

A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF LADYSMITH WILL BE HELD IN COUNCIL CHAMBERS AT CITY HALL ON MONDAY, FEBRUARY 19, 2018 7:00 P.M.

AGENDA

CALL TO ORDER (7:00 P.M.)

- 1. AGENDA APPROVAL
2. PROCLAMATIONS - None
3. DEVELOPMENT APPLICATIONS

- 3.1. Zoning Bylaw Amendment Application - 1240 4th Ave. (Warkentin) Subject Property: Lot B, District Lot 97, Oyster District, Plan VIP56663, Except part in plan VIP89355 1 - 4

That Council:

- 1. Consider the application (3360-17-01) to amend: a) The Official Community Plan by removing Development Permit Area 4 - Multi-Unit Residential from the property at 1240 4th Avenue; and b) the Zoning Bylaw by rezoning 1240 4th Avenue from Medium Density Residential (R-3) to Single Dwelling Residential - Small Lot B Zone (R-1-B); for the property legally described as Lot B, District Lot 97, Oyster District, Plan VIP56663, Except part in plan VIP89355.
2. Having given consideration to s.475 of the Local Government Act (consultation during OCP development) direct staff to: a) Refer the proposed OCP amendment (3360-17-01) to the Stz'uminus First Nation, pursuant to the Town's Memorandum of Understanding; and b) Refer application 3360-17-01 to the Advisory Planning Commission for review and comment.



3. Direct staff to work with the applicant regarding land use matters and a community amenity contribution; and commence the preparation of the Official Community Plan (OCP) amendment bylaw and the Zoning Bylaw amendment bylaw for application 3360-17-01 (1240 4th Ave.).

4. BYLAWS – OFFICIAL COMMUNITY PLANNING AND ZONING – None

5. REPORTS – None

6. BYLAWS

6.1. Water Filtration Plant Temporary Borrowing Bylaw 2018, No. 1931..... 5

The purpose of Bylaw 1931 is to allow for temporary borrowing under a loan authorization bylaw (s.181 of the *Community Charter*) to fund the construction of the Water Filtration Plant.

Staff Recommendation:

That Council adopt Bylaw 1931, cited as "Water Filtration Plant Temporary Borrowing Bylaw 2018, No. 1931."

6.2. Property Tax Payments in Advance of Due Date Bylaw 2018, No. 1947..... 6

The purpose of Bylaw 1947 is to provide property owners with credit interest on property tax payments made in advance of the tax due date.

Staff Recommendation:

That Council adopt Bylaw 1947, cited as "Property Tax Payments in Advance of Due Date Bylaw 2018, No. 1947."

7. CORRESPONDENCE

**7.1. Robert Lee and Liesel Knaack
Tree Removal Request – Sanderson Road.....7 - 12**

Staff Recommendation:

That Council refer to staff the request from Robert Lee and Liesel Knaack to remove the boulevard tree in front of their residence, in order to investigate the issue, and report back on the community implications of authorizing such a request, together with any alternatives.

8. NEW BUSINESS - None

9. UNFINISHED BUSINESS - None

10. QUESTION PERIOD

- A maximum of 15 minutes is allotted for questions.
- Persons wishing to address Council during “Question Period” must be Town of Ladysmith residents, non-resident property owners, or operators of a business.
- Individuals must state their name and address for identification purposes.
- Questions put forth must be on topics which are not normally dealt with by Town staff as a matter of routine.
- Questions must be brief and to the point.
- Questions shall be addressed through the Chair and answers given likewise. Debates with or by individual Council members or staff members are not allowed.
- No commitments shall be made by the Chair in replying to a question. Matters which may require action of the Council shall be referred to a future meeting of the Council.

