



AGENDA REGULAR COUNCIL MEETING

Monday, June 21, 2021

4:00 p.m. to Proceed In Camera, Reconvene Regular Council Meeting 7:00 p.m.

SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE

80 COMMERCIAL STREET, NANAIMO, BC

SCHEDULED RECESS 9:00 P.M.

Pages

1. CALL THE MEETING TO ORDER:

2. PROCEDURAL MOTION:

That the meeting be closed to the public in order to deal with agenda items under the *Community Charter*:

Section 90(1) A part of the Council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
- (c) labour relations or other employee relations;
- (e) 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;
- (g) litigation or potential litigation affecting the municipality;
- (n) the consideration of whether a Council meeting should be closed under a provision of this subsection or subsection (2); and,

Section 90(2)

(b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

3. INTRODUCTION OF LATE ITEMS:

4. APPROVAL OF THE AGENDA:

5. ADOPTION OF THE MINUTES:

a. Minutes

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Minutes from the Regular Council Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Monday, 2021-JUN-07, at 4:30 p.m.

6. **MAYOR'S REPORT:**

7. **RISE AND REPORT**

8. **PRESENTATIONS:**

a. RCMP Superintendent Cameron Miller

Presentation from Mayor Krog and Council for service to the City of Nanaimo.

9. **COMMITTEE MINUTES:**

a. Minutes

18 - 20

Minutes from the Board of Variance Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Thursday, 2021-APR-01 at 4:00 p.m.

b. Minutes

21 - 29

Minutes from the Governance and Priorities Committee Meeting held virtually on Monday, 2021-MAY-31, at 10:01 a.m.

[Note: The attached Minutes were amended at the 2021-JUN-14 Governance and Priorities Committee Meeting.]

10. **CONSENT ITEMS:**

a. Finance and Audit Committee Meeting 2021-JUN-16

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[A link to the 2021-JUN-16 Finance and Audit Committee Meeting Agenda is provided for information.]

1. Nanaimo Foodshare Society

That the City of Nanaimo grant Nanaimo Foodshare \$10,000 as bridging funding while community stakeholders identify additional funding sources.

2. Heritage Home Grant Application - 167 Irwin Street

That Council approve a \$1,706.25 Heritage Home Grant to repaint the exterior of the Land "Fernville" Residence at 167 Irwin Street.

3. Reopening of Beban Pool

That Council direct Staff to reopen Beban Pool on 2021-OCT-04 providing Provincial Health Orders permit.

4. Leisure Economic Access Pass (LEAP) Program Review Recommendations

That Council approve of the program review recommendations provided by the Advisory Committee on Accessibility and Inclusiveness and direct Staff to proceed with Phase 4 of the LEAP Program Review – Implementation.

5. Nanaimo Aquatic Centre Mechanical Mezzanine Roof Parapet and Wall Repairs

That Council approve adding \$227,000 to the 2021-2025 Financial Plan to complete the necessary repairs at the Nanaimo Aquatic Centre to be funded by the Facility Development Reserve.

6. Rotary Bowl Oval Renewal Project

That Council approve moving the Phase 2 rubberized track replacement project from 2024 to 2021 in the 2021-2025 Financial Plan funded from the Community Works Reserve Fund.

7. Update to the Temporary Public Art Program and Development of the Urban Design Roster

That Council consider an increase of \$25,000 to the public art budget during the 2022-2026 financial plan deliberations to support the Urban Design Roster initiative.

8. 2021 Resilience Grant Recommendations

That Council:

(a) approve the 2021 Resilience Grant funding recommendations to allocate existing funds of \$28,559 as follows:

- **Project: Weaving Nature Ceremony and Ancestors**
 - **Applicant Name:** Dave Bodaly
 - **Recommend:** \$4,500
- **Project: Musicians Forum**
 - **Applicant Name:** Elise Boulanger
 - **Recommend:** \$4,379
- **Project: Riverbed Programs**

- **Applicant Name:** Heather Kai-Smith
- **Recommend:** \$4,500
- **Project: Digital Issue of Sad Girl Review**
 - **Applicant Name:** Amber R. Morrison
 - **Recommend:** \$3,730
- **Project: EMPATHY: Care for Collective**
 - **Applicant Name:** Sara Robichaud
 - **Recommend:** \$4,400
- **Project: Apples: A Very Gustatory and Cultural Review**
 - **Applicant Name:** Rachelle Stein-Wotton
 - **Recommend:** \$3,300
- **Project: Hul'q'umi'num Course**
 - **Applicant Name:** Eliot White-Hill
 - **Recommend:** \$3,750

(b) approve the recommended reallocation of additional unclaimed funds from the 2021 Downtown Event Revitalization Fund and the 2021 Culture and Heritage Project grants to support the 2021 Resilience Grant recommendations of \$22,987 as follows:

- **Project: Digital Music Video Creation**
 - **Applicant Name:** Nicole Arendt
 - **Recommend:** \$3,800
- **Project: The Sun and the Moon – Online Dance**
 - **Applicant Name:** Holly Bright
 - **Recommend:** \$3,800
- **Project: Nanaimo Mastering Service**
 - **Applicant Name:** Arlen Thompson
 - **Recommend:** \$3,800
- **Project: Visual Arts Workshops**
 - **Applicant Name:** Yvonne Vander Kooi
 - **Recommend:** \$3,750
- **Project: Forum Theatre Workshops**
 - **Applicant Name:** Pacific Coast Stage Company

- **Recommend:** \$4,000
- **Project:** Digital Theatre Initiative
 - **Applicant Name:** Western Edge Theatre
 - **Recommend:** \$3,837

and;

(c) direct Staff to return to the Finance & Audit Committee to report on recommendations for additional 2021 Resilience Grants funding, should further money be returned to the City or unclaimed from the 2021 Downtown Event Revitalization Fund and/or 2021 Culture and Heritage Project grants.

11. DELEGATIONS:

12. REPORTS:

a. Property Maintenance and Bylaw Notice Enforcement Amendment Bylaws

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To be introduced by Sheila Gurrie, Director, Legislative Services.

Purpose: To present for Council's consideration, an amendment to the "Property Maintenance and Standards Bylaw" to address the language associated with graffiti removal and to transfer the fines in Schedule A through an amendment to the Bylaw Notice Enforcement Bylaw.

Recommendation:

Property Maintenance and Standards Bylaw:

That:

1. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" (To update the graffiti removal language, replace the Violation and Penalty section and delete the fine schedule) pass first reading;
2. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" pass second reading; and
3. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01 pass third reading.

Bylaw Notice Enforcement Amendment Bylaw:

That:

1. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" (To delete the fine schedule for the repealed Property Maintenance Bylaw 1990 No. 3704 and replace it with fine schedule for Property Maintenance and Standards Bylaw 2017 No. 7242) pass first reading;

2. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass second reading; and,
 3. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass third reading.
- b. Allocation of Pedestrian Budget to Enhance Accessibility - Part 2 45 - 50
- To be introduced by Bill Sims, General Manager, Engineering and Public Works.
- Purpose: To present Part 2 of the Pedestrian Unallocated Budget towards transportation accessibility improvements for Council's consideration.*
- Recommendation: That Council allocate the remaining Pedestrian Unallocated Budget as follows:
- \$200,000 for transit stop accessibility improvements at the locations in Figure 1 of the report titled "Allocation of Pedestrian Budget to Enhance Accessibility - Part 2", dated 2021-JUN-21;
 - \$250,000 for traffic signal accessibility improvements at the locations in Figure 2 of the report titled "Allocation of Pedestrian Budget to Enhance Accessibility - Part 2", dated 2021-JUN-21; and
 - \$45,000 for miscellaneous accessibility improvements allocated to the Small Scale Road Improvement budget.
- c. Development Permit Application No. DP1205 - 478 Machleary Street 51 - 65
- To be introduced by Dale Lindsay, General Manager, Development Services.
- Purpose: To present for Council's consideration, a development permit application for a proposed duplex at 478 Machleary Street.*
- Recommendation: That Council issue Development Permit No. DP1205 at 478 Machleary Street with the following variances to:
- increase the maximum allowable principal building height from 7.75m to 8.75m; and,
 - increase the maximum allowable fence height within the front yard setback from 1.2m to 2.2m for the proposed decorative arbours.
- d. Development Variance Permit Application No. DVP421 - 5524 Cliffside Drive 66 - 86
- To be introduced by Dale Lindsay, General Manager, Development Services.
- Purpose: To present for Council's consideration, a development variance permit application to increase the maximum allowable building height and perimeter wall height for a proposed dwelling at 5524 Cliffside Road.*
- Recommendation: That Council issue Development Variance Permit No. DVP421 at 5524 Cliffside Road with the following variances:

- to increase the maximum allowable height for a proposed dwelling with a flat roof from 7m to 9m; and,
- to increase the perimeter wall height from 7.32m to 9.30m on the east and west elevations, and increase the perimeter wall height from 9.14 to 9.50m on the south elevation.

13. BYLAWS:

- a. "Zoning Amendment Bylaw 2021 No. 4500.180" 87 - 95

That "Zoning Amendment Bylaw 2021 No. 4500.180" (To amend Schedule D of "City of Nanaimo Zoning Bylaw 2011 No. 4500" to provide density bonusing points for rental and affordable housing developments) be adopted.

