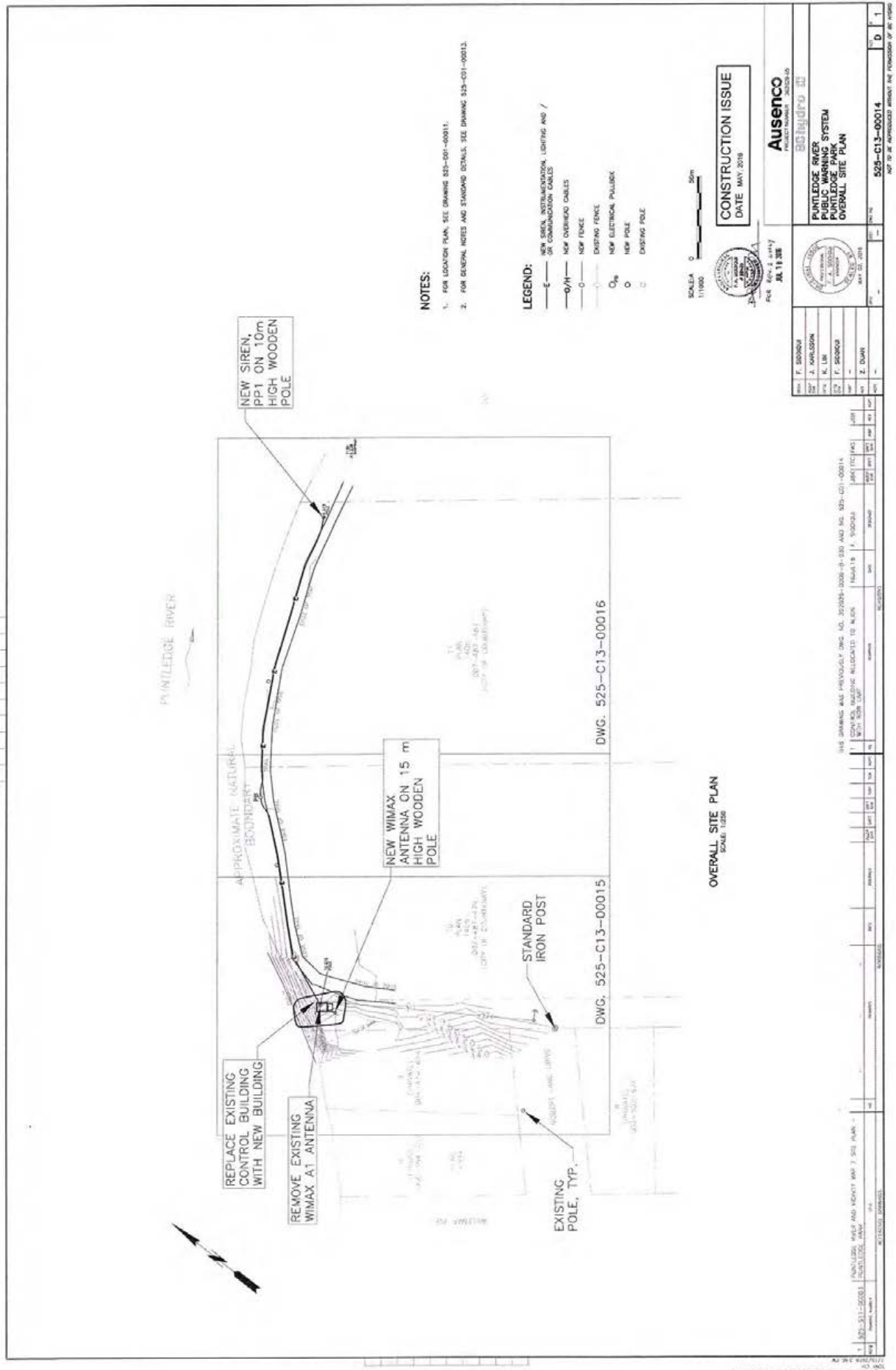
GENERAL

- 6.1 The expressions "Owner" and "BC Hydro" include their respective heirs, executors, administrators, successors and assigns.
- 6.2 If the Owner is more than one person, every covenant and agreement by the Owner will be joint and several.
- 6.3 Words in one gender include all genders and words in the singular include the plural.
- 6.4 If any provision of this Agreement is found to be partially or wholly illegal or unenforceable, then that provision will be considered to be separate and severable from this Agreement and the remaining provisions will be unaffected and will remain enforceable to the fullest extent permitted by law as though the illegal or unenforceable parts had never been included in this Agreement.
- 6.5 In accordance with section 233 of the *Land Title Act*, these Terms of Instrument - Part 2 and the General Instrument-Part 1 to which they are attached form a single instrument.

Drawing No. 525-S11-00003-map7-SRW



END OF DOCUMENT





NOTES:

1. FOR NOTES, SEE DRAWING SDS-C13-00016

2. SIREN POLE LOCATION AS PER MOBILITY STUDY REPORT.

DEVICE	NORTHING	EASTING	POLE HEIGHT	COMMENTS
PPI	550824	334813	11 m	SIREN HEIGHT 10 m

3. LOCATION OF SIREN POLES SHALL BE CONFIRMED IN THE FIELD IN CONSULTATION WITH CADCS AND ENGINEERING AS A RESULT COORDINATED LOCATION OF THE SIREN POLES SHALL BE INCLUDED ON THE RECORD DRAWINGS.

CONDUIT REQUIREMENTS:

RESCRIPTION	CONDUIT REQUIREMENTS (TYPE, NUMBER)
POWER POLE TO CB	OVER HEAD
CB TO ANTENNA	C x 1 (SHALLOW BURY)
CB TO SIREN PPI	5 x 1.1 x 1.1 (SHALLOW BURY)
NOTE: 5 x 1.1 x 1.1 TIEANS ONE CONDUIT FOR SIREN CABLES PLUS ONE FOR LIGHTING (ANTENNA CABLES)	
OR = CONTROL BUILDING	
CONDUIT TYPE: PVC CONDUIT (FOR ANTENNA CABLES)	
1. INSTRUMENTATION CONDUIT (FOR WATER EYE, GAUGE INSTRUMENTATION CABLE)	
2. SIREN CONDUIT	
3. LIGHTING CONDUIT (FOR SIREN LIGHT POWER)	
PVC CONDUIT WHERE BURIED 700 mm BELOW GROUND SURFACE	
ARMoured FLEX CONDUIT FOR SHALLOW BURIED CONDUIT (275 mm BELOW GROUND SURFACE)	

LEGEND

- NEW SIREN INSTRUMENTATION, LIGHTING AND/OR COMMUNICATION CABLES
- NEW OVER-HEAD CABLES
- NEW FENCE
- EXISTING FENCE
- NEW ELECTRICAL PULLBOX
- NEW POLE
- EXISTING POLE

CONSTRUCTION ISSUE

DATE: 2016 MAY

SCALE: 0 10m
1:250



Ausenco
BC Hydro

PUNTLIDGE RIVER
PUBLIC WARNING SYSTEM
PUNTLIDGE PARK
SITE PLAN
SHEET 2 OF 2

THIS DRAWING WAS PREVIOUSLY DNG. NO. 200209-0000-B-033 AND NO. 332-CD-00016

PUNTLIDGE RIVER AND LIGHTNING 2 SITE PLAN -
PUNTLIDGE PARK

232-511-00003

DATE: 2016/05/16

BY: J. KARLSON

FOR: BC HYDRO

PROJECT: 232-511-00003

DATE: 2016/05/16

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PROJECT: 232-511-00003



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 4530-01

From: Chief Administrative Officer

Date: November 7, 2016

Subject: Tree Protection and Management Bylaw No. 2850

PURPOSE:

The purpose of this report is for Council to consider third reading of amended Tree Protection and Management Bylaw (No. 2850).

POLICY ANALYSIS:

Section 8(3)(c) of the *Community Charter* allows Council to regulate in relation to trees. This enabling legislation is broad in that it is not limited only to protecting existing trees, but also allows for the requirement of new trees to be planted, even on lands where trees did not previously exist.

The City's OCP contains a number of references to updating the Tree Bylaw to support community environmental, climate and neighbourhood goals. If approved this would be the second update to the bylaw since the OCP was adopted in 2005.

CAO RECOMMENDATIONS:

That based on the November 7th 2016 staff report "Tree Protection and Management Bylaw No. 2850", Council approve OPTION 1 and amend Tree Protection and Management Bylaw No. 2850, 2016 after second reading as outlined in the staff report; and

That Tree Protection and Management Bylaw No. 2850, 2016 as amended proceed to Third Reading in the Bylaws section of the November 7th, 2016 council agenda.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

Council adopted the following resolution at the September 19, 2016 council meeting:

Moved by Frisch and seconded by Lennox that based on the September 19, 2016 staff report "First, Second and Third readings of Tree Protection and Management Bylaw No. 2850, 2016", that Tree Protection and Management Bylaw No. 2850, 2016 proceed to first and second reading in the Bylaws section of the September 19th council agenda; and

That Council direct staff to report back on the estimated time and cost of drafting an Urban Forest Strategy.

Following First and Second Readings of the bylaw staff solicited further written feedback from two identified stakeholder organizations who have expressed interest in the Tree Bylaw: The Comox Valley Development & Construction Association and the Comox Valley Conservation Strategy Community Partnership (CVCSCP). This report contains the feedback provided by the two organizations as well as staff's response. This report includes responses to these letters in a table starting on page 3 of this report. Also attached for information are two additional letters from the CVCSCP and Raven Forest Products that were received after the completion of the report (**Attachment No.5**).

Staff are continuing to research the estimated time and cost of drafting an Urban Forest Strategy and will provide this information to Council at a later date.

The proposed Tree Bylaw has been drafted to provide the following objectives:

1. Set a target number of trees that must be retained or replanted on all properties, depending on property size. (Achieves more clarity of tree management expectations).
2. Require the same standard for existing and new developments. However, retention will be prioritized on new developments, and flexibility will be provided in meeting targets for existing properties by means of retaining trees, replanting trees or paying into the Tree Fund. (Allows more lands to be included in the Bylaw, but provides flexibility for infill developments).
3. Apply to all lands within the City, and include more species under special protection. (Achieves more uniform canopy cover expectations across the City, thereby distributing the benefits and costs more evenly).
4. Implement new permit fees and security requirements. (Reflects the administrative efforts required to administer a variety of tree management scenarios, from simple to complex).

Further information on the comparison of the existing Tree Bylaw to the proposed Tree Bylaw, the public consultation findings and rationale for the proposed changes are provided in the September 19, 2016 staff report. This report focuses on the additional comments provided by the two stakeholder groups and the amendments staff are proposing to the bylaw following First and Second Readings.

DISCUSSION:

Following the September 19th, 2016 council meeting, staff solicited feedback from the two stakeholder organizations: The Comox Valley Development & Construction Association and the Comox Valley Conservation Strategy Community Partnership (CVCSCP). Both organizations were provided with the same information which included: a Comparison table of draft Tree Bylaw versions as the consultation process evolved (**Attachment No.1**) as well as a copy of the Bylaw at Second Reading and earlier versions of the Bylaw for comparison purposes.

Both organizations were provided two weeks to provide their written comments. At the request of the CV Development & Construction Association (CVCD) representatives, staff attended an afternoon meeting to discuss the Bylaw. The CVCD subsequently provided written comments which are contained in **Attachment No.2**. The written comments from the CVCSCP are contained in **Attachment No.3**.

Stakeholder comments

Comox Valley Development and Construction Association comments

	Comment	Response
1	Urban Forest Strategy must be in place to clearly establish the community values that are to be protected, and to develop a framework to manage urban canopy cover.	Staff agree that an Urban Forest Strategy would provide value and direction for further urban forest and tree management policies and programs.
2	The amended bylaw proposed is, in reality, a new bylaw... implementing a new bylaw of this significance, in the absence of an overarching, guiding strategy, is akin to implementing a zoning bylaw without the community direction provided by an OCP, or erecting a building before preparing the construction plans. Request that passing of the proposed bylaw be delayed until the directive for it is provided in a well thought out Urban Forest Management Strategy.	Given the amount of policy direction that already exists within the OCP, and the robust consultation that has occurred to date, staff believes that adoption of the Tree Bylaw is timely, consistent with the OCP and continues to be an integral approach to protecting tree values within the City. Staff are disappointed the CVCD did not request an Urban Forest Management Strategy, if this is a concern, when they provided formal comments in February. This appears to be a last minute delay tactic.
3	The bylaw requires existing tree retention as a priority, with no consideration to the financial impacts this could have on private property owners. The inequitable financial burden imposed by this bylaw on private land owners with different levels of native tree cover is patently unfair.	Staff clarify that tree retention is a proposed requirement for greenfield sites only. Infill properties will have the opportunity to meet their tree density target by either retaining, replanting or paying cash-in-lieu. A maximum cost per tree would therefore be \$300 for infill properties if they chose the cash-in-lieu option. As most single family properties within the City are within a size class that would require either 3 or 4 trees, the uppermost cost would be between \$900-1200 for infill properties. Regarding greenfield sites, staff acknowledge that tree retention/replacement will incur financial costs in the form of replacement trees (where no trees exist or there are no options for retention) arborist reports and monitoring costs. However, Staff also note that under the current Tree Bylaw arborist reports and monitoring costs are already required and that the design options recommended by staff (retaining trees in groves and corridors) could lend to reduced arborist monitoring costs over the life of the development project. Regarding fairness, land is diverse and the applicability of various bylaws and regulations are dependent on the conditions of any particular property. Similar to different levels of tree cover, not all properties are the same with respect to environmentally sensitive areas, hazard slopes, floodplains, geotechnical conditions, zoning, development permit guidelines etc. Each of these variations will require different levels of regulation impacting development in different ways.
4	The negative impacts that this bylaw (in its current form) will have on the price of a typical single family	Staff believe this is an inflammatory comment without any factual evidence or recommended solution. Staff

	Comment	Response
	building lot in the city are staggering. This bylaw, as proposed, will have a direct negative impact on housing affordability, and growth within the City.	note that growth appears to be strong in other communities that have adopted Tree Bylaws.
5	The targeted number of stems per hectare noted in the bylaw is very aggressive, in comparison to many other jurisdictions.	The proposed Bylaw is within the range of other communities that used the target number of stems approach: Maple Ridge, Langley and Chilliwack.
6	The implementation framework developed in the bylaw is far more onerous than any other community we are aware of.	Staff do not understand what is meant by this comment. The implementation framework for the proposed bylaw is a permitting system that is consistent with other local governments that have tree bylaws.
7	It is not clear how the City intends to enforce the requirements of this bylaw on existing property owners. Specifically, it is unclear how the City intends to monitor every tree within its boundary. Failure to enforce the requirements of any bylaw will lead to legal challenges.	The City is not required to monitor every tree in the City. Staff will continue to enforce a new tree bylaw similar to all other bylaws. When a contravention of a bylaw has come to City's attention, it is attended to and a decision is made on how to proceed. In the case of new development, the bylaw will be administered through the development application process. Staff clarify that the City always has the option to enforce or not enforce a Bylaw and that failure to enforce the requirements of any bylaw does not create legal challenges for the City.
8	The only practical means of managing retained groves of trees or greenways in new residential areas is through dedication of these lands to the City, yet the Bylaw is silent on public dedication, implying the preserved trees remain with the landowner in perpetuity. This bylaw implicitly creates the need, if not requirement, for lands far in excess of statutory parkland requirements to be given to the City. We have been advised that this may be in contravention of the <i>Community Charter</i> .	Staff clarify that the option to provide tree groves and corridors to the City as a land dedication is available to applicants under the proposed Tree Bylaw at their discretion. The bylaw is silent on public dedication because it is not required. The Bylaw allows for tree retention to occur on newly created lots. In administering the existing Tree Bylaw, applicants have expressed challenges with retaining trees within newly created lots, which is why the option to dedicate is available but not required. Staff confirms that this is not in contravention of the <i>Community Charter</i> .
9	Given that community tree retention areas/greenways are not yet identified, (nor generally are the environmental goals of the community), it is unclear why the City would prioritize this method of "protection" above all others. Consideration should rightly be given to reinstating canopy in areas of exceptionally sparse tree cover, or areas of particular environmental significance. An Urban Forest Strategy would provide clarity and guidance in this regard.	It is unclear what this statement means. The Association has not proposed an alternative to a tree bylaw to protect trees from loss during development. The environmental goals of the community are expressed in the OCP. Staff agrees that an Urban Forest Strategy is needed to lend clarity on wider community goals such as an appropriate community-wide canopy target, areas of high and low canopy and appropriate programs for continuing and enhancing the urban forest on both public and private lands. Staff emphasize that during development a unique opportunity is provided in which tree retention can be considered, after which such a value cannot be

	Comment	Response
		attained. Once the trees are removed, it can take generations to replace those values. Community consultation indicates strong support for retaining trees where they already exist which is consistent with the proposed Bylaw.
10	The current levels of tree canopy cover within the City of Courtenay exist exclusively because of land use decisions made by the community in the past. Our community has been shaped by councils of the past. With direct input from their constituents. If this current Council believes that reinstating tree canopy to any level is a <i>Community</i> priority, then the <i>Community</i> as a whole should be tasked with being part of the solution. The financial onus to mitigate, or restore tree canopy to the targets noted within the proposed Tree Cutting Bylaw, is not rightly born solely by new development. We fear, as in the case with Affordable housing, the onus of fixing this <i>Community</i> issue will be placed squarely, and very unfairly, on new development.	Staff agrees with the idea that reinstating the tree canopy is a community value. Staff do not agree that this bylaw is putting the total cost and responsibility to do this on new development. The bylaw is intended to minimize future tree loss through the retention target of 50 stems/ha and where development does need to remove trees beyond this target, replace those that are lost. The comment that the onus of fixing the Affordable Housing issue is placed squarely and unfairly on new development is incorrect and ignores the efforts of the many not-for-profit groups in the community that are working to provide affordable housing options and the financial contributions that the City and Provincial Government provide to assist these groups.
11	Fund this initiative in the very same way that other <i>Community priorities</i> , including recreational facilities and City infrastructure are funded – through taxation.	Staff agree that budget line items should be added for public contribution to the urban forest. Staff will be providing ideas for budget line items when reporting on the estimated time and cost of drafting an Urban Forest Strategy.

Comox Valley Conservation Strategy Community Partnership comments

In the table below, the CVCSCP identified a number of sections of the bylaw, strengths of the particular section and recommendations for improvement, to which staff have provided a column for staff response. **Attachment No.3** contains the original comments from this organization.

	Section	Strength of Bylaw	Recommendation for improvement	Staff response
1	Pre-amble	Whereas statements include: - A list of benefits of trees - In the public interest to provide for the protection, preservation, replacement and regulation of trees on all properties.		None required
2	Definitions: "protected species"		<u>Recommendation:</u> Mature Coastal Douglas-fir trees (80 years and older) should be	As stated in the September 19, 2016 staff report, staff recommends that this question of

	Section	Strength of Bylaw	Recommendation for improvement	Staff response
			<p>designated as “protected species.” Omitting mature Coastal Douglas fir is not in compliance with the City’s OCP.</p> <p><u>Rationale:</u> Less than 1% of old growth Coastal Douglas-fir trees remain. The OCP acknowledges this fact by stating: “The City will review the Tree Bylaw to improve the retention of.... Threatened Coastal Douglas-fir” (OCP section 10.5.3 p145). Not including CDF is NON COMPLIANT with the City’s OCP.</p>	<p>whether mature Coastal Douglas-fir should be treated as a protected species be explored through an Urban Forest Strategy which can help to understand extent, rarity and condition of the Coastal variant of douglas-fir before setting goals pertaining to coastal douglas fir protection. This recommendation to explore further through an Urban Forest Strategy was also made by the Coastal Douglas Fir Community Partnership Steering Committee.</p> <p>The OCP requires a review of the Tree Bylaw to improve retention but does not require an update to the bylaw to improve the retention of Coastal Douglas Fir. Staff have reviewed this species as outlined above and made recommendations on how to proceed consistent with OCP policy. The bylaw is not inconsistent with the OCP.</p>
3	Application: “applies to all lands”	Applying the bylaw to all trees over 20cm dbh in the city is: effective, fair and easy to understand.		None required
4	Exceptions	Fair and allows for a reasonable amount of flexibility to accommodate infill development.		None required
5	Conditions	<ul style="list-style-type: none"> - Prioritizes retention on greenfield sites. - Retained trees on greenfield sites should be achieved in clusters and/or corridors. 		None required
6	Tree density targets		<p><u>Recommendation:</u> Retain a minimum of 40% of the development parcel capable of retaining or growing trees.</p> <p><u>Rationale:</u> Retaining or replacing trees using the proposed 50 stems per ha density target for greenfield and undeveloped lands will</p>	<p>The City is not lawfully able to require the dedication (setting aside) of 40% of a private parcel unless compensation is provided. It may be possible to develop policy around community amenity contributions at rezoning to protect areas of land beyond the 5% the City can acquire at</p>

	Section	Strength of Bylaw	Recommendation for improvement	Staff response
			result in greater losses of functioning forests (green infrastructure) and trees. Once these areas are built out the opportunity to retain and/or replace forests is lost. Setting aside 40% of the development parcel (capable of retaining or growing trees) would reduce the development footprint and result in a more sustainable urban forest canopy for the future.	subdivision. This would require further analysis and along with the idea of retaining a 40% canopy cover on properties, this should be explored through an Urban Forest Strategy. Staff recommends that the option to allow native species with large canopies as street trees be further reviewed with the engineering department and parks division to explore how road design standards can support such trees, including operational implications. Any changes to street trees would not need to be included in the tree bylaw.
7	Replacement trees, bonding and use of planting fund	<ul style="list-style-type: none"> - Option to contribute to planting fund applies only to infill properties - Bonding requirements are fair and reasonable 		None required
8	Securities	<ul style="list-style-type: none"> - Fair and reasonable 		None required
9	Application & Fees	<ul style="list-style-type: none"> - TCP report requirements for greenfield sites and development applications. - Fees are fair and reasonable 		None required
10	Penalties	<ul style="list-style-type: none"> - Fair and reasonable 		None required
11	Schedule- Replacements	<ul style="list-style-type: none"> - Replacement trees for ESAs (Environmentally Sensitive Areas) must be native - Fair and reasonable replacement options 		None required

Summary of comments from stakeholders

The two organizations who were provided an opportunity to provide additional feedback on the Tree Bylaw generally contrast in their views on the proposed Bylaw. The comments submitted by the CV Development and Construction Association (CVDC) reflect a concern over the financial impact the Bylaw may have on development proposals, and believe that urban forest goals should be achieved by the community as a whole. In general, the CVDC believes the proposed Tree Bylaw is 'too aggressive' in its tree retention requirements.

In contrast the comments submitted by the CV Conservation Strategy Community Partnership (CVCSCP) reflect a concern that the protection and tree retention requirements are not aggressive enough and propose the approach of requiring that 40% of any parcel over 1ha in size be retained as non-developed forested area, whether currently supporting trees or not. This 40% could include dedicated Environmentally Sensitive Areas and Parks. The CVCSCP recommends that in addition to this 40% retention area, that the tree density target of 50 trees/ha be achieved within the development itself by either retention or replanting. As noted above the City is not able to require land zoned for development to be dedicated to the City. This would be expropriation without compensation unless a property owner was willing to give the land to the City.

Interestingly, both organizations cite the affordability of housing as being impacted by the proposed Bylaw. CVDC raises the concern that the Tree Bylaw would make housing less affordable, but do not provide any rational as to how. CVCSCP on the other hand, suggests that a Tree Bylaw that requires 40% forest area retention (as they propose) could incentivize housing that is more affordable by means of it being more compact, higher density forms. The CVCSCP points out that associated concentrated servicing corridors will also result in less costly asset management implications over the long run, than single family housing forms.

Both organizations support and recommend conducting an Urban Forest Strategy whereas the CVDC requests that such a Strategy be complete, and adopted, prior to adopting any new Tree Bylaw changes.

Recommended changes to Bylaw following Second Reading based on stakeholder feedback

Staff have made a number of changes to the Bylaw following the first and second reading, many of which are minor and are intended to add clarity. The complete set of proposed amendments is included in **Attachment No. 4** in a Word Document with “track changes” and corresponding comments for easy reference.

These minor changes are also summarized here. Comments of a very minor nature, however, are not summarized here:

- Added language throughout the Bylaw to provide clarity that the tree density target shall be achieved even on properties that are not already achieving the tree density target, when subject to a development application or tree cutting permit.
- Added that regular maintenance activities are permitted within the root protection area of retained and protected trees, provided that no tree damaging activities occur as part of yard maintenance.
- Removed the discretionary requirement that a protection security of \$10,000 be submitted when constructing works within existing or future Park lands as staff believes there may be other regulatory tools better suited to ensuring protection of public and future public assets when proponents are working within public and future public lands.

One significant change resulting from the additional stakeholder review process is to permit a greenfield property¹ to achieve the tree density target of 50 trees per net developable hectare through a combination of tree retention and replacement, including the option to pay for a certain number of replacement trees into the Tree Planting and Replacement Reserve Fund. The Bylaw that has passed first and second readings

¹ Defined in the Bylaw as undeveloped real property that is greater than 4000 square meters in size (approximately 1 acre) and contains vegetation that has been left to evolve naturally.

required that where trees exist, the tree density target must be met through retention only. The addition of the replacement and a cash-in-lieu option provides flexibility to the development applicant in achieving tree management objectives. Staff recommend that a replacement ratio be 3:1 be required when replacing trees removed below the tree density target in order to reflect the strong support for tree protection indicated in the public consultation, acknowledge the higher benefits that mature trees provide, and to incentivize retention. Staff believes that this approach provides both flexibility to a development applicant, and strives for stronger tree management and protection goals than existing practice, as supported in the community consultation.

The proposed changes to the Bylaw for greenfield properties are as follows:

- A. Instead of requiring that the full tree density target be achieved through retention of trees larger than 20 centimetres Diameter at Breast Height (D.B.H.), an applicant may achieve up to half of the required target through replacement options.
- B. Replacement trees would be replaced at a ratio of 3:1 for each tree removed below the tree density target. Retention of naturally growing trees that are each smaller than 20cm D.B.H. would count towards the required replacement number.
- C. Of the replacement tree total, up to half of these could be accounted for by paying cash-in-lieu into the Tree Planting and Replacement Reserve Fund (\$300 per tree).

As an example, if a development proposal was one net developable hectare in size, an applicant would have a tree density *retention* target of 50 trees larger than 20cm D.B.H. If the applicant chose a scenario in which they wanted the fewest number of mature trees, and fewest number of replanted trees they could minimize their retention and replacement requirements *and* maximize their cash-in-lieu option as described below:

1. *Retain* half the required number of trees.
 - In this example 25 trees larger than 20cm D.B.H. would remain protected throughout the development.
2. *Replace* the other half of the required number of trees at a 3:1 replacement ratio.
 - In this example 25 mature trees would have to be replaced at a ratio of 3:1 for a total of 75 new trees. Retention of naturally growing trees that are each smaller than 20cm D.B.H. would count towards the required 75.
 - New replacement trees would require the submission of securities at \$300 per tree, to be returned one year following initial planting.
 - The retention of existing smaller trees would require protection by the workers on site and arborist monitoring similar to retained larger trees.
3. *Provide cash-in-lieu* for half of the required replacement trees.
 - In this example, of the required 75 replacement trees, up to half (38) may be accounted for by paying \$300 into the Tree Planting and Replacement Reserve Fund for each tree, to be used for replanting programs on public land or on private lands in accordance with a program created by the City to provide tree planting incentives to private land owners.
 - In this example, this would be \$11,400 into the Reserve Fund.

4. ***In summary***, the total number of trees accounted for would be:
- 25 trees larger than 20cm D.B.H. would remain protected throughout the development.
 - 38 new would be planted as part of the development proposal or smaller trees retained. Securities would be required for any new trees, which would be returned one year following initial planting. In this example this could be a security amount of up to \$11,400.
 - 38 trees would be paid for through the Tree Planting and Replacement Reserve Fund (\$11,400).

FINANCIAL IMPLICATIONS:

Financial implications include administrative resources dedicated to administering the bylaw. These costs will be recovered through permit fees. The City will also incur on-going maintenance costs related to trees planted on public lands or on lands dedicated to the City for tree protection.

The proposed bylaw includes a graduated fee schedule to better reflect the variety of tree cutting scenarios and amount of administrative resources required to deliver the bylaw.

ADMINISTRATIVE IMPLICATIONS:

Approximately 18 weeks of staff time in total have been dedicated to the development of the Tree Bylaw. Other administrative implications should the bylaw be adopted include:

- Amending City of Courtenay Fees and Charges Bylaw No. 1673, 1992.
- Providing educational resources about the new bylaw including an on-line calculator to assist property owners in understanding their property's tree density target and possibly an on-line application form to automate submission requirements and staff review for infill properties.
- As the Tree Fund grows, there will be an administrative implication in dispersing the funds to plant new trees.
- Additional staff time in administering a bylaw that will apply City-wide. Staff estimate that the expansion of the bylaw to all lands will add approximately 5 hours of work a week based on the fact that the greenfield sites, which require the most administrative oversight, are mostly already included in the current Bylaw, and therefore are factored into staff's day to day duties, and that the addition of new lands will largely be infill properties which will not be required to provide reports for staff to review in order to demonstrate compliance with the Bylaw.

ASSET MANAGEMENT IMPLICATIONS:

The proposed bylaw amendments will not affect public assets, other than offer additional protection to public trees, as the bylaw pertains to regulating trees on private properties. Trees on lands dedicated to the City and trees planted on public lands will become new City assets requiring on-going maintenance.

STRATEGIC PRIORITIES REFERENCE:

Effective tree management and protection is consistent with the Strategic Priority of "Continued support for social, economic and environmental sustainability solutions" (area of control).



OFFICIAL COMMUNITY PLAN REFERENCE:

The OCP contains numerous references to the objective of preserving trees and ensuring tree replanting as a mechanism of beautification, parks and boulevard development and environmental restoration. Within the Vision chapter, the following policy is included: “Review and update the tree management bylaw to protect wildlife habitat and undertake a tree planting program” (page 13). Within the Planning for Climate Change chapter, the following policy is included: “The City will increase the absorption opportunities for carbon throughout the municipality through the conservation and restoration of forested areas and stands of trees and other urban ecological systems throughout the municipality” (page 145).

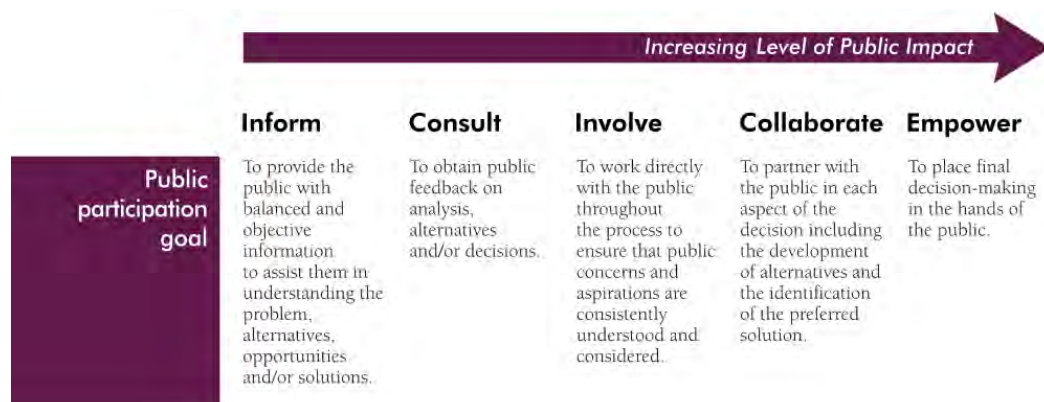
REGIONAL GROWTH STRATEGY REFERENCE:

The RGS also contains numerous references to the objective of preserving trees and ensuring tree replanting. For example, Objective 2-B: Frame environmental protection and policies around the principles of precaution, connectivity and restoration where cost effective, consider the restoration or creation of natural systems to provide sustainable environmental services (e.g. stormwater ponds for improving water quality; tree cover for capturing carbon and reducing GHG emission) (page 36).

CITIZEN/PUBLIC ENGAGEMENT:

Staff “involved” the public and stakeholder organizations based on the IAP2 Spectrum of Public Participation. 719 individuals participated during the public consultation period through public open houses and an online questionnaire. The two stakeholder organizations provided feedback in February and the CVSCP provided additional comments following open houses in June. Both organizations participated in discussions with staff following the First and Second Reading of the Tree Bylaw.

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



OPTIONS:

1. (Recommended) That Council accept amendments proposed to Bylaw No. 2850, 2016 as outlined in the staff report and in the Bylaws section of the November 7th, 2016 council agenda; and That amended Bylaw No. 2850, 2016 as amended proceed to Third reading;
2. That Council defers Third reading of Bylaw No. 2850, 2016 pending further receipt of information;
3. That Council defeat Bylaw No. 2850, 2016.

