

AGENDA

AGENDA FOR THE SPECIAL MEETING OF
THE COUNCIL OF THE CITY OF NANAIMO,
TO BE HELD IN THE SHAW AUDITORIUM, 80 COMMERCIAL STREET, NANAIMO, BC
ON THURSDAY, 2013-APR-04, COMMENCING AT 7:00 P.M.

CHAIR: MAYOR RUTTAN

ACTING MAYOR: COUNCILLOR KIPP (2013-MAR-11 TO 2013-APR-28)

1. **CALL THE SPECIAL MEETING OF COUNCIL TO ORDER:**
2. **ADOPTION OF AGENDA: (Kipp/Pattje)**
3. **CALL THE PUBLIC HEARING TO ORDER:**
4. **PUBLIC HEARING AGENDA:**

Mr. Bruce Anderson, Manager, Planning & Design Section to explain the required procedures in conducting a Public Hearing and the regulations contained within Part 26 of the *Local Government Act*.

- (a) Covenant Amendment – RA308 – 72 Twelfth Street – to be introduced by Mr. Dave Stewart, Planner, Planning & Design Section. Pg. 3

This application, if approved, will amend the phasing of development permitted on the site in order to construct a commercial building prior to constructing a mixed-use building.

- (b) Bylaw No. 4500.035 – RA305 – 433 Milton Street – to be introduced by Mr. Dave Stewart, Planner, Planning & Design Section. Pg. 4

This bylaw, if adopted, will rezone the subject property from Old City Low Density (Fourplex) Residential (R14) zone to Comprehensive Development District Ten (CD10) zone in order to allow for a two-lot, four-unit subdivision.

- (c) Bylaw No. 4500.036 – ZA1-51 – Zoning Bylaw Amendments – to be introduced by Mr. Dave Stewart, Planner, Planning & Design Section. Pg. 5-8

This bylaw, if adopted, will make text and mapping amendments to "ZONING BYLAW 2011 NO. 4500" in order to correct minor discrepancies within the Zoning Bylaw.

5. **ADJOURNMENT OF THE PUBLIC HEARING:**

6. BYLAWS / COVENANT AMENDMENT:

- | | | |
|-----|--|-------|
| (a) | That Covenant Amendment FA082417, Clause 7, Page 6 (RA308 - to amend the phasing of development permitted on the site in order to construct a commercial building prior to constructing a mixed-use building) be approved. | 9-21 |
| (b) | That "ZONING AMENDMENT BYLAW 2012 NO. 4500.035" (RA305 – from Old City Low Density (Fourplex) Residential (R14) zone to Comprehensive Development District Ten (CD10) zone in order to allow for a two-lot, four-unit subdivision) pass third reading. | 22-27 |
| (c) | That "ZONING AMENDMENT BYLAW 2012 NO. 4500.036" (ZA1-51 – to make text and mapping amendments to "ZONING BYLAW 2011 NO. 4500" in order to correct minor discrepancies within the Zoning Bylaw) pass third reading. | 28-41 |

7. ADJOURNMENT OF THE SPECIAL COUNCIL MEETING:

NOTICE OF PUBLIC HEARING

April 4th 2013 at 7:00 pm



There will be a Public Hearing on Thursday, April 4th 2013, starting at 7:00 pm in the **Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC**, to consider a covenant amendment application.

All persons who believe their interest in property is affected by the proposed covenant amendment will be given the opportunity to be heard in person, by a representative, or by written submission, on the matters contained within Covenant Amendment Application RA000308 at the Public Hearing.

COVENANT AMENDMENT APPLICATION

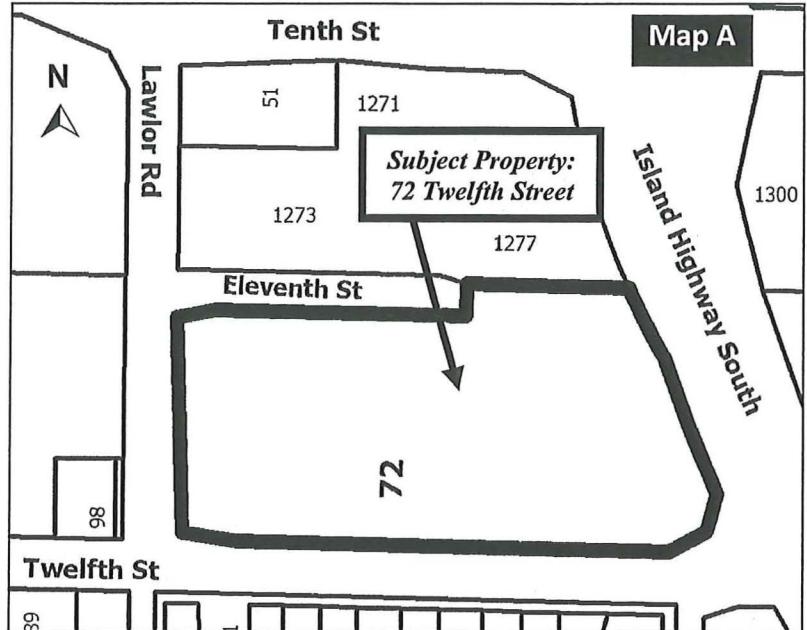
Purpose: To change the phasing of future development.

Location(s): 72 Twelfth Street, shown on Map A.

File No.: Covenant Amendment Application - RA000308

This application, if approved, will amend the phasing of development permitted on the site in order to construct a commercial building prior to constructing a mixed-use building.

The subject property is legally described as LOT 1, SECTION 20, RANGE 4, CRANBERRY DISTRICT AND SECTION 7 NANAIMO DISTRICT, PLAN VIP87593 and is shown on Map A.



WANT TO FIND OUT MORE INFORMATION?

IN PERSON: A copy of the above-noted application and related documents may be inspected from March 22nd 2013 to April 4th 2013, from 8:00am to 4:30pm, Monday through Friday (excluding statutory holidays), at the City of Nanaimo, Community Safety & Development Division (Service and Resource Centre), located at 411 Dunsmuir Street.

ONLINE: Application information can be accessed on the city's webpage:

What's Building In My Neighbourhood?
www.nanaimo.ca/whatsbuilding

QR CODE: Use this QR code on your mobile device to go directly to the online information.



WANT TO MAKE A WRITTEN SUBMISSION?

If you are unable to attend the Public Hearing, written submissions must be received no later than 4:00pm, April 4th 2013, to ensure their availability to Council at the Public Hearing. Written submissions can be provided by any of the following methods:

IN PERSON: Drop off at the Service and Resource Centre, located at 411 Dunsmuir Street.

EMAIL: Email should be sent to public.hearing@nanaimo.ca

WEBSITE: Submit comments directly through the City's website at www.nanaimo.ca/publichearing

MAIL: Mail to the City of Nanaimo, Community Safety & Development Division, 455 Wallace Street, Nanaimo, BC, V9R 5J6.

Following the close of a Public Hearing, no further submissions or comments from the public or interested persons can be accepted by members of City Council, as established by provincial case law. This is necessary to ensure a fair Public Hearing process and provide a reasonable opportunity for people to respond.

City of Nanaimo www.nanaimo.ca

Community Safety & Development Division

Location: Service and Resource Centre, 411 Dunsmuir Street

Phone: (250) 755-4429 Fax: (250) 755-4439

NOTICE OF PUBLIC HEARING

April 4th 2013 at 7:00 pm



There will be a Public Hearing on Thursday, **April 4th 2013**, starting at **7:00 pm** in the **Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC**, to consider a proposed amendment to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500."

All persons who believe their interest in property is affected by the proposed bylaw will be given the opportunity to be heard in person, by a representative, or by written submission, on the matters contained within Bylaw No. 4500.035 at the Public Hearing.

BYLAW NO. 4500.035

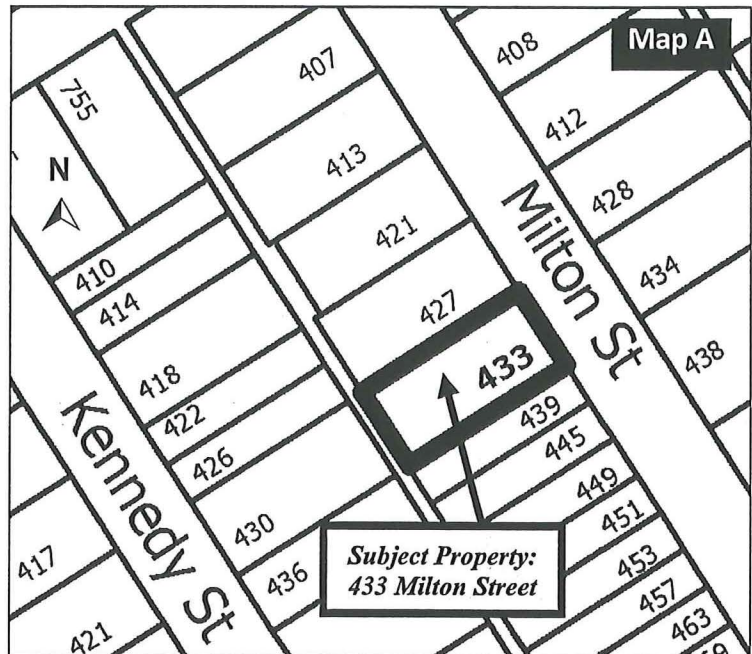
Purpose: To permit a two-lot subdivision (four units).

Location(s): 433 Milton Street, shown on Map A.

File No.: Rezoning Application - RA000305

This bylaw, if adopted, will rezone the subject property from Old City Low Density (Fourplex) Residential (R14) to Comprehensive Development District Zone Ten (CD10) in order to facilitate a two-lot subdivision and construction of four units.

The subject property is legally described as SECTION A, LOT 16, BLOCK H, SECTION 1, NANAIMO DISTRICT, PLAN 584 and is shown on Map A.



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NOTICE OF PUBLIC HEARING

April 4th 2013 at 7:00 pm



There will be a Public Hearing on Thursday, April 4th 2013, starting at 7:00 pm in the **Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC**, to consider proposed amendments to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500."

All persons who believe their interest in property is affected by the proposed bylaw will be given the opportunity to be heard in person, by a representative, or by written submission, on the matters contained within Bylaw No. 4500.036 at the Public Hearing.

BYLAW NO. 4500.036

Purpose: To make 10 text and 10 separate mapping amendments to Zoning Bylaw 4500.

