



TOWN OF LADYSMITH

A regular meeting of the
Council of the Town of Ladysmith
will be held in Council Chambers at City Hall on

MONDAY, JULY 6, 2009
at 7:00 P.M.

AGENDA

CALL TO ORDER

Page

1 **AGENDA APPROVAL**

2 **EXECUTIVE SESSION (6:00 p.m.)**

In accordance with Section 90(1) of the *Community Charter*, the first section of the meeting will be held In Camera to consider the following items:

- personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- 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;
- the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

3 **RISE AND REPORT**

4 **PUBLIC HEARING**

None.

5 **BYLAWS (OCP / ZONING)**

5.1 Official Community Plan and Zoning Amendment Application 3360-98-01
Official Community Plan Bylaw, 2003, No. 1488, Amendment Bylaw (No. 20), 2008 1656
Zoning Bylaw 1995, No. 1160, Amendment Bylaw (No. 68), 2008, No. 1657
(J. Phillips) – Lot A, District Lot 43, Oyster District, Plan VIP69091
379 Davis Road
Re: Covenant

1 - 7

5.2 Official Community Plan and Zoning Amendment 3360-08-04
Zoning Bylaw 1995, No. 1160 Amendment Bylaw (No. 72), 2008, No. 1684
(M. Huntjens) – Lot 6, DL 139, Oyster District, Plan 7217
1142 Trans Canada Highway
Re: Covenant

8 - 18

6 **MINUTES**

Adoption of following minutes:

- June 15, 2009
- June 30, 2009

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22

7 **DELEGATION**

7.1 Mayor Hutchins
Presentation of Heritage of BC Award to the Ladysmith and District Historical Society for the Ladysmith Town Archives

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7.2	<u>Five Star Cultural Connection Leadership Group Summary of their project “Building Bridges between Communities”</u>	
8	PROCLAMATIONS None	
9	DEVELOPMENT PERMITS / DEVELOPMENT VARIANCE PERMITS	
9.1	<u>Development Variance Permit – DVP 3090-09-03</u> S. Rempel – Lot 3, Block 98, District Lot 56, Oyster District, Plan 703A (230 4 th Avenue)	23 – 27
9.2	<u>Development Permit – DP 3060-09-03</u> TDL Group Corporation (Tim Hortons) & Cape Ventures Inc. – Lot A, District Lot 118, Oyster District, Plan 45624 and Strata Lot2, District lot 118, Oyster District, Strata Plan VIS5873 (2225 and 1111 First Avenue)	28 – 33
10	COUNCIL COMMITTEE REPORTS	
	<u>Mayor R. Hutchins</u> CVRD; Task Force on Emergency Preparedness; Trolley Committee; Early Years Partnership	
	<u>Councillor S. Bastian</u> Advisory Planning Commission; Protective Services Committee; Trolley Committee; Youth Advisory Committee	
	<u>Councillor J. Dashwood</u> Liquid Waste Management Committee	
	<u>Councillor S. Arnett</u> Economic Development Commission; Parks, Recreation & Culture Commission; Chamber of Commerce	
	<u>Councillor D. Paterson</u> Government Services Committee; Celebrations Committee; Festival of Lights	
	<u>Councillor L. Evans</u> Heritage Revitalization Advisory Commission; Community Health Advisory Committee; Social Planning Cowichan	
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	<u>Councillor B. Whittington</u> Vancouver Island Regional Library Board; Advisory Design Panel; Environment Commission	
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14 NEW BUSINESS None.	
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16 QUESTION PERIOD	
ADJOURNMENT	



Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: June 25, 2009
File No: 3360-98-01

Re: COVENANT – JOAN PHILLIPS – 379 DAVIS RD.
Lot A, District Lot 43, Oyster District, Plan VIP 69091

RECOMMENDATION(S):

That Council accepts the covenant prepared by Joan Phillips for rezoning application 3360-98-01 and authorizes the Mayor and Corporate Officer to execute the document.

PURPOSE:

The purpose of this report is to seek Council's agreement to the covenant provided by Joan Phillips.

INTRODUCTION/BACKGROUND:

The covenant would apply to any future redevelopment of the site. The terms of the covenant are that the future developer would pay an amenity of \$1000 for each residential dwelling unit to be constructed on the land.

At its August 5th, 2008 meeting Council passed a motion of support for the terms of the subject land use agreement (covenant).

SCOPE OF WORK:

Covenant registration would be undertaken by the applicant. Once confirmation of covenant registration has been received, the OCP and rezoning bylaws will be provided to Council for consideration of final adoption.

ALTERNATIVES:

That Council provide further input to the draft of the covenant.

FINANCIAL IMPLICATIONS:

None.

LEGAL IMPLICATIONS:

The covenant secures a future developer's commitment to the amenity contribution.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

None.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

None.

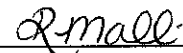
ALIGNMENT WITH STRATEGIC PRIORITIES:

None.

SUMMARY:

Staff recommends acceptance of the attached covenant in relation to rezoning application 3360-98-01.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

Joan Phillips Covenant

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

1244068777 PAGE 1 OF 1 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)
JOAN E. PHILLIPS, NOTARY PUBLIC
PO BOX 1059, 379 DAVIS ROAD
LADYSMITH, BC., V9G 1A7
(250) 245-7127 CLIENT 10274

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
 [PID] [LEGAL DESCRIPTION]
024-551-686 LOT A, DISTRICT LOT 43, OYSTER DISTRICT, PLAN VIP69091

STC? YES

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION
Covenant

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):
HARRY EDWARD PHILLIPS AND JOAN ELIZABETH PHILLIPS

6. TRANSFEREE(S): (including postal address(es) and postal code(s))
TOWN OF LADYSMITH, PO BOX 220, LADYSMITH, V9G 1A2

**BRITISH COLUMBIA
CANADA**

7. ADDITIONAL OR MODIFIED TERMS:

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)

(As to both signatures)

Execution Date		
Y	M	D
09		

Transferor(s) Signature(s)

HARRY EDWARD PHILLIPS

JOAN ELIZABETH PHILLIPS

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 D
EXECUTIONS CONTINUED**

Page 2

Officer Signature(s)	Execution Date Signatures	Transferor/Borrower/Party
_____	yy mm dd	TOWN OF LADYSMITH) by its authorized signatory(s):
		_____ Name:
		_____ Name:

Officer Certification:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, RSBC 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.

WHEREAS:

- A. The Grantor is the registered owner in fee simple of:
PID: 024-551-686
Lot A, District Lot 43, Oyster District, Plan VIP69091
(the "Land")
- B The Grantee is the Town of Ladysmith;
- C. The Grantor has made application to rezone the Land to General Commercial Zoning;
- D. The Grantor has offered to grant this Covenant to be registered against title to the Land pursuant to Section 219 of the *Land Title Act* and the Grantee has agreed to accept this Covenant.

NOW THEREFORE in consideration of the payment of the sum of \$10.00 by the Grantee to the Grantor and the premises and covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree with the other as follows:

- 1. The Grantor covenants and agrees that it shall not:
 - (a) subdivide the Land;
 - (b) Construct any building or structures upon the Land;
 - (c) Take any such proceedings to compel the Grantee to issue a building permit for any such construction;

Unless it has first paid to the credit of the Grantee's Development/Amenity Fund, the sum of ONE THOUSAND DOLLARS (\$1,000.00) for each residential dwelling unit to be constructed on the Land.

- 2. The Grantor and the Grantee agree that the enforcement of this Agreement shall be entirely within the discretion of the Grantee and the execution and registration of this covenant against the title to the Land shall not be interpreted as creating any duty on the part of the Grantee to the Grantor or to any other person to enforce any provision or the breach of any provision of this Agreement.

3. Nothing contained or implied herein shall prejudice or affect the rights and powers of the Grantee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if the Agreement had not been executed and delivered by the Grantor.
4. The Grantor hereby releases and forever discharges the Grantee, its officers, employees and agents of and from any claim cause of action, suit, demand expenses, costs and expenses and legal fees whatsoever which the Grantor can or may have against the said Grantee for any loss or damage or injury, including economic loss or deprivation, that the Grantor may sustain or suffer arising out of this Agreement, or the limitations on the use of the Lands resulting from this Agreement.
5. The Grantor covenants and agrees to indemnify and save harmless the Grantee, its officers, employees and agents, from any and all claims, causes of action, suits, demands, costs and expenses, and legal fees whatsoever that anyone might have as owner, occupier or user of the Land, or by a person who has an interest in or comes onto the Land, or by anyone who suffers loss or injury including economic loss, or loss or damage to his person or property, that arises out of this Agreement or the limitations on the use of the Land resulting from this Agreement.
6. It is mutually understood, acknowledged and agreed by the parties hereto that the Grantee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Grantor other than those contained in this Agreement.
7. This Agreement shall be registered as a first charge against the Land and the Grantor agrees to execute and deliver all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
8. The Grantor shall pay the legal fees of the Grantee in connection with the preparation and registration of this Agreement. This is a personal covenant between the parties.
9. The Grantor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions hereinbefore set out and they shall be binding upon the Grantor as personal covenants only during the period of its respective ownership of any interest in the Land.

10. The restrictions and covenants herein contained shall be covenants running with the Land and shall be perpetual and shall continue to bind all of the Land when subdivided and shall be registered in the Victoria Land Title Office pursuant to Section 219 of the *Land Title Act* as covenants in favour of the Grantee as a first charge against the Land.
11. This Agreement shall enure to the benefit of the Grantee and shall be binding upon the parties hereto and their respective heirs, executors, successors and assigns.
12. Wherever the expressions "Grantor" and "Grantee" are used herein, they shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.
13. The Grantor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
14. Time is of the essence of this Agreement;
15. If any part of this Agreement is found to be illegal or unenforceable, that part will be considered separate and severable and the remaining parts will not be affected thereby and will be enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C (pages 1 and 2) attached hereto.

END OF DOCUMENT



Town of Ladysmith

STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: June 30, 2009
File No: 3360-08-04

Re: **COVENANT – HUNTJENS – 1142 TRANS CANADA HIGHWAY
Lot 6, District Lot 139, Oyster District, Plan 7217**

RECOMMENDATION(S):

That Council accepts the attached covenant prepared for rezoning application 3360-08-04 and authorizes the Mayor and Corporate Officer to execute the document.

PURPOSE:

The purpose of this report is to seek Council's agreement to the covenant provided by Mark Huntjens and Jara Homes Limited.

INTRODUCTION/BACKGROUND:

The covenant would apply to any future redevelopment of the site. The terms of the covenant are that the future developer would:

- Install a water meter in each dwelling unit;
- Install triple glaze windows for each dwelling unit;
- Incorporate natural materials and finishes in the exterior façade of each dwelling unit; and
- Retain a registered landscape architect to complete a landscape plan that encourages the use of native species, on-site tree retention, limits permeable surfaces, and utilizes a rain water irrigation system.

At its March 16th, 2009 meeting Council passed a motion of support for the terms of the subject covenant.

SCOPE OF WORK:

Covenant registration would be undertaken by the applicant. Once confirmation of covenant registration has been received, the rezoning bylaw will be provided to Council for consideration of final adoption.

ALTERNATIVES:

That Council provide further input to the draft of the covenant.

FINANCIAL IMPLICATIONS:

None.

LEGAL IMPLICATIONS:

The covenant secures a future developer's commitment to certain aspects of the development of the site. A Development Permit would also be required prior to development of the site.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

None.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

None.


ALIGNMENT WITH STRATEGIC PRIORITIES:

None.

SUMMARY:

Staff recommends acceptance of the attached covenant in relation to rezoning application 3360-08-04.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

Mark Shane Huntjens and Jara Homes Limited Covenant

Land Title Act
Form C
 (Section 219.81)
 Province of
 British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office use) Page 1 of 9 Pages

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

Brian J. Senini Law Corporation
 30 Front Street, P.O. Box 190, Nanaimo, B. C.
 (Telephone: 754-1234) (Fax: 754-8080) File: 209062

2. PARCEL IDENTIFIER(s) AND LEGAL DESCRIPTION(s) OF LAND:*

(PID)	(Legal Description)
005-739-977	Lot 6, District Lot 139, Oyster District, Plan 7217

3. NATURE OF INTEREST: *

Description

DOCUMENT REFERENCE

(page and paragraph)

Person Entitled to Interest

S. 219 *Land Title Act*
 Covenant

Entire Document

Transferee

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

- | | | | |
|-----|-----------------------------|-------------------------------------|---------------------------------------|
| (a) | Filed Standard Charge Terms | <input type="checkbox"/> | D.F. No. |
| (b) | Express Charge Terms | <input checked="" type="checkbox"/> | Annexed as Part 2 |
| (c) | Release | <input type="checkbox"/> | There is no Part 2 of this instrument |

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

5. TRANSFEROR(s): * **MARK SHANE HUNTJENS and JARA HOMES LIMITED** (Inc. No. BC0689752)

6. TRANSFEREE(s): (including occupation(s), postal address(es) and postal code(s))*

TOWN OF LADYSMITH, 410 Esplanade, P.O. Box 220, Ladysmith, B.C., V9G 1A2

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	Transferor Signature						
	<table border="1" style="margin: auto;"> <tr> <td style="width: 33%; text-align: center;">Y</td> <td style="width: 33%; text-align: center;">M</td> <td style="width: 33%; text-align: center;">D</td> </tr> <tr> <td style="text-align: center;">09</td> <td style="text-align: center;">06</td> <td style="text-align: center;"></td> </tr> </table>	Y	M	D	09	06		Mark Shane Huntjens
Y	M	D						
09	06							

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 matter set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

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

** If space insufficient, continue executions on additional page(s) in Form D.

EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Y M D

Transferor Signature

09 06

JARA HOMES LIMITED by its duly
authorized signatories:

Name:

Transferee Signature

TOWN OF LADYSMITH by its duly
authorized signatories:

09

Mayor

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.

TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferors, Mark Shane Huntjens and Jara Homes Limited (hereinafter collectively called the "Owner") are the registered owners in fee simple of the lands described in Item 2(1) of the General Instrument - Part 1 (hereinafter called the "Lands").
- B. The Transferee (hereinafter called the "Town") is a municipality duly incorporated under the laws of the Province of British Columbia.
- C. The Council of the Town (hereinafter called the "Council") is considering the adoption of proposed Zoning Amendment Bylaw No. 1684 concerning the Lands (hereinafter called the "Zoning Amendment Bylaw") and, acknowledging that it is in the public interest that the development and use of the Lands be limited, and that certain development requirements which the Owner has freely offered be secured by agreement, and the Owner wishes to grant and has agreed to enter into this Covenant and to register it against the title to the Lands as a covenant and indemnity under Section 219 of the *Land Title Act*.
- D. Section 219 of the *Land Title Act* provides that a covenant, whether of a negative or a positive nature, in respect of:
 - (a) the use of land or the use of a building on or to be erected on land;
 - (b) that land is to be built on in accordance with the covenant;
 - (c) that land is not to be built on or subdivided except in accordance with the covenant;
 - (d) that land is not to be used, built on or subdivided;
 - (e) that separate parcels of land are not to be sold or transferred separately;
 - (f) that land or specified amenities be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state,

may be granted in favour of the municipality and may be registered as a charge against the title to that land.

WITNESS THAT for and in consideration of the premises and the payment of ONE DOLLAR (\$1.00) by the City to the Owner and the covenants herein contained and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the parties hereto covenant and agree with the other as follows:

1. Covenant Restricting Building and Use

- 1.1 The Owner covenants and agrees that, notwithstanding broader or greater uses permitted in the Zoning Bylaw or other regulations of the Town, the Lands shall not be built upon or used except in strict accordance with this Covenant.

2. Conditions Subsequent

- 2.1 Should the Zoning Amendment Bylaw, or a bylaw of substantially similar content, not be adopted by the Council of the Town on or before **December 31, 2009**, this Covenant shall be nullified and of no further force and effect.
- 2.2 In the event of nullification of this Covenant pursuant to Section 2.1, and upon request by the Owner to the Town, the Town shall provide the Owner with a registrable form of discharge of this Covenant. The Owner shall be responsible for registering the discharge of this Covenant at the Victoria Land Title Office. The Owner shall also be responsible for all costs associated with the discharge of this Covenant.

3. Building and Land use Restrictions

- 3.1 The Owner covenants and agrees that any construction on the Lands must include the installation of the following:
- (a) a water meter for each Dwelling Unit;
 - (b) the installation of "triple glaze" windows for each Dwelling Unit; and
 - (c) the incorporation of natural materials and finishes in the exterior facade of any Dwelling Unit.
- 3.2 The Owner covenants and agrees that, as a condition for the issuance of a Development Permit regarding the construction of any Dwelling Unit on the Lands, the Owner shall retain a registered landscape architect to design and submit a comprehensive landscape plan that encourages the use of native species and on-site tree retention, limits impermeable surfaces, and utilizes a rain water irrigation system.
- 3.2 The Owner further covenants and agrees that the Town shall not be obliged to issue a Certificate of Occupancy for any Dwelling constructed on the Lands until the matters provided for in Sections 3.1 and 3.2 herein have been completed to the satisfaction of the Town.

4. Withholding of Permits

4.1 The Owner covenants and agrees that the Town may withhold development permits, building permits and occupancy permits as necessary to ensure compliance with the covenants in this Covenant, and the issuance of such a permit, certificate or license does not act as a representation or warranty by the Town that the covenants of this Covenant have been satisfied.

5. No Exemption From Jurisdiction

5.1 Nothing contained or implied herein shall prejudice or effect the rights and the powers of the Town, in the exercise of it's functions under any public or private statutes, bylaws, order and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Covenant had not been executed and delivered by the Town.

5.2 The construction of any works or services required to be provided by this Covenant shall not confer any exemption or right of set-off from dedication, development cost charges, connection charges, application fees, user fees or any other fee or charge of whatever nature as may be required as part of subdivision or other processes.

6. Indemnity

6.1 The Owner shall release, discharge, indemnify and save harmless the Town, its officers, employees, contractors and agents at all times from all loss, damages, actions, suits, claims, demands, costs, expenses, fines and liabilities of any nature whatsoever whether known or unknown, at law or in equity, for which they become liable, incur or suffer by reason of any personal injury, death, loss of or damage to property, deprivation or economic loss:

- (a) arising out of the restrictions or requirements of this Covenant;
- (b) arising directly or indirectly from a breach or non-performance of this Covenant by the Owner, its officers, employees, agents, contractors licensees and invitees;
- (c) arising directly or indirectly from the exercise by the Owner of any rights to use and develop the Lands pursuant to this Covenant or in the fulfilling of its obligations pursuant to this Covenant; or
- (d) arising directly or indirectly from any intentional act, or from any omission, default or negligence of the Owner, its officers, employees, agents, contractors or invitees in the use and development of the Lands.

7. Interest in Land and Enurement

- 7.1 This Covenant shall charge the Lands pursuant to Section 219 of the *Land Title Act* and the burden of all the covenants herein shall run with the Lands and charge the Lands and every parcel into which the Lands may be subdivided.
- 7.2 This Covenant shall enure to the benefit of the Town and be binding upon the parties hereto and their respective heirs, executors and assigns.
- 7.3 No liability for any breach of this Covenant occurring after a person has ceased to be an owner of the Lands shall attach to that person.