Prepared by:



Nancy Gothard, MCIP, RPP
Environmental Planner

Reviewed by:



Ian Buck, MCIP, RPP
Director of Development Services

Attachments:

1. *Attachment No. 1 : Comparision table of draft Tree Bylaw versions*
2. *Attachment No. 2: Comox Valley Development & Construction Association written feedback*
3. *Attachment No. 3: Comox Valley Conservation Strategy Community Partnership written feedback*
4. *Attachment No. 4: Track changes of amended Tree Protection and Management Bylaw No. 2850 following Second Reading.*
5. *Attachment No.5: Additional letters from the CVCSCP and Raven Forest Products that were received after the completion of the report*

Attachment No.1 – Comparison table of draft Tree Bylaw versions

<p>Summary of changes between Feb 2016, June 2016 and September 2016 versions of: Draft City of Courtenay Tree Protection & Management Bylaw No. 2850</p>	<p>Memo purpose: to provide a summary of the changes to the stated Bylaw that occurred during the consultation phase of the Bylaw review.</p> <p>Background: City Development Services Department staff conducted the following consultation steps:</p> <ul style="list-style-type: none"> - Shared February 4 version of draft Bylaw with two key land management stakeholders: CV Conservation Strategy Community Partnership and Comox Valley Development and Construction Association. <ul style="list-style-type: none"> o Responses were received on March 21 and April 19, respectively - Posted June 1 version of draft Bylaw on City website (www.courtenay.ca/trees) as part of public consultation roll out on June 3. - On-line and hard copy survey was made available between June 3 and July 11. A number of letter format submissions were also received by the public and stakeholders during this time. - Public meetings were held June 16 (evening) and June 21 (daytime). - Consultation concluded July 11. - Staff report on recommendations regarding the Bylaw, including inclusion of the September version of the Bylaw were made available publically on Council agenda on September 16. <p>Between the February, June and September versions of the Bylaw, staff made changes in response to consultation findings and on-going research. Specific questions were included in the public consultation, including explicitly in the survey, to test a number of ideas that had emerged from the stakeholder consultation including:</p> <ul style="list-style-type: none"> - Whether the Bylaw should apply City-wide. - If the tree density target approach should be used as a basis for determining how many trees should be present on a property when subject to a development-related permit or tree cutting permit, and if not what proposals people had for determining how many trees should be retained or replaced on a property. - If retention should be prioritized differently on greenfield vs. infill properties. - If a protection security should be required, in what circumstances, and how much. - Support for changes to the fee structure. - Inclusion of a heritage tree list. - Conducting an Urban Forest Strategy. <p>Summary of changes: This table highlights only the changes made between the three versions of the presented draft Bylaw, and does not constitute a summary of the Bylaw in its entirety. Changes to sequencing of provisions within the Bylaw are not noted as this is a minor revision.</p> <p>Document Version: September-22-16</p> <p>Page 1 of 4</p>
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Summary of changes between Feb 2016, June 2016 and September 2016 versions of:
Draft City of Courtenay Tree Protection & Management Bylaw No. 2850

Core changes:

- 50 trees/net developable hectare has consistently been presented as the tree density target.
- February and June versions stated that the options for achieving this target could be achieved through retention, replanting or paying into the tree planting fund.
- Between the February and June versions it was added that the tree density target would apply also to previously cleared sites.
- Between the June and September versions it was differentiated that infill sites could achieve the target by means of retention, replanting or paying into the tree planting fund, whereas greenfield sites would be required to achieve the target through retention where such trees exist, and through replanting or paying into the fund where such trees do not exist.
- Application of Bylaw changed from select lands (around Environmentally Sensitive Areas (ESAs), parks, in all areas with existing Local Area Plans and all properties over 1 acre) in the February and June versions to all lands in the September version.

Bylaw section	February version	June version	September (current) version
Pre-ample	WHEREAS statements remained the same across these versions		<ul style="list-style-type: none"> - Added a statement to include the recognition of the community values trees provide and a separate statement on protecting special species. - Changed a statement to recognize that the proposed target density of trees would apply to all lands.
Definitions		Section moved to the front of the document.	<ul style="list-style-type: none"> - <i>Arborist report</i> moved from definition to body of Bylaw (S.11) but remained similar in overall intent. - Definition of <i>Greenfield</i> property revised to include a size threshold (over 1 acre) and definition of <i>Infill</i> was added. - Definition of <i>Protected tree</i> was modified to recognize that Bylaw would apply to all lands. - Definition of <i>Tree</i> modified to ensure that a woody plant with 'one dominant trunk' is clear. - Added a few activities to <i>Tree damaging activities</i>. - In general – number of definitions reduced for brevity. - Changed the wording for brevity to generally require that 'tree retention and/or planting targets (measured as a tree density target) be achieved', recognizing that the specificity of how tree density target to is to be achieved is outlined in following sections. - Specific objectives of the Bylaw removed for brevity.
Purpose	Tree density target stated, options for achieving are mentioned.	Adds the clause that tree density target shall be achieved "including in instances where the pre-development tree density is less than 50 stems per net developable hectare".	
Application	Remained the same through these two versions.		<ul style="list-style-type: none"> - Added that applies to all lands in City.

Summary of changes between Feb 2016, June 2016 and September 2016 versions of:
Draft City of Courtenay Tree Protection & Management Bylaw No. 2850

Bylaw section	February version	June version	September (current) version
Exemptions	Remained the same through these two versions.		<ul style="list-style-type: none"> - Added clarity that a Tree Cutting Permit (TCP) is always required on Greenfield properties and only in certain circumstances on Infill properties. - Added that a TCP is required for pruning large branches of protected species. - Concentrated the decision making of removal of trees impacting infrastructure to Director of Development Services (not other City staff and utility engineers). - Added clarity that a TCP is not required on an infill property in certain circumstances.
Conditions	\$1,000 protection securities included in the Securities section as a possible requirement.	<ul style="list-style-type: none"> - Protection securities not included in Bylaw, but were included in public survey. - Changed the expiry of the permit from 6 months to 1 year. - Added tree retention targets information from this section to Replacement trees section. 	<ul style="list-style-type: none"> - Protection securities clarified as a possible condition of a permit for when working in close proximity to protected species (\$1,000/tree). - Added possible protection security condition of up to \$10,000 when constructing works within existing or future Park lands. - Created a new section that speaks exclusively to the Tree Density Target and how it is to be achieved on greenfield vs. infill properties. - Added that monitoring securities from an appropriately qualified professional may be required in the amount of 125% to ensure monitoring conditions of the permit occur.
Tree density target	Topic was included in objectives, conditions and replacement section.	Topic was included in objectives and tree retention targets and replacement sections.	<ul style="list-style-type: none"> - Topic is included in its own section and the definitions and provides clarity on what is acceptable for infill vs. greenfield sites. - Added condition that retained trees in greenfield sites shall be achieved in clusters and/or corridor configurations with consideration given to adjacency to publically owned lands. - Added clarity that a tree must be in good health to be a retention candidate.
Replacement trees including bonding and use of planting fund	Replacement tree conditions VS. securities and use of fund each in their own sections.	Replacement trees and retention targets VS. security bonds and fund in each own section.	<ul style="list-style-type: none"> - Tree density targets VS. replacement trees, securities and fund in each own section. - Added that removal of hazardous trees in Environmentally Sensitive Areas shall be replaced at 3:1 ratio. - Clarity added on what form securities may take. - Clarified that planting fund is only available for infill properties.
Securities	See item in row above on securities.	Changed the provision that replacement securities would be released in installments, and rather would be installed all at	Added that should the owner not replant a tree for which securities have been taken, and after one year of having received notice from the City, the City may allocate the security funds into the replanting fund.


Document Version: September-22-16

Page 3 of 4

Summary of changes between Feb 2016, June 2016 and September 2016 versions of:
Draft City of Courtenay Tree Protection & Management Bylaw No. 2850

Bylaw section	February version	June version	September (current) version
Application and fees	Remained the same through these two versions in overall intent.	once 1 year following planting.	Added that should the original arborist report be incomplete or inaccurate the City may require an independent arborist to review, at the expense of the applicant.
Penalty	Remained the same through these two versions.		Made all penalties the same amount.
Schedule – Map	Remained the same through these two versions although added a note in June version that City is considering application to all lands.		Removed map as Bylaw is proposed to apply to all lands.
Schedule – Replacements		<ul style="list-style-type: none"> - Added that size of tree shall be 5 gallon pot. - Added that tree caging may be required in areas of deer browse. 	<ul style="list-style-type: none"> - List of trees (native and prohibited trees) removed from list. - Added that all trees removed within ESAs must be native. - Added that Arbutus and Garry Oak may have different pot sizes, based on local availability.


Attachment No.2 – Comox Valley Development & Construction Association written feedback



October 11, 2016

Mayor and Council, City of Courtenay
City of Courtenay
830 Cliffe Avenue
Courtenay, BC V9N 2J7

RECEIVED
OCT 12 2016
CITY OF COURTENAY



Dear Mayor and Council,

**CITY OF COURTENAY PROPOSED TREE PROTECTION BYLAW UPDATE – BYLAW 2850
COMOX VALLEY DEVELOPMENT AND CONSTRUCTION ASSOCIATION FEEDBACK**

The Comox Valley Development and Construction Association appreciates the opportunity to provide input to the City of Courtenay in the preparation of a Tree Protection Bylaw that is practical and attainable, while meeting the community's needs. Our organization wholeheartedly supports the need for a comprehensive plan to preserve and manage our shared environmental amenities. A functional, equitable tree management bylaw is key in the implementation of an Urban Forest Management Strategy.

Unfortunately, it is the opinion of the Comox Valley Development and Construction Association that the proposed Tree Protection Bylaw Update, Bylaw 2850, is premature in its development and implementation. An Urban Forest Management Strategy must be in place to clearly establish the community values that are to be protected, and to develop a framework to manage urban canopy cover, and greenspace in general. The amended bylaw proposed is, in reality, a new bylaw, sharing only name with its predecessor. Implementing a new bylaw of this significance, in the absence of an overarching, guiding strategy, is akin to implementing a zoning bylaw without the community direction provided by an Official Community Plan, or to erecting a building before preparing the construction plans.

Some of the more significant issues arising from the proposed bylaw, include the following:

- The bylaw requires existing tree retention as a priority, with no consideration to the financial impacts this could have on private property owners. The inequitable financial burden imposed by this bylaw on private land owners with different levels of native tree cover is patently unfair.
- The negative impacts that this bylaw (in its current form) will have on the price of a typical single family building lot in the City are staggering. This bylaw, as proposed, will have a direct negative impact on housing affordability, and growth within the City.
- The targeted number of stems per hectare noted in this bylaw is very aggressive, in comparison to many other jurisdictions. More concerning, the implementation framework developed in the bylaw is far more onerous than any other community we are aware of.
- It is not clear how the City intends to enforce the requirements of this bylaw on existing property owners. Specifically, it is unclear how the City intends to monitor every tree within its boundary. Failure to enforce the requirements of any bylaw will lead to legal challenges.

...continued

Page 2 – Tree Protection Bylaw Update

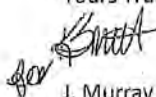
- The only practical means of managing retained groves of trees or greenways in new residential areas is through dedication of these lands to the City, yet the Bylaw is silent on public dedication, implying that preserved trees remain with the landowner in perpetuity. This bylaw implicitly creates the need, if not requirement, for lands far in excess of statutory parkland requirements to be given to the City. We have been advised that this may be in contravention of the Community Charter.
- Given that community tree retention areas/greenways are not yet identified, (nor generally are the environmental goals of the community), it is unclear why the City would prioritize this method of “protection” above all others. Consideration should rightly be given to reinstating canopy in areas of exceptionally sparse tree cover, or areas of particular environmental significance. An Urban Forest Strategy would provide clarity and guidance in this regard.
- The current levels of tree canopy cover within the City of Courtenay exist exclusively because of land use decisions made by the community in the past. Our community has been shaped by councils of the past, with direct input from their constituents. If this current Council believes that reinstating tree canopy to any level is a *Community* priority, then the *Community* as a whole should be tasked with being part of the solution. The financial onus to mitigate, or restore tree canopy to the targets noted within the proposed Tree Cutting Bylaw, is not rightly borne solely by new development. We fear, as is the case with Affordable Housing, the onus of fixing this *Community* issue will be placed squarely, and very unfairly, on new development.

We would therefore challenge Council to act strongly and decisively. Fund this initiative in the very same way that other *Community* priorities, including recreational facilities and City infrastructure are funded – through taxation.

In closing we ask that you delay passing of a comprehensive Tree Protection Bylaw until the directive for it is provided in a well thought out Urban Forest Management Strategy (UFMS). Only then can you develop a proper and equitable bylaw that implements the Community’s policy directives. For the reasons highlighted in this letter, and for others that will be brought forth to Council, we ask that you direct staff to develop the UFMS *before* adopting any Tree Protection Bylaw.

Thank you for allowing our association to provide input into these important policy decisions. We remain available, and look forward to assisting the City in the preparation of an Urban Forest Strategy and Tree Protection Bylaw.

Yours Truly,



J. Murray Presley
Chair, Comox Valley Development and Construction Association

cc: Ian Buck, Director of Development Services
Nancy Gothard, Environmental Planner

Attachment No.3 – Comox Valley Conservation Strategy Community Partnership written feedback

**Submission regarding Proposed City of Courtenay Tree Management Bylaw 2850
From Comox Valley Conservation Strategy Steering Committee**

1.0 Summary

The CVCS steering committee has reviewed Tree Management Bylaw 2850 and supports most sections of the bylaw and recommends two important changes.

The urban forest provides a multitude of environmental, economic and social benefits to landowners, the city and the community as a whole. Our review focused on how effectively the bylaw would sustain the urban forest by regulating the cutting, retaining and replacement of trees. Our approach sought a balance between the need to accommodate growth and development while ensuring the environmental, economic and social benefits of the urban forest are sustained.

The following table provides a summary of our review by highlighting the strengths of the bylaw and areas where we recommend change.

Section	Strength of Bylaw	Recommendation for improvement
Pre-amble	Whereas statements include: - a list of the benefits of trees - in the public interest to provide for the protection, preservation, replacement and regulation of trees on all properties	
Definitions: “protected species”		<u>Recommendation</u> (see page 3) Mature Coastal Douglas-fir trees (80 years and older) should be designated as “protected species.” Omitting mature Coastal Douglas-fir is not in compliance with the City’s OCP. <u>Rationale</u> Less than 1% of old growth Coastal Douglas-fir trees remain. The OCP acknowledges this fact by stating: “The City will review the Tree Bylaw to improve the retention of ...threatened Coastal Douglas-fir” (OCP section 10.5.3 p 145). Not including mature CDF is NON COMPLIANT with the City’s OCP.
Purpose	no comments	
Application: “applies to all lands”	Applying the bylaw to all trees over 20cm dbh in the city is: Effective, fair and easy to understand.	
Exceptions	Fair and allows for a reasonable amount of flexibility to accommodate infill development	
Conditions	- Prioritizes retention on greenfield sites. - Retained trees on greenfield sites should be achieved in clusters and/or corridors	

Tree density targets		Recommendation: (See page 2 & 3) Retain a minimum of 40% of the development parcel capable of retaining or growing trees. Rationale: Retaining or replacing trees using the proposed 50 stems per ha density target for greenfield and undeveloped lands will result in greater losses of functioning forests (green infrastructure) and trees. Once these areas are built out the opportunity to retain and/ or replace forests is lost. Setting aside 40% of the development parcel (capable of retaining or growing trees) would reduce the development footprint and result in a more sustainable urban forest canopy for the future.
Replacement trees, bonding and use of planting fund	- option to contribute to planting fund applies only to infill properties - bonding requirements are fair and reasonable	
Securities	- fair and reasonable	
Application & Fees	- TCP report requirements for greenfield sites and development applications - fees are fair and reasonable	
Penalties	- fair and reasonable	
Schedule- Replacements	- replacement trees for ESAs must be native - fair and reasonable replacement options	

2.0 Detailed recommended changes to the Tree Management Bylaw

2.1 Replace Tree Density Target (50 stems per hectare) with 40% canopy target for all Greenfield and undeveloped sites greater than 1 acre

The tree density target of 50 stems/ ha for greenfield/ undeveloped sites will not prevent large losses of existing tree canopy, with their associated losses of green infrastructure, or encourage adequate replacement (reforestation) of cleared forested areas. We are proposing that the bylaw achieves a 40% canopy target for greenfield sites.

The 50 stem per hectare target will have an inconsistent impact from one development site to another. The amount of forest area required to retain a 50 stems tree target will vary because each site has different tree densities and tree distribution. Some sites have ESAs. The tree density target is exclusive of ESAs. The results of applying the 50 stems tree target on sites with so many variables will result in a wide range of results from site to site. In some cases the % of forested area protected may be as low as <10% of a site in others >65%. Applying a minimum 40% canopy cover inclusive of ESA lands would ensure consistency from site to site, allow for some flexibility in establishing which areas can be retained as forest lands and where to locate development. Tree cover in ESAs should be included when calculating a 40% forest canopy target.

We propose that the bylaw should treat treed greenfield sites and greenfield sites that are cleared or partially cleared differently. Achieving tree retention and replacement goals with a regulatory framework that is fair, clear and consistent across a wide range of greenfield sites is best dealt with by setting a 40% canopy target.

2.1a Greenfield sites (Treed) greater than 1 acre

Rationale

Under the proposed bylaw the development footprint of treed greenfield sites will only be incrementally reduced while the opportunity to retain or replace trees will be lost as these areas are built out. The larger the development footprint the greater will be the costs of building, maintaining and replacing infrastructure. The smaller the urban forest the less economic, environmental and social benefits will be provided.

Recommendations

A) The development parcel will retain a minimum 40% of the existing forest area. The % of land of the development parcel to be designated as retained forest area will not include non-forested ecosystems such as a water body. (For example if the development parcel was 10 ha and 2 ha were covered by ponds/ wetland and 8 ha by trees the % of treed area would be calculated as 40% of 8 ha.) The retained forest area can include ESAs such as treed riparian buffers, park dedication and other treed areas that may otherwise be excluded from development.

B) For small private lots subdivided within the development parcel trees can be retained or replanted at 50 stems/ ha.

2.1b Greenfield (Undeveloped cleared or partially cleared) sites greater than 1 acre

Rationale

Development parcels greater than 1 acre that have been cleared or partially cleared provide an opportunity to re-establish forest areas before the parcels are built out. This will sustain the urban forest for the future and ensure economic, environmental and social benefits are secured for the long term.

Recommendation

A) For cleared or partially cleared development parcels a minimum of 40% of land on the parcel should be left undeveloped and set aside as forest area. The % of land of the development parcel to be designated as forest area will not include non-forested ecosystems such as a water body. (For example if the development parcel was 10 ha and 2 ha were covered by ponds/ wetland and 8 ha by trees the % of treed area would be calculated as 40% of 8 ha.) The forest area could consist of retained and/ or replanted native trees. Replanting of forest areas would be achieved with appropriate native species at a density required for re-establishing a naturally forested tree canopy. Forest areas can include ESAs such as treed riparian buffers, park dedication and other areas that may otherwise be excluded from development.

B) For small private lots subdivided within the development parcel trees can be retained or replanted at 50 stems/ ha.

2.2 List of "protected species" should include mature Coastal Douglas-fir > 80 years.

Rationale

Less than 1% of old growth Coastal Douglas Fir (CDF) trees remain on Vancouver Island. The OCP acknowledges this fact by stating: "The City will review the Tree Bylaw to improve the retention of ...threatened Coastal Douglas-fir" (OCP section 10.5.3 p 145). Including mature CDF on the protected species list would reduce the loss of these trees and damage from inappropriate tree

pruning (topping) that turns healthy CDF trees into danger trees. Not including mature CDF is NON COMPLIANT with the City's OCP.

Recommendation

Mature Coastal Douglas-fir trees 80 years and older should be designated as "protected species."

3.0 Other tools for balancing land development with sustaining the urban forest

3.1 Urban Forest Strategy

A robust tree management bylaw is a cornerstone regulation for protecting the urban forest. However, to maintain and sustain the urban forest and gain its maximum value for the City and its citizens we recommend that Council develop and implement an urban forest strategy. Trees grow on private and public lands including boulevards and parks. An urban forest plan is needed that can address the challenges and identify opportunities for retaining and replanting trees on public and private lands. It can provide the City with a way to gain the greatest benefits from its urban forest and to cost effectively manage trees.

3.2 Zoning as an incentive:

Density bonuses can be use to encourage development that retains or reforests higher than the 40% target. The City, through zoning amendments can provide increased density to encourage smaller footprints to achieve tree retention and replacement. The city and the community will benefit from high density small footprint development through reduced infrastructure costs and the many other economic, social and environmental benefits to be gained from protected forest areas. A real opportunity exists to build affordable housing in beautifully treed neighbourhoods.

3.3 Require street trees in all new subdivisions

The subdivision servicing bylaw should be amended to require street trees in all new subdivisions.

Attachment No. 4 -

Track changes of amended Tree Protection and Management Bylaw No. 2850 following Second Reading

THE CORPORATION OF THE CITY OF COURTENAY	
BYLAW NO. 2850	
A bylaw to regulate injury and removal of protected trees and to require trees associated with private developments within the City of Courtenay	
WHEREAS the City Council may, by Bylaw, exercise certain powers within the City, <u>to require planting of trees</u> , to regulate cutting and removal of trees and to require their replacement;	Comment [FND]: Adds clarity to recognize that the Bylaw requires replanting as well as protection and management of trees.
AND WHEREAS trees provide a variety of individual and community wide benefits such as: stormwater and rainwater management, carbon absorption, air quality, heating and cooling benefits, aesthetic, quality of life and health benefits;	
AND WHEREAS the City considers it in the public interest to provide for the protection, preservation, regulation and replacement of a target density of trees on all properties;	
AND WHEREAS the City considers it in the public interest to provide for the protection of protected species;	
NOW THEREFORE the Municipal Council of the City of Courtenay in open meeting assembled enacts as follows:	
1. CITATION	
This Bylaw may be cited for all purposes as "Tree Protection and Management Bylaw No. 2850, 2016"	
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3. DEFINITIONS

"Arborist" means

- a) a person certified as an arborist by the International Society of Arboriculture (ISA); or
- b) a person certified as a Tree Care Specialist by the Tree Care Industry Association (TCIA);
- c) a person certified under subsections (a) and (b) and advising on a *hazard tree* that is a *protected species* or is growing within a *Riparian Assessment Area* or other *Environmentally Sensitive Area*, who holds the "Certified Tree Risk Assessor Qualification" as defined by the ISA;

"Barrier" means a device including a fence, guard, frame or any other conspicuous marker which is placed on, around, or near a tree to indicate that the tree trunk, roots or branches are not to be cut, removed or damaged;

"City" means, as the context requires, the Corporation of the City of Courtenay or the area within the boundaries of the City of Courtenay;

"Council" means the Council of the Corporation of the City of Courtenay;

"Crown" means the foliage bearing section of a *tree* formed by its branches but does not include the stem or trunk of a *tree*;

"Damage" means to take any action that may impact or result in damaging the health or structural integrity of a *tree*;

"Decline" means a tree that exhibits signs of a lack of vitality such as reduced leaf size, colour or density;

"Development" includes the following activities:

- a) Removal, alteration, disruption, or destruction of vegetation;
- b) Removal, deposit or disturbance of soils;
- c) Construction, erection, or alteration of buildings and structures;
- d) Creation of non-structural impervious or semi-pervious surfaces;
- e) Preparation for or construction of roads, trails, docks and bridges;
- f) Provision and maintenance of sewer and water services;
- g) Development of drainage systems;
- h) Development of utility corridors;
- i) Flood protection; and
- j) Subdivision.

Comment (H2): Add clarity.

"Development application" means an application to the City for approval to conduct any *development* including but not limited to applications for rezoning, development permit, development variance permit, demolition and building permits;

"Diameter at Breast Height (D.B.H.)" means:

- a) for a single-stemmed tree:
 - i. the diameter of a *tree* measured at 1.4 meters above the highest point of the natural *grade* of the ground from the base of a *tree*;
- b) for a multi-stemmed tree:

i. ~~the three largest stems measured at 1.4 meters above the highest point of the natural grade and the D.B.H. of the tree shall equal the cumulative total of the D.B.H. of the three largest stems; the D.B.H. is equal to the cumulative total of the D.B.H. of each stem;~~

Comment [HN3]: Changed definition for clarity.

"Director" means the City's Director of Development Services or Manager of Planning;

"Drip line" means the small roots of a *tree* located within a circle on the ground around a *tree* directly under the tips of the outermost branches of the canopy of the *tree*;

"Emergency tree removal" means a tree that is dead, diseased, damaged or otherwise constitutes an imminent physical hazard to persons or property;

"Environmentally Sensitive Area (ESA)" includes:

- a) Watercourses including the sea, ponds, lakes, rivers, streams, natural drainage courses and wetlands;
- b) Riparian and wildlife habitat;
- c) Significant geographical features outlined in the Environmental Development Permit Areas Map #6 and ESA descriptions contained within the City of Courtenay's Official Community Plan;

"Fill" means earth, sand, gravel, rubble, rubbish, garbage or any other material whether similar to or different from any of these materials, originating on the site or elsewhere, used or capable of being used to raise, lower, or in any way affect the contours of the ground;

"Grade" means a defined elevation of land that has been established as a result of geologic, hydrologic, or other natural processes or by human alteration;

"Greenfield" means undeveloped real property that is greater than 4000 square meters in size (approximately 1 acre) and contains vegetation that has been left to evolve naturally;

"Hazardous or hazard" means a *tree* with a structural defect or changed stand conditions, which may result in property damage, personal injury or death;

"Infill" means real property that is less than 4000 square meters in size (approximately 1 acre);

"Invasive species" means non-native plants, animals and micro-organisms that colonize and take over the habitats of native species;

Comment [HN4]: Adds clarity.

"Maintenance" means the care and maintenance of trees in accordance with *sound arboricultural practice* and includes planting, inspection, pruning, cabling and bracing, treatments for insect and disease problems, watering and fertilization including mulching;

"Native" means a *tree* species that occurs naturally in the *City*, and occurred prior to European contact;

"Net developable hectare" means the land area, measured in hectares, available for *development* but does not include public highways, utilities or structures and the allocation of lands for public parks, landscaping and *ESAs*, and other public works required to service lands;

"Photo documentation" means three photos of a *tree* including a picture of the whole *tree*, a picture of the defective part, and a picture of the area at a distance, including if possible, any nearby structures;

"Protected species" means:

- a) Garry Oak (*Quercus garryana*);
- b) Pacific Dogwood (*Cornus nuttallii*);
- c) Western White Pine (*Pinus monticola*);
- d) Pacific Yew (*Taxus brevifolia*);
- e) Trembling Aspen (*Populus tremuloides*);
- f) Arbutus (*Arbutus menziesii*).

"Protected tree" means

- a) a *public tree*;
- b) a *tree* of any size within a:
 - i. *Riparian Assessment Area*, or
 - ii. *Environmentally Sensitive Area (ESA)*.
- c) a *tree* of any size on sloping terrain having a *grade* equal to or greater than 30%;
- d) a tree planted or *retained* as a requirement of a subdivision application, development permit, development variance permit, building permit demolition permit, or *Tree Cutting Permit*;
- e) a *protected species* over 0.5 meters in height;
- f) *trees* protected by a restrictive covenant registered on title pursuant to section 219 of the *Land Title Act*;

"Prune" means the removal of not more than one-third of the live branches or limbs of a tree or not more than one-third of the live branches or limbs on a tree as part of a consistent annual pruning program and in accordance with *sound arboricultural practice*;

"Public tree" means a *tree* of any size on land owned by or in the possession of the *City*, including, without limitation, a *tree* in a park or on a highway, boulevard, road or lane allowance;

"Ravine" means a narrow, steep-sided valley that is commonly eroded by running water and has a slope *grade* greater than 3:1;

"Remove" means to entirely sever the main stem of a *tree* or to fell a *tree*;

"Replacement tree" means a *tree* planted on a parcel in accordance with section 10 of this bylaw to replace *trees* cut, *removed* or *damaged* on the same parcel or to achieve the tree density target including in instances where there are no or few trees on a parcel;

"Retained tree" means a tree not to be cut, *removed* or *damaged*;

"Riparian Assessment Area" means:

- a) for a *stream*, the 30 meter strip on both sides of the stream, measured from the riparian area high water mark;

Comment [HWT]: Adds clarity that replacement trees will be required to meet the tree density target, including on properties where there are fewer than that number naturally growing on the property.

- b) for a *ravine* less than 60 meters wide, a strip on both sides of the stream measured from the riparian area high water mark to a point that is 30 meters beyond the top of the *ravine* bank; and
- c) for a *ravine* 60 meters wide or greater, a strip on both sides of the stream measured from the riparian area high water mark to a point that is 10 meters beyond the top of the *ravine* bank;

"Root protection area" means the area of land surrounding the trunk of a *tree* that contains the bulk of the critical root system of the *tree*, as defined on a plan prepared by an *Arborist* approved by the *Director*;

"Sound arboricultural practice" means in accordance with American National Standards Institute (ANSI) Publication, A300-Tree Care Operations and the companion Best Management Practices Series of the International Society of Arboriculture (ISA);

"Stream" means any of the following that provides fish habitat:

- a) a watercourse, whether it contains water or not;
- b) a pond, lake, river, creek or brook; or
- c) a ditch, spring or wetland that is connected by surface flow to something referred to in subsection (a) or (b);

"Top" or "Topping" means the removal of large portions of the *crown* of a *tree*, including, but not limited to the making of horizontal cuts through the stems of a *tree*;

"Tree" means any species of woody perennial plant having one dominant trunk and a mature height greater than five (5) meters;

"Tree Cutting Permit" means the written authority granted by the *Director* pursuant to this Bylaw to cut or remove a *tree*;

"Tree damaging activities" means to take any action that may cause a *tree* to die or *decline*, including:

- a) cutting or damaging the roots of a *tree* growing inside the *root protection area*;
- b) placing *fill*, building materials, asphalt or a building or structure upon land inside the *root protection area* of a *tree*;
- c) operating or parking vehicles including trucks, backhoes, excavators or other heavy equipment over the roots of a *tree* growing inside the *root protection area*;
- d) denting, defacing, gouging or damaging the trunk of a *tree*;
- e) removing bark from a *tree*;
- f) depositing concrete washout or other toxins, liquid or chemical substances harmful to the health of a *tree* on land inside the *root protection area* of the *tree*;
- g) removing soil and/or native understory vegetation from land inside the *root protection area* of a *tree* or compacting soil within the *root protection area*;
- h) blasting inside the *root protection area* of a tree or outside the *root protection area* so as to *damage* roots or disturb soil inside the *root protection area*;
- i) undermining the roots of a *tree* growing inside the *root protection area*;
- j) altering the ground water or surface water level within the *root protection area* of a *tree*;
- k) *topping* a tree or *pruning* the *crown* in excess of one-third of the *tree*;

- l) affix or hang materials from a *tree* that may harm the *tree*; or
- m) girdling, ringing, poisoning, or burning a *tree*.

"Tree density target" means 50 *trees* per *net developable hectare*.

"Tree Planting and Replacement Reserve Fund" means the fund set aside for the purpose of planting *trees* in locations within the City of Courtenay other than where the lot where the tree has been injured or destroyed by *tree damaging activities*.

4. BYLAW PURPOSE

4.1 This Bylaw is enacted for the purposes of:

- a. regulating the cutting and *removal* of *trees*;
- b. regulating the protection of *retained trees* during *development*;
- c. setting forth expectations regarding the treatment of *trees* that are regulated under this Bylaw;
- d. requiring that *tree* retention and/or planting targets (measured as a *tree density target*) be achieved.

4.2 The Bylaw is not contemplated nor intended, nor does the purpose of this Bylaw extend:

- a. to the protection of any person from injury or damage to property or economic loss as a result of the cutting or *removal* of *trees*;
- b. to the assumption by the *City* or any employee of any responsibility or duty of care for ensuring that the cutting of one or more *trees* will not result in injury to any person or danger to any property from erosion, flooding, landslip or other damage;
- c. to assuming liability of a property owner for any damage arising from nuisance or negligence arising from *tree* cutting carried out on the owner's property.

5. BYLAW APPLICATION

5.1 This Bylaw applies to all properties within the *City* and to all *protected trees*.

5.2 A *Tree Cutting Permit* is required to be obtained prior to any *tree over 20cm Diameter at Breast Height or protected trees* being *removed* in the following circumstances:

- a. On any *greenfield property*;
- b. On any *infill* property where the *removal* of *said trees* will result in the *tree density target* not being achieved for that property;

5.3 A *Tree Cutting Permit* is required to be obtained prior to any limb or branch that is equal to or greater than 10 centimeter diameter being cut from any *protected species*;

5.4 For *emergency tree removal* a person must submit an application for a *Tree Cutting Permit* within 24 hours of the date of removal, or in the case of a *removal* which takes place on a weekend or statutory holiday, on the next business day after *removal*, and provide *photo documentation* of the *tree* prior to its *removal* with the application.

5.5 When a *Tree Cutting Permit* application is submitted in relation to a *development application*, the *Tree Cutting Permit* shall not be issued until approval has been obtained from the City for the *development application*, unless the *Director* otherwise waives this requirement.

Comment (HNS): Adds clarity that the Bylaw applies to all trees over 20cm Diameter at Breast Height as well as any protected tree. This had been and is stated throughout the Bylaw, and has been included here for further clarity.

Comment (HNS): Adds clarity that for infill properties, the Bylaw applies to the trees described in section 5.2.

6. PROHIBITED ACTIVITIES

- 6.1 No person shall cut, *remove* or carry out any *tree damaging activities* on a *protected tree* or any *tree* required to be retained to achieve the *tree density target* prior to obtaining a *Tree Cutting Permit* or contrary to the terms and conditions of a *Tree Cutting Permit* issued under this Bylaw.
- 6.2 When the *City* is investigating a bylaw infraction under this Bylaw, no person shall remove the remains of a *tree* until after the investigation by the *City* is complete.

7. BYLAW EXEMPTIONS AND TREE CUTTING PERMIT EXEMPTIONS

- 7.1 This Bylaw does not apply to:
 - a. *pruning* of *trees* other than *protected species* in accordance with *good arboricultural practice*;
 - b. *regular landscape maintenance such as lawn mowing providing such activities are not tree damaging activities*;
 - c. where the *Director* or an *Arborist* certifies in writing to the *City* prior to removal that in his or her opinion a *tree* is impairing, interfering with, or presents a risk or hazard to the operation of sewers, drains, water lines, septic fields, electrical lines, poles or other similar equipment and appurtenances and that the impairment, interference or risk cannot be reduced or removed in any way other than the *removal* of the *tree*;
 - d. *trees* that are part of plantations for the purposes of an orchard, nursery, or tree farm;
 - e. the cutting and *removal* of *trees* by a British Columbia Land Surveyor when cutting survey lines of a width of less than 2 meters, unless the *tree* is a *protected tree*;
 - f. *tree* cutting or *removal* that is undertaken by a utility, on land owned or held by the utility, and done for the purpose of safety, maintenance or operation of the utility's infrastructure;
 - g. land and the *trees* on it if forestry practices on the land are governed by a tree farm licence, permit, or other authority or tenure under the *Forest Act*; or
 - h. land and *trees* on it if section 21 of the *Private Managed Forest Land Act* applies to the land.
- 7.2 A *Tree Cutting Permit* is not required on an *infill* property when *tree removal* will not result in the number of *trees* retained on the property falling below the required *tree density target* for that property, provided that the *trees* being *removed* are not:
 - a. a *protected tree*; and
 - b. the landowner ensures that *retained trees* are protected from *tree damaging activities*.

Comment [B17]: Add clarity that regular yard maintenance is permitted around trees.

