

TOWN OF LADYSMITH



A SPECIAL MEETING OF THE
COUNCIL OF THE TOWN OF LADYSMITH
WILL BE HELD IN COUNCIL CHAMBERS AT CITY HALL ON
MONDAY, JUNE 10, 2013
7:00 p.m.

A G E N D A

CALL TO ORDER 4:30 P.M.

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in order to retire immediately into Executive (Closed) Session

1. EXECUTIVE (CLOSED) SESSION

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

- information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*
- 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

OPEN SESSION 7:00 P.M.

2. AGENDA APPROVAL

3. PUBLIC HEARINGS

- 3.1. **Town of Ladysmith Official Community Plan Bylaw 2003, No. 1488, Amendment Bylaw (No. 41) 2013, No. 1818** **3-12**
and
Town of Ladysmith Zoning Bylaw 1995, No. 1160, Amendment Bylaw (No. 92) 2013, No. 1819

Official Community Plan (OCP) Amendment and Rezoning Application (Town of Ladysmith)
1201 and 1251 Christie Road (Lot 7 & 8, District Lot 147, Oyster District, Plan VIP85271)

- 3.2. **Town of Ladysmith Official Community Plan Bylaw 2003, No. 1488, Amendment Bylaw (No. 40), 2013, No. 1816** **13-22**
and
Town of Ladysmith Official Zoning Bylaw 1995, No. 1160, Amendment Bylaw (No.91) 2013, No. 1817

Official Community Plan (OCP) Amendment and Rezoning Application (Dawnlee Holdings)
340 Second Avenue (Lot B, District Lot 56, Oyster District, Plan VIP65504)

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4. DEVELOPMENT APPLICATIONS	
4.1. Official Community Plan (OCP) Amendment & Rezoning Application (Town of Ladysmith) 1201 & 1251 Christie Rd. (Portion of Lot 7 and 8, D.L. 147, Oyster District, Plan VIP85271)	23-34
4.2. Official Community Plan (OCP) Amendment and Rezoning Application (Dawnlee Holdings) 340 Second Avenue (Lot B, District Lot 56, Oyster District, Plan VIP65504)	35-38
5. BYLAWS	
5.1. Town of Ladysmith Official Community Plan Bylaw 2003, No. 1488, Amendment Bylaw (No. 41) 2013, No. 1818 May be read a third time Bylaw 1818 is the subject of a public hearing earlier on the agenda	39-40
5.2. Town of Ladysmith Zoning Bylaw 1995, No. 1160, Amendment Bylaw (No. 92) 2013, No. 1819 May be read a third time Bylaw 1819 is the subject of a public hearing earlier on the agenda	41-42
6. NEW BUSINESS	
7. UNFINISHED BUSINESS	
8. ADJOURNMENT	

TOWN OF LADYSMITH

BYLAW NO. 1818

A bylaw to amend "Official Community Plan Bylaw, 2003, No. 1488"

WHEREAS pursuant to the *Local Government Act*, the Municipal Council is empowered to amend the Official Community Plan;

AND WHEREAS after the close of the Public Hearing and with due regard to the reports received, the Municipal Council considers it advisable to amend "Official Community Plan Bylaw, 2003, No. 1488".

NOW THEREFORE the Council of the Town of Ladysmith in open meeting assembled enacts as follows:

- (1) The "Official Community Plan Bylaw, 2003, No. 1488" is hereby amended as set out in Schedule A to this Bylaw.

CITATION

- (2) This bylaw may be cited for all purposes as "Official Community Plan Bylaw, 2003, No. 1488, Amendment Bylaw (No.41), 2013, No. 1818".

READ A FIRST TIME on the 6th day of May, 2013

READ A SECOND TIME on the 6th day of May, 2013

PUBLIC HEARING held pursuant to the provisions of the *Local Government Act*

on the day of 2013

READ A THIRD TIME on the day of 2013

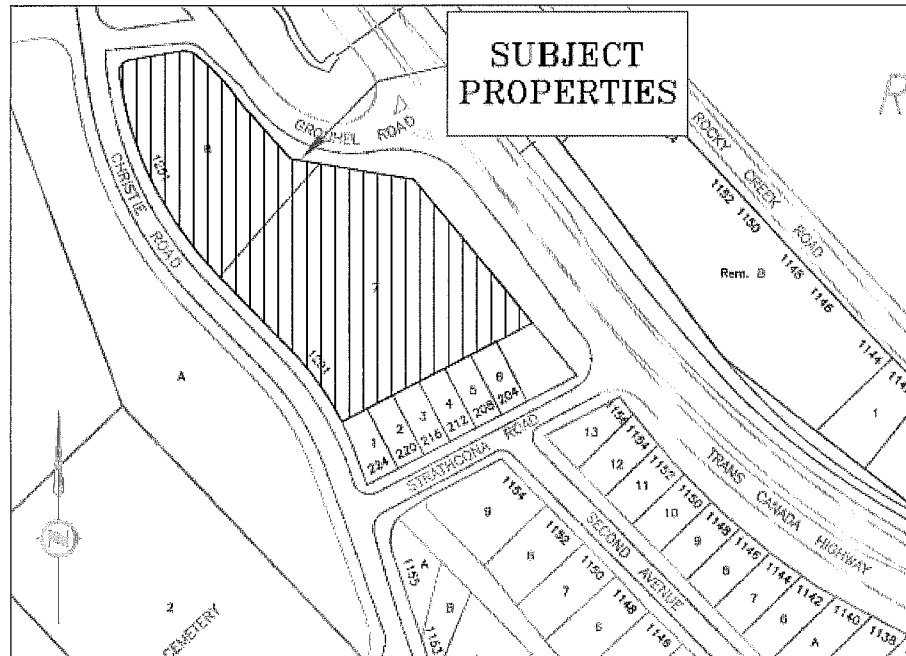
ADOPTED on the day of

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)

**BYLAW NO. 1818
SCHEDULE A**

- (1) Schedule "A" – "Town of Ladysmith Community Plan" is amended as follows:
- (a) Placing on Map 1 "Land Use" the designation "Industrial" on the subject properties being a portion of Lot 7 and Lot 8, District Lot 147, Oyster District, VIP85271 (1201 and 1251 Christie Road) as shown cross hatched on the map below.
 - (b) Placing on Map 2 "Development Permit Areas" "Development Permit Area 5 – Industrial (DPA 5)" on the subject properties being a portion of Lot 7 and Lot 8, District Lot 147, Oyster District, VIP85271 (1201 and 1251 Christie Road) as shown cross-hatched on the map below.



TOWN OF LADYSMITH

BYLAW NO. 1819

A bylaw to amend "Town of Ladysmith Zoning Bylaw, 1995, No. 1160"

WHEREAS pursuant to the *Local Government Act*, the Municipal Council is empowered to amend the zoning bylaw;

AND WHEREAS after the close of the Public Hearing and with due regard to the reports received, the Municipal Council considers it advisable to amend "Town of Ladysmith Zoning Bylaw 1995, No. 1160";

NOW THEREFORE the Council of the Town of Ladysmith in open meeting assembled enacts as follows:

- (A) The text of "Town of Ladysmith Zoning Bylaw 1995, No. 1160" as amended is hereby further amended as follows:
 - (1) Adding the following site specific regulations to section 26.2 "Conditions of Use" following sub-section (5):
 - “(6) Despite section 26.1 the following uses are not permitted on the properties described as Lot 7 and Lot 8, District Lot 147, Oyster District, Plan VIP85271 (1201 and 1251 Christie Road):
 - i) Service station including autobody repairs and painting; and
 - ii) Retail and wholesale storage of petroleum and accessory storage of petroleum products not exceeding 450,000 litres.”
- (B) The map, being ‘Schedule A’ to “Town of Ladysmith Zoning Bylaw 1995, No. 1160” is hereby amended by placing “Light Industrial Zone (I-1) Zone” on the subject properties being a portion of Lot 7 and Lot 8, District Lot 147, Oyster District, Plan VIP85271 (1201 and 1251 Christie Road) as shown on Schedule I attached to this Bylaw.

CITATION

- (C) This bylaw may be cited for all purposes as "Town of Ladysmith Zoning Bylaw 1995, No. 1160 Amendment Bylaw (No.92), 2013, No. 1819”.