8. Legal Fees

- 8.1 The Owner shall pay the legal fees of the Town in connection with the review and registration of this Covenant. This is a personal covenant only.

9. Donative Intent

- 9.1 The Owner acknowledges that the Town or its officials, employees or agents, has not stated, held out or implied any expectation or requirement that the covenants must be provided in order for the Owner's rezoning application to be approved, but rather the Owner hereby expresses its intention to voluntarily donate the covenants in this Covenant to the Town, and be bound by them, without any expectation of payment or reward of any kind. The Owner further releases, waives and forever discharges the Town from and against any claims, actions, or causes of action, whether based in contract, tort or equity, for damages, deprivation or losses, or for the recovery of costs incurred, whether known or unknown, in connection with the provision of these voluntary covenants.

10. Approvals

- 10.1 Wherever in this Covenant the approval of the Town is required, or some act or thing is to be done to the satisfaction of the Town, it shall require the approval or satisfaction as the case may be of the Manager of Development Services or the Council:
 - (a) such provision shall not be deemed to have been fulfilled or waived unless the approval is in writing signed by the Manager of Development Services or the Council, and no prior approval and no condoning, excusing or overlooking by the Town or the Manager of Development Services or the Council on previous occasions when such approval or satisfaction was required shall be taken to operate as a waiver of the necessity for such approval or satisfaction wherever required by this Covenant;

- (b) such approval may be given on terms and conditions, and security may be required to be posted to ensure compliance with the terms and conditions of any approval given; and
- (c) the discretion of the Manager of Development Services or the Council shall be contractual only, and shall not be subject to public law duties, and the principles of procedural fairness and the rules of natural justice shall have no application.

11. Non-enforcement

11.1 The Owner and the Town agree that the enforcement of this Covenant shall be entirely within the discretion of the Town and that the execution and registration of this Covenant against the title to the Lands shall not be interpreted as creating any duty on the part of the Town to the Owner or to any other person to enforce any provision or the breach of any provision of this Covenant.

12. Miscellaneous

No Derogation

12.1 Nothing contained or implied herein shall limit or affect the Town's rights and powers in the exercise of its functions pursuant to the *Community Charter* and the *Local Government Act*, or any other enactment, and all such powers and rights may be fully exercised in relation to the Lands as if this Covenant had not been granted by the Owner.

Priority

12.2 The Owner shall do or cause to be done all things necessary to obtain priority for this Covenant over all charges and encumbrances which are registered against title to the Lands in the Land Title Office save before registration of this Covenant, and except charges which have been granted to the Town.

Further Acts

12.3 The Owner shall do and cause to be done all things and shall execute and cause to be executed all plans, documents and other instruments which may be necessary to give proper effect to this Covenant.

Performance at Cost of Owner

12.4 Wherever the Owner requests that something be done or is obliged or required to do or cause to be done any act, matter or thing, such act, matter or thing shall be done by the Owner at its sole expense.

Entire Agreement

12.5 This Covenant is the entire agreement between the parties and the Town has made no representations, warranties, guarantees, promises, covenants or agreements, (oral or otherwise) to or with the Owner in relation to the subject matter of this Covenant other than those expressed in writing in this Covenant.

Amendment

12.6 No amendment to this Covenant shall be valid unless made in writing and executed by the parties.

Interpretation

12.7 Wherever the singular or masculine is used in this Covenant, the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context so requires.

12.8 Wherever the expression "Owner" is used herein it shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.

Severance

12.9 All provisions of this Covenant are to be construed as independent covenants and should any section, or lesser portion of this Covenant be held invalid or unenforceable by a Court of competent jurisdiction, that portion shall be severed and the invalidity or unenforceability of such section or portion shall not affect the validity of the remainder, which shall remain binding on the Owner and shall charge the Lands.

Joint and Several Liability

12.10 In the case of more than one person acting together as Owner, the grants, covenants, conditions, provisos, agreements, rights, powers, privileges and liabilities of the Owner under this Covenant shall be construed and held to be several as well as joint.

13. Time

13.1 Time is of the essence of this Covenant.

14. Counterparts

14.1 This Covenant may be executed in one or more counterparts which together shall be deemed to constitute one Covenant in writing.

15. Execution

15.1 As evidence of their agreement to be bound by the above terms, each Owner has executed and delivered this Covenant.

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Covenant has been duly executed and delivered by the parties executing the Form C (Page 1) and the Form D (Page 2) attached hereto.



Town of Ladysmith

Minutes of a meeting of Council of the Town of Ladysmith held in Council Chambers at City Hall on Monday, June 15, 2009 at 7:00 p.m.

COUNCIL MEMBERS PRESENT:

Mayor Rob Hutchins	Steve Arnett
Scott Bastian	Jillian Dashwood
Lori Evans	Duck Paterson
Bruce Whittington	

STAFF PRESENT:

Patrick Durban	Sandy Bowden
Rebecca Kalina	

Mayor Hutchins called the meeting to order at 6:04 p.m.

EXECUTIVE SESSION

2009-357: It was moved, seconded and carried that this meeting retire into Executive Session (6:00 p.m.) pursuant to Section 90(1) of the Community Charter to consider the following items:

- personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

The Regular Session of Council was called to order at 7:07 p.m.

AGENDA APPROVAL

The Mayor requested Council's consideration of the following addition to the agenda:

2009-358: It was moved, seconded and carried that the agenda for the Regular Council meeting for Monday, June 15, 2009 be approved as amended.

MINUTES

2009-359: It was moved, seconded and carried that the Council minutes of May 19 and 25, 2009 and June 1 and 8, 2009 be approved as circulated.

COUNCIL / COMMITTEE REPORTS

TROLLEY COMMITTEE RECOMMENDATION - ROTARY CLUB DONATION

2009-360: It was moved, seconded and carried that the donation from the Rotary Club in the amount of \$6,000 for the installation of a bus shelter at First Avenue opposite the 49th Parallel grocery store subject to the following conditions as outlined in their letter dated June 2, 2009 be accepted with thanks:

- Prominent display of Rotary logo on the shelter;
- Permanent advertising space available for exclusive use by the Rotary Club on the Shelter;
- All other advertising on the shelter must conform to the principles of Rotary International;
- Maintenance costs to be borne by the Town unless a separate agreement is negotiated with the Rotary Club; and,
- Shelter to be available for use by the island bus service as well as the Ladysmith trolley.

ENVIRONMENTAL STUDY PLANNING GRANT APPLICATION

2009-361: It was moved, seconded and carried that Staff be authorized to submit an application for a planning grant for up to \$10,000 for the Environmental Impact Study for the sewage treatment plant. **19**

COMMUNITY ADJUSTMENT FUND (CAF) APPLICATION - HIGH STREET PROPERTY

2009-362: It was moved, seconded and carried that Staff be authorized to submit an application through the Federal Community Adjustment Fund to obtain a grant to assist with financing of the proposed development of a community social services building and civic square project to be located on a portion of the Town-owned land located at 208/220/224 High Street.

GRANT-IN-AID APPLICATIONS

2009-363: It was moved seconded and carried that Staff be directed to obtain further information regarding the grant-in-aid applications for the Ladysmith Resources Centre Association - Youth At Risk, the Ladysmith RCMP Community Policing and the Ladysmith and District Historical Society and that the information be presented at the July 6, 2009 Council meeting for consideration;

AND THAT a grant-in-aid in the amount of \$3,000 be allocated to the Ladysmith and District Historical Society Archives and that their full application in the amount of \$17,000 be considered at the July 6, 2009 Council meeting.

2009-364: It was moved, seconded and carried that grants-in-aid for 2009 be allocated as follows:

Ladysmith Celebrations Society \$8,000
Ladysmith Festival of Lights \$12,000
Ladysmith Fire/Rescue Santa Parade \$1,000
Ladysmith and District Marine Rescue Society \$1,500
Ladysmith Maritime Society Festival \$1,500
Ladysmith Maritime Society Museum \$500
Ladysmith Resource Centre Association \$12,500
Ladysmith Resource Centre Association Police Based Victims \$11,000
Arts Council of Ladysmith and District \$1,000
Cowichan Family Caregivers Support Society \$750
Ladysmith Citizens on Patrol \$2,200
Ladysmith Sportsmen Club \$500
Central Vancouver Island Crisis Society \$500
Ladysmith OPT Education \$1,000
Ladysmith Ambassador Committee \$1,000
Ladysmith Secondary School – Frank Jameson Bursary \$1,500

Councillor B. Whittington vacated Council Chambers at 7:28 p.m. due to a potential conflict of interest regarding the following agenda item.

2009-365: It was moved seconded and carried that a grant-in-aid in the amount \$1,000 be allocated to Arts on the Avenue for 2009.

Councillor B. Whittington returned to Council Chambers at 7:29 p.m.

CORRESPONDENCE

LADY SMITH'S LITTLE THEATRE - REQUEST FOR SPONSORSHIP

2009-366: It was moved, seconded and carried that the letter from J. Fox, President of the Lady Smith's Little Theatre dated May 29, 2009 requesting funding assistance in the form of a sponsorship be received and the letter writer be advised that the Town is not in a position at this time to provide funding assistance, and further congratulating the theatre group on their recent success and advising them that the Town will provide a supply of Town of Ladysmith pins for their trip to the Main Stage Festival.

Councillor D. Paterson vacated Council Chambers at 7:38 p.m. due to a potential conflict of interest regarding the following agenda item.

KINSMEN CLUB - REQUEST TO WAIVE BUILDING PERMIT FEES

2009-367: It was moved, seconded and carried that the request from the Kinsmen Club to waive the building permit fees for the construction of the gazebo/washrooms at Holland Creek Trail on Sixth Avenue be approved.

Councillor D. Paterson returned to Council Chambers at 7:39 p.m.

EXECUTIVE SESSION

The Executive Session of Council resumed at 7:44 p.m.

ARISE AND REPORT

2009-368: It was moved, seconded and carried that the Executive Session of Council rise with report at 9:20 p.m. on the following appointments to the noted advisory bodies and that the applicants and advisory body chairs be so advised.

Advisory Design Panel (two year terms)
Ron Kinney
Kaieen Shimizu

Advisory Planning Commission (two year terms)
John Wilson
Katherine Turner
Cyndi Beaulieu
Pamela Fraser

Heritage Revitalization Advisory Commission (two year terms)
John Hinde
Ann Rogers
Dana McFarland
Jennifer Lush

Environment Commission (two year term)
Sarah Bonar

Parks, Recreation and Culture Commission (two year terms)
Chantal Blumel
William Vandergrift

Jill Collins (Area G Saltair Representative - one year term)

ADJOURNMENT

2009-369: It was moved, seconded and carried that the meeting be adjourned at 9:20 p.m.

CERTIFIED CORRECT:

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)



Town of Ladysmith

Minutes of the Special Meeting of Council of the Town of Ladysmith held in the multi-purpose room at Ladysmith Secondary School on Tuesday, June 30, 2009 at 6:30 p.m.

COUNCIL MEMBERS PRESENT:

Mayor Rob Hutchins
Jill Dashwood
Duck Paterson

Steve Arnett
Lori Evans
Bruce Whittington

COUNCIL MEMBERS ABSENT:

Scott Bastian

STAFF PRESENT:

Ruth Malli
Felicity Adams
Patrick Durban
Rebecca Kalina

Sandy Bowden
Lisa Brinkman
Diane Webber

Mayor Hutchins called the meeting to order at 6:35 p.m.

AGENDA APPROVAL

2009-370: It was moved, seconded and carried that the agenda for the Special Council meeting for Tuesday, June 30, 2009 be approved as circulated.

REPORTS

The Mayor welcomed attendees to the Global Commission meeting.

Mayor Hutchins provided an overview on the following current projects: Lot 108 Development Proposal, New Civic Space (High Street Property), Community Marina (Ladysmith Maritime Society) and Ladysmith Trolley Service.

Representatives of the Environment Commission, Advisory Design Panel, Heritage Revitalization Advisory Commission, Parks, Recreation & Culture Commission and the Economic Development Commission provided brief updates on each of their respective commissions/committees.

Mayor Hutchins extended an invitation for all commission/committee members to attend the Liquid Waste Management Plan Open House on Thursday, July 9, 2009 from 6:00 p.m. to 8:00 p.m. at Aggie Hall.

Commission/Committee members were reminded that there will be no meetings during the months of July and August.

ADJOURNMENT

2009-371: It was moved, seconded and carried that the meeting be adjourned at 7:46 p.m.

The Commission/Committees proceeded with their regular monthly meetings at various locations in the Ladysmith Secondary School.



Town of Ladysmith

STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: June 30, 2009
File No: 3090-09-03

Re: **DEVELOPMENT VARIANCE PERMIT APPLICATION – 230 4TH AVE.
Lot 3, Block 98, District Lot 56, Oyster District, Plan 703A**

RECOMMENDATION(S):

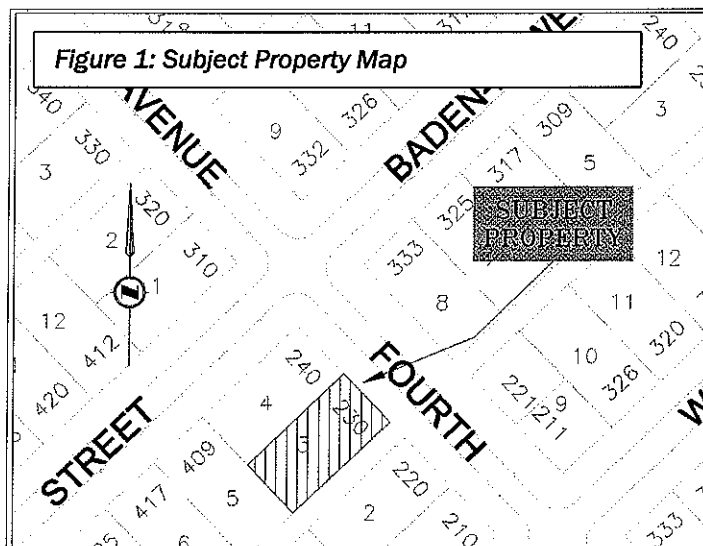
THAT Council approve Development Variance Permit 3090-09-03 for Lot 3, Block 98, DL 56, Oyster District, Plan 703A (230 4th Ave.) to vary the rear yard setback from 7.5 metres to 2 metres to permit an addition to the rear of the home; and authorize the Mayor and Corporate Officer to sign DVP 09-03.

PURPOSE:

The purpose of this staff report is to present a development variance permit application for 230 4th Ave.

INTRODUCTION/BACKGROUND:

The owner of the subject property, Stuart Rempel, is proposing to construct an addition to the rear of his one-storey home. The house is 86.7 m² (934ft²) and the proposed addition is 31.67 m² (340 ft²). The proposed height of the addition is 4.5 metres (14.7 ft), similar to the height of the house. A shed exists on the site and will be removed (see photo 1). A survey of the existing house and shed are shown in Figure 2.



The property is zoned "Urban Residential" (R-2). The R-2 zone states that no buildings shall be closer than 7.5 metres to the rear parcel line where the parcel slopes up to the rear; or 1.5 metres to the rear parcel line where the parcel slopes down to the rear.

SCOPE OF WORK

The subject property has a slight but gradual slope up to the rear, thus the required setback from the rear is 7.5 metres. The applicant wishes to place the addition 2 metres from the rear property line. Thus, he is requesting a rear setback variance of 5.5 metres.

	Required Rear Setback	Requested Rear Setback	Variance Request
230 4 th Ave.	7.5 metres	2 metres	5.5 metres

The proposed setback variance should have no impact to adjacent neighbours. The rear property line is partly screened by a tall cedar hedge which will help to screen the one storey addition (see Photo 2).

ALTERNATIVES:

Council may approve the permit as presented, approve it with amendments, or refuse to approve the permit.

FINANCIAL IMPLICATIONS: n/a.

LEGAL IMPLICATIONS:

The *Local Government Act* enables Council to vary zoning regulations, except use and density regulations through the issuance of a development variance permit. This is a discretionary decision of Council. Public notification is required.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The Town of Ladysmith notice regarding this DVP application was sent to neighbouring properties on June 17, 2009. At the date of this staff report no objections had been received regarding the proposed variance.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS: n/a

ALIGNMENT WITH STRATEGIC PRIORITIES: n/a

SUMMARY:

The owner of 230 4th Ave. is proposing to construct an addition to his house 2 metres from the rear property line, which is a variance request of 5.5 metres. It is recommended to support the variance request.

I concur with the recommendation.

R. Malli
 Ruth Malli, City Manager

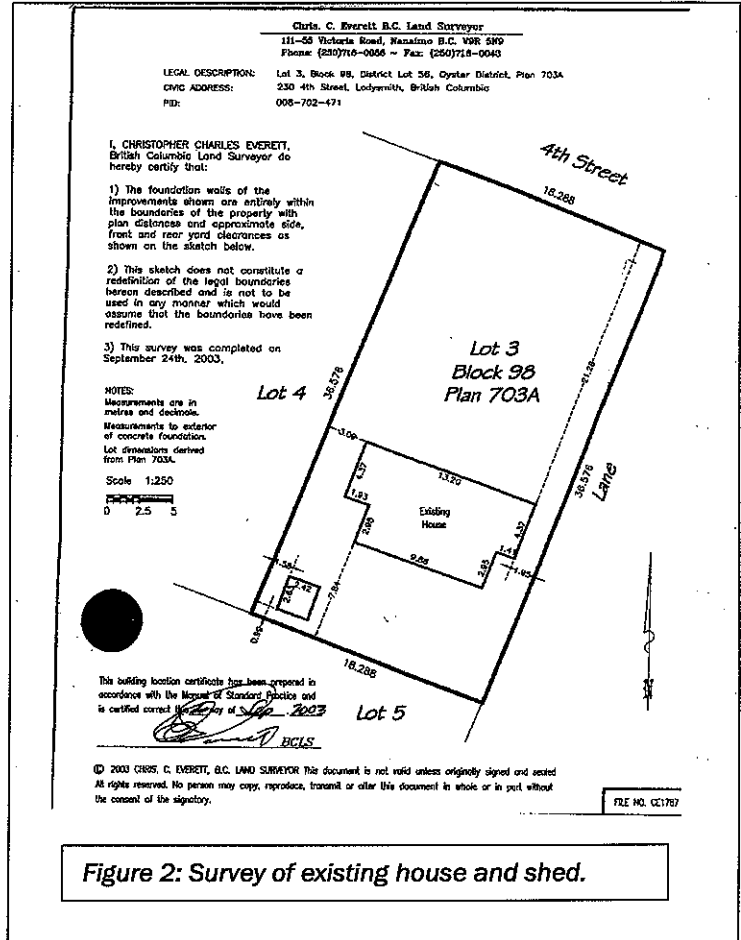


Figure 2: Survey of existing house and shed.