8. TREE REMOVAL, PROTECTION AND MANAGEMENT CONDITIONS

- 8.1 A person performing *development* on lands containing one or more *retained trees*, where a *Tree Cutting Permit* is required, shall:
 - a. ensure that no *development* occurs within the *root protection area*;
 - b. place and maintain a temporary tree protection *barrier* around any *retained tree* or group of *retained trees* in accordance with Schedule B;

- c. provide the *City* with proof of the *barrier* prior to disturbance occurring around the *retained tree* in the form of a photo, *Arborist* statement, or as otherwise stated in a *Tree Cutting Permit*;
 - d. ensure that no *development* occurs within the *root protection area* except in accordance with the terms and conditions of a *Tree Cutting Permit*;
 - e. display the *Tree Cutting Permit* in an accessible, visible location on the parcel to which it pertains;
 - f. comply with all other local, provincial and federal laws.
- 8.2 In connection with the issuance of a *Tree Cutting Permit*, the *Director* may impose additional conditions to those listed in Section 8.1, including, without limitation, any or all of the following:
- a. identify with a flag, paint, survey tape or other adequate means each *tree* to be *removed* or *retained*;
 - b. retain an *Arborist* to supervise, monitor or report on any *development*, including site visit requirements:
 - i. at critical phases of construction and/or at regular intervals in the construction schedule;
 - ii. at the time of *tree replacement*;
 - iii. to monitor tree adaptations to changes in their environment caused by the *development*;
 - iv. to advise on the creation of *hazardous* conditions;
 - v. to advise on *maintenance* requirements where such a condition is stipulated; and
 - vi. to confirm the successful establishment of a replanted *tree* prior to release of securities held for that *tree*;
 - c. provide monitoring securities ~~from for~~ an *Arborist*, ~~Professional Engineer~~ or Registered Professional Biologist as determined by the *Director*, in the amount of 125% of an estimate or quote of the cost of monitoring works required to ensure that the mitigation conditions of the *Tree Cutting Permit* are completed;
 - d. ensure that no sediments migrate off site or into watercourses or drainage ditches;
 - e. confirmation that the proposed *development* is consistent with *City* bylaws, and provincial and federal laws;
 - f. treat diseased *trees* and those in *decline*, in accordance with *good arboricultural practice*;
 - g. salvage and use small *trees* as part of a replanting plan, or to achieve the *tree density target*;
 - h. remove and dispose of *invasive species* growing on the tree or within the *dripline* in a responsible manner;
 - i. plant *replacement trees* in accordance with Schedule A, maintain *replacement trees*, for a stipulated length of time, and implement *maintenance* measures such as watering, fertilization, or mulching in accordance with the specified frequency;

Comment [B10]: removed because engineers are not capable of properly performing this service.

- j. remit a protection security of \$1000 per *protected species* when constructing works that may cause *tree damaging activities* to a *protected species*;
 - ~~k. remit a protection security of \$10,000 when constructing works within existing or future Park lands as shown in a Preliminary Lot Review letter, Subdivision Construction Drawing or Section 219 Covenant;~~
 - ~~l.k.~~ notify adjacent properties of a *tree* removal;
 - ~~m.i.~~ provide a written statement from an *Arborist* stating that the scheduled *tree* removal is unlikely to create *hazardous* conditions to adjacent *trees*, including on adjacent properties;
 - ~~n.ii.~~ submit a post-construction *Arborist* report following construction activities;
 - ~~o.i.~~ submit a communication plan to ensure that all parties working on the site are aware of the *Tree Cutting Permit* requirements;
 - ~~p.o.~~ restrictions on timing of removal given sensitivities to bird nesting, fish or sediment and erosion control;
 - ~~q.d.~~ keep stumps and roots of cut *trees* in place to ensure slope stability or mitigation against erosion *where recommended by a geotechnical engineer*;
 - ~~r.g.~~ cut or modify a *tree* so as to retain wildlife habitat, subject to written confirmation from the *Arborist* that doing so will not create a *hazard*;
 - ~~s.f.~~ where recommended by the *Arborist*, require that *crown* clearing occur prior to construction to reduce risk of branch failures and risk to workers.
- 8.3 The authorization to cut or *remove trees* shall expire within one year after the date of issuance of a *Tree Cutting Permit*, after which time a new application must be submitted.

Comment [I-N9]: Removed. Staff believe there is another development regulatory tool to address this.

Comment [B110]: Adds clarity that this should be at the discretion of a professional geotechnical engineer.

9. TREE DENSITY TARGET

9.1 The *tree density target* may be achieved:

- a. for an *infill* property,
 - i. by counting any *tree* that is larger than 2 centimeters *D.B.H.* and 2 meters in height, that is already growing on the *infill property* and is not an *invasive species*;
 - ii. by planting a *replacement tree*; or
 - iii. by paying \$300 into the *Tree Planting and Replacement Reserve Fund* for each *tree* that is to contribute towards the *tree density target*;
- b. for a *greenfield* property,
 - ~~i. by retaining *native trees* that are each a minimum of 20 centimeters *D.B.H.*, and are growing in an average density on the overall property, where such *trees* exist, or~~
 - ~~ii. by replanting *replacement trees* at a ratio of 3:1 for each *tree* removed below the *tree density target* of 50 trees per net developable hectare;~~
 - ~~a. where this subsection applies, up to a maximum of half of the number of *trees* required to achieve the *tree density target* may be achieved with *replacement trees* which may also include retaining naturally growing *trees*~~

Comment [I-N11]: Removed for clarity of interpretation. Any tree over 20 centimeters D.B.H. may be counted towards the tree density target.

- smaller than 20 centimeters D.B.H. provided said trees are not an invasive species, red alder or cottonwood trees;
- b. where this subsection applies, up to a maximum of half of the replacement trees may be achieved by paying \$300 into the Tree Planting and Replacement Reserve Fund for each tree that is to contribute to the tree density target;
- c. under extenuating circumstances where retention of trees required under this section prevents development to permitted densities, the Director shall have discretion in determining the number of retained and replacement trees;
- +iii. where trees described in subsection (b)(i) do not exist, the tree density target may be achieved by planting replacement trees or retaining naturally growing trees smaller than 20 centimeters D.B.H. provided said trees are not an invasive species, red alder or cottonwood trees;
- iv. retained trees shall be achieved in clusters and/or corridor configurations where practical with consideration given to adjacency to publically owned lands;

Comment [HN13]: Option has been added to achieve the tree density target by means of replanting at a higher ratio.

Comment [HN14]: Added provision to ensure interpretation of Bylaw is consistent with Section 50(2) of the Community Charter.

- 9.2 A tree must be in good health and must not be dead, *hazardous* or in *decline* in order to be counted towards the *tree density target*. Red alder and ~~c~~Cottonwood trees shall ~~generally~~ not be counted towards the *tree density target*.

Comment [HN15]: Adds clarity that this species will not be counted towards the tree density target.

10. REPLACEMENT TREES, SECURITY BONDS AND TREE PLANTING AND REPLACEMENT RESERVE FUNDS

- 10.1 Where the *Director* has issued a *Tree Cutting Permit*, the following replacement formulas shall be followed, subject to subsections (b) through (d):
- the *net developable area* shall achieve the *tree density target*;
 - if the *tree removed* is *hazardous*, one *replacement tree* shall be required for every *tree removed*;
 - notwithstanding section 10.1 b, if the *tree removed* is *hazardous* and is growing within *Environmentally Sensitive Areas*, three replacements of *native* species shall be required for every *tree removed*;
 - for the removal of a *protected species* three replacements of the same species shall be required for every *tree removed*, including *hazardous trees*.
- 10.2 Subject to section 10.1, where the planting and *maintenance* of a *replacement tree* is required pursuant to this Bylaw, the owner shall provide to the *City* security in the amount of \$300 for each *tree* to be planted and maintained.
- 10.3 Where the *replacement trees* are part of the overall ~~private~~ landscaping ~~or street tree~~ program required under a development permit, development variance permit, subdivision, or other development agreement, the security is to be in the amount specified in the approved landscape cost estimate associated with said permit, and only that amount.
- 10.4 The security in section 10.2 may be submitted in the form of cash, cheque or irrevocable letter of credit, bank draft or in a form satisfactory to the *Director*.

Comment [HN16]: Adds clarity that replacement trees may be required as part of private landscaping requirements.

Comment [HN17]: Adds clarity that street trees required as part of development servicing are not to count as replacement trees.

- 10.5 *Replacement trees* must be planted in accordance with the condition and planting criteria set out in Schedule A.
- 10.6 Where a person is required by this Bylaw to plant a *replacement tree* on a parcel and the parcel has been subdivided since the act giving rise to the requirement was committed or the *Tree Cutting Permit* was issued, as the case may be, the *replacement tree* may be planted on either parcel.
- 10.7 ~~Where a *replacement tree* cannot be planted on the property or, on infill properties where an owner elects not to plant a *replacement tree* on the property, the owner shall contribute the *replacement tree* cost into the *Tree Planting and Replacement Reserve Fund*, subject to the approval of the *Director*.~~
- 10.8 Full security for each *replacement tree* held by the *City* will, upon application by the owner, be returned to the permit holder one year from the date of planting, upon approval by the *Director* that each *replacement tree* remains in a healthy condition and subject to a written report by an *Arborist* statement to confirm the health of the *tree* as may be reasonably required from the *Director*.
- 10.9 If the owner fails to or refuses to plant the required number, size and type of *replacement trees* in the specified locations within one year after receiving written direction from the *Director* to do so or after a planting date as otherwise agreed upon, the *City* may deposit the securities in the *Tree Planting and Replacement Reserve Fund*.
- 10.10 *Tree replacement* fees paid into the *Tree Planting and Replacement Reserve Fund* are to be held and used by the *City* for replanting on other ~~public~~ lands to be determined in accordance with *City* policies.
- 10.11 Where a protection security is required, the protection security shall not be released until all works that may cause *tree damaging activities* have ceased and an *Arborist* confirms in writing that the *tree* has not experienced any *tree damaging activities*.

Comment [HN18]: Is a redundant statement as has been cleared up in 3.1.1.1.

Comment [HN19]: Adds clarity that funds held in the Tree Planting and Replacement Reserve Fund may be used on public or private lands, as described in the Tree Planting and Replacement Reserve Fund Bylaw No. 2844.

11. TREE PERMIT APPLICATION AND FEES

- 11.1 An application for a *Tree Cutting Permit* shall include the following information:
- completed application for *Tree Cutting Permit* on the form approved by the *Director*, signed by the registered owner(s) or by the owner's agent who is authorized in writing to act on behalf of the owner in relation to the application;
 - written consent from the adjacent property owner where the stem of a *tree* at ground level is growing over the applicant's property line;
 - title search dated no more than five business days prior to the date of the application;
 - site plan showing all of the following, where applicable:
 - Environmentally Sensitive Areas* (ESAs);
 - property lines;
 - location of the *tree(s)* on site to be *removed* and *retained*, including the *root protection areas* for *retained trees*;
 - existing and proposed buildings, structures, septic fields, servicing including power poles;
 - topographic and hydrological features including drainage patterns;

- vi. on-site access points for vehicles, including sufficient access for tree removal equipment;
 - vii. vehicle parking area and washout areas for concrete trucks;
 - viii. existing and proposed landscaped areas;
 - ix. existing and proposed utility corridors;
 - e. description of the proposed *development* and rationale for *development*, including steps taken to preserve existing *trees* as part of the overall *development* plan of the site;
 - f. an *Arborist* report including the following information:
 - i. statement of number of *protected trees* and *trees over 20 centimeters D.B.H.* on the property to be described by outlining the:
 - ii. inventoried number of stems, species and size where there are fewer than 100 *trees* on the property; or
 - iii. approximate number of stems per hectare and species composition based on ISA accepted standards.
 - iv. statement of number of *retained trees* on the property following the requested removal;
 - v. narrative describing why the proposed *retained trees* are selected, and if management actions are required to promote their long term health;
 - vi. confirmation that the *retained trees* are not *hazardous*;
 - vii. description of the cutting and/or removal methods to be used, how the site will be accessed and the tree protection measures that shall be used to protect any retained *trees*;
 - g. statement that topographic, grading and/or hydrological changes will not negatively impact the retained *trees* with input provided by an appropriate qualified professional;
 - h. a detailed tree survey prepared by a registered BC Land Surveyor to indicate proposed *tree retention* and *replacement* areas that require restrictive covenants; and
 - i. application fee as determined by the *City of Courtenay Fees and Charges Bylaw No. 1673, 1992*.
- 11.2 In addition to section 11.1, the following information may also be required by the *Director*:
- a. for *greenfield* sites, a statement of the number of *retained trees* for *trees* greater than 20 cm *DBH* following the proposed *development*;
 - b. for *development applications* and *greenfield sites*:
 - i. grading changes including existing topographic elevations and proposed conceptual elevations for major *development* components;
 - ii. proposed final site grading within 10 meters of all proposed *retained trees*.
 - c. a proposed replanting plan prepared by a landscape architect or *Arborist* indicating the location, species, size, and class of *trees*(s) or vegetation to be planted including

Comment [HN20]: Added to clarify that trees of any species over 20 centimeters Diameter at Breast Height and protected species of any size shall be included in the assessment.

Comment [HN21]: Added to clarify that additional professional expertise may be required to determine this.

- any pertinent establishment requirements such as watering, fertilizing, and soil preparation;
 - d. a copy of applicable federal or provincial approval, if required;
 - e. a report by a geotechnical engineer, hydrologist or Registered Professional Biologist to certify that the proposed cutting or removal will not create an adverse impact on slope stability or the drainage network;
 - f. when removing trees in *Environmentally Sensitive Areas*, a report from a Registered Professional Biologist may be required to confirm that *tree* removal activities will not negatively impact the *Environmentally Sensitive Area*, including wildlife.
- 11.3 The following conditions apply to the *Arborist* report provided pursuant to section 11.1(f):
- a. the report shall be valid for a maximum of one year from the date of authorship;
 - b. a report older than one year will require a covering letter from the original author stating that the conditions and recommendations contained in the original report remain valid;
 - c. in the reasonable discretion of the *Director*, an existing *Arborist* report that is less than one year may be required to be reviewed and re-submitted in instances where changes to the *trees* are deemed significant, including any changes to adjacent land uses, adjacent *tree removal*, changes in grading or hydrological changes, or any other changes to or around the *tree*;
 - d. where the original *Arborist* report submitted to the *City* is incomplete or inaccurate, the *Director* may retain the services of an independent *Arborist*, or other professional to review an *Arborist* report, or other professional report, and the cost of the independent *Arborist* report shall be paid by the owner prior to the adoption of the related rezoning, subdivision approval, development permit, development variance permit, demolition or building permit approval or the issuance of the related *Tree Cutting Permit*, whichever comes first.

12. REFUSAL TO ISSUE A TREE CUTTING PERMIT

- 12.1 A *Tree Cutting Permit* shall not be issued by the *Director* where:
- a. an application required under this Bylaw has not been submitted in full or the required fee has not been paid;
 - b. information as required by section 11 (Tree Permit Application and Fees) has not been submitted or in the opinion of the *Director* is not satisfactory;
 - c. the proposed work would adversely affect slope stability;
 - d. the *tree density target* is not achieved; or
 - e. the proposed *tree* work would contravene other terms and conditions of a restrictive covenant.

13. INSPECTIONS, ASSESSMENTS AND ORDERS TO COMPLY

- 13.1 The *Director* or person authorized by the *Director* may assess, inspect or cause an inspection to be made of any *tree* to which this Bylaw applies.
- 13.2 For the purposes of any inspection or assessment herein the *Director* may enter onto any land at all reasonable times in accordance with the *Community Charter*.
- 13.3 Where the *Director* is satisfied that a person has contravened any provision of this Bylaw, the *Director* may serve an Order to Comply requiring the person to stop the *tree damaging activities* or removal of *trees* and shall set out the particulars of the contravention including requiring the person to remedy the non-compliance within 30 days or by such other date as deemed reasonable in the circumstances by the *Director*.
- 13.4 The *Director* may revoke a *Tree Cutting Permit* if the terms and conditions of the *Tree Cutting Permit* have been breached or the information supplied by the applicant in support of the *Tree Cutting Permit* is determined to have been inaccurate, incomplete, misleading or erroneous.

14. POST CONSTRUCTION ARBORIST REPORT

- 14.1 The *Director* may require a post-construction *Arborist* report following all construction activities in which the following information may be required:
 - a. assessment of *damage to retained trees* caused by initial site grading and clearing;
 - b. identify and provide a dollar value of the *retained trees* that have been *damaged* or *removed* using an industry standard tree appraisal method;
 - c. propose a replacement plan indicating the proposed number and type of *replacement trees* of equal or greater dollar value and tree planting locations for the rehabilitation of the disturbed areas. Payment into the *Tree Planting and Replacement Reserve Fund* may be accepted by the *City*. No fewer than four replacement trees for every *tree removed* without a *Tree Cutting Permit* will be accepted; and
 - d. recommend management methods to care for an injured *tree*.
- 14.2 Securities to implement the replacement plan in section 14.1 (c) will be required at 125% of the cost of each *replacement tree*.

15. AUTHORITY

- 15.1 The *Director* may:
 - f. issue, revoke, place conditions upon, and refuse to issue a *Tree Cutting Permit* in accordance with this Bylaw;
 - a. retain the services of an independent *Arborist*, or other professional, to review an *Arborist* report, or other professional report, submitted to the *City* under the provisions of this Bylaw, in support of an application for a *Tree Cutting Permit*, in instances where the completeness or accuracy of the report are brought into question through review of the report and field inspection by the *Director*.
 - b. require security under section 8 of this Bylaw prior to issuing a *Tree Cutting Permit*.
 - c. exempt an applicant for the *Tree Cutting Permit* from any the requirements of section 11 (Tree Permit Application and Fees) if the information to be submitted has been otherwise provided to the *City*.

- d. require the provision of *replacement trees* as set forth in section 10 of this Bylaw, and the *maintenance* of said *trees*;
- e. charge and collect those fees prescribed in the *City of Courtenay Fees and Charges Bylaw, 1673, 1992* or this Bylaw;
- f. serve on any person who has not complied with a *Tree Cutting Permit* or a provision of this Bylaw an Order to Comply;
- g. enforce this Bylaw and issue penalties in accordance with sections 18 and 19 of this Bylaw; and
- h. authorize another member of staff to act on their behalf.

16. APPLICATION FOR RECONSIDERATION

- 16.1 Within 30 days of being notified in writing of the decision of the *Director* under this Bylaw, the applicant may, at no charge, request *Council* to reconsider the decision.
- 16.2 The applicant must give written notice to the Director of Legislative Services and include the following information:
 - a. the applicant's address for receiving correspondence related to the request for reconsideration;
 - b. a copy of the written decision or direction from the *Director*;
 - c. reasons to explain why the decision should be amended or set aside; and
 - d. a copy of any documents which support the applicant's request for reconsideration by *Council*.
- 16.3 The Director of Legislative Services will notify the *Director* of the request(s) for reconsideration and staff shall, prior to the date of the meeting at which the reconsideration will occur, provide a written report to *Council* setting out the rationale for the decision.
- 16.4 The Director of Legislative Services will place the request(s) for reconsideration on the agenda of a meeting of Council to be held as soon as reasonably possible.
- 16.5 The Director of Legislative Services will notify the applicant of the date of the meeting at which reconsideration will occur.
- 16.6 *Council* will review the information provided by the applicant and staff, and either confirm the decision made by staff, vary, or substitute its own decision including terms and conditions as set forth by this Bylaw.
- 16.7 The decision of *Council* on reconsideration is final.

17. DESIGNATION OF BYLAW

- 17.1 This Bylaw is designated under Section 264 of the Community Charter as a bylaw that may be enforced by means of a Municipal Ticket Information in the form prescribed.

18. OFFENCE

18.1 Every person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done or omits to do anything required to be done in contravention or in violation of any of the provisions of this Bylaw, is guilty of an offence against this Bylaw and is liable to the penalties hereby imposed, and each day that a violation is permitted to exist or continues shall constitute a separate offence.

18.2 When more than one *tree* is cut, *removed* or *damaged* by *tree damaging activities*, or more than one *tree* is not replaced or maintained in accordance with a *Tree Cutting Permit* issued pursuant to this Bylaw, a separate offence is committed in respect of each such *tree*.

19. PENALTY

19.1 A person who commits an offence under this Bylaw is liable to pay a fine of:

- a. up to \$1,000 as established per the City's *Municipal Ticket Information Bylaw 2435, 2006*;
- b. up to \$10,000 as determined by the court pursuant to an *Offence Act* proceeding.

20. GENERAL PROVISIONS

20.1 All Schedules referred to herein form part of this Bylaw:

- a. Replacement Tree Stock and Planting Requirements
- b. Tree Protection Barrier and Signage Specifications
- c. Erosion and Sediment Control Guidelines

21. SEVERANCE

21.1 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.

22. EFFECTIVE DATE

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

23. REPEAL

23.1 "City of Courtenay Tree Management and Protection Bylaw No. 2461, 2006" and all amendments thereto are hereby repealed.

Read a first time this 19th day of September, 2016

Read a second time this 19th day of September, 2016

Read a third time this day of , 2016

Finally passed and adopted this day of , 2016

SCHEDULE A

TREE PROTECTION AND MANAGEMENT BYLAW NO. 2850, 2016

REPLACEMENT TREE STOCK AND PLANTING REQUIREMENTS

The *City* maintains a list of acceptable *replacement tree* species. Where *replacement trees* are required to be provided pursuant to section 10 of this Bylaw, such *replacement trees* shall be provided and planted as follows:

- (a) *Replacement trees* may be the same or different species, with the exception of *protected tree species*.
- (b) At least half of the total number of *trees* on the property, including existing *retained* and *replacement trees*, must be *native* species, unless the *trees* being replaced are located within an *Environmentally Sensitive Area*, in which case all of the *replacement trees* shall be *native*.
- (c) *Replacement trees* must be of a five gallon pot size with the following exceptions:
 - a. *Arbutus (Arbutus menziesii)* may be one gallon pot size;
 - b. *Garry Oak (Quercus garryana)* may be three gallon pot size.
- (d) *Replacement trees* shall not be planted:
 - a. within 3 metres of a building foundation wall and within 1 metre of any property line of a lot;
 - b. within 5 metres of an overhead utility line for trees that are a maximum of 5 metres in height, and within 10 metres of an overhead utility line for trees that are a maximum of 12 metres in height;
 - c. within an easement or statutory right of way.
- (e) Every *replacement tree* shall be spaced from existing trees and other *replacement trees* in accordance with *good arboriculture practices* so as to best ensure survival of the replacement and existing trees.
- (f) *Replacement trees* must meet the plant condition and structure requirements set out in the latest edition of the BCSLA/BCLNA "B.C. Landscape Standard" and the CNTA "Canadian Standards for Nursery Stock" to be considered acceptable by the *Director*.
- (g) *Replacement trees* shall be planted and maintained in accordance with the requirements set out in the latest edition of the BCSLA/BCLNA "B.C. Landscape Standard".
- (h) Tree caging will be required in areas prone to deer browsing until the *tree* is 6 feet in height.
- (i) *Replacement trees* shall be planted during the suitable local planting seasons generally defined as fall (September – November) and spring (February - April). Where planting must occur outside of these time periods, then a strategy for ensuring the *trees* are watered (in the summer) or protected from cold weather (in the winter) must be included as part of the *Tree Cutting Permit* application.

- (j) The following minimum specifications for topsoil or amended organic soil are required for replanting on a property unless otherwise advised against by the *Arborist*:
- i. organic matter content of 15% dry weight in planting beds and 8% in turf areas;
 - ii. depth of 300 mm for turf;
 - iii. depth of 450 mm for shrubs/trees;
 - iv. depth of 300 mm around and below the root ball of all trees;
 - v. pH from 6.0 to 8.0 or matching that of the original undisturbed soil;
 - vi. subsoils scarified to a depth of minimum 100 mm with some topsoil being incorporated into the subsoil; and
 - vii. planting beds mulched with a minimum of 50 mm of organic materials.

SCHEDULE B

TREE PROTECTION AND MANAGEMENT BYLAW NO. 2850, 2016

TREE PROTECTION BARRIER AND SIGNAGE SPECIFICATIONS

Barrier structure and material:

Tree protection *barriers* should generally be a minimum of 1.2 meters high, and consist of snow fencing or an equivalent, supported by poles at sufficiently close intervals to ensure the integrity of the fence, or supported by wooden frames.

In instances where *development* is not expected to occur near the *root protection area*, poles strung with multiple bands of flagging tape may be sufficient, subject to approval by an *Arborist* and/or the *Director*.

Barrier distance from tree(s):

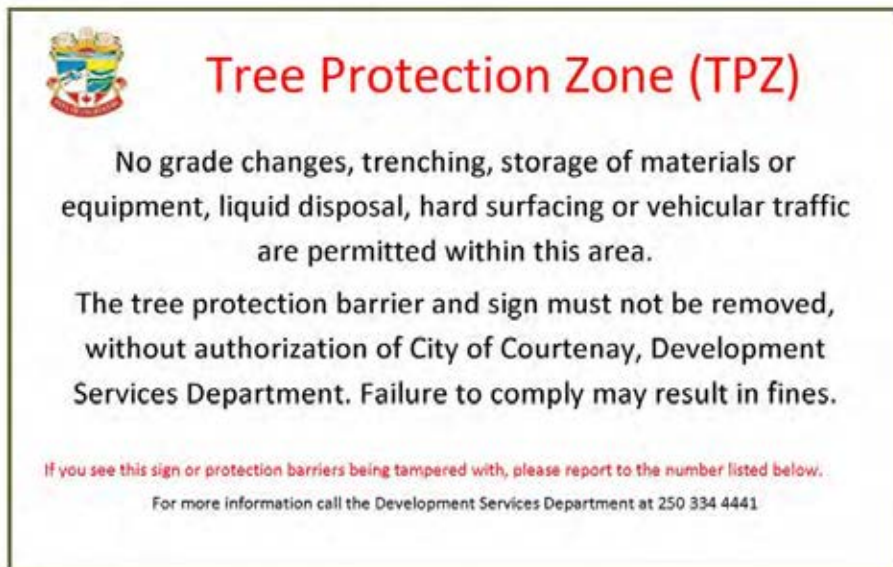
Tree protection *barriers* must be of a sufficient size to protect the *root protection area* of the tree. The *root protection area* refers to the area of land surrounding the trunk of the tree that contains the bulk of the critical root system of the tree, as defined on a plan prepared by an *Arborist*, that the *Director* reasonably approves.

Barrier protection sign:

Where *retained trees* require protection barriers, a tree protection informational sign in the format provided in this Schedule, must be affixed to the *barrier* at intervals of every 30 metres unless waived as a requirement by the *Director*. The sign must be able to withstand weather conditions for prolonged periods of time.

Barrier duration:

The *barrier* must be in place throughout the entire duration of the *development* activities that are taking place around the *tree* and until written approval of its removal is obtained from the *City*.



SCHEDULE C
TREE PROTECTION AND MANAGEMENT BYLAW NO. 2850, 2016

EROSION AND SEDIMENT CONTROL GUIDELINES

Tree Cutting Permit holders are expected to adhere to best management practices (BMPs) including but not limited to the ones outlined below:

- (a) Retain existing vegetation and ground cover where possible;
- (b) Construct *development site* access pads 4.5 meters wide at all accesses to site;
- (c) Restrict vehicle access and utilize wheel wash pads at access points;
- (d) Install silt fencing around stockpiles and at the toe of disturbed slopes;
- (e) Completely cover temporary stockpiles or spoiled material with polyethylene or tarps and surround with silt fence;
- (f) Install and maintain filter fabric bags around any catch basins, lawn basins, exposed manholes or any other open storm sewer access points collecting runoff from the *development site*;
- (g) Divert runoff away from cleared areas by use of low berms;
- (h) Convey surface runoff through swales designed to minimize flow velocity and erosion while maximizing settling;
- (i) As a priority, collect runoff into suitable sediment settling facility or facilities prior to discharge off-site;
- (j) Unless deemed unnecessary by the *Director*, a sediment pond should be designed, installed and maintained according to the *Land Development Guidelines for the Protection of Aquatic Habitat*;
- (k) Keep all sand, gravel, spoiled material and concrete mix off of all hard and paved surfaces;
- (l) During excavation, holes requiring dewatering should be pumped to a vegetated area or suitable settling facility which will prevent sediment-laden water from accessing the drainage system;
- (m) Regularly sweep roads; and
- (n) Re-vegetate, cover or mulch disturbed areas as soon as practically possible.

Attachment No.5 - Additional letters from the Comox Valley Conservation Strategy Community Partnership and Raven Forest Products that were received after the completion of the report



David Stapley
Program Manager
(250) 897-1271
Email: dsconsulting@shaw.ca

Mailing Address
P.O. Box 3462
Courtenay, BC V9N 5N5

Office:
2356a Rosewall Crescent
Courtenay, BC, V9N 8R9

Partner Organizations

Brooklyn Creek Watershed Society
Comox Valley Land Trust
Comox Valley Nature (CVNS)
C.V. Water Watch Coalition
Mack Laing Heritage Society
Millard-Piercy Watershed Stewards
Morrison Creek Streamkeepers
Project Watershed Society

Supporter Organizations

Arden Area Residents Association
Black Creek Streamkeepers
Comox Town Residents Association
Cumberland Community Forest Society
Forbidden Plateau Road Residents Association
Friends of Comox Lazo Forest Reserve
Friends of Strathcona Park
Macdonald Wood Park Society
Perseverance Creek Streamkeepers
Merville Area Resident's & Ratepayers Association
Mountaineer Avian Rescue Society
Saratoga and Miracle Beach Residents Association
Tsolum River Restoration Society
Vancouver Island Whitewater Paddling Society

Funding Partners

Real Estate Foundation of B.C.
Community Gaming Grant
RBC Blue Water Fund
Comox Valley Regional District

www.cvconservationstrategy.org

November 1, 2016,

Mayor and Council,
City of Courtenay.

Re: Tree Management Bylaw

Dear Mayor and Council:

Since the Tree Management Bylaw went to Council on September 19 there has been much discussion of the impact the bylaw would have on the development and real estate industry. The CVCS steering committee welcomes this discussion and we would like to offer our perspective on this important topic.

The staff report provided to Council at the September 19 meeting compared the proposed tree bylaw, with a tree density target of 50 stems per hectare to existing bylaws in communities similar to the City of Courtenay:

Jurisdiction	Stems per hectare	Date bylaw established
Township of Langley	72	2006
City of Maple Ridge	40	2015
Chilliwack	50	2009

These communities have experienced rates of growth and development typical of other jurisdictions in the lower mainland and east Vancouver Island after the establishment of their bylaws.

The development and real estate industry is impacted by factors that drive supply and demand like interest rates, state of the economy, in migration and shifting demographics. The impact of a tree bylaw is not going to have an impact on the main economic drivers affecting the industry.

On the other hand, protecting trees will have positive impacts on the community. A healthy and sustainable urban forest provides many community benefits including:

- Lower infrastructure costs and therefore more sustainable property tax rates
- Increased public access to natural amenities
- Cleaner air
- Reduced flooding and cleaner water in urban streams.

Protecting these benefits will help ensure a high quality of life for residents, and in the long run, keep the City a desirable place to live.

Increasingly, the demand for housing is being pushed from retirees and those working in careers where knowledge and skills make them highly mobile. Quality of life choices are bringing these people to the Valley. Retaining and growing the urban forest will help maintain a high quality of life and help sustain the development and real estate industry.

The CVCS steering committee is proposing a tree canopy target of 40% derived from science and evidence based research. We have proposed that a 40% area based target should be applied to new and future developments of greenfield sites. Under current regulations retention of the existing tree canopy in greenfield developments varies from site to site. The following table gives four examples from recent developments in the City:

Development	Parcel Size (in hectares)	Area protected by RAR, Park, Covenant	
		Number of hectares	% of Tree Canopy Retained
Morrison Creek Commons	8.15	3.04	37%
Copperfield	10.38	2.6	25%
The Streams	11.5	4.2	38%
Chris Gage's property (end of Arden Rd)	7.0	4.5	64%

This table shows that development occurs on greenfield sites where tree retention rates vary from 25% to 64%. In these examples tree retention was achieved through Riparian Area Regulations, park dedication and other means. This shows that retaining 40% tree canopy on greenfield sites is both reasonable and doable. In greenfield developments, where RAR and park dedication did not apply, tree retention, in some cases was less than 10%. A tree bylaw with an area based 40% minimum target would ensure that all greenfield developments contribute to tree retention and the protection of our urban forest.

The CVCS steering committee encourages Council to take a forward looking position and support a robust tree bylaw that ensures residents' quality of life and protection of the City's urban forest.

On behalf of the CVCS Steering Committee,

David Stapley,
Program Manager
Comox Valley Conservation Strategy Community Partnership
250-897-1271

Cc: CVCS Steering Committee; CAO David Allen.



RAVEN FOREST PRODUCTS LTD.

October 27, 2016

City of Courtenay
C/O David Allen
Chief Administrative Officer
830 Cliffe Avenue
Courtenay, BC V9N 2J7

Dear Sirs,

Re: Tree Protection Bylaw No. 2850 and Block 71 & DL 185 (Raven Ridge) owned by Raven Forest Products Ltd.

Raven Forest Products Ltd., owns Block 71 & DL 185 (Raven Ridge) that covers an area of 369 ha/ 912 acres and is within the City of Courtenay. This makes the Raven Ridge property the largest undeveloped forested property in the City. Our property is in both the Agricultural Land Reverse (ALR) and non ALR. There are several streams, tributaries of the Little River watershed system, that flow through Raven Ridge. The Riparian areas adjacent to these streams are well treed and have been formally addressed in an RAR report by Warren Fleener in 2007.

Discussion: -

Although Raven Forest Products Ltd. has no plans to develop this property at this time, it does have future potential for development. The new Tree Bylaw will negatively impact the future development of these properties creating some difficulties. Unfortunately without having a full development in the works to detail and address the many points in the new bylaw Raven is at a disadvantage.