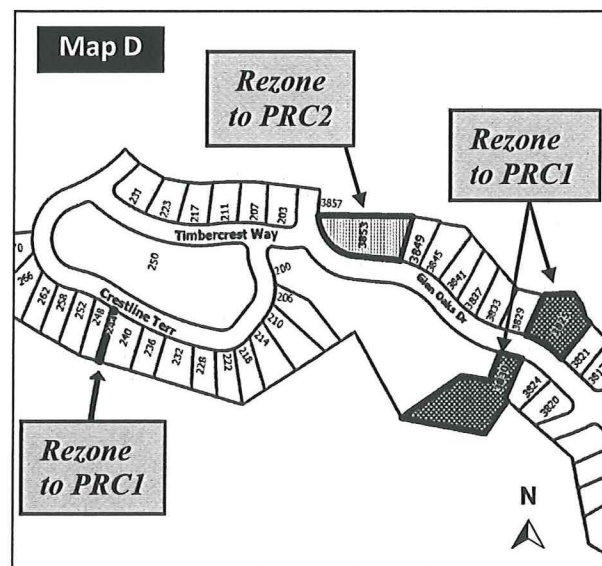
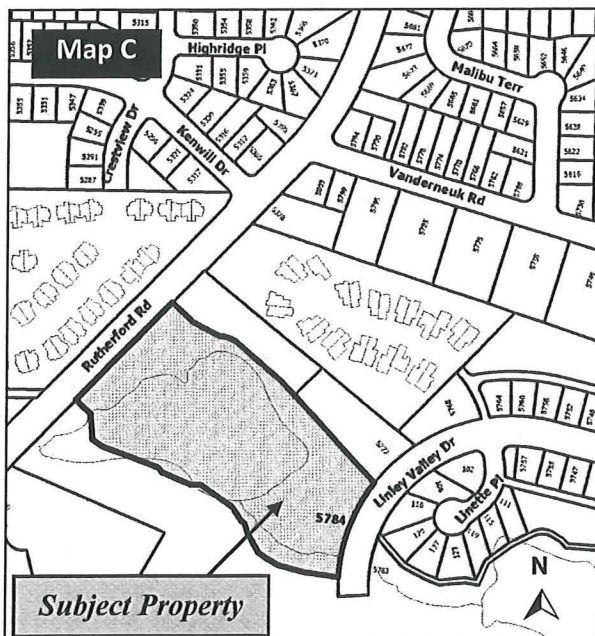
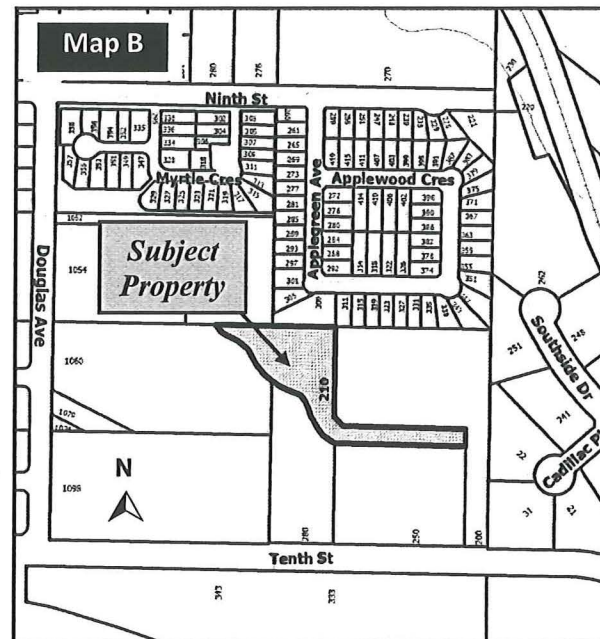
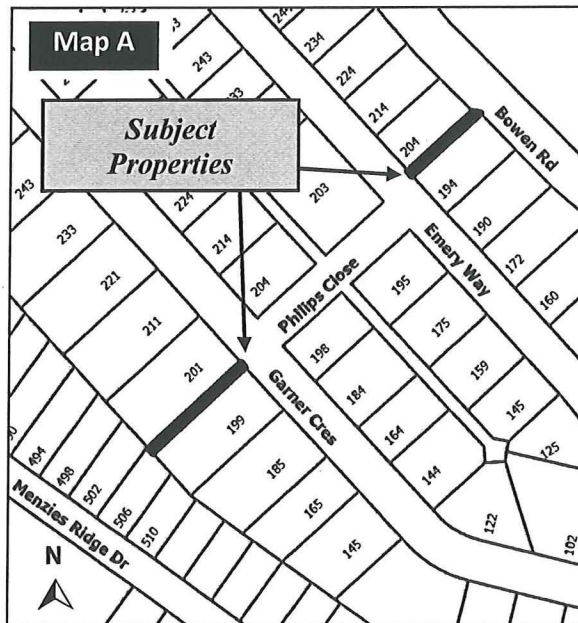
Location(s): Various.

File No.: Zoning Bylaw Amendment - ZA1-51

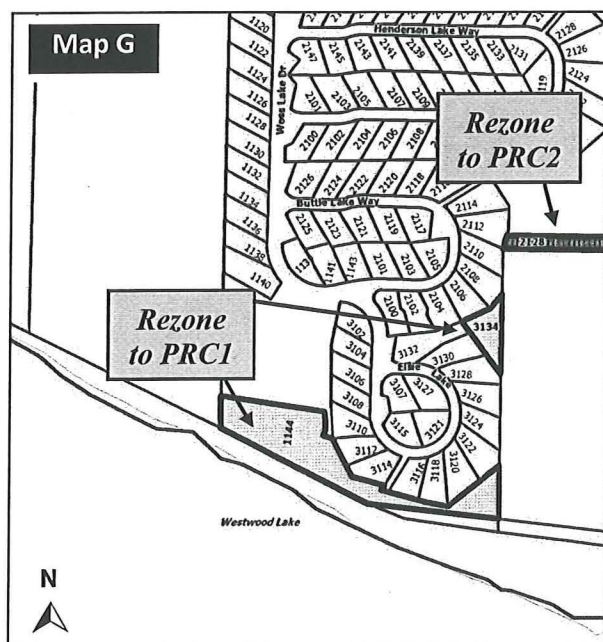
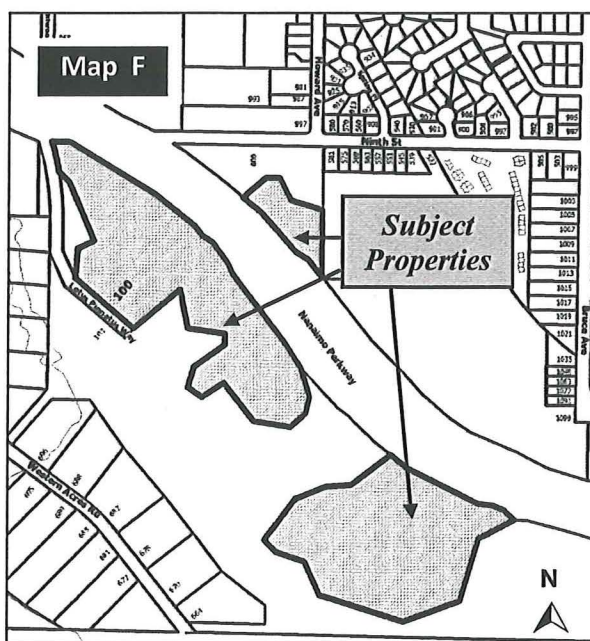
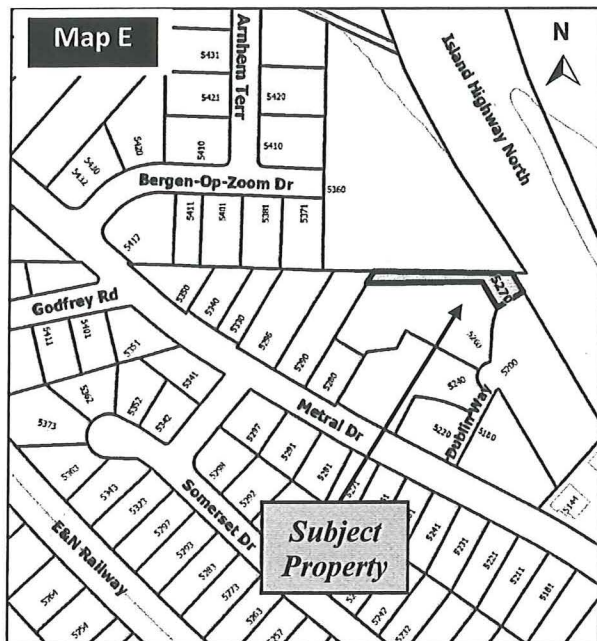
This bylaw, if adopted, will amend "ZONING BYLAW 2011 NO. 4500" by:

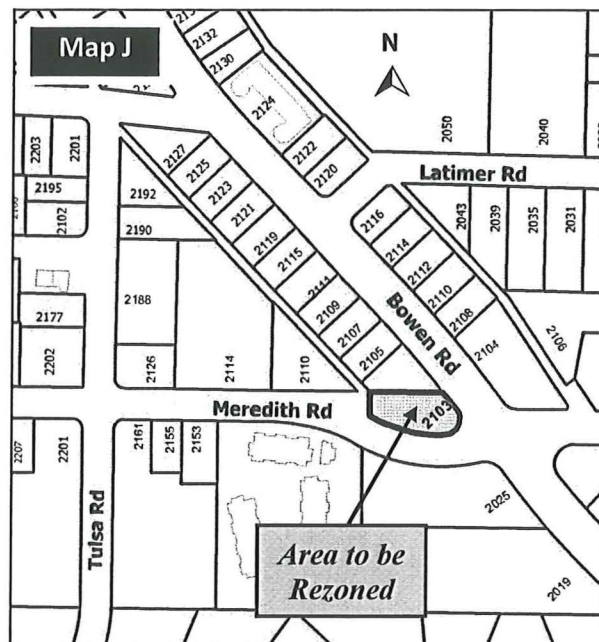
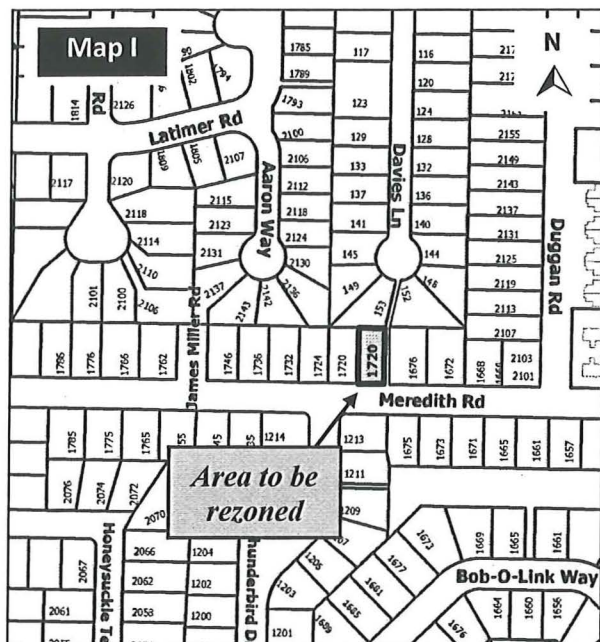
1. Removing the word "property" from the definition of "Mixed Use" and replacing it with the phrase "total gross floor area" for all buildings on the lot.
2. Amending the definition of "Pet Daycare" to remove the requirement for the facility to be 'wholly enclosed'.
3. Adding the R1b subzone to the list of zones in which an accessory building is permitted located 1.5m from the rear property line, or 1m from the rear property line where a lane exists.
4. Amending the condition of use and density regulations regarding permitting duplexes on corner lots within the Single Dwelling Residential (R1) zone. The proposed amendment will replace the 1000m² maximum lot size cap with regulations not permitting a duplex where the lot meets the minimum size, frontage and depth requirements for subdivision.
5. Amending the density sections within the Residential, Corridor, Commercial Centre, and Downtown zones and the introductory paragraph within Schedule D to clarify that additional density, where permitted through Schedule D, is assigned at the Development Permit stage.
6. Adding "Personal Care Facility" as a site specific use for the properties located at 6085, 6095 and 6081 Uplands Drive, included within the Medium Density Residential (R8) zone.
7. Removing the condition of use in the Corridor zones which does not allow an office, retail or furniture and appliance sales use where the lot does not meet the minimum required lot size.
8. Adding a column labeled "Helicopter Landing Pad" after "Furniture and Appliance Sales" to the permitted use chart as a site specific use within the Industrial zones.
9. Adding "Cemetery" as a permitted use within the Community Service Two (CS2) zone.
10. Amending the Landscape Treatment Levels table to include the Hospital Urban Centre (CC5) zone within the same treatment area as all other commercial centre zones.
11. Rezoning the existing right-of-way's on Emery Way and Garner Crescent from Parks, Recreation and Culture Two (PRC2) to Single Dwelling Residential (R1), as shown on Map A.
12. Rezoning the property located at 210 Tenth Street from Single Dwelling Residential (R1) to Parks, Recreation and Culture Two (PRC2), as shown on Map B.
13. Rezoning the property located at 5784 Linley Valley Drive from Steep Slope Residential (R10) to Parks, Recreation and Culture One (PRC1), as shown on Map C.
14. Rezoning the properties located at 3825 & 3830 Glen Oaks Drive and 244 Crestline Drive from Steep Slope Residential (R10) to Parks, Recreation and Cultural One (PRC1) and 3853 Glen Oaks Drive from Steep Slope Residential (R10) to Parks, Recreation and Culture Two (PRC2), as shown on Map D.
15. Rezoning the property located at 5270 Dublin Way from Comprehensive Development District Zone Five (CD5) to Parks, Recreation and Culture Two (PRC2), as shown on Map E.

16. Rezoning the property located at 100 Lotus Pinnatus Way from Steep Slope Residential (R10) to Parks, Recreation and Culture One (PRC1), as shown on Map F.
17. Rezoning the properties located at 1144 Woss Lake Drive and 3134 Elsie Lake Circle from Recreational Vehicle Park (R11) to Parks, Recreation and Cultural Zone One (PRC1) and 2128 Butt Lake Way from Recreational Vehicle Park (R11) to Parks, Recreation and Culture Two (PRC2), as shown on Map G.
18. Rezoning a portion of the property located at 1064 Old Victoria Road from Single Dwelling Residential (R1) to Community Service One (CS1), as shown on Map H.
19. Rezoning a portion of the property located at 1720 Meredith Road from Single Dwelling Residential (R1) to Community Service One (CS1), as shown on Map I.
20. Rezoning a portion of the property located at 2103 Bowen Road from Community Corridor (COR3) to Row House Residential (R7), as shown on Map J.



This Notice is published in accordance with Section 892 of the Local Government Act. Notice given by the Corporate Officer.





WANT TO FIND OUT MORE INFORMATION?

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ONLINE: See page 66 of the March 11th 2013 Council Agenda which includes information regarding the proposed general amendments: www.nanaimo.ca/meetings

WANT TO MAKE A WRITTEN SUBMISSION?

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City of Nanaimo
Community Safety & Development Division
Service and Resource Centre
411 Dunsmuir Street
Phone: (250) 755-4429
Fax: (250) 755-4439
www.nanaimo.ca

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FA082417

-6 JUL 2006 13 04

FA082416

LAND TITLE ACT
Form C (Section 233)
 Province of
 British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office Use)

Page 1 of 13 pages

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
STAPLES McDANNOLD STEWART
 2nd Floor, 837 Burdett Avenue
 Victoria, B.C. V8W 1B3 Tel: (250) 380 7744
 File No. 194 922/LC/am **BURNS SERVICES**
 Authorized Signatory 10303
2. Parcel Identifier(s) and Legal Description(s) of Land:
 (PID) (Legal Description)
 006-737-854 Lot A, Section 20, Range 4, Cranberry District, and Section 7, Nanaimo District, Plan 1955 Except Parts in plans 3212 RW and 956 RW
3. Nature of Interest
 Description Document Reference (page & paragraph) Person Entitled to Interest
 Section 219 Covenant Entire Document except page 24, para. 24 Grantee
- Priority Agreement granting Page 24, para. 24 Grantee
 covenant *FA 82416* priority over Mortgage CA159294 01 06/07/06 13:04:05 01 VI 708053
 CHARGE \$130.40
4. Terms: Part 2 of this instrument consists of (select one only)
 (a) Filled Standard Charge Terms ☐ D.F. No.
 (b) Express Charge Terms ☒ Annexed as Part 2
 (c) Release ☐ There is no Part 2 of this instrument
 A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged on the Land described in Item 2.
5. Transferor(s) (Grantor(s)):
CHASE RIVER PROPERTIES INC., (Inc. No. 0731053)
CANADIAN IMPERIAL BANK OF COMMERCE (as to priority agreement)
6. Transferee(s) (Grantee(s)): (Including postal address(es) and postal code(s)) *
CITY OF NANAIMO, 455 Wallace Street, Nanaimo, BC V9R 5J6
7. Additional or Modified Terms: N/A
8. Execution(s): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

J. Parker MacCarthy
J. PARKER MacCARTHY, Q.C.
BARRISTER & SOLICITOR
 111 WALLACE STREET
 NANAIMO, BC V9R 5B2
 PH: (250) 754-3321 FAX: (250) 754-1148

Execution Date

Y	M	D
06	06	29

Party(ies) Signature(s)
CHASE RIVER PROPERTIES INC. by
 its authorized signatories

Print Name:

Print Name:

AS TO BOTH SIGNATURES OF
WALLY LARGE


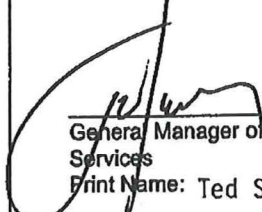

Officer Certification:

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

**LAND TITLE ACT
Form D**

EXECUTIONS CONTINUED

Page 2

Officer Signature(s)	Execution Date			Party(ies) Signature(s) CITY OF NANAIMO by its authorized signatories
	Y	M	D	
 T.P. SEWARD Commissioner for taking Affidavits for British Columbia 455 Wallace Street Nanaimo, B.C. V9R 5J6	06	05	04	 General Manager of Development Services Print Name: Ted Swabey
AS TO BOTH SIGNATURES				 Director of Legislative Services Print Name: Karen Burley

Officer Certification:

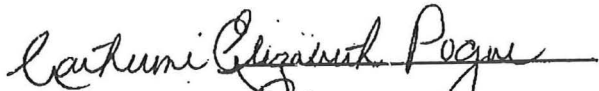
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996 c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution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

**LAND TITLE ACT
Form D**

EXECUTIONS CONTINUED

Page 3

Officer Signature(s)



CATHERINE ELIZABETH POQUE,
NOTARY PUBLIC, CITY OF TORONTO,
LIMITED TO THE ATTESTATION
OF INSTRUMENTS AND THE TAKING
OF AFFIDAVITS, FOR CANADIAN
IMPERIAL BANK OF COMMERCE.
EXPIRES MARCH 6, 2007.

AS TO BOTH SIGNATURES

**595 Bay Street, 5th Floor
Toronto, ON M5G 2C2**

Execution Date

Y	M	D
2007	06	30

Party(ies) Signature(s)
CANADIAN IMPERIAL BANK OF
COMMERCE by its authorized
signatories



Print Name:

**CAROLYN BROOMFIELD
ASST. GENERAL MANAGER**

Print Name:

**ANN MARIE MERRICK
Asst. General Manager**

Officer Certification:

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

TERMS OF INSTRUMENT - PART 2

WHEREAS:

A. The Grantor is the registered owner in fee simple of:

PID: 006-737-854

Lot A, Section 20, Range 4, Cranberry District, and Section 7, Nanaimo District, Plan 1955 Except Parts in Plans 3212 RW and 956 RW

(the "Land");

B. The Grantee is the City of Nanaimo ("City");

C. The Grantor has applied for a rezoning of the presently vacate and unused Land and, acknowledging that it is in the public interest that the subdivision, use and development of the Land be limited, wishes to grant this covenant to the Grantee;

D. Section 219 of the *Land Title Act* provides that a covenant, whether negative or positive, in respect of subdivision, the use of land or the use of a building on or to be erected on land, may be given to provide that land is to be built on or used in accordance with the covenant or is not to be used, built on or subdivided except in accordance with the covenant and that the covenant in favour of a municipality or the Crown may be registered as a charge against the title to that land.

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

Definitions

1. In this Agreement:

- (a) **"Landscape Plan"** means the plan dated February 23, 2006 prepared by DMG Landscape Architects and entitled "Landscape Concept" as submitted by the Grantor to the Grantee' Council on April 10, 2006, a copy of which is attached to this Agreement as Schedule "A";
- (b) **"Phase 1"** means that portion of the Land comprising Building A, identified as "Food Store" on the Site Plan, and associated landscaping and parking, but includes no other buildings;
- (c) **"Phase 2"** means all portions of the Land not included in Phase 1;

- (d) **"Site Plan"** means the plan dated August 8, 2005 prepared by Urban Design Group, and entitled "Site Plan Rev. 2", as submitted by the Grantor to the Grantee's Council on April 10, 2006, a copy of which is attached to this Agreement as Schedule "B"; and
- (e) **"Zoning Bylaw"** means the City of Nanaimo Zoning Bylaw 1993, No. 4000 as amended from time to time, and whose definitions shall apply to this Agreement unless a term is otherwise defined herein.