Photo 1: This photo shows the location of the proposed addition and shed to be removed.



Photo 2: View of rear property line hedge from rear neighbour (409 Baden Powell St.)

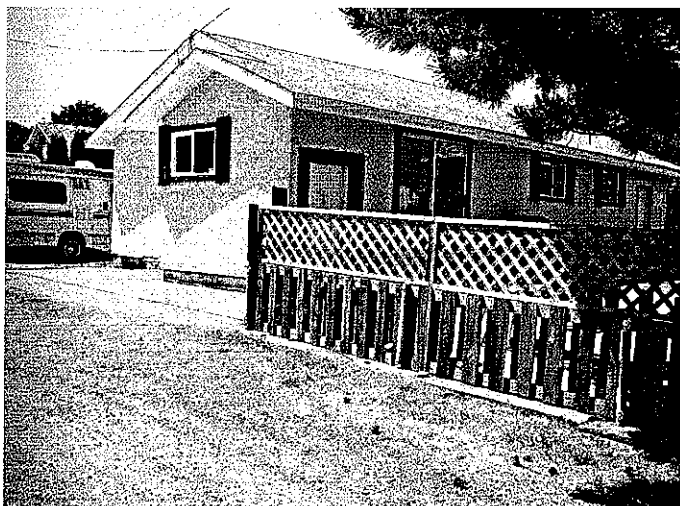


Photo 3: Front and lane side view of house at 230 4th Ave.

TOWN OF LADYSMITH
DEVELOPMENT VARIANCE PERMIT – 09-03
DATE: July 6, 2009

TO:	Stuart Terry Rempel
ADDRESS:	230 4th Ave. P.O. Box 64 LADYSMITH, B.C. V9G 1A1

1. This Development Variance Permit is issued subject to compliance with all of the bylaws of the Town of Ladysmith applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Development Variance Permit applies to and only to those lands within the Town of Ladysmith described below and any and all buildings, structures and other development thereon:

Lot 3, Block 98, District Lot 56, Oyster District, Plan 703A
PID: 008-702-471 (230 4th Avenue)

3. Section 10.2 "Conditions of Use" in the Urban Residential (R-2) Zone of the "Town of Ladysmith Zoning Bylaw 1995, No. 1160", as amended, is varied for the subject property as follows:

From:

Section 10.2 (3) "No buildings or structures located on a parcel within this Zone shall be closer than:
(c) 7.5 metres to the rear parcel line where the parcel slopes up to the rear parcel line; or 1.5 metres to the rear parcel line, where the parcel slopes down to the rear."

To:

Section 10.2 (3) "No buildings or structures located on a parcel within this Zone shall be closer than:
(c) 2 metres to the rear parcel line where the parcel slopes up to the rear parcel line (as shown in Schedule A); or 1.5 metres to the rear parcel line, where the parcel slopes down to the rear."

4. Section 5.11 "Yards" of the "Town of Ladysmith Zoning Bylaw 1995, No.1160", as amended, does not apply to the setback variances in Section 3 (above), such that steps, eaves, gutters, cornices, sills, belt courses, bay windows, chimneys, heating or ventilating equipment, open porches, unenclosed stairwells, covered or underground parking areas or other similar feature may not project further into the required setback or yard.
5. The land described herein shall be developed strictly in accordance with terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part thereof.
6. The following plans and specifications are attached:
 - a) Schedule A – 230 4th Ave. Site Plan
7. THIS PERMIT IS NOT A BUILDING PERMIT. No occupancy permit shall be issued until all items of this Development Variance Permit have been complied with to the satisfaction of the Corporate Officer.

AUTHORIZING RESOLUTION passed by Municipal Council on the _____ day of _____, 2009.

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)

I HEREBY CERTIFY that I have read the terms and conditions of the Development Variance Permit contained herein. I understand and agree that the Town of Ladysmith has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with Stuart Terry Rempel other than those contained in this permit.

Signed

Witness

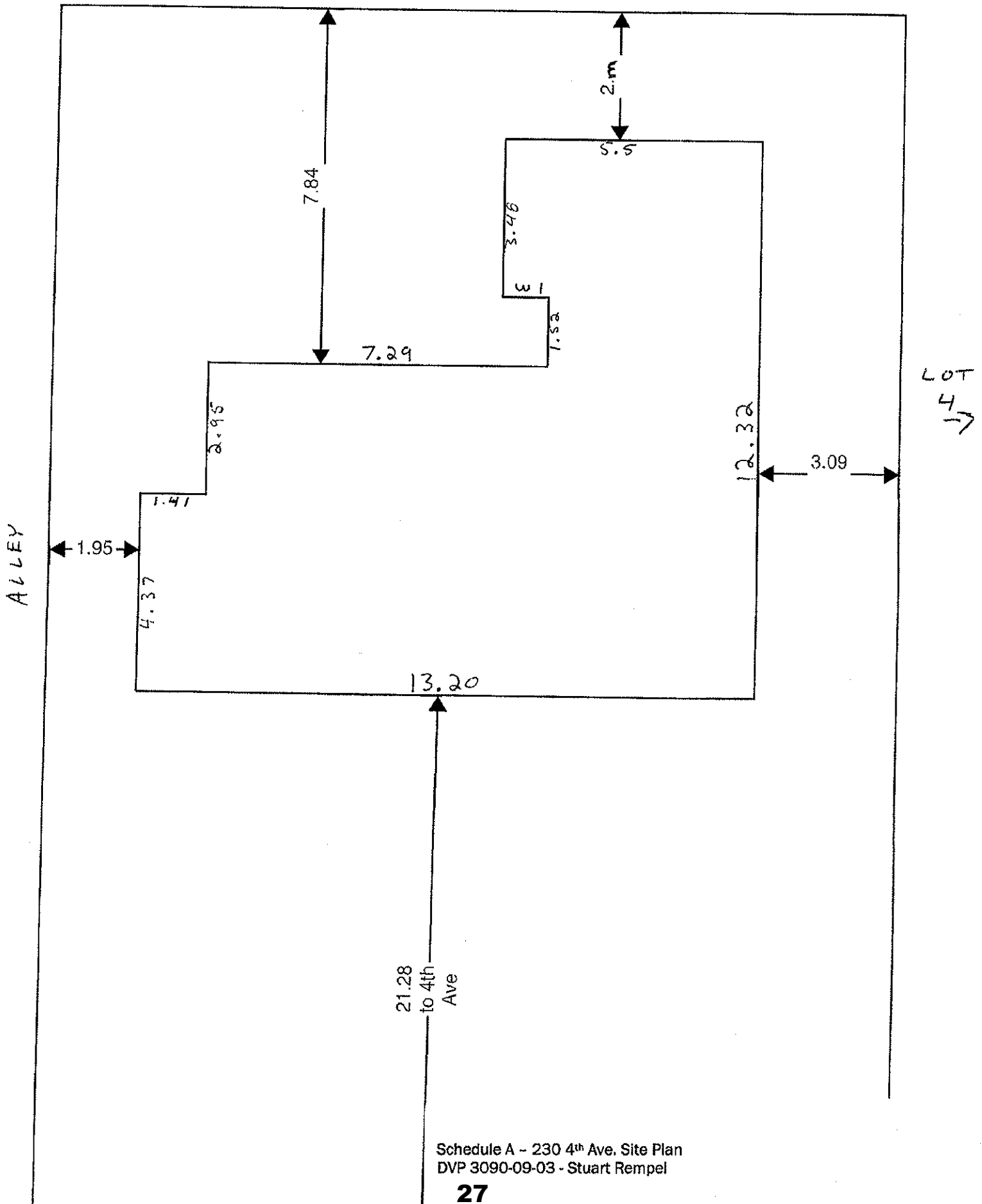
Title

Occupation

Date

Date

Lot 5 "1"



Schedule A - 230 4th Ave. Site Plan
DVP 3090-09-03 - Stuart Rempel



Town of Ladysmith

STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: June 30, 2009
File No: 3060 09-03

Re: DEVELOPMENT PERMIT- TDL GROUP CORP. (TIM HORTON'S) & CAPE VENTURES INC. 1115 & 1111 FIRST AVENUE

RECOMMENDATION:

That Council issue Development Permit 3060-09-03 for 1111 First Avenue (Lot A, District Lot 118, Oyster District, Plan 45624) and 1115 First Avenue (Strata Lot 2, District Lot 118, Oyster District, Strata Plan VIS5873) to permit a new location for the drive-through access lane to serve Tim Horton's restaurant.

AND THAT the Mayor and Corporate Officer be authorized to sign the Development Permit.

PURPOSE:

The purpose of this report is to present to Council Development Permit 09-03 which proposes the new location for the drive-through access lane to serve Tim Horton's restaurant.

INTRODUCTION/BACKGROUND:

At its meeting held May 4, 2009, Council supported the new location for the Tim Horton's drive-through access lane; and the applicant was to complete a 'Site Profile' and landscape plan for the easement area prior to final consideration of the Development Permit.

SCOPE OF WORK:

The TDL Group is proposing to enter into an easement agreement with the adjacent property owner, Cape GT Ventures Inc. (Save-On Gas), to accommodate the new drive-through access which is partially located on the adjacent property. Cape GT Ventures Inc. proposes to remove the existing canopy and support columns on the Save-On Gas building, as well as remove an existing hoist, storage tank and concrete pad to accommodate the new lane. The TDL Group proposes to improve the asphalt in the new drive thru area, install new directional signs, install new landscaping, and install new concrete bollards where required.

A landscape plan was completed and a 'Site Profile' form (pursuant to the *Environmental Management Act*) was completed and provided to the Senior Contaminated Sites Officer (Ministry of Environment) who has subsequently authorized that the project may proceed.

The proposed site improvements meet the development permit guidelines, Sign Bylaw requirements, and Zoning Bylaw requirements.

ALTERNATIVES

N/A.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

None.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS

None.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

Public Works has reviewed the proposal and supports the proposed concept.

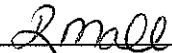
ALIGNMENT WITH STRATEGIC PRIORITIES:

Resolving traffic issues associated with the Tim Horton's drive-through service is a priority of Council.

SUMMARY:

At its meeting held May 4, 2009 Council supported the new location for the Tim Horton's drive-through access lane. The applicant has completed the Site Profile and landscape plan. Staff recommends issuing Development Permit 09-03.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

DP 09-03

TOWN OF LADYSMITH
DEVELOPMENT PERMIT 09-03

DATE: July 6, 2009

TO:	Cape GT Ventures Inc, Inc. No. BC0819651
ADDRESS:	#3 - 4801 Trans Canada Hwy, Duncan, BC, V9L 6L3
AND	
TO:	The TDL Group Corp., Inc. No. A59802
ADDRESS:	7460 - 51 st Street S.E., Calgary, AB, T2C 4B4

1. This Development Permit is issued subject to compliance with all of the bylaws of the Town of Ladysmith applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Development Permit applies to and only to those lands within the Town of Ladysmith described below, and any and all buildings, structures and other development thereon:
Lot A, District Lot 118, (Lying partly within District Lot 24), Oyster District, Plan 45624, PID 008-550-344 (1111 First Avenue); AND
Strata Lot 2, District Lot 118, Oyster District, Strata Plan VIS5873, (together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form V) PID 026-446-332 (1115 First Avenue);
3. The Official Community Plan requires compliance with the Development Permit Area 2 - Downtown (DPA2) and Development Permit Area 3 - Commercial (DPA3) as a condition for issuing a Development Permit for this property.
4. The land described herein shall be developed strictly in accordance with terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part thereof.
5. The following plans and specifications are attached:
 - a) Schedule A - Tim Horton's - Site Plan & Details
 - b) Schedule B - Tim Horton's - Landscaping Plan and Details
6. If the Permittee does not commence the development permitted by this Permit within **twelve months** of the date of this Permit, the Permit shall lapse.
7. THIS PERMIT IS NOT A BUILDING PERMIT. No occupancy permit shall be issued until all items of this Development Permit have been complied with to the satisfaction of the Corporate Officer.
8. THIS PERMIT IS NOT A SIGN PERMIT.

AUTHORIZING RESOLUTION passed by Municipal Council on the _____ day of _____, 2009.

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)

I HEREBY CERTIFY that I have read the terms and conditions of the Development Permit contained herein. I understand and agree that the Town of Ladysmith has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with **Cape GT Ventures Inc, Inc. No. BC0819651** and **The TDL Group Corp., Inc. No. A59802** other than those contained in this permit.

Signed

Witness

Title

Occupation

Date

Date



DESIGNED BY THE CITY OF VICTORIA
 CONSULTING ENGINEER
 THESE DRAWINGS ARE THE PROPERTY OF THE CITY OF VICTORIA AND ARE NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE CITY OF VICTORIA.
 THESE DRAWINGS SHOULD NOT BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN PERMISSION OF THE CITY OF VICTORIA.

NO.	DATE	DESCRIPTION
1	10/10/10	ISSUED FOR PERMIT
2	10/10/10	ISSUED FOR PERMIT
3	10/10/10	ISSUED FOR PERMIT
4	10/10/10	ISSUED FOR PERMIT
5	10/10/10	ISSUED FOR PERMIT
6	10/10/10	ISSUED FOR PERMIT
7	10/10/10	ISSUED FOR PERMIT
8	10/10/10	ISSUED FOR PERMIT
9	10/10/10	ISSUED FOR PERMIT
10	10/10/10	ISSUED FOR PERMIT

The Houtsons.
 LADY SMITH, BC
 STORE #2526
 1115 - 1st AVENUE

SITE PLAN & DETAILS
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 DATE: [Date]

SP

POST
 SIGNS SHALL BE MOUNTED ON TELESCOPIC SIGN POSTS WITH AN ADJUSTABLE HEIGHT SYSTEMS, SUCH AS TELEPAR OR EQUIVALENT. POSTS TO BE CAST IN PLACE IN 30mm DIAMETER CONCRETE FOOTING.

MOUNTING
 THE SIGN FACE MUST BE SECURED TO A POST WITH TWO GALVANIZED 20MM PER HEAD BOLTS AND NUTS WITH FLAT WASHERS ON BOTH SIDES TO A MASONRY BUILDING FACE WITH TWO GALVANIZED 20MM PER HEAD BOLTS AND NUTS WITH FLAT WASHERS ON BOTH SIDES. FLAT WASHERS IN LEAD SHALL BE MASONRY ANCHORS TO A METAL BUILDING FACE WHERE THE METAL WALL THICKNESS IS 20mm WITH TWO RIVETED SELF-DRIPPING SHEET-METAL SCREWS WITH FLAT WASHERS.

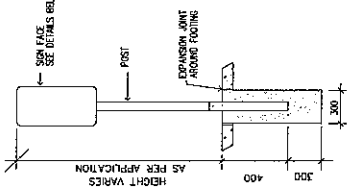
BARRELFREE PARKING SIGNAGE REQUIREMENTS
 REFER TO SITE PLAN FOR INSTALLATION LOCATION.
 ALL BARRELFREE PARKING SIGNS SHALL BE DESIGNED BY SIGNAGE.

ONE SIGN PER BARRELFREE PARKING BAY IS REQUIRED. SIGNS SHALL BE 150mm HIGH AND 150mm WIDE. DIRECTIONAL ARROWS IS FERMESABLE.

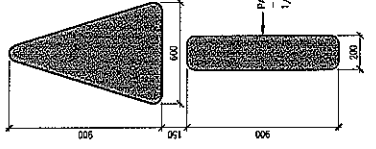
THE REQUIRED SIGNS MUST BE MOUNTED AT LEAST 100mm AND NOT MORE THAN 200mm FROM THE FACE OF THE CURB AT A HEIGHT OF 1.5m ABOVE THE TOP OF CURB CLEARANCE. SIGNS MUST NOT OBSTRUCT THE SIGNALK.

WHERE AN UNRESTRICTED BUILDING FACE IS NO MORE THAN 2.0m FROM THE FACE OF THE CURB AT THE BARRELFREE PARKING BAY, THE REQUIRED SIGNS MAY BE MOUNTED ON THE BUILDING FACE.

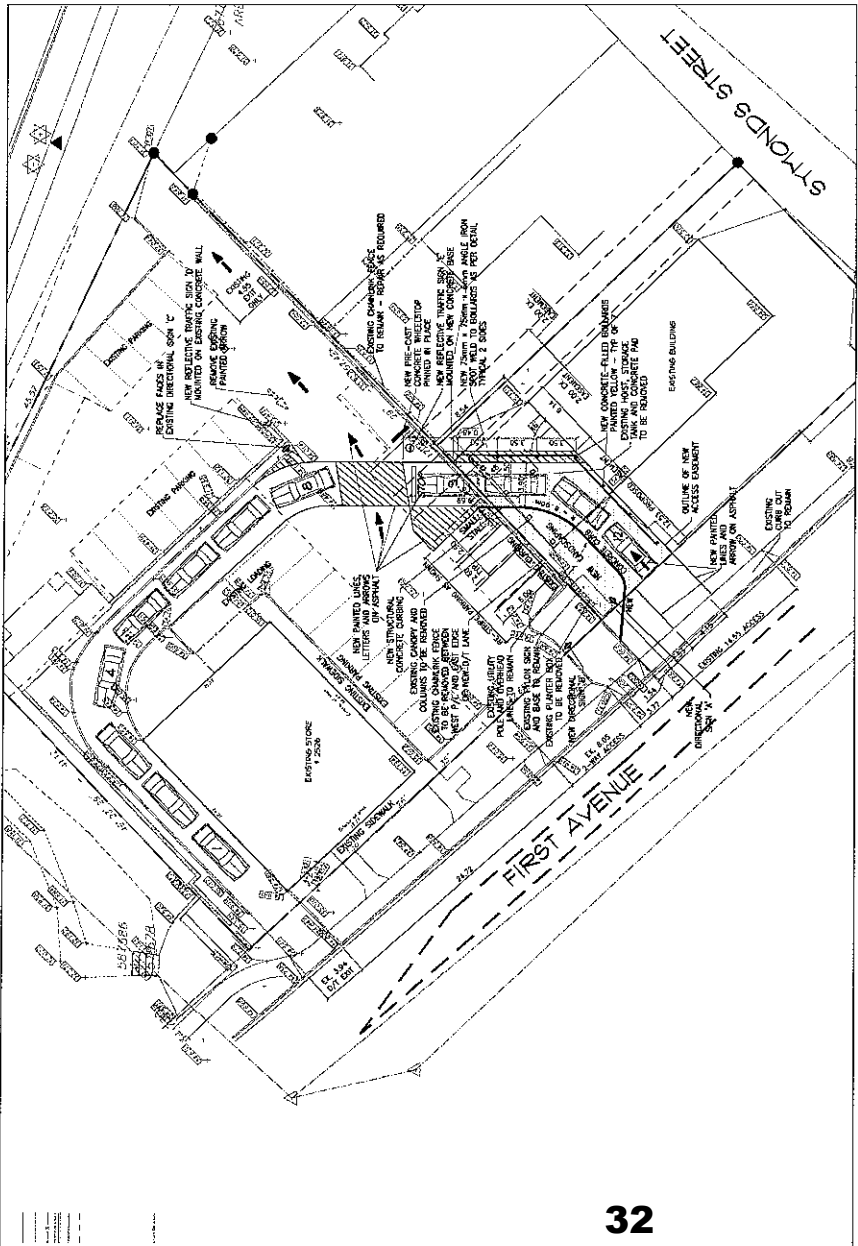
SKIN FACE
 0.054 GAUGE ALUMINUM SIGN BLANK
 WHITE BACKGROUND
 HOLES - METRO PUNCH