Some points: -

- 1) We are talking about a very large forest area on good ground (not environmentally sensitive land or park) that will have to be logged at some point to make room for roads, accesses and services. The City should consider tree replacement on new lots where leaving larger trees would conflict with building sites.
- 2) Within the ALR designated area of Raven Ridge there is a conflict between clearing the land/ trees for farming and protection of trees. The City should consider language in the Tree Bylaw that addresses the ALR lands to protect the farmer from excess tree removal fees or replacement requirements.
- 3) Allow flexibility within the new Tree Bylaw to appeal to the municipal approving officer in specific cases regarding tree removal. For example the road area to be dedicated in a development of this size would require hundreds of trees to be removed not only on the road right of way but also on the lots for services, access and building sites. In our view the city should consider language in the Bylaw that provides some flexibility and an appeal process. The key to flexibility we believe is the ability to substitute new planting for trees that have to be removed for legitimate reasons such as roadways, etc.

While we are in general a supporter of this Bylaw, we see that it can be improved by recognizing the need for flexibility in its applications. We believe that this can be achieved without weakening the intent of the Bylaw.

Please consider these points.

Respectfully



Lee Luckhurst
Raven Forest Products Ltd.



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council
From: Chief Administrative Officer
Subject: Encroachment Agreement – 430 - 5th Street

File No.: 3060-20-1617
Date: November 7, 2016

PURPOSE:

The purpose of this report is for Council to authorize an encroachment agreement for an awning at 430 - 5th Street.

CAO RECOMMENDATIONS:

That based on the November 7, 2016 staff report “Encroachment Agreement for 430 - 5th Street”, Council support OPTION 1 and authorize the encroachment agreement as shown in Schedule No. 1.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

The subject property is located at 430 5th Street and is zoned Commercial One Zone (C-1). The subject property is legally described as Lot B, Section 61, Comox District, Plan 13035.

The Canadian Community Housing Ltd recently acquired a two storey commercial building at 430 5th Street on the corner of 5th Street and England Avenue. They have applied for a development permit to allow improvements to the exterior façade of the existing building, which includes the addition of a new awning to be installed. The proposed awning encroaches 64.8 inches (5 feet 4 inches) from the property line into the City’s sidewalk as described in Attachment No. 1.

DISCUSSION:

The City’s policies support positive improvements on buildings, façades, and signs in the downtown. The proposed awning is consistent with the Form and Character Guidelines in the OCP and is expected to contribute a positive design influence in Courtenay’s downtown core.

The City enters into an encroachment agreement with property owners when portion(s) of a sign or building encroach onto the City's property. An encroachment agreement will be registered on the land title once it is approved by Council.

In terms of design and structure, Canadian Community Housing Ltd has removed the existing awning and is planning to add a new awning to the building. The proposed awning structure is similar to other awnings that can be seen in the downtown area. The proposed awning is a flat stationary awning that is black in colour and made of steel. For safety and liability, the agreement requires that the property owner purchase liability insurance insuring both the owner and the City against any loss arising from the circumstances mentioned in the Agreement. A rendering of a similar awning that the applicant is proposing is referenced in Attachment No. 1.

FINANCIAL IMPLICATIONS:

There is no financial implication for the City with respect to the proposed encroachment agreement. Canadian Community Housing Ltd., Inc. is fully responsible for all the associated costs. Staff review costs are included in the associated development permit application.

ADMINISTRATIVE IMPLICATIONS:

The coordination of the agreement and associated development permit is included in the current work plan as a statutory component. To date staff has spent approximately 5 hours reviewing the application, requesting additional information from the applicant, preparing the encroachment agreement and writing the report. Subsequent to Council approval, approximately an hour is required to compile and register legal documents.

ASSET MANAGEMENT IMPLICATIONS:

There is no asset management implication with respect to the proposed encroachment agreement.

STRATEGIC PRIORITIES REFERENCE:

Council has established strategic priorities for 2016 until 2018. Within the priorities Council recognises that "Revitalizing our downtown is critical to our economic future." This is an area of control, which is Council's jurisdictional authority to act.



**We focus on
organizational and
governance excellence**

● **We support meeting the
fundamental corporate and
statutory obligations**

OFFICIAL COMMUNITY PLAN REFERENCE:

The proposed encroachment agreement is for an improvement to the façade of the existing buildings. The plans provided by the applicant generally conform to the Downtown DPA "form and character" and "sign"

guidelines. Section 4.1 of the Official Community Plan constitutes goals and policies of land use for downtown as follows:

The City of Courtenay is committed to a healthy vibrant downtown, and will continue to ensure this area remains viable.

REGIONAL GROWTH STRATEGY REFERENCE:

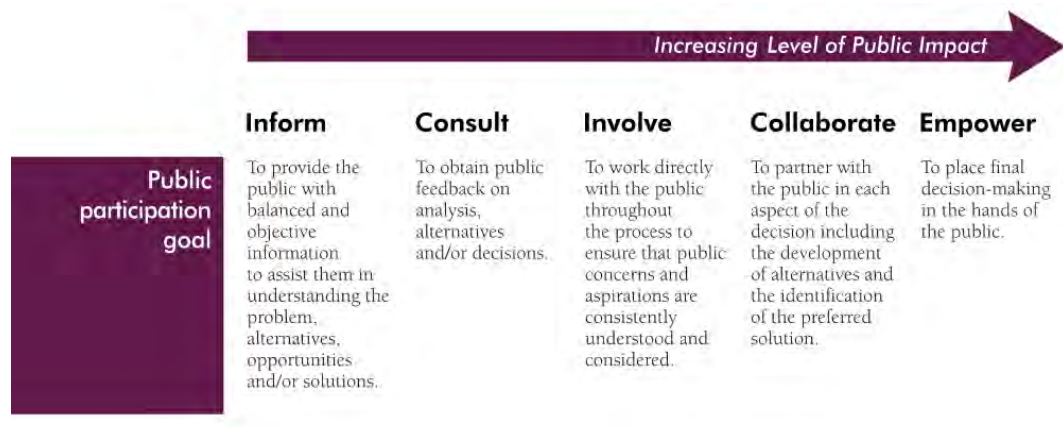
The proposal is generally consistent with Comox Valley Regional Growth Strategy (RGS) GOAL 3: LOCAL ECONOMIC DEVELOPMENT. The RGS encourages downtown to be a town centre based employment area.

3D-2 Retain and attract new businesses, investment and employment in designated Town Centres located within Core Settlement Areas. Revitalization tools and policies should be linked to RGS environmental and green development/building objectives

CITIZEN/PUBLIC ENGAGEMENT:

Staff propose informing 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: (Recommended)

That Council approve the attached encroachment agreement between the City of Courtenay and Canadian Community Housing Ltd., Inc.; and
 That the agreement be registered on title at the expense of the property owner; and
 That the Mayor and Manager of Corporate Administration be authorized to execute all documentation relating to this agreement.

Option 2:

Do not approve the encroachment agreement between the City of Courtenay and Canadian Community Housing., Inc.

Prepared by:



Dana Leitch, MCIP, RPP
Planner 1

Approved by:



Ian Buck, MCIP, RPP
Director of Development Services

Attachments:

1. *Schedule No. 1 : Encroachment Agreement*
2. *Attachment No. 1: Awning Rendering*

PART 2 – TERMS OF INSTRUMENT

Schedule No. 1**ENCROACHMENT AGREEMENT**

Made this day of ,

BETWEEN:

CANADIAN COMMUNITY HOUSING LTD., INC. NO. BC0612016

1845 Knight Road

Comox, BC

V9M 4A2

(hereinafter called the "Owner")

AND:

THE CORPORATION OF THE CITY OF COURTENAY, a municipal corporation incorporated under the *Community Charter* and having an address of 830 Cliffe Avenue, Courtenay B.C. V9N 2J7

(hereinafter called the "Municipality")

WHEREAS the Owner is the owner in fee simple of land in the Municipality legally described as Lot B, Section 61, Comox District, Plan 13035 (the "Land"), located at 430 – 5th Street, Courtenay B.C., which land abuts a highway in the possession and control of the Municipality; and

WHEREAS the Owner has requested and the Municipality has agreed to grant permission to erect and maintain a canopy over a portion of the highway (the "Encroachment Area").

NOW THEREFORE, in consideration of the premises and the covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties covenant and agree each with the other as follows:

ENCROACHMENT

1. The Municipality so far as it legally can, but not otherwise, and subject to this Agreement and to its bylaws, grants to the Owner a non-exclusive right to erect and maintain over the Encroachment Area an awning ("the Works"). The location and extent of the

Encroachment Area and the Works are described in Schedule "A" attached hereto and forming part of this agreement.

USE

2. The Owner shall not use the Encroachment Area for any purpose other than the erection and maintenance of the awning and shall not construct on or over the Encroachment Area any works or improvements other than those depicted in Schedule "A".

NO RELIEF

3. It is understood, covenanted and agreed by and between the parties that no provision of this Agreement, no act or omission of the Municipality and no finding of negligence, whether joint or several, as against the Municipality in favour of any third party, shall operate to relieve the Owner in any manner whatsoever from any liability to the Municipality under these presents, or under the provisions of the Community Charter, Local Government Act or any other statute, or any bylaw of the Municipality.
4. The Owner covenants and agrees:

FEE

- (a) to pay to the Municipality the fee of ten dollars on the execution of this Agreement; and also for the permission hereby granted the annual sum of \$1.00, the first such payment to be payable upon the execution of this Agreement and the ensuing annual payments to be paid on the first day of January in each and every year during the continuance of this Agreement.

SAVE HARMLESS

- (b) to release, indemnify and save harmless the Municipality from any and all liability whatsoever arising out of:
 - (i) the Works encroaching upon or over the highway of the Municipality, or
 - (ii) the Owner's construction of anything upon or over the highway, or
 - (iii) the Owner's maintenance of anything upon or over the highway, or
 - (iv) the Owner's occupation of use of the highway or the air space above the highway for the purpose of such encroachment by the Works.

INSURANCE

- (c) to purchase, maintain in full and deposit with the Municipality a copy of a policy of third party liability insurance in a form acceptable to the City of Courtenay Director of Financial Services, insuring both the Owner and the Municipality against any loss

arising from the circumstances mentioned in subsection (b) above, in the amount of at least two million dollars (\$2,000, 000.00) and contain a Cross Liability clause. The Owner shall give the Municipality 30 days notice prior to cancellation of the insurance. Cancellation of such insurance will serve to immediately terminate this Agreement and any right the Owner derives hereunder, and the Municipality may then demand the immediate removal of the Works according to Section 7(b) of this Agreement.

ENTRY

- (d) that the Municipality reserves the right for itself, its servants or agents, at any and all reasonable times, to enter into and upon the Encroachment Area and the Land for the purpose of inspecting the Works and constructing, maintaining, inspecting or removing any public structure, service or utility running on, over or under the highway of the Municipality in the vicinity of the Works.

MUNICIPAL WORKS

- (e) that in the event that the construction, maintenance, use or removal of the Works necessitates any alteration or change to any public works or utility in the vicinity of the Works, the Owner will reimburse the Municipality for whatever sums may be incurred by the Municipality in making such alterations or changes as may be deemed necessary by the City Director of Public Works.

DEFAULT

- (f) at all times to observe and perform the provisions of the bylaws of the Municipality, and this Agreement shall be at all times be subject thereto, including, without limiting the generality of the foregoing, the sign bylaw of the Municipality, and in case the Owner shall fail to comply with the provisions of the said bylaws, or any of them or of this Agreement, all rights of the Owner hereunder shall thereupon terminate and be at an end.

ASSIGNMENT

- 5. This Agreement and the right to encroach that it grants may not be assigned by the Owner without the prior written consent of the Municipality.

ALTERATION OF MUNICIPAL WORKS

- 6. This Agreement shall not in any way operate to restrict the right of the Municipality at any time to

- (a) alter the road, curb, gutter, sidewalk or boulevard abutting or adjoining the Land, notwithstanding that the effect of such alteration in width or elevation may be to render the Works useless or of less value for the purposes of the Owner;
- (b) construct or maintain any form of structure or utility on, over or under any portion of the highway on or in which the Works encroach and for such purpose require that the Works be removed in part or in whole;

and the Owner covenants that, in the event of the Municipality effecting any such alteration or construction or in requiring removal of all or part of the Works, the Owner will release and forever discharge, and hereby releases and forever discharges, the Municipality from all manner of claims of any nature whatsoever, which may arise by reason of such alteration in width or elevation, or by reason of the discontinuance and removal of the Works.

TERMINATION

7. It is understood and agreed that:

- (a) this agreement may be terminated by either party upon giving 120 days written notice of termination to the other;
- (b) in the event of the termination of this agreement by the Owner, the Owner shall, within a period of two months from the date of such termination, or such further or shorter period as may be specified by the City Director of Public Works, remove the Works to the satisfaction of the City Director of Public Works and at the expense of the Owner; and
- (c) in the event of the termination of this agreement by the Municipality, the Owner shall, within the period specified in paragraph 7(b), remove the Works to the satisfaction of the City Director of Public Works and at the expense of the Owner.

MAINTENANCE

- 8. The Owner will at all times, and at its own expense, keep and maintain the Works in good and sufficient repair to the satisfaction of the City Director of Public Works acting reasonably in accordance with prudent local government risk management principles.
- 9. Should the Owner:
 - (a) fail to keep the Works in good and sufficient repair, to the satisfaction of the City Director of Public Works; or
 - (b) fail to remove the Works when required under this Agreement then the City Director of Public Works may:

- (c) make such repairs when deemed necessary by him; or
 - (d) remove the Works, as the case may require, in the opinion of the City Director of Public Works.
10. The Owner shall pay the costs of such work to the Municipality forthwith; and in default of payment, the amount of such costs, together with interest at the rate established by the Municipality for taxes in arrears, may be recovered in a Court of competent jurisdiction.

MISCELLANEOUS

11. Time shall be of the essence of this Agreement.
12. This Agreement shall ensure to the benefit of and be binding upon the successors of the Municipality and the permitted assigns of the Owners.
13. The Owner acknowledges that the area over which the Works encroach is a public highway and that this Agreement is a contractual licence only and grants no leasehold or other property right or interest in the area over which the Works encroach.
14. Where the context so requires, words importing the singular number shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa.
15. Any notice required or permitted to be given hereunder shall be in writing and shall be given by personal service or prepaid registered mail addressed to the parties at the addresses set forth on page 1 of this Agreement. Notice by mail shall be deemed to have been given and received five (5) business days (excluding Saturdays, Sundays and statutory holidays), following, but not including, the day on which it is mailed.
16. This Agreement terminates and supersedes all other Agreements and arrangements between the Municipality and the Owner regarding its subject.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED

By Canadian Community Housing Ltd.,

Inc. No. BC0612016

in the presence of:

)

_____))

Witness)

)

)

_____))

Address)

)

)

_____))

Occupation)

Authorized Signature

THE COMMON SEAL OF THE)

CORPORATION OF THE)

CITY OF COURTENAY was hereunto)

affixed in the presence of:)

)

)

_____))

Mayor

)

)

_____))

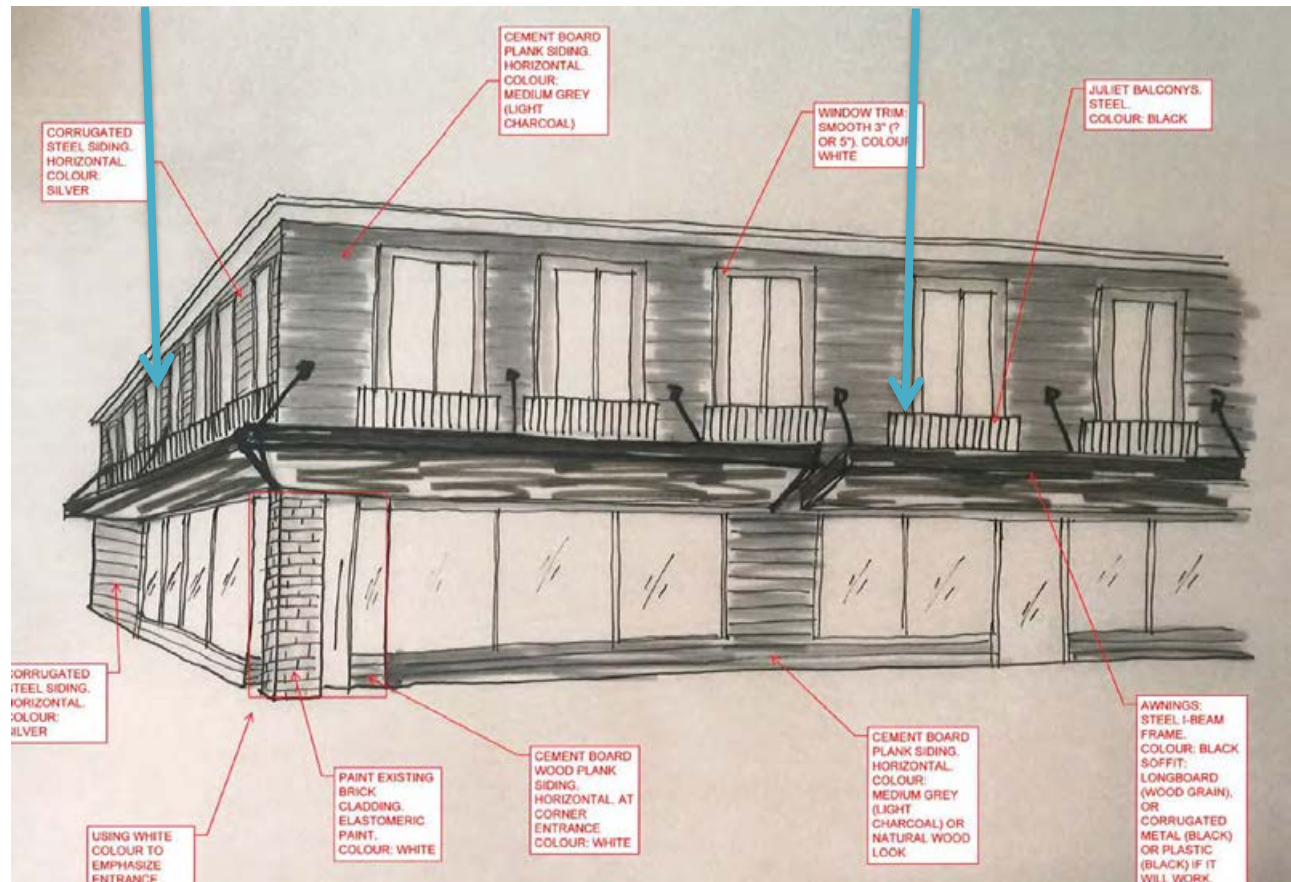
Corporate Officer)

SCHEDULE A PLAN OF ENCROACHMENT

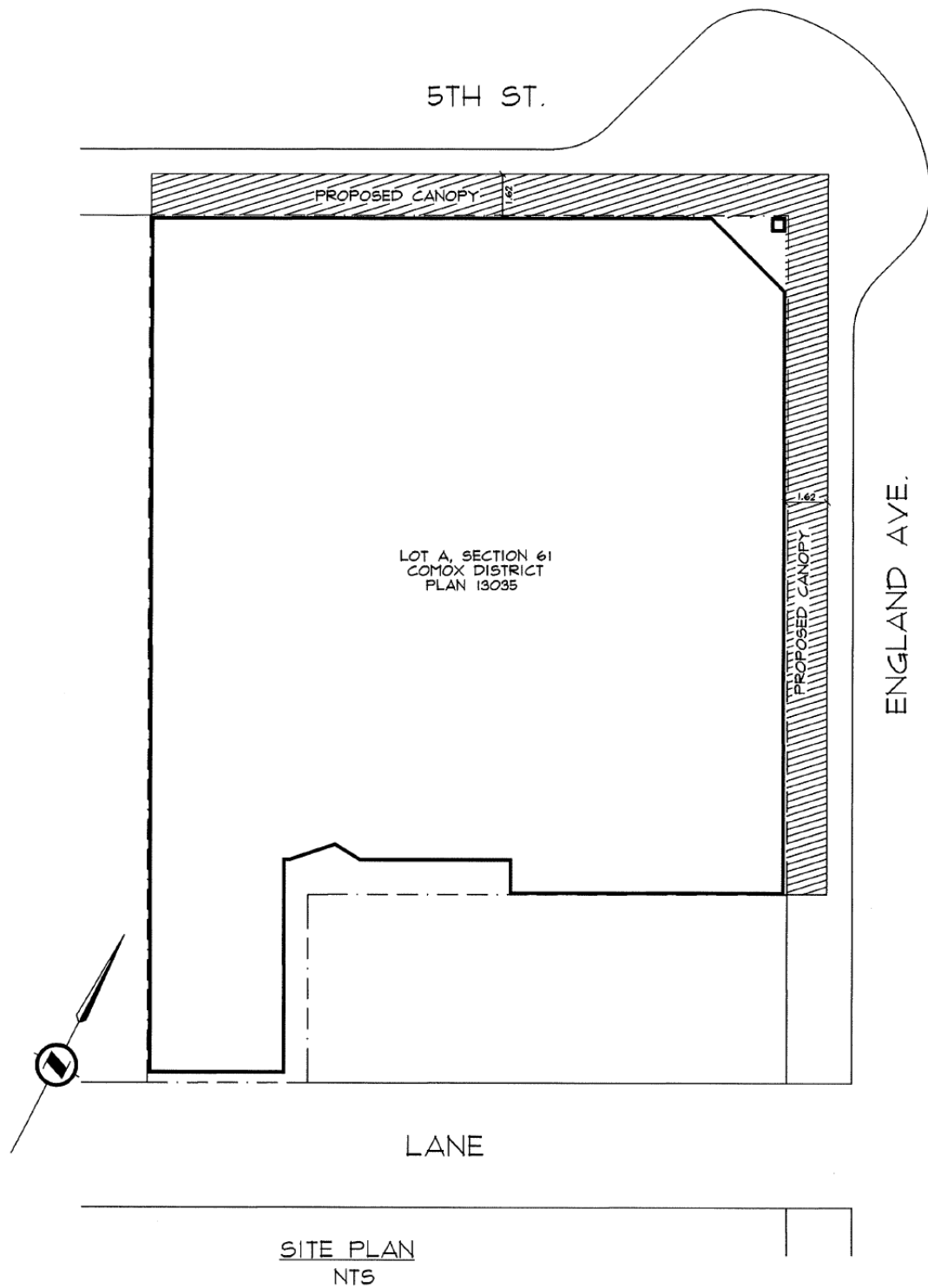
*Schedule A
1 of 3*

View along England Avenue

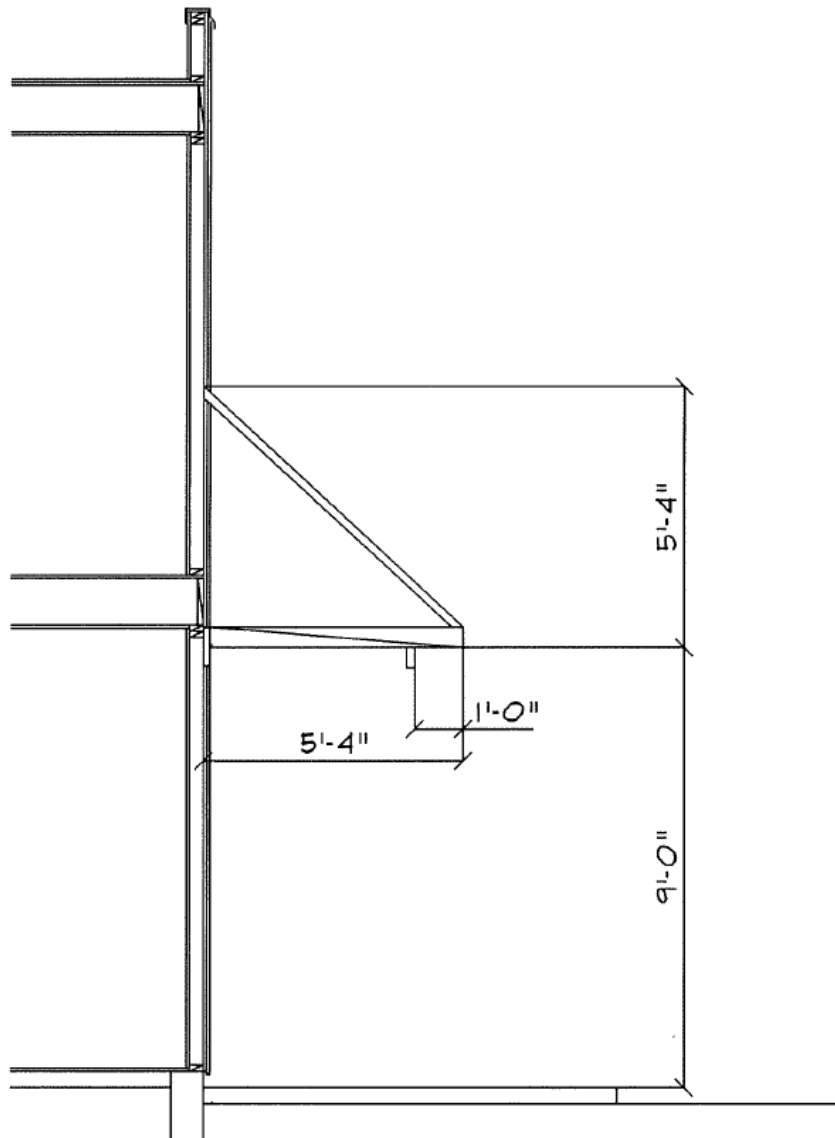
View along 5th Street



Schedule A
2 of 3



Schedule A
3 of 3



SECTION THRU CANOPY
1/4" = 1'-0"

Attachment No. 1
1 of 2

Awning Rendering



Attachment No. 1
2 of 2

Example Awning Rendering





THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council
From: Chief Administrative Officer
Subject: Zoning Amendment of 2945 Muir Road

File No.: 3360-20-1605

Date: November 7, 2016

PURPOSE:

The purpose of this report is for Council to consider an application to rezone the subject property from Rural Residential Two (RR-2) to Rural Residential Two S (RR-2S) to allow a secondary suite within an existing single residential dwelling.

CAO RECOMMENDATIONS:

THAT based on the November 7th 2016 Staff report, "Zoning Amendment of 2945 Muir Road", Council approve OPTION 1 and proceed to First and Second Readings of Zoning Amendment Bylaw No. 2861, 2016; and

THAT Council direct staff to schedule and advertise a statutory public hearing with respect to Zoning Amendment Bylaw No. 2861, 2016 on November 21, 2016 at 5:00 pm in City Hall Council Chambers.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

The subject property is located near the intersection of Muir Road and North Island Highway. It is a large semi-rural lot developed with a two storey house, including an unauthorized suite, driveway and several small accessory structures. The remainder of the lot is landscaped with lawn, mature conifers and shrubs. The surrounding land use is predominantly rural residential.

The applicants recently purchased the property intending to renovate the home and rent out the principal dwelling and existing secondary suite to family members. When they made an application for a building permit, City staff informed them that the current zoning (RR-2) does not permit a secondary suite. The applicants are now applying to rezone the property from Rural Residential Two (RR-2) to Rural Residential Two S (RR-2S) to allow a secondary suite.



Figure 1. Context map. The subject property is shown in red outline.



Figure 2. Photo of house from Muir Road (top)

DISCUSSION:

There is considerable policy support for secondary suites from a land use planning perspective. Secondary suites can increase the housing diversity and density in existing neighbourhoods without significantly altering the character of the area as secondary suites are typically fully contained within the existing home. They utilize existing municipal services and add affordable housing options and choices that may otherwise not exist in established neighbourhoods. This flexibility makes them a practical option for many development contexts from rural settings to urban areas. As an example, secondary suites are permitted in all of the Comox Valley Regional District's residential zones with the exception of Manufactured Home Parks and Residential Multiple as well as in Comox's more urban neighbourhoods.

Council's practice to-date has been to carefully consider secondary suite rezoning applications on a case-by-case basis taking into account land use planning principles, as well as neighbourhood interests.

Sandwich Headquarters Local Area Plan Review

The subject property is within the Sandwich Headquarters Local Area Plan (SHLAP). This area was brought into the City from the Regional District in 2002. Following annexation, the local area plan was created to guide land use and servicing taking into account neighbourhood interests and broader community objectives. Several new residential zones were created based on this input with the intent of maintaining the semi-rural character of the area through large lot single residential uses. The RR-2 zone is one of the zones created following the adoption of the SHLAP and it allows for single residential development with a minimum parcel size of 1,250 m².

The SHLAP is generally not supportive of multi-family development. This is mainly due to the effort to maintain the rural character of the area. The SHLAP states that "multifamily forms of development will not be allowed as part of infill development... including two-family or duplex development as there is ample supply of this type of housing in adjacent areas".

Although secondary suites contribute to the overall density increase in an area, secondary suites differ from duplexes in several aspects. Firstly, secondary suites are typically fully contained within the existing house and have little impact on the exterior character of the dwelling. Secondly, secondary suites are

integral to the house and the two units cannot be sold independently; and lastly, the BC Building Code has established strict restrictions such as the total size of the suite and in relation the size of the house and safety related matters.

The SHLAP does contemplate increased density in this area through the subdivision of larger lots and through the policy statement that “secondary suites are allowed in neighbourhood areas provided that they meet the conditions of the Residential One S Zone (R-1S) of the zoning bylaw”. In the past, two properties in the immediate area have been rezoned to from RR-2 to RR-2S consistent with these policies (Figure 3).



Figure 3. Properties shown in solid orange have been rezoned to RR-2S to allow secondary suites. Properties outlined in yellow are zoned RR-2. The subject property is shown outlined in red.

Zoning Review

The secondary suite requirements of the R-1S zone have been incorporated into the RR-2S zone, and the proposed suite is consistent with these requirements as demonstrated in the table below.

<u>Requirement</u>	<u>Proposal</u>
Total Floor Area Not more than 90.0 m ²	89.7 m ²
Floor Area Less than 40% of the habitable floor space of the building	39%
Located within a building of residential occupancy containing only one other dwelling unit	Yes. Total of 2 residential units.
Located within a building which is a single real estate entity	Yes
Three Parking Spaces (2 for the principal dwelling unit and 1 for the suite)	3 +

Official Community Plan Review

The City’s Official Community Plan (OCP) includes the housing policy objective to “lead in creating inclusive neighbourhoods for housing” and states that “secondary suites will be considered as part of a principal single-family residence subject to zoning approval”. Secondary suites are also supported in the climate

change chapter of the OCP as a way to encourage infill development in existing single family residential neighbourhoods.

Many single family neighbourhoods are in close proximity to community services and amenities including park space, trail networks, schools, shops, and health services. The subject property is centrally located and is within approximately 2 km of destinations such as North Island College, the new Hospital, Crown Isle Shopping Centre, Superstore, Vanier High School, Lewis Park and Downtown Courtenay. While these destinations are easily accessible by car, the hillside topography, poor street connectivity, and limited pedestrian and cycling infrastructure may currently discourage trips by foot or bicycle from this location.

Affordable Housing Policy

The Affordable Housing Policy supports the expansion of secondary suites and secondary residences as a means of providing affordable housing options throughout the City. This provides housing choice and flexibility for those who wish to live in a particular neighbourhood including multi-generational families, caregiver suites, mortgage helpers, or the chance to reside in a neighbourhood with few rental options.

With the benchmark price of \$385,200¹, single family homes are becoming unaffordable for those in our community who earn the average family income of about \$77,000² and are already unaffordable for many households including single parent families and single person households.

While home ownership is no longer attainable for an increasing number of households, Courtenay is also experiencing a shortage of rental housing options. The most recent vacancy rate information available from Canada Housing and Mortgage Corporation, which was released in the Fall of 2015, is 0.5% for private purpose built rental housing and is even lower for 2 or 3 bedroom apartments or town homes. These statistics do not include the secondary market such as private homes or condominiums, or secondary suites, and there may be an increasing reliance on the secondary market if the current housing market trends continue.

FINANCIAL IMPLICATIONS:

Consistent with the Affordable Housing Policy, the rezoning application fee for secondary suite applications was reduced from \$3,000 to \$500 and the Fees and Charges Bylaw was amended accordingly. Should this application be successful, a building permit is required. Building Permit Fees are calculated at rates set out in the bylaw. At present it is \$7.50 for every \$1,000 of construction value with a minimum fee of \$50.

Properties with secondary suites are currently charged a second utility fee (sewer, water, garbage) for the additional dwelling unit. Secondary suites are exempt from paying Development Cost Charges for both the City and the Regional District.

ADMINISTRATIVE IMPLICATIONS:

Processing zoning bylaw amendments is a statutory component of the work plan. Staff has spent approximately 15 hours processing this 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. Additional staff time will be required to process the subsequent building permit application including inspections.

¹Vancouver Island Real Estate Board (2016). Home Sellers Still in the Driver's Seat. <http://creastats.crea.ca/vani/>

² Statistics Canada. NHS Profile, Courtenay, CA, BC, 2011. <http://www12.statcan.gc.ca/nhs-enm/2011/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CMA&Code1=943&Data=Count&SearchText=Courtenay&SearchType=Begins&SearchPR=01&A1=All&B1=All&TABID=1>

ASSET MANAGEMENT IMPLICATIONS:

The proposed development utilizes existing infrastructure and is connected to the Sandwich Water Supply and City sewer. There are no asset management implications identified 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.



● Area of Control

The policy, works and programming matters that fall within Council's jurisdictional authority to act.

OFFICIAL COMMUNITY PLAN REFERENCE:

Policies in section 4.4 of the Official Community Plan (OCP) refer to residential land uses including secondary suites as ways of increasing density or providing a range of housing choice. It also suggests that a careful attention needs to be paid to maintain the character and scale of an existing neighbourhood. Detailed planning analysis and discussion have been presented above.

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:

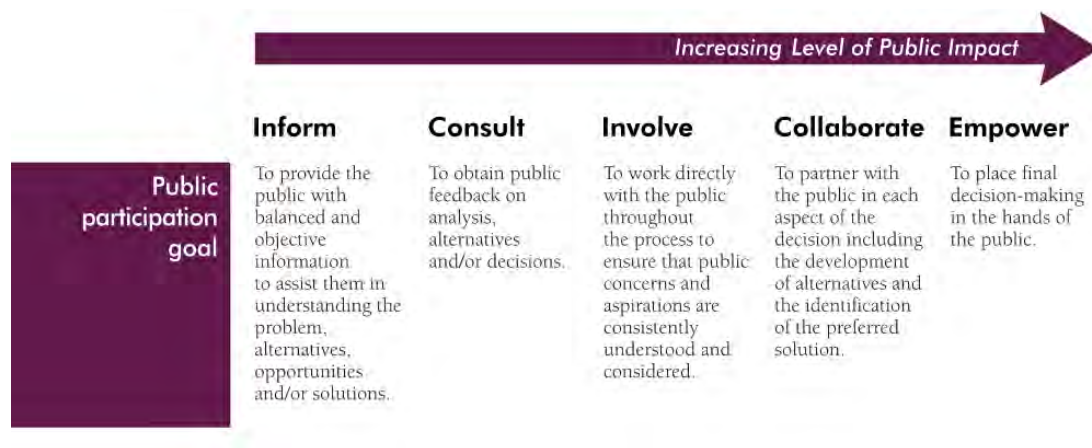
Objective 1-A: Locate housing close to existing services; and

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. 2861, 2016 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 October 13, 2016. A summary of the public information meeting has been included as Attachment No. 3. According to the meeting summary report, eight people attended the meeting. Some attendees expressed support for the project while others had concerns related to potential tenants and the impact on the rural character of the area. Comments that were submitted either to the applicant or directly to the City are included with the meeting summary report.