- b. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.10" 96 - 103

That "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.10" (To replace Schedule B – Registry Agreement to authorize the District of North Cowichan to participate in the City's Dispute Adjudication Registry System) be adopted.

14. NOTICE OF MOTION:

15. OTHER BUSINESS:

16. QUESTION PERIOD:

17. ADJOURNMENT:

MINUTES
REGULAR COUNCIL MEETING
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE,
80 COMMERCIAL STREET, NANAIMO, BC
MONDAY, 2021-JUN-07, AT 4:30 P.M.

Present: Mayor L. Krog, Chair
Councillor S. D. Armstrong
Councillor D. Bonner
Councillor T. Brown (joined electronically)
Councillor B. Geselbracht
Councillor E. Hemmens
Councillor Z. Maartman
Councillor I. W. Thorpe
Councillor J. Turley

Staff: J. Rudolph, Chief Administrative Officer
R. Harding, General Manager, Parks, Recreation and Culture
S. Legin, General Manager, Corporate Services
D. Lindsay, General Manager, Development Services
B. Sims, General Manager, Engineering and Public Works
L. Mercer, Director, Finance
J. Holm, Director, Development Approvals
F. Farrokhi, Manager, Communications
R. Lawrance, Environmental Planner
P. Novak, Business Analyst/Project Management Specialist
D. Stevens, Supervisor, Applications Support
D. Blackwood, Client Support Specialist
S. Gurrie, Director, Legislative Services
K. Robertson, Deputy City Clerk
S. Snelgrove, Steno Coordinator
J. Vanderhoef, Recording Secretary

1. CALL THE REGULAR MEETING TO ORDER:

The Regular Council Meeting was called to order at 4:30 p.m.

2. PROCEDURAL MOTION TO PROCEED IN CAMERA:

It was moved and seconded that the meeting be closed to the public in order to deal with agenda items under the *Community Charter*:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality; and,
- (c) labour relations or other employee relations.

The motion carried unanimously.

Council moved In Camera at 4:30 p.m.
Council moved out of In Camera at 6:07 p.m.

Council recessed the Open Meeting 6:07 p.m.
Council reconvened the Open Meeting at 7:00 p.m.

3. INTRODUCTION OF LATE ITEMS:

- (a) Add - Agenda Item 9(i) Minutes of the Governance and Priorities Committee Meeting 2021-MAY-31.
- (b) Agenda Item 12(e) Development Permit Application No. DP1151 - 3532 Stephenson Point Road – Add delegation from Rob Turgeon.

4. APPROVAL OF THE AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

5. ADOPTION OF THE MINUTES:

It was moved and seconded that the following Minutes be adopted as circulated:

- Minutes of the Special Council Meeting held virtually on Monday, 2021-MAY-10 at 12:31 p.m.
- Minutes of the Regular Council Meeting held virtually on Monday, 2021 MAY-17 at 3:00 p.m.

The motion carried unanimously.

6. MAYOR'S REPORT:

Mayor Krog spoke regarding:

- Flags flown at half-mast in honour of the 215 Indigenous children who lost their lives at the former residential school in Kamloops. He noted that this was a dark chapter in Canada's history and the importance of recognizing both the good and the dark times in our history.
- 2021-JUN-06 was Canadian Armed Forces Day. It was established to celebrate Canada's armed services, heritage, and personnel for the men and women who are currently serving, troops, to service families, veterans and cadets. He thanked the brave men and women who served and defended our country to preserve our right of freedom.

- He reminded the public to secure their garbage carts and only place carts out on collection day in order to protect bears and other wildlife.
- He noted that staff would be introducing a chornolog photo report later this evening which will outline the location and opportunities for the public to participate in this environmental photo-monitoring process.
- Christine Meutzner, Manager, Community Archives, has received an award of recognition at the British Columbia Historical Federation's Annual Conference Awards Gala. She has been a champion for Nanaimo history and heritage.

7. RISE AND REPORT:

The Mayor advised that during the In Camera portion of the 2021-JUN-07 Council meeting, Councillors Armstrong and Thorpe accepted the Mayor's invitation to join the Mayor's Leaders Table. He noted that the Mayor's Leaders Table would commence on 2021-JUN-18 with a virtual round table and that eligibility was by invitation. During the 2021-JUN-07 In Camera meeting Council also amended the Mayor's Leaders Table Terms of Reference to include Tillicum Lelum.

8. COMMITTEE MINUTES:

The following Committee Minutes were received:

- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Tuesday, 2021-MAR-11 at 5:00 p.m.
- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Tuesday, 2021-APR-08 at 5:00 p.m.
- Minutes of the Special Finance and Audit Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Monday, 2021-APR-14, at 9:00 a.m.
- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Tuesday, 2021-APR-22 at 5:00 p.m.
- Minutes of the Governance and Priorities Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Monday, 2021-APR-26, at 1:00 p.m.
- Minutes of the Governance and Priorities Committee Meeting held virtually on Monday, 2021-MAY-10 at 1:00 p.m.
- Minutes of the Finance and Audit Committee Meeting held virtually on Wednesday, 2021-MAY-19 at 9:00 a.m.

- Minutes of the Special Advisory Committee on Accessibility and Inclusiveness Meeting held virtually on 2021-MAY-26 at 4:00 p.m.
- Minutes of the Governance and Priorities Committee Meeting held virtually on Monday, 2021-MAY-31 at 10:01 a.m.

9. CONSENT ITEMS:

It was moved and seconded that the following items be adopted by consent:

Prior to the vote Councillor Bonner requested that Agenda Item 10(a)(8) Long Lake Paddling & Rowing Centre, be removed to be voted on separately.

Prior to the vote Councillor Hemmens requested that Agenda Item 10(b)(1) Allocation of Pedestrian Budget to Enhance Accessibility, be removed to be voted on separately.

Prior to the vote Councillor Maartman requested that Agenda Item 10(c)(1) Councillor Maartman re: Permanent Recreational Vehicle Accommodation, be removed to be voted on separately.

(a) Finance and Audit Committee Meeting 2021-MAY-19

1. Increase Unallocated Pedestrian Funding

That Council direct Staff to allocate \$700,000 from the Community Works Fund to year 2022 of the 2021-2025 Financial Plan for pedestrian unallocated projects.

2. Connectivity Projects

That Council direct Staff to include the Buttertubs Bridge project in the Draft 2022 – 2026 Financial Plan for Council consideration.

3. Stadium District Development

That Council direct Staff to include the stadium improvement projects in 2021 and 2022 of the 2021 – 2025 Financial Plan.

4. Westwood Lake Park Amenities

That Council direct Staff to include the Westwood Lake Park Amenities project in the Draft 2022 – 2026 Financial Plan for Council consideration.

5. Draft Amenity Improvement Concepts for Westwood Lake Park

That Council receive the draft ideas and improvement options at Westwood Lake Park for public review and direct Staff to return with feedback and refined improvement concepts for Council's consideration.

6. Marie Davidson BMX Track Improvements

That Council direct Staff to include the Marie Davidson BMX Track Improvements in the Draft 2022 – 2026 Financial Plan for Council consideration.

7. Maffeo Sutton Park Inclusive Playground

That Council direct Staff to accelerate the Maffeo Sutton Park inclusive Playground Phase 2 project to 2022 in the Draft 2022 – 2026 Financial Plan for Council consideration.

8. Heritage Home Grant Application - 347 Milton Street

That Council approve a \$2,500 Heritage Home Grant to repair and repaint the exterior of the Ledingham Residence at 347 Milton Street.

9. Nanaimo Search & Rescue Development of 195 Fourth Street – Phase 2

That Council approve moving the Phase 2 project budget of \$1,367,100 from 2022 to 2021 in the 2021-2025 Financial Plan.

10. Two Billion Tree Request for Information

That Council direct Staff to submit the Growing Canada's Forests: Future Respondent form to Natural Resource Canada in response to the Two Billion Tree Request for Information for the Millstone / Nanaimo Riparian Restoration Project.

11. 2020 Statement of Financial Information

That Council approve the City of Nanaimo 2020 Statement of Financial Information for filing with the Ministry of Municipal Affairs and Housing.

(b) Advisory Committee on Accessibility and Inclusiveness Meeting 2021-MAY-26

1. Spinal Cord Injury BC Universal Design Workshop

That Staff return to the Committee with a report outlining the possibility and feasibility for members of the Advisory Committee on Accessibility and Inclusiveness and interested City of Nanaimo Staff to participate in the Spinal Cord Injury BC Universal Design Workshop.

The motion carried unanimously.

(c) Separately Addressed Consent Items

1. Long Lake Paddling & Rowing Centre

That Council direct Staff to include the Long Lake Paddling & Rowing Centre including park improvements and playground upgrades to the Draft 2022 – 2026 Financial Plan for Council consideration. The motion carried.