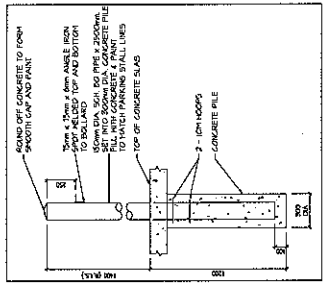
2. REFLECTIVE POLE-MOUNTED SIGN DETAIL
 SCALE: 1/8" = 1'-0"



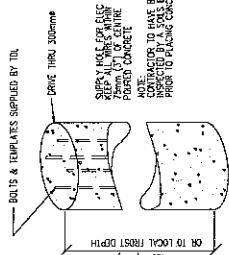
6. DIRECTIONAL ARROW DETAIL
 SCALE: 1/8" = 1'-0"



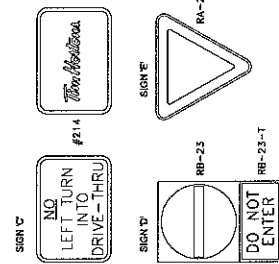
1. OVERALL SITE PLAN
 SCALE: 1/8" = 1'-0"



5. PIPE BOLLARD
 SCALE: 1/8" = 1'-0"



4. DIRECTIONAL SIGN BASE
 SCALE: 1/8" = 1'-0"



SIGNS A-C FOR MORE INFORMATION SEE DETAIL 3 FOR MORE INFORMATION
 SIGNS D-E SEE DETAIL 2 FOR MORE INFORMATION

3. DIRECTIONAL SIGN FACES
 SCALE: 1/8" = 1'-0"



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DATE: 11/15/2011

PROJECT: 1115 - 1st Avenue

SCALE: 1/8" = 1'-0"

DATE: 11/15/2011

PROJECT: 1115 - 1st Avenue

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SCALE: 1/8" = 1'-0"

DATE: 11/15/2011

PROJECT: 1115 - 1st Avenue

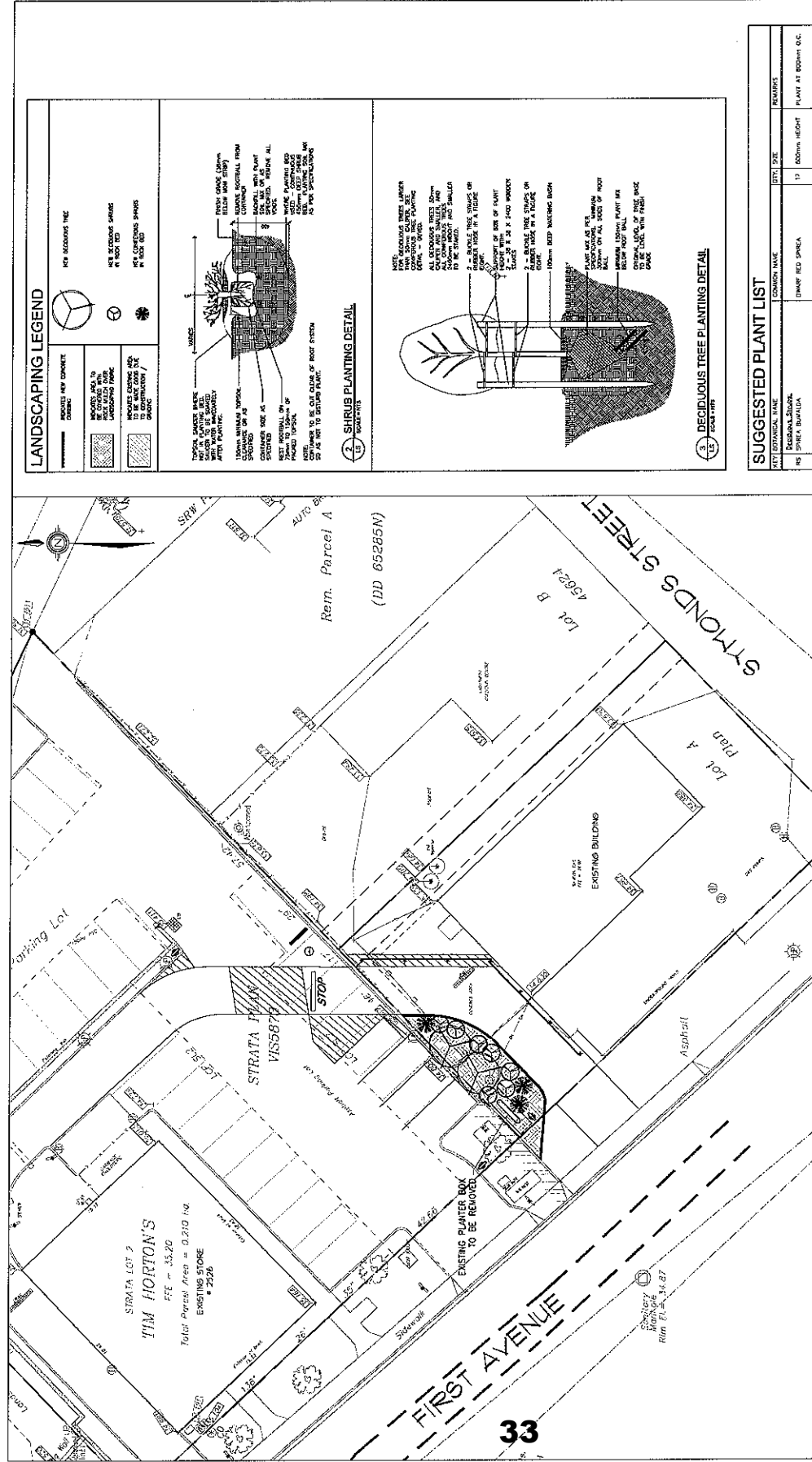
SCALE: 1/8" = 1'-0"

DATE: 11/15/2011

PROJECT: 1115 - 1st Avenue

SCALE: 1/8" = 1'-0"

DATE: 11/15/2011



LANDSCAPING LEGEND

INCLUDES NEW CONCRETE CURBING:

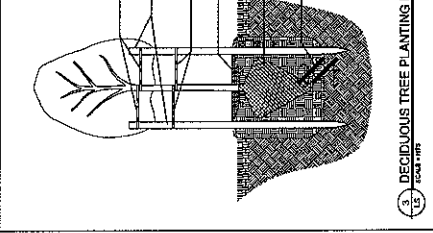
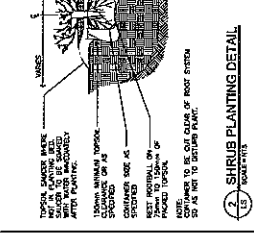
- CONCRETE CURBING
- CONCRETE CURBING WITH GRANULAR FILL
- CONCRETE CURBING WITH GRANULAR FILL AND PLANTING

INCLUDES EXISTING USE:

- EXISTING ASPHALT
- EXISTING CONCRETE
- EXISTING GRASS

FOR ADDITIONAL SEE:

- SEE EXISTING SHEDS IN FOOT NOT
- SEE EXISTING SHEDS IN SIDE NOT



SUGGESTED PLANT LIST

PLANT SPECIES NAME	COMMON NAME	DATA SIZE	REMARKS
FRAXINUS EUROPAEA	FRAXINUS EUROPAEA	12" 100mm HEIGHT	PLANT AT 800mm O.C.
SPINIFOLIUM	SPINIFOLIUM	5" 80mm HEIGHT	PLANT AT 800mm O.C.
SPINIFOLIUM	SPINIFOLIUM	5" 80mm HEIGHT	PLANT AT 800mm O.C.
SPINIFOLIUM	SPINIFOLIUM	5" 80mm HEIGHT	PLANT AT 800mm O.C.
SPINIFOLIUM	SPINIFOLIUM	5" 80mm HEIGHT	PLANT AT 800mm O.C.

LANDSCAPE PLANTING NOTES:

1. ALL PLANT MATERIALS SHALL BE HARDY TO THE LOCAL CLIMATE AND TO THE ACTUAL SITE CONDITIONS. THE MOST CURRENT EDITION OF THE "NORTH CAROLINA HORTICULTURAL CODE" SHALL BE USED AS A REFERENCE.
2. ALL PLANT MATERIALS SHALL BE PROVIDED BY THE CONTRACTOR AND SHALL BE DELIVERED TO THE SITE IN FULL COMPLIANCE WITH THE "NORTH CAROLINA HORTICULTURAL CODE".
3. ALL SHRUB BEDS TO BE INSTALLED WITH MOUND ROCK TO MATCH THE EXISTING PLANTING BEDS ON THE TIM HORTONS SITE C/W SUBSTRATE FABRIC.
4. CONFIRM ALL SERVICE LOCATIONS PRIOR TO BEGINNING ANY EXCAVATION OR PLANTING.
5. REMEDY AND MAKE GOOD ANY DAMAGE TO EXISTING GRASSES OR LANDSCAPED AREAS AFFECTED BY NEW CONSTRUCTION.

Tim Hortons
 LADYSMITH, BC
 STORE #2526
 1115 - 1st AVENUE

LANDSCAPING PLAN AND DETAILS

DATE: 11/15/2011

SCALE: 1/8" = 1'-0"

PROJECT: 1115 - 1st Avenue



Town of Ladysmith

COMMISSION REPORT

To: Mayor and Council
From: Heritage Revitalization Advisory Commission
Date: June 8, 2009
File No:

Re: EXTENSION MINE EXPLOSION MEMORIAL PLAQUE: USE OF TOWN LOGO

RECOMMENDATION:

That Council supports the Heritage Revitalization Advisory Commission including the Town logo on the Extension Mine Explosion memorial plaque.

BACKGROUND / HISTORY:

The Heritage Strategic Plan includes strategies and actions to support heritage awareness and interpretation, such as creating and maintaining an interpretive history program. The 2009 HRAC budget includes funding for interpretive history.

October 2009 is the 100th anniversary of the Extension Mine explosion.

At its meeting held April 16, 2009, the HRAC made the following motion:

It was moved, seconded and carried that the Heritage Revitalization Advisory Commission support a mine memorial at the RBC collage.

At its meeting held May 14, 2009, the HRAC made the following motion:

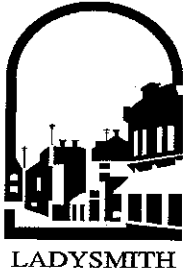
It was moved, seconded and carried that Heritage Revitalization Advisory Committee members are requesting permission to use the Town logo on the Extension Mine Explosion Plaque.

STAFF COMMENTS:

The Town's logo is not officially registered as a trademark and is for the exclusive use of the Town. Staff considers the HRAC an official representative of the Town and as such its use of the logo is permitted.

ATTACHMENTS:

"None".



Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: June 22, 2009
File No: RFP 2009-DS-01

Re: **REQUEST FOR PROPOSALS – TOURISM SUPPORT SERVICES**

RECOMMENDATION(S):

That Council accept the proposal from Carleigh Randall to provide tourism support services to the Town.

PURPOSE:

To present the results of the tourism support services request for proposals to Council.

INTRODUCTION/BACKGROUND:

At its meeting held April 6, 2009, Council directed staff to issue a Request of Proposals for contract services for the implementation of tourism management and coordination assistance.

An RFP was issued June 5, 2009, closing June 19, 2009. Three proposals were received: Carleigh Randall, DSM Holdings Ltd., and Noni Perron & Associates. Evaluation criteria established in the RFP document were used to develop the recommendation.

SCOPE OF WORK:

1. The contractor will work with the Tourism Advisory Committee to develop and implement:
 - (a) Tourism marketing and promotion activities
 - (b) Tourism industry development, education and support activities as outlined generally in the Ladysmith Tourism Plan.
2. Develop tourism partnerships with local stakeholders.

The contractor will report to the Manager of Development Services.

ALTERNATIVES:

N/A

FINANCIAL IMPLICATIONS:

The financial plan includes up to \$10,600 for tourism coordination and support funded through the Province of BC Community Tourism Program (UBCM Phase 2 grant). The RFP was issued for a fixed price of \$10,000.

LEGAL IMPLICATIONS:

N/A

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The contractor will work with the Economic Development Commission's Tourism Advisory Committee.

C. Randall is currently a member of the Tourism Advisory Committee. Her term expires at the end of June 2009.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

One of the five strategic priorities for Development Services is: Tourism Plan – UBCM Phase II Activities.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

"None".



Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: June 29, 2009
File No:

Re: **NEW MOBILE HOME PARK-ONLY ZONE**

RECOMMENDATION(S):

1. That Council direct staff to prepare:
 - a) An amendment to the Official Community Plan to permit 20 mobile/manufactured home units per hectare within a manufactured home park-only zone, and
 - b) Land use regulations and development standards for the new “manufactured home park” as outlined in this report.

2. That Council refer the proposed manufactured home park land use regulations and development standards to the Advisory Planning Commission for review and comment.

PURPOSE:

The purpose of this report is to present to Council draft land use regulations and development standards for a new manufactured home park.

INTRODUCTION/BACKGROUND:

Council has directed that staff create a zone for mobile/manufactured home parks. The new zone is to be applied to the new manufactured home park to be created for the tenants of Ivy Green mobile home park.

The Official Community Plan includes a density of 15 units per hectare for the “mobile home park residential land use designation” which includes mobile/manufactured homes and single family dwellings as permitted uses. Providing a higher density for a mobile home park-only development (20 units/ha) could be considered by Council to encourage manufactured home park-only developments and efficiently utilize manufactured home park lands.

Currently the Zoning Bylaw includes definitions for mobile home, mobile home park and mobile home lot. The current term for that use is “manufactured home” and “manufactured home park” as defined by the *Manufactured Home Act*.

SCOPE OF WORK:

The draft land use regulations and development standards for a new manufactured home park at DL108 are based on the current MP-1 Zone, as well as a review of the

City of Nanaimo Mobile Home Park Zone and its development standards for mobile home parks.

The location of the proposed mobile home park is adjacent to Haul Road which is a TimberWest forestry road. Dust and noise from truck traffic is expected as TimberWest estimates the number of trucks hauling per day is between 20 to 35 between June to October. This estimate does not include crew vehicles, shop trucks, empty logging trucks returning for another load. TimberWest has requested that a sound fence (to attenuate noise) or a 5 to 10 metre-wide buffer be installed along the residential portion of DL108. This request has been included within the proposed development standards as a fenced or landscaped buffer area. Existing trees could also be retained along Haul Road.

ALTERNATIVES:

That Council provide direction on the revision of the draft land use regulations and development standards.

FINANCIAL IMPLICATIONS:

N/A

LEGAL IMPLICATIONS:

Statutory notice and a public hearing will be required as part of a rezoning process.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The draft regulations could be referred by Council to the Advisory Planning Commission.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The draft regulations have been reviewed by the Approving Officer/Director of Parks, Recreation and Culture and the Director of Public Works.

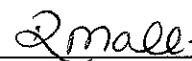
ALIGNMENT WITH STRATEGIC PRIORITIES:

Affordable housing is one of Council's 25 strategic priorities.

SUMMARY:

Council has directed staff to prepare a "mobile home park-only" zone. The draft land use regulations and development standards are recommended for use with the creation of a new mobile home park at DL108.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

Draft manufactured home park land use regulations and development standards.

Draft Manufactured Home Park Land Use Regulations and Development Standards

Definitions (from the Manufactured Home Act)

“Manufactured home” means any structure, whether ordinarily equipped with wheels or not, that is designed, constructed or manufactured to provide residential accommodation and to be moved from one place to another by being towed or carried.

“Manufactured home park” means land used or occupied by a person for the purpose of providing space for the accommodation of 3 or more manufactured homes and for imposing a charge or rental for the use of that space.

Regulation / Development Standard	New Zone	MP-1 Zone
Permitted use	Manufactured home park	Mobile home park Single family dwelling
Minimum parcel size	1 ha served by community water and community sewer	-
Units per hectare	20	15
Minimum manufactured home lot area	300 sq.m.	372 sq.m.
Maximum parcel coverage	38%	38%
Buffer areas –roads (not internal roads)	Landscape buffer ¹ of planting or fencing located not less than 6 m from a road	-
Minimum Setbacks for mobile home lot:		
- Front Yard	4.5m	4.5m
- Side Yard	1.5m	1.5m
- Rear Yard	3.0m	3.0m
Maximum Building height	5m measured from grade; common building – 8 m	8.0 m
Parking	One space per manufactured home	1/unit
Common activity area(s)	5% of gross site area located within the manufactured home park – connected to internal road or path network	-
Visitor parking	For every 5 manufactured homes, 1 visitor space	-
Common storage: RV/Boat parking / common storage area	For every 5 manufactured homes, 6m x 3m located in a maximum of 2 groups	-
Garbage disposal	Screened garbage/recycling/organics enclosure	-

¹ Landscape buffer – planting materials a minimum of 1.8 m in height, with a separation of a maximum of 1.0 m; or, fence at an average height of 2.4 m from finished grade.



Town of Ladysmith

STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: June 29, 2009
File No:

Re: **HRAC PROJECT REQUEST**

RECOMMENDATION(S):

Option 1:

That Council remove one of the five projects from the Development Services list of the top 25 strategic priorities and replace it with the HRAC "Community Heritage Register/Statement of Significance" project, and direct staff to submit a grant proposal to the BC Heritage Branch for funding,

Option 2:

That staff be directed to submit a grant proposal to the BC Heritage Branch for funding for the HRAC "Community Heritage Register/Statement of Significance" project, and if it is funded, that Council remove one of the five projects from the Development Services list of the top 25 strategic priorities.

PURPOSE:

The purpose of this report is to provide Council with information and options regarding the Community Heritage Register/Statements of Significance (SOS) Project recommended by the Heritage Revitalization Advisory Commission.

INTRODUCTION/BACKGROUND:

At its meeting held March 2, 2009, Council resolved:

That the Heritage Revitalization Advisory Commission (HRAC) be supported to develop a full project plan for a Community Heritage Register and Statement of Significance Project,

And that the project focus on heritage resources within Development Permit Area 2 - Downtown primarily First Avenue between Roberts Street and High Street,

And further that when it is developed, the HRAC forward the full project plan to Council for consideration as a 2009 project.

The HRAC have now completed the project plan which is attached to this report.

The *Heritage Strategic Plan*, supported by Council in March 2008 and to be implemented subject to budget, includes as an action a smaller SOS project:

- Continue to prepare Statements of Significant as per the Canadian Register of Historic Places – complete 5 additional sites from the Ladysmith Heritage Register over five years.

There are currently three buildings on the Community Heritage Register: Traveller's Hotel, Aggie Hall and St. John's Anglican Church. Statements of significance have been prepared for all three buildings.