OPTIONS:

OPTION 1 (Recommended): Give Bylaw 2861 First and Second Readings and proceed to Public Hearing.

OPTION 2: Defer consideration of Bylaw 2861 with a request for more information.

OPTION 3: Do not approve Bylaw 2861.

Prepared by:

Erin Ferguson, MCP
Land Use Planner

Approved by:

Ian Buck, MCIP, RPP
Director of Development Services

Attachments:

1. Attachment No. 1: Applicant's Rationale and Written Submissions
2. Attachment No. 2: Site Plan & Floor Plans
3. Attachment No. 3: Public Information Meeting Summary and Public Feedback

Written Summary

To: City of Courtenay

Date: September 14, 2016

Attn: Planning Department

In reference to: 2945 Muir Road, Courtenay, BC

My intention for this application is to turn the existing in-law suite of a single family home at the above address into an affordable legal suite. The proposed secondary suite will be approximately 784 Sq Ft – 33% of the total square footage of the residence. I feel my design will complement the area and will seamlessly blend into the neighbourhood. I look forward to have the ability to take a presently non-conforming situation and turn it into a much needed asset that addresses the current need for additional affordable rental units.

Neighbours in close proximity to the residence have been contacted regarding this proposal to create an affordable legal rental suite and no objections have been cited.

Thank you for your consideration.



Anne Marie McGaw
Owner



John K. McGaw
Owner

Affordable Housing Policy

To: City of Courtenay

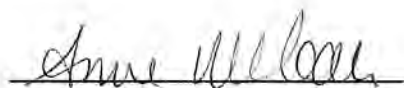
Date: September 14, 2016

Attn: Planning Department

In reference to: 2945 Muir Road, Courtenay, BC

My intention for this application is to add a secondary 784 Sq Ft legal suite in the basement of the above single family home address that will blend into the neighbourhood. A single person or small family with limited income could easily occupy the proposed suite and there is currently ample parking for vehicles that will satisfy both the upstairs occupants and the proposed suite downstairs.

This proposed affordable suite would suit an individual/couple; a small family with high school aged child/children as Vanier Secondary High School is minutes away by foot; or, seniors as it has a garden level entry with no stairs. There is also plenty of room in the driveway for turnaround should a Handi-Dart be required to pick up future tenants.



Anne Marie McGaw
Owner



John K. McGaw
Owner

Sustainability Evaluation Checklist

To: City of Courtenay

Date: September 14, 2016

Attn: Planning Department

In reference to: 2945 Muir Road, Courtenay, BC

Land Use

- The proposed secondary suite will complement the neighbourhood
- Create additional affordable housing within the city
- Preserve property greenspace and landscaping

Building Design

- Currently the home is a single family house with an in-law suite
- New energy efficient windows will be installed and will enhance the visual appeal of the entire home
- Off street parking currently exists for up to 5 vehicles
- Lawn maintenance is planned for the property and such fees will be include in the rental rate
- Exterior automatic lights installed to deter crime

Transportation

- Located within walking / cycling distance of Vanier Secondary High School; large grocery store and other amenities
- Easy access to downtown, parks and thoroughfares

Infrastructure

- Yard space is landscaped with drought tolerant plants and decorative landscaping
- Parking areas currently exists for up to 5 vehicles

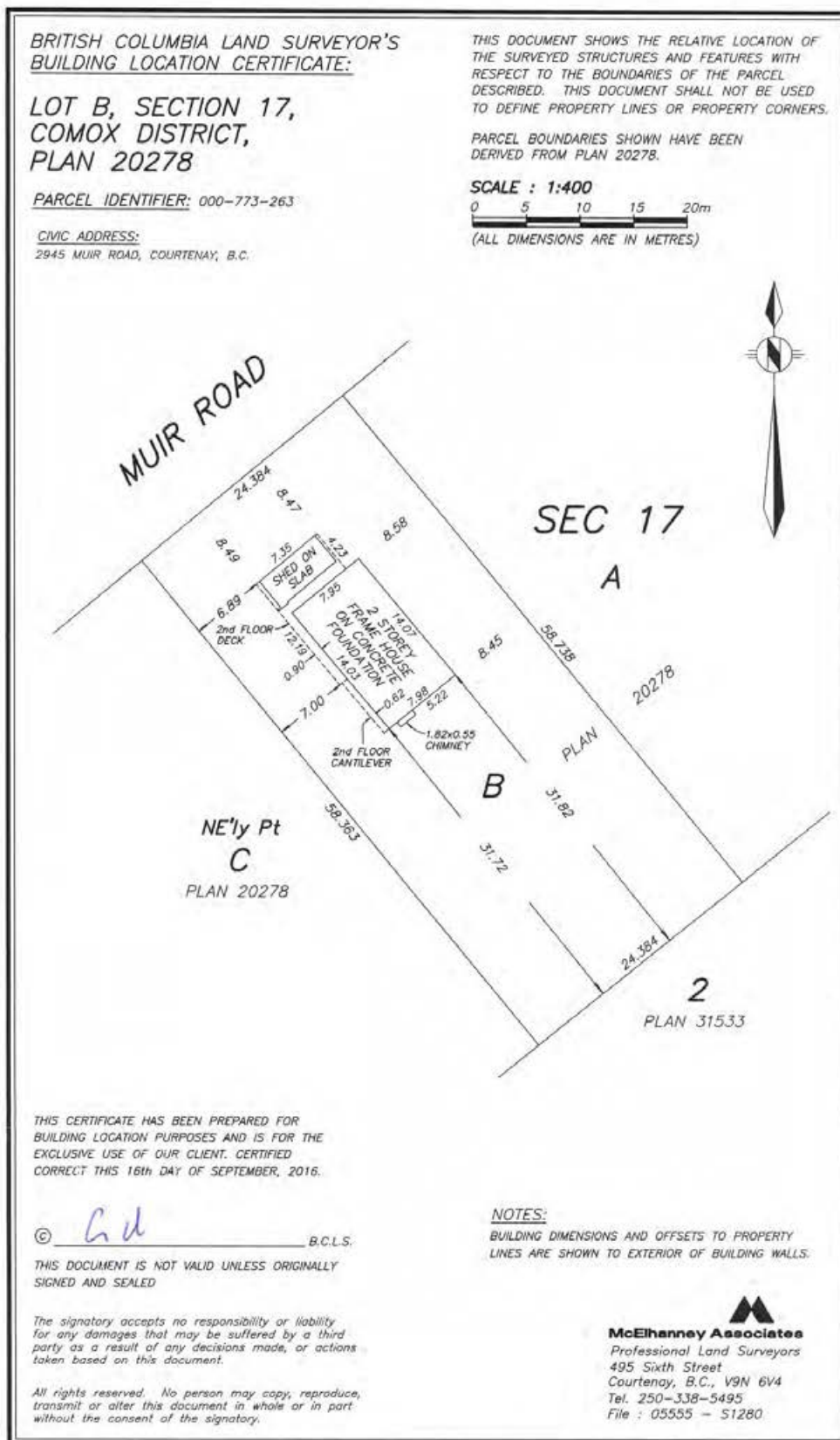
Character and Identity

- This property has expansive views of the Comox Valley and the Comox Glacier
- Proposed secondary suite allows for walk – out-/ Garden level entrance way
- Proposed secondary suite has private exterior area/yard space separate from upstairs suite's exterior area/yard space

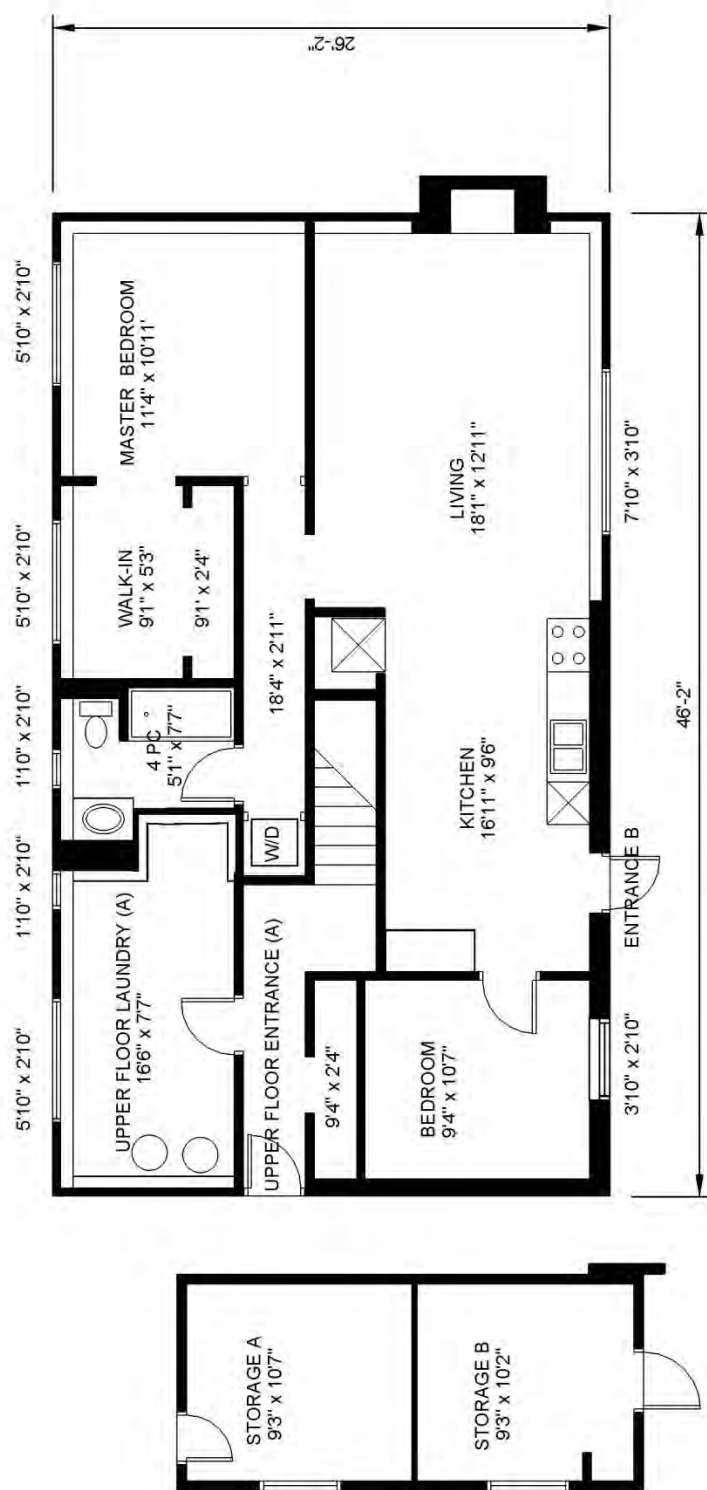
Environmental Protection and Enhancement

- This property has drought tolerant plants and has low maintenance landscape
- Invasive species, if they exist, will be removed and native species / habitat will be preserved
- Hot tubs or large scale pools will not be permitted by rental occupants

Attachment No. 2
Site Plan & Floor Plan

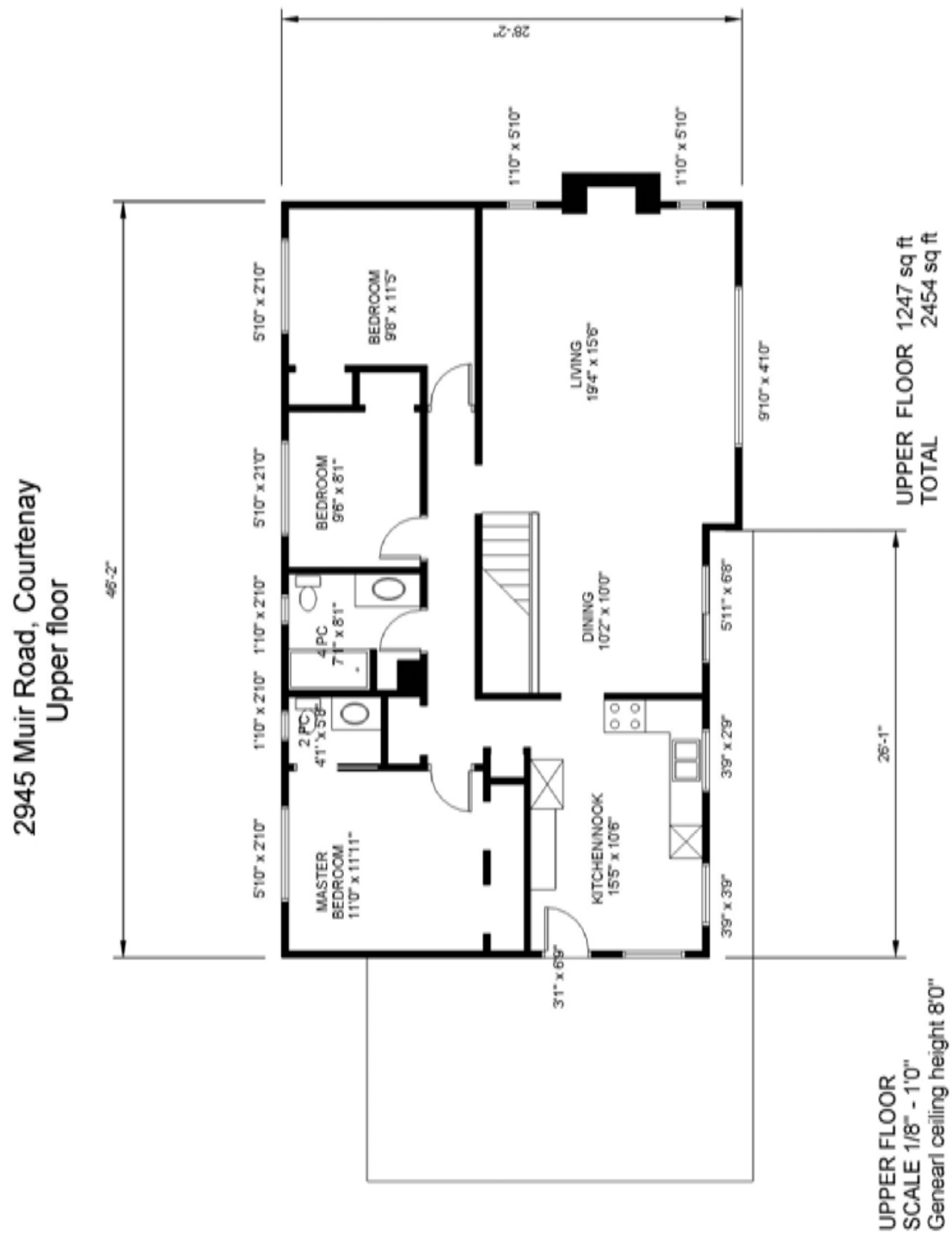


2945 Muir Road, Courtenay Lower floor



TOTAL LOWER FLOOR 1207 sq ft
(UPPER FLOOR ENTRANCE / LAUNDRY 241 sq ft)
LOWER FLOOR LEGAL SUITE 966 sq ft

LOWER FLOOR
SCALE 1/8" = 1'0"
General ceiling height 8'0"



Attachment No. 3
*Public Information
Meeting Summary Report
& Comments*

October 14, 2016

2945 Muir Road
Courtenay BC V9N 6A2

Re: Re-zoning Application for secondary suite at 2945 Muir Rd, Courtenay, BC

To whom it may concern,

In response to the City of Courtenay guidelines, below is a summary report of the Public Information Meeting and efforts undertaken:

- On September 29, 2016, between 5 and 7 pm, Anne Marie visited nearby homes within the required distance of Muir Road to meet with neighbours to inform them of the intent to apply for secondary suite rezoning
- The Information Meeting Notice was mailed (September 29, 2016) to proximity residents (as supplied by the City of Courtenay) notifying of the rezoning application as well as an invitation to a Public Information Meeting at 2945 Muir Road on October 13, 2016 at 7 pm
- The Meeting was held on October 13, 2016 at 7 – 8:20 pm
- 8 persons attended
- Information supplied as required by the City of Courtenay: Sign in sheet; comment sheet; site plan/floor plan which were also contained in the Information Meeting Notice
- Summation of questions/comments:
 - 8 of the 30 'neighbours' that Anne Marie visited personally expressed positive consent to the rezoning application and 2 'neighbours' emailed positive consent
 - During the meeting, 2 of the 'neighbours' that attended were curious about the new owners. Further, their concern was primarily focused on 'unsavoury' renters and removal of the fir tree at the back of the home. Anne Marie explained that there is no intention to remove the tree rather, care for and tend to the existing landscape. The current tenants in the upstairs suite were present as well as the future (hopefully) tenants for the downstairs suite to assuage any concerns the 'neighbours' might have as to the calibre of persons living next door to them.
 - Concerns about renting the property to 'anyone' were discussed and subsequently Anne Marie assured all present that only desirable and credible tenants will be considered. This is a long term investment and the McGaw's wish to preserve the integrity of the neighbourhood, this home and the value of any renovations undertaken.
 - The question was raised as to why we are asking for a rezoning to create a secondary suite – Anne Marie simply replied that it is the right thing to do.

Please let me know if you require any additional information to support our request to rezone this property to include a secondary suite.

Sincerely,

October 18th, 2016
2935 Muir Road
Courtenay, B.C.

RECEIVED
OCT 18 2016

CITY OF COURTENAY

To whom it may concern

with regards: [REDACTED]
2945 Muir road, Courtenay
public information meeting
October 13, 2016

I attended the open house information meeting for the proposed rezoning of 2945 Muir Road. My partner, [REDACTED], and myself, [REDACTED], are long time residents of 2935 Muir Road (31 years) as well we own the lot (2939 Muir) between our home and the [REDACTED]. We have been growing our vegetables on that lot for many years now.

It is a very compelling and complex situation the [REDACTED]'s find themselves in with regards to establishing a residence for their extended family. I am not particularly comfortable having to respond to this proposed rezoning. My hope when the property was sold was that some folks would move in. I would have some new neighbours who would just ease into the neighbourhood. Perhaps they might be gardeners.

With regards to the rezoning,

Firstly, I find it somewhat puzzling that a property could be sold without the disclosure of the existing zoning. With the numerous professionals involved, someone did not do their due diligence.

Secondly, It is proposed that the extended family members will be living at 2945 Muir. There is no assurance that this is a long term arrangement. When questioned about long term renting plans, [REDACTED] stated that they would not be doing airb&b but would have a stringent renting screening process for future renters. My conclusion after this conversation was that regardless of the immediate situation, The [REDACTED]'s long term plan is to have two rental suites at 2945 Muir road.

Thirdly, The Sandwick / Headquarters Local area plan is quite clear about zoning for this area. As well as maintaining the area's semi rural character. Land use and Strategy 3.6 states that Multi family forms of development will not be allowed as part of "in fill" development.

For the reasons stated above. We do not support the proposed rezoning of 2945 Muir Road.

Regards

[REDACTED]

[REDACTED]

PUBLIC INFORMATION MEETING

October 13, 2016 between 7 pm and 8 pm

(John and Anne Marie McGaw at 2945 Muir Road, Courtenay, BC)

COMMENT SHEET

Name: [REDACTED] Email: [REDACTED]
Address: 8311 FAIRFAX PLACE
RICHMOND, B.C. V7C 1Y2 Phone: [REDACTED]

John and Anne Marie McGaw have applied to the City of Courtenay for a Zoning By-Law Amendment to allow a secondary suite within the principle dwelling at 2945 Muir Road, Courtenay, BC. 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?

Dear Ms. McGaw,

I have read the proposed amendment to the zoning by-law regarding a secondary suite at 2935 Muir Road. I give my approval for this amendment.

Yours Truly,

[REDACTED]

Please return your comments by (October 20, 2016)

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

1. Hand your comment sheet in tonight.
2. Drop your comment sheet off at 2945 Muir Road, Courtenay, BC or Fax 250-338-2587
3. Email your comment sheet to [REDACTED]

[REDACTED]
4692 Island Hwy N
Courtenay BC

File No. 3360-20-1607

Oct 19 2016

To Whom it may concern:
Regarding: Rezoning of
2945 Muir Rd
[REDACTED]

Upon attending the open house meeting Oct 13 regarding the proposal of rezoning the above neighbouring property, Me and my husband are unable to give our support.

The Reasons for this decision are:

1. The Legally zoned area at the top of Muir, Mission and McLaughlin Rd's are already very densely developed.
2. We Already have several rental properties bordering our property owned by absentee landlords. With the rotation of different occupants it is difficult to deal with problems that have arisen. The landlords are mostly unresponsive in trying to resolve issues.
3. We are not comfortable with changing a single family home into a double rental suite (duplex) for investment purposes.
4. This proposal would contravene the sandwich-headquarters plan which states that multi-family development is not allowed. Land use strategy 3.6

In Closing, I would like to say that where we live has been in my family for 63 years. We intend to pass it on to our grandchildren with the hope that my property and surrounding properties will continue to retain the rural atmosphere.

Sincerely

[REDACTED]

[REDACTED]

RECEIVED

OCT 20 2016

CITY OF COURTENAY

File # 3360-20-1607

[REDACTED]
4694 Kirkland Rd

Courtenay bc
[REDACTED]
[REDACTED]

To whom it may concern,

Regarding: Proposed rezoning of 2945 Muir Rd

upon attending the meeting held Oct 13 at 2945 Muir Rd I have come to the conclusion that I cannot support the rezoning of said property for the following reasons:

-The area is largely rural, with larger properties that have been always single family dwellings, and with the further development of the surrounding areas for multi-family dwellings, it is my feeling that the rezoning for a multi-family residence will take away from our rural setting and will set a precedence for others to do the same and further take away from the rural feel of the area.

-There are currently several rental properties surrounding that have been problems for many years that the city by-law officer, Gary Usher, is quite familiar with. Although the [REDACTED] are initially trying to set up a suite for family members, at the meeting when questioned by my neighbour Mr [REDACTED] the property was purchased for intended use as a rental property? it was replied by a "yes" from Mrs [REDACTED]. At this time it is our concern who will be living there in the future if said property is rezoned. Although Mrs [REDACTED] says they will be very thorough in their screening of potential tenants "To protect their investment" there is no guarantee once the property is no longer in their hands, so where does that leave us as neighbours when The [REDACTED] sell the property at some future date?

-The potential rezoning conflicts with the sandwich area land use plan.

I would like to close in saying that I have lived at my current address my entire life and have seen many changes and development in the surrounding area. If the area is further changed for more multi-family dwellings, it is going to take away from the rural setting of our area which I want to retain for my children when my property passes on to them.

[REDACTED]
1

RECEIVED
OCT 20 2016
CITY OF COURTENAY

Ferguson, Erin

Subject: FW: Bylaw

----- Forwarded message -----

From: [REDACTED]

Date: Friday, 7 October 2016

Subject: Bylaw

To: [REDACTED]

[REDACTED] I do not have a problem with changing the bylaw. Thanks [REDACTED]

----- Forwarded message -----

From: [REDACTED]
Date: Wednesday, 5 October 2016
Subject: Info meeting
To: "[REDACTED]"

unable to attend.

Address is : 4678/80 N. Island Hwy

I have no questions.

regarding the Zoning By-Law Amendment I am in favor of allowing this amendment to proceed to re-zone
lot to RR-2S

[REDACTED]

[REDACTED]



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council
From: Chief Administrative Officer
Subject: Zoning Amendment of 560 Pidcock Avenue

File No.: 3360-20-1605
Date: November 7, 2016

PURPOSE:

The purpose of this report is for Council to consider an application for a Zoning Amendment to permit a secondary residence at 560 Pidcock Avenue. The proposed site specific zoning amendment would permit the construction of a secondary residence on the subject property although it does not meet the required minimum lot area.

CAO RECOMMENDATIONS:

THAT based on the November 7th 2016 Staff report, "Zoning Amendment of 560 Pidcock Avenue", Council approve OPTION 1 and proceed to First and Second Readings of Zoning Amendment Bylaw No. 2860, 2016; and

THAT Zoning Amendment Bylaw No. 2860, 2016 as outlined in OPTION 1 proceed to First and Second Reading; and

THAT Council direct staff to schedule and advertise a statutory public hearing with respect to Zoning Amendment Bylaw No. 2860, 2016 on November 21, 2016 at 5:00 pm in City Hall Council Chambers.

Per _____
David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

An application has been received to amend the R-2 zone to permit a secondary residence at 560 Pidcock Avenue. The subject property is comprised of two adjacent lots and contains a single residential dwelling and two detached garages.

The owners of the property intend to convert one of the garages located in the south east corner of the property into a secondary residence to provide rental accommodation. The proposed secondary residence is a single storey building with floor area of approximately 50 m² (540 sq. ft). One additional surface parking space will be provided adjacent to the proposed secondary residence and it will be accessed from the rear lane. The mature vegetation on the site will be retained and a private outdoor space is provided for the use

of the future tenants. A site plan showing the proposed development is contained in Attachment No. 2. No changes to the principal residence or remaining accessory structure are proposed at this time.

The R-2 zone permits secondary residences on lots greater than 1,250 m² in area. The applicants' plan is to consolidate the two lots, creating a new property with a total area of 1,003 m². Accordingly, the applicants have applied for a site specific zoning amendment to permit a secondary residence on a lot less than 1,250 m² in area.

The applicants will be required to complete the consolidation the lots prior to final reading of Zoning Amendment Bylaw No. 2860. Subsequent to the zoning amendment, the applicants will be required to obtain a Development Permit for form and character of the secondary residence with variances to the rear and side yard setbacks.



Figure 1. Context map showing the subject property outlined in orange.

DISCUSSION:

The proposed secondary residence will add an additional rental dwelling in an established residential neighbourhood near the Downtown. The surrounding land use is a mix of single family homes, duplexes, and multi-family residential development. This area has been identified as having infill potential, and such residential development is encouraged through the goals and policies in the Official Community Plan and the Affordable Housing Policy. Adding housing in close proximity to downtown also supports downtown revitalization efforts and encourages active transportation modes.

Official Community Plan Review

The development site is designated as Urban Residential in the Official Community Plan (OCP). The OCP supports infill development within existing urban residential areas provided it is in keeping with the character and scale of the surrounding neighbourhood. To better integrate duplex, carriage houses and secondary residences within existing neighbourhoods, these housing forms are subject to development

permit guidelines addressing the form and character of the building and the site layout. Should this zoning amendment application be successful, the applicant will need to obtain a development permit which will be considered under a separate application.

Preliminary drawings (Attachment No. 2) indicate that the proposed secondary residence will be consistent with the development permit guidelines for form and character. Typical of older residential areas, this neighbourhood is diverse in the type of housing, the architectural style of buildings and the age of structures. The principal dwelling was constructed in 1945. Complementary to the existing home, the proposed secondary residence is designed to be a modest building with a pitched roof, has contrast in the exterior finish of the gables, and includes multi-pane windows. Locating the secondary residence within the existing footprint of the garage will have minimal impact on the surrounding properties. Privacy is addressed with an existing hedge screening the secondary residence from the adjacent property. The location of the main entrance and private outdoor space adjacent to the lane provides further privacy as these active spaces are separated from the existing residence and the neighbour to the south.

Zoning Analysis

As outlined above, a zoning amendment is required as the property is less than 1,250 m². The applicants are required to consolidate the two lots in order to qualify for a secondary residence, as the principal use must be occurring on the same lot as the secondary residence. If this application is unsuccessful, each of the two lots could potentially be redeveloped with a single family home and secondary suite for a total of four dwelling units under the current R-2 zoning. However, the property owners wish to retain the existing character home and add a small rental dwelling to the rear of the property.

The conversion of the garage into a secondary residence will require variances to the minimum rear yard setback from 6.0 m to approximately 3.0 m and to the side yard from 3.0 to approximately 1.5 m as the setbacks for an accessory building and a secondary residence differ. The proposed variances will be considered as part of a separate application for a Development Permit.

The proposed development will be constructed to meet the remainder of the R-2 zoning requirements including building area, height, lot coverage and parking.

Affordable Housing Policy

The Affordable Housing Policy states that the City will expand the application of secondary suites and secondary residences through the Local Area Planning process. The Affordable Housing Policy is also supportive of increase in density near or adjacent to major destinations. As mentioned above, the subject property is located close to downtown and the proposed development will contribute one new unit of rental housing built to current building standards.

Several applications for secondary residences and carriage houses have been brought before Council in recent years outside of the Local Area Planning Process as they represent small scale land use changes with adequate opportunity for public input during the rezoning process through the public information meeting and public hearing.

Other Initiatives

Through the Downtown Forum and Design Charrette earlier this year, it was confirmed that residential opportunities are essential to downtown revitalization and infill opportunities should be encouraged. Staff has already initiated a study evaluating infill development opportunities and regulatory provisions

including appropriate densities and housing forms. Staff anticipate a report to Council on this matter will be brought forward in early 2017.

FINANCIAL IMPLICATIONS:

The rezoning fee for secondary residence applications is \$3,000. This is substantially higher than the \$500 rezoning fee for secondary suites. Application fees will be reviewed as part of the infill residential study referenced in the Downtown Courtenay Playbook. Should this application be successful, a Development Permit with Variances and a Building Permit is also required. The Development Permit with Variances application fee is \$2,500 and Building Permit fees are calculated at rates set out in the bylaw. At present it is \$7.50 for every \$1,000 of construction value with a minimum fee of \$50.

ADMINISTRATIVE IMPLICATIONS:

Processing zoning bylaw amendments is a statutory component of the work plan. Staff has spent approximately 18 hours processing this application to date. Should the proposed zoning amendment be successful, an additional 2 hours of staff time will be required to prepare notification for public hearing and to process the bylaw. Additional staff time will be required to process subsequent development permit and building permit applications including inspections.

ASSET MANAGEMENT IMPLICATIONS:

The proposed development utilizes existing City infrastructure. There are no asset management implications with regard to this application. Due to the limited scope of the project, no improvements to the street front or rear lane were required.

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 community input and the regional growth strategy.



OFFICIAL COMMUNITY PLAN REFERENCE:

See discussion above.

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:

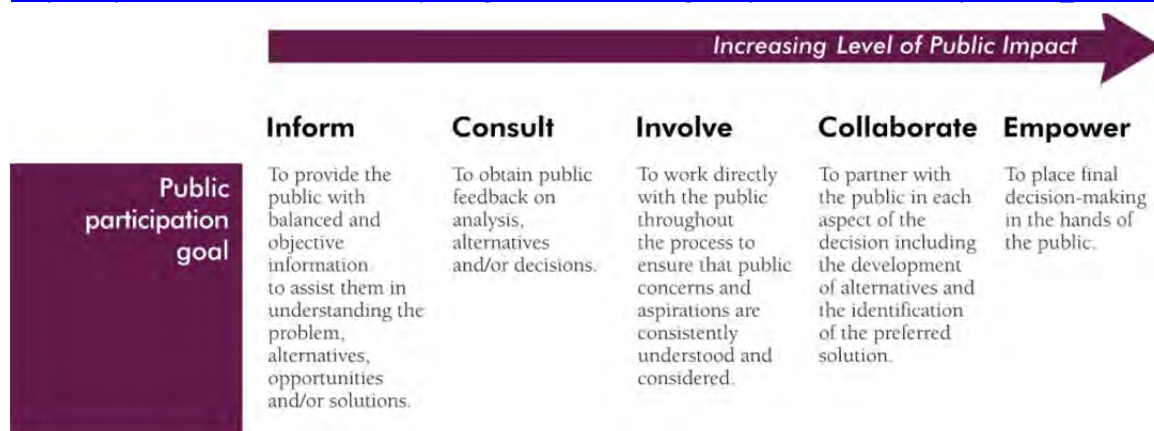
Objective 1-A: Locate housing close to existing services; and

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. 2860, 2016 receive First and Second Reading, 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 19, 2016. A summary of the public information meeting has been included as Attachment No. 3. According to the meeting summary report, four people attended the meeting and expressed support for the project. Comment sheets submitted to the applicant are included with the meeting summary report.

OPTIONS:

OPTION 1 (Recommended): Give Bylaw 2860 First and Second Readings and proceed to Public Hearing.

OPTION 2: Defer consideration of Bylaw 2860 with a request for more information.

OPTION 3: Do not approve Bylaw 2860.

Prepared by:

Erin Ferguson, MCP

Approved by:

Ian Buck, MCIP, RPP

Land Use Planner

Director of Development Services

Attachments:

- 1. Attachment No. 1: Applicant's Rationale and Written Submissions*
- 2. Attachment No. 2: Site Plan & Project Renderings*
- 3. Attachment No. 3: Public Information Meeting Summary and Comment Sheets*

Attachment No. 1
Written Submissions

Project Description and Design Rationale

Re: Rezoning Application for 560 Pidcock Avenue, Courtenay

Project Description:

The proposed project at 560 Pidcock consists of the conversion of an existing detached garage/workshop structure into an independent one-bedroom Carriage House with 50.22m² of floor area. This structure sits at the rear of a large urban lot near downtown Courtenay with access from a laneway.

The new dwelling will be constructed entirely within the shell of the existing building. New fenestration (door and windows) will be added, along with a small canopy over the door. Exterior finishes will be completely replaced and an 18.5m² patio will be constructed for the exclusive use of the residents. One off-street parking space adjacent to the Carriage House will be provided.

The property has a total lot area of 1003.35m² which is less than the 1,250m² minimum lot size required to allow a Carriage House in Section 8.2.1(7)c of the R-2 Zone. A *Zoning Amendment* is therefore required.

In addition, a *Variance* is requested to relax the Setbacks for the Carriage House from 4.0m to 3.21m from the Rear Property Line, and from 3.0m to 1.71m from the Interior Side Property Line.