Opposed: *Councillor Bonner*

2. Allocation of Pedestrian Budget to Enhance Accessibility

That the Advisory Committee on Accessibility and Inclusiveness recommend the following allocations of Pedestrian Unallocated Funds for Council's consideration:

- \$200,000 for transit stop accessibility improvements
- \$250,000 for traffic signal accessibility improvements
- \$45,000 for miscellaneous accessibility improvements allocated to the Small Scale Road Improvement budget.

The motion carried unanimously.

3. Councillor Maartman re: Permanent Recreational Vehicle Accommodation

That Council defer consideration of the following recommendation until after the Regional District of Nanaimo's report regarding Tiny Homes has been released:

"That Council direct Staff to prepare a report on the options available to support permanent recreation vehicle accommodation."

The motion carried unanimously.

4. Advisory Committee on Accessibility and Inclusiveness Meeting
2021-MAY-26

That the following recommendations be referred to staff for a report:

"That Council and municipal Staff adopt the use of pronouns in all written and electronic communications.

That the City of Nanaimo use gender-inclusive and gender-neutral language, including communications, print and electronic materials.

That the City of Nanaimo update and revise all print and electronic materials to include the use of gender-inclusive and gender-neutral language.

That the City of Nanaimo arrange for the availability of diversity and inclusion training for Council members and City Staff. This would include both LGBTQIA2+ and gender competency training, either online or in-person workshops, or both."

The motion carried unanimously.

10. REPORTS:

- (a) Bylaw Notice Enforcement Amendment Bylaw - To Authorize the District of North Cowichan to Participate in the Dispute Adjudication Registry System

Introduced by Sheila Gurrie, Director, Legislative Services.

It was moved and seconded that “Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.10” (To replace Schedule B – Registry Agreement to authorize the District of North Cowichan to participate in the City’s Dispute Adjudication Registry System) pass first reading. The motion carried unanimously.

It was moved and seconded that “Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.10” pass second reading. The motion carried unanimously.

It was moved and seconded that “Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.10” pass third reading. The motion carried unanimously.

- (b) Ministry Approval Update - Animal Responsibility Bylaw

Introduced by Karen Robertson, Deputy City Clerk.

It was moved and seconded that Council rescind third reading of “Animal Responsibility Bylaw 2021 No. 7316”. The motion carried unanimously.

It was moved and seconded that Council give third reading, as amended, to “Animal Responsibility Bylaw 2021 No. 7316” as attached to the 2021-JUN-07 report by the Deputy City Clerk. The motion carried unanimously.

- (c) 2021 UBCM Community Excellence Awards

Introduced by Bill Sims, General Manager, Engineering and Public Works.

It was moved and seconded that that Council support the application for Nanaimo’s Complete Street Engineering Standards and Design Guidelines to be considered for a 2021 Community Excellence Award for Excellence in Sustainability. The motion carried unanimously.

(d) Lease to Double H Holdings Ltd. - 2280 Bowen Road (Beban Park Pitch and Putt)

Introduced by Dale Lindsay, General Manager, Development Services.

It was moved and seconded that Council:

1. approve a new ten-year lease agreement with Double H Holdings Ltd. for the Beban Park Pitch and Putt; and
2. authorize the Mayor and Corporate Officer to execute the lease agreement.

The motion carried unanimously.

(e) Development Permit Application No. DP1151 - 3532 Stephenson Point Road

Introduced by Jeremy Holm, Director, Development Approvals.

Delegation:

1. Rob Turgeon provided a PowerPoint presentation. Highlights included:
 - Requesting a variance due to factors limiting his ability to build
 - Completed environmental assessment of the riparian area, tree management plan and vegetation management plan
 - Municipal requirement for 7.5 m top of bank setback is not Provincially or Federally mandated
 - Staff have provided suggestions of alternative building sites but these sites impact significant trees on the site
 - Provided examples/photos related to the state of the watercourse, culverts and exceptions permitted on neighbouring properties

It was moved and seconded that Council deny Development Permit Application No. DP1151 as proposed at 3532 Stephenson Point Road. The motion was defeated.
Opposed: Mayor Krog, Councillors Armstrong, Brown, Maartman, Thorpe, Turley

It was moved and seconded that Council approve Development Permit Application No. DP1151 at 3532 Stephenson Point Road with a variance to reduce the watercourse setback from 7.5 m to 0.8 m. with conditions of the permit included in Attachment A of the report titled "Development Permit Application No. DP1151 – 3532 Stephenson Point Road" dated 2021-JUN-07. The motion carried.

Opposed: Councillors Brown, Bonner, Geselbracht and Hemmens

(f) Development Permit Application No. DP1191 - 326 Wakesiah Avenue

Introduced by Dale Lindsay, General Manager, Development Services.

Delegations:

1. Patrick Brandreth, Island West Coast Development, Tim Shah, Watt Engineering, and David McGrath, WD Architects, joined the meeting electronically to answer questions.

It was moved and seconded that Council issue Development Permit No. DP1191 at 326 Wakesiah Avenue with a variance to reduce the required student housing parking rate from 0.4 spaces per bed to 0.3 spaces per bed (reducing the total required parking from 77 stalls to 62 stalls). The motion carried.

Opposed: Councillors Armstrong and Thorpe

The Regular Council Meeting recessed at 8:59 p.m.

The Regular Council Meeting reconvened 9:10 p.m.

(g) Development Variance Permit Application No. DVP422 - 1875 and 1885 Boxwood Road

Introduced by Jeremy Holm, Director, Development Approvals.

It was moved and seconded that Council issue Development Variance Permit No. DVP422 at 1875 and 1885 Boxwood Road with the following variance to:

- allow 13 fascia signs and 1 freestanding sign within the Parkway Buffer that face the Nanaimo Parkway;
- increase the maximum permitted fascia sign area from 5m² to 6.48m².

The motion carried unanimously.

(h) Chronolog Photopoint Monitoring

Presentation:

1. Rob Lawrance, Environmental Planner, provided a presentation. Highlights included:
 - Video provided explaining how the Chronolog photo monitoring program works
 - City webpage provides information and time-lapse of photos submitted so far
 - Connects residents with projects and provides information
 - Highlights the volunteers that have been working hard on these projects
 - Currently committed for one year with the potential to move in-house in the future
 - Nanaimo is the first community in Canada to sign up for this service

Mayor Krog acknowledged that Mr. Lawrance will be retiring and thanked him for his 20 years of service for the City of Nanaimo since he was first hired as the Environmental Planner in 2001. Mr. Lawrance has always provided exceptional service to Nanaimo and the greater community. He has been instrumental in guiding City policy and program development.

(i) UBCM Housing Needs Report Grant Application

Introduced by Dale Lindsay, General Manager, Development Services.

It was moved and seconded that Council support the proposed funding application to the Union of British Columbia Municipalities to update Nanaimo's Housing Needs Report. The motion carried unanimously.

11. BYLAWS:

(a) "Highway Closure and Dedication Removal Bylaw 2021 No. 7286"

It was moved and seconded that "Highway Closure and Dedication Removal Bylaw 2021 No. 7286" (To provide for highway closure and dedication removal of a portion of Eighth Street adjacent to 857 Old Victoria Road) pass third reading. The motion carried unanimously.

(b) "Morningside Drive Local Service Area Parcel Tax Amendment Bylaw 2021 No. 7288.01"

It was moved and seconded that "Morningside Drive Local Service Area Parcel Tax Amendment Bylaw 2021 No. 7288.01" (To adopt amendments to reflect the change in the year of construction completion) be adopted. The motion carried unanimously.

12. ADJOURNMENT:

It was moved and seconded at 9:29 p.m. that the meeting adjourn. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER

MINUTES
BOARD OF VARIANCE MEETING
BOARDROOM, SERVICE AND RESOURCE CENTRE
411 DUNSMUIR STREET, NANAIMO, BC
THURSDAY, 2021-APR-01 AT 4:00 P.M.

PRESENT: Members: Jessica Kaman, Chair, At Large Member
 Nelson Allen, At Large Member
 Allan Dick, At Large Member (joined electronically)
 Daryoush Firouzli, At Large Member (joined electronically)
 Kenneth Hample, At Large Member (joined electronically)

 Staff: S. Robinson, Planning Assistant
 L. Stevenson, Planner
 K. Berke, Recording Secretary

1. CALL THE BOARD OF VARIANCE COMMITTEE MEETING TO ORDER:

The Open Board of Variance Meeting was called to order at 4:05 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Agenda Item 5(a) Board of Variance Application No. BOV749 – 5524 Cliffside Road - Add sun shadow study plans as per the applicant's request.
- (b) Agenda Item 5(a) Board of Variance Application No. BOV749 – 5524 Cliffside Road - Add email correspondence from a neighbouring property owner.

3. ADOPTION OF AGENDA:

 It was moved and seconded that the Agenda be adopted as amended. The motion carried unanimously.

4. ADOPTION OF MINUTES:

 It was moved and seconded that the Minutes of the Board of Variance Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC on Thursday, 2021-MAR-04, at 4:00 p.m., be adopted as circulated. The motion carried unanimously.