ADJOURNMENT

STAFF REPORT TO COUNCIL

From: Lisa Brinkman, Senior Planner
Meeting Date: February 19, 2018
File No: 3360-17-01
RE: **ZONING BYLAW AMENDMENT APPLICATION - 1240 4TH AVE.**
Subject Property: Lot B, District Lot 97, Oyster District, Plan
VIP56663, Except part in plan VIP89355

RECOMMENDATION:

That Council:

1. Consider the application (3360-17-01) to amend:
 - a) The Official Community Plan by removing Development Permit Area 4 - Multi-Unit Residential from the property at 1240 4th Avenue; and
 - b) the Zoning Bylaw by rezoning 1240 4th Avenue from Medium Density Residential (R-3) to Single Dwelling Residential - Small Lot B Zone (R-1-B);for the property legally described as Lot B, District Lot 97, Oyster District, Plan VIP56663, Except part in plan VIP89355.
2. Having given consideration to s.475 of the Local Government Act (consultation during OCP development) direct staff to:
 - a) Refer the proposed OCP amendment (3360-17-01) to the Stz'uminus First Nation, pursuant to the Town's Memorandum of Understanding; and
 - b) Refer application 3360-17-01 to the Advisory Planning Commission for review and comment.
3. Direct staff to work with the applicant regarding land use matters and a community amenity contribution; and commence the preparation of the Official Community Plan (OCP) amendment bylaw and the Zoning Bylaw amendment bylaw for application 3360-17-01 (1240 4th Ave.)

PURPOSE:

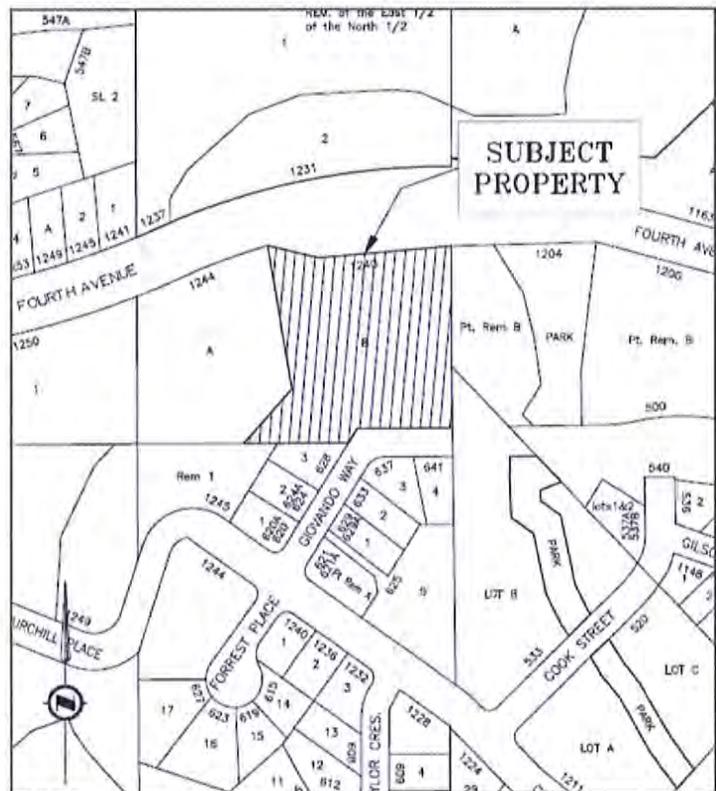
The purpose of this staff report is to introduce an application to amend the Official Community Plan (OCP) and Zoning Bylaw for 1240 4th Avenue and to seek direction from Council regarding consultation and next steps.

PREVIOUS COUNCIL DIRECTION

None.

INTRODUCTION/BACKGROUND:

An application has been received from C. Warkentin to amend the OCP and Zoning Bylaw for the purpose of creating a single family subdivision at 1240 4th Avenue. The subject property is approximately one hectare (2.5 acres) in size. If the rezoning application is successful the applicant intends to apply to subdivide the land into approximately 20 small lot single family residential parcels that are 372 m² (4004ft²) in size. The road access to the development would be at Giovando Way. The subject property is bounded by Fourth



Avenue to the north, multi-family use to the west (Executive at the Creek), vacant land to the east and R-1 zone single family parcels to the south on Giovando Way.