All other criteria within the R-2 bylaw and Division 7 Parking Requirements are met.

Sustainability Evaluation

Proposed Carriage House Conversion – 560 Pidcock Avenue, Courtenay BC

The conversion of the existing standalone garage at 560 Pidcock to a one-bedroom dwelling adds a new, affordable housing type to the neighbourhood at a scale in keeping with other nearby residential buildings. The project transforms an eyesore into an attractive home by replacing worn vinyl siding with high-quality finishes and adding architectural details such as entry canopy, window and wall trim, and variations in textures and colours. In the process of renovation, the building envelope will be brought up to current Code standards for energy efficiency and longevity, and it is anticipated the new dwelling will make use of existing service connections for sewer, water and hydro.

Affordable Housing Evaluation

Proposed Carriage House Conversion – 560 Pidcock Avenue, Courtenay BC

In keeping with the goal of Comox Valley municipalities to increase the stock of affordable housing options, the garage to one-bedroom Carriage House conversion at 560 Pidcock will put on the rental market a modern, self-contained dwelling suitable for a single person or couple at a rental level less than for other detached homes in the area. The site's location is close to transit and within a walkable distance of the stores and services of Downtown Courtenay, making it a viable option for a tenant without a vehicle.

[illegible]

John Gower Design 250 871 8765



PROPOSED ACCESSORY DWELLING CONVERSION

560 PIDCOCK AVENUE , COURTENAY BC

August 18, 2016

John Gower Design 250 871 8765



PROPOSED ACCESSORY DWELLING CONVERSION

560 PIDCOCK AVENUE , COURTENAY BC

August 18, 2016

John Gower Design 250 871 8765

Attachment No. 3
*Public Information
Meeting Summary Report*

September 21, 2016

From: Rosemary Nash and Sam Lennox

Re: 560 Pidcock Ave, Courtenay, B. C.

1. The Public Meeting was held on Sept. 19, 2016 between 5:30 and 6:30pm at the rear of the residence in the garage being the proposed building for renovation.
2. Four People attended. Three chose to sign the sign in sheet. The fourth declined. Enclosed is the sign in sheet. Also enclosed are two comments delivered to our residence.
3. A letter dated August 29, 2016 together with site plan and comment sheet were delivered by hand to neighbors or mailed. Enclosed is a copy of the letter and attachments and also copies of the addresses they were delivered to by hand or mailed.
4. The concept drawings and comment sheet were available at the meeting.
5. All expressed support for the renovation of the garage to a secondary residence. One person wanted assurance that the structure would remain the same size.

Enclosed are pictures of the posted sign in front of the residence and pictures of the table display and materials.

Regards

Rosemary Nash Sam Lennox



PUBLIC INFORMATION MEETING

(Date of Meeting)

(Application Information and Address of Subject Property)

COMMENT SHEET

Name: [REDACTED] Email: [REDACTED]
Address: [REDACTED] Pidcock Ave Phone: [REDACTED]

[INSERT APPLICANT] has applied to the City of Courtenay for an [INSERT APPLICATION TYPE ie. OCP/Zoning Amendment/Temporary Use Permit/Development Variance Permit]. [INSERT PROJECT DESCRIPTION]. 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?

This application would be considered compatible with current one and two story medium density residential land use in the neighbourhood such as Kiwanis Village and recent new (two) four-plexes on 5th St near by. Having looked at the site I believe there is more than enough space to accommodate a secondary residence as proposed. The lot layout and that of the adjacent residence to the south are compatible with this proposal and the secondary residence is located as far as possible from the neighbouring residence and the primary residence on this lot.

This is a good land use and adds to rental housing stock in the community.

Please return your comments by [DATE].

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

1. Hand your comment sheet in tonight.
2. Drop your comment sheet off at [insert location for drop off]
3. Email your comment sheet to [insert email address]

PUBLIC INFORMATION MEETING

(Date of Meeting)

(Application Information and Address of Subject Property)

COMMENT SHEET

Name:

Email:

Address:

menzies Ave, Courtenay B.C.

Phone:

[INSERT APPLICANT] has applied to the City of Courtenay for an [INSERT APPLICATION TYPE ie. OCP/Zoning Amendment/Temporary Use Permit/Development Variance Permit]. [INSERT PROJECT DESCRIPTION]. 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?

GOOD LUCK w/ YOUR PROJECT
SOUNDS NICE ☺
CVRC

Please return your comments by [DATE].

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

1. Hand your comment sheet in tonight.
2. Drop your comment sheet off at [insert location for drop off]
3. Email your comment sheet to [insert email address]



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 3090-20-1606

From: Chief Administrative Officer

Date: November 7, 2016

Subject: Development Variance Permit No. 1606 – 2963 Cascara Crescent

PURPOSE:

The purpose of this report is for Council to consider approving a Development Variance Permit application to reduce the required rear yard building setback to accommodate the construction of a covered patio on a single residential dwelling.

CAO RECOMMENDATIONS:

That based on the November 7, 2016 staff report “Development Variance Permit No. 1606 – 2963 Cascara Crescent” Council approve Development Variance Permit No. 1606 (OPTION 1).

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

The subject property is a vacant serviced lot located at 2963 Cascara Crescent in East Courtenay north of Mission Road. The surrounding land uses include single residential dwellings and some undeveloped land which is zoned for the future development of single residential dwellings. The applicant is requesting a variance to the Zoning Bylaw to accommodate a covered patio that will extend 2.5 metres into the required rear yard setback.



Figure 1: Subject property outlined in orange.

DISCUSSION:

The applicant is applying to reduce the required rear yard setback from 9.0 metres to a minimum of 6.5 metres for the area shown in the enclosed site plan (**Attachment No.1**). The property is zoned R-1 S (Residential One S Zone) and the applicant has met all other zoning requirements including building height, site coverage and front yard and side yard building setbacks.

A review of the site plan and associated drawings suggests that the design of the porch is consistent with the character of the dwelling. There is also the presence of some large fir trees along the rear property line that provides a natural buffer between the proposed dwelling and covered patio and the adjacent property to the rear.

It is staff's opinion that the requested variance will have minimal impact on the adjacent properties or the surrounding neighbourhood due to the modest size of the porch and its location at the centre of the rear façade.

The City sent out notification letters to all property owners and occupiers within a 30 metre radius of the subject property and the City has not received any complaints or concerns from surrounding property owners regarding this structure.

FINANCIAL IMPLICATIONS:

The application fee for a development variance permit is \$1,000. Should Development Variance Permit No. 1606 be approved, the applicant would be required to apply for a building permit. Building permit fees are \$7.50 for every \$1,000.00 of construction value with a minimum fee of \$50.00. As this is a development variance permit application for an existing single residential dwelling, no additional financial impacts related to municipal infrastructure or community services are anticipated.

ADMINISTRATIVE IMPLICATIONS:

The processing of development applications is included in the current work plan as a statutory component. Staff has spent 12 hours processing this application including planning review and managing referrals and notifications. Should this application be approved, there will be approximately one additional hour of staff time required to prepare the notice of permit, have it registered on title and close the file.

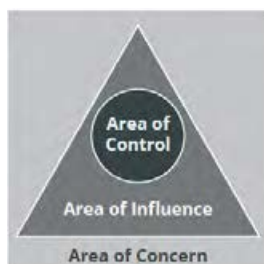
Additional staff time will be required for the review of the building permit.

ASSET MANAGEMENT IMPLICATIONS:

There are no direct asset management implications related to this application.

STRATEGIC PRIORITIES REFERENCE:

Development applications fall within Council's Area of Control and specifically aligns with the strategic priority to support meeting the fundamental corporate and statutory obligations of the City.



● 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.

**We focus on
organizational and
governance excellence**

**● We support meeting the
fundamental corporate and
statutory obligations**

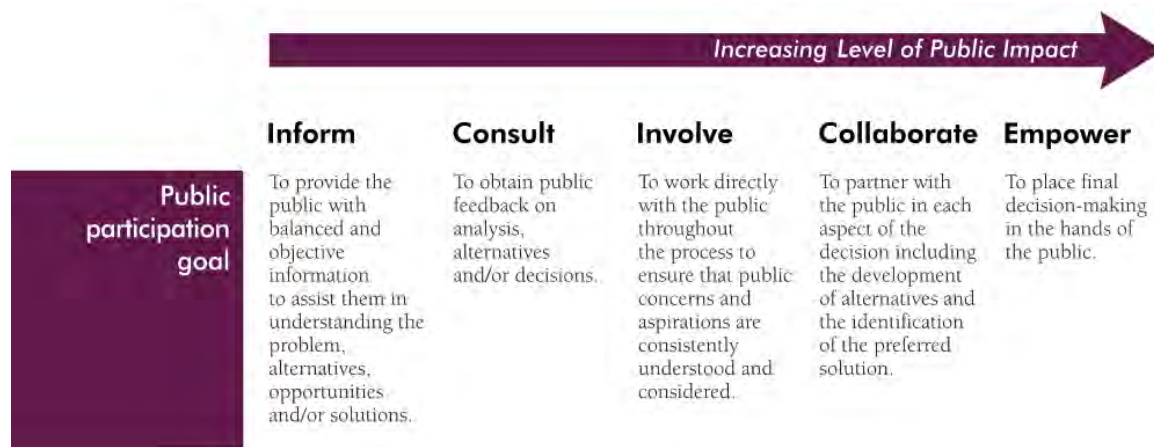
OFFICIAL COMMUNITY PLAN REFERENCE:

There is no direct OCP reference related to this application.

REGIONAL GROWTH STRATEGY REFERENCE:

There is no direct Regional Growth Strategy policy reference related to this application.

CITIZEN/PUBLIC ENGAGEMENT:



The level of public input is “Consult”. The applicant held a public information meeting on October 7, 2016 at the subject property. No invitees attended the meeting and one nearby resident provided a written comment stating that they have no objections to the proposal.

A copy of the public information summary report is included in this report as **Attachment No. 3**.

In accordance with the *Local Government Act*, the City also has notified property owners and occupants within 30 metres of the subject property of the requested variance. To date, staff has received no responses.

OPTIONS:

OPTION 1: (Recommended) Approve Development Variance Permit No. 1606.

OPTION 2: Defer consideration of Development Variance Permit No. 1606 pending receipt of further information.

OPTION 3: Not approve Development Variance Permit No. 1606.

Prepared by:



Dana Leitch, MCIP, RPP
Planner 1

Reviewed by:



Ian Buck, MCIP, RPP
Director of Development Services

Attachments:

1. *Attachment No. 1: Development Variance Permit and Associated Schedule*
2. *Attachment No. 2: Applicant's Rationale*
3. *Attachment No. 3: Summary of Public Information Meeting, October 7, 2016*

THE CORPORATION OF THE CITY OF COURTENAY

Attachment No. 1:
*Draft Development
Variance Permit*

Permit No. 3060-20-1606

DEVELOPMENT VARIANCE PERMIT

November 7, 2016

To issue a Development Permit

To: Name: Russwurm Holdings Ltd. Inc. No. BC0521005
 Address: 2623 Cathy Crescent
 Courtenay, British Columbia
 V9N 7G2

Property to which permit refers:

Legal: Lot 14, District Lot 236, Comox District, Plan EPP17584
Civic: 2963 Cascara Crescent

Conditions of Permit:

Permit issued to vary *Section 8.1.51 (2)* of the *City of Courtenay Zoning Bylaw No. 2500, 2007* by reducing the required rear yard setback from 9.0 metres to 6.5 metres for the construction of a covered patio subject to the following condition:

- a) Development must be in conformance with the plans and elevations contained in **Schedule No. 1**;

Time Schedule of Development and Lapse of Permit

That if the permit holder has not substantially commenced the construction authorized by this permit within (12) months after the date it was issued, the permit lapses.

Date

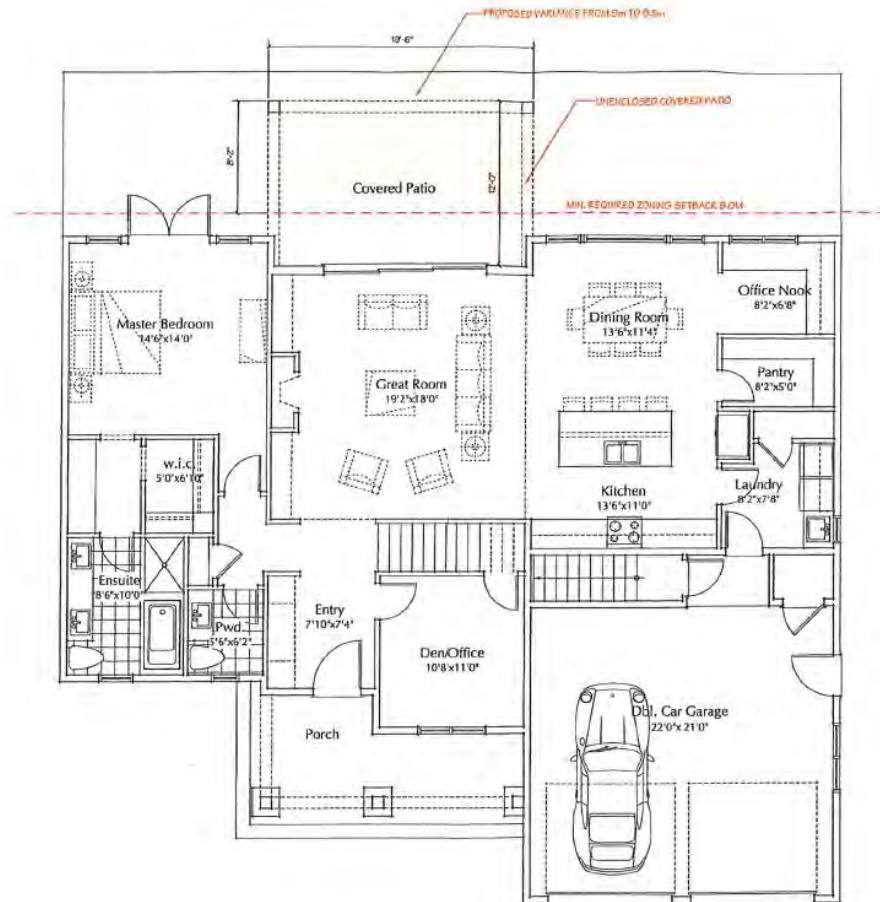
Director of Legislative Services

Context Plan

BUILDING SITE
LOT 14

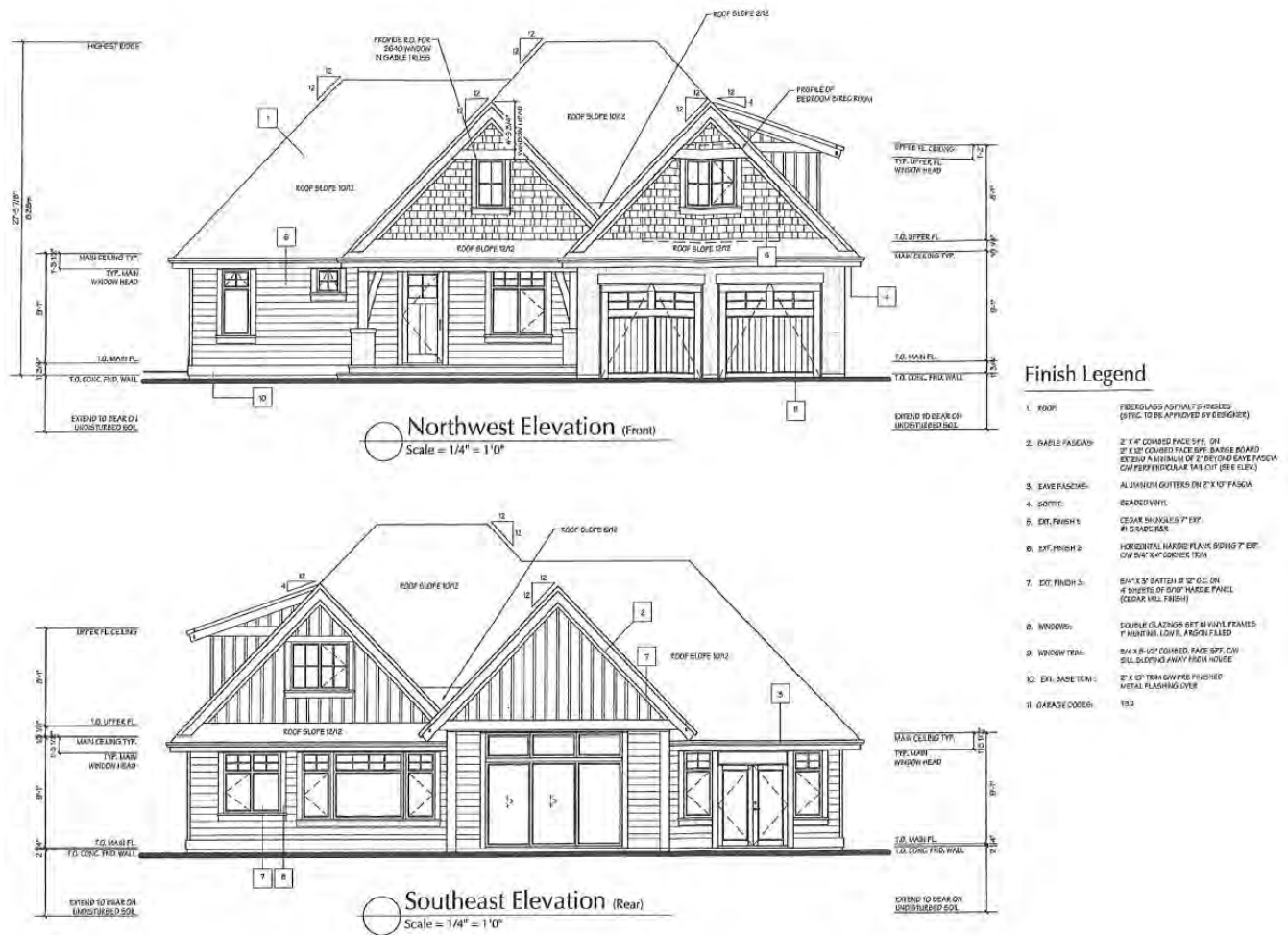


Schedule No. 1
2 of 5

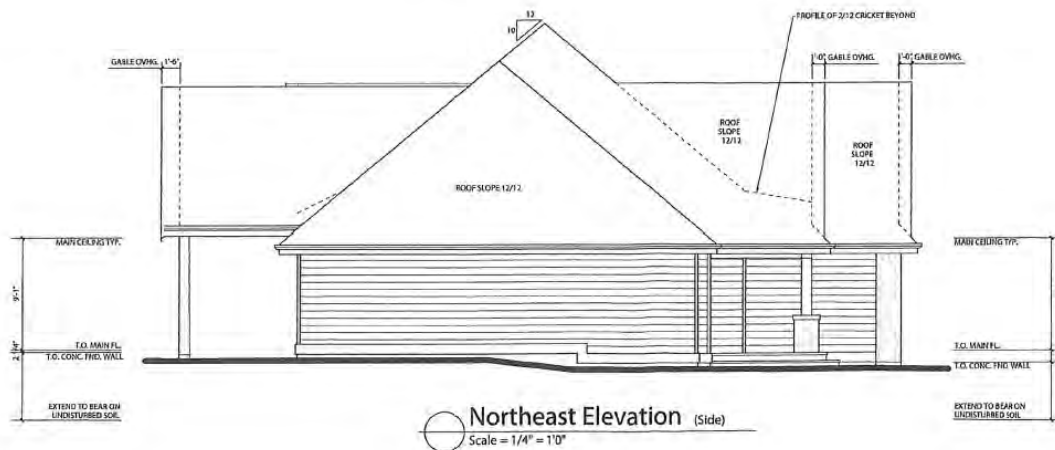
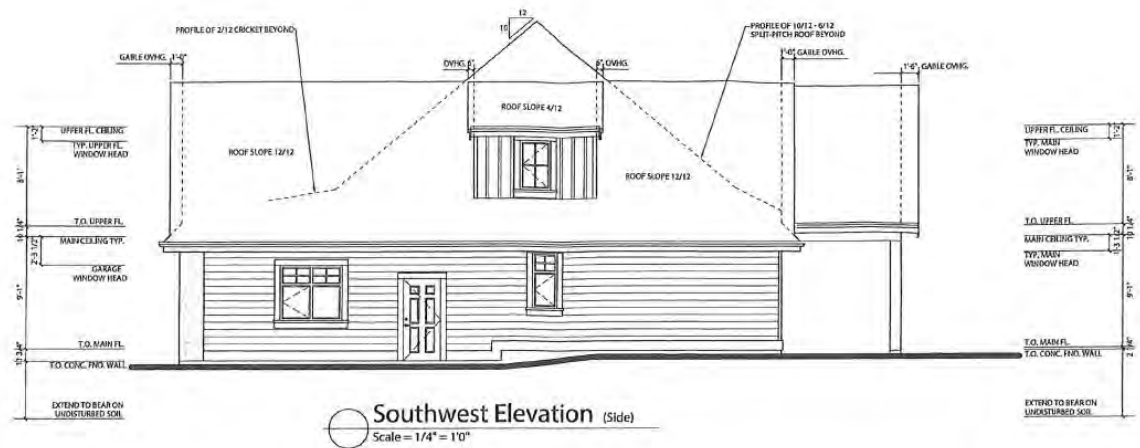


○ Main Floor Plan
Floor Area = 1678 sq. ft.
(Not Including Garage)

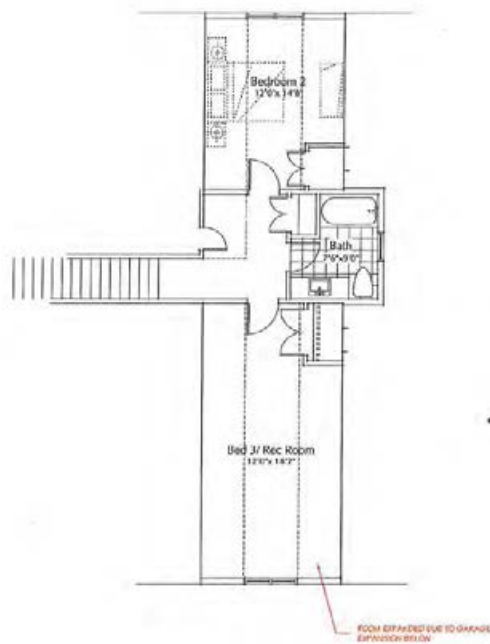
Schedule No. 1
3 of 5



Schedule No. 1
 4 of 5



Schedule No. 1
5 of 5



Upper Floor Plan
Floor Area = 641 sq. ft.
(Not Including Stairwell)



Attachment No. 2:
Applicant's Rationale



To: The City of Courtenay

Attn: Planning Department c/o Dana Leitch

Re: Patio Cover Variance

2963 Cascara Crescent

Patio variance permit application for Lot 14, District Lot 236, EPP17584, Comox District

Letter of Ratioale,

To whom this may concern,

Please accept my letter of rationale in regards to the variance for a roof projection that will cover a portion of the patio on the rear of this home I am constructing for the new homeowners. This variance would have little impact on surrounding neighbours as it is only a portion of the rear patio and there is a buffer of some trees on the rear lot line of this property that make this patio and roof fairly sheltered from the site of the surrounding neighbours. I am asking for a reduction in the rear yard setbacks of 2.5 meters.

Thank you again for considering my application for a roof over a patio variance, I look forward to your reply.

Bryan Russwurm

BryCyn Enterprises Ltd.

Russwurm Holdings Ltd.

Attachment No. 3:
*Summary of Public Information
Meeting, October 7, 2016*



October 13th, 2016

City of Courtenay

Attn: Planning Department

2963 Cascara, Public Information Meeting, Re Patio Roof Variance

The meeting was held on October 7th 2016 at 5:00pm and ended at 6:00pm. The number of attendees was one, I representing BryCyn Enterprises Ltd.

Property owners were notified by hand delivery and mail from an attendee list provided by the City of Courtenay

The information provided at the meeting was a sign in sheet, comment sheet, a site plan of the above proposal and a floor plan and elevations of the proposed patio cover.

I have attached one comment sheet I received by email.

Sincerely

Bryan Russwurm



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 5600-20 (Sandwick)

From: Chief Administrative Officer

Date: November 7, 2016

Subject: Sandwick Waterworks District Changeover - CWWF Grant Support

PURPOSE:

The purpose of this report is to obtain direction from Council regarding support of an application for funding to the Clean Water and Wastewater Fund by Area B of the Comox Valley Regional District (CVRD). The application submission will ask for the capital costs associated with connecting Courtenay residents in the former Sandwick Waterworks District to the City water distribution system and those create a Local Area Service within the CVRD for the remaining residents of the former Sandwick Waterworks District.

CAO RECOMMENDATIONS:

That based on the November 7, 2016 Council Report entitled "Sandwick Waterworks District Changeover - CWWF Grant Support", Council approve option 1 and direct staff to prepare a letter of support from Council for a CWWF grant application for the Sandwick Waterworks District Changeover works within the City boundaries and the balance of the system in Area B; and, that the grant application be prepared by City staff and submitted by Area B.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

In 2002, 282 parcels (about 40%) of the Sandwick Waterworks District (SWD) agreed to municipal-boundary expansion while the remaining 424 parcels chose to remain in Electoral Area B. Despite the completion of the annexation in 2002, the water system has remained intact and construction works are required to be undertaken to separate those customers within the City from the balance of the system in the regional district Area B.

In 2015 CVRD and City staff worked with the Trustees of the SWD and an external consultant to understand the implications for SWD to either remain an independent improvement district or to convert to a Local Area Service of the Comox Valley Water System. In June 2016, following a Community Open House and feedback from area customers, the Trustees voted unanimously to dissolve SWD and convert to a Local Area Service as of January 1, 2017.

Staff is working collaboratively with CVRD staff on a transition plan for the water system changes that will be required to support the LAS conversion. The recently announced Clean Water and Waste Fund grant application intake provides an opportunity to potentially obtain grant funding to support the construction costs involved in this undertaking.

DISCUSSION:

In October 2016, the British Columbia Government and Federal Government jointly announced The Clean Water and Wastewater Fund (CWWF) at the UBCM convention. The CWWF stems from commitments by both the Canada and British Columbia Governments to support infrastructure projects across the province. Key attributes of the Fund include:

- Focus towards the rehabilitation (whether capital or planning-design) of water, wastewater and stormwater infrastructure
- Allocations up to \$373.6 million, with \$225.1 million from Canada (results in a 50% investment share) and \$148.5 million from BC (results in a 33% investment share)
- Expectations of 17% project contribution from local governments, bringing the total fund investment to \$450 million
- Emphasis on short-term investments that accelerate immediate priorities
- Consideration to naturalized treatments and infrastructure solutions to repair or upgrade existing facilities (e.g. wetlands)

The application intake remains open until November 23, 2016. Each municipality is limited to a maximum of two applications under the CWWF application guidelines and one per Electoral Area in a Regional District.

The dissolution of the SWD will result in a significant amount of capital work on the water system in order to adequately convert to a Local Area Service and incorporate the properties in the City onto the Comox Valley Water System. It is believed that this project would be seen as a favourable, inter-jurisdictional collaboration with a goal to renew some aging infrastructure, but more importantly, provide a sustainable water source to an area where the supply is challenged season to season.

Through discussions with the CVRD staff, the option exists for Area B to submit an application for the capital work associated with the SWD changeover while preserving the City's two potential independent grant application submissions permitted under the program. In dividing the efforts required to achieve this grant undertaking, the City has committed to preparing the grant application at a cost of approximately \$5,000 while the CVRD staff would administer the grant funding reporting and claims process.

Staff recommend proceeding on this basis as there is a benefit to both jurisdictions in collaborating on this process.

FINANCIAL IMPLICATIONS:

City staff and CVRD staff have had numerous discussions regarding the costs associated with the SWD changeover and which party is responsible. The table below identifies the estimated changeover project costs foreseen for the City:

Item	Total	Canada Contribution (50%)	BC Contribution (33%)	Courtenay Contribution (17%)
City Short Term Capital Costs	\$ 135,500	\$ 67,750	\$ 44,715	\$ 23,035
CVRD CICC paid by the City*	\$ 350,000	\$ 150,000	\$ 99,000	\$ 51,000
Total	\$485,500			\$ 74,035

**Staff have not confirmed the value of the CICC's payable to the CVRD at this time. They are estimated to be between \$300,000 and \$400,000.*

Staff has not had the opportunity to fully review the eligible costs criteria to confirm which expenses are eligible for funding through the CWWF grant. The table above shows the maximum value that would be requested through the Fund.

Funding to support the grant application in the amount of \$5,000 is available within the approved Engineering Services Department Operating budget, under "General Services - Engineering Services".

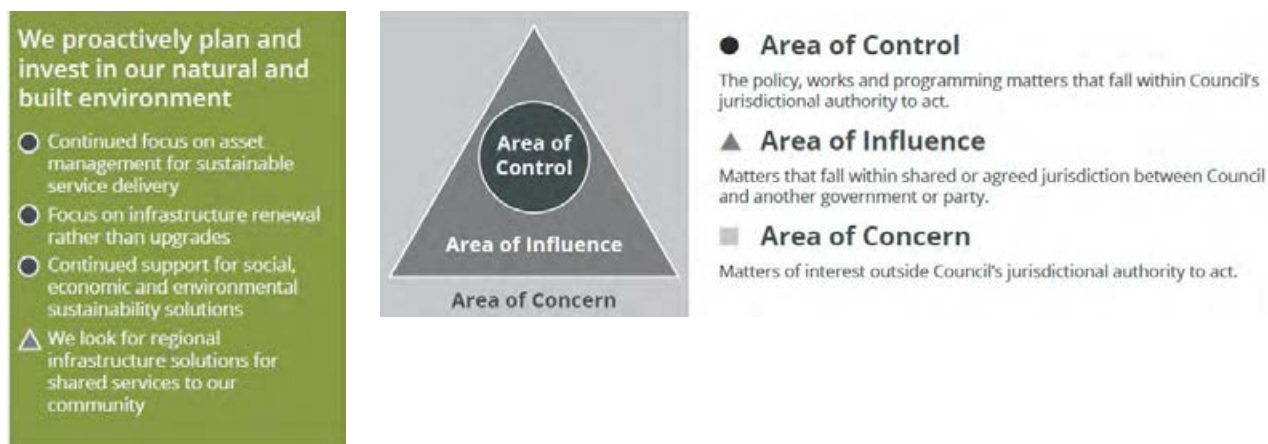
ADMINISTRATIVE IMPLICATIONS:

This is a significant multi-departmental project involving Engineering Services, Public Works Services and Financial Services. To date staff has spent approximately 40 hours on this project in 2016. This will drastically increase over the balance of the year as we work to develop a transition plan. Time is of the essence for City staff to advance the changeover project within the City boundaries to connect our residents to the Comox Valley Water System.

ASSET MANAGEMENT IMPLICATIONS:

The water system infrastructure that will be inherited by the City will be added to the asset registers and incorporated into the overall prioritization of asset renewal as per the Asset Management Policy.

STRATEGIC PRIORITIES REFERENCE:



OFFICIAL COMMUNITY PLAN REFERENCE:

The City's Official Community Plan (OCP) contains policies that discourage the expansion of the Comox Valley Water System beyond the City boundaries or extending service outside the municipality as shown in the section quoted below. It should be noted that the annexation of the Sandwich lands into the City occurred in 2002, prior to the adoption of the 2005 OCP.

Section 6.2.2 Policies

3. The Comox Valley Water System not be expanded beyond the current boundaries prior to an area becoming part of a municipality. With the exception of the Komoks First Nation Indian Reserve No. 2 lands through a servicing agreement.

1. The City not support any increase in the capacity or extension of the water system outside a municipal boundary with the exception of the Komoks First Nation Indian Reserve No. 2 lands through a servicing agreement.

Other water infrastructure goals supporting this undertaking include:

Section 6.2.1 Goal:

- to ensure a high level of water quality is maintained

REGIONAL GROWTH STRATEGY REFERENCE:

Objective 5-A: Promote water conservation and efficiency throughout the Comox Valley.

Supporting Policies:

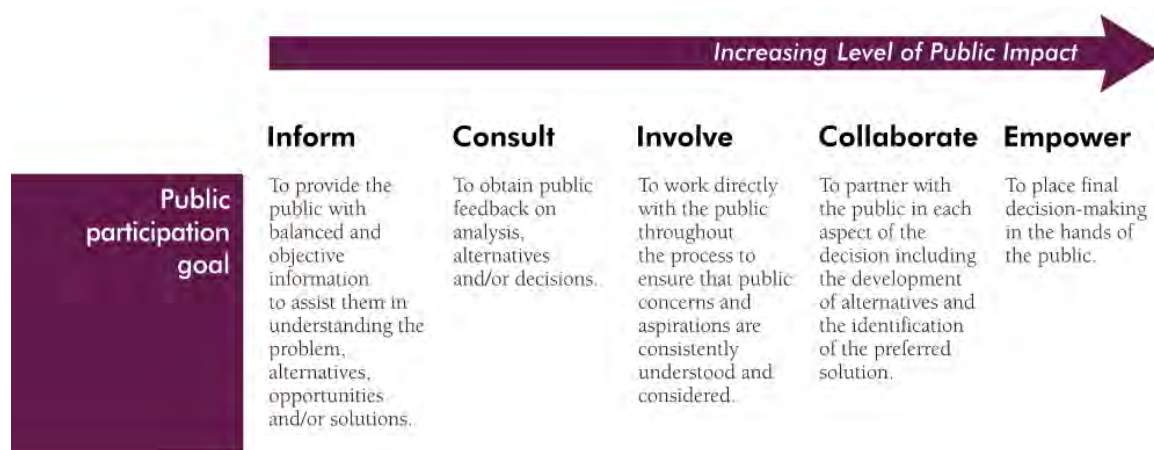
5A-1 The majority of growth should be focused in *Core Settlement Areas* where appropriate publicly owned water servicing systems already exists.

5A-2 For existing developments outside of Core Settlement Areas, where there are demonstrated onsite health related issues, publicly operated water services should be made available.

CITIZEN/PUBLIC ENGAGEMENT:

Staff is working collaboratively with the staff of the Comox Valley Regional District and the Sandwich Trustees on a transition plan for the conversion of Sandwich to a LAS, 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 Council direct staff to prepare a letter of support from Council for a CWWF grant application for the Sandwich Waterworks District Changeover works within the City boundaries and the balance of the system in Area B; and, that the grant application be prepared by City staff and submitted by Area B
- Option 2 Council direct not support proceeding with the application to the CWWF grant, and direct staff to notify the CVRD of the decision.