5. PRESENTATIONS:

- (a) Board of Variance No. BOV749 – 5524 Cliffside Road

The Chair read the application requesting a variance to construct a single residential dwelling with a flat roof up to 9m in height. This represents a variance of 2m. The applicant is also requesting to vary the perimeter wall height from 7.32m to 9.30m on the east and west elevations and to vary the perimeter wall height from 9.14m to 9.50m on the south elevation. This represents a variance of 1.98m on the east and west elevations, and 0.36m on the south elevation.

Michele & Robin Brulotte, property owners, spoke to the application. They spoke to their history in discovering Nanaimo and Vancouver Island as their desired retirement location. They purchased the subject property as it had potential and significant challenges in regards to the rocky surface and steep slope. After purchasing the lot they researched the building height requirements in the City of Nanaimo and they realized the calculations don't cater to steep slope lots. They sent letters to their surrounding neighbours and stated that they received two responses from 5567 Lost Lake Road & 5530 Cliffside Road which were both positive.

J. Colizza, architect, stated that him and the owners spent a lot of time trying to select a suitable location for the house as to not upset the natural landscape and to keep as many trees as possible. The setbacks from neighbours are quite significant. They made a conscious effort to make sure the scale of the building wouldn't appear as a large mass.

Discussion took place regarding:

- The property being a challenging difficult lot
- Whether this was the first and only design for the lot
- Stepping the building down a bit
- The height of the outside walls
- The geotech report, safe building site
- The hardship for the application
- What redesigning the house to meet the zoning bylaws would mean
- The size/height of the crawlspace if any
- Whether the house will be blocking the neighbours views
- Setting a precedent for other projects
- Whether there were any complaints from the three neighbouring properties near the back of the property
- Views from properties that weren't notified about the application
- The architectural design for a flat roof over a pitched roof and the intent of the zoning bylaw
- Development Variance Permit applications vs Board of Variance applications

It was moved and seconded that application BOV749 to vary Section 7.6.1 and 7.6.6 of Zoning Bylaw No. 4500 in order to increase the maximum height of a principal building with a flat roof from 7m to 9m, and to increase the maximum perimeter wall height on the east and west elevations from 7.32m to 9.30m and on the south elevation from 9.14m to 9.50m in order to construct a single residential dwelling be denied. The motion carried.

Opposed: Nelson Allen and Daryoush Firouzli

(b) Board of Variance Application No. BOV750 – 3230 Singleton Road

The chair read the application requesting to reduce the required setback for a garage door from 6m to 4.47m in order to legalize the existing dwelling setback and allow for a proposed addition (east side) to an existing attached garage. This represents a variance of 1.53m.

Tim Kroeker, Alair Homes, spoke to the application on behalf of the owner. He stated that the house was built before the current zoning requirement. The garage was built 4.47m from the setback. The owner would like to add onto the garage and he would not be encroaching further into the setback. If he were to setback a further 1.53m he wouldn't be able to build onto the garage or even have a garage.

Stuart Merilees, owner, stated he is doing a renovation to build two extra rooms and adding to one bathroom onto the side of the house. In regards to esthetics from the road, it makes the most sense to continue the addition towards the front and to widen the existing garage to line up with the current front setback.

Discussion took place regarding:

- Whether the house is currently under renovation
- Location of the house on the street
- Whether there were any reactions from neighbours
- Intent of zoning bylaw in regards to 6m setback for adequate off street parking
- Parking Bylaw and stall length
- There being a Hydro pole on the edge of the property line
- Intent of application
- The plans in regards to the garage door

It was moved and seconded that application BOV750 to vary Section 7.5.3 of Zoning Bylaw No. 4500 to reduce the required setback for a garage door facing a street from 6m to 4.47m in order to legalize the siting of an existing single residential dwelling and permit a proposed addition be approved. The motion carried unanimously.

6. ADJOURNMENT:

It was moved and seconded at 5:29 p.m. that the meeting adjourn. The motion carried unanimously.



CHAIR

CERTIFIED CORRECT:



RECORDING SECRETARY

MINUTES
GOVERNANCE AND PRIORITIES COMMITTEE MEETING
VIRTUAL MEETING
MONDAY, 2021-MAY-31, AT 10:01 A.M.

Present: Councillor Z. Maartman, Chair (joined electronically)
Mayor L. Krog, (joined electronically)
Councillor S. D. Armstrong (joined electronically 11:00 a.m., disconnected 11:30 a.m.)
Councillor D. Bonner (joined electronically 10:53 a.m.)
Councillor T. Brown (joined electronically)
Councillor B. Geselbracht (joined electronically)
Councillor E. Hemmens (joined electronically)
Councillor I. W. Thorpe (joined electronically)
Councillor J. Turley (joined electronically)

Staff: J. Rudolph, Chief Administrative Officer (joined electronically)
R. Harding, General Manager, Parks, Recreation and Culture (joined electronically)
S. Legin, General Manager, Corporate Services (joined electronically)
D. Lindsay, General Manager, Development Services (joined electronically)
B. Sims, General Manager, Engineering and Public Works (joined electronically)
T. Doyle, Fire Chief (joined electronically)
J. Holm, Director, Development Approvals (joined electronically)
P. Rosen, Director, Engineering (joined electronically)
L. Bhopalsingh, Manager, Community Planning (joined electronically)
F. Farrokhi, Manager, Communications (joined electronically)
J. Rose, Manager, Transportation (joined electronically)
D. Blackwood, Client Support Specialist (joined electronically)
S. Gurrie, Director, Legislative Services (joined electronically)
K. Gerard, Recording Secretary (joined electronically)

1. **CALL THE GOVERNANCE AND PRIORITIES COMMITTEE MEETING TO ORDER:**

The Governance and Priorities Committee Meeting was called to order at 10:01 a.m.

Councillor Maartman, Chair, stated that the flags at City Hall would be lowered to half-mast for the week to recognize the lost Indigenous children of the residential school system in Canada. Councillor Maartman advised that Council and the City of Nanaimo stand with all the families of those children and recognize that this is a negative chapter in Canadian history.

2. **APPROVAL OF THE AGENDA:**

It was moved and seconded that the Agenda, be adopted. The motion carried unanimously.

3. ADOPTION OF THE MINUTES:

It was moved and seconded that the Minutes of the Governance and Priorities Committee meeting held virtually on Monday, 2021-MAY-10 at 1:00 p.m. be adopted as circulated. The motion carried unanimously.

4. AGENDA PLANNING:

1. Governance and Priorities Committee Agenda Planning

Introduced by Sheila Gurrie, Director, Legislative Services.

Sheila Gurrie, Director, Legislative Services, spoke regarding the agenda planning documents and stated that Council will have an opportunity in late June or early July to discuss the priority items and to make changes or additions if needed.

5. REPORTS:

a. REIMAGINE NANAIMO:

1. Mobility Update for REIMAGINE NANAIMO

Introduced by Bill Sims, General Manager, Engineering and Public Works.

Presentation:

1. Jamie Rose, Manager, Transportation, and Gavin Davidson, GJD, Planning and Design, provided the Committee with a PowerPoint presentation. Highlights included:

- Phase 1 of the REIMAGINE Nanaimo process involved gathering information and community feedback
- Phase 2 will include exploring options with a Council workshop to be held on 2021-MAY-31 regarding land use and active transportation
- Staff are working with BC Transit and the Regional District of Nanaimo (RDN) regarding land use planning and active transportation
- Phase 3 will involve development of the plans based on Council and community feedback
- Staff are working with all partnering agencies to ensure they understand the needs and wants of the community, stakeholders, BC Transit and the RDN
- Working along side the Ministry of Transportation to ensure land use and mobility planning align with the Ministries goals and visions
- Safety is the primary concern of the community along with connectivity, sustainability, accessibility and affordability

- Staff have shared information gathered through the REIMAGINE Nanaimo process with BC Transit and the RDN
- Data collected through REIMAGINE Nanaimo shows that the areas in Nanaimo with the longest walk and transit wait times are also the lower income areas

Committee discussion took place regarding investment and education in lower income areas to promote walkability, ridership with BC Transit and cycling.

Jamie Rose, Manager, Transportation, continued his presentation. Highlights included:

- Once the Phase 2 engagement process is completed Staff will return to Council or the Committee with land use scenarios regarding active transportation and explore options and plan for the implementation strategies
- Phase 1 allowed Staff to see where there are gaps in walkability and cycling and how those gaps can be filled
- Completion of Metral Drive will connect all ages and abilities from the North End to downtown Nanaimo via the E&N Trail system
- Land use planning will enable Staff and Council to see areas where building and investing will have the most positive impact on active transportation
- The normal method of data collection used for analysis has been fairly technical and left the public with an unclear picture of the priority areas for pedestrian and cycling safety
- Staff are looking to find a way to be more transparent and easily understood by the public and enhance community feedback/concerns

Gavin Davidson, GJD, Planning and Design, continued the presentation. Highlights included:

- Pedestrian planning scope study included existing processes and improvements, best practices, Federal and Provincial guidance and recommendations to the Committee
- Comparison cities included Bellingham, WA, Boulder, CO, and Kelowna, BC which are relative in size to Nanaimo
- Findings showed that Nanaimo is lower in sustainable transportation but is in a good position to integrate active transportation into future development/land use plans
- Nanaimo's long term sustainable mode share target is lower than the comparable cities
- Infrastructure improvement process should include the following:
 1. Strategic planning
 2. Identification and prioritization
 3. Selection of treatment options
 4. Implementation

5. Monitoring and evaluation
 6. Communication, engagement and celebration
- Nanaimo's Transportation Master Plan provides direction and guides the policies and principles for investment, vision and goals that support the City's commitment to active transportation
 - Strategic planning needs to ensure it acknowledges missing pedestrian links on high speed roads and roads built before City standards of active transportation were recognized
 - Strategic Planning recommendations include:
 - Working toward consensus on the vision and principles
 - Combine long range targets with short term goals
 - Support targets with a flexible and adaptive action plan
 - Take advantage of current projects to improve or extend the pedestrian network
 - Identification and Prioritization recommendations include:
 - Ensure the process is transparent
 - Use criteria that is easy to calculate
 - Establish proactive and reactive measures
 - Take a proactive approach by building pedestrian and cycling links into current and future development projects
 - Bellingham, WA, uses a scoring method to prioritize intersections and areas in need of improvements based on safety, posted speed and traffic volumes
 - These scores are easy to understand for Staff and the public

Committee discussion took place regarding gentrification and change in priorities.