Strategic Priorities

Council has established 25 strategic priorities for the Town. The priorities for the Development Services Department are:

- *Holland Creek Area Plan*
- *Affordable Housing*
- *Tourism Plan – UBCM Phase II Activities*
- *Economic Development Officer Resource Review*
- *Development Cost Charge (DCC) Bylaw Review (Phase 1)*

In addition, the Town received grant funding (BEAT initiative) for an update to the 2000 Bike Plan which must be completed by the end of 2009. This initiative is a Development Services project. The Department has some resource gaps and current priorities are being managed within this level of resource.

SCOPE OF WORK:

The HRAC project outcome is to complete statements of significance (SOS) for buildings on First Avenue (west side) between Roberts Street and High Street and add these buildings to the Community Heritage Register. (A SOS has already been prepared for the Traveller's Hotel.) The project timeline prepared by the HRAC anticipates that the project would commence in August following receipt of grant funding and consultant selection. The project would conclude early in 2010.

While the proposed project would be eligible for grant funding to secure a project consultant, significant staff time would be required given the scope of the proposed project for activities such as grant funding, consultant selection, administration, website, communications, consultant management, SOS completion, coordination, etc. The Province requires a Town staff lead for this project.

ALTERNATIVES:

The Town is advised by the BC Heritage Branch, that Council could add the First Avenue streetscape to the Community Heritage Register without undertaking statements of significance (this higher standard is a requirement of being placed on the BC and Canadian registers). By developing a "values statement" or "rationale", Council could consider adding the First Avenue streetscape to the Community Heritage Register as outlined in the *Local Government Act* (s.954).

1. Council provide support in principle for updating the Community Heritage Register to include the west-side of First Avenue between Roberts Street and High Street, and request that the HRAC prepare for consideration by Council the reasons (rationale / values statement) for the inclusion of this iconic streetscape.

2. Council defer consideration of the HRAC project proposal request at this time.

FINANCIAL IMPLICATIONS:

The BC Heritage Branch has a Community Heritage Registers Program that offers up to \$20,000 in grant funding. Staff of the BC Heritage Branch advises that the available funding for the community heritage register program is currently fully committed. The Branch is awaiting confirmation regarding further funding availability.

The Town budget includes up to \$4,000 for this project.

LEGAL IMPLICATIONS:

N/A

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

At its meeting held May 14, 2009, the HRAC recommended that:

It was moved, seconded, and carried that the Heritage Revitalization Advisory Committee recommends that the 'Community Heritage Register/Statement of Significance Project' plan proceed along the lines of the currently identified scope (see HRAC report to Town Council 2009/05/13); and that the Heritage Revitalization Advisory Committee authorized the plan to be presented to Town Council with a request for its support, including its authorization for the Town to apply for up to \$20,000 of funding from the B.C. Heritage Branch under its Community Heritage Registers Program.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The proposed HRAC project would involve staff of the Development Services (consultant management, SOS completion), Engineering Division (mapping) and Corporate Services Division (grant administration and communications).

ALIGNMENT WITH STRATEGIC PRIORITIES:

The Visioning report "Ladysmith: A Community Vision for a Sustainable West Coast Town" includes a "heritage-informed or heritage-compatible architecture" as part of the community's downtown vision. Re-development along First Avenue is anticipated in the long-term while retaining and integrating key areas or buildings for heritage purposes.

The proposed project is not one of Council's 25 strategic priorities.

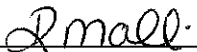
SUMMARY:

There is value in better understanding the heritage assets of the iconic west side block of First Avenue. This information could help inform future updates to the Official Community Plan.

The HRAC project proposal as currently configured is not included within Council's 25 strategic priorities. The project is premised on the availability of provincial

government funding. While funding is currently not available, the BC Heritage Branch has provided a suggested first step to move the project forward.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

Section 954, Local Government Act

HRAC report to Town Council by HRAC Member B. Laxdal

Community heritage register

954 (1) A local government may, by resolution, establish a community heritage register that identifies real property that is considered by the local government to be heritage property.

(2) The community heritage register

(a) must indicate the reasons why property included in a community heritage register is considered to have heritage value or heritage character, and

(b) may distinguish between heritage properties of differing degrees and kinds of heritage value or heritage character.

(3) Within 30 days after including a property in a community heritage register or deleting property from a community heritage register, the local government must give notice of this

(a) to the owner of the heritage property in accordance with section 974, and

(b) to the minister responsible for the *Heritage Conservation Act* in accordance with section 977.

(4) The protection of heritage property is not affected by an error or omission in a community heritage register.

HRAC REPORT TO TOWN COUNCIL

CHR (Community Heritage Register) / SOS (Statement of Significance) Project¹

Purpose: To request approval to complete the CHR/SOS project identified below, which includes the Town obtaining funding from the B.C. Heritage Branch and contracting with a qualified consultant to complete the project. A draft Council Resolution is as follows:

That Council supports the HRAC's proposed Community Heritage Register / Statements of Significance project; and

That Council authorized the Town to make a grant application to the B.C. Heritage Branch under its Community Heritage Registers Program to fund the project.

Background: This project was first presented to Council at its 2 March 2009 meeting as a request from the HRAC to proceed with the development of a full project implementation plan.²

The project (set out below) has been more precisely defined and the scope either reduced or repackaged to ensure that it can be completed within the available time and with the resources that are available. A list of possible activities that could follow the project is identified for consideration.

HRAC is of the view that recognizing and documenting the heritage characteristics of the iconic downtown and its historic buildings (with SOS's) is a critical first step in Development Permit Area 2 (DPA2) toward (1) updating the Official Community Plan (OCP); and (2) implementing any of the steps in the community vision for a sustainable future. The resulting SOS's can also be used to make informed determinations with respect to future development permits for the area and affected properties, and as the basis for promotional material for the Town's historic centre.

HRAC has contacted some of the affected property owners on an informal basis and, to date, there have been no material concerns identified with respect to this project.

Concern: Ultimately, the HRAC is very concerned that the heritage value associated with heritage assets in DPA2 may be lost if we (collectively) do not find a way to document, recognize, and be able to create new value from the historical properties that exist in the Downtown.

Most identified buildings are more than 100 years old, have been altered over time; are in varying need of repair; and do not meet current building standards.

¹ Background regarding what a CHR and SOS are is provided in Attachment 1.

² Government Services Committee Recommendations, 2009-122; the resolution is contained in Attachment 2.

Based on HRAC's preliminary discussions, the types of alterations or repairs that may be required to make the buildings sustainable would likely require concerted and coordinated actions by the Town, the property owners and the business owners. (Such actions are well beyond the scope and capacity of the HRAC).

The Town currently manages its oversight and control over the heritage property in DPA2 through its issuing of development permits. The HRAC views this as having weaknesses:

1. It is not proactive – there is no structured mechanism to provide planning and prevention tools and techniques to the management of heritage property that has value to the Town, causing possible solutions to be deferred until one of the available protection tools can be effected;
2. The permit control is a blunt instrument – a building owner in DPA2 is subject to that control (which is there, in part, to provide some nominal protection to the heritage value), but there is no articulation of what portions of a property have heritage value that the community wishes to preserve; and
3. There is little to no formal recognition of the particular value of any one heritage property or group of properties that would provide an owner, the tenant or the Town the understanding of, and opportunity to capitalize on, the particular characterized values.

Project:

This project is to complete SOS's pursuant the Local Government Act (LGA) s. 954 for certain **heritage property** within DPA2, and add the resulting SOS's to Ladysmith's CHR. The primary, but not exclusive, focus will be with respect to the buildings on First Avenue between Roberts and High streets. While this two block segment of First Avenue is the critical iconic area, it may be necessary to extend the reach to certain buildings in the vicinity to sufficiently capture the heritage context of the area.

The result would be a clear articulation of the heritage characteristics and defining elements of the studied area and its key buildings. This would then be available as one of the bases for defining the heritage characteristics that need to be retained (in the case of the existing structures) or reflected in the development of new structures.

There are approximately 13 buildings on First Avenue between Roberts and High that could warrant SOS's, and possibly an additional 10 buildings that could warrant SOS's within a block of those buildings.³

The project would be completed by a consultant competent in preparing SOS's and identifying the heritage defining characteristics of an historic area.

The project is an outcome of the Heritage Strategic Plan (**HSP**); supports the implementation of the Ladysmith visioning process as it relates to the

³ A possible list of buildings is provided in Attachment 3.

downtown; feeds into the 2009 update to the Official Community Plan; and would assist in any review and update of DPA2.

This proposed project is a single, consolidated piece of work that advances three key Actions in the HSP. It is expected to be completed in Q1 of 2010.

Project Cost: The project is designed to comply with the funding requirements of the B.C. Heritage Branch under its Community Heritage Register Program, and would be eligible for funding of 100% of eligible expenditures. The only cost to the Town should be staff and HRAC time, as well as some possible incidental costs that could be managed through the HRAC approved budget.

There is some urgency to completing the project this year as it is expected to be the last year that Provincial funding will be available under the Community Heritage Register Program.

The project schedule contains two conditional subsidiary projects that the HRAC expects to proceed with (brochures for a walking tour that includes the heritage buildings and artefacts, as well as website access to that promotional information), but both of these subsidiary projects would be treated separately at the appropriate time. Some HRAC budget exists for these projects.

Specifics: The Heritage Conservation sections of the Local Government Act (LGA) were added in 1994, but the Town has not incorporated any of the features; rather it continues to rely on the Development Permit sections of the Act. The Heritage Conservation sections provide communities with certain **planning** and **protection** tools that can be used to plan and protect heritage property.

The Heritage Conservation planning tools offered would allow for identifying specific Heritage Assets and recognizing the particular characteristics of the Heritage Asset. Past tools, such as the 1990 Ladysmith Heritage Inventory, do not provide the same support and are not recognized by the LGA.

The first step in gaining access to any of the Heritage Conservation tools available through the LGA is to add recognized Heritage Assets to the CHR and formally document the distinguishing characteristics of that Heritage Asset.

In addition to formal recognition of Heritage Assets, the planning tools would provide new possibilities to work with owners to implement preventative management practices that would increase the long-term viability of a Heritage Asset. This would include physical risks such as deterioration or natural disasters (such as fire). It also opens up opportunities to use other vehicles such as tax incentives or building code relaxation that may not otherwise be available to the local government.

There is a wider range of protection available to the Town through the Heritage Conservation sections of the LGA. The current protection tools

are limited to protecting a Heritage Asset from an owner that chooses to modify that asset. The HRAC is not aware of any urgent protection concern; rather this is an opportunity to implement a broader, long term planning and protection framework.

Linkages: Completing SOS's for the identified heritage buildings, and documenting the defining characteristics and historical significance of that area would be of value in the following processes. In each case, the Town is, in effect, setting out plans and mechanisms that will assist in creating a sustainable and thriving community. Any sustainable future that includes the heritage and historic aspects of the Downtown will need to address the condition of the historic buildings and the particular characteristics that have heritage value and need to be retained:

A Community Vision for a Sustainable West Coast Town

The visioning process that took place in 2008 identified certain implementation steps and an implementation strategy that reflect or recognize the heritage buildings and heritage experience. Identified implementing strategy and steps include the following which would benefit from pre-identification of the defining characteristics through SOS's:

Implementation steps: Redevelopment along 1st Ave - Plan for the long term redevelopment of the blocks on either side of 1st avenue over most of its length, and recognizing key areas or specific buildings which will need retention for heritage purposes. ...; (p. 34)

Implementation steps: The heritage buildings can be kept or integrated with newer development in some cases; (p. 34)

Implementation Strategy: Create a downtown plan for Ladysmith to more fully reflect and develop the ideas, identity, themes and opportunities identified in this vision work. This process should be integrated with other strategies and plans including OCP updates, view management strategies, heritage strategy updates, design guidelines and a CFN cultural profile strategy.

Official Community Plan

The current OCP recognizes the importance of the historic character of Downtown and its heritage buildings. It is our understanding the Town will be reviewing, and updating as necessary, the OCP in the near future. Any such review would be enhanced by a clearer understanding of the heritage characteristics of the buildings in DPA2. It would also benefit from a full understanding of the heritage planning tools that are available through the LGA. This project will provide both.

Tax Exemption Bylaw

This project may link, and add meaning, to the tax exemption bylaw if the bylaw (or other incentive mechanism) were to use as one of its criteria the value toward a sustainable heritage look.

Other similar incentive mechanisms become available to the Town to assist property owners maintain and manage their buildings.

HRAC Work Plan for the CHR/SOS Project

Date	Who	Activity
May/June	HRAC	Inform, and discuss the project with, property and business owners in the affected area. Obtain feedback.
June [1]	HRAC	Obtain Council approval to proceed with the project
June	HRAC/Town	Obtain funding grant from the B.C. Heritage Branch
July	HRAC/Town	Issue Request for Proposals from qualified consultants
July 31	HRAC/Town	Award contract to successful consultant
Aug-Jan	Consultant	Complete SOS's and document the defining characteristics of the specified section of Downtown (with Town staff and HRAC assistance)
Sep-Oct	HRAC	Develop plan for communications media (web based and brochure)
Nov-Jan	HRAC	Implement any identified communications media
Feb	HRAC	Present the result to Council to obtain acceptance of the project results and approval to add the SOS's to the CHR
Feb	HRAC/Town	Complete funding grant requirements and close project

ATTACHMENT 1

Background regarding heritage conservation as it relates to Ladysmith

In 1994, the Province enacted the Heritage Conservation Statutes Amendment Act which made wide-ranging improvements to the heritage conservation legislation in B.C., primarily through amendments and additions to the Heritage Conservation Act (HCA) and the Local Government Act (LGA).

The legislation enables municipalities and regional districts to better integrate heritage conservation activities into the mainstream of development and community planning. It provides tools for planning (enable research, planning, and integration of heritage conservation with community planning) and conservation (enable local governments to provide support to owners of heritage buildings and legal protection for a community's residential heritage buildings).

A **Community Heritage Register (CHR)** is an official list of *historic places*, specific to a community, which have been identified by the local government as having *heritage value* or *heritage character*. Among other things, a CHR enables a local government to understand and identify the significance of a community's historic places, to monitor heritage properties for proposed changes, and to integrate heritage conservation activities into other local government land use planning processes.

One of the steps in registering real property on the CHR is to prepare a Statement of Significance (**SOS**). Pursuant to s. 954 of the LGA, a CHR "must indicate the reasons why property included in a community heritage register is considered to have heritage value or heritage character". For this reason, the SOS is the most important component of the mandatory documentation for every historic place included on a CHR. The SOS explains to a broad audience what the formal recognition applies to, why the place is important or significant, and which principal features of the place must be retained in order to preserve its heritage value.

A **SOS** is the standard instrument in Canada to document the defining characteristics of a building and what the heritage value is. A SOS is one tool in the heritage conservation kit, but is not an end product that has value on its own. It is a form of documentation that was developed by the federal government's Historic Places Initiative and adopted by the Province of British Columbia. SOS's that are prepared for buildings on a CHR are normally placed on the Canadian Register of Historic Places (CRHP). A Statement of Significance includes a description of the historic place, which explains to what the formal recognition applies; a statement of heritage value, which explains why the place is significant; and a list of character-defining elements, which explains which principal features of the place must be retained in order to preserve its heritage value.

Ladysmith has a CHR. There are currently three properties registered on the CHR: Aggie Hall, Travellers and the Anglican Church.

SOS's registered on a CHR are the minimum formal level of recognition of heritage property under the Local Government Act (LGA). Some of the benefits of having properties registered are:

- The SOS's clearly articulate the defining characteristics of the heritage property. This helps all understand the characteristics and attributes of an asset that are recognized as having value that may/should be retained for community heritage purposes;

- The SOS's are registered by the Province and can be added to the Canadian Register of Historical Places, which gives some heritage tourism visibility;
- Registration on the CHR is the gateway to various planning tools available in the LGA, including being able to designate the area as a Heritage Conservation Area;
- The SOS documentation can be used as a heritage tourism foundation. Being a recognized Federal standard, those involved with heritage or heritage tourists would recognize and appreciate the information provided;
- Creating such documentation is one mechanism to articulate the "heritage look" described in the OCP and in the Vision documents that Ladysmith is looking to retain or use as the basis of other development

Ladysmith has a long history of recognizing its heritage. The Town's logo is "Heritage by the Sea", and the core of the heritage concept is embodied in its First Avenue. The downtown core was developed based on a quadrant plan originally set out by Dunsmuir at the end of the 19th century. Many of the buildings on First Avenue date to the period of the first decade of the 20th century, of which a large number were moved to Ladysmith from Wellington or Extension as part of the coal mining development.

Starting in the mid 1980's, Ladysmith established Development Permit Area #2 (**DPA2**) as a means under the then current legislation to, in part, manage and maintain the heritage features of the area surrounding First Avenue from Baden Powell to Symonds. In 1990, it completed a Heritage Inventory which is a listing and description of heritage properties in the Town. This was the then current vehicle for recognizing heritage property. The Heritage Inventory is no longer the state of the art of recognizing heritage property and has no legal underpinnings; rather, this is now accomplished by the CHR and the associated SOS's.

Attachment 2

Council Resolution from 2 March 2009

2009-122: It was moved, seconded and carried that the Heritage Revitalization Advisory Commission (HRAC) be supported to develop a full project plan for a Community Heritage Register and Statement of Significance Project;

AND THAT the project focus on heritage resources within Development Permit Area 2-Downtown primarily First Avenue between Roberts Street and High Street;

AND FURTHER THAT when it is developed, the HRAC forward the full project plan to Council for consideration as a 2009 project.



Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Sandy Bowden, Director of Corporate Services
Date: June 30, 2009
File No: 1090-02

Re: SALE OF SURPLUS EQUIPMENT

RECOMMENDATION(S):

It is recommended that Council approve the following bids received for surplus equipment as listed below, and that staff be authorized to dispose of the balance of the items, which received no bids and are listed below, as they see fit.