Prepared by:

A handwritten signature in cursive script, appearing to read "L. Hatch".

Lesley Hatch, P.Eng.

Director of Engineering Services



STAFF REPORT

To: Council

File No.: 1845-20 (2016 CWWF)

From: Chief Administrative Officer

Date: November 7, 2016

Subject: Clean Water and Wastewater Fund: Grant Application Options

PURPOSE:

The purpose of this report is to review with Council the funding objectives of the Federal-Provincial *Clean Water and Wastewater Fund* and determine which local, priority infrastructure projects best align to the fund criteria for advancing applications.

POLICY ANALYSIS:

Securing grants improves the City's financial bottom line and delivers on Council's objective to provide sustainable service delivery. Infrastructure projects that improve social, economic and environmental well-being enhance the community and align with Council's Strategic Priorities to "...proactively plan and invest in our natural and built environment". This report summarizes how priority infrastructure projects align with the Clean Water and Wastewater Fund to support Council selecting two preferred projects, and, to direct staff to complete the applications before the November 23, 2016 deadline.

EXECUTIVE SUMMARY:

The *Clean Water and Wastewater Fund* (the *Fund*) includes commitments by both the Canada and British Columbia governments to support infrastructure projects across the province. The focus of the *Fund* is toward infrastructure projects, or infrastructure plans, that improve the environment and support public health, in particular through drinking water, storm water and sanitary sewer initiatives. Applications that deliver on asset management priorities, renew or expand key facilities, introduce naturalized systems, meet changing regulations, and do so in an accelerated time-frame will be ranked higher above other applications. The total Fund amount is \$450million including 50% contributions from Canada and 33% contributions from BC governments, respectively.

Applications require resolution by Council for up to two applications. The application intake remains open until November 23, 2016.

Staff has engaged consultants to support researching the *Fund* guidelines and narrowing-down three select projects from a list of infrastructure priorities in the City. This report to Council summarizes a strategic evaluation of the projects against *Fund* criteria (developed in discussion with our consultants and inferred from their experience and program guidelines) to determine the top two applications. Staff recommend the Willemar Watermain Replacement (17th to 26th Street) and the SCADA Implementation (Phase 1) as the two highest ranking projects, based on their alignment with these criteria: *Shelf-Ready – Schedule; Financial Scale; Clean Water and Public Health; Asset Management; Benefit Outreach and Stronger Communities*.

CAO RECOMMENDATIONS:

That based on the November 7th, 2016 Council report entitled “*Clean Water and Waste Fund: Grant Application Options*” Council approve option 1 and direct staff to proceed with applications to the *Clean Water and Wastewater Fund* for the Willemar Watermain Replacement and the SCADA Implementation (Phase 1).

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

The *Clean Water and Wastewater Fund* stems from commitments by both the Canada and British Columbia Governments to support infrastructure projects across the province. Key attributes of the *Fund* include:

- Focus towards the rehabilitation (whether capital or planning-design) of water, wastewater and stormwater infrastructure
- Allocations up to \$373.6 million, with \$225.1 million from Canada (results in a 50% investment share) and \$148.5 million from BC (results in a 33% investment share)
- Expectations of 17% project contribution from local governments, bringing the total fund investment to \$450 million
- Emphasis on short-term investments that accelerate immediate priorities
- Consideration to naturalized treatments and infrastructure solutions to repair or upgrade existing facilities (e.g. wetlands)

The application intake remains open until November 23, 2016.

City staff continue to prioritize, scope, management and implement various infrastructure projects to maintain services for residents and businesses. While the list of infrastructure projects is significant, only a select few will line up well with the Fund objectives. Three select projects emerge for Council consideration based on the *Fund* description and are informed by our consultants experiences in supporting clients attaining senior government funding over the last two years. The narrowed list of projects includes:

CWWF Optional Projects	Brief Description	Est. Project Value
Capital Project		
Willemar Watermain Replacement	<i>Rehabilitation: approximately 1,000m of watermain with a definitive project scope and up-to-date design drawings</i>	\$1,220,000
SCADA Phase 1 Implementation	<i>New construction: Imminent opportunity to automate utility systems, re-allocate Operations resources to other priorities, reduce risks of water system failures through enhanced monitoring</i>	\$425,000
Anderton Lift Station Upgrade	<i>Rehabilitation: Emerging capital priority to relocate and upsize the lift station to suit dike protection and sewer capacity needs</i>	\$1,500,000 to \$2,000,000

Each project is a justifiable investment for the City; however, the two top projects which best align to the criteria for the *Clean Water and Wastewater Fund* provide for the highest likelihood of grant success.

DISCUSSION:

The Ministry of Community, Sport and Cultural Development administers BC applications to the *Fund*. The provincial website provides a brief description of the *Fund* objectives, includes basic tips and suggestions for completing the application and includes specific directions on the application process. While there are broad criteria to evaluate potential projects, local evaluations should be done to support staff and Council to decide which projects to submit for consideration. Staff reviewed the application form, communicated with Ministry representatives and summarized the *Fund* description to establish these fix criteria:

- **Shelf-Ready Schedule:** plans or projects should be ready for immediate implementation and completion based on the deadline for all investments to be complete by March 31, 2018. Applications should be based on projects that have been scoped at a planning level (at minimum) prior to consideration so as to demonstrate the preparedness of the organization to lower risks through implementation. Therefore, plans that encompass multiple years of engagement and analysis are not suitable; similarly, large-scale capital projects that are not already designed can increase the risk that the project won't be completed on time, and as a result, lowers the likelihood of funding.
- **Financial Scale:** anecdotal feedback from the Ministry through our consultants has suggests that there is greater interest in funding a large number of small-to-medium sized projects, rather than investing in a small number of high-cost projects. While only an informal guideline for medium-sized communities, projects between \$500,000 and \$1,500,000 may have more appeal than projects >\$2,000,000. Submitting two applications further supports the approach to select projects with estimates between \$500,000 and \$1,500,000 (note: community population likely influences the potential funding amounts).
- **Clean Water and Public Health:** plans or projects should demonstrate clear and substantive links toward cleaner water and a safer aquatic environment. Where possible, best available technologies or innovative solutions may be proposed to adequately protect public health and the environment, while simultaneously delivering good value for money.
- **Asset Management:** plans or projects should deliver on the broad goals of asset management such as *sustainable service levels, affordable annual investment, prioritize renewal schedule* and *maximizing asset life*. Projects that optimize service delivery by lowering costs or demonstrating

greater service effectiveness, such as consolidating two assets down to one facility would rank high. Projects that appear to increase the burden of asset renewal or do not deliver on the broad goals will reduce the likelihood for funding.



















- **Benefit Outreach:** plans or projects that extend the impact of the grant so that multiple agencies or greater populations benefit align better with the objectives of the fund.
- **Stronger Communities:** plans or projects that demonstrate a distinct contribution to economic growth or sustainable services provide for greater alignment to the objectives of the fund.

The evaluation of each projects against these criteria should identify two preferred projects to apply to the Clean Water and Wastewater Fund. Table 1 includes a qualitative – and relative - evaluation of each project.

Qualitative Rating



Table 1: Project Evaluations Against Fund Criteria

Project Name	Shelf-Ready	Financial Scale	Clean Water/Health	Asset Mgmt	Benefit Outreach	Stronger Cities	Overall Rank
Capital Project							
Willemar Watermain Replacement (17 th to 26 th Street)							1
SCADA Phase 1 Implementation							2
Anderton Lift Station Upgrade							3

Six criteria help to funnel the narrowed-list of projects (or plans) for potential application to the *Fund*. The results of Table 1 can be summarized as:

- Willemar Watermain Replacement (capital project) and the first phase of SCADA (capital project) best align to the criteria
- The Anderton Lift Station lines up to some criteria quite well but this project is at the conceptual stage and requires a new location to be determined (i.e. potential land acquisition) which creates financial and schedule risks

The Willemar Watermain Replacement and the SCADA project present strong alignment to the criteria for the *Clean Water and Wastewater Fund*. Beyond these criteria however, these two projects also address Council's Strategic Priorities "...proactively plan and invest in our natural and built environment".

Stakeholder and Public Engagement

While no stakeholder or public engagement is proposed as part of the application process, there will be strategic engagement for the implementation of both projects. For both capital projects, engagement will be limited to informing the affected residents and businesses within the project extents.

FINANCIAL IMPLICATIONS: Table 2 identifies the funding schedules for each of the two preferred projects.

Table 2: Funding Schedules for Two Highest Ranked Projects

Project	Total	Canada Contribution	BC Contribution	Courtenay Contribution
Willemar Watermain Replacement	\$1,220,000	\$610,000	\$406,666	\$203,334
SCADA (Phase 1)	\$425,000	\$212,500	\$140,250	\$72,250

If both projects were awarded, the City's contribution would be \$275,584.

The Fund permits retroactive claims for work completed after April 1, 2016 through to the funding deadline of March 31, 2016. If the project is not completed within this window, the City will be responsible for funding any outstanding work.

The City has expended approximately \$22,000 to end of July 2016 completing the design of the Willemar Watermain Project and approximately \$10,000 (+) would be eligible to be recovered if the grant application is successful.

Similarly for the SCADA project, \$14,202 has been spent on this project to end of July 2016 and all of that sum is likely to be eligible to be recovered if the grant application is successful.

STRATEGIC PLAN REFERENCE:

The two top projects relate City Council's Strategic Priorities, in particular under the theme, "We proactively plan and invest in our natural and built environment". Further, both projects deliver on the sub-themes related to a focus on asset management and sustainable services including a focus on renewal.

ADMINISTRATIVE IMPLICATIONS:

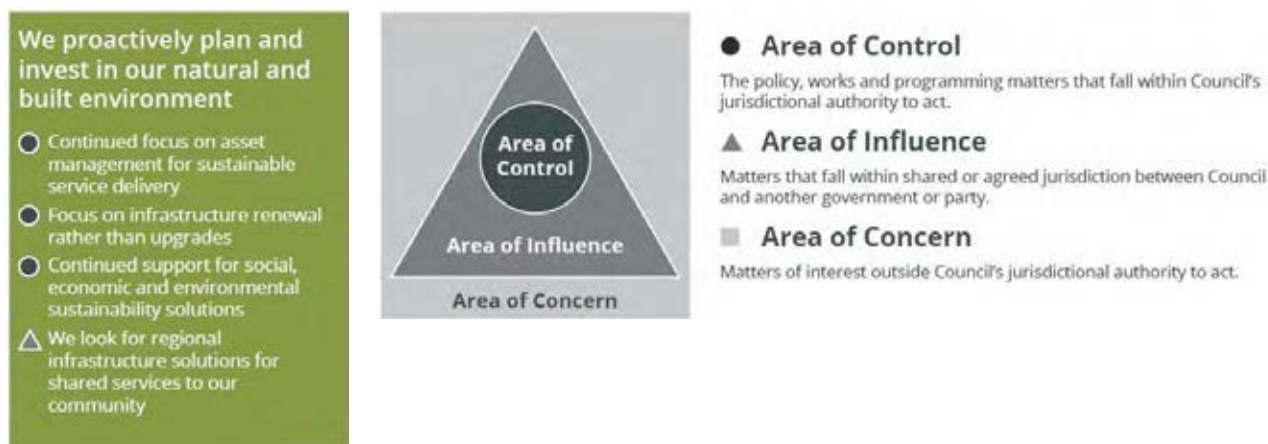
Grant applications are intrinsic to staff's ongoing responsibilities. To-date, staff has spent approximately 10 hours on this work and anticipate another 20 hours to complete the applications.

ASSET MANAGEMENT IMPLICATIONS:

Renewing critical infrastructure at/near its end of useful life and employing sustainable funding sources are key tenements of the practice of asset management.

A successful grant application for the either project will provide the City with a sustainable funding mechanism to undertake the project at a fraction of the financial impact on the water or sewer utilities.

STRATEGIC PRIORITIES REFERENCE:



OFFICIAL COMMUNITY PLAN REFERENCE:

Willemar Watermain Replacement links directly to Water Utility commitments in the OCP, such as:

- Section 6.2.1 Goal:
 - to ensure a high level of water quality is maintained

The SCADA application links directly to commitments in the OCP, such as:

- Section 4.10 Goals:
 - To preserve and protect environmentally sensitive and unique natural areas, particularly areas along the rivers, streams, and shorelines.

REGIONAL GROWTH STRATEGY REFERENCE:

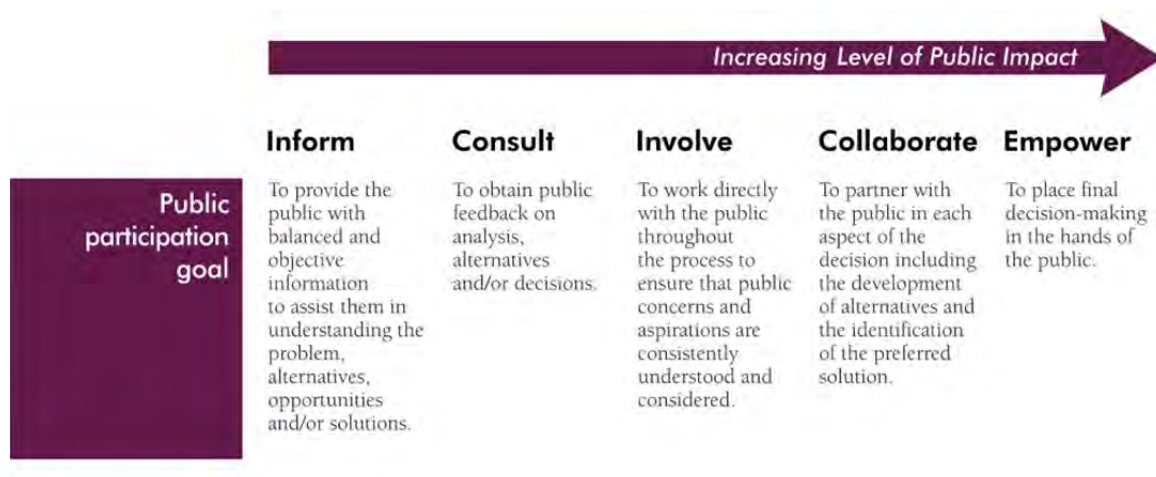
While the regional growth strategy appropriately focuses on regional interests such as water supply and watershed management (which places the emphasis on effective water distribution to each local municipality) there is a specific reference toward the application of SCADA instrumentation:

Objective 5-D: Encourage sewage management approaches and technologies that respond to public health needs and maximize existing infrastructure.

CITIZEN/PUBLIC ENGAGEMENT:

Staff would inform the public of both the Willemar Water Replacement and SCADA Implementation projects 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 Council direct staff to complete two applications to the Clean Water and Wastewater Fund, for the Willemar Watermain Replacement Project and the SCADA Implementation (Phase 1).

- Option 2 Council direct staff to complete two applications to the Clean Water and Wastewater Fund as determined by Council.
- Option 3 Council direct staff to provide further information before deciding which application(s) should proceed to the Clean Water and Wastewater Fund.

Prepared by:

A handwritten signature in black ink, appearing to read 'Lesley Hatch', written over a horizontal line.

for Lesley Hatch, P.Eng.

**David Stapley**

Program Manager

(250) 897-1271

Email: dsconsulting@shaw.ca**Mailing Address**

P.O. Box 3462

Courtenay, BC V9N 5N5

Office:

2356a Rosewall Crescent

Courtenay, BC, V9N 8R9

Partner Organizations

Brooklyn Creek Watershed Society

Comox Valley Land Trust

Comox Valley Nature (CVNS)

C.V. Water Watch Coalition

Mack Laing Heritage Society

Millard-Piercy Watershed Stewards

Morrison Creek Streamkeepers

Project Watershed Society

Supporter Organizations

Arden Area Residents Association

Black Creek Streamkeepers

Comox Town Residents Association

Cumberland Community Forest Society

Forbidden Plateau Road Residents Association

Friends of Comox Lazo Forest Reserve

Friends of Strathcona Park

Macdonald Wood Park Society

Perseverance Creek Streamkeepers

Merville Area Resident's & Ratepayers Association

Mountaineer Avian Rescue Society

Saratoga and Miracle Beach Residents Association

Tsolum River Restoration Society

Vancouver Island Whitewater Paddling Society

Funding Partners

Real Estate Foundation of B.C.

Community Gaming Grant

RBC Blue Water Fund

Comox Valley Regional District

www.cvconservationstrategy.org

November 1, 2016,

Mayor and Council,
City of Courtenay.**Re: Tree Management Bylaw**

Dear Mayor and Council:

Since the Tree Management Bylaw went to Council on September 19 there has been much discussion of the impact the bylaw would have on the development and real estate industry. The CVCS steering committee welcomes this discussion and we would like to offer our perspective on this important topic.

The staff report provided to Council at the September 19 meeting compared the proposed tree bylaw, with a tree density target of 50 stems per hectare to existing bylaws in communities similar to the City of Courtenay:

Jurisdiction	Stems per hectare	Date bylaw established
Township of Langley	72	2006
City of Maple Ridge	40	2015
Chilliwack	50	2009

These communities have experienced rates of growth and development typical of other jurisdictions in the lower mainland and east Vancouver Island after the establishment of their bylaws.

The development and real estate industry is impacted by factors that drive supply and demand like interest rates, state of the economy, in migration and shifting demographics. The impact of a tree bylaw is not going to have an impact on the main economic drivers affecting the industry.

On the other hand, protecting trees will have positive impacts on the community. A healthy and sustainable urban forest provides many community benefits including:

- Lower infrastructure costs and therefore more sustainable property tax rates
- Increased public access to natural amenities
- Cleaner air
- Reduced flooding and cleaner water in urban streams.

Protecting these benefits will help ensure a high quality of life for residents, and in the long run, keep the City a desirable place to live.

Increasingly, the demand for housing is being pushed from retirees and those working in careers where knowledge and skills make them highly mobile. Quality of life choices are bringing these people to the Valley. Retaining and growing the urban forest will help maintain a high quality of life and help sustain the development and real estate industry.

The CVCS steering committee is proposing a tree canopy target of 40% derived from [science and evidence based research](#). We have proposed that a 40% area based target should be applied to new and future developments of greenfield sites. Under current regulations retention of the existing tree canopy in greenfield developments varies from site to site. The following table gives four examples from recent developments in the City:

Development	Parcel Size (in hectares)	Area protected by RAR, Park, Covenant	
		Number of hectares	% of Tree Canopy Retained
Morrison Creek Commons	8.15	3.04	37%
Copperfield	10.38	2.6	25%
The Streams	11.5	4.2	38%
Chris Gage's property (end of Arden Rd)	7.0	4.5	64%

This table shows that development occurs on greenfield sites where tree retention rates vary from 25% to 64%. In these examples tree retention was achieved through Riparian Area Regulations, park dedication and other means. This shows that retaining 40% tree canopy on greenfield sites is both reasonable and doable. In greenfield developments, where RAR and park dedication did not apply, tree retention, in some cases was less than 10%. A tree bylaw with an area based 40% minimum target would ensure that all greenfield developments contribute to tree retention and the protection of our urban forest.

The CVCS steering committee encourages Council to take a forward looking position and support a robust tree bylaw that ensures residents' quality of life and protection of the City's urban forest.

On behalf of the CVCS Steering Committee,

David Stapley,
Program Manager
Comox Valley Conservation Strategy Community Partnership
250-897-1271

Cc: CVCS Steering Committee; CAO David Allen.



THE CORPORATION OF THE CITY OF COURTENAY

MEMORANDUM

To: Council
From: Chief Administrative Officer
Subject: 5th Street Complete Streets Pilot Project – Public Engagement

File No.: 8620-01; 16009

Date: October 19, 2016

ISSUE:

This Memorandum is to update Council on the upcoming public and stakeholder engagement process for the 5th Street Complete Streets Pilot Project.

BACKGROUND:

At the October 3, 2016 Regular Council Meeting, Council directed staff to continue with the second phase of public engagement based on all presented design options as described in the staff report *Complete Street Pilot Project – Cross Section Options and Public Engagement Next Steps (Presentation by Urban Systems Ltd.)*.

KEY CONSIDERATIONS:

Staff have organized and prepared for a public information session, an online survey, and direct engagement with property owners adjacent to the project area. Public engagement is described in the table below.

Event	Date	Activity
Public Information Session #2	October 26, 2016 4:00 to 7:00 PM Courtenay City Hall - Council Chambers	Information Session with display boards to show results from the Public Information Session in May 2016, to discuss trade-offs, including parking priorities, and to display the five cross-section options, plus option 4a, complete with images and representative pictures. Interactive displays and a survey will be used to collect input.
On-line Public Consultation	October 27 to November 10, 2016	Complete Streets and 5th Street corridor information posted on the City of Courtenay website with opportunity to provide feedback.
Adjacent Property Owners	October 27 to November 10, 2016	Display boards and a hard copy of the online survey will be hand delivered with a self-addressed stamped envelope. Adjacent property owners will be specifically asked about their parking needs.

Prepared by:

Lesley Hatch, P.Eng.
Director of Engineering Services

Minutes of a City of Courtenay Heritage Advisory Commission meeting held September 28, 2016 at 10:00 a.m. at the City of Courtenay.

*FOR
info*

Present: C. Piercy J. Hagen J. Fortin D. Griffiths R. Dingwall.
A. Ireson R. Smith
Staff: E. Ferguson

Absent: L. Burns L. Grant

MINUTES

Moved by D. Griffiths and seconded by J. Hagen that the June 22, 2016 minutes be adopted.

Carried

OLD BUSINESS

40 HOUSES

Erin provided an update. \$1345 is left in the budget; more information will be brought to the October meeting. Next steps are obtaining quote for plaque. L. Burns to coordinate with City staff.

MEMORIAL CAIRNS PROJECT

Judy reported that the commission's contribution to the project is complete.

FIFTH STREET

a) Erin reported on the Downtown Action Plan that Council has adopted. She reported extensively on facets of the plan and how it relates to heritage. One of the projects will be looking at infill potential for neighbourhoods near downtown. Information on the Plan is available online under "community" on the City website. Positive comments from the commission!

b) Erin talked about writing to Council re: heritage conservation strategy planning funding in downtown revitalization/infill plan.

c) Julie reported on her conversation with Janice Roberts of the ICF, who told her that any improvements to the exterior of the freight depot on 5th Street will always be at the expense of the tenant, not the ICF.

**COMMERCIAL BUILDING
INVENTORY WORKSHOPS**

Workshops were held over the summer to gather information for a downtown business historical inventory. Andrew described a plan to have a binder with pictures and historical info. about each building, based on group and individual research. Erin offered her digital recorder to the museum to aid in this. Ross mentioned the Comox Valley History Facebook page as a source for pictures, and to solicit information. Taking the information gathered to the Cumberland Heritage Faire in February was mentioned. Next workshop October 12.

MUSEUM REPORT

Deb had a question about the McConachie's building to start. She reported on meeting with Rotary and ICF re: Parks Canada and completing the renovation of the exterior of the Train Station.

The museum Facebook page is adding images from Watershed Moments.

The Museum is working on a Canada 150 exhibit now.

The Capes Escape roof crowdfunding project reached \$5000 in 6 weeks – the roof is now on.

The Dairy Assn. wants to enter the Creamery booklet on its website.

The wayfinding sign near the museum during the recent IT conference was very welcome – evidence of revitalization is visible downtown.

NEW BUSINESS

TERMS OF REFERENCE

The bylaw governing the commission needs updating. Erin reviewed the "Duties of the Commission" section. Commission had question re: raising funds. "Heritage program at a glance" was discussed providing an overview of the current Heritage Program for City of Courtenay.

WORK PLAN 2016/2017

The work plan will be discussed at the next meeting including priority projects and estimated budget. Importance to have this information available to focus efforts and budget requests.

FOR YOUR INFORMATION

DEMO PERMIT

Demolition permit submitted for 115 Douglas Place. Bank is unstable. Property is listed on the Heritage Inventory but not the Heritage Register.

HERITAGE WEBINARS

Erin reported on webinar series available through Heritage BC. If there is interest from the Commission Members, the City can host the webinar. Upcoming topics include: Heritage Basics, September 30; Heritage Legislation in BC, Friday November 4; Heritage Conservation Areas in BC, December 2

NEXT MEETING

October 26, 2016 at 10am.

ADJOURNMENT at 11.35am.

Lawrence B. Bunn
Chair

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2860

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. 2860, 2016**”.
2. That “Zoning Bylaw No. 2500, 2007” be hereby amended as follows:
 - (a) by amending Section 8.2.1(6) adding “(g) notwithstanding the required lot size stated in (e), a secondary residence is permitted on Lots 9 and 10, District Lot 127, Comox District, Plan 1951”, as shown in bold outline on **Attachment A** which is attached hereto and forms part of this bylaw;

3. This bylaw shall come into effect upon final adoption hereof.

Read a first time this _____ day of _____, 2016

Read a second time this _____ day of _____, 2016

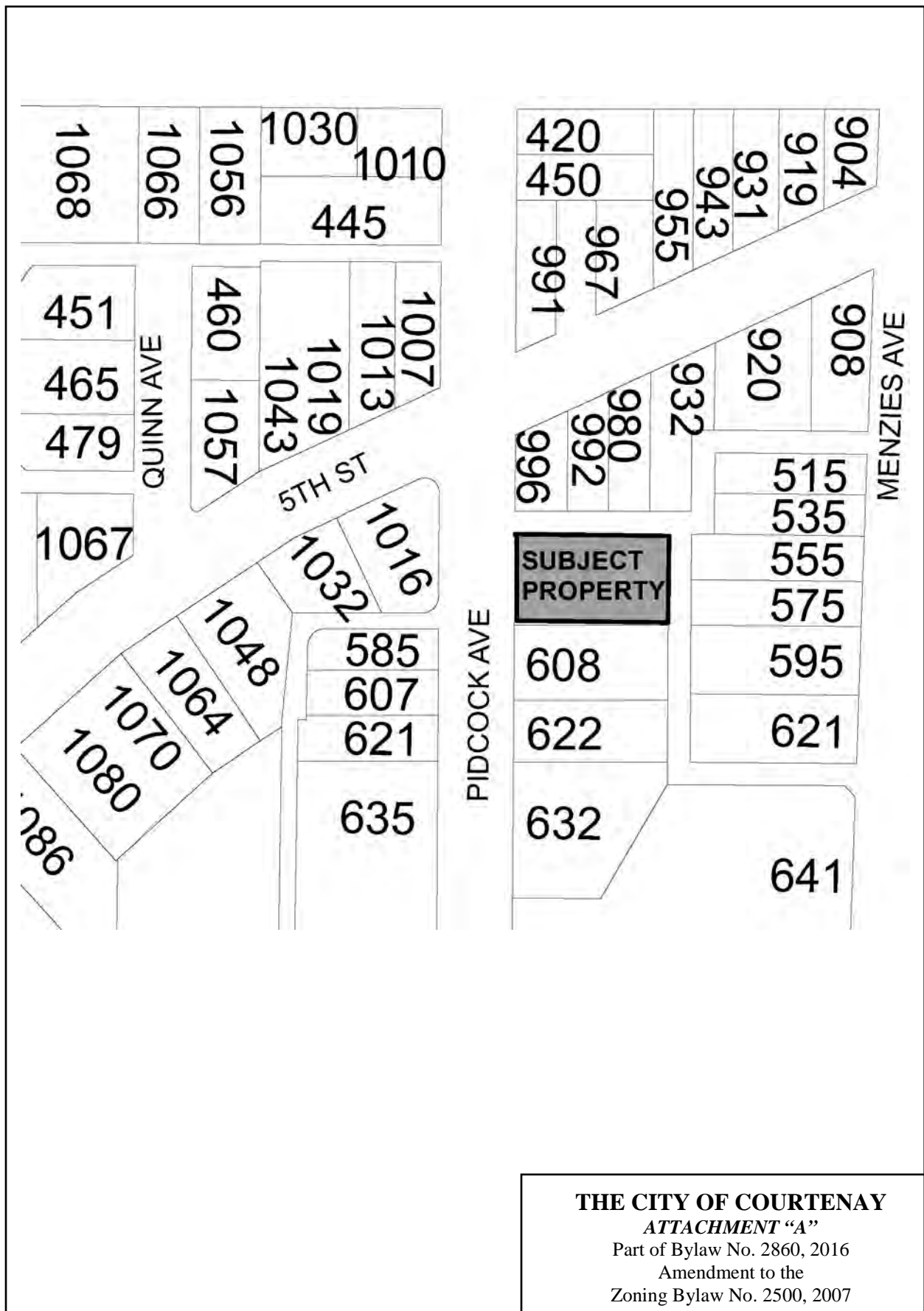
Considered at a Public Hearing this day of , 2016

Read a third time this _____ day of _____, 2016

Finally passed and adopted this day of , 2016

Mayor

Director of Legislative Services



THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2861

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. 2861, 2016**”.
2. That “Zoning Bylaw No. 2500, 2007” be hereby amended as follows:
 - (a) by rezoning Lot B, Section 17, Comox District, Plan 20278 (2945 Muir Road), as shown in bold outline on **Attachment A** which is attached hereto and forms part of this bylaw, from Rural Residential Two Zone (RR-2) to Rural Residential Two S Zone (RR-2S); 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 _____ day of _____, 2016

Read a second time this _____ day of _____, 2016

Considered at a Public Hearing this day of , 2016

Read a third time this _____ day of _____, 2016

Finally passed and adopted this day of , 2016

Mayor

Director of Legislative Services

THE CORPORATION OF THE CITY OF COURTENAY
BYLAW NO. 2850
A bylaw to regulate injury and removal of protected trees and
to require trees associated with private developments within
the City of Courtenay

WHEREAS the City Council may, by Bylaw, exercise certain powers within the City, to require planting of trees, to regulate cutting and removal of trees and to require their replacement;

AND WHEREAS trees provide a variety of individual and community wide benefits such as: stormwater and rainwater management, carbon absorption, air quality, heating and cooling benefits, aesthetic, quality of life and health benefits;

AND WHEREAS the City considers it in the public interest to provide for the protection, preservation, regulation and replacement of a target density of trees on all properties;

AND WHEREAS the City considers it in the public interest to provide for the protection of protected species;

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

1. CITATION

This Bylaw may be cited for all purposes as “Tree Protection and Management Bylaw No. 2850, 2016”

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3. DEFINITIONS

“**Arborist**” means

- a) a person certified as an arborist by the International Society of Arboriculture (ISA); or
- b) a person certified as a Tree Care Specialist by the Tree Care Industry Association (TCIA);
- c) a person certified under subsections (a) and (b) and advising on a ***hazard tree*** that is a ***protected species*** or is growing within a ***Riparian Assessment Area*** or other ***Environmentally Sensitive Area***, who holds the “Certified Tree Risk Assessor Qualification” as defined by the ISA;

"**Barrier**" means a device including a fence, guard, frame or any other conspicuous marker which is placed on, around, or near a tree to indicate that the tree trunk, roots or branches are not to be cut, removed or damaged;

"**City**" means, as the context requires, the Corporation of the City of Courtenay or the area within the boundaries of the City of Courtenay;

"**Council**" means the Council of the Corporation of the City of Courtenay;

“**Crown**” means the foliage bearing section of a ***tree*** formed by its branches but does not include the stem or trunk of a ***tree***;

“**Damage**” means to take any action that may impact or result in damaging the health or structural integrity of a ***tree***;

“**Decline**” means a tree that exhibits signs of a lack of vitality such as reduced leaf size, colour or density;

“**Development**” includes the following activities:

- a) Removal, alteration, disruption, or destruction of vegetation;
- b) Removal, deposit or disturbance of soils;
- c) Construction, erection, or alteration of buildings and structures;
- d) Creation of non-structural impervious or semi-pervious surfaces;
- e) Preparation for or construction of roads, trails, docks and bridges;
- f) Provision and maintenance of sewer and water services;
- g) Development of drainage systems;
- h) Development of utility corridors;
- i) Flood protection; and
- j) Subdivision.

“Development application” means an application to the City for approval to conduct any *development* including but not limited to applications for rezoning, development permit, development variance permit, demolition and building permits;

“Diameter at Breast Height (D.B.H.)” means:

- a) for a single-stemmed tree:
 - i. the diameter of a *tree* measured at 1.4 meters above the highest point of the natural *grade* of the ground from the base of a *tree*;
- b) for a multi-stemmed tree:
 - i. the *D.B.H.* is equal to the cumulative total of the *D.B.H.* of each stem;

“Director” means the City’s Director of Development Services or Manager of Planning;

“Drip line” means the small roots of a *tree* located within a circle on the ground around a *tree* directly under the tips of the outermost branches of the canopy of the *tree*;

“Emergency tree removal” means a tree that is dead, diseased, damaged or otherwise constitutes an imminent physical hazard to persons or property;

“Environmentally Sensitive Area (ESA)” includes:

- a) Watercourses including the sea, ponds, lakes, rivers, streams, natural drainage courses and wetlands;
- b) Riparian and wildlife habitat;
- c) Significant geographical features outlined in the Environmental Development Permit Areas Map #6 and ESA descriptions contained within the City of Courtenay’s Official Community Plan;

“Fill” means earth, sand, gravel, rubble, rubbish, garbage or any other material whether similar to or different from any of these materials, originating on the site or elsewhere, used or capable of being used to raise, lower, or in any way affect the contours of the ground;

“Grade” means a defined elevation of land that has been established as a result of geologic, hydrologic, or other natural processes or by human alteration;

“Greenfield” means undeveloped real property that is greater than 4000 meters in size (approximately 1 acre) and contains vegetation that has been left to evolve naturally;

“Hazardous or hazard” means a *tree* with a structural defect or changed stand conditions, which may result in property damage, personal injury or death;

“Infill” means real property that is less than 4000 square meters in size (approximately 1 acre);

“Invasive species” means non-native plants, animals and micro-organisms that colonize and take over the habitats of native species;

“Maintenance” means the care and maintenance of trees in accordance with *sound arboricultural practice* and includes planting, inspection, pruning, cabling and bracing, treatments for insect and disease problems, watering and fertilization including mulching;

“Native” means a *tree* species that occurs naturally in the *City*, and occurred prior to European contact;

“Net developable hectare” means the land area, measured in hectares, available for *development* but does not include public highways, utilities or structures and the allocation of lands for public parks, landscaping and *ESAs*, and other public works required to service lands;

“Photo documentation” means three photos of a *tree* including a picture of the whole *tree*, a picture of the defective part, and a picture of the area at a distance, including if possible, any nearby structures;

“Protected species” means:

- a) Garry Oak (*Quercus garryana*);
- b) Pacific Dogwood (*Cornus nuttallii*);
- c) Western White Pine (*Pinus monticola*);
- d) Pacific Yew (*Taxus brevifolia*);
- e) Trembling Aspen (*Populus tremuloides*);
- f) Arbutus (*Arbutus menziesii*).