Gavin Davidson, GJD, Planning and Design, continued the presentation. Highlights included:

- Evaluating areas in need of pedestrian improvement should also take into account professional judgement, existing conditions, average speed of vehicles, available funding and resources
- Implementation can include curb extension, overhead flashing lights, medians and raised crosswalks
- Selection of treatment option recommendations include:
 - Creating and using a decision making flowchart
 - Allow for exceptions and consideration of other options
 - Make the selection process more transparent
 - Use best practises in treatment options
- Through transparency the public can see the factors that influence priority items such as cost, project readiness and availability of resources
- Implementation recommendations include:
 - Clearly define the factors that influence implementation
 - Seek alliances to pursue shared objectives
 - Focus limited resources where they will leverage impact

- Monitoring and evaluation allows for public input and concerns on pilot pedestrian projects and for Staff to hear how changes directly affect those with accessibility concerns
- Monitoring and evaluation recommendations include:
 - Establish and track progress toward a robust set of targets
 - Include long-range and achievable interim targets
 - Recognize that perceived and actual outcomes are important
- The goals included in the Transportation Master plan include pedestrian safety, accessibility and to create more and better places to walk
- The City has a goal to increase walkability by 12% by 2041 but it is important to set goals and targets for every 2 – 3 years to see if targets are being met
- Communication and Engagement recommendations include:
 - Consistent and measured communications and engagement
 - Expand the diversity and frequency of engagement
 - Include celebration or “quick wins” as a way to build community support
- A total of nineteen recommendations have been provided and broken down into six categories
- Next steps include:
 - Updating the process for sidewalk infill and roadway crossings
 - develop a long-range pedestrian plan that aligns with future land use
 - create short and long-range targets that align with Nanaimo’s goals

Councillor Bonner joined the meeting electronically at 10:53 a.m.

Committee discussion took place. Highlights included:

- Concerns regarding commercial delivery routes and frequent stopping areas
- Lack of pull out areas for transit
- Conducting a study on the increase or decrease in delivery times for commercial and/or delivery companies within the complete streets projects

Jamie Rose, Manager, Transportation, advised the Committee that a conversation regarding goods movement is important in this process as it is essential to our daily lives and the economy.

Committee discussion took place. Highlights included:

- Boulder, CO, and how it achieved 42% sustainable transportation modes

- Transparency around planning and implementation of land use and active transportation

Gavin Davidson, GJD, Planning and Design, advised the Committee that:

- Boulder, CO, gained their 42% sustainable transportation mode by building a community that aligns with all the objectives stated in their transportation plan, created an effective transit system and created a cycling network that connects key origins and destinations
- Transparency could include a web based portal that is easily accessible to the community where the short and long-term goals are clearly defined and shows the outcomes of monitoring pilot projects before and after completion
- The portal could also include an area for public input and feedback

Councillor Armstrong joined the meeting electronically at 11:00 a.m.

Committee discussion took place. Highlights included:

- Concerns regarding narrow lanes which can effect transit and commercial deliveries as well as cause an increase in frustration for motor vehicle drivers
- The City meeting and completing the goals and objectives of the Transportation Master Plan
- Refining the active transportation nodes

Gavin Davidson, GJD, Planning and Design, advised the Committee that ensuring space for commercial and emergency vehicles should be done on a case-by-case basis. He stated that this is the reason monitoring pilot or completed projects is so important.

Jamie Rose, Manager, Transportation, continued the presentation. Highlights included:

- Staff are looking at ways to be more opportunistic when projects are planned to ensure that active transportation can be included in the project
- Land use scenarios will include visioning exercises to show the potential growth of the community and how this will integrate into the Transportation Master Plan
- Goals identified through Phase 1 of the REIMAGINE Nanaimo process include reducing injury rates with a Vision Zero target in Phase 3
- The safer systems approach involves four main factors: drivers, operating speed, road designs and vehicle designs

- The design of complete streets is based on ensuring separation from vehicles, pedestrians and cyclists and creating an environment that makes it less comfortable for motorists to speed
- Staff plan on having a workshop with the RDN and BC Transit after Phase 2 and the land use scenarios are created

Committee discussion took place regarding the complete street design, safety for residents backing out of their driveways on Metral Drive, monitoring Metral Drive for safety and a decrease or increase in traffic collisions.

The Governance and Priorities Committee recessed at 11:29 a.m.
The Governance and Priorities Committee reconvened at 11:35 a.m.

b. COMMUNITY WELLNESS/LIVABILITY:

1. Councillor Maartman re: Permanent Recreational Vehicle Accommodation

Introduced by Dale Lindsay, General Manager, Development Services.

Presentation:

1. Jeremy Holm, Director, Development Approvals, provided the Committee with a PowerPoint presentation. Highlights included:
 - The City does have provisions for allowing temporary and permanent accommodation in recreational vehicles (RV's)
 - Temporary accommodations are allowed:
 - During construction of a single dwelling for residents of the dwelling
 - For non-paying guests of the owner/occupant of a single dwelling for a maximum of 42 days in a calendar year
 - In a campground on properties zoned Agricultural Rural Residential (AR1) for up to 90 days in a calendar year
 - Nanaimo is unique in that we have locations where temporary and permanent RV accommodations are allowed
 - Temporary or permanent locations include a portion of Living Forest Campground, Resort on the Lake (1142 Woss Lake Drive) and Westwood Lake RV (380 Westwood Road)
 - Challenges with permanent accommodation in an RV outside of the specified zones include grey and black water disposal, electrical systems, and how to charge for property taxes and user rate fees
 - The Affordable Housing Strategy recommends consideration of allowing RV's in mobile home parks and creation of other areas where RV's could be lived in on a permanent basis
 - In 2019, Council expanded the zoning bylaw to allow modular dwelling units to be used as detached secondary suites

- Allowing more permanent RV accommodations could discourage funding and grants for more permanent housing solutions

Committee discussion took place. Highlights included:

- Concerns regarding capacity to hold grey water and sewage waste and where these can be offloaded
- Steps needed to be taken in order to allow more permanent RV accommodations such as bylaws or policies
- Creating a bylaw or policy that clearly lays out the rules for RV accommodation to address disposal of grey water and sewage, proper water and electrical hook-ups and safety much like a carriage house
- Allowing for RV's in mobile home parks or creating more mobile home parks

Jeremy Holm, Director, Development Approvals, continued his presentation. Highlights included:

- Staff could return to the Committee at a future meeting with a fulsome report for discussion
- Consultation and public engagement would be required
- The RDN may be better equipped to accommodate another mobile home park as they have more rural land use areas
- Concerns regarding displacement of people who currently live in mobile home parks in park type RV models which are designed for permanent accommodation

Dale Lindsay, General Manager, Development Services, advised the Committee that:

- In order to change the zoning an amendment would have to be made to the zoning bylaw which would require consultation and a Public Hearing
- There has not been a new mobile home park built in Nanaimo for approximately 25 years
- There is little land in Nanaimo left suitable for mobile home parks and the land that remains is more suited to high density developments

Committee discussion took place. Highlights included:

- Insurance companies have no issue insuring RV's for permanent use
- Ensuring a minimize property size if an owner wanted to allow a permanent RV on their property as well as property water, sewer and electrical hook ups

It was moved and seconded that the Governance and Priorities Committee recommend that Council direct Staff to prepare a report on the options available to support permanent recreation vehicle accommodation. The motion carried.

Opposed: Mayor Krog, Councillors Brown and Thorpe

c. GOVERNANCE AND MANAGEMENT EXCELLENCE:

1. 2021 Council Alignment Update

Jake Rudolph, Chief Administrative Officer, spoke regarding the 2021 Council Alignment document and requested that the Committee receive the document for information or asked the Committee if an in depth discussion is required at a future Governance and Priorities Committee Meeting.

By unanimous consent the 2021 Council Alignment document was received for information.

6. ADJOURNMENT:

It was moved and seconded at 12:15 p.m. that the meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER

Please click on the link below to access the Agenda from the 2021-JUN-16 Finance and Audit Committee Meeting.