READ A FIRST TIME on the 6th day of May, 2013

READ A SECOND TIME on the 6th day of May, 2013

PUBLIC HEARING held pursuant to the provisions of the *Local Government Act*

READ A THIRD TIME on the day of
on the day of

APPROVED UNDER THE TRANSPORTATION ACT

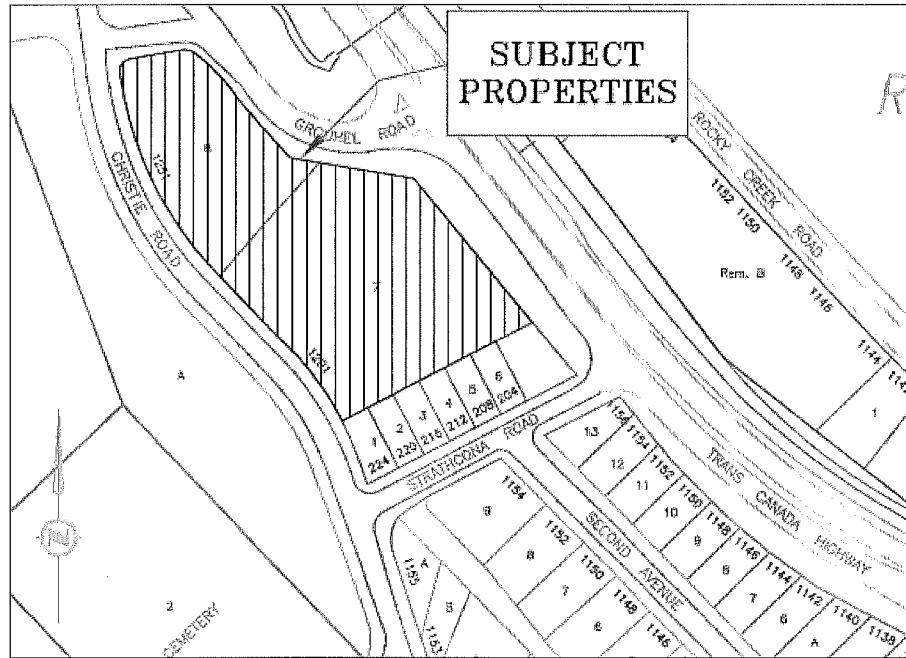
on the day of

ADOPTED on the day of

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)

Bylaw 1819 – Schedule 1





Town of Ladysmith

STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Director of Development Services
Date: May 1, 2013
File No: 3360-13-01

Re: **OFFICIAL COMMUNITY PLAN (OCP) AMENDMENT & REZONING APPLICATION**
1201 & 1251 Christie Rd. (Lot 7 and 8, D.L. 147, Oyster District, Plan VIP85271)

RECOMMENDATION(S):

1. That Council give first and second reading to "Official Community Plan Bylaw, 2003, No. 1488, Amendment Bylaw (No. 41) 2013, No. 1818" and "Town of Ladysmith Zoning Bylaw 1995, No. 1160 Amendment Bylaw (No.91), 2013, No. 1819"; and that a public hearing be scheduled for Bylaws 1818 and 1819.
2. That Council direct staff to amend the designated truck route in the "Ladysmith Streets and Traffic Bylaw 1998, No. 1309" to add Rocky Creek Road and delete Bayview Avenue.
3. That Council direct staff to place "No Truck" signs on Strathcona Road and Third Avenue.

PURPOSE:

The purpose of this staff report is 1) to provide an update to Council regarding the results of the consultation for application 3360-13-01; 2) to present a bylaw to amend the Official Community Plan (OCP) and a bylaw to amend the Zoning Bylaw to permit light industrial use at 1201 and 1251 Christie Road; and 3) to provide a summary of the proposed land-use agreement (covenant).

INTRODUCTION/BACKGROUND:

At the meeting on January 21, 2013 Council passed the following motion:

"It was moved, seconded and carried that:

- a) Council has considered s.879 of the Local Government Act (consultation during OCP development) and determines that for Official Community Plan (OCP) amendment application 3360-13-01 (1201 and 1251 Christie Road) the following consultation is to be undertaken:
 - Staff referral to the Advisory Planning Commission (APC) for review and comment;
 - Referral to the Stz'uminus First Nation;
 - Referral to the Ministry of Transportation; and
 - Schedule a neighbourhood information meeting.



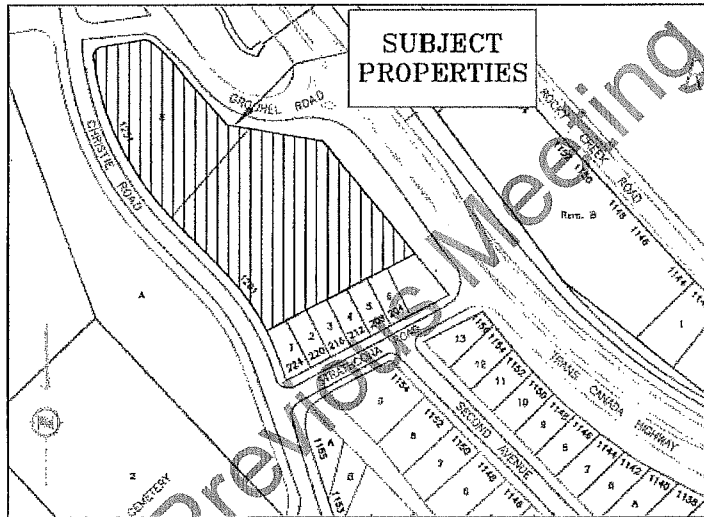
- b) Council direct staff to prepare a bylaw to amend the Official Community Plan and a bylaw to amend the Zoning Bylaw to permit light industrial use on the properties legally described as Lot 7 and Lot 8, DL 147, Oyster District, Plan VIP85271 (1201 and 1251 Christie Road).
- c) Council direct staff to draft a land-use agreement (covenant) to guide the design of development at 1201 and 1251 Christie Road.”

SCOPE OF WORK:

The current stage of this application is to report on the OCP amendment consultation; to present a bylaw to amend the OCP and Zoning Bylaw; and to report on the land-use agreement.

Consultation

The application was referred to the Stz’uminus First Nation on January 25th, 2013 and no comments have been received. Information regarding the APC meeting is in the ‘Citizen/Public Relations’ section below. The Ministry of Transportation and Infrastructure is supportive of the proposal.



A neighbourhood meeting was held on April 9, 2013 and was attended by 10 neighbours. The questions raised at the meeting were regarding proposed use of the property, landscaping, the multi-use pathway, retaining walls, lighting, business hours, home values, and traffic. Three submissions were received, one supporting, one not supporting (but recognizes the value of the project with specific requests if the project proceeds), and one with specific requests regarding truck traffic, hours of operation, and noise. Table 1 below summarizes the consultation input and responses.

Table 1: Consultation Input Summary

Input	Response
Lighting impact on the residential area.	Downcast lighting required in covenant design guidelines.
Business hours impact on residential area. Restrict noise and odours. Use landscape buffer as sound barrier.	The covenant limits operations that create external environmental impacts off-site, such as noise and odours, between 9pm and 7am consistent with the I-1 Zone (limiting between 6pm to 7am was requested Monday to Friday). The Town’s Noise Suppression Bylaw also



	applies. Mechanical equipment is not permitted on the roof of buildings on the adjacent parcel. Landscape buffer requirements are included in the covenant.
Increase in truck traffic. Truck route signage requests. Vehicle speed and pedestrian access on Strathcona Road.	The covenant requires truck route signage on the site. Signage could be placed on Strathcona Road and Third Avenue and amendments could be made to the Truck Route. A traffic light at the Grouhel Road intersection with the Highway is not supported by MOT.
Ensure an attractive entrance to Ladysmith. Potential decrease in residential property values. The site requires development.	The covenant specifies requirements for landscaping, architectural features, buffering, and boulevard improvements to ensure a high quality development. Also, an industrial development permit will be required prior to development.
Grade differences from retaining walls and site grading require appropriate fencing.	B.C. Building Code addresses railings for pedestrian safety. The residential properties currently contain rear yard fences. The covenant requires that a rear yard fence be constructed at 224 Strathcona Road (if desired).
Maintenance of natural trees in the buffer areas and plant new trees as tall as possible. Buffer areas are supported.	The covenant requires that every effort must be made to preserve existing natural, non-invasive vegetation in the buffer areas. The minimum height for new trees is 2 metres. Buffer areas are a minimum 5 m and 9 m.
Improve safety for cyclists and pedestrians on Christie Road.	The covenant requires that a 3 metre wide multi-use pathway be provided on the east side of Christie Road.
Concern regarding drainage from the site.	The covenant requires that no additional drainage shall be directed to the Provincial Highway.
Concern regarding the view to a roof from the residential lots.	The covenant states that mechanical equipment (except plumbing venting and natural gas venting) is not permitted on the roof of a building on lot 7.

As a design consideration for the neighbours, it is recommended that the current residential zoning remain on the corner area fronting Strathcona Road and adjacent to the residential



lots so that it will remain designated as 'Multi-Family Residential' and zoned as 'Medium Density Residential (R-3-A)'. The bylaws have been drafted to implement this direction.

Bylaw 1818

Bylaw 1818 proposes to amend the OCP by designating Lot 8 and the majority of Lot 7 as 'Light Industrial'; and by placing 'Development Permit Area 5 – Industrial' on the areas designated as 'Industrial'. DPA 5 guides the form and character of the development. These guidelines will be augmented by the land-use agreement.

