

# Questions and Answers

Lot 5

April 5, 2018

**Q1: Why does the Town want Lot 5? Do you intend to place residential developments on the property?**

There is no planned residential development on the Lot 5 property. A large area of this lot is a rock scarp face surrounded by provincial and Town-owned lands, making Lot 5 an appropriate location for municipal park and public open spaces for residents and visitors of our waterfront area. The proposed use of Lot 5 is clearly outlined in the Waterfront Area Plan as green space and trails.

**Q2: How much was the Town prepared to pay for the lot?**

Under section 25 of the *Community Charter*, “a Council must not provide a grant, benefit, advantage or other form of assistance to a business”. Offering a purchase price beyond an appraised market value would have been deemed an assistance to business.

**Q3: Where is Lot 5 located?**

Lot 5 is located in the Waterfront Area Plan and runs north from just above the Transfer Beach Amphitheatre to include a portion of the gravel road access to the Ladysmith Community Marina.

The land parcel is 3.2 acres and fairly narrow, ranging in width from approximately 17 metres to roughly 38 metres. The lot is mostly comprised of a fairly steep rock face.

**Q4: Why did the Town expropriate Lot 5?**

A municipality can expropriate a property when it's in the public interest to do so under the *Community Charter* and *Expropriation Act*. The Town heard from residents during extensive community consultation and engagement around the Waterfront Area Plan that a publicly accessible waterfront was an important priority.

**Q5: What was the purchase price for the property?**

The Town obtained a professionally appraised value for Lot 5 prior to approaching the property owner to make an offer to purchase.

The Town's offer to purchase the property for \$292,000 was not accepted by the other party.

Instead, the property owner requested that a provincially appointed Inquiry Officer review whether the proposed land expropriation was necessary to achieve the Town's

objectives or whether those objectives could be better achieved by an alternate site, varying the amount of land or interest in land being taken.

Following submissions from both the Town and property owner, the Inquiry Officer recommended the expropriation be approved, based on the appraised value. The Town paid \$292,000 to the property owners, and on April 1, received title to Lot 5.

**Q6: What are the Town's future plans for Lot 5?**

The 3.2 acre property is located within the Waterfront Area Plan and includes well-used pedestrian trails and stands of mature trees, including Arbutus.

Lot 5 is designated as Parks and Open Space in the Waterfront Area Plan.

The Town anticipates preserving Lot 5 for public use, including park, as well as road access to the Ladysmith Community Marina.

**Q7: What is included in the expropriation process?**

The term 'expropriation' is sometimes misunderstood. A local government is able to *acquire* property when it is in the public interest to do so. However, there is a strict process to follow, and the property owner must be paid the market value of the property as determined by a professional appraiser.

The steps that a local government must take to acquire a property are outlined in the British Columbia *Expropriation Act*. They include:

- Determination of the purpose of the expropriation and confirmation of the Town's statutory power to expropriate
- Determination of the land required and the type of interest to be expropriated
- Confirmation that the Town has the funds to carry out expropriation
- Perform a land title search
- Survey and plan preparation
- Preparation of an appraisal report by a qualified appraiser
- Issuance of an expropriation notice and delivery of the notice to the owners
- Filing of the expropriation notice in the Land Titles Office
- Posting of the expropriation notification sign
- Inquiry into whether the proposed expropriation is supported by the *Expropriation Act*. (A public hearing may be held, if considered appropriate by the inquiry officer)
- Council approval of the expropriation
- Advance payment to owners and service to owners of appraisal reports and other reports

- Issuance of vesting notice, service on owners, and filing in Land Title Office
- Taking possession of expropriated land
- Compensation hearing, if requested by owners

**Q8: How much will it cost taxpayers for the Town to expropriate Lot 5?**

Expropriation costs include market value for the lot of \$292,000, as determined by a professional appraisal, in addition to the landowner's legal costs for land title transfer. A dispute of land value may be taken to arbitration and to the Supreme Court of BC which will determine the land value.