“Protected tree” means

- a) a *public tree*;
- b) a *tree* of any size within a:
 - i. *Riparian Assessment Area*; or
 - ii. *Environmentally Sensitive Area (ESA)*.
- c) a *tree* of any size on sloping terrain having a *grade* equal to or greater than 30%;
- d) a tree planted or *retained* as a requirement of a subdivision application, development permit, development variance permit, building permit demolition permit, or *Tree Cutting Permit*;
- e) a *protected species* over 0.5 meters in height;
- f) *trees* protected by a restrictive covenant registered on title pursuant to section 219 of the *Land Title Act*;

“Prune” means the removal of not more than one-third of the live branches or limbs of a tree or not more than one-third of the live branches or limbs on a tree as part of a consistent annual pruning program and in accordance with *sound arboricultural practice*;

“Public tree” means a *tree* of any size on land owned by or in the possession of the *City*, including, without limitation, a *tree* in a park or on a highway, boulevard, road or lane allowance;

“Ravine” means a narrow, steep-sided valley that is commonly eroded by running water and has a slope *grade* greater than 3:1;

“Remove” means to entirely sever the main stem of a *tree* or to fell a *tree*;

“Replacement tree” means a *tree* planted on a parcel in accordance with section 10 of this bylaw to replace *trees* cut, *removed* or *damaged* on the same parcel or to achieve the *tree density target* including in instances where there are no or few trees on a parcel

“Retained tree” means a tree not to be cut, *removed* or *damaged*;

“Riparian Assessment Area” means:

- a) for a *stream*, the 30 meter strip on both sides of the stream, measured from the riparian area high water mark;
- b) for a *ravine* less than 60 meters wide, a strip on both sides of the stream measured from the riparian area high water mark to a point that is 30 meters beyond the top of the *ravine* bank; and

- c) for a *ravine* 60 meters wide or greater, a strip on both sides of the stream measured from the riparian area high water mark to a point that is 10 meters beyond the top of the *ravine* bank;

“Root protection area” means the area of land surrounding the trunk of a *tree* that contains the bulk of the critical root system of the *tree*, as defined on a plan prepared by an *Arborist* approved by the *Director*;

“Sound arboricultural practice” means in accordance with American National Standards Institute (ANSI) Publication, A300-Tree Care Operations and the companion Best Management Practices Series of the International Society of Arboriculture (ISA);

“Stream” means any of the following that provides fish habitat:

- a) a watercourse, whether it contains water or not;
- b) a pond, lake, river, creek or brook; or
- c) a ditch, spring or wetland that is connected by surface flow to something referred to in subsection (a) or (b);

“Top” or **“Topping”** means the removal of large portions of the *crown* of a *tree*, including, but not limited to the making of horizontal cuts through the stems of a *tree*;

“Tree” means any species of woody perennial plant having one dominant trunk and a mature height greater than five (5) meters;

“Tree Cutting Permit” means the written authority granted by the *Director* pursuant to this Bylaw to cut or remove a *tree*;

“Tree damaging activities” means to take any action that may cause a *tree* to die or *decline*, including:

- a) cutting or damaging the roots of a *tree* growing inside the *root protection area*;
- b) placing *fill*, building materials, asphalt or a building or structure upon land inside the *root protection area* of a *tree*;
- c) operating or parking vehicles including trucks, backhoes, excavators or other heavy equipment over the roots of a *tree* growing inside the *root protection area*;
- d) denting, defacing, gouging or damaging the trunk of a *tree*;
- e) removing bark from a *tree*;
- f) depositing concrete washout or other toxins, liquid or chemical substances harmful to the health of a *tree* on land inside the *root protection area* of the *tree*;
- g) removing soil and/or native understory vegetation from land inside the *root protection area* of a *tree* or compacting soil within the *root protection area*;
- h) blasting inside the *root protection area* of a tree or outside the *root protection area* so as to *damage* roots or disturb soil inside the *root protection area*;
- i) undermining the roots of a *tree* growing inside the *root protection area*;
- j) altering the ground water or surface water level within the *root protection area* of a *tree*;
- k) *topping* a tree or *pruning* the *crown* in excess of one-third of the *tree*;
- l) affix or hang materials from a *tree* that may harm the *tree*; or
- m) girdling, ringing, poisoning, or burning a *tree*.

“**Tree density target**” means 50 *trees* per *net developable hectare*;

“**Tree Planting and Replacement Reserve Fund**” means the fund set aside for the purpose of planting *trees* in locations within the City of Courtenay other than where the lot where the tree has been injured or destroyed by *tree damaging activities*.

4. BYLAW PURPOSE

4.1 This Bylaw is enacted for the purposes of:

- a. regulating the cutting and *removal* of *trees*;
- b. regulating the protection of *retained trees* during *development*;
- c. setting forth expectations regarding the treatment of *trees* that are regulated under this Bylaw;
- d. requiring that *tree* retention and/or planting targets (measured as a *tree density target*) be achieved.

4.2 The Bylaw is not contemplated nor intended, nor does the purpose of this Bylaw extend:

- a. to the protection of any person from injury or damage to property or economic loss as a result of the cutting or *removal* of *trees*;
- b. to the assumption by the *City* or any employee of any responsibility or duty of care for ensuring that the cutting of one or more *trees* will not result in injury to any person or danger to any property from erosion, flooding, landslip or other damage;
- c. to assuming liability of a property owner for any damage arising from nuisance or negligence arising from *tree* cutting carried out on the owner’s property.

5. BYLAW APPLICATION

5.1 This Bylaw applies to all properties within the *City* and to all *protected trees*.

5.2 A *Tree Cutting Permit* is required to be obtained prior to any *tree* over 20cm *Diameter at Breast Height* or *protected tree* being *removed* in the following circumstances:

- a. on any *greenfield property*;
- b. on any *infill* property where the *removal* of said *trees* will result in the *tree density target* not being achieved for that property;

5.3 A *Tree Cutting Permit* is required to be obtained prior to any limb or branch that is equal to or greater than 10 centimeter diameter being cut from any *protected species*;

5.4 For *emergency tree removal* a person must submit an application for a *Tree Cutting Permit* within 24 hours of the date of removal, or in the case of a *removal* which takes place on a weekend or statutory holiday, on the next business day after *removal*, and provide *photo documentation* of the *tree* prior to its *removal* with the application.

5.5 When a *Tree Cutting Permit* application is submitted in relation to a *development application*, the *Tree Cutting Permit* shall not be issued until approval has been obtained from the City for the *development application*, unless the *Director* otherwise waives this requirement.

6. PROHIBITED ACTIVITIES

- 6.1 No person shall cut, **remove** or carry out any **tree damaging activities** on a **protected tree** or any **tree** required to be retained to achieve the **tree density target** prior to obtaining a **Tree Cutting Permit** or contrary to the terms and conditions of a **Tree Cutting Permit** issued under this Bylaw.
- 6.2 When the **City** is investigating a bylaw infraction under this Bylaw, no person shall remove the remains of a **tree** until after the investigation by the **City** is complete.

7. BYLAW EXEMPTIONS AND TREE CUTTING PERMIT EXEMPTIONS

- 7.1 This Bylaw does not apply to:
- a. **pruning** of **trees** other than **protected species** in accordance with **good arboricultural practice**;
 - b. regular landscape maintenance such as lawn mowing providing such activities are not **tree damaging activities**;
 - c. where the **Director** or an **Arborist** certifies in writing to the **City** prior to removal that in his or her opinion a **tree** is impairing, interfering with, or presents a risk or hazard to the operation of sewers, drains, water lines, septic fields, electrical lines, poles or other similar equipment and appurtenances and that the impairment, interference or risk cannot be reduced or removed in any way other than the **removal** of the **tree**;
 - d. **trees** that are part of plantations for the purposes of an orchard, nursery, or tree farm;
 - e. the cutting and **removal** of **trees** by a British Columbia Land Surveyor when cutting survey lines of a width of less than 2 meters, unless the **tree** is a **protected tree**;
 - f. **tree** cutting or **removal** that is undertaken by a utility, on land owned or held by the utility, and done for the purpose of safety, maintenance or operation of the utility's infrastructure;
 - g. land and the **trees** on it if forestry practices on the land are governed by a tree farm licence, permit, or other authority or tenure under the *Forest Act*; or
 - h. land and **trees** on it if section 21 of the *Private Managed Forest Land Act* applies to the land.
- 7.2 A **Tree Cutting Permit** is not required on an **infill** property when **tree removal** will not result in the number of **trees** retained on the property falling below the required **tree density target** for that property, provided that the **trees** being **removed** are not:
- a. a **protected tree**; and
 - b. the landowner ensures that **retained trees** are protected from **tree damaging activities**.

8. TREE REMOVAL, PROTECTION AND MANAGEMENT CONDITIONS

- 8.1 A person performing **development** on lands containing one or more **retained trees**, where a **Tree Cutting Permit** is required, shall:
- a. ensure that no **development** occurs within the **root protection area**;
 - b. place and maintain a temporary tree protection **barrier** around any **retained tree** or group of **retained trees** in accordance with Schedule B;

- c. provide the **City** with proof of the **barrier** prior to disturbance occurring around the **retained tree** in the form of a photo, **Arborist** statement, or as otherwise stated in a **Tree Cutting Permit**;
 - d. ensure that no **development** occurs within the **root protection area** except in accordance with the terms and conditions of a **Tree Cutting Permit**;
 - e. display the **Tree Cutting Permit** in an accessible, visible location on the parcel to which it pertains;
 - f. comply with all other local, provincial and federal laws.
- 8.2 In connection with the issuance of a **Tree Cutting Permit**, the **Director** may impose additional conditions to those listed in Section 8.1, including, without limitation, any or all of the following:
- a. identify with a flag, paint, survey tape or other adequate means each **tree** to be **removed or retained**;
 - b. retain an **Arborist** to supervise, monitor or report on any **development**, including site visit requirements:
 - i at critical phases of construction and/or at regular intervals in the construction schedule;
 - ii at the time of **tree replacement**;
 - iii to monitor tree adaptations to changes in their environment caused by the **development**;
 - iv to advise on the creation of **hazardous** conditions;
 - v to advise on **maintenance** requirements where such a condition is stipulated; and
 - vi to confirm the successful establishment of a replanted **tree** prior to release of securities held for that **tree**;
 - c. provide monitoring securities for an **Arborist** or Registered Professional Biologist as determined by the **Director**, in the amount of 125% of an estimate or quote of the cost of monitoring works required to ensure that the mitigation conditions of the **Tree Cutting Permit** are completed;
 - d. ensure that no sediments migrate off site or into watercourses or drainage ditches;
 - e. confirmation that the proposed **development** is consistent with **City** bylaws, and provincial and federal laws;
 - f. treat diseased **trees** and those in **decline**, in accordance with **good arboricultural practice**;
 - g. salvage and use small **trees** as part of a replanting plan, or to achieve the **tree density target**;
 - h. remove and dispose of **invasive species** growing on the tree or within the **dripline** in a responsible manner;
 - i. plant **replacement trees** in accordance with Schedule A, maintain **replacement trees**, for a stipulated length of time, and implement **maintenance** measures such as watering, fertilization, or mulching in accordance with the specified frequency;

- j. remit a protection security of \$1000 per *protected species* when constructing works that may cause *tree damaging activities* to a *protected species*;
 - k. notify adjacent properties of a *tree* removal;
 - l. provide a written statement from an *Arborist* stating that the scheduled *tree* removal is unlikely to create *hazardous* conditions to adjacent *trees*, including on adjacent properties;
 - m. submit a post-construction *Arborist* report following construction activities;
 - n. submit a communication plan to ensure that all parties working on the site are aware of the *Tree Cutting Permit* requirements;
 - o. restrictions on timing of removal given sensitivities to bird nesting, fish or sediment and erosion control;
 - p. keep stumps and roots of cut *trees* in place to ensure slope stability or mitigation against erosion where recommended by a geotechnical engineer;
 - q. cut or modify a *tree* so as to retain wildlife habitat, subject to written confirmation from the *Arborist* that doing so will not create a *hazard*;
 - r. where recommended by the *Arborist*, require that *crown* clearing occur prior to construction to reduce risk of branch failures and risk to workers.
- 8.3 The authorization to cut or *remove trees* shall expire within one year after the date of issuance of a *Tree Cutting Permit*, after which time a new application must be submitted.

9. TREE DENSITY TARGET

9.1 The *tree density target* may be achieved:

- a. for an *infill* property,
 - i. by counting any *tree* that is larger than 2 centimeters *D.B.H.* and 2 meters in height, that is already growing on the *infill property* and is not an *invasive species*;
 - ii. by planting a *replacement tree*; or
 - iii. by paying \$300 into the *Tree Planting and Replacement Reserve Fund* for each *tree* that is to contribute towards the *tree density target*;
- b. for a *greenfield* property,
 - i. by retaining *native trees* that are each a minimum of 20 centimeters *D.B.H.*; or
 - ii. by replanting *replacement trees* at a ratio of 3:1 for each *tree* removed below the *tree density target* of 50 trees per *net developable hectare*;
 - a. where this subsection applies, up to a maximum of half of the number of *trees* required to achieve the *tree density target* may be achieved with *replacement trees* which may also include retaining naturally growing *trees* smaller than 20 centimeters *D.B.H.* provided said *trees* are not an *invasive* species, red alder or cottonwood trees;
 - b. where this subsection applies, up to a maximum of half of the *replacement trees* may be achieved by paying \$300 into the *Tree*

Planting and Replacement Reserve Fund for each *tree* that is to contribute to the *tree density target*;

- c. under extenuating circumstances where retention of *trees* required under this section prevents development to permitted densities, the *Director* shall have discretion in determining the number of *retained* and *replacement trees*.
 - iii. where *trees* described in subsection (b)(i) do not exist, the *tree density target* may be achieved by planting *replacement trees* or retaining naturally growing trees smaller than 20 centimeters *D.B.H.* provided said *trees* are not an *invasive species*, red alder or cottonwood trees;
 - c. *retained trees* shall be achieved in clusters and/or corridor configurations where practical with consideration given to adjacency to publically owned lands;
- 9.2 A *tree* must be in good health and must not be dead, *hazardous* or in *decline* in order to be counted towards the *tree density target*. Red alder and cottonwood *trees* shall not be counted towards the *tree density target*.

10. REPLACEMENT TREES, SECURITY BONDS AND TREE PLANTING AND REPLACEMENT RESERVE FUNDS

- 10.1 Where the *Director* has issued a *Tree Cutting Permit*, the following replacement formulas shall be followed, subject to subsections (b) through (d):
- a. the *net developable area* shall achieve the *tree density target*;
 - b. if the *tree removed* is *hazardous*, one *replacement tree* shall be required for every *tree removed*;
 - c. notwithstanding section 10.1.b, if the *tree removed* is *hazardous* and is growing within *Environmentally Sensitive Areas*, three replacements of *native* species shall be required for every *tree removed*;
 - d. for the removal of a *protected species* three replacements of the same species shall be required for every *tree removed*, including *hazardous trees*.
- 10.2 Subject to section 10.1, where the planting and *maintenance* of a *replacement tree* is required pursuant to this Bylaw, the owner shall provide to the *City* security in the amount of \$300 for each *tree* to be planted and maintained.
- 10.3 Where the *replacement trees* are part of the overall private landscaping program required under a development permit, development variance permit, subdivision, or other development agreement, the security is to be in the amount specified in the approved landscape cost estimate associated with said permit, and only that amount.
- 10.4 The security in section 10.2 may be submitted in the form of cash, cheque or irrevocable letter of credit, bank draft or in a form satisfactory to the *Director*.
- 10.5 *Replacement trees* must be planted in accordance with the condition and planting criteria set out in Schedule A.
- 10.6 Where a person is required by this Bylaw to plant a *replacement tree* on a parcel and the parcel has been subdivided since the act giving rise to the requirement was committed or the *Tree Cutting Permit* was issued, as the case may be, the *replacement tree* may be planted on either parcel.

- 10.7 Full security for each **replacement tree** held by the **City** will, upon application by the owner, be returned to the permit holder one year from the date of planting, upon approval by the **Director** that each **replacement tree** remains in a healthy condition and subject to a written report by an **Arborist** statement to confirm the health of the **tree** as may be reasonably required from the **Director**.
- 10.8 If the owner fails to or refuses to plant the required number, size and type of **replacement trees** in the specified locations within one year after receiving written direction from the **Director** to do so or after a planting date as otherwise agreed upon, the **City** may deposit the securities in the **Tree Planting and Replacement Reserve Fund**.
- 10.9 **Tree replacement** fees paid into the **Tree Planting and Replacement Reserve Fund** are to be held and used by the **City** for replanting on other lands to be determined in accordance with City policies.
- 10.10 Where a protection security is required, the protection security shall not be released until all works that may cause **tree damaging activities** have ceased and an **Arborist** confirms in writing that the **tree** has not experienced any **tree damaging activities**.

11. TREE PERMIT APPLICATION AND FEES

- 11.1 An application for a **Tree Cutting Permit** shall include the following information:
 - a. completed application for **Tree Cutting Permit** on the form approved by the **Director**, signed by the registered owner(s) or by the owner's agent who is authorized in writing to act on behalf of the owner in relation to the application;
 - b. written consent from the adjacent property owner where the stem of a **tree** at ground level is growing over the applicant's property line;
 - c. title search dated no more than five business days prior to the date of the application;
 - d. site plan showing all of the following, where applicable:
 - i. **Environmentally Sensitive Areas** (ESAs);
 - ii. property lines;
 - iii. location of the **tree(s)** on site to be **removed** and **retained**, including the **root protection areas** for **retained trees**;
 - iv. existing and proposed buildings, structures, septic fields, servicing including power poles;
 - v. topographic and hydrological features including drainage patterns;
 - vi. on-site access points for vehicles, including sufficient access for tree removal equipment;
 - vii. vehicle parking area and washout areas for concrete trucks;
 - viii. existing and proposed landscaped areas;
 - ix. existing and proposed utility corridors;
 - e. description of the proposed **development** and rationale for **development**, including steps taken to preserve existing **trees** as part of the overall **development** plan of the site;
 - f. an **Arborist** report including the following information:

- i. statement of number of **protected trees** and **trees** over 20 centimeters **D.B.H.** on the property to be described by outlining the:
- ii. inventoried number of stems, species and size where there are fewer than 100 **trees** on the property; or
- iii. approximate number of stems per hectare and species composition based on ISA accepted standards.
- iv. statement of number of **retained trees** on the property following the requested removal;
- v. narrative describing why the proposed **retained trees** are selected, and if management actions are required to promote their long term health;
- vi. confirmation that the **retained trees** are not **hazardous**;
- vii. description of the cutting and/or removal methods to be used, how the site will be accessed and the tree protection measures that shall be used to protect any retained **trees**;
- g. statement that topographic, grading and/or hydrological changes will not negatively impact the retained **trees** with input provided by an appropriate qualified professional;
- h. a detailed tree survey prepared by a registered BC Land Surveyor to indicate proposed **tree retention** and **replacement** areas that require restrictive covenants; and
- i. application fee as determined by the *City of Courtenay Fees and Charges Bylaw No. 1673, 1992*.

11.2 In addition to section 11.1, the following information may also be required by the **Director**:

- a. for **greenfield** sites, a statement of the number of **retained trees** for **trees** greater than 20 cm **DBH** following the proposed **development**;
- b. for **development applications** and **greenfield sites**:
 - i. grading changes including existing topographic elevations and proposed conceptual elevations for major **development** components;
 - ii. proposed final site grading within 10 meters of all proposed **retained trees**.
- c. a proposed replanting plan prepared by a landscape architect or **Arborist** indicating the location, species, size, and class of **trees(s)** or vegetation to be planted including any pertinent establishment requirements such as watering, fertilizing, and soil preparation;
- d. a copy of applicable federal or provincial approval, if required;
- e. a report by a geotechnical engineer or hydrologist to certify that the proposed cutting or removal will not create an adverse impact on slope stability or the drainage network;
- f. when removing trees in **Environmentally Sensitive Areas**, a report from a Registered Professional Biologist may be required to confirm that **tree** removal activities will not negatively impact the **Environmentally Sensitive Area**, including wildlife.

11.3 The following conditions apply to the **Arborist** report provided pursuant to section 11.1(f):

- a. the report shall be valid for a maximum of one year from the date of authorship;

- b. a report older than one year will require a covering letter from the original author stating that the conditions and recommendations contained in the original report remain valid;
- c. in the reasonable discretion of the **Director**, an existing **Arborist** report that is less than one year may be required to be reviewed and re-submitted in instances where changes to the **trees** are deemed significant, including any changes to adjacent land uses, adjacent **tree removal**, changes in grading or hydrological changes, or any other changes to or around the **tree**;
- d. where the original **Arborist** report submitted to the **City** is incomplete or inaccurate, the **Director** may retain the services of an independent **Arborist**, or other professional to review an **Arborist** report, or other professional report, and the cost of the independent **Arborist** report shall be paid by the owner prior to the adoption of the related rezoning, subdivision approval, development permit, development variance permit, demolition or building permit approval or the issuance of the related **Tree Cutting Permit**, whichever comes first.

12. REFUSAL TO ISSUE A TREE CUTTING PERMIT

12.1 A **Tree Cutting Permit** shall not be issued by the **Director** where:

- a. an application required under this Bylaw has not been submitted in full or the required fee has not been paid;
- b. information as required by section 11 (Tree Permit Application and Fees) has not been submitted or in the opinion of the **Director** is not satisfactory;
- c. the proposed work would adversely affect slope stability;
- d. the **tree density target** is not achieved; or
- e. the proposed **tree** work would contravene other terms and conditions of a restrictive covenant.

13. INSPECTIONS, ASSESSMENTS AND ORDERS TO COMPLY

- 13.1 The **Director** or person authorized by the **Director** may assess, inspect or cause an inspection to be made of any **tree** to which this Bylaw applies.
- 13.2 For the purposes of any inspection or assessment herein the **Director** may enter onto any land at all reasonable times in accordance with the **Community Charter**.
- 13.3 Where the **Director** is satisfied that a person has contravened any provision of this Bylaw, the **Director** may serve an Order to Comply requiring the person to stop the **tree damaging activities** or removal of **trees** and shall set out the particulars of the contravention including requiring the person to remedy the non-compliance within 30 days or by such other date as deemed reasonable in the circumstances by the **Director**.
- 13.4 The **Director** may revoke a **Tree Cutting Permit** if the terms and conditions of the **Tree Cutting Permit** have been breached or the information supplied by the applicant in support of the **Tree Cutting Permit** is determined to have been inaccurate, incomplete, misleading or erroneous.

14. POST CONSTRUCTION ARBORIST REPORT

- 14.1 The **Director** may require a post-construction **Arborist** report following all construction activities in which the following information may be required:
- a. assessment of **damage** to **retained trees** caused by initial site grading and clearing;
 - b. identify and provide a dollar value of the **retained trees** that have been **damaged** or **removed** using an industry standard tree appraisal method;
 - c. propose a replacement plan indicating the proposed number and type of **replacement trees** of equal or greater dollar value and tree planting locations for the rehabilitation of the disturbed areas. Payment into the **Tree Planting and Replacement Reserve Fund** may be accepted by the **City**. No fewer than four replacement trees for every tree **removed** without a **Tree Cutting Permit** will be accepted; and
 - d. recommend management methods to care for an injured **tree**.
- 14.2 Securities to implement the replacement plan in section 14.1 (c) will be required at 125% of the cost of each **replacement tree**.

15. AUTHORITY

- 15.1 The **Director** may:
- a. issue, revoke, place conditions upon, and refuse to issue a **Tree Cutting Permit** in accordance with this Bylaw;
 - b. retain the services of an independent **Arborist**, or other professional, to review an **Arborist** report, or other professional report, submitted to the **City** under the provisions of this Bylaw, in support of an application for a **Tree Cutting Permit**, in instances where the completeness or accuracy of the report are brought into question through review of the report and field inspection by the **Director**.
 - c. require security under section 8 of this Bylaw prior to issuing a **Tree Cutting Permit**;
 - d. exempt an applicant for the **Tree Cutting Permit** from any the requirements of section 11 (Tree Permit Application and Fees) if the information to be submitted has been otherwise provided to the **City**;
 - e. require the provision of **replacement trees** as set forth in section 10 of this Bylaw, and the **maintenance** of said **trees**;
 - f. charge and collect those fees prescribed in the *City of Courtenay Fees and Charges Bylaw, 1673, 1992* or this Bylaw;
 - g. serve on any person who has not complied with a **Tree Cutting Permit** or a provision of this Bylaw an Order to Comply;
 - h. enforce this Bylaw and issue penalties in accordance with sections 18 and 19 of this Bylaw; and

- i. authorize another member of staff to act on their behalf.

16. APPLICATION FOR RECONSIDERATION

- 16.1 Within 30 days of being notified in writing of the decision of the **Director** under this Bylaw, the applicant may, at no charge, request **Council** to reconsider the decision.
- 16.2 The applicant must give written notice to the Director of Legislative Services and include the following information:
 - a. the applicant's address for receiving correspondence related to the request for reconsideration;
 - b. a copy of the written decision or direction from the **Director**;
 - c. reasons to explain why the decision should be amended or set aside; and
 - d. a copy of any documents which support the applicant's request for reconsideration by **Council**.
- 16.3 The Director of Legislative Services will notify the **Director** of the request(s) for reconsideration and staff shall, prior to the date of the meeting at which the reconsideration will occur, provide a written report to **Council** setting out the rationale for the decision.
- 16.4 The Director of Legislative Services will place the request(s) for reconsideration on the agenda of a meeting of Council to be held as soon as reasonably possible.
- 16.5 The Director of Legislative Services will notify the applicant of the date of the meeting at which reconsideration will occur.
- 16.6 **Council** will review the information provided by the applicant and staff, and either confirm the decision made by staff, vary, or substitute its own decision including terms and conditions as set forth by this Bylaw.
- 16.7 The decision of **Council** on reconsideration is final.

17. DESIGNATION OF BYLAW

- 17.1 This Bylaw is designated under Section 264 of the Community Charter as a bylaw that may be enforced by means of a Municipal Ticket Information in the form prescribed.

18. OFFENCE

- 18.1 Every person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done or omits to do anything required to be done in contravention or in violation of any of the provisions of this Bylaw, is guilty of an offence against this Bylaw and is liable to the penalties hereby imposed, and each day that a violation is permitted to exist or continues shall constitute a separate offence.
- 18.2 When more than one **tree** is cut, **removed** or **damaged** by **tree damaging activities**, or more than one **tree** is not replaced or maintained in accordance with a **Tree Cutting Permit** issued pursuant to this Bylaw, a separate offence is committed in respect of each such **tree**.

19. PENALTY

19.1 A person who commits an offence under this Bylaw is liable to pay a fine of:

- a. up to \$1,000 as established per the City's *Municipal Ticket Information Bylaw 2435, 2006*;
- b. up to \$10,000 as determined by the court pursuant to an *Offence Act* proceeding.

20. GENERAL PROVISIONS

20.1 All Schedules referred to herein form part of this Bylaw:

- a. Replacement Tree Stock and Planting Requirements
- b. Tree Protection Barrier and Signage Specifications
- c. Erosion and Sediment Control Guidelines

21. SEVERANCE

21.1 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.

22. EFFECTIVE DATE

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

23. REPEAL

23.1 "City of Courtenay Tree Management and Protection Bylaw No. 2461, 2006" and all amendments thereto are hereby repealed.

Read a first time this 19th day of September, 2016

Read a second time this 19th day of September, 2016

Read a third time this 7th day of November, 2016

Finally passed and adopted this day of , 2016

Mayor

Director of Legislative Services

SCHEDULE A

TREE PROTECTION AND MANAGEMENT BYLAW NO. 2850, 2016

REPLACEMENT TREE STOCK AND PLANTING REQUIREMENTS

The *City* maintains a list of acceptable ***replacement tree*** species. Where ***replacement trees*** are required to be provided pursuant to section 10 of this Bylaw, such ***replacement trees*** shall be provided and planted as follows:

- (a) ***Replacement trees*** may be the same or different species, with the exception of ***protected tree species***.
- (b) At least half of the total number of ***trees*** on the property, including existing ***retained and replacement trees***, must be ***native*** species, unless the ***trees*** being replaced are located within an ***Environmentally Sensitive Area***, in which case all of the ***replacement trees*** shall be ***native***.
- (c) ***Replacement trees*** must be of a five gallon pot size with the following exceptions:
 - a. Arbutus (*Arbutus menziesii*) may be one gallon pot size;
 - b. Garry Oak (*Quercus garryana*) may be three gallon pot size.
- (d) ***Replacement trees*** shall not be planted:
 - a. within 3 metres of a building foundation wall and within 1 metre of any property line of a lot;
 - b. within 5 metres of an overhead utility line for trees that are a maximum of 5 metres in height, and within 10 metres of an overhead utility line for trees that are a maximum of 12 metres in height;
 - c. within an easement or statutory right of way.
- (e) Every ***replacement tree*** shall be spaced from existing trees and other ***replacement trees*** in accordance with ***good arboriculture practices*** so as to best ensure survival of the replacement and existing trees.
- (f) ***Replacement trees*** must meet the plant condition and structure requirements set out in the latest edition of the BCSLA/BCLNA “B.C. Landscape Standard” and the CNTA “Canadian Standards for Nursery Stock” to be considered acceptable by the ***Director***.
- (g) ***Replacement trees*** shall be planted and maintained in accordance with the requirements set out in the latest edition of the BCSLA/BCLNA “B.C. Landscape Standard”.
- (h) Tree caging will be required in areas prone to deer browsing until the ***tree*** is 6 feet in height.
- (i) ***Replacement trees*** shall be planted during the suitable local planting seasons generally defined as fall (September – November) and spring (February - April). Where planting must occur outside of these time periods, then a strategy for ensuring the ***trees*** are watered (in the summer) or protected from cold weather (in the winter) must be included as part of the ***Tree Cutting Permit*** application.

- (j) The following minimum specifications for topsoil or amended organic soil are required for replanting on a property unless otherwise advised against by the *Arborist*:
- i. organic matter content of 15% dry weight in planting beds and 8% in turf areas;
 - ii. depth of 300 mm for turf;
 - iii. depth of 450 mm for shrubs/trees;
 - iv. depth of 300 mm around and below the root ball of all trees;
 - v. pH from 6.0 to 8.0 or matching that of the original undisturbed soil;
 - vi. subsoils scarified to a depth of minimum 100 mm with some topsoil being incorporated into the subsoil; and
 - vii. planting beds mulched with a minimum of 50 mm of organic materials.

SCHEDULE B

TREE PROTECTION AND MANAGEMENT BYLAW NO. 2850, 2016

TREE PROTECTION BARRIER AND SIGNAGE SPECIFICATIONS

Barrier structure and material:

Tree protection *barriers* should generally be a minimum of 1.2 meters high, and consist of snow fencing or an equivalent, supported by poles at sufficiently close intervals to ensure the integrity of the fence, or supported by wooden frames.

In instances where *development* is not expected to occur near the *root protection area*, poles strung with multiple bands of flagging tape may be sufficient, subject to approval by an *Arborist* and/or the *Director*.

Barrier distance from tree(s):

Tree protection *barriers* must be of a sufficient size to protect the *root protection area* of the tree. The *root protection area* refers to the area of land surrounding the trunk of the tree that contains the bulk of the critical root system of the tree, as defined on a plan prepared by an *Arborist*, that the *Director* reasonably approves.

Barrier protection sign:

Where *retained trees* require protection barriers, a tree protection informational sign in the format provided in this Schedule, must be affixed to the *barrier* at intervals of every 30 metres unless waived as a requirement by the *Director*. The sign must be able to withstand weather conditions for prolonged periods of time.

Barrier duration:

The *barrier* must be in place throughout the entire duration of the *development* activities that are taking place around the *tree* and until written approval of its removal is obtained from the *City*.



Tree Protection Zone (TPZ)

No grade changes, trenching, storage of materials or equipment, liquid disposal, hard surfacing or vehicular traffic are permitted within this area.

The tree protection barrier and sign must not be removed, without authorization of City of Courtenay, Development Services Department. Failure to comply may result in fines.

If you see this sign or protection barriers being tampered with, please report to the number listed below.

For more information call the Development Services Department at 250 334 4441

SCHEDULE C

TREE PROTECTION AND MANAGEMENT BYLAW NO. 2850, 2016

EROSION AND SEDIMENT CONTROL GUIDELINES

Tree Cutting Permit holders are expected to adhere to best management practices (BMPs) including but not limited to the ones outlined below:

- (a) Retain existing vegetation and ground cover where possible;
- (b) Construct ***development site*** access pads 4.5 meters wide at all accesses to site;
- (c) Restrict vehicle access and utilize wheel wash pads at access points;
- (d) Install silt fencing around stockpiles and at the toe of disturbed slopes;
- (e) Completely cover temporary stockpiles or spoiled material with polyethylene or tarps and surround with silt fence;
- (f) Install and maintain filter fabric bags around any catch basins, lawn basins, exposed manholes or any other open storm sewer access points collecting runoff from the ***development site***;
- (g) Divert runoff away from cleared areas by use of low berms;
- (h) Convey surface runoff through swales designed to minimize flow velocity and erosion while maximizing settling;
- (i) As a priority, collect runoff into suitable sediment settling facility or facilities prior to discharge off-site;
- (j) Unless deemed unnecessary by the ***Director***, a sediment pond should be designed, installed and maintained according to the *Land Development Guidelines for the Protection of Aquatic Habitat*;
- (k) Keep all sand, gravel, spoiled material and concrete mix off of all hard and paved surfaces;
- (l) During excavation, holes requiring dewatering should be pumped to a vegetated area or suitable settling facility which will prevent sediment-laden water from accessing the drainage system;
- (m) Regularly sweep roads; and
- (n) Re-vegetate, cover or mulch disturbed areas as soon as practically possible.