OCP and Zoning

The OCP designates the subject property as 'Single Family Residential', thus the proposed single family use is consistent with the OCP. The property is currently zoned Medium Density Residential (R-3). The R-3 zone would allow 60 multi-family units on the subject property. The applicant is proposing to zone the subject property as 'Single Dwelling Residential - Small Lot B Zone (R-1-B) which would allow approximately 20 parcels that are 372 m² (4004ft²) in size. Also, the OCP would need to be amended to remove Development Permit Area 4 - Multi-Unit Residential from the subject property. See Table 1: Summary of Application 3360-17-01.

Small Lot Land Use Matters

The R-1-B zone permits secondary suites and home based business as an accessory use. The parking and associated traffic that comes with secondary suites could be accommodated on small lots, 372 m² (4004ft²), when the land fronts onto a typical local road that is 15.5 metres in width. However, the applicant is considering a bareland strata subdivision with strata roads that are 6 metres in width. In this scenario it is not recommended to support secondary suites. Thus, if the rezoning proceeds it is recommended that a covenant be placed on title stating that secondary suites are not permitted on bareland strata owned lots.

Further, it is recommended that if the applicant chooses an R-1-B small lot bareland strata subdivision scenario, that they be required to provide a common storage area for boats

and RVs to ensure that these are not stored on front yards and roads. This requirement could also be a condition of the rezoning and placed in a covenant such that the owner is required to provide the storage area at the time of subdivision of the land. Staff can work with the applicant to determine the appropriate size for the storage area, and secure the storage area size in the covenant.

Community Amenity Contribution (CAC)

Covenant EL128958 was registered on the title of the property in 1997 when the land was zoned to R-3. The covenant requires that the owner must, at time of building permit, pay a CAC in the amount of \$1000 per unit. If the rezoning application proceeds it is recommended that Covenant EL128958 be removed from the title and a new covenant be placed on title, prior to final reading of the amending bylaws, requiring that a CAC of \$1000 per single family lot be paid at the time of subdivision approval of the land.

Table 1: Summary of Application 3360-17-01

	Current	Proposed
OCP	Single Family Residential	Single Family Residential
Development Permit Area	DPA 4 Multi-Unit	None
Zoning	Medium Density Residential (R-3)	Single Dwelling Residential Small Lot B (R-1-B) <i>Minimum parcel size: 372 m² (4004ft²)</i>

ALTERNATIVES:

Council can choose to not proceed with rezoning application 3360-17-01.

FINANCIAL IMPLICATIONS:

none

LEGAL IMPLICATIONS:

If the application proceeds a public hearing is required.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

The applicant will be required to host a neighbourhood information meeting as required by the Development Procedures Bylaw.

It is recommended to refer the application to the Advisory Planning Commission (APC).

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

The application has been referred to the Infrastructure Services Department for review. If the rezoning is successful the applicant will submit a subdivision application to the Approving Officer. The Approving Officer will review servicing and road standard

requirements; and will ensure the development complies with the Town's subdivision bylaw and engineering standards.

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input type="checkbox"/> Healthy Community | <input type="checkbox"/> Local, Diverse Economy |
| <input type="checkbox"/> Not Applicable | |

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Employment & Tax Diversity | <input type="checkbox"/> Natural & Built Infrastructure |
| <input type="checkbox"/> Watershed Protection & Water Management | <input type="checkbox"/> Partnerships |
| <input type="checkbox"/> Communications & Engagement | <input type="checkbox"/> Not Applicable |

SUMMARY:

An application has been received, for the property at 1240 4th Avenue, to rezone the land from Medium Density Residential (R-3) to Single Dwelling Residential – Small Lot B Zone (R-1-B). Recommendations are provided for the next steps in the application review process.