List of Successful Bids

Item	Winning Bidder	Price
• Aqua Tech Unit	Ian Wyndlow	\$75.00
• Wooden Bridges	a,b,c,e,f,g G&T Backlund d Cindy LaFleur	\$58.14 \$11.00
• Lamp Stands	a,b,c Greg Smith	\$61.74
• Auger with motor	Shane Lassam	\$45.00
• Utility Trailer #1	Phil Slater	\$116.00
• Utility Trailer #2	Jeremy Friesen	\$50.00
• Gas tank for boat	Mike Alexander	\$5.00
• Mercury Outboard Motor	Mike Alexander	\$63.00
• JVC DVD Player	Camelia Copp	\$33.00
• Hoover Caddy Vac	Cindy LaFleur	\$21.50
• Sewing Machine in case	G&T Backlund	\$37.14
• Filing Cabinets	18d Amanda Smith	\$5.75
• Canoe Paddle	Joanne Schneider	\$4.00
• Boat Bumpers	Doug Thring	\$15.00
• Cascadia Cap Flashing	Greg Smith	\$50.58
• Clean Out Bucket	Cheryl Gourlay	\$100.25
• MS Intellitype Keyboard	Colleen Keim	\$6.50
• Kensington Rollerball Mouse	Cindy LaFleur	\$3.70
• Scooter - razor for kids	Rebecca Kalina	\$5.00
• Electric Outboard Motor	Tom Skarvig	\$23.00

• 90 CC Honda Motorcycle	Rob Kirkland	\$75.00
• Fibreglass Canoe	Larry McLeod	\$67.50
• Motomaster Jack	G&T Backlund	\$10.14
• Craftsman Bushwacker	Paul Kenny	\$20.01
• Team Mechanix Creeper	Paul Kenny	\$5.01
• MP3 Player 1	Katherine Backlund	\$6.19
• MP3 Player 2	Katherine Backlund	\$5.70
• MP3 Player 3	Doug Thring	\$10.00
• Digital Camera	Amanda Smith	\$25.50
• Space Heater	Shane Lassam	\$22.00
• Keyboards various	d Cindy LaFleur	\$8.00
• Razor Scooter	Rebecca Kalina	\$7.00
• Webcam	Katherine Backlund	\$6.27
• Floor lamp	Cindy LaFleur	\$8.20
• keyboard trays - articulating	G&T Backlund	\$17.14
• Monitor - flat screen	Yvon Turgeon	\$26.00
• Monitor - flat screen	Camelia Copp	\$53.00
• Computer - Acer	Cindy LaFleur	\$21.00
• Gas can	Mike Alexander	\$5.00
• tanning bed	Rocky Coussens	\$6.00
• Chair (office)	101a Doug Thring	\$15.00
• Barbells & rack (sold as lot)	Doreen Frame	\$40.00
• Stomach crunch	Greg Smith	\$2.58
• stove , range hood	Paul Kenny	\$5.01
SUB-TOTAL		\$1,257.55

Bicycles	Cindy LaFleur	11.00
	Cindy LaFleur	11.00
	Ian Wyndlow	8.00
	Tom Skarvig	1.00
	Cindy LaFleur	11.00
	Jamie Holgate	20.00
	Katherine Backlund	12.51
	Mike Alexander	10.00
	Katherine Backlund	12.51
	Tom Skarvig	6.50
	Shawn Freer	5.00
	Tom Skarvig	1.00
	Cindy LaFleur	21.00
	Cindy LaFleur	11.00
	Neil Bouma	58.60
	Rocky Coussens	56.29
	Tom Skarvig	1.00
	Phil Slater	57.00
	Greg Smith	35.58
	Cindy LaFleur	21.00

Ian Wyndlow	8.00
Amanda Smith	7.75
Graham Cousins	27.00
David Hall	75.00
Shane Lassam	65.00
Mike Alexander	313.00
Graham Cousins	46.00

SUB-TOTAL	912.74
GRAND TOTAL	\$2,170.29

Items which received no bids:

- HP 2500C Printer
- HP 5370C Scanjet Scanner
- Kenmore Microwave
- Magnasonic DVD Player
- Xerox Multifunction Work centre
- Filing Cabinets
- Tire #1
- Stationery Bike
- Tire #2
- Tire #3
- Weed eater
- Bicycles
- Ceiling Light Fixtures
- Ceiling Light Fixtures
- Electric Kettle
- Speed Boat
- Bicycles #
1,2,4,5,6,8,9,10,11,12,14,15,20,22,23,24,28,30,31,32,34,37,38,42,43,44,45,53,56
- Gas Can 3
- Marine Fuel Tank 1
- Marine Fuel Tank 2
- Marine Fuel Tank 3
- Water Skis
- Printer
- Chair (office)
- Chair (office)
- Printer TONER
- Ballot boxes, metal
- Camera
- Camera
- Heatseal GBC H100
- VHS player
- Copier - Sharp
- Steel Toed Work boots
- Monitor
- cables & adapters
- AutoCAD digitizer
- boat fuel tank with hose
- TV - 6" portable
- benches (sold as lot)
- Wheel Chair - submersible
- Speakers
- TV - 26" RCA console
- Monitors
- Fitness stepper
- Podium, pressed board
- keyboard
- fridge
- printer
- TV 24" Magnavox

PURPOSE:

To receive Council approval to dispose of surplus Town property.

INTRODUCTION/BACKGROUND:

The sale of surplus equipment was advertised in the Ladysmith Chronicle of June 9 and 16, with a deadline of 4:00 p.m., Friday, June 26 for receipt of bids. Bids were opened by staff (S. Bowden, J. Winter, C. LaFleur) at 10:00 am on Monday, June 29.

SCOPE OF WORK:

N/A

ALTERNATIVES:

N/A

FINANCIAL IMPLICATIONS:

N/A

LEGAL IMPLICATIONS:

N/A

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

N/A

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

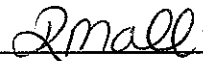
N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

N/A

SUMMARY:

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

None.



Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Sandy Bowden, Director of Corporate Services
Date: June 26, 2009
File No:

Re: LADYSMITH AND DISTRICT HISTORICAL SOCIETY – SALE OF BOOKS

RECOMMENDATION(S):

That Council direct Staff to transfer the Town's complete inventory of the publications entitled "Dunsmuir's Dream" and the "Ladysmith Heritage Inventory" to the Ladysmith and District Historical Society (LDHS) to manage, and that the LDHS be advised that they may retain all financial proceeds from the sale of the books, and that the LDHS be further advised that they must continue to pay a \$5.00 per book donation from the sale of the "Ladysmith Heritage Inventory" books to the Knight family.

PURPOSE:

The purpose of this Staff report is to provide Council with information regarding the proposal for the LDHS to manage the sale of "Dunsmuir's Dream" and the "Ladysmith Heritage Inventory" books.

INTRODUCTION/BACKGROUND:

At the Council meeting held on May 4, 2009 the following resolutions were adopted regarding the LDHS:

- *That forty copies of "Dunsmuir's Dream" and "Ladysmith Heritage Inventory" books be given to the Ladysmith and District Historical Society to be available for sale at their Annual General meeting on April 21, 2009.*
- *That Staff be requested to prepare a report for Council's consideration regarding the Ladysmith and District Historical Society taking over the inventory of "Dunsmuir's Dream" and the "Ladysmith Heritage Inventory" books to provide them for sale at the archives office; and that the funds from the sale of the books go directly to Ladysmith and District Historical Society.*
- *That funds in the amount of \$4,732 from the Archive Building Reserve Fund be released to the Ladysmith and District Historical Society to support upcoming projects.*

- *That the Heritage Revitalization Advisory Commission be requested to make a recommendation on the allocation of the Dunsmuir Dream Book Fund of \$4,810 to support the operations of the Ladysmith and District Historical Society.*

Currently there are 130 copies of Dunsmuir's Dream in stock at City Hall. There are no copies of the inventory books left as the Town contributed its entire inventory (14 books) to the LDHS in April as per Council's instructions. Costing and pricing information regarding both publications is noted below.

Publication	Purchase Price	Sale Price
Dunsmuir's Dream	\$7.96/ea.	\$9.95/ea.
Heritage Inventory	\$10.68/ea.	\$30.00/ea.

Since 2002 the Town has spent approximately \$1,300 on the Heritage Inventory books and has collected approximately \$2,300 for both books. There are no financial records available regarding the amount spent on the Dunsmuir's Dream book. A royalty or "donation" of \$5.00 per Heritage Inventory book is provided to the Knight family. In 1992 a resolution was adopted by Council directing that the proceeds from the sale of Dunsmuir's Dream be allocated from surplus funds for the purpose of establishing an archives in Ladysmith. A reserve fund was subsequently set up which currently totals \$4,810.

SCOPE OF WORK:

n/a

ALTERNATIVES:

1. Council could transfer the entire inventory, a portion thereof or not proceed with transferring book inventory to the LDHS.
2. Council may wish to consider re-allocating the \$4,810 currently in the Dunsmuir's Dream reserve fund to another heritage project.

FINANCIAL IMPLICATIONS:

The financial impact of transferring the entire inventory of the books and management of the inventory to the Historical Society is minimal.

LEGAL IMPLICATIONS:

n/a

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The Heritage Revitalization Advisory Commission (HRAC) considered Council's request for comments on the allocation of the \$4,810 in the Dunsmuir's Dream Reserve Fund to the LDHS at its June 30, 2009 meeting. The HRAC adopted a resolution supporting Council's proposal to allocate the \$4,810 to the LDHS.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

n/a

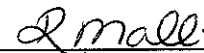
ALIGNMENT WITH STRATEGIC PRIORITIES:

n/a

SUMMARY:

In April Council directed Staff to prepare a report regarding the LDHS managing the inventory of the publications entitled "Dunsmuir's Dream" and the "Ladysmith Heritage Inventory". Staff determined that turning over the management of these books to the Society will have a minimal financial impact on the Town. In 1992 Council resolved that the proceeds from the sale of Dunsmuir's Dream be allocated for the purpose of establishing an archives in Ladysmith.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

None



Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Manager of Development Services
Date: July 2, 2009
File No: Machine Shop

Re: MACHINE SHOP TENANT SIGNAGE

RECOMMENDATION:

That Council support the removal of cottonwood trees between the highway and the Machine Shop to enhance signage visibility on the Machine Shop; up to a cost of \$950.

PURPOSE:

The purpose of this report is to provide information regarding 1) the suitability of roof-top signage on the Machine Shop and 2) removing trees and vegetation around the Machine Shop to enhance signage visibility.

INTRODUCTION/BACKGROUND:

On June 1, 2009 Council passed the following motion:

"It was moved, seconded and carried that Council endorses the following recommendations subject to ratification by the Heritage Revitalization Advisory Commission and Staff be directed to review the suitability of installing roof signage on the Machine Shop, and further that Staff provide comment on the appropriateness of removing the alders and other vegetation around the Machine Shop to enhance signage visibility:

- (a) Tenant signage shall be painted wood, with historic typeface, and with few basic heritage colours on an individual sign;
- (b) Tenants may each have up to two signs in relation to their business in the Machine Shop - one 'highway sign' on the west face of the building and one 'unit sign' near or above the entry to their unit; and
- (c) The maximum permitted size of highway sign is 7m² and the maximum permitted size of unit sign is 2m².

ANALYSIS: *The suitability of roof-top signage on the Machine Shop*

In 2003 the Town of Ladysmith adopted the "Waterfront Area Plan" which includes design guidelines (for buildings and streetscapes) prepared by de Hoog D'Ambrosio Architects. The purpose of the waterfront design guidelines are to contribute to the overall beauty and character of the Ladysmith Waterfront and to:

"place an emphasis on pedestrian scale, visibility of building function, and neighbourliness of other buildings and open spaces. The development of a coherent image and a distinctive roof-scape are also key objectives."

“In keeping with the industrial character and human-scale of the waterfront area, all signs should be surface applied to walls or hanging board signs, and front lit.” (Part 3 – Urban Design Guidelines)

The waterfront design guidelines in the ‘Official Community Plan’ state that “roof mounted signs shall be prohibited.” Also, the general provisions in the Town of Ladysmith Sign Bylaw (#1176), Section 4.6 states that “No person shall display a roof top sign in any zone within the Municipality.”

It is staff’s recommendation that a roof-top sign is not suitable for the Machine Shop. A roof-top sign for the Machine Shop is contrary to clearly stated design guidelines and the ‘Sign Bylaw’.

SCOPE OF WORK:

Removing trees and vegetation to enhance Machine Shop signage visibility

A site visit conducted with parks and planning staff revealed that there are two areas of ‘volunteer’ cottonwood trees that have matured between the highway and the Machine Shop building (approximately 15 trees in total). Although these trees provide green foliage, they obscure the view of the Machine Shop building and the harbour. Removing the cottonwood trees would improve visibility to signs on the west face of the Machine Shop building and enhance the appearance of specimen trees planted along the highway.



Figure 1: This photo shows several of the cottonwood trees along the highway that could be removed.

ALTERNATIVES:

To not remove the cottonwood trees.

FINANCIAL IMPLICATIONS

To remove the cottonwoods would cost \$950 per day and the contractor estimates 1 to 2 days of work. The parks budget can absorb \$950 of the cost.

LEGAL IMPLICATIONS n/a

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

At their meeting June 30, 2009, the Heritage Revitalization Advisory Commission (HRAC) passed a motion of support for the Machine Shop signage design guidelines. The HRAC also requested that prior to approval of each Machine Shop sign that the 'sign design' be referred to HRAC for consideration (similar to the approval process for signs in the downtown specified area).

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

Parks staff concur that removing the cottonwoods would improve visibility from the highway to the Machine Shop and the harbour.

ALIGNMENT WITH STRATEGIC PRIORITIES: n/a

SUMMARY:

Permitting roof-top signage is contrary to the waterfront design guidelines and the 'Sign Bylaw'.

Removing the cottonwoods along the highway would improve visibility to the Machine Shop and the harbour. The cost of removing the cottonwoods will be between \$950 and \$1900. The parks budget can absorb \$950 of this cost.

The HRAC supported the Machine Shop sign design guidelines but would like to review individual signs prior to approval.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

none



Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Sandy Bowden, Director of Corporate Services
Date: June 30, 2009
File No: 1090-02

Re: **SPLICING SHED LEASE**

RECOMMENDATION(S):

That Council accept the notice given by Westisle Wood Products to vacate the premises known as the Splicing Shed at 840 Oyster Bay Drive, effective July 31, 2009;

And that Council offer to lease the Splicing Shed premises to Blondeau's Cabinets and Millwork for a two-year lease effective August 1, 2009, at a rate of \$5.00 per square foot, in accordance with the delegation bylaw.

And that Council accept the attached correspondence from Blondeau's Cabinets and Millwork as notice of their intent to cancel their current lease in Unit H of the Machine Shop.

PURPOSE:

The purpose of this staff report is to seek Council's approval regarding leases at the Splicing Shed and the Machine Shop.

INTRODUCTION/BACKGROUND:

Tom Brayton of Westisle Wood Products has been on a month to month lease of the premises known as the Splicing Shed since February 1, 2009. On June 25, he notified the Town of his intent to vacate the Splicing Shed as of July 31, 2009. On June 6, Phil Blondeau and Dave Howes of Blondeau's Cabinets had written the Town requesting the opportunity to move into the Splicing Shed should the property become available.

Blondeau's have indicated that the larger premises would help to achieve some efficiencies in their business.

SCOPE OF WORK:

Upon Council approval Staff will place the statutory notices and draw up the leases.

ALTERNATIVES:

Council can choose to advertise the space at the Splicing Shed rather than offering it to a current Machine Shop tenant.

FINANCIAL IMPLICATIONS:

At \$5.00 per square foot for the Splicing Shed lease (1,440 sq. ft.) there will be a slight revenue increase of \$720 per year over the \$4.50 per foot paid by the current tenant. Other potential tenants have expressed interest in space at the Machine Shop should it become available, so it is not expected to take more than a month to find a new tenant.

LEGAL IMPLICATIONS:

N/A

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

A move by Blondeau's Cabinets and Millwork out of the Machine Shop should alleviate some of the air quality complaints from non-manufacturing tenants of the Machine Shop.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

N/A

ALIGNMENT WITH STRATEGIC PRIORITIES:

N/A

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

E-mail from Blondeau's Cabinet's and Millwork.

Joanna Winter

From: CPBlondeaus [cpblondeaus@shaw.ca]

Sent: August 9, 2009 9:42 PM

To: Rob Hutchins

Cc: Joanna Winter

Subject: 840 Oyster Bay Dr

rec'd 2009.06.09
(Mr. Blondeau's computer
had wrong date set...)

Hello Rob..

It has come to our attention that there is a chance that 840 Oyster Bay Dr will be coming available for lease. Dave and I would like to make an application to lease it and to give up our existing lease on our space at 600 Oyster Bay Dr. We feel that would be a much better space for us with a minimum of problems for all.

Thanks for your time

Phil Blondeau

Dave Howes

Blondeau's Cabinets & Millwork Ltd



Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Joe Friesenhan, Director of Public Works
Date: July 2, 2009
File No:

Re: WATERING REGULATIONS

RECOMMENDATION:

That Council adopt the District of North Cowichan Stage I, Stage II and Stage III Watering Regulations.

BACKGROUND / HISTORY:

Over the past number of years, Ladysmith has initiated watering regulations during the summer months to ensure that the Town has an adequate water supply and also to minimise maximum flows at certain times of the day. Other jurisdictions in the area have initiated similar restrictions. In most years the level of restriction was never beyond level one.

A survey of the surrounding area has identified that all of the jurisdictions have similar stage I restrictions where residents are able to water lawns on odd or even days either in the morning or in the evening. Ladysmith stage II restrictions allow watering on odd or even days for one hour only. Stage II restrictions in all the other jurisdictions allow watering only two days a week (odd residences Thurs. & Sun and even residences Wed. and Sat.). The restrictions for stage III are different in every jurisdiction. The City of Nanaimo and the Regional District of Nanaimo have a stage IV restriction also.

Attached is a breakdown of the sprinkling regulations for the Town of Ladysmith, Cowichan Valley Regional District, District of North Cowichan, City of Nanaimo and the Nanaimo Regional District.

ATTACHMENTS:

Area Water Regulations.