General Land Use Restrictions

- 2. Notwithstanding greater or broader uses, density or other regulations of the Zoning Bylaw, the Grantor covenants and agrees that the use of the Land will, at all times, be restricted to the following:
 - (a) accessory dwelling units;
 - (b) clubs or lodges;
 - (c) commercial schools;
 - (d) daycare facilities;
 - (e) dry cleaners;
 - (f) financial institutions;
 - (g) hotels;
 - (h) laundromats;
 - (i) multi-family dwellings;
 - (j) neighbourhood pubs;
 - (k) offices;
 - (l) recreational facilities;
 - (m) restaurants;
 - (n) retail stores; and
 - (o) veterinary clinics.

Additional Restrictions (No Use or Subdivision) regarding Traffic Improvements

- 3. Notwithstanding greater or broader uses, density or other regulations of the Zoning Bylaw and paragraph 2 above, the Grantor further covenants and agrees that:
 - (a) the Land shall not be subdivided or used for any use until such time as traffic improvements to the Lawlor Road/Tenth Street intersection have been completed to the satisfaction of the Grantee; and
 - (b) the Land shall not be used for any use until such time as a deceleration lane (right-in only) from the Island Highway onto Twelfth Street has been constructed to full Ministry of Transportation ("Ministry") standards, or otherwise secured to the satisfaction of the City acting reasonable.

4. The Grantee acknowledges that the requirement of subparagraph 3(b) is contingent on the Ministry approving the deceleration lane. If, after best efforts by the Grantor to secure such approval, the Ministry refuses to approve the deceleration lane, or fails to respond to the Grantor's request for such approval within a period of eighteen (18) months from the Grantee's adoption of Zoning Bylaw Amendment Bylaw 2006, No 4000.390, this requirement will no longer apply.

Additional Restrictions (No Use) regarding Gateway Trail SRW

5. Notwithstanding greater or broader uses, density or other regulations of the Zoning Bylaw and paragraph 2 above, the Grantor further covenants and agrees that the Land shall not be used for any use until such time that the Grantor has, at its sole cost, registered a Statutory Right of Way to the benefit and the reasonable satisfaction of the Grantee regarding the public use of the 1.5 metre wide pedestrian trail identified on the Landscape Plan ("Trail").
6. The Grantor agrees that prior to the issuance of an occupancy certificate and prior to the Grantor making any use of a building on the Land, the Grantor shall construct, install and plant the Trail in general compliance with the standards outlined in the Landscape Plan, to the reasonable satisfaction of the Grantee's General Manager of Development Services.

Additional Restrictions (Limited Use) regarding Phasing and Residential Dwellings

7. Notwithstanding greater or broader uses, density or other regulations of the Zoning Bylaw and paragraph 2 above, the Grantor further covenants and agrees that:
 - (a) Phase 1 of the Lands may only be used for a retail store use once all required landscaping and parking is provided, the latter in accordance with the City's Parking Bylaw No. 7013 as amended or relaxed by variance for this development, to the satisfaction of the Grantee; and
 - (b) the Land shall not be used for any use other than the retail store in Phase 1 until such time that eight (8) residential dwelling units are constructed on the Land. For certainty, once constructed, the residential dwelling units shall be perpetually maintained and must not be converted to another use; the Grantor expressly agrees that any other use would not be legally non-conforming given that those uses in Phase 2 are only permitted in conjunction with the eight (8) residential dwelling units. In the event of the destruction of the residential dwelling units, the Grantor shall have twenty-four (24) months to complete construction of the replacement residential dwelling units calculated from the date of destruction.

Storm Drainage at of Below Pre-Development Levels

8. The Grantor further covenants and agrees to, at its sole cost:
- (a) determine and provide to the Grantee, to the Grantee's reasonable satisfaction, the pre-development level of storm water drainage flows off the Land, including without limiting the foregoing into Ministry ditches and onto adjacent property and roadways, prior to the issuance of a building permit for any development on the Land;
 - (b) at no time permit the storm water drainage flows off the Land to exceed pre-development flow levels; and
 - (c) determine and provide an assessment of flow levels on demand from the Grantee or Ministry, acting reasonably, following commencement of development.

General Provisions

9. The Grantor agrees that the enforcement of this Agreement shall be entirely within the discretion of the Grantee and that the execution and registration of this covenant against the title to the Land shall not be interpreted as creating any duty on the part of the Grantee to the Grantor or to any other person to enforce any provision or the breach of any provision of this Agreement.
10. The Grantor acknowledges that the Grantee may not have the statutory authority to compel the Grantor to provide all the covenants in this Agreement and that the Grantee, or its officials, employees or agents, has not stated, held out or implied any expectation or requirement that the covenants must be provided in order for the Grantor's rezoning application to be approved, but rather the Grantor hereby expresses its intention to voluntarily donate the covenants in this Agreement to the Grantee, and be bound by them, without any expectation of payment or reward of any kind. The Grantor further releases, waives and forever discharges the Grantee from and against any claims, actions, or causes of action, whether based in contract, tort or equity, for damages or losses, or for the recovery of costs incurred, in connection with the provision of these voluntary covenants. However, the Grantee agrees that if Zoning Bylaw Amendment Bylaw 2006, No. 4000.390 is not adopted, and development applications for the Land are abandoned, the Grantee will execute a discharge of this covenant from the title to the Land.
11. The Grantor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.

12. The Grantor agrees that the Grantee may withhold occupancy certificates as necessary to ensure compliance with the covenants in this Agreement, and that the issuance of an occupancy certificate does not act as a representation or warranty by the Grantee that the covenants of this Agreement have been satisfied. The Grantor shall not be restricted from applying for development permits or building permits with respect to the development of the Land.
13. The Grantor shall pay the reasonable costs of the Grantee in connection with the preparation and registration of this Agreement. This is a personal covenant between the parties.
14. The Grantor shall indemnify and keep indemnified the Grantee 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 Grantee or which the Grantee incurs as a result of any loss or damage or injury, including economic loss, arising out of or connected with the restrictions and requirements of this Agreement (including without limiting the foregoing, the restriction or ceasing of any uses, the enforcement or non-enforcement of storm water flow requirements or any other term of this Agreement, and the construction, installation and planting of the Trail) and with the breach of any covenant in this Agreement.
15. The Grantor hereby releases and forever discharges the Grantee of and from any claim, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees whatsoever which the Grantor can or may have against the Grantee for any loss or damage or injury, including economic loss, that the Grantor may sustain or suffer arising out of or connected with the restrictions and requirements of this Agreement (including without limiting the foregoing, the restriction or ceasing of any uses, the enforcement or non-enforcement of storm water flow requirements or any other term of this Agreement, and the construction, installation and planting of the Trail) and with the breach of any covenant in this Agreement.
16. Nothing contained or implied herein shall prejudice or affect the rights and powers of the Grantee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Land as if the Agreement had not been executed and delivered by the Grantor.
17. It is mutually understood, acknowledged and agreed by the parties hereto that the Grantee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Grantor other than those contained in this Agreement.

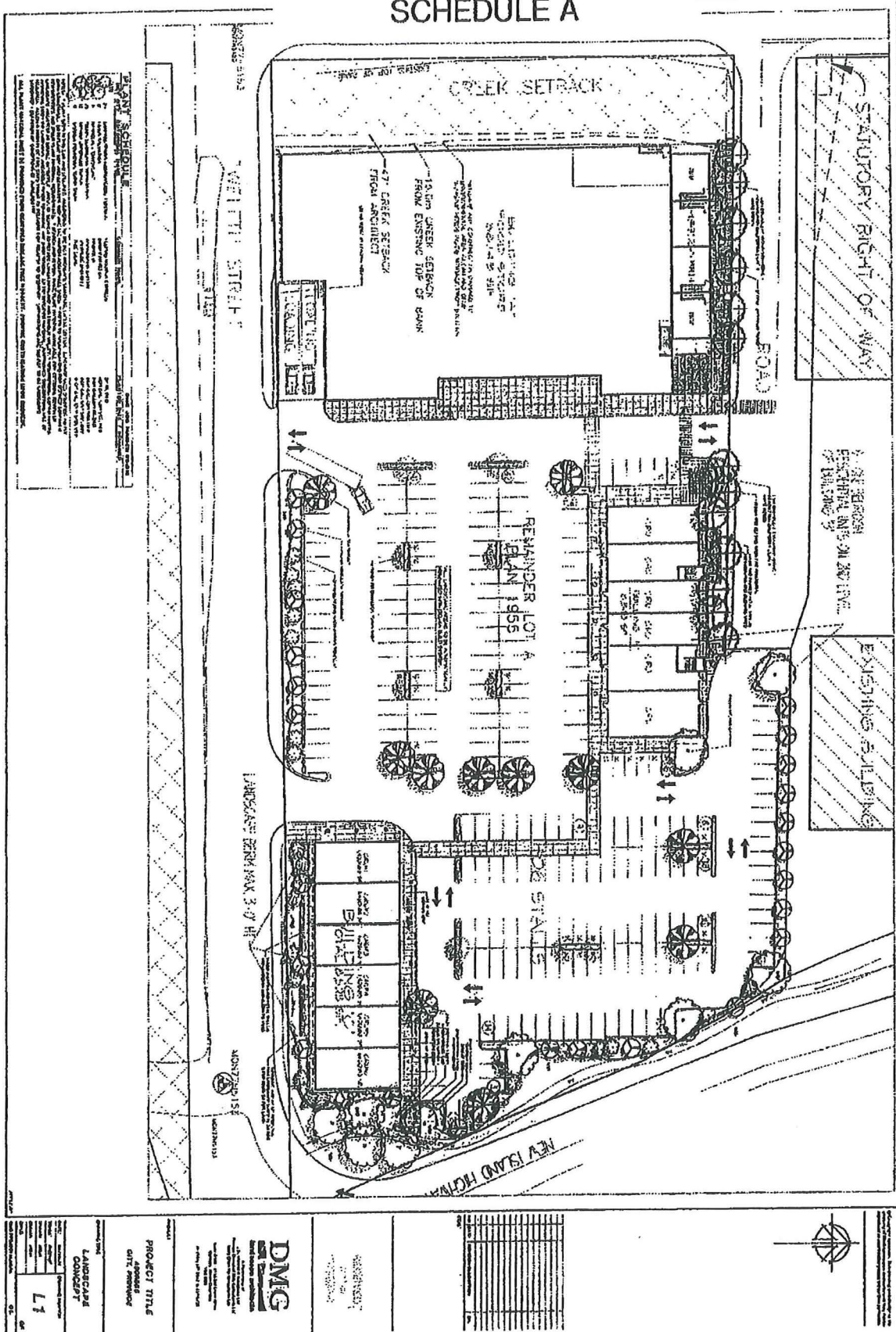
18. The Grantor agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
19. The Grantor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions hereinbefore set out and they shall be binding upon the Grantor as personal covenants only during the period of its respective ownership of any interest in the Land.
20. The restrictions and covenants herein contained shall be covenants running with the Land and shall be perpetual, and shall continue to bind all of the 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 Grantee as a first charge against the Land.
21. This Agreement shall enure to the benefit of the Grantee and shall be binding upon the parties hereto and their respective heirs, executors, successors and assigns.
22. Whenever the expressions "Grantor" and "Grantee" are used herein, they shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.
23. This Agreement may be executed in counterpart with the same effect as if both parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

Priority Agreements

24. CANADIAN IMPERIAL BANK OF COMMERCE the registered holder of a charge by way of a Mortgage against the within described property which said charge is registered in the Land Title Office at Victoria, British Columbia, under #CA159294, for and in consideration of the sum of Ten Dollars (\$10.00) paid by the Grantee to the said Chargeholder (the receipt whereof is hereby acknowledged), agrees with the Grantee, its successors and assigns, that the within section 219 Covenant shall be an encumbrance upon the within described property in priority to the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.

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

SCHEDULE A
Landscape Plan

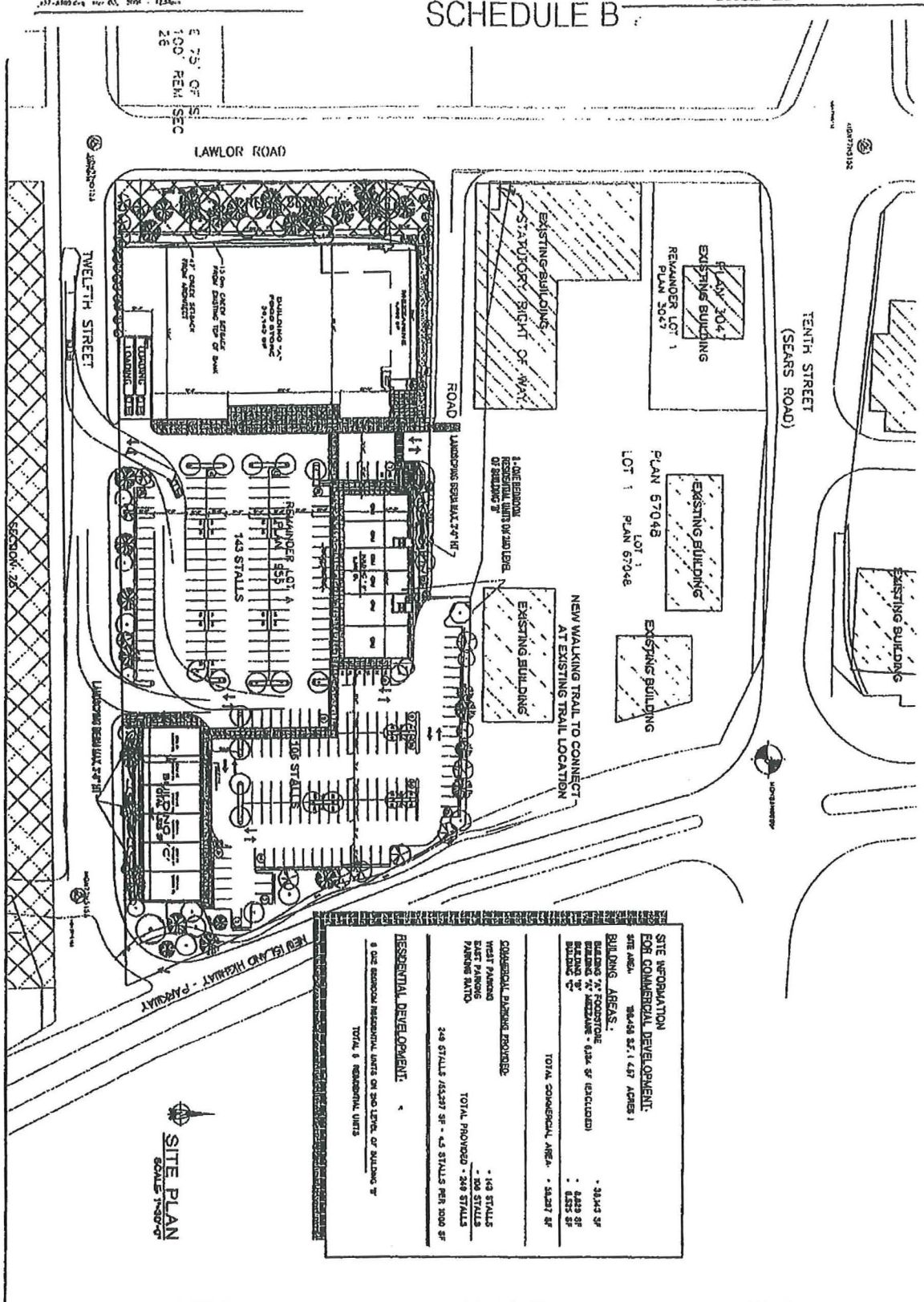


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SCHEDULE B

Site Plan showing Phases

SCHEDULE B



MIXED USE DEVELOPMENT
SOUTH NANAIMO, B.C.
for WATT VENTURES

CITY OF NANAIMO

BYLAW NO. 4500.035

A BYLAW TO AMEND THE CITY OF NANAIMO "ZONING BYLAW 2011 NO. 4500"

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 890, 891, 903 and 904 of the *Local Government Act*;

THEREFORE BE IT RESOLVED the Municipal Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "ZONING AMENDMENT BYLAW 2013 NO. 4500.035".
2. The City of Nanaimo "ZONING BYLAW 2011 NO. 4500" is hereby amended by adding Section 16.10 as follows:

16.10 COMPREHENSIVE DEVELOPMENT DISTRICT ZONE TEN (CD10)

The intent of this zone is to provide for a two-lot subdivision, with up to two dwelling units per lot, within the Old City Neighbourhood.

16.10.1 PERMITTED USES

Principal Uses		Conditions of Use
Single Residential Dwelling Multiple Family Dwelling		
Accessory Uses		Conditions of Use
Bed and Breakfast		Subject to Part 6. Must be located within a single residential dwelling.
Boarding and Lodging		Shall not exceed two sleeping units and shall not accommodate more than two persons. Must be included within a single residential dwelling.
Daycare		Subject to Part 6.
Home Based Business		Subject to Part 6.
Secondary Suite		Subject to Part 6. Must be accessory to a single residential dwelling.

16.10.2 DENSITY

One single residential dwelling with a secondary suite per lot OR two dwelling units per lot.

16.10.3 LOT AREA

Lot area shall be as set out in the plans included within Subsection 16.10.8 of this Bylaw.

16.10.4 LOT DIMENSIONS

Lot dimensions shall be as set out in the plans included within Subsection 16.10.8 of this Bylaw.

16.10.5 YARD SETBACKS

Yard requirements shall be as set out in the plans included within Subsection 16.10.8 of this Bylaw.

16.10.6 BUILDING HEIGHT

Building Height shall not exceed 7.75m as measured vertically from the average natural grade level recorded at the outermost corners of the building or at the curb level, whichever is greater, as determined by a survey to the highest part of the roof surface for a flat roof, the deck line of a mansard roof, and the mean height level between the eaves and ridge of a gable, hip, or gambrel of a sloped roof.

16.10.7 PARKING

Parking space requirements and layout shall be as set out in the plan included within Subsection 16.10.8 of this Bylaw.

16.10.8 PLANS

Within the CD10 Zone lot area, lot dimensions, yard setbacks and parking shall be developed in general accordance with the following plan:

PROJECT DATA:

LEGAL DESCRIPTION:

SECTION A, LOT 16, BLOCK H, SECTION 1,
NANAIMO DISTRICT, PLAN 584

CIVIC ADDRESS:

433 MILTON STREET, NANAIMO, BC

PROPOSED LOT AREAS:

LOT 1	443.6 SQ.M (4774.9 SQ.FT.)
LOT 2	428.9 SQ.M (4616.6 SQ.FT.)

PROPOSED LAND USE:

LOT 1 - EXISTING SINGLE FAMILY DWELLING
+ NEW SINGLE FAMILY DWELLING
LOT 2 - TWO NEW SINGLE FAMILY DWELLINGS

EXISTING ZONING:

R14- OLD CITY LOW DENSITY
(FOURPLEX) RESIDENTIAL

PROPOSED ZONING:

COMPREHENSIVE DEVELOPMENT

EXISTING BUILDING (LOT 1):

LOWER FLOOR: 1167 SQ.FT.
UPPER FLOOR: 1131 SQ.FT.
TOTAL: 2298 SQ.FT.

DENSITY / FLOOR AREA: 2 UNITS PER LOT

LOT 1 - 2298 SQ.FT. + 752 SQ.FT. = 2935 SQ.FT.
LOT 2 - 1490 SQ.FT. PER UNIT = 2980 SQ.FT.

LOT COVERAGE:

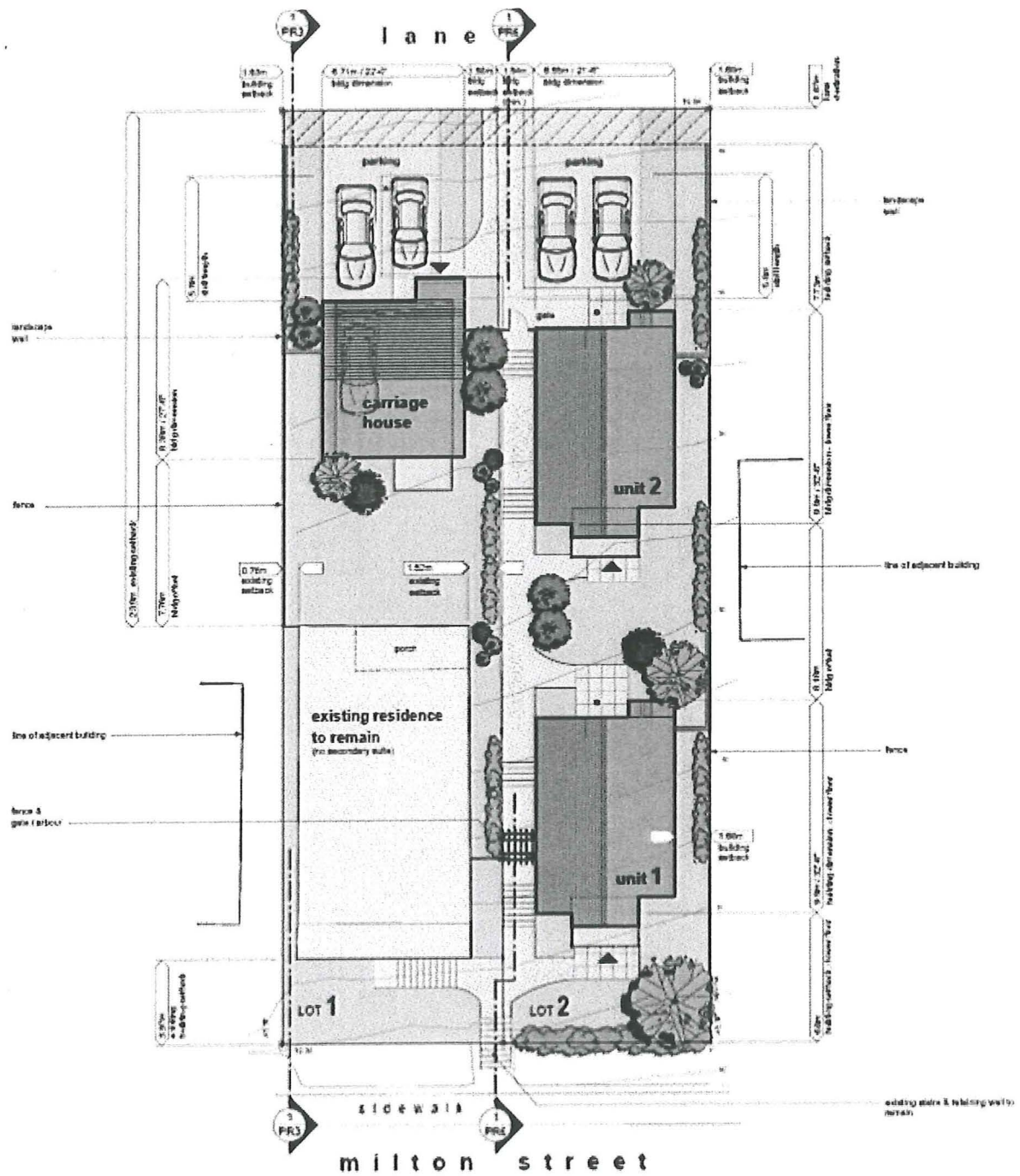
LOT 1 - (600 SQ.FT. + 1340 SQ.FT.) / 4774.9 = 41.0%
LOT 2 - (711 SQ.FT. x 2) / 4616.6 SQ.FT. = 30.8%

PARKING REQUIRED:

LOT 1 - 2 SPACE FOR SINGLE FAMILY +
1 SPACE FOR CARRIAGE HOUSE = 3 SPACES
LOT 2 - 1 SPACE PER UNIT = 2 SPACES

PARKING PROVIDED:

LOT 1 - 3 SPACES
LOT 2 - 2 SPACES



proposed site plan

scale: 1:100 metric

NOTE: Topographical and existing building information derived from survey as prepared by J.E. Anderson & Associates, Inc. Land Surveyors

3. The City of Nanaimo "ZONING BYLAW 2011 NO. 4500" is hereby amended as follows:

By rezoning the land legally described SECTION A, LOT 16, BLOCK H, SECTION 1, NANAIMO DISTRICT, PLAN 585 from Old City Low Density (Fourplex) Residential zone to Comprehensive Development District Ten (CD10) zone, as shown on Schedule A.

PASSED FIRST READING 2013-FEB-18
PASSED SECOND READING 2013-FEB-18
PUBLIC HEARING HELD _____
PASSED THIRD READING _____
COVENANT REGISTERED _____
ADOPTED _____

MAYOR

MANAGER
LEGISLATIVE SERVICES

File: RA000305
Address: 433 Milton Street

CITY OF NANAIMO

BYLAW NO. 4500.036

A BYLAW TO AMEND THE CITY OF NANAIMO "ZONING BYLAW 2011 NO. 4500"

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 890, 891, 903 and 904 of the *Local Government Act*;

THEREFORE BE IT RESOLVED the Municipal Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "ZONING BYLAW AMENDMENT BYLAW 2013 NO. 4500.036".
2. The City of Nanaimo "ZONING BYLAW 2011 NO. 4500" is hereby amended as follows:

- (1) By deleting the definition "Mixed Use" and replacing it with the following:

"Mixed use - means a property on which a commercial and residential use exists on the same lot and where the residential use occupies from 25% to 75% of the total gross floor area for all buildings on the lot."

- (2) By deleting the definition of "Pet Daycare" and replacing with the following:

"Pet Daycare - means a facility which offers care for pets, but specifically excludes overnight boarding."

- (3) By deleting Subsection 6.6.3 and replacing with the following:

The total Gross Floor Area of all accessory buildings on a lot shall be as follows:

Lot in Zone	Maximum Gross Floor Area
R1 / R1a/R1b, R2, R3, R4, R5, R6, R7, R10, AR1 or AR2	The Gross Floor Area of all accessory buildings on the lot shall not exceed 13% of the lot size or a Gross Floor Area of 90m ² , whichever is lesser.
All Other Zones	The Gross Floor Area of an accessory building shall not exceed that of the principal building.

- (4) By amending Subsection 7.2.1 by deleting the condition of use requirement for the 'duplex' use and replacing it with the following:

"See Subsection 7.2.2."

- (5) By adding the following as Subsection 7.2.2 and renumbering accordingly:

“Notwithstanding Subsection 7.2.1, within the R1 / R1a zones duplexes shall only be permitted where the lot is a corner lot with a lot area greater than 700m² in lot area but does not meet the lot area, lot depth or lot frontage requirements for subdivision provided the front door of the units are not on the same street.”

- (6) By amending Subsection 7.2.4 (or renumbered) in order to add the following site specific “Personal Care Facility” use after “Hotel”:

Use	Permitted Location Address	Legal Description of Permitted Location
Personal Care Facility	6085, 6095 and 6081 Uplands Drive	STRATA LOT 1, DISTRICT LOT 48, WELLINGTON DISTRICT, STRATA PLAN VIS5833, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V. LOT C, DISTRICT LOT 48, WELLINGTON DISTRICT, PLAN VIP53807, EXCEPT THAT PART IN STRATA PLAN VIS5833 (PHASE 1)

- (7) By amending Subsection 7.3.1 by deleting the introductory paragraph and replacing it with the following:

“The following table specifies the maximum allowable base density per lot for each zone listed. Where additional density is permitted, the amount of additional density and the conditions required to achieve it are specified in the additional density column. Where additional density is achievable through Schedule D, that additional density shall be applied as part of the development permit process.”

- (8) By amending Subsection 7.3.1 by deleting the additional density provision for the R1/R1a zone and replacing with the following:

“Where the lot is a corner lot with a lot area greater than 700m² in lot area but does not meet the lot area, lot depth or lot frontage requirements for subdivision, a total of up to two single residential dwellings or one duplex shall be permitted. Where more than one dwelling is located on a corner lot a secondary suite shall not be permitted in either dwelling unit.

Where the lot area is greater than 0.4 hectares, one additional single residential dwelling shall be permitted.”

- (9) By amending Subsection 9.2.1 by deleting the Condition of Use for "Furniture and Appliance Sales".
- (10) By amending Subsection 9.2.1 by deleting the Condition of Use for "Office" and replacing with the following:
- "Within the COR1 Zone, office use shall not exceed a Gross Floor Area of 1000m² and must be located on the ground floor. Within the COR2 Zone, no more than 500m² of office space shall be permitted on the ground floor."
- (11) By amending Subsection 9.2.1 by deleting the Condition of Use for "Retail" and replacing with the following:
- "An individual retail use shall not exceed a Gross Floor Area of 500m², unless that use is a Grocery Store, in which case the use shall not exceed 2,000m²."
- (12) By amending Subsection 9.3.1 and 10.3.1 by deleting the introductory paragraph and replacing with the following:
- "The following table specifies the maximum allowable base density, expressed as a Floor Area Ratio, per lot for each zone. The additional density columns permit additional density where the following specified location and amenity criteria have been provided. Additional density where achievable is applied during the development permit process. Within mixed use development, additional density may be awarded where the lot includes both commercial and residential uses. Tier 1 awards additional density where a development meets or exceeds the Tier 1 requirements, as specified within "Schedule D – Amenity Requirements for Additional Density" of this bylaw; Tier 2 awards additional density to a development which meets or exceeds the Tier 2 requirements within Schedule D. Where a development achieves additional density, the additional floor area may be added to the base density within the zone. A development may achieve all of the additional density available within the zone."
- (13) By amending Subsection 13.2.1 by adding the use of "Helicopter Landing Pad" after "Furniture and Appliance Sales" and designating "Helicopter Landing Pad" as a site specific use by adding the "SS" symbol within the I3 zone.
- (14) Be amending Subsection 14.2.1 by adding "Cemetery" as a permitted use within the CS2 zone.
- (15) By amending Subsection 17.11 by adding "CC5" after "CC4" to the minimum treatment levels table.
- (16) By rezoning those lands as shown on Schedule A, from the Parks, Recreation and Culture Two (PRC2) Zone to the Single Dwelling Residential (R1) Zone.
- (17) By rezoning those lands as shown on Schedule B, from the Single Dwelling Residential (R1) Zone to the Parks, Recreation and Culture Two (PRC2) Zone.

- (18) By rezoning those lands as shown on Schedule C, from the Steep Slope Residential (R10) Zone to the Parks, Recreation and Culture One (PRC1) Zone.
- (19) By rezoning those lands as shown on Schedule D, from the Steep Slope Residential (R10) to the Parks, Recreation and Culture One (PRC1) Zone and the Parks, Recreation and Culture Two (PRC2) Zone, as shown.
- (20) By rezoning those lands as shown on Schedule E, from the Comprehensive Development Five (CD5) Zone to the Parks, Recreation and Culture Two (PRC2) Zone.
- (21) By rezoning those lands as shown on Schedule F, from the Steep Slope Residential (R10) to the Parks, Recreation and Culture One (PRC1) Zone.
- (22) By rezoning those lands as shown on Schedule G, from the Recreational Vehicle Park (R11) Zone to Parks, Recreation and Culture One (PRC1) Zone and the Parks, Recreation and Culture Two (PRC2) Zone, as shown.
- (23) By rezoning a portion of the lands as shown on Schedule H from the Single Dwelling Residential (R1) Zone to the Community Service One (CS1) Zone, as shown.
- (24) By rezoning a portion of the lands as shown on Schedule I from the Single Dwelling Residential (R1) Zone to the Community Service One (CS1) Zone, as shown.
- (25) By rezoning a portion of the lands as shown on Schedule J from the Community Corridor (COR3) Zone to the Row House Residential (R7) Zone, as shown.

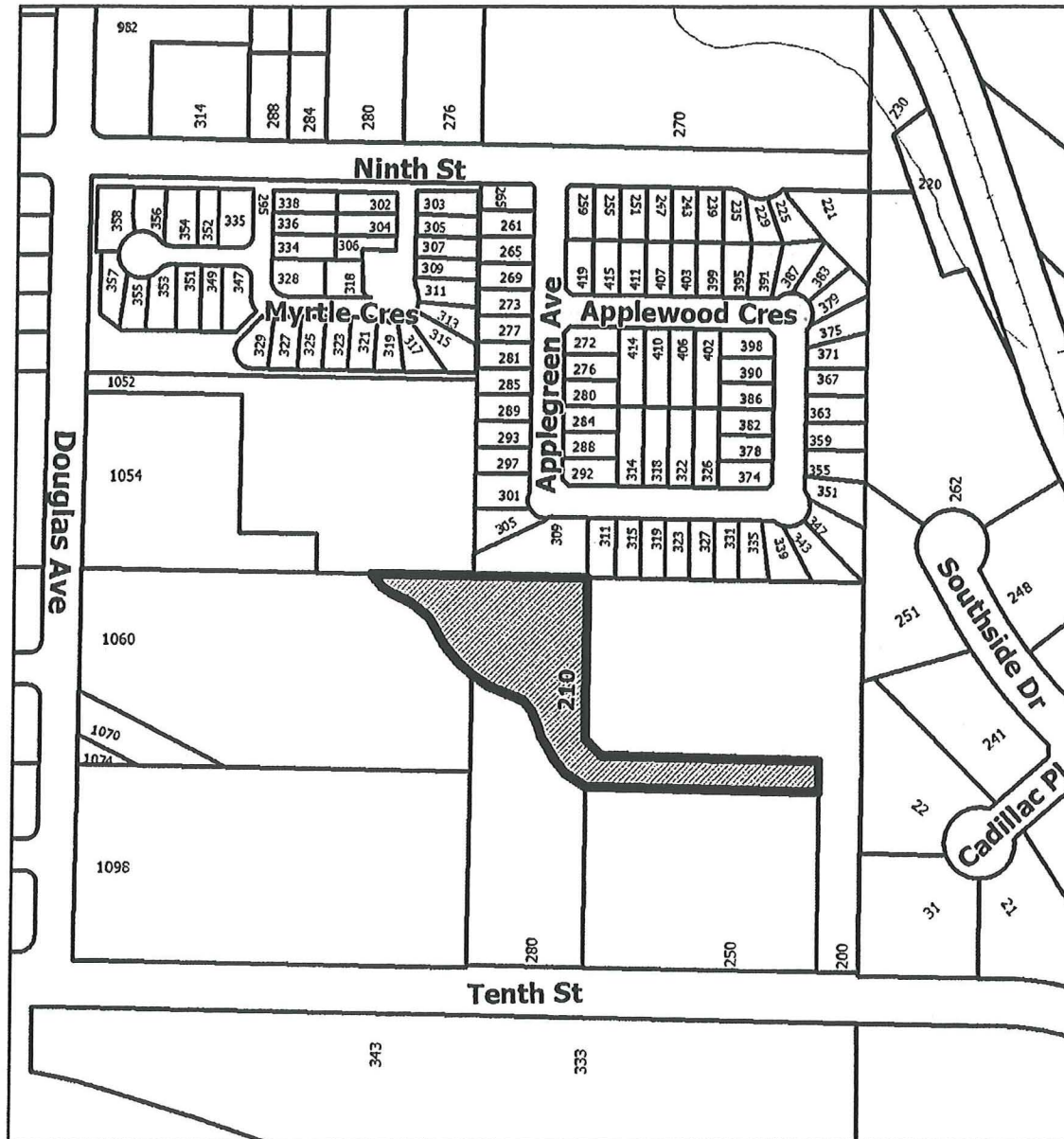
PASSED FIRST READING 2013-MAR-11
PASSED SECOND READING 2013-MAR-11
PUBLIC HEARING HELD _____
PASSED THIRD READING _____
MOT APPROVAL _____
ADOPTED _____

MAYOR

CORPORATE OFFICER


Subject Properties

Schedule B



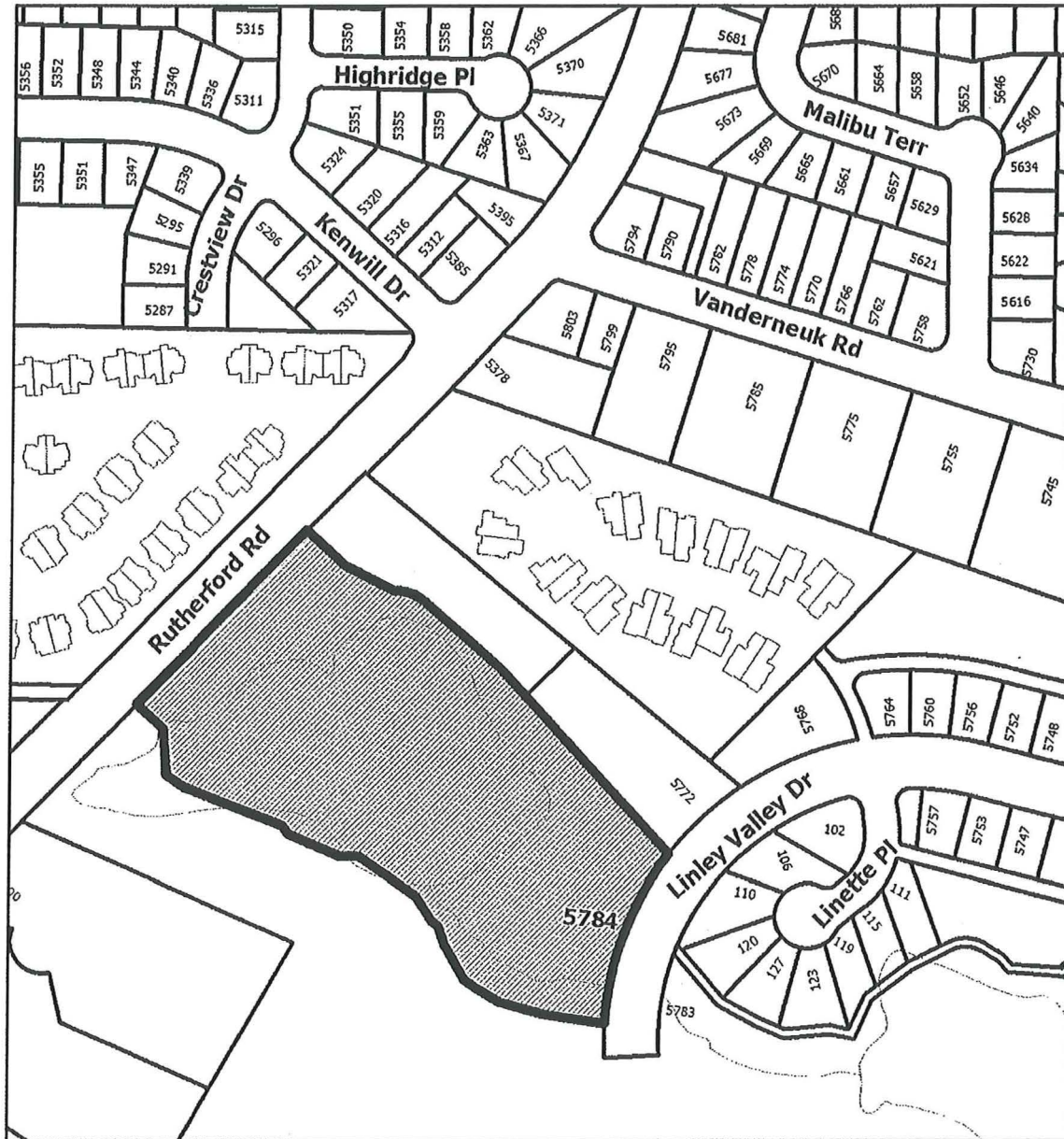
LOCATION PLAN

Civic: 210 Tenth Street



 Subject Property

Schedule C



LOCATION PLAN

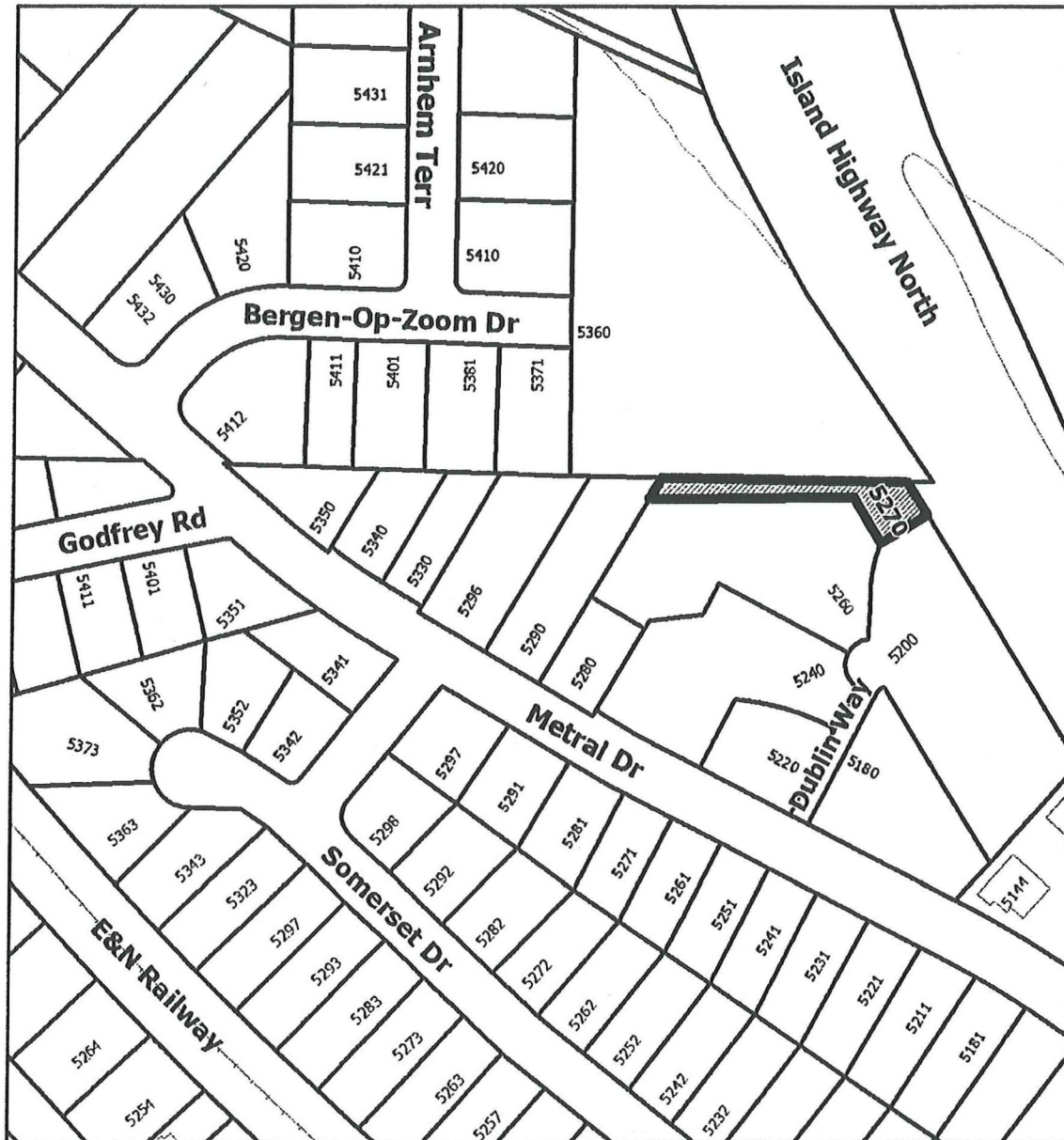
Civic: 5784 Linley Valley Drive

 Subject Property



-  Rezone to PRC1
-  Rezone to PRC2

Schedule E



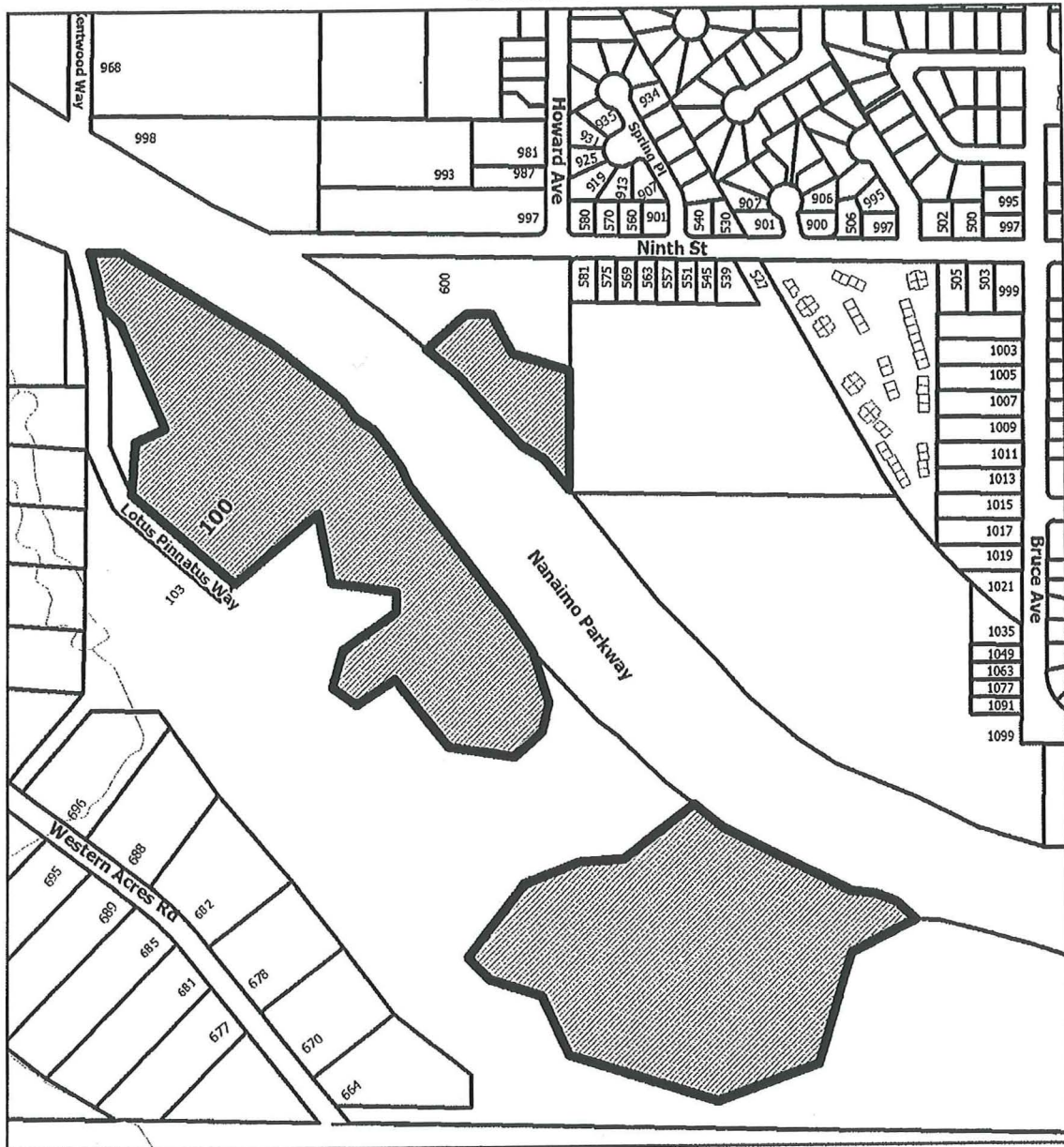
LOCATION PLAN

Civic: 5270 Dublin Way



 **Subject Property**

Schedule F



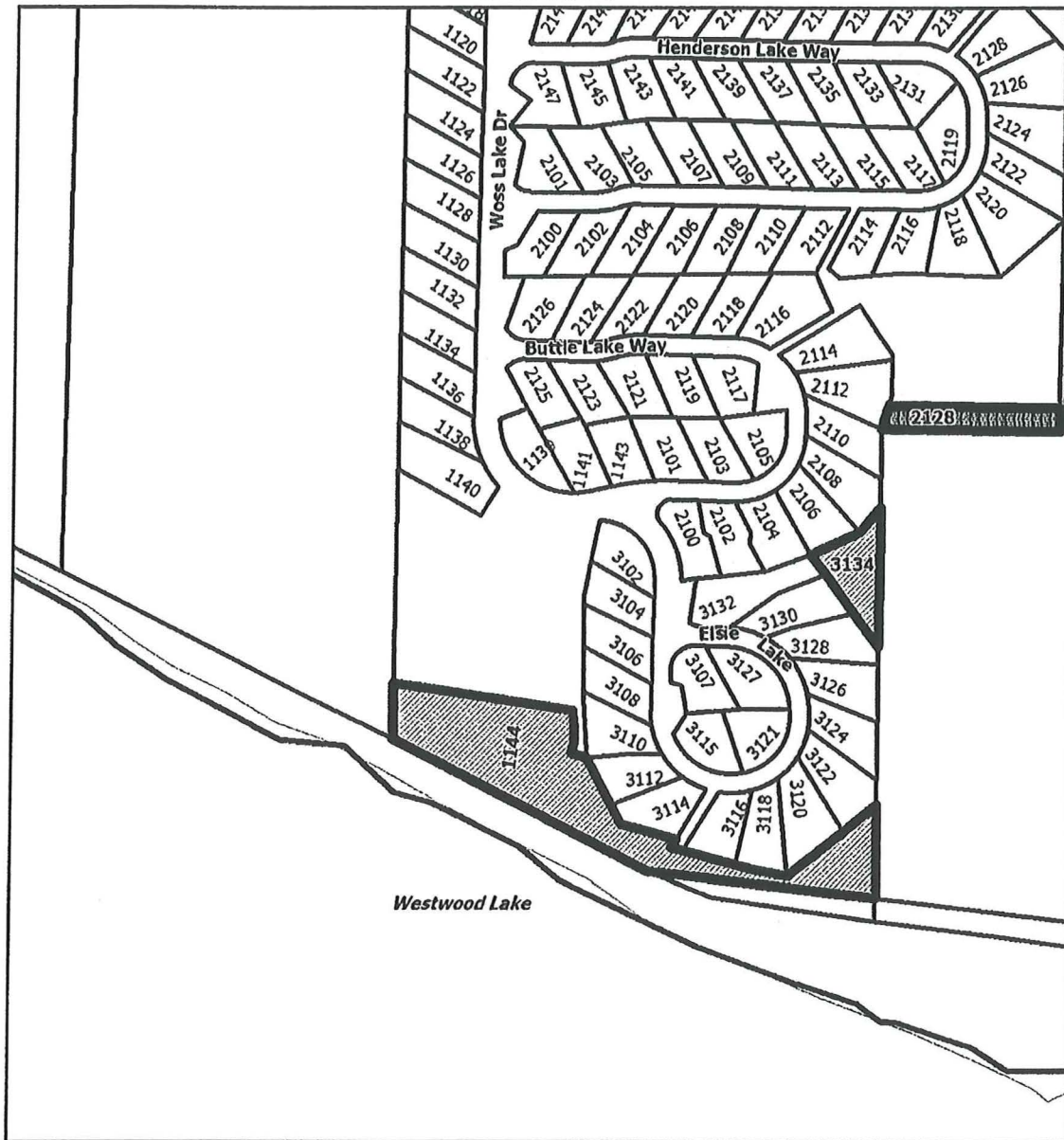
LOCATION PLAN

Civic: 100 Lotus Pinnatus Way

 Subject Property



Schedule G



LOCATION PLAN

Civic: 1144 Woss Lake Drive,
3134 Elsie Lake Circle and
2128 Buttle Lake Way

-  Rezone to PRC1
-  Rezone to PRC2


Subject Area

Schedule 1

Carmen Rd

Latimer Rd

Aaron Way

James Miller Rd

Davies Ln

Duggan Rd

Meredith Rd

Honeyuckle Ter

Thunderbird Dr

Bob-O-Link Way

House numbers shown on the map include: 1814, 2136, 2126, 1790, 1802, 1794, 1806, 2117, 2120, 2118, 2114, 2110, 2101, 2100, 2106, 1786, 1776, 1766, 1762, 2107, 2115, 2123, 2131, 2137, 2143, 2142, 2136, 1746, 1736, 1732, 1724, 1720, 1720, 1676, 1672, 1668, 2103, 2101, 1785, 1789, 1793, 2100, 2106, 2112, 2118, 2124, 2130, 117, 123, 129, 133, 137, 141, 145, 149, 153, 144, 148, 152, 116, 120, 124, 128, 132, 136, 140, 2179, 2173, 2161, 2155, 2149, 2143, 2137, 2131, 2125, 2119, 2113, 2107, 1720, 1675, 1673, 1671, 1665, 1661, 1657, 1213, 1211, 1209, 1207, 1205, 1203, 1201, 1673, 1677, 1681, 1685, 1689, 1669, 1665, 1661, 1657, 1676, 1664, 1660, 1656, 1785, 1775, 1765, 1755, 1745, 1735, 1214, 1212, 1210, 1208, 1206, 2076, 2074, 2072, 2070, 2066, 2062, 2058, 2054, 1138, 2061, 2055, 2067.

Civic: 1720 Meredith Road


Subject Area

Civic: 2103 Bowen Road



 **Subject
Property**