Reviewed By

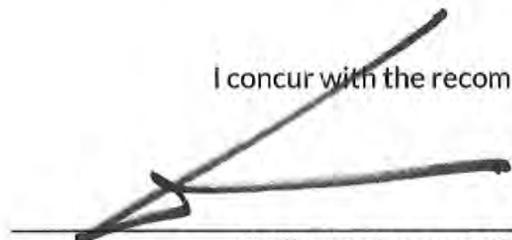


Felicity Adams, Director of Development Services

February 19, 2018

Date Signed

I concur with the recommendation.



Guillermo Ferrero, City Manager

ATTACHMENTS:

none

TOWN OF LADYSMITH

BYLAW NO. 1931

A bylaw to authorize temporary borrowing pending the sale of debentures

WHEREAS it is provided by 181 of the *Community Charter* that the Council may, where it has adopted a loan authorization bylaw, without further assents or approvals, borrow temporarily from any person under the conditions therein set out;

AND WHEREAS the Council has adopted Bylaw No. 1920, cited as “Water Filtration Plant Loan Authorization Bylaw 2016, No. 1920” authorizing the construction of a water filtration plant, with the intended debt amount of six million dollars (\$6,000,000.00);

AND WHEREAS the sale of debentures has been temporarily deferred:

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

- (1) The Council is hereby authorized and empowered to borrow an amount or amounts not exceeding the sum of six million dollars (\$6,000,000.00), as the same may be required.
- (2) The form of obligation to be given as acknowledgement of the liability shall be a promissory note or notes bearing the corporate seal and signed by the Mayor and the Corporate Officer.
- (3) The money so borrowed shall be used solely for the purposes set out in said Bylaw No. 1920.
- (4) The proceeds from the sale of the debentures or so much thereof as may be necessary shall be used to repay the money so borrowed.

Citation

This bylaw may be cited as “Water Filtration Plant Temporary Borrowing Bylaw 2018, No. 1931”.

READ A FIRST TIME on the 13th day of February , 2018

READ A SECOND TIME on the 13th day of February , 2018

READ A THIRD TIME on the 13th day of February , 2018

ADOPTED on the day of ,

Mayor (A. Stone)

Corporate Officer (J. Winter)

TOWN OF LADYSMITH

BYLAW NO. 1947

Property Tax Payments in Advance of Due Date

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

1. In the bylaw:
 - a) "Town" means the Town of Ladysmith, or the area contained within the boundaries of the said Town:
 - b) "Collector" means any person given authority by the Town to collect monies for property taxes on behalf of the Town.
 - c) "Tax Due Date" is the date that the assessed property taxes must be paid by each year in accordance with Section 234 of the *Community Charter*.
2. The Collector is hereby authorized to receive money for property taxes in advance of the due date.
3. The total amount of the prepayment is limited to the net taxes paid on the same folio in the previous year.
4. Payments must be applied as set out in Section 244 of the *Community Charter*.
5. Interest will be paid on payments received in advance of the tax due date. Interest will be calculated at a rate of three percent (3%) below the prime rate of the Town's principal bank. For payments made from August 1st to Dec 31st, the rate established on December 31st will be used. For payments made from January 1st to May 1st, the rate established on April 30th will be used and will be calculated to June 30th. Payments made between May 2nd and the tax due date will not receive credit interest. Interest will be credited to the owner's property tax account.
6. The Collector shall indicate on the annual Property Tax notice, the total of all payments received plus interest earned and show the property tax amount required to be paid by the tax due date of that year. The property owner must pay any remaining amounts and claim the homeowner grant, if eligible, before the due date to avoid the penalty levy.
7. In the event of a sale or transfer of the property, property tax prepayments shall remain on the property tax account and the responsibility for the adjustment shall be between the vendor and purchaser.
8. This bylaw does not apply to any property owners who has formally enrolled in the Town's Property Tax Prepayment Plan in accordance with the Property tax Prepayment Bylaw 2014, No.1851.
9. "Prepayment of Taxes Bylaw 2005, No. 1553" is hereby repealed.
10. This bylaw maybe cited as "Property Tax Payments in Advance of Due Date Bylaw 2018, No. 1947".