I concur with the recommendation

Ruth Malli, City Manager

WATERING REGULATIONS	Dates		Stage I		Stage II		Stage III		Stage IV	
Town of Ladysmith	June 1 - further notice	June 1 - further notice	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 2 hours total only	Odd premises/Odd days Even premises/Even days 7-8 am or 7-8 pm for 1 hour total only	Odd premises/Odd days Even premises/Even days 7-8 am or 7-8 pm for 1 hour total only	Odd premises/Odd days Even premises/Even days 7-8 am or 7-8 pm for 1 hour total only	Hand watering only 7-8 am or 7-8 pm One (1) hour period only	Hand watering only 7-8 am or 7-8 pm One (1) hour period only	N/A	N/A
Cowichan Valley Regional District	May 1 - October 31	May 1 - October 31	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 3 hours total only	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 3 hours total only	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 3 hours total only	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 3 hours total only	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm Even premises: Wed & Sat Odd premises: Thurs & Sun Hand watering only	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm Even premises: Wed & Sat Odd premises: Thurs & Sun Hand watering only	N/A	N/A
District of North Cowichan	June 1 - October 31	June 1 - October 31	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 3 hours total only	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 3 hours total only	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 3 hours total only	Odd premises/Odd days Even premises/Even days 6-9 am or 7-10 pm for 3 hours total only	No use of sprinklers, No filling pools or hot tubs, no washing houses, boats or vehicles	No use of sprinklers, No filling pools or hot tubs, no washing houses, boats or vehicles	N/A	N/A
City of Nanaimo	June 1 - September 30	June 1 - September 30	Odd premises/Odd days Even premises/Even days no watering 10am - 4pm	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm Even premises: Wed & Sat Odd premises: Thurs & Sun (June - July - August)	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm Even premises: Wed & Sat Odd premises: Thurs & Sun (June - July - August)	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm Even premises: Wed & Sat Odd premises: Thurs & Sun (June - July - August)	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm Even premises: Wed or Sat Odd premises: Thurs or Sun Once per week only	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm Even premises: Wed or Sat Odd premises: Thurs or Sun Once per week only	Odd premises/Odd days Even premises/Even days 4-9 am or 7-10 pm Hand watering or irrigation system only	Odd premises/Odd days Even premises/Even days 4-9 am or 7-10 pm Hand watering or irrigation system only
Regional District of Nanaimo	April 1 - further notice	April 1 - further notice	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm (April-May & Sept-Oct)	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm (April-May & Sept-Oct)	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm (April-May & Sept-Oct)	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm (April-May & Sept-Oct)	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm Even premises: Wed or Sat Odd premises: Thurs or Sun (June - July - August)	Odd premises/Odd days Even premises/Even days 6-10 am or 6-10 pm Even premises: Wed or Sat Odd premises: Thurs or Sun Once per week only	Odd premises/Odd days Even premises/Even days 4-9 am or 7-10 pm Hand watering or irrigation system only	Odd premises/Odd days Even premises/Even days 4-9 am or 7-10 pm Hand watering or irrigation system only



Ladysmith Fire / Rescue

P.O. Box 760 Ladysmith, B.C. V9G 1A5
 Phone: 250-245-6436 • Fax: 250-245-0917



FIRE CHIEF'S REPORT

MONTH: **May**, 2009

TYPE OF CALL OUT	J	F	M	A	M	J	J	A	S	O	N	D	YEAR'S TOTALS
Alarms Activated: Pulled Station		1											1
By mistake	1			1									2
Electrical problem		3	2	1	1								7
Due to cooking			2	1									3
Assistance													
Burning Complaint			1	4	2								7
Fire: Structure	2	1	1	1	1								6
Chimney	1	1	1										3
Interface / Bush		1		1	2								4
Vehicle	1												1
Other	1		1	3									5
Hazardous Materials													
Hydro Lines: Down / Fire	1	1											2
Medical Aid	3	1	1	1	1								7
Mutual Aid	1				2								3
MVI	2	4	5	2	3								16
Rescue													
MONTH TOTALS (not incl. Practises)	13	13	14	15	12								67
Practises (Totals for each Month)	4	4	5	4	4								21

ALARMS ACTIVATED (location/owner):

1. sensor problem at Ladysmith Community Health Centre

COMPARISONS:

Year to Date / 09 67 (excl. practises)
 Year to Date / 08 75 (excl. practises)
 Year to Date / 07 57 (excl. practises)

APPROVED:

Ray Delcourt
 Fire Chief

COASTAL ANIMAL CONTROL SERVICES OF BC LTD

2202 Herd Rd. Duncan, BC. V9L 6A6

(250) 748-3395

TOWN OF LADYSMITH POUND REPORT

May, 2009

RECEIVED

JUN 11 2009

Disposition of Impounded Dogs	Current Month	2009 Totals	
Stray dogs impounded	0	4	
Stray dogs claimed	0	4	
Stray dogs put up for adoption	0	0	
Stray dogs euthanized	0	0	
Stray livestock / cats	0	0	
Calls Received and Investigated	6	34	
Aggressive dogs	0	4	
Dogs at large	4	20	
Noise (barking) complaints	2	7	
Other non specific dog related calls	0	3	
Wildlife / livestock / cats	0	0	
Monthly Pound and Board Fees Collected	\$00.00	\$410.00	
Impound fees	\$00.00	\$350.00	
Daily board fees	\$0.00	\$60.00	
Tickets issued	0	0	
Unlicenced dog	\$00.00	\$0.00	
Dog at large	\$00.00	\$0.00	
Dangerous dog at large	\$00.00	\$0.00	
Licencing Statistics	Tags	73	844
	Revenue	\$2190.00	\$19655.00

Trevor Hughes

BC Coalition of People with Disabilities

204-456 West Broadway, Vancouver, BC V5Y 1R3 tel 604.875.0188
fax 604.875.9227 • TTY [for hearing impaired only] 604.875.8835
www.bccpd.bc.ca • feedback@bccpd.bc.ca

Over 30 years of advocacy

STAFF RECOMMENDATION

That Council consider if it wishes to support the resolution regarding the ban of the use of handheld communication devices while operating a motor vehicle.

I concur with the recommendation:


R. Malli, City Manager

May 28th 2009

JUN - 1 2009

Dear Mayor and Council,

Re: Use of cell phones and other handheld devices while operating a motor vehicle

At a recent BC Coalition of People with Disabilities (BCCPD) Board meeting, Valerie Thoem, a BCCPD director who is also on the Mayor's Advisory Committee for Disability Issues in Duncan, reported on a survey conducted by Cowichan Independent Living in the Cowichan Valley. The survey was on the use of handheld devices being used by people operating motor vehicles.

The Board discussed the dangers inherent in using these devices and the tragic consequences that are often the result of drivers being distracted while using handheld cell phones. The BCCPD's membership includes many individuals who have been severely disabled in traffic accidents and are lifetime wheelchair users as a consequence.

The BCCPD is very concerned about automobile accidents in view of the proliferation of cell phones and other handheld devices. For example, this week in the media we heard about the tragic story of a young man who was killed in an accident as a result of texting on his cell phone while driving. The Board was unanimous in its support of the following motion:

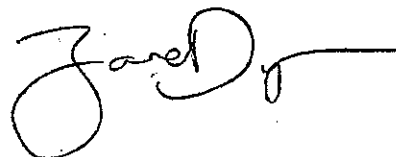
We strongly endorse the resolutions by the Mayor's Advisory Committee for Disability Issues, which requests a ban on the use of handheld communication devices, while operating a motor vehicle, with exemption provided for police and other emergency personnel.

We feel very strongly that every effort should be made to take every possible precaution to prevent these tragic accidents. We are writing to you in the hope that you will join us in advocating for a ban on the use of handheld communications devices in BC.

Yours sincerely,



Al Hanet
President



Jane Dyson
Executive Director

RECEIVED

JUN 22 2009

June 22, 2009

To Mayor Hutchins and Council,

JUN 22 2009

I see in the Chronicle that Ladysmith has received a grant for West Nile Virus Risk Reduction. I would hope you will consider the petition presented to you last year regarding the drainage ditch along the lane that backs Methuen.. (We were told it would be looked at this year). This open ditch is a perfect breeding area for mosquitoes, it has stale water all year round as well as garbage and unsightly weeds. I live in the strata that backs this lane and find I have mosquitoes this year. I moved from Seestatchewan partly to get away from mosquitoes and crows. (the right combination for West Nile) Please consider closing in this ditch.

Thank-you.

Marlene Volden

#14 - 332 Belaire St.

Ladysmith

250-245-8527

STAFF RECOMMENDATION

That Council receive the correspondence and refer it to staff for a response to the letter writer.

I Concur with the recommendation:

R. Malli

R. Malli, City Manager



CENTRAL SERVICES

Box 3333, 6250 Hammond Bay Rd., Nanaimo BC, Canada V9R 5N3
Phone: (250) 758-4697 Fax: (250) 758-2482
Email: info@virl.bc.ca Web: www.virl.bc.ca

STAFF RECOMMENDATION

That Council advise if it has any issues to raise with the Vancouver Island Regional Library regarding the provision of library services.

I concur with the recommendation:


R. Malli, City Manager

June 23, 2009

His Worship Rob Hutchins, Mayor
410 Esplanade
Ladysmith, BC V9G 1A2

Dear Mayor Hutchins and Councillors:

Re: FACILITIES PLANNING

Vancouver Island Regional Library (VIRL) is pleased to advise that we are embarking on the creation of a Consolidated Facility Master Plan.

This plan will aid greatly in determining the proper standards for facilities in the future and will help ensure that an orderly provision of updating and renewing facilities is undertaken to maximize service to its members. The plan is expected to be completed in early 2010.

To assist Vancouver Island Regional Library in its planning process we would appreciate knowing if your area

- Has any plans or concerns regarding the provision of library space.
- If so when your area might be considering a new facility where a library might be housed.
- Has any other pertinent information that might affect our planning process.

Vancouver Island Regional Library is vitally interested in being part of your planning process where Library Facilities are concerned.

Your response, even if you have no current plans, would be appreciated.

Yours truly



Rosemary Bonanno BA MLS
Executive Director

c.c. -- Ruth Malli, City Manager
Bruce Whittington, VIRL Board Member

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STAFF RECOMMENDATION

That Council advise if it wishes to provide financial support to the Kids Help Phone in the amount of \$500.

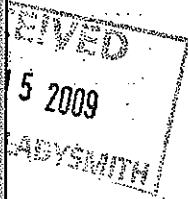
I concur with the recommendation:


R. Mall, City Manager

1 800 668 6868

Kids Help Phone

kidshelpphone.ca



June 11, 2009

Mayor Robert Hutchins
Town of Ladysmith
PO Box 220 Stn Main
Ladysmith, BC V9G 1A2

Dear Mayor Hutchins:

This year marks Kids Help Phone's 20th Anniversary. For the past two decades, Kids Help Phone has been at the forefront in providing help and hope through its phone and web counselling services, earning the respect and trust of kids across Canada. When young people feel like there's nowhere to turn, when parents, schools and social services are unavailable, closed, backlogged or simply not accessible for any reason, Kids Help Phone is there. Kids know that when they reach out to Kids Help Phone, any time of the day or night, they'll be connected with a professional counsellor who can provide immediate, kid-friendly insight, help and direction on a wide variety of issues relevant to youth.

In a time of significant economic downturn, there is added stress on family life and feelings of uncertainty and stress among kids. The untold news story in these difficult times is that if left unchecked, these uncertainties and stresses can escalate into much bigger and more serious issues including addiction to alcohol and drugs, eating disorders, self harm, teenage pregnancy or even suicide.

At Kids Help Phone, our professional counsellors see an increase in contacts related to family stress in times of economic strain. **On average over the past three years, children and youth on Vancouver Island contacted us by phone or on the web approximately 19,000 times a year from 55 communities.**

"I NEED HELP. I think I am depressed because I haven't been eating in a while again. I haven't been sleeping. I have started wondering if it would be easier if I wasn't here. Help me please. I want to stop doing bad things to myself on impulse."

(~Actual Post from kidshelpphone.ca received Jan 10, 2009)

Kids Help Phone is dedicated to improving the lives of children and youth. As a trusted and important part of kids' lives since May 1989, we received over 2.2 million contacts from kids across Canada in 2008. Over the phone and through web posts, Kids Help Phone's trained professional counsellors are available to answer kids' questions and concerns, 24 hours a day, 7 days a week.

British Columbia Regional Office, 1200 West 73rd Avenue, Suite 1100, Vancouver, British Columbia V6P 6G5

Tel: 604-267-7057 Toll Free: 1-877-267-7057 Fax: 604-267-7058 Email: bc@kidshelpphone.ca

Charitable Registration No. 13000 5846 RR0001

74 kidshelpphone.ca

being
there
for kids

Kids who contact Kids Help Phone receive accurate information from counsellors who help them identify their options and encourage them to get help in their own community. Whether they talk to a trusted adult or get connected with a social service agency, Kids Help Phone helps kids take that critical first step.

"I came here almost two years ago and poured myself out. You gave me the right information and made me feel worthy of support! I am still seeing the same therapist. It has been hard work and continues to be but I am able to function normally and I am happy. 100000000 million thank yous your way!"

(~Actual Post from kidshelpphone.ca received Jan 3, 2009)

In many rural communities in our province Kids Help Phone may be a child's only source of professional counselling available.

Kids Help Phone makes a positive impact on children and teens in your own community every day. We may be helping *"the kid next door or the kid upstairs."*


We would greatly appreciate the support of the Town of Ladysmith and respectfully request you consider a donation to Kids Help Phone in the amount of \$500 to support our service and help ensure we will continue to be there for kids in Ladysmith and all of Vancouver Island.

Thank you very much for considering our request. If you require any additional information please feel free to contact me at (604) 267-7057 or by email at bruce.jagger@kidshelpphone.ca.

Yours truly,

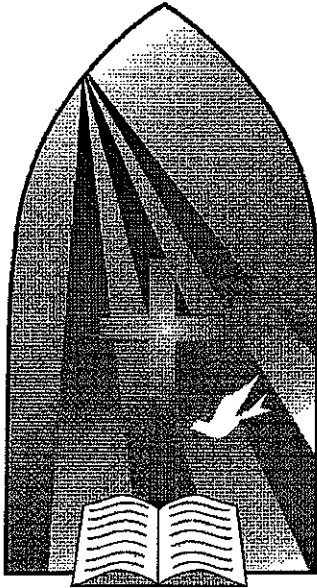
A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left.

Bruce Jagger
Manager, Philanthropic Gifts

STAFF RECOMMENDATION
That the correspondence be received.
I concur with the recommendation:

R. Mallin, City Manager

JUN 12 2009
TOWN OF LADYSMITH

Wednesday, 10 June 2009



BETHEL TABERNACLE

Rev. Rob Bedard
Lead Pastor
Bethel Tabernacle
1149 - 4th Ave.
Ladysmith, BC
V9G 1A3
(250) 245-8221 (O)
(250) 245-9996 (F)
Email:
rlbedard@shaw.ca
Website:
www.bethelonline.ca

Town Of Ladysmith
P.O. Box 220
Ladysmith, B.C. V9G 1A2

Ladysmith Town Council,

On behalf of the board and congregation of Bethel Tabernacle, I would like to take a moment to offer our sincere thanks for the recent laying of a sidewalk outside our church property on 4th Avenue.

We have felt strongly over the years that this sidewalk has been greatly needed. The need seems to have grown in conjunction with the growth we have seen within this area of Ladysmith.

We have already witnessed a number of Ladysmith residents using it. These include seniors in wheelchairs and scooters, children walking to and from school and bereaved people paying their respects at the Ladysmith Cemetery. It is great to know this can happen in a safer manner than before.

Please pass on our sincere thanks to all who laboured so hard – in such heat – to provide this sidewalk.

Gratefully Yours,


Rev Rob Bedard



CITY OF BURNABY
OFFICE OF THE MAYOR
DEREK R. CORRIGAN
MAYOR

04 June 2009

Mayor and Council
Town of Ladysmith
P.O. Box 220 Stn Main
Ladysmith, BC V9G 1A2

Dear Mayor and Council,

Burnaby City Council, at the open Council meeting held on 2009 June 01 received a comprehensive report from our City Solicitor prepared in response to Council's request for a review of the ongoing problems associated with municipal liabilities resulting from building construction regulation.

The report provides a detailed analysis of the recommendations arising from the Barrett Commission which included specific recommendations to address the inequity of the application of joint and several liability to municipalities. Particularly, the Commission found the discrepancy in treatment of municipal liability between the Local Government Act and the Vancouver Charter to be unacceptable.

The Commission's recommendations specifically support the position taken by both the UBCM and member municipalities in requesting the Provincial Government remove the joint and several liability of municipalities under the Local Government Act and provide the same protection to all municipalities that is afforded to the City of Vancouver under the Vancouver Charter.

I recognize that this issue has been before the Provincial Government for some time, but I believe we must continue to press for the necessary legislative changes in order to safe guard our municipalities and citizens from potentially devastating legal action.

Your continued support for this issue and petitioning of the Province and local M.L.A.'s would be greatly appreciated.

For your information, a copy of our staff report is herewith enclosed.

Very truly yours,

Derek R. Corrigan,
Mayor

STAFF RECOMMENDATION

That Council consider if it wishes to provide a letter of support to the City of Burnaby for their initiative for a review of the ongoing problems associated with municipal liabilities resulting from building construction regulation.

I concur with the recommendation.

R. Mann, City Manager

TO: CITY MANAGER **DATE:** 2009 May 07

FROM: CITY SOLICITOR

SUBJECT: LOCAL GOVERNMENT LIABILITY IN BUILDING REGULATION

PURPOSE: To Provide Council with Information on the Ongoing Problems Facing the City in Litigation Arising out of Building Construction Regulation

RECOMMENDATION:

1. **THAT** Council receive this report for its information.

REPORT

Council is aware that the City has over the last decade become increasingly involved as a defendant in civil legal actions relating to building construction.

This litigation typically involves buildings that have suffered damage from an alleged defect or defects in the design or construction of the building.

The City, like other municipalities in British Columbia, regulates the construction of buildings within its boundaries under its Building Bylaw. Standards of construction in B.C. are governed by the B.C. Building Code for all municipalities other than the City of Vancouver. The B.C. Building Code is mandated by the Province through a Provincial regulation. The Building Bylaw establishes the processes and procedures by which the City administers the Building Code. The Bylaw requires that the builder obtain a building permit from the City prior to commencing construction and occupancy approval prior to the occupancy of the completed building. As part of the regulatory process the Building Department carries out both a plan review prior to permit issuance and site inspections at a limited number of stages of construction as specified in the Bylaw.

For construction of buildings other than single family residences, the plan checker reviews the building plans for limited life safety related items. The plan checker is not an architect or engineer and relies on the registered professionals to ensure that the building design meets Building Code requirements. In this regard, the plan checker ensures that design drawings bear the registered professional's seal and relies on this and the letters of assurance from the registered professionals for all matters other than the limited life safety items.

To: City Manager
From: City Solicitor
Re: Local Government Liability in Building Regulation
2009 May 07 Page 2

The building inspection process can best be described as a spot audit process. The building inspector performs the limited inspections mandated by the Bylaw which, again, focus on life safety issues. The registered professionals are responsible for the review of construction to ensure that the building meets the design and complies with the Building Code, and they must provide the City with letters of assurance that they have carried out that review. The City building inspector is not on site at all times (the inspector's presence is in fact very limited) and, again, the inspector is not an architect or engineer.

It should also be borne in mind that the Building Code establishes minimum standards for construction and that many Building Code requirements for complex structures are design or performance based, in that they set a construction goal and leave it to the registered professional to achieve that goal in the design. Building Department staff are not qualified, and should not be expected, to second guess the registered professional on such matters.

The most common type of construction problem giving rise to legal actions against the City in recent years is that commonly known as the "leaky condo". This typically involves a multi-family residential development constructed in the late 1980's or early 1990's that has suffered water ingress damage resulting from the failure of the building envelope to shed water (wind-driven rain in particular) and prevent its entry into the wall assembly.

The leaky condo problem is not, of course, confined to Burnaby, but has occurred in communities throughout the Lower Mainland and Vancouver Island.

By Order in Council on April 17, 1998, the Province appointed a Commission of Inquiry under former Premier Dave Barrett to investigate and report on the leaky condo crisis. The Commission held 29 public hearings and received more than 730 written submissions. It reviewed current legislation, considered a number of public and private reports, and considered approaches taken in other jurisdictions.

The Commission reported its findings in June 1998, and in its report made 82 recommendations.

In the opening part of its report, the Commission stated:

"In addition to economic and climatic conditions, process and building science issues have led to a disintegration in the quality of construction. The building process has been undertaken in a largely unregulated, residential construction industry, driven to the lowest common denominator by ruthless, unstructured competition."