<https://pub-nanaimo.escribemeetings.com/Meeting.aspx?Id=f43cc830-0404-4ee2-b8d2-f864e1912f99&Agenda=Merged&lang=English>

DATE OF MEETING JUNE 21, 2021

AUTHORED BY DAVID LABERGE, MANAGER, BYLAW ENFORCEMENT
KAREN ROBERTSON, DEPUTY CITY CLERK

**SUBJECT PROPERTY MAINTENANCE AND BYLAW NOTICE
ENFORCEMENT AMENDMENT BYLAWS**

OVERVIEW

Purpose of Report

To present for Council's consideration, an amendment to the "Property Maintenance and Standards Bylaw" to address the language associated with graffiti removal and to transfer the fines in Schedule A through an amendment to the Bylaw Notice Enforcement Bylaw.

Recommendations

Property Maintenance and Standards Bylaw:

That:

1. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" (to update the graffiti removal language, replace the Violation and Penalty section and delete the fine schedule) pass first reading;
2. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" pass second reading; and
3. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01 pass third reading.

Bylaw Notice Enforcement Amendment Bylaw:

That:

1. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" (to delete the fine schedule for the repealed Property Maintenance Bylaw 1990 No. 3704 and replace it with fine schedule for Property Maintenance and Standards Bylaw 2017 NO. 7242) pass first reading;
2. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass second reading; and
3. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass third reading.

BACKGROUND

When preparing to take action against a commercial property owner who has been unresponsive to the City's letters directing them to remove the graffiti on their property, staff noted that the graffiti language provisions within the Property Maintenance and Standards were vague. As such, staff are bringing forward an amendment to the bylaw to clarify those provisions.

Staff have also taken the opportunity to review the bylaw for other required amendments and in this instance, updates to the violation and penalty language are required in order to issue tickets under the City's Dispute Adjudication Registry System (DARS) and to be consistent with other regulatory bylaws. The specific amendments for Council's consideration are highlighted in the discussion section of the report and highlighted in the attached redlined version of the bylaw (see Attachment 2).

DISCUSSION

1. **Section 2 – Definition of Graffiti**

The definition of graffiti has been redefined and simplified as recommended by the City Solicitor.

2. **Section 4.5 – Graffiti Regulation**

The clause for graffiti states that no person, owner or occupier of real property shall "place" graffiti on walls, fences, etc. The use of the word "place" is vague and needs to be replaced with the words "cause or permit" as noted in the other bylaw regulations.

3. **Section 9 – Penalties**

The section 9 penalty language is outdated and needs to be updated with the same violation and penalty language contained in other regulatory bylaws. The new provisions will also give the Bylaw Enforcement Officers the authority to issue tickets under the DARS program, which the City has been utilizing since 2014.

4. **Section 10 – Schedules**

This section needs to be deleted, as any changes to fines must be done by bylaw.

5. **Schedule A – Fines**

Previously, the City utilized a Provincial Ticketing system when issuing fines for non-compliance. This required the fines to be included within the regulatory bylaw. Now that the City utilizes the DARS system under the authority of the Bylaw Notice Enforcement Bylaw for all fines under \$500, the fines need to be transferred to that bylaw (see attached "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11").

OPTIONS

Enforcement of the graffiti provisions as currently worded are not possible, and the goal is to have consistent violation and penalty language in all regulatory bylaws. As such, staff recommend that Council approve the proposed amendments as outlined in the staff report by giving three readings to both the "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" and "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11".

Property Maintenance and Standards Bylaw:

That:

1. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" (to update the graffiti removal language, replace the Violation and Penalty section and delete the fine schedule) pass first reading;
2. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01" pass second reading; and
3. "Property Maintenance and Standards Amendment Bylaw 2021 No. 7242.01 pass third reading.

Bylaw Notice Enforcement Amendment Bylaw:

That:

1. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" (to delete the fine schedule for the repealed Property Maintenance Bylaw 1990 No. 3704 and replace it with fine schedule for Property Maintenance and Standards Bylaw 2017 NO. 7242) pass first reading;
2. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass second reading; and
3. "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.11" pass third reading.

Option 2:

Given the legal nature of the proposed amendments, no alternate recommendation is being provided for those outlined in the staff report. However, should Council wish to make further amendments to the bylaw beyond those identified, specific direction from Council would be sought and a future report to highlight any implications would be required.

SUMMARY POINTS

- The definition of graffiti and the enforcement provision language in the Property Maintenance and Standards Bylaw was vague and needed to be clarified.
- The violation and penalty language within the bylaw was updated to be consistent with other regulatory bylaws.
- The fines were transferred to the Bylaw Notice Enforcement Bylaw so that tickets could be issued under the Dispute Adjudication Registry System under the authority of the Bylaw Notice Enforcement Bylaw.

ATTACHMENTS:

Attachment 1 – BL 7242.01 – Property Maintenance and Standards Amendment Bylaw
Attachment 2 – BL 7242 – Property Maintenance and Standards Bylaw (redlined version)
Attachment 3 – BL 7159.11 – Bylaw Notice Enforcement Amendment Bylaw

Submitted by:

David Laberge,
Manager, Bylaw Enforcement

Karen Robertson,
Deputy City Clerk

Concurrence by:

Bill Corsan,
Director, Community Development

Dale Lindsay,
General Manager, Development Services

Sheila Gurrie,
Director of Legislative Services

CITY OF NANAIMO

BYLAW NO. 7242.01

A BYLAW TO AMEND THE PROPERTY MAINTENANCE AND STANDARDS BYLAW

WHEREAS, pursuant to the *Community Charter*, the City is authorized to regulate refuse, garbage or other material that is noxious, offensive or unwholesome; graffiti and unsightly conditions on property; the accumulation of water on property; growths that should be removed, cut down or timed; and unsanitary conditions on property;

AND WHEREAS pursuant to the *Community Charter*, Council to regulate for the protection and enhancement of the wellbeing of its community in relation to matters referred to in Section 64 (nuisances, disturbances and other objectionable situations);

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

1. Title

This Bylaw may be cited as “PROPERTY MAINTENANCE AND STANDARDS AMENDMENT BYLAW 2021 NO. 7242.01”

2. Amendments

“PROPERTY MAINTENANCE AND STANDARDS BYLAW 2021 NO. 7242” is hereby amended as follows:

(1) By deleting the definition of Graffiti and replacing it with the following:

“Graffiti means: letters, symbols or markings made on any structure, building, thing or property without the prior written authorization of the property owner OR the City of Nanaimo.”

(2) By deleting section 4.5 and replacing it with the following:

“cause or permit graffiti to accumulate or remain on any fence, surface, or structure which is visible from an adjacent property or public place”.

(3) By deleting section 9 and replacing it with the following:

“9. Violation and Penalty

1. Any Person who causes, permits or allows anything to be done in contravention or violation of this Bylaw, or who neglects or fails to do anything required to be done pursuant to this Bylaw, commits an offence against this Bylaw and is liable upon summary conviction to pay a fine of not more than \$50,000, plus the costs of prosecution,

and any other penalty or remedy available under the Community Charter and Offence Act.

- 2 This Bylaw may be enforced by bylaw notice pursuant to the Bylaw Notice Enforcement Bylaw 2012 No. 7159, as amended or replaced.
 - 3 Each day that an offence continues or exists shall constitute a separate offence.”
- (4) By deleting section 10 and renumbering the remaining sections of the bylaw.
- (5) By deleting Schedule A.

PASSED FIRST READING:
PASSED SECOND READING:
PASSED THIRD READING:
ADOPTED:

MAYOR

CORPORATE OFFICER

CITY OF NANAIMO

BYLAW NO. 7242

A BYLAW TO AUTHORIZE PROPERTY MAINTENANCE AND STANDARDS

WHEREAS, pursuant to the *Community Charter*, the City is authorized to regulate refuse, garbage or other material that is noxious, offensive or unwholesome; graffiti and unsightly conditions on property; the accumulation of water on property; growths that should be removed, cut down or trimmed; unsanitary conditions on property; and

WHEREAS, pursuant to the *Community Charter*, Council is authorized to prohibit persons from doing things on their property; and

WHEREAS, pursuant to the *Community Charter*, Council is authorized to regulate for the protection and enhancement of the wellbeing of its community in relation to matters referred to in Section 64 (nuisances, disturbances and other objectionable situations); and

WHEREAS, pursuant to the *Community Charter*, Council is authorized to delegate its powers, duties and functions established in this enactment to an officer or employee of the municipality and that Council may hear an appeal or reconsider an action, decision or other matter.

1. Title

This Bylaw may be cited as "PROPERTY MAINTENANCE AND STANDARDS BYLAW 2017 NO. 7242".

2. Definitions

Accumulation means: a mass, pile, heap, stack, collection, stock, store, stockpile, reserve, hoard of quantify of something that has been gathered or acquired.

Agent means: an authorized agent for an owner.

Appeal(ed) means: reconsideration of a decision.

Bylaw Enforcement Officer means: a person or persons appointed from time to time by resolution of Council pursuant to Section 36 of the *Police Act*, and includes the Manager of Bylaw, Regulation and Security and any person designated to act on his/her behalf.