READ A FIRST TIME on the 13th day of February , 2018
READ A SECOND TIME on the 13th day of February , 2018
READ A THIRD TIME on the 13th day of February , 2018
ADOPTED on the _____ day of _____ , 2018

Mayor (A. Stone)

Corporate Officer (J. Winter)

From: Robert Lee []
Sent: February 2, 2018 8:39 AM
To: Town of Ladysmith
Subject: Tree Removal Request · Sanderson Road

Hi there,

This email concerns a tree removal request that needs to be forwarded to the Mayor and Council members.

Earlier, we had spoken with Kevin Goldfuss about the removal of the maple tree in front of our house at Sanderson Road. Mr. Goldfuss said that he did not have the authority to have the tree removed and advised us to send the request on to the Mayor and Council members.

I have **attached** a pdf document with images that outlines more specific information for our reasons to have the tree removed.

If you could forward this email including the attachment to the Mayor and Council members it would be greatly appreciated.

You can contact us through this email or our phone number

Thank you.

Regards,
Robert Lee and Liesel Knaack.

Request to Remove Tree from Sanderson Road, Ladysmith

Introduction:

In our front yard there is Red Maple planted beside the sidewalk. We believe it was planted around 2009 when the house was built which would make it approximately 8 years old. As we change the landscaping of the front yard, we are asking the town permission to remove this tree. The following document outlines the reasons we believe the tree should be removed.

Site Location:

Our lawn is sloped at the front (see **Figure A**) and it requires significant watering to keep it healthy. Because the slope is south-facing and because the site has such poor-quality soil, the area is extremely challenging for keeping the grass and the tree hydrated. Watering every other day is normally required to keep this area healthy during the summer. During the Stage 3 water restrictions in September, a significant grassed area around the tree basically died (see **Figure B**). What is so shocking is that it did this in less than 2 weeks time and given the fact that the area was irrigated regularly over the summer. Before the restriction the lawn in this area was green. This points to the significant water requirements of this tree. If you look at the other side of our lawn, you see that the lawn with the same slope remained green (see **Figure C**).



Figure A | Site Location on Southward Facing Slope with Poor Soil



Figure B | Dead Grass under Tree



Figure C | Healthy Grass on other side of Property away from Tree

Basically, when the area under the tree is watered through irrigation sprinklers or a hose, the water flows down the slope onto the sidewalk with little being absorbed by the poor-quality soil and the tree's hard roots which have now crept their way to the surface. Even with regular watering, once Stage 3 restrictions are put into place, this large area surrounding the tree quickly succumbs to drought. This has meant that we have had to go through the labourious process of reseeded the area numerous times following Stage 3 water restrictions. With the tree's roots now growing above the grass surface, mowing the lawn has also become difficult in the area surrounding the tree.

Tree Water Requirements

The city of Kamloops [Xeriscapes Guide](#) places Red Maples in the "High" Water Use Category. With such high water needs we question if this tree variety was the appropriate choice for a location with a southward facing slope, poor rocky soil and extremely dry summers. The number of times that Ladysmith workers are required to water these trees during the dry summer months speaks to the high water demands of these trees. The point also needs to be made that even though many of these trees were planted 7 and 8 years ago, they still require this supplemental water to survive. From an aesthetic standpoint, it should be noted that the trees on the street that do not receive water through lawn irrigation look terribly sick during summer because the heat stresses their leaves to wilt and droop. Even when the town places gator bags at the base of these trees, their leaves wilt under the midday sun (see **Figure D**).



Figure D | Stressed Maple Tree with Droopy Leaves on Neighbouring Property during Midday Sun.