The Commission found that, aside from climatic factors, the two major factors that had led to the problem were:

1. The Residential Building Process

- lack of developer and contractor responsibility – often facilitated through protective corporate structures
- lack of skills, training and qualifications for construction trade workers
- architects unable to maintain professional responsibility in translating designs into quality structures
- inability of municipalities to effectively monitor building quality
- lack of information from the builder to the strata council on building maintenance
- inadequate home warranty program

2. Building Science

- poorly interpreted building code
- application of building designs and use of new building materials without an understanding of how they would perform in the coastal climate
- lack of conventional wisdom among all parties involved in the process regarding the requirements for effective building

In relation to the roles of the various parties involved in the construction of these buildings, the Commission stated:

“It is the Architect’s responsibility to ensure that the project’s design and construction substantially conform to the relevant building codes. It is the municipal inspector’s responsibility to ensure the code has not been violated. However, municipal officials approve plans for permit purposes and undertake minimal on-site inspections. Inspections do not cover building envelope design, but deal with foundations, sheathing, framing, insulation, and a final inspection for occupancy.”

“If it is not the municipality’s role to ensure the quality of construction, then whose is it, and what is the responsibility of the municipality’s inspection department? The ultimate responsibility for the quality of construction must rest with the developer/builder. The developer can then contract that responsibility to the professional architect or engineer.”

"It is the provincial government's role to establish codes and standards, while it is the developer's role to ensure that construction complies with standards. The registered professional (architect or engineer) has the responsibility of designing the building and ensuring field reviews are undertaken during construction. The role of the building official is to monitor the process."

The Commission found, however, that the general perception of the public as to the role and responsibilities of the municipal building inspector was quite different:

"It should be noted, however, that regardless of what the role of municipalities has become, there has been an expectation on the part of the consumer and the development industry that code compliance was being enforced by municipal inspectors. Municipal inspectors were being regarded as the interpreters of the code."

"It is apparent from the numerous statements and comments made to the Commission by frustrated and angry condo owners, that the role of local government, with respect to building inspection and plan checking, is widely misunderstood."

Unfortunately, the latter observation continues to reflect the situation. There is a general misunderstanding that prevails in the community that municipal building officials play a much greater role in the building process than they actually do, and that the issuance of an occupancy permit is in some sense not only a warranty by the municipality that the building complies in all respects with the Building Code, but confirmation that it is well built. As noted by the Barrett Commission, the role of the municipal building official is that of a monitor only. Building standards are the responsibility of the Province. The responsibility to ensure that the building design complies with Building Code requirements is that of the design professional and the responsibility to ensure that the building construction complies with the Building Code requirements and design is that of the developer and the registered professionals.

Perhaps the most important of the Barrett Commission's recommendations that was instituted by the Province was the enactment of the *Homeowner Protection Act*. This legislation established:

1. a licensing system for residential builders
2. statutory warranties of quality and habitability applicable to new residential construction
3. a requirement for mandatory third party warranty policies on new residential construction

4. the creation of the Homeowner Protection Office to administer the licensing of residential builders and the third party warranty system, and to carry out research and education in the field of the B.C. residential construction industry.

While it is expected that this legislation will go a long way toward improving residential construction, the legislation was not retroactive and has no effect on pre-1998 residential construction, and in particular the multi-family residential developments constructed in the 1980's and early 1990's. These continue to be the main source of litigation involving municipalities.

While there was some sense of optimism among municipalities and their legal advisors at the time of the Barrett Commission Report that municipalities and their building departments would not generally be held responsible in the litigation that was beginning to flow from the crisis, and that municipalities would not be looked to share in the repair costs, the reality has been otherwise.

The first, and to date only, leaky condo lawsuit that has gone to trial in B.C. is that of *The Owners Strata Plan NW3341 v. Canlan Icesports et al*, a 2001 decision of the B.C. Supreme Court (now commonly referred to as the "Delta decision"). In that case the City of Delta was found contributorily negligent to the extent of 20% for the negligent design and construction of the building, but due to the principle of joint and several liability ended up, staff understand, paying the bulk of the reported \$3 million judgment for repair costs

A review of the facts in the Delta decision do indicate that the building department arguably made some operational errors, such as accepting design drawings that did not bear an architect's seal and were not in fact prepared by a professional architect. Some comfort has since been taken that, where the municipality did rely on architectural drawings, did obtain the letters of assurance of the registered professionals as required by the Building Code or (prior to the 1992 Building Code) by Building Department policy, and did perform the inspections mandated by its own building bylaw, its actions would be distinguishable from those considered in the Delta case, and the municipality would not be held liable.

However, certain comments and findings in the Delta decision have left a degree of uncertainty and concern for municipalities. The court pointed out that the opening preamble to the Delta building bylaw stated that it was "to make provision for the administration and enforcement of the said Building Code" (emphasis added), which was typical of local building bylaws at that time including Burnaby's former building bylaw (but not its current Building Bylaw). The reasons for judgment may suggest that if the stated purpose of the building bylaw is the enforcement of the Building Code, municipalities cannot, by policy, limit plan review and building inspections to certain aspects of Building Code compliance only, and that the municipality is responsible for ensuring complete Building Code compliance for all elements of the structure, including the sufficiency of performance based design elements of the structure (such as the building envelope).

It is open to argument that the mere inclusion of this wording in the preamble of the Bylaw does not preclude the municipality from making a legitimate policy decision to limit the scope of its plan review and building inspections, and to rely in other respects on the assurances of the registered professionals involved in the building design and construction. The Delta decision was not appealed and, to staff's knowledge, no other leaky condo lawsuit has since gone to trial in B.C.. There remains uncertainty in the law of the municipality's responsibilities and liabilities in this area.

In the area of construction litigation municipalities are particularly disadvantaged by two statutory provisions:

1. The application of joint and several liability under section 4 of the *Negligence Act*.

Under the principle of joint and several liability, a successful plaintiff can recover all or any portion of its damage award against any defendant found contributorily negligent regardless of the proportionate liability of that defendant. So if a municipality is found even 1% contributorily negligent, the plaintiff can recover its entire damage award from the municipality.

2. The 30 year ultimate limitation period under the *Limitation Act*.

The limitation period for bringing an action in respect of a leaky condo building is 6 years. However, the limitation period does not begin to run until the building owners become aware or ought reasonably to have become aware of the faulty building design/construction. This typically does not occur until the building starts exhibiting water ingress related problems and an engineer is retained to investigate and report on the problem. The leaky condo legal actions in Burnaby typically involve buildings constructed in the late 1980's and early 1990's.

As a result, when legal action is ultimately commenced it is often twenty years since the building was constructed. As the developer typically incorporates a separate company for each project, the development company likely no longer exists or, if it does, is inactive and without assets. Many of the contractors, subcontractors and suppliers may no longer exist to answer for their share of fault. The architect, if still in business, typically has only \$500,000 professional insurance.

After the passage of so much time, the municipality is often the only defendant of substance left. As a result the plaintiffs focus their efforts on establishing some degree of negligence, no matter how small, on the municipality.

The Barrett Commission recognized the inequity of the application of joint and several liability to municipalities, and recommended change:

“Because of both a perceived and a real obligation on behalf of municipalities to carry out the enforcement of the Building Code, there are a significant number of litigation claims pending, naming the municipality as a defendant. Currently, municipalities are liable on a “joint and several” basis, for inspection activity that has not been properly carried out. This means that, in the absence of a developer (who may be protected by a numbered company, or who has gone bankrupt) and/or an architect or engineer with deep pockets, a municipality could be held financially responsible for all the costs related to a successful judgment. The City of Vancouver Charter was amended in 1995, by the Legislature, to eliminate all liability for inadequate inspection.

The Commission finds that the joint and several responsibility for municipalities is onerous. It also finds the discrepancy in treatment among municipalities unacceptable.

Recommendation #18: That the Municipal Act be modified to remove the joint and several liability of a municipality while retaining proportionate liability.

Recommendation #19: That the Vancouver Charter be amended to be compatible with the proportionate liability held by other municipalities. ”

The amendment to the *Vancouver Charter* that the Commission was alluding to is s.294(8), which provides:

“S.294(8) The city, or any officer or employee thereof, in inspecting and approving plans or in inspecting buildings, utilities, structures or other things requiring a permit for their construction, has no legal duty, on which a cause of action can be based, to ensure that plans, buildings, utilities, structures or other things so constructed, comply with the by-laws of the city or any other enactment. The city, or any officer or employee thereof is not liable for damages of any nature, including economic loss, sustained by any person as a result of neglect or failure of the city or officer or employee thereof to discover or detect contraventions of the by-laws of the city or other enactment or from the neglect or failure, for any reason or in any manner, to enforce such a by-law or enactment or for any damage from a failure to recommend, or resolve to file a notice in the land title office pursuant to section 336D. ”

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This section provides the City of Vancouver with a thorough immunity from liability arising out of its plan checking and building inspection functions in respect of bylaw compliance (the City of Vancouver is not bound to the B.C. Building Code, it has its own building bylaw containing a comprehensive building code).

At its regular meeting of March 23, 2009, Council received and adopted a report recommending submission of a number of resolutions to the UBCM and LMLGA for consideration at this years' conventions.

Among those resolutions was one requesting that the *Local Government Act* be amended to provide all B.C. local governments with statutory immunity similar to that provided to the City of Vancouver under s.294(8) of the *Vancouver Charter*:

"WHEREAS all local governments, with the exception of the City of Vancouver, face considerable liability risk and are being financially penalized as a result of legislation which does not provide immunity for building permit and inspection processes;

AND WHEREAS it is unacceptable that all local governments in British Columbia are not offered the same liability protection through provincial legislation:

THEREFORE BE IT RESOLVED that the UBCM recommend to the Provincial Government that the Local Government Act be amended to include blanket immunity from liability for approving building plans and inspecting buildings, similar to the Vancouver Charter (section 294, sub-section 8). "

Regarding this proposed resolution it was stated in the report:

"Burnaby, in concert with the UBCM and its members, has worked consistently since 1985 to propose various legislative reforms to the Provincial Government as part of a "Liability Action Program." One of the goals of this effort is to protect communities and all taxpayers from financial losses due, not to municipal liability, but to litigation affecting the construction industry. This ongoing effort has included several UBCM resolutions to include a review of joint and several liability as part of the Modernization Strategy. To date, there has been no substantial progress on the part of the Provincial Government to rectify this important matter that is continuing to have a direct and substantial financial impact on local governments and their citizens.

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The progressive change to this legislation clearly established design professionals as being responsible for code compliance. No municipality should incur liability for its permitting process, which makes design professionals responsible for code compliance; and the inspection process, which serves as an auditing function to promote that compliance. Despite a UBCM resolution in 1996 which called on the Provincial Government to make a similar amendment to the Municipal Act, no action has been taken to ensure that all municipal governments in the province are afforded the same protection as currently in place for the City of Vancouver.

The matter was further delayed by the Provincial Government as it awaited the recommendations of the "Commission of Inquiry into the Quality of Condominium Construction in British Columbia" (Barrett Report), undertaken in 1998 by Commissioner Dave Barrett. In its final report, it was stated that "The Commission finds that the joint and several responsibility for municipalities is onerous. It also finds the discrepancy in treatment among municipalities unacceptable." Among the recommendations of the inquiry were that the Municipal Act be modified to remove joint and several liability while retaining proportionate liability and that the Vancouver Charter be amended to be compatible with the liability held by other municipalities.

The Barrett Report provided the Provincial Government with a wide range of recommendations and actions for implementation. The City of Vancouver adopted a report which objected to the recommendation of the Barrett Report to amend the Vancouver Charter. Instead, the City of Vancouver recommended that the Municipal Act be modified to provide the same liability protection as under the Vancouver Charter to all other municipalities in the Province. To date the Provincial Government has not implemented any actions regarding joint and several liability and further has not provided municipalities with the blanket liability protection, in respect to their permitting and inspection functions, as currently held by the City of Vancouver.

The Modernization Strategy, which was initiated in 2004, is being implemented by the Office of Housing and Construction Standards, to rationalize the regulation of the construction/housing industry. As previously discussed in Section 2.1 of this report, this strategy will not advance the UBCM resolution regarding joint and several liability. Based on the Provincial Government's refusal to advance the UBCM recommendations regarding this issue,

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Council requested that a further resolution be advanced calling for the protection of local government from any liability arising from their permitting and inspection functions. ”

Fundamentally, there would appear to be no logical basis for providing one B.C. local government with such a critical safeguard without providing it to the others.

In respect of the ultimate limitation period of 30 years, the Ministry of the Attorney General issued a Green Paper in February 2007 entitled “Reforming British Columbia’s *Limitation Act*” which, amongst other things, raised the possibility of a reduction in the ultimate limitation period from 30 years to 10 years. The UBCM urged its members to submit a response to the Green Paper in support of this proposal and the City did so. The Province has yet to act on the Green Paper and the public response. There is some indication that the Province may be considering a 10 year limitation period in construction litigation as part of its Modernization Strategy for the building regulatory system.

In staff’s view, the reduction of the ultimate limitation period for building construction liability from 30 years to 10 years would operate to significantly reduce municipalities’ liability exposure in the area of building construction. The City should continue to support this legislative initiative.

As mentioned previously, only one leaky condo action including a municipality has proceeded to trial in B.C. The costs of litigating one of these actions can be staggering, given the number of parties involved, the complexity of the issues, the volume of documents, the number of lay and expert witnesses, and the number of counsel. With trials expected to stretch over months the legal and related trial costs can ultimately reach well over a million dollars. It should not therefore be surprising that these lawsuits have tended to settle without going to Court.

Discussions with other municipal solicitors and risk managers indicate that the general approach has been to settle these claims if a reasonable settlement contribution can be agreed upon, and avoid the cost, uncertainty and financial risk of proceeding to trial. While there seems to be a common desire to have another one of these lawsuits to go through to trial and on to appeal if necessary, to clarify the law, it appears that no one has yet been prepared to take this risk.

Perhaps the greatest legal inequity that arises in this litigation is that the developer, which owned and directed the construction project through a company incorporated solely for that purpose, and that reaped the profit on the sale of the finished units to the public, is generally not legally compellable to pay for the repair of its defective product.

Instead it is the registered professionals, construction contractor, sub-contractors and material suppliers, and local government that are being looked to. The ability of the design professionals, contractors, sub-contractors and suppliers to make any contribution of substance to a settlement often depends on whether they have insurance, which is increasingly becoming less often the case.

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The decrease in available insurance has had the adverse effect of the local government increasingly becoming the plaintiff's prime target in these lawsuits, making it more difficult for the municipality to extract itself from the litigation with little or no contribution to the settlement. As a major (and perhaps only) "deep pocket" defendant in these lawsuits there now seems to be an expectation that the local government will be a major contributor to a settlement regardless of whether there is any evidence of negligence against it. Ability to pay, rather than fault, now seems to be the prime consideration in this litigation.

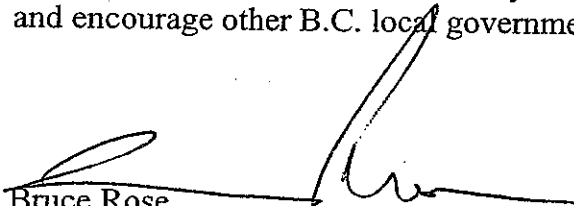
While the Barrett Commission described the role of the local government in the construction process as monitor only, it now seems that the local government is expected to be a warrantor or insurer of the finished product as well.

It should also be borne in mind that the local government is the only player directly involved in the entire construction process that isn't there to make a profit, it is involved to provide some level of protection to the public through its limited role as monitor. Moreover, the local government is not the one that designs or constructs the building. The worst that can ever be said of it is that in its role as monitor it neglected to identify someone else's error. Strictly from a public policy perspective it is wrong that the local government should be left to shoulder the loss.

The ultimate solution to this problem must be legislative, local governments must be provided with a reasonable level of protection in performing their building regulatory role, and not be faced with shouldering the financial burden when a building suffers water or any other form of damage, whether through poor design or poor workmanship, in aspects of construction for which they rely upon the design professionals or for which they do not inspect.

Ideally, all municipalities would be given the same thorough statutory protection that Vancouver has under s.294(8) of the *Vancouver Charter*. However, even changing municipal liability exposure to several rather than joint and several in building construction or reducing the ultimate limitation period to ten years (or both) would go a long way towards easing this inequitable and onerous burden.

The City should continue to actively lobby the Province to implement these legislative reforms and encourage other B.C. local governments to do so as well.


Bruce Rose
CITY SOLICITOR

BR:mka

Copy to Director Planning
Chief Building Inspector



STAFF RECOMMENDATION
That the correspondence be received.
I concur with the recommendation:
R. Mall
R. Mall, City Manager

RECEIVED
JUN 17 2009
TOWN OF LADYSMITH

Mayor and Council
Town of Ladysmith
410 Esplanade
POB 220
Ladysmith BC V9G 1A2

The members of the Vancouver Island Paddlefest Society offer our sincere appreciation for the Town of Ladysmith's sponsorship of our 11th Annual Event.

The weather nicely co-operated with us this year and we had a great turn-out for our workshops, guided tours and tradeshow. The town of Ladysmith served as a perfect host to the thousands of participants who enjoyed the amenities of our welcoming community. Your generosity allows us to continue to host this annual event to paddlesport enthusiasts and consumers throughout the Pacific Northwest. Thank you for your continued support.

With Sincere Appreciation

Bud Bell
President
Vancouver Island Paddlefest Society
POB# 1912
Ladysmith BC V9G 1W2



Nanaimo Airport
P.O. Box 149 3350 Spitfire Rd
Cassidy, B.C. Canada, V0R 1H0

Ph 250 245-2157 ext 239
lbehne@nanaimoairport.com

June 22, 2009

Mayor Rob Hutchins and Council,
Town of Ladysmith,
P.O. Box 220
Ladysmith, B.C.
V9G 1A4

Dear Sirs:

Re: Nanaimo Airport runway extension and reliability improvement project

Further to my progress report to Council on Airport matters in January, I am pleased to report that construction of the Runway Extension is now well underway, and barring unforeseen problems, is expected to be completed on time and within budget. The contract for the electronics portion of the Instrument Landing System has been awarded and is also expected to be completed on schedule.

This is an exciting time in the evolution of our Airport, and for those members of Council who are interested, I would be pleased to arrange a site visit to view construction progress, meet with Airport staff, and have an opportunity to ask questions. I can be reached by telephone at home 250 245-2879, cell 250 616-7772 or e-mail at kdbosma@telus.net.

With your concurrence I plan to next report to Council in October, and would ask that I be advised of a suitable date and meeting time. In addition, if you have any questions or concerns, please do not hesitate to contact me.

Yours very truly,

Ken K. Bosma,
Director,
Nanaimo Airport Commission.

Pc. Jerry Pink, Chair, NAC
Mike Hooper, CEO, NAC

STAFF RECOMMENDATION

That Council advise if it wishes Staff to organize a site visit to view the progress of the Nanaimo Airport runway extension and reliability improvement project.

I concur with the recommendation:

R. Malli, City Manager