Bylaw 1819

Bylaw 1819 proposes to amend the Zoning Bylaw by placing "Light Industrial Zone (I-1)" on Lot 8 and the majority of Lot 7. Bylaw 1819 also proposes that the subject properties have a site specific exception to remove 'service station' use and 'retail/wholesale storage of petroleum products' use at 1201 and 1251 Christie Road.

Land-Use Agreement (Covenant)

The proposed land-use agreement for the subject properties focusses on ensuring that a well-designed development occurs at 1201 and 1251 Christie Road. The objective is to manage the interface of light industrial development with the adjacent residential uses and to provide for an appropriate entry to the Town.

The proposed terms and conditions in the covenant are as follows:

- Mechanical equipment (except plumbing venting and natural gas venting) will be prohibited on the roof to improve the view and noise impacts for adjacent residential.
- Specific landscaping and retaining wall requirements to a high standard.
- A five metre buffer shall be provided on all lot frontages.
- A landscaped nine metre buffer shall be provided between the light industrial use and the residential properties.
- Architectural treatment specifications for building elevations visible from public roads.
- Lighting specifications.
- A rear yard fence shall be provided to the 'Habitat for Humanity' home at 224 Strathcona Road, if requested.
- A separated multi-use pathway shall be constructed on the east side of Christie Road.
- Truck route information shall be posted at 1201 and 1251 Christie Road for truck drivers to prohibit left turn movements onto the Trans Canada Highway at Grouhel Road, as requested by the Ministry of Transportation.
- Street trees shall be planted in the boulevard area on Christie Road.
- No additional drainage may flow to the Provincial highway and post development flows may not exceed pre-development flows. The use of onsite bio-swales is encouraged.

- Covenant states that external environmental impacts off-site, such as noise and odours, may not occur between 9pm and 7am.

If the application proceeds the covenant would be registered on the certificate of title prior to final approval of the bylaws. Also, if the application proceeds a development permit will be required prior to development.

ALTERNATIVES:

That Council not proceed with Bylaws 1818 and 1819.

FINANCIAL IMPLICATIONS: n/a

LEGAL IMPLICATIONS:

A public hearing will be required to be held.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The Advisory Planning Commission passed the following motion on February 13, 2013:

"It was moved, seconded and carried that the Advisory Planning Commission recommends support for rezoning 1201 and 1251 Christie Road to permit light industrial use. However, the Advisory Planning Commission has the following concerns that they wish to see addressed:

- Noise and odour emissions;
- Improve the safety for cyclists and pedestrians on Christie Road;
- Carefully consider retaining walls and slope stability;
- Carefully consider how drainage is managed;
- Concern regarding the potential view of a large flat asphalt roof from adjacent residential lots; and
- This is the gateway to Ladysmith, thus site and architectural design should be carefully considered."

The concerns raised by the APC have been addressed in the proposed land-use agreement (covenant) to be registered on the title of the property.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The Infrastructure Services Department has reviewed the proposed rezoning and traffic implications and has provided traffic impact solutions. The Transportation Plan being initiated this year by the Town will deal with truck movements in the area in consultation with the Ministry of Transportation and Infrastructure.

RESOURCE IMPLICATIONS:

Processing OCP amendment and rezoning applications is a core function of the Development Services Department. Processing this application is within available staff resources.



ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

The proposal is generally consistent with the Visioning Report.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Effective land use planning and community design is a Council strategic direction.

SUMMARY:

Consultation has occurred regarding the proposed light-industrial use for 1201 and 1251 Christie Road. The terms for a land use agreement (covenant) have been established to guide the design of the project and to address APC, neighbourhood, and agency concerns. It is recommended to give first and second reading to proposed Bylaws 1818 and 1819 and to schedule a public hearing.

I concur with the recommendation.



Ruth Mall, City Manager

ATTACHMENTS:

Bylaw 1818

Bylaw 1819

Reviewed at a Previous Meeting

TOWN OF LADYSMITH

BYLAW NO. 1816

A bylaw to amend "Official Community Plan Bylaw 2003, No. 1488"

WHEREAS pursuant to the *Local Government Act*, the Municipal Council is empowered to amend the Official Community Plan;

AND WHEREAS after the close of the Public Hearing and with due regard to the reports received, the Municipal Council considers it advisable to amend "Official Community Plan Bylaw 2003, No. 1488".

NOW THEREFORE the Council of the Town of Ladysmith in open meeting assembled enacts as follows:

1. Schedule "A" – "Town of Ladysmith Community Plan" is hereby amended as set out in Schedule I to this Bylaw.

CITATION

2. This bylaw may be cited for all purposes as "Official Community Plan Bylaw 2003, No. 1488, Amendment Bylaw (No. 40) 2013, No. 1816".

READ A FIRST TIME on the 6th day of May, 2013

READ A SECOND TIME on the 6th day of May, 2013

PUBLIC HEARING held pursuant to the provisions of the *Local Government Act*

on the day of

READ A THIRD TIME on the day of

ADOPTED on the day of

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)

Bylaw 1816 – Schedule I

1. Schedule “A” – “Town of Ladysmith Community Plan” is amended as follows:
 - a) Section 3.8.1 ‘Land Use Designations’ is amended by adding a new sentence to the paragraph “Multi-Family Residential” following the sentence:

“Designation of new locations for Multi-Family Residential development will, in addition to the above criteria, be assessed based on an appropriate ‘fit’ with the neighbourhood in terms of scale, traffic, and parking, and servicing issues.”, as follows:

“In most circumstances the Multi-Family Residential designation will only be achieved through amenity density bonusing (amenities may include affordable housing, highly energy efficient buildings, utilizing alternative energy sources, and other features that contribute to reducing the impacts of climate change).”
 - b) Map 1 “Land Use” is amended by placing the “Multi-Family Residential” land use designation on the ‘subject property’ legally described as Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) as shown cross-hatched on the map below.
 - c) Map 2 “Development Permit Areas” is amended by placing “Development Permit Area 4 - Multi-Family Residential (DPA 4)” on the ‘subject property’ legally described as Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) cross-hatched on the map below.



TOWN OF LADYSMITH

BYLAW NO. 1817

A bylaw to amend "Town of Ladysmith Zoning Bylaw, 1995, No. 1160"

WHEREAS pursuant to the *Local Government Act*, the Municipal Council is empowered to amend the zoning bylaw;

AND WHEREAS after the close of the Public Hearing and with due regard to the reports received, the Municipal Council considers it advisable to amend "Town of Ladysmith Zoning Bylaw 1995, No. 1160";

NOW THEREFORE the Council of the Town of Ladysmith in open meeting assembled enacts as follows:

- (1) The text of "Town of Ladysmith Zoning Bylaw 1995, No. 1160", as amended, is hereby further amended by adding the following to "Section 12.0 Multi-Family Residential (R-3)":
 - (a) Adding the following site specific regulations to section 12.2 Conditions of Use:
 - “(2.1) Despite section 12.2(3), for the subject property legally described as Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) the height of a principal building shall not exceed 10.4 metres.
 - (4.1) Despite section 12.2(4), for the subject property legally described as Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) no building or structures shall be closer than:
 - (a) 4.0 metres to the front lot line;
 - (b) 1.5 metres to the rear lot line;
 - (c) 4.5 metres to the side lot lines.”
 - (b) Adding a new section 12.5 Density Bonus as follows:

“12.5 Density Bonus

Despite section 12.2 (5) above, a density bonus may be permitted on Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) as indicated in the table below where the amenities listed in Column One are provided to assist the Town of Ladysmith in meeting its greenhouse gas emission reduction targets in accordance with the Official Community Plan. Where the developer provides the amenities listed in Column One, a density bonus is permitted as listed in Column Two.

COLUMN ONE: AMENITIES	COLUMN TWO: DENSITY BONUS
The building built on the land shall attain a minimum of EnerGuide 80 Energy Standard, and the following steps shall be completed: 1. Prior to issuance of a building permit, provide a copy of the energy audit from a Certified Energy Advisor.	The maximum number of dwelling units permitted on Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) is 69 units per hectare of lot area (5 units). Despite section 12.2 (1)(a), the maximum

<p>2. Prior to issuance of a building permit, provide a letter of credit for 1% of the construction costs.</p> <p>3. Prior to issuance of an occupancy permit, provide a letter from the Certified Energy Advisor stating that the building has complied with the EnerGuide 80 Energy Standard.</p> <p>4. The letter of credit will be returned once the letter from the Certified Energy Advisor stating that the building has complied with the EnerGuide 80 Energy Standard has been received by the Building Inspector.</p>	<p>parcel coverage permitted on Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) is 59%.</p> <p>Despite section 12.2(4.1), a building located on Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) may be located 3 metres from the north side lot line (Roberts Street) and 1.5 metres from the south side lot line (lane).”</p>
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- (2) The zoning map, being ‘Schedule A’ to "Town of Ladysmith Zoning Bylaw 1995, No. 1160" is hereby amended by placing “Multi Family Residential (R-3)” on the subject property legally described as Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) as shown in ‘Schedule A’ attached to and forming part of this Bylaw.

CITATION

- (3) This Bylaw may be cited for all purposes as "Town of Ladysmith Zoning Bylaw 1995, No. 1160 Amendment Bylaw (No. 91), 2013, No. 1817”.

READ A FIRST TIME on the 6th day of May, 2013

READ A SECOND TIME on the 6th day of May, 2013

PUBLIC HEARING held pursuant to the provisions of the *Local Government Act*

on the day of

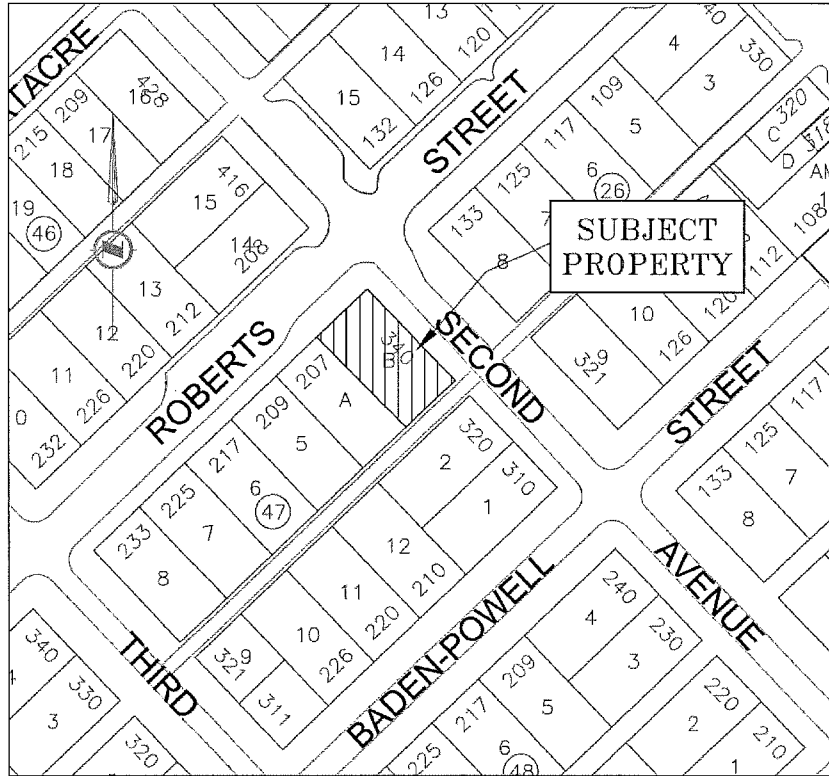
READ A THIRD TIME on the day of

ADOPTED

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)

Bylaw No. 1817 - Schedule A





Town of Ladysmith
STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Director of Development Services
Date: May 1, 2013
File No: 3360-12-01

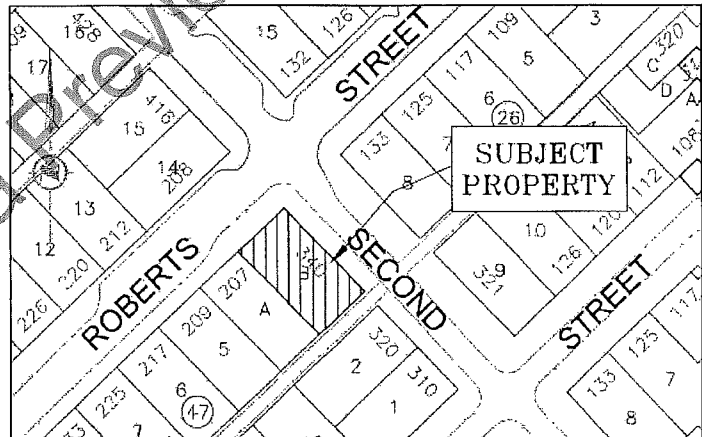
Re: Official Community Plan (OCP) Amendment and Rezoning Application (Kolk)
340 2nd Avenue (Lot B, District Lot 56, Oyster District, Plan VIP65504)

RECOMMENDATION(S):

1. That Council give first and second reading to "Official Community Plan Bylaw, 2003, No. 1488, Amendment Bylaw (No. 40), 2013, No 1816" and "Town of Ladysmith Zoning Bylaw 1995, No. 1160 Amendment Bylaw (No.91), 2013, No. 1817"; and that a public hearing be scheduled for Bylaws 1816 and 1817.

PURPOSE:

The purpose of this staff report is to provide an update regarding application 3360-12-01 and to present a bylaw to amend the Official Community Plan (OCP) and a bylaw to amend the Zoning Bylaw to facilitate a proposed 5 unit townhouse development at 340 2nd Avenue. The property is currently zoned 'Institutional Zone' (P-1).



INTRODUCTION/BACKGROUND:

At the January 7, 2013 meeting Council passed the following motion:

"It was moved, seconded and carried that staff be directed to prepare bylaws to amend the Official Community Plan and the Zoning bylaw to permit a five unit townhouse development on the property legally described as Lot B, District Lot 56, Oyster District, Plan VIP65504 (340 Second Avenue) pursuant to:

- A density bonus provision such that the units are built to a high energy efficiency standard;
- A contribution to the community amenity fund;
- A commitment to the Michael Ker building designs; and
- Road frontage and boulevard improvements."



SCOPE OF WORK:

The current stage of this rezoning application is to present a bylaw to amend the OCP and the Zoning Bylaw. The applicant has held a neighbourhood information meeting (see "Citizens/Public Relations" section), and staff has been working with the applicant towards a land-use agreement (covenant).

Bylaw 1816

Bylaw 1816 proposes to amend the Official Community Plan by adding a clause which states that new locations for multi-family development will generally only be achieved through density bonusing with the provision of amenities. Amenity contributions may include affordable housing, highly energy efficient buildings, utilizing alternative energy sources, or other features that contribute to reducing the impacts of climate change. Bylaw 1816 also proposes to designate 340 2nd Avenue as 'Multi-Family Residential' and places the 'Multi-Family Residential' development permit area on the subject property.

Bylaw 1817

Bylaw 1817 proposes to amend the Zoning Bylaw by placing "Multi-Family Residential (R-3)" on the subject property, with a site specific density bonus provision. The density bonus provision permits 69 units per hectare (5 residential units) subject to the building attaining a minimum Energuide 80 energy standard. To ensure this standard is achieved at the time of building permit a series of steps are included in Bylaw 1817.

To achieve the five dwelling units at 340 2nd Ave. some site specific regulations are proposed to the R-3 Zone as shown in Table 1.

Table 1: Proposed Site Specific Regulations for 340 2nd Ave.

	R-3 Zone	Proposed Site Specific Regulations
Parcel coverage	50% (363 m ²)	59% (426 m ²) (when 5 units)
Height	12 m	10.4 m
Front yard setback (Roberts St)	6 m	4 m
Rear yard setback (lane/alley)	4.5 m	1.5 m
Side yard setbacks	4.5 m	west side 1.5 m east side 3 m (when 5 units)

The applicant has agreed to place a covenant on the title to secure the following:

- A contribution of \$5000 to the community amenity fund;



- A commitment to the Michael Ker building designs; and
- A commitment to constructing the road frontage and boulevard improvements (at the time of development) to meet the Town of Ladysmith Engineering Standards.

If the application proceeds the covenant would be registered on title prior to final adoption of Bylaw 1816 and 1817.

ALTERNATIVES:

That Council direct staff to work with the applicant on reducing the overall building height in response to neighbourhood input.

FINANCIAL IMPLICATIONS: n/a

LEGAL IMPLICATIONS:

A public hearing will be required to be held.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

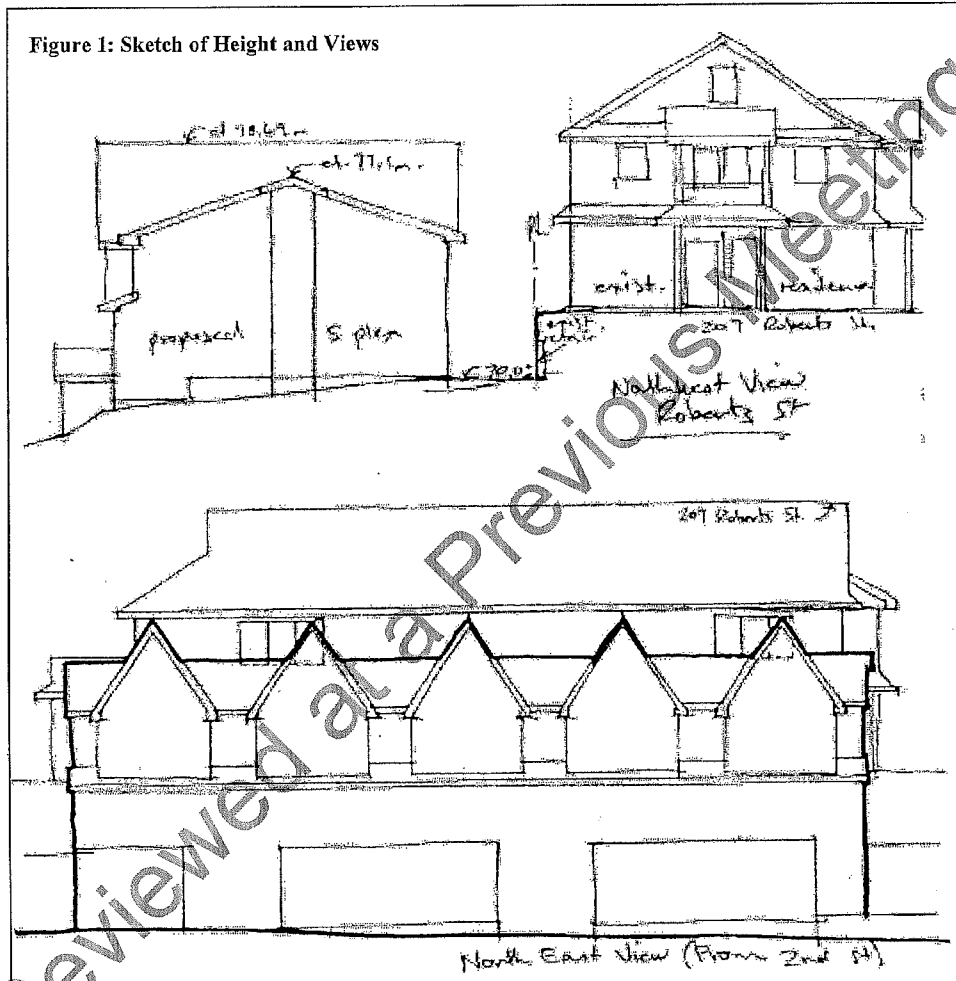
The applicant held a neighbourhood information meeting on March 9, 2013. The meeting was advertised in the March 5th Ladysmith Chronicle, and notices were delivered to neighbours. The meeting sign-in sheet indicates that 14 people attended the meeting. Following the meeting ten letters were submitted directly to the Town of Ladysmith identifying neighbourhood concerns. A summary of the neighbourhood input is provided in Table 2.

Table 2: Neighbourhood Input Summary

Input	Response
<p>The proposal is not consistent with the OCP designation of 'single family' and the neighbourhood character of single family uses.</p> <p>Prefer to keep multi-family in the downtown mixed use and core area.</p> <p>Five residential units is too many.</p> <p>The development is too large for the property.</p>	<p>The applicant is requesting an amendment to the OCP to designate the property from 'Single Family Residential' to 'Multi-Family Residential'.</p> <p>Five units requires building to an Energuide 80 energy standard (density for amenity).</p>
<p>The development impacts views from the adjacent residential properties. A flat roof is recommended.</p>	<p>The applicant's designer provided a sketch demonstrating the proposed height of the building in relation to the existing building at 207 Roberts Street (see Figure 2). The proposed zoning would permit a 10.4 metre height. The current P-1 zoning permits a maximum height of 12 metres.</p>



Traffic and safety are concerns.	The proposed road, sidewalk, and parking design will meet the Town of Ladysmith Engineering Standards.
A shortage of parking is a concern.	The applicant is providing 5 in-garage stalls, 5 driveway stalls, and 2-3 on-street stalls for the proposed development.



INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The Infrastructure Services Department has reviewed the proposal and they have no concerns. Frontage and boulevard improvements will be required at the time of development and will adhere to the Town of Ladysmith Engineering Standards.



RESOURCE IMPLICATIONS:

Processing OCP amendment and rezoning applications is a core function of the Development Services Department. Processing this application is within available staff resources.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

The sustainability checklist submitted with the application indicates that the proposal is consistent with the Visioning Report.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Effective land use planning and community design is a Council strategic direction.

SUMMARY:

Bylaw 1816 and 1817 have been drafted for Council consideration. The applicant has held a neighbourhood information meeting which offers insight into the neighbourhood concerns regarding the proposal. The applicant has worked with staff to respond to APC and neighbourhood concerns.

I concur with the recommendation.

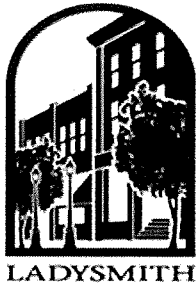
Ruth Malli

Ruth Malli, City Manager

ATTACHMENTS:

- Bylaw 1816
- Bylaw 1817

Reviewed at a Previous Meeting



Town of Ladysmith

STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Director of Development Services
Date: June 6, 2013
File No: 3360-13-01

Re: **OFFICIAL COMMUNITY PLAN (OCP) AMENDMENT & REZONING APPLICATION
1201 & 1251 Christie Rd. (Portion of Lot 7 and 8, D.L. 147, Oyster District, Plan
VIP85271)**

RECOMMENDATION(S):

1. That Council give third reading to “Official Community Plan Bylaw, 2003, No. 1488, Amendment Bylaw (No. 41), 2013, No. 1818” and “Town of Ladysmith Zoning Bylaw 1995, No. 1160 Amendment Bylaw (No.91), 2013, No. 1819”.
2. That Council approve the attached covenant prepared for rezoning application 3360-13-01 and authorize the Mayor and Corporate Officer to execute the document.
3. That Council direct staff to prepare the appropriate discharge documents for Covenant CA1880688 and authorize the Mayor and Corporate Officer to execute the document.

PURPOSE:

The purpose of this report is to present Bylaw 1818 and Bylaw 1819 for consideration of third reading, and to present the covenant related to the land-use agreements for the rezoning of 1201 and 1251 Christie Road.

INTRODUCTION/BACKGROUND:

At its January 7, 2013 meeting, Council directed staff to initiate an OCP and Zoning Bylaw amendment to permit light industrial land use at 1201 and 1251 Christie Road, including the preparation of site, building and landscape design concepts or guidelines to manage the interface with the adjacent residential development and provide for an appropriate entry to the Town.

At its January 21, 2013 meeting, Council directed staff to draft a land-use agreement (covenant) to guide the design of development at 1201 and 1251 Christie Road.

At its May 6, 2013 meeting, Council gave first and second reading to Bylaw 1818 and Bylaw 1819 and directed that a Public Hearing be scheduled.



The Public Hearing for Bylaw 1818 and Bylaw 1819 was held on June 10, 2013. The amending bylaws and land use agreement (covenant) are presented for Council's consideration, following consideration of the comments received or heard at the public hearing.

SCOPE OF WORK:

The current stage of this rezoning application is: (1) to consider comments received or heard at the Public Hearing; (2) to consider third reading of Bylaw 1818 and Bylaw 1819; and (3) to consider the covenants.

If no changes are required, third reading of Bylaw 1818 and Bylaw 1819 could be given and the covenant approved. Following third reading of Bylaw 1819, approval by the Minister of Transportation and Infrastructure will be required prior to consideration of adoption, given the proximity of the site to a controlled access highway.

Staff has been informed by legal counsel that the Land Title Office's current interpretation of the legislation may not permit the Town, as land owner, to register the covenant on the title of the subject properties as Transferor and Transferee. The current multiple family residential covenant was successfully registered in this way in early 2011. While the Town's legal counsel will proceed with the application to register the new covenant this may not be successful. If this is the result, the alternate approach will be to secure an agreement that the covenant will be registered currently with the transfer of the land.

Once the covenant is registered on the title of the subject properties or an agreement is entered into, staff would bring forward Bylaw 1818 and Bylaw 1819 for final consideration and adoption.

Bylaw 1818

Bylaw 1818 proposes to amend the OCP by designating Lot 8 and the majority of Lot 7 as 'Light Industrial'; and by placing 'Development Permit Area 5 - Industrial' on the areas designated as 'Industrial'. DPA 5 guides the form and character of the development. These guidelines will be augmented by the land-use agreement.

Bylaw 1819

Bylaw 1819 proposes to amend the Zoning Bylaw by placing "Light Industrial Zone (I-1)" on Lot 8 and the majority of Lot 7. Bylaw 1819 also proposes that the subject properties have a site specific exception to remove 'service station' use and 'retail/wholesale storage of petroleum products' use at 1201 and 1251 Christie Road.

New Land-Use Agreement (Covenant)

The proposed land-use agreement (covenant) focuses on ensuring that a well-designed development occurs at 1201 and 1251 Christie Road. The objective is to



manage the interface of light industrial development with the adjacent residential uses and to provide for an appropriate entry to the Town.

Land Use Matters

- Mechanical equipment (except plumbing venting and natural gas venting) will be prohibited on the roof to improve the view and noise impacts for adjacent residential.
- Buffer Area: A five metre buffer shall be provided on all lot frontages.
- Buffer Area: A nine metre buffer shall be provided between the light industrial use and the residential properties.
- Landscaping to a high standard within buffer areas.
- Architectural treatment specifications for building elevations visible from public roads.
- Downcast lighting specifications.
- Truck route information posted at 1201 and 1251 Christie Road for truck drivers to prohibit left turn movements onto the Trans Canada Highway at Grouhel Road, as requested by the Ministry of Transportation.
- No additional drainage may flow to the Provincial highway and post development flows may not exceed pre-development flows. The use of onsite bio-swales is encouraged.
- External environmental impacts off-site, such as noise and odours, may not occur between 9pm and 7am.

Voluntary Commitments

- A rear yard fence shall be provided to the Habitat for Humanity home, if requested.
- Council strategic directions are: a) effective land use planning and community design; and b) dynamic economic development.

Covenant CA1880668

This covenant is registered on the title of the subject properties to guide the building design and greenspace for a multiple family residential development. This covenant would be discharged and replaced by the proposed covenant which contains guidelines for light industrial development.

ALTERNATIVES:

That Council not proceed any further with Bylaw 1818 and Bylaw 1819.

FINANCIAL IMPLICATIONS:

The preparation and registration of the covenant is the Town's cost.



LEGAL IMPLICATIONS:

Following the close of the public hearing, Council may consider the information received as part of the public hearing and determine if any changes are required to the proposal; this could initiate the requirement for a further public hearing.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

Notification regarding the public hearing was mailed and delivered to the neighbours of 1201 and 1251 Christie Road and was published in the local newspaper on May 28 and June 4, 2013. A neighbourhood information meeting was held on April 9, 2013.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

Comments from Engineering and Parks, Recreation and Culture have been integrated into the development proposal. Corporate Services will be involved in the execution of the covenant.

RESOURCE IMPLICATIONS:

Processing rezoning applications is a core function of the Development Services Department. Processing this application is within available staff resources.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

Strategy #1 of the Vision Report is to encourage "complete community land use" to support self-reliance. In the Visioning context, self-reliance means promoting a diversity of land uses to enhance the self-reliance of the community. Strategy #8 promotes a local, diverse economy which requires as one of its elements "maintaining a strong local industrial and commercial land base".

ALIGNMENT WITH STRATEGIC PRIORITIES:

Council strategic directions are: a) effective land use planning and community design; and b) dynamic economic development.

SUMMARY:

It is recommended that Council consider (1) the comments received or heard at the public hearing; (2) giving third reading to Bylaw 1818 and Bylaw 1819; and (3) approving the covenant.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

Covenant – Lot 7 and Lot 8, DL 147, Oyster District, Plan VIP85271



TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. The Transferor is the registered owner in fee-simple of those lands and premises located within the Town of Ladysmith, in the Province of British Columbia, more particularly described as:

PID 027-560-988
Lot 7, District Lot 147, Oyster District, Plan VIP85271 (“**Lot 7**”)

PID 027-560-996
Lot 8, District Lot 147, Oyster District, Plan VIP85271 (“**Lot 8**”)

(collectively, the “**Lands**”);

- B. The Transferee is the Town of Ladysmith;
- C. The Transferee has zoned the Lands for light industrial land use. A well-designed development is important to the neighbourhood and the community as the Lands are a gateway into Ladysmith;
- D. The requirements under this Agreement are intended to manage the interface of light industrial development on the Lands with the adjacent residential development and to provide for an appropriate entry to the Town of Ladysmith;
- E. The requirements under this Agreement complement the applicable Town of Ladysmith Development Permit Area guidelines and will be secured at the time of development permit approval for the Lands;
- F. With respect to landscaping, the requirements under this Agreement are intended to result in a standard of landscaping on the Lands that meets or exceeds the guidelines and specifications set out in the current British Columbia Landscape Standard published by the British Columbia Society of Landscape Architects and the British Columbia Landscape and Nursery Association;
- G. The Transferor acknowledges that it is in the public interest that the development and use of the Lands be limited and wishes to grant this covenant to the Transferee;
- H. Section 219 of the *Land Title Act* provides that a covenant, whether of negative or positive nature, in respect of:
- the use of land or the use of a building on or to be erected on land;
 - that land is to be built on in accordance with the covenant;
 - that land is not to be built on or subdivided except in accordance with the covenant;
 - that land is not to be used, built on or subdivided;

- that separate parcels of land are not to be sold or transferred separately;
- 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 Town of Ladysmith and may be registered as a charge against the title to that land.

NOW THEREFORE THIS AGREEMENT WITNESSES that under Section 219 of the *Land Title Act*, and in consideration of the premises and the mutual covenants and agreements contained herein, and the sum of ONE (\$1.00) DOLLAR of lawful money of Canada now paid to the Transferor by the Transferee (the receipt and sufficiency of which is hereby acknowledged), and for other good and valuable consideration the parties covenant and agree each with the other as follows:

1. In this Agreement the following words have the following meanings:
 - (a) **“Adjacent Residential Lots”** means Lots 1 through 6, inclusive, District Lot 147, Oyster District, Plan VIP85271;
 - (b) **“BC Building Code”** means the *British Columbia Building Code, 2012*, as amended or replaced from time to time;
 - (c) **“Landscape Plan”** means the plan referred to in section 6 of this Agreement;
 - (d) **“Landscape Professional”** means either a landscape architect licensed and in good standing with the British Columbia Society of Landscape Architects, or a landscape designer possessing similar certification in landscape design satisfactory to the Transferee;
2. The Transferor covenants and agrees with the Transferee that it shall not use or permit the use of the Lands or any building on the Lands for any purpose, construct any building on the Lands or subdivide the Lands except in strict accordance with this Agreement.

Building Roof on Lot 7

3. The Transferor covenants and agrees with the Transferee that:
 - (a) the use and design of any building roof on Lot 7, other than the roof of a building used solely for residential purposes, shall take into consideration and preserve, insofar as is reasonably practicable, the views from the Adjacent Residential Lots;
 - (b) mechanical equipment is prohibited on the roof of any building located on Lot 7, other than the roof of a building used solely for residential purposes, except that plumbing venting and natural gas venting is permitted as required by the BC Building Code;

- (c) the height of the roof of any building located on Lot 7, other than a building used solely for residential purposes, must not exceed 51 metres geodetic elevation.

On-site Lighting

- 4. The Transferor covenants and agrees with the Transferee that:
 - (a) all exterior lighting on the Lands, including without limitation light fixtures in parking lots and light fixtures associated with signage, must be downcast lighting; and
 - (b) the use of exterior light fixtures projecting light upwards is prohibited on the Lands.

Manufactured Slopes

- 5. The Transferor covenants and agrees with the Transferee that all manufactured slopes on the Lands shall be re-vegetated and landscaped to the satisfaction of the Transferee.

Landscaping

- 6. The Transferor covenants and agrees with the Transferee that the Transferor must cause a Landscape Plan to be prepared for the development of the Lands and all landscaping required under this Agreement, including without limitation the landscaping required under sections 5, 7, and 8. The Landscape Plan must be prepared by a Landscape Professional, and must be approved by the Transferor prior to the issuance of any development permit for the Lands. The Lands must be developed and maintained by the Transferor in accordance with the approved Landscape Plan, and in accordance with landscaping practices employed by prudent owners of similar property in British Columbia. The Landscape Plan must indicate the location, species, and size of proposed planting material, existing trees to be retained, retaining walls, grading, fencing, garbage enclosure and exterior lighting information.
- 7. The Transferor covenants and agrees with the Transferee that:
 - (a) landscaping shall be provided to screen or mitigate the views of all retaining walls on the Lands from off-site locations, and to highlight and complement architectural features of the development;
 - (b) native, drought tolerant trees, shrubs and other plants shall be used in landscape areas on the Lands whenever reasonably practicable, and preference shall be given to trees shrubs and other plants that will thrive without irrigation systems or pest management measures;
 - (c) groundcover in landscape areas on the Lands shall be live plants or seeded rather than mulch, gravel, or rocks;

- (d) all topsoil used in planting beds and buffer areas must be of a soil type and depth equal to or better than that which would be used by a prudent owner of similar property in British Columbia.

Buffer Areas

- 8. The Transferor covenants and agrees with the Transferee that:
 - (a) the Transferor must provide and maintain a landscape buffer area not less than five (5) metres in width along all public highway frontages on the Lands;
 - (b) the Transferor must provide and maintain a landscape buffer area not less than nine (9) metres in width along the boundary of Lot 7 and the Adjacent Residential Lots, and such buffer must:
 - (i) screen the visual impact of development on the Lands at an elevation five (5) meters above the rear yard elevation of the Adjacent Residential Lots;
 - (ii) preserve the availability of natural light to the Adjacent Residential Lots insofar as is reasonably practicable;
 - (iii) preserve the existing views from the Adjacent Residential Lots to Ladysmith Harbour insofar as is reasonably practicable;
 - (c) where existing natural non-invasive landscaping is present within any buffer area required under this Agreement, every reasonable effort must be made to preserve it and incorporate it into the Landscape Plan;
 - (d) each of the buffer areas required under this Agreement shall contain, at a minimum, the following:
 - (i) three evergreen trees not less than two (2) metres in height;
 - (ii) seven large shrubs;
 - (iii) living ground cover in all areas not occupied by trees or shrubs;
 - (e) each buffer area required under this Agreement must provide 70% screening for zero (0) to two (2) metres in height and 25% screening for two (2) to five (5) metres in height;
 - (f) living ground cover within buffer areas must be well-established within two (2) years of planting, and shrubs within buffer areas must be well-established within three (3) years of planting;
 - (g) where irrigation to the buffer areas is required until plant establishment, such

irrigation shall be provided by way of drip irrigation or low flow methods in accordance with current generally accepted irrigation standards in British Columbia.

Building Finishing

9. The Transferor covenants and agrees that each building elevation fronting upon and visible from a public highway shall be designed and finished to provide a “human scale” in accordance with the following requirements:
- (a) design elements and architectural accents shall be used to break the overall proportion and massing of the building as viewed from the public highway;
 - (b) a variety of exterior cladding materials, reveals and colours shall be used to prevent the creation of monotonous expanses of walls visible from the public highway;
 - (c) windows shall be architecturally designed and located to improve the overall building façade visible from the public highway;
 - (d) the base of the building shall be defined to provide a visual anchor, by the use of block, stone, brick or colour;
 - (e) wherever reasonably practicable, the main pedestrian entryway into a building shall face the public highway.

Chain Link Fencing

10. The Transferor covenants and agrees that:
- (a) no chain link fencing on the Lands shall be visible from a public highway or the Adjacent Residential Lots;
 - (b) where screening is necessary to comply with section 10(a), landscaping shall be used to screen any chain link fencing; and
 - (c) chain link fencing must not be used for screening purposes anywhere on the Lands.

Fencing for Lot 1, District Lot 147, Oyster District, Plan VIP85271

11. The Transferor shall, at the commencement of development of Lot 7, construct a cedar privacy fence along the boundary of Lot 7 with Lot 1, District Lot 147, Oyster District, Plan VIP85271.

Screening of Utility Areas

12. The Transferor covenants and agrees that all utility areas on the Lands visible from a public highway or the Adjacent Residential Lots, including outdoor storage, waste disposal, and mechanical equipment such as heating and cooling systems, must be enclosed on all sides and the top with screening, or be otherwise designed or treated to match the overall design of the development. In the case of mechanical equipment appurtenant to any building on Lot 7, other than a building used solely for residential purposes, such equipment must be enclosed within an accessory building, and not merely screened.

Frontage Improvements

13. The Transferor covenants and agrees to plant, maintain and replace, where necessary, a Liquidambar styraciflua "Worplesdon" street tree with a minimum caliper of 7.0 centimetres and not less than 2.5 metres in overall height adjacent to the boundary of the Lands for every 15 metres of frontage along Christie Road. Each tree shall have a well-balanced branching head with the branches growing out from the stem with reasonable symmetry.
14. The Transferor covenants and agrees to install and maintain street lighting sufficient to illuminate each driveway providing access to the Lands, to the satisfaction of the Transferee's Director of Infrastructure Services.
15. The Transferor covenants and agrees to install and maintain at the entrance to the driveway providing access to the Lands from Grouhel Road, and at the entrance to the driveway providing access to the Lands from the Trans Canada Highway, directional signage limiting truck traffic to southbound movement only on Grouhel Road and the Trans Canada Highway, to the satisfaction of the Transferee's Director of Infrastructure Services.

Drainage and Rainwater Management

16. The Transferor must not at any time permit the rainwater drainage flows off the Lands to exceed the pre-development 10-year peak flows.
17. Without limiting the generality of section 16 the Transferor must not permit any rainwater drainage from the Lands in excess of pre-development flows to enter into the drainage system serving a provincial highway.
18. Where reasonably practicable, the Transferor shall construct and utilize engineered bio-swales (rain gardens) on the Lands to collect and treat parking lot run-off.

Hours of Operation

19. The Transferor covenants and agrees that the Lands must not be used for any purpose that causes a nuisance to adjacent properties, including offensive noise and odours,

between the hours of 9:00 p.m. and 7:00 a.m.

General Provisions

20. The Transferor shall indemnify and save harmless the Transferee from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which anyone has or may have against the Transferee or which the Transferee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with:
 - (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
21. The Transferor hereby releases and forever discharges the Transferee of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Transferor can or may have against the Transferee for any loss or damage or injury, including economic loss, that the Transferor may sustain or suffer arising out of or connected with:
 - (a) the breach of any covenant in this Agreement;
 - (b) the use of the Lands contemplated under this Agreement; and
 - (c) restrictions or requirements under this Agreement.
22. At the Transferor's expense, the Transferor must do everything necessary to secure priority of registration and interest for this Agreement and the Section 219 Covenant it creates over all registered and pending charges and encumbrances of a financial nature against the Lands.
23. Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Transferee 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 Lands as if the Agreement had not been executed and delivered by the Transferor.
24. Time is of the essence of this Agreement.
25. The Transferor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions set out in this Agreement and they shall be binding upon the Transferor as personal covenants only during the period of its respective ownership of any interest in the Lands.

26. It is mutually understood, acknowledged and agreed by the parties hereto that the Transferee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Transferor other than those contained in this Agreement.
27. The waiver by a party of any breach of this Agreement or failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar, and no waiver shall be effective unless it is in writing signed by both parties.
28. Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.
29. No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
30. The enforcement of this Agreement shall be entirely within the discretion of the Transferee and the execution and registration of the Agreement against title to the Lands shall not be interpreted as creating any duty on the part of the Transferee to the Transferor or to any other person to enforce any provision of the breach of any provision of this Agreement.
31. The restrictions and covenants herein contained shall be covenants running with the Lands and shall be perpetual, and shall continue to bind all of the Lands 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 Transferee as a first charge against the Lands.
32. The Transferor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
33. 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.
34. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

The Transferor and Transferee acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D (pages 1 and 2) attached hereto.



Town of Ladysmith

STAFF REPORT

To: Ruth Malli, City Manager
From: Felicity Adams, Director of Development Services
Date: June 5, 2013
File No: 3360-12-01

Re: OCP Amendment and Rezoning Application (Dawnlee Holdings Ltd.)
340 Second Ave. (Lot B, District Lot 56, Oyster District, Plan VIP65504)

RECOMMENDATION(S):

That subject to any additional matters raised at the public hearing, the application by Dawnlee Holdings Ltd. to amend the Official Community Plan and Zoning Bylaw to permit a 5 unit townhouse development, be approved in principle, subject to the following condition:

1. That prior to the enactment of the amending bylaws Bylaw No. 1816 and Bylaw No. 1817 the following shall be completed to the satisfaction of the Director of Development Services:
 - a) Registration of a section 219 covenant on the title of the land to secure the following:
 - i. A contribution of \$5000 to be paid to the Town's Community Amenity Fund at the time of building permit application;
 - ii. A commitment to Michael Ker building concept plan dated October 2012;
 - iii. A commitment to constructing the road frontage and boulevard improvements (at the time of development) to meet the Town of Ladysmith Engineering Standards.

And that the Mayor and Corporate Officer be authorized to execute the section 219 covenant.

PURPOSE:

The purpose of this staff report is to present to Council a recommendation regarding approval in principle for rezoning application 3360-12-01 subject to the completion of the section 219 covenant (containing land-use matters and voluntary benefits) in relation to the rezoning application for 340 Second Avenue.



INTRODUCTION/BACKGROUND:

At its January 7 meeting, Council directed staff to prepare bylaws to amend the Official Community Plan and Zoning Bylaw with regard to application 3360-12-01 (340 Second Avenue) pursuant to:

- a density bonus provision such that the units are built to a high energy efficiency standard;
- a contribution to the community amenity fund;
- a commitment to the Michael Ker building designs; and
- road frontage and boulevard improvements.

At its May 6 meeting Council gave first and second reading to Bylaws 1816 and 1817 and directed that a Public Hearing be scheduled.

The staff recommendation includes the land use matters that have been discussed to date and need to be addressed prior to further consideration of Bylaws 1816 and 1817; and the voluntary benefits being provided by the applicant.

The final form of the covenant has not yet been provided and it is recommended that this step be completed prior to further consideration of Bylaws 1816 and 1817.

SCOPE OF WORK:

The current stage of this rezoning is: 1) to consider comments received or heard at the Public Hearing; and 2) to consider approval in principle of the development proposal, subject to securing the land use matters that need to be addressed, the voluntary benefits being offered by the developer, and the enactment of Bylaws 1816 and 1817.

If no changes are required, support in principle to the rezoning application could be provided subject to the applicant fulfilling the commitments associated with the rezoning proposal that will be secured by the covenant or other agreement. Once those have been fulfilled, staff would bring forward Bylaw 1816 and 1817 for third reading and final consideration.

Bylaw 1816

Bylaw 1816 proposes to amend the Official Community Plan by adding a clause which states that new locations for multi-family development will generally only be achieved through density bonusing with the provision of amenities. Amenity contributions may include affordable housing, highly energy efficient buildings, utilizing alternative energy sources, or other features that contribute to reducing the impacts of climate change. Bylaw 1816 also proposes to designate 340 2nd Avenue as 'Multi-Family Residential' and places the 'Multi-Family Residential' development permit area on the subject property.



ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

In general the proposal is consistent with the Visioning Report.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Effective land use planning and community design is a Council strategic direction.

SUMMARY:

It is recommended that Council consider 1) the comments received or heard at the public hearing; and 2) providing support in principle for the development proposal, subject to securing the land use matters that need to be addressed and the voluntary benefits being offered by the developer.

I concur with the recommendation.



Ruth Malli, City Manager

ATTACHMENTS:

"None".



Bylaw 1817

Bylaw 1817 proposes to amend the Zoning Bylaw by placing “Multi-Family Residential (R-3)” on the subject property, with a site specific density bonus provision. The density bonus provision permits 69 units per hectare (5 residential units) subject to the building attaining a minimum Energuide 80 energy standard. To ensure this standard is achieved at the time of building permit a series of steps are included in Bylaw 1817. To achieve the five dwelling units at 340 2nd Ave. some site specific regulations are proposed to the R-3 Zone.

Proposed Land Use Agreements

The following land use matters and voluntary benefit will form the basis for the covenant related to rezoning application 3360-12-01.

Land use matters:

A commitment to: 1) the Michael Ker building concept, and 2) constructing the road frontage and boulevard improvements (at the time of development) to meet the Town of Ladysmith Engineering Standards.

Voluntary benefits being offered by the developer:

A contribution of \$5000 to be paid to the Town’s Community Amenity Fund at the time of building permit application.

ALTERNATIVES:

That Council not proceed any further with Bylaws 1816 and 1817.

FINANCIAL IMPLICATIONS:

The preparation and registration of the covenant is the applicant’s cost.

LEGAL IMPLICATIONS:

Following the close of the public hearing, Council may consider the information received as part of the public hearing and determine if any changes are required to the proposal; this could initiate the requirement for a further public hearing.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

Notification regarding the public hearing was mailed and delivered to the neighbours of 340 Second Avenue and was published in the local newspaper on May 28 and June 4th, 2013.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

Comments from Infrastructure Services have been integrated into the development proposal. Corporate Services will be involved in the execution of the legal agreements.

RESOURCE IMPLICATIONS:

Processing rezoning applications is a core function of the Development Services Department. Processing the application is within available staff resources.



TOWN OF LADYSMITH

BYLAW NO. 1818

A bylaw to amend "Official Community Plan Bylaw, 2003, No. 1488"

WHEREAS pursuant to the *Local Government Act*, the Municipal Council is empowered to amend the Official Community Plan;

AND WHEREAS after the close of the Public Hearing and with due regard to the reports received, the Municipal Council considers it advisable to amend "Official Community Plan Bylaw, 2003, No. 1488".

NOW THEREFORE the Council of the Town of Ladysmith in open meeting assembled enacts as follows:

- (1) The "Official Community Plan Bylaw, 2003, No. 1488" is hereby amended as set out in Schedule A to this Bylaw.

CITATION

- (2) This bylaw may be cited for all purposes as "Official Community Plan Bylaw, 2003, No. 1488, Amendment Bylaw (No.41), 2013, No. 1818".

READ A FIRST TIME on the 6th day of May, 2013

READ A SECOND TIME on the 6th day of May, 2013

PUBLIC HEARING held pursuant to the provisions of the *Local Government Act*

on the day of 2013

READ A THIRD TIME on the day of 2013

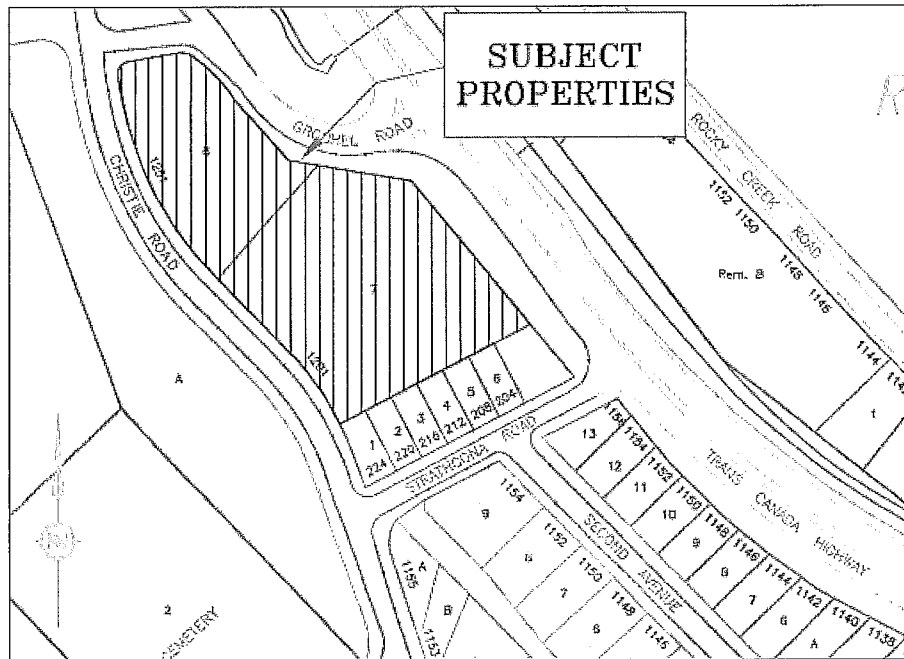
ADOPTED on the day of

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)

**BYLAW NO. 1818
SCHEDULE A**

- (1) Schedule "A" – "Town of Ladysmith Community Plan" is amended as follows:
- (a) Placing on Map 1 "Land Use" the designation "Industrial" on the subject properties being a portion of Lot 7 and Lot 8, District Lot 147, Oyster District, VIP85271 (1201 and 1251 Christie Road) as shown cross hatched on the map below.
 - (b) Placing on Map 2 "Development Permit Areas" "Development Permit Area 5 – Industrial (DPA 5)" on the subject properties being a portion of Lot 7 and Lot 8, District Lot 147, Oyster District, VIP85271 (1201 and 1251 Christie Road) as shown cross-hatched on the map below.



TOWN OF LADYSMITH

BYLAW NO. 1819

A bylaw to amend "Town of Ladysmith Zoning Bylaw, 1995, No. 1160"

WHEREAS pursuant to the *Local Government Act*, the Municipal Council is empowered to amend the zoning bylaw;

AND WHEREAS after the close of the Public Hearing and with due regard to the reports received, the Municipal Council considers it advisable to amend "Town of Ladysmith Zoning Bylaw 1995, No. 1160";

NOW THEREFORE the Council of the Town of Ladysmith in open meeting assembled enacts as follows:

(A) The text of "Town of Ladysmith Zoning Bylaw 1995, No. 1160" as amended is hereby further amended as follows:

(1) Adding the following site specific regulations to section 26.2 "Conditions of Use" following sub-section (5):

“(6) Despite section 26.1 the following uses are not permitted on the properties described as Lot 7 and Lot 8, District Lot 147, Oyster District, Plan VIP85271 (1201 and 1251 Christie Road):

- i) Service station including autobody repairs and painting; and
- ii) Retail and wholesale storage of petroleum and accessory storage of petroleum products not exceeding 450,000 litres.”

(B) The map, being ‘Schedule A’ to “Town of Ladysmith Zoning Bylaw 1995, No. 1160” is hereby amended by placing “Light Industrial Zone (I-1) Zone” on the subject properties being a portion of Lot 7 and Lot 8, District Lot 147, Oyster District, Plan VIP85271 (1201 and 1251 Christie Road) as shown on Schedule I attached to this Bylaw.

CITATION

(C) This bylaw may be cited for all purposes as "Town of Ladysmith Zoning Bylaw 1995, No. 1160 Amendment Bylaw (No.92), 2013, No. 1819”.

READ A FIRST TIME on the 6th day of May, 2013

READ A SECOND TIME on the 6th day of May, 2013

PUBLIC HEARING held pursuant to the provisions of the *Local Government Act*

READ A THIRD TIME on the day of
on the day of

APPROVED UNDER THE TRANSPORTATION ACT

on the day of

ADOPTED on the day of

Mayor (R. Hutchins)

Corporate Officer (S. Bowden)

Bylaw 1819 – Schedule 1