Poor Soil

The front yard of this property has very little top soil. It is unfortunate that the Town of Ladysmith did not require developers to lay sufficient top soil down, especially when developers were using sod as their choice for landscaping in this neighbourhood. The document [Topsoil Requirements In Vancouver: The Need, The Benefits, And The Next Steps](#) points out how critical topsoil can be in water conservation, sustainability, plant health and resiliency. Growing grass on this property is extremely difficult as there is insufficient depth of top soil for the turf to establish long roots making it more drought tolerant. Basically, the front grass is growing on rock.

Once you combine the problem of the poor soil with a sloped property, growing grass becomes even more difficult as any irrigation or water flows down the slope to the sidewalk with little water penetrating the soil. Additionally, the problem is made worse because the slope faces south. The southward facing slope means the vegetation in this area receives more sunlight and warmer temperatures during summer. Given the harsh conditions of this site, planting a tree in this location is very problematic. It truly exacerbates the situation as the tree and grass compete for soil nutrients and water. As the tree roots have spread out near the surface, the ground has become harder which leads to more surface runoff and less water absorption by the grass and the tree.

Tree Size

The large size of these variety of trees is another concern. We have had to prune this tree several times as it became hazardous for people on the sidewalk and for us gardening. In its short life, this tree has already had some branches that have grown as far wide as the garden. It has been reported that these trees grow up to 40 feet wide and 50 feet tall. This tree and its underlying shallow root system will at some point consume a large proportion of the front yard up to our walkway and into the driveway. When a tree reaches such a large size, it makes most of the front yard unusable and because the canopy is so dense, very little vegetation will grow beneath it. Lastly, because of the size of the tree and the slope, the tree prevents much of the house and gardens from being visible from the road, removing all street appeal. You can see in **Figure E** that much of our house is not visible from the road. It is really disappointing as homeowners who are proud of the way they keep their property to think that less and less of their house will be visible as the tree continues to triple/quadruple in size.



Figure E | Large Tree Hides House and Gardens from Street

Landscaping the Front Yard

For the past few months we have been upgrading our backyard landscape. Bringing equipment to the backyard has destroyed much of the grass on the left side of the property. When the backyard is soon finished, we would like to fix the damaged area on the left side of the property and fix the large area of dead grass surrounding the tree. From past experience we know that simply reseeding the grass under the tree is not a viable solution. As soon as there is a water ban, the grass under the tree succumbs to drought because of the poor shallow soil, southward facing slope and the intense competition for water that is presented from the large maple tree.

In moving forward with repairing the front yard, we discussed using gravel and or rocks as an alternative to the grass. However, we determined it was not an appropriate solution for the several reasons. First, stripping the grass and soil to make room for several layers of rock is going to be problematic with the tree roots, most likely injuring those at the grass level. Second, with rocks in this area, the tree would no longer be irrigated which will be problematic for such a large specimen with high water requirements. Third, little precipitation would get to the roots in the new xeriscape design with all the landscape fabric and many inches of rock that will lie over the surface. Fourth, fall cleanup would be a nightmare as we will not be able to rake the enormous quantity of leaves that fall from this tree on the river rock. This is an important consideration, because if leave debris is not removed from the surface it decomposes on the rock which allows weed seeds to germinate.

The planting of such a large-scale tree with high water requirements in a location with poor soil, and a southward facing slope has presented numerous challenges in looking after our property. Given these challenges we believe that the best solution would be to remove the tree. Following the tree removal, we would like to excavate the existing dirt across the front yard (to a depth of one foot) and replace it with healthy top soil. We would then reseed the area. We feel that new soil and removing the competition that the tree presented would allow us to grow a healthy lawn that will require less watering and be more drought tolerant.

Conclusion

In conclusion, we are asking permission from the Town of Ladysmith to have the maple tree removed so that we can move ahead with the above landscaping plans. Please note, we are not anti-tree. We have several small drought-tolerant trees in our backyard. Our goal is to produce a landscape that is more tolerant of our summer conditions and be an asset to the other properties on the street. Thank you.

Liesel Knaack and Robert Lee