City means: the City of Nanaimo

City Engineer means: the Director or Manager of the Engineering and Environment Division of the City or the Director or Manager of Engineering and Public Works or their designate.

Collect means:	gather together, assemble, acquire, store
Community Charter means:	<i>Community Charter SBC 2003, c 26 and amendments from time to time</i>
Container means:	a dumpster, garbage can, garbage bin, or other receptacle designed, intended or used to hold rubbish, discarded materials, waste products and matters or debris
Council means:	the Council of the City of Nanaimo
Derelict means:	run down, unused, decaying, dismantled, dilapidated, inoperable, in poor condition, neglected
Filth means:	putrid or foul matter
Graffiti means:	writing or pictorial representation scratched, scribbled, painted or otherwise applied to walls, roofs, fences, windows, or other structures or surfaces but not including permitted signs as defined in the City of Nanaimo Sign Bylaw and amendments thereto or any signs required by the City Engineer
Graffiti means:	Letters, symbols or markings made on any structure, building, thing or property without the prior written authorization of the property owner <u>OR</u> the City of Nanaimo.
Manager of Bylaw, Regulation & Security means:	the person designated as the Manager of Bylaw, Regulation and Security to administer the enforcement of Bylaw regulations
Noxious Weeds means:	noxious or invasive species which, for the purposes of this bylaw, are limited to Himalayan blackberries, English ivy, Canada thistle, giant hogweed, knotweed, Scotch broom
Nuisance means:	an inconvenience, problem, burden, interference or destructive and harmful to lands.
Occupier means:	a person residing on or in property, the person entitled to possession of property, the leaseholder
Person means:	an individual, person, owner, association, corporation, firm, political body, co-partnership or similar organization and their heirs, executors, successors and assigns or other legal representative, whether acting alone or by servant, agent or employee
Property Owner/Owner means:	a person registered in the records of the Land Title Office as the fee simple owner of a parcel including: <ul style="list-style-type: none"> a) a registered owner of an estate in fee simple; b) the tenant for life under a registered life estate; c) the last registered holder of the last registered agreement for sale; and

d) an authorized agent for the owner

Real Property/Property means: all property including, but not limited to, front yards, side yards, back yards, driveways, walkways, and any buildings or structures located on such property

Rubbish means: filth, rubbish, discarded materials, noxious, offensive or unwholesome matter including, but not limited to:

- decaying or non-decaying solid or semi-solid wastes, food wastes, market wastes;
- combustibles such as paper, cardboard, yard trimmings and brush, logs, stumps, wood waste;
- non-combustibles such as metal cans and metal materials, plastics, leathers, glass containers, glass, crockery, glass materials, dirt, ashes from fireplaces and on-site incinerators, street sweepings;
- bulky wastes such as furniture, household items and materials, appliances, tires, derelict or dismantled bicycles and parts, vehicle parts, derelict lawn equipment, construction and demolition waste, trade waste;
- derelict, dismantled, unused, dilapidated, inoperable vehicles, derelict recreational vehicles, campers, utility trailers, boat trailers, transport trailers, derelict boats, derelict vessels, derelict machinery, derelict mechanical and metal parts

Temporary Shelter means: a structure, improvement, shield or cover that protects people or things and includes a tent, lean-to or other shelter made of cardboard, tarpaulin, plastics, metal, logs, brush, branches, or other materials or things

Vehicle means: any vehicle as defined in the *Motor Vehicle Act* and shall include, but not be limited to, snowmobiles, dirt bikes, and all-terrain vehicles

3. Authority to Enter

Bylaw Enforcement Officers are hereby authorized to enter at all reasonable times and in a reasonable manner upon any property within the city for the purposes of determining if all regulations, prohibitions and requirements of this bylaw are met.

4. Regulations

No person, owner or occupier of real property or their agents shall:

1. cause or permit rubbish to collect or accumulate on or around lands or buildings owned or occupied by them.

2. cause or permit water to accumulate on or around lands or buildings owned or occupied by them.
3. cause or permit rubbish to overflow from or accumulate around any container.
4. where a building permit has been issued, cause or permit demolition waste, construction waste or trade waste to accumulate on or around the property.
- ~~5. place graffiti on walls, fences, or elsewhere adjacent to a public place.~~
5. cause or permit graffiti to accumulate or remain on any fence, surface, or structure which is visible from an adjacent property or public place.
6. interfere with or obstruct a Bylaw Enforcement Officer in the exercise of his/her duties.

5. Noxious Weeds and Other Growths

Every owner or occupier of real property or their agents shall:

1. remove from the entire property all noxious weeds and all brush or overgrowth which becomes a nuisance.

6. Destructive Insects

Every owner or occupier of real property or their agents shall:

1. remove from the entire property infestations of tent caterpillars and fall web worm.

7. Temporary Shelter

No person, owner or occupier of real property or their agents shall:

1. cause, allow or permit any person or persons to erect or occupy a temporary shelter for the purposes of transitory, short-term, interim or permanent lodging for staying, sleeping, dwelling, residing, camping or overnight abode.

8. Enforcement

1. Where the Bylaw, Regulation and Security Division has received a complaint that real property is in contravention of this bylaw and the complaint has been verified, a letter may be issued directing the property owner to rectify the contravention.
2. Where, after the expiry of 21 days from the date of the letter, the property owner has failed to comply with the requirements set out in the letter and has not appealed the direction of the Manager of Bylaw, Regulation and Security to Council, the City or its agents may enter upon the property to affect the work required to bring the property into compliance.
3. To appeal the direction of the Manager of Bylaw, Regulation and Security, a property owner must, prior to the expiration of 14 days from the date of the letter directing that the contravention be rectified, contact the Legislative Services Department and request to appear as a delegation for reconsideration of the matter by Council at the next Council meeting following the request.

4. If the property owner appeals the direction of the Manager of Bylaw, Regulation and Security, enforcement action will not be taken until the appeal has been heard by Council and a decision given.
5. All work done and services provided by the City or its agents to bring the property into compliance will be billed to the property owner and are recoverable as a debt. If the costs are unpaid by December 31st in the same year, the costs will be added to taxes payable.

9. ~~Penalties~~

- ~~1. A person or property owner who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000 and not less than the fines prescribed in Schedule 'A' of this Bylaw, the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* (British Columbia) or the *Offence Act* (British Columbia) as amended from time to time.~~
- ~~2. Each day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence.~~

9. Violation and Penalty

1. Any Person who causes, permits or allows anything to be done in contravention or violation of this Bylaw, or who neglects or fails to do anything required to be done pursuant to this Bylaw, commits an offence against this Bylaw and is liable upon summary conviction to pay a fine of not more than \$50,000, plus the costs of prosecution, and any other penalty or remedy available under the Community Charter and Offence Act.
2. This Bylaw may be enforced by bylaw notice pursuant to the Bylaw Notice Enforcement Bylaw 2012 No. 7159, as amended or replaced.
3. Each day that an offence continues or exists shall constitute a separate offence."

10. ~~_____~~ Schedules

~~_____ Council authorizes that Schedule 'A' may be omitted and established by resolution where the schedule can be more conveniently contained in a resolution.~~

10. Severability

If any section or provision of this bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the validity of the remainder of the bylaw shall not be affected.

11. Repeal

The Property Maintenance Bylaw 1990 No 3704" is hereby repealed.

PASSED FIRST READING 2017-APR-24
PASSED SECOND READING 2017-APR-24
PASSED THIRD READING 2017-APR-24
ADOPTED 2017-MAY-01

W. B. MCKAY
MAYOR

S. GURRIE
CORPORATE OFFICER

SCHEDULE 'A'

<u>Offence</u>	<u>Section</u>	<u>Fine</u>
Permit rubbish to collect	4.1	150.00
Permit water to accumulate	4.2	150.00
Permit rubbish to overflow container	4.3	150.00
Permit waste to accumulate	4.4	150.00
Place graffiti	4.5	200.00
Interfere with officer	4.6	200.00
Fail to clear overgrowth	5.1	150.00
Fail to remove infestation	6.1	150.00
Allow temporary shelter	7.1	150.00

Note: Schedule A offences to be transferred to the Bylaw Notice Enforcement Bylaw 2021 No. 7159 (see Bylaw Notice Enforcement Amendment Bylaw 2020 No. 7159.11).

CITY OF NANAIMO

BYLAW NO. 7159.11

A BYLAW TO AMEND “BYLAW NOTICE ENFORCEMENT BYLAW 2012 NO. 7159”

The Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. Title

This Bylaw shall be cited as “BYLAW NOTICE ENFORCEMENT AMENDMENT BYLAW 2021 NO. 7159.11”.

2. Amendments

“BYLAW NOTICE ENFORCEMENT BYLAW 2012 NO. 7159” is hereby amended as follows:

- (A) By deleting the fine schedule for “Property Maintenance Bylaw 1990 No. 3704” in Schedule “A” in its entirety and replacing it with the following fine schedule for “Property Maintenance and Standards Bylaw 2017 No. 7242”.

Property Maintenance and Standards Bylaw 2017 No. 7242

Section	Description	Penalty	Early Payment Penalty	Late Payment Penalty
4.1	Cause or permit rubbish to collect	150.00	112.50	187.50
4.2	Cause or permit water to accumulate	150.00	112.50	187.50
4.3	Cause or permit rubbish to overflow container	150.00	112.50	187.50
4.4	Cause or permit demolition or construction waste to accumulate	150.00	112.50	187.50
4.5	Cause or permit graffiti to accumulate	200.00	150.00	250.00
4.6	Interfere with Officer	200.00	150.00	250.00
5.1	Fail to clear noxious weeds, brush or overgrowth	150.00	112.50	187.50
6.1	Fail to remove infestation	150.00	112.50	187.50
7.1	Allow temporary shelter	150.00	112.50	187.50

PASSED FIRST READING:

PASSED SECOND READING:

PASSED THIRD READING:

ADOPTED:

MAYOR

CORPORATE OFFICER

DATE OF MEETING JUNE 21, 2021

AUTHORED BY JAMIE ROSE, MANAGER OF TRANSPORTATION

SUBJECT ALLOCATION OF PEDESTRIAN BUDGET TO ENHANCE ACCESSIBILITY - PART 2

OVERVIEW

Purpose of Report

To present Part 2 of the Pedestrian Unallocated Budget towards transportation accessibility improvements for Council's consideration.

Recommendation

That Council allocate the remaining Pedestrian Unallocated Budget as follows:

- \$200,000 for transit stop accessibility improvements at the locations in Figure 1 of the report titled "Allocation of Pedestrian Budget to Enhance Accessibility - Part 2", dated 2021-JUN-21;
- \$250,000 for traffic signal accessibility improvements at the locations in Figure 2 of the report titled "Allocation of Pedestrian Budget to Enhance Accessibility - Part 2", dated 2021-JUN-21; and
- \$45,000 for miscellaneous accessibility improvements allocated to the Small Scale Road Improvement budget.

BACKGROUND

Beginning in 2018, Council allocated \$300,000 each year, for pedestrian enhancements. Council increased this amount to \$1,000,000 for 2021. Council allocated \$505,000 of this budget to general pedestrian infrastructure projects at its meeting of March 15, 2021. As part of that report, Staff suggested that the remaining funds could be directed to address systemic accessibility deficiencies in the transportation system.

In an effort to ensure the highest priority barriers to mobility were being considered, the content of this report was presented to Council's Advisory Committee on Accessibility and Inclusiveness (ACAI) on May 26th, 2021. The committee endorsed the suggested allocations (Attachment A) and Staff are now recommending that Council allocate the remaining \$495,000 to accessibility improvements with a focus on transit stops, traffic signals, and miscellaneous accessibility needs.

DISCUSSION

Council's Strategic Plan and the Nanaimo Transportation Master Plan emphasize the importance of accessibility and inclusion in the transportation system. Staff propose that Part 2

of the Pedestrian Unallocated Funds, approximately \$495,000, focus on accessibility improvements, in support of these policies.

For the purposes of this report, the term accessibility is focussed on the needs of people living with limited mobility. Through consultation with the ACAI, and through targeted REIMAGINE NANAIMO engagement with people living with limited mobility, opportunities for improving transportation accessibility in Nanaimo were identified.

There are many historically built segments of the transportation network that remain inaccessible. Moving forward, the City's new Complete Streets Standards will ensure that new roadway projects will be built to an accessible standard through the capital program. However, Staff are proposing a series of retrofits, with a view to short term, lower cost improvements to accessibility that can be realized earlier than if the improvements were absorbed into longer term, high cost capital projects.

Staff recommend targeting accessibility upgrades in three general areas: transit stops, traffic signal improvements, and miscellaneous improvements. For transit stops and traffic signals, Data and field observations will help identify the locations, types of projects, and priorities. To identify miscellaneous small scale improvements, Staff will seek input from ACAI and Council. Discussion about each target area follows:

1. Transit Stops

Accessibility related to transit was a predominant theme that arose from REIMAGINE NANAIMO consultation. City and Regional District of Nanaimo (RDN) Staff have been working together to ensure this input informs the region's Transit Redevelopment Strategy.

In addition to transit accessibility, opportunities for accessibility improvements were identified within the pedestrian realm at transit stops. The City records which transit stops are considered wheelchair accessible and which are not. Staff also access BC Transit data showing the number of people getting on and off the bus at any given stop. Together, this information allows us to identify the inaccessible transit stops that are used most frequently, suggesting the highest need for accessibility improvements (See Figure 1 Below).

On October 19, 2020, Council passed a motion "to direct Staff to prepare a report for improving transit stops within the City of Nanaimo, including options to ensure all bus stops are uniform and highly visible so they are accessible for all citizens". This was based on a motion made by the ACAI, and there is an opportunity to address the intent of that motion at this time.

Staff recommend allocating \$200,000 of the remaining Pedestrian Unallocated budget towards improving accessibility at the most frequently used inaccessible bus stops, and visual accessibility at as many bus stops as possible within the funding limits, starting with those that are most frequently used.

Figure 1

Number	Proposed Accessibility Upgrades – Transit Stops
1	5th Street at Shepherd Avenue (EB)
2	Wakesiah Avenue 120 block (NB)
3	Wakesiah Avenue 160 block (NB)

4	Bruce Avenue at Albion Street (NB)
5	Hammond Bay Road at Salmon Berry Way (WB)
6	Hammond Bay Road at Frontage (WB)
7	Dover Road at Dickinson Road (EB)
8	Uplands Drive at Littleford Road (EB)
9	Wakesiah Avenue 170 block (SB)
10	Hammond Bay Road at Parkway Drive(WB)
11	Uplands Drive at Butternut Drive (EB)
12	Labieux Road at Porcupine Hill Trail (WB)
13	Uplands Drive at Long Lake Terrace(EB)
14	Park Avenue at Murray Street(NB)
15	Hammond Bay Road at Malaspina Crescent (EB)
16	Hammond Bay Road at Tiki Way(EB)
17	Hammond Bay Road at Yorkshire Terrace(EB)
18	Hammond Bay Road 3000 block (NB)
19	Uplands Drive at Sunrise Place (EB)
20	Hammond Bay Road at Dunn Place(EB)

2. Traffic Signal Improvements

The City has 53 fully controlled signalized intersections of various ages, and with various pedestrian features. The typical features include pedestrian actuation buttons, countdown timers, and audible speakers which sound when the “walk” signal flashes.

Staff propose a program for full accessibility improvements at traffic signals. Data indicates which intersections are used most frequently by pedestrians. The improvements would include updated pedestrian actuation buttons, countdown timers, and audible speakers. If needed, curb cuts with tactile walking surface indicators would be added at letdowns.

Staff recommend allocating \$250,000 towards accessibility improvements at the highest priority locations, as shown on Figure 2 below.

Figure 2

Number	Proposed Accessibility Upgrades – Traffic Signals
1	Hammond Bay Road at Calinda
2	Hammond Bay Road at Turner
3	Hammond Bay Road at Rutherford Road
4	Hammond Bay Road at Departure Bay Road
5	Departure Bay Road at Montrose
6	Uplands Drive at Turner Road
7	Townsite Road at Terminal Avenue
8	Comox Road at Terminal Avenue
9	Comox Road at Prideaux Street
10	Victoria Road at Milton Street

3. Miscellaneous Improvements

Council or the ACAI may identify additional items in the near future so Staff recommend that the remaining \$45,000 be added to the existing small scale road improvements budget, to be utilized as and when needed to address accessibility issues that may arise through community feedback.

Summary

Staff recommend allocating the remaining pedestrian unallocated funding to a series of accessibility enhancements that are supported by the ACAI.

OPTIONS

1. That Council allocate the remaining Pedestrian Unallocated Budget as follows:
 - \$200,000 for transit stop accessibility improvements at the locations in Figure 1 of the report titled “Allocation of Pedestrian Budget to Enhance Accessibility - Part 2”, dated 2021-JUN-21;
 - \$250,000 for traffic signal accessibility improvements at the locations in Figure 2 of the report titled “Allocation of Pedestrian Budget to Enhance Accessibility - Part 2”, dated 2021-JUN-21; and
 - \$45,000 for miscellaneous accessibility improvements allocated to the Small Scale Road Improvement budget.
 - The advantages of this option: This option addresses significant accessibility gaps in the transportation system, in a prioritized way, while allowing room for flexibility if an urgent need is identified.
 - The disadvantages of this option: This option only addresses each accessibility issue in a limited way.
 - Financial Implications: None
2. That Council direct staff to allocate the Pedestrian Unallocated Funds to alternate projects.
 - The advantages of this option: This option could bring previously unidentified projects to the forefront for swift resolution.
 - The disadvantages of this option: This option may be perceived as not addressing issues in a systematic, prioritized fashion.
 - Financial Implications: None
3. That Council provide alternate direction to Staff.

SUMMARY POINTS

- Staff recommend allocating \$495,000 for transportation accessibility improvements in 2021.

- The proposed projects have been identified through consultation with the Advisory Committee on Accessibility and Inclusiveness, and through targeted REIMAGINE NANAIMO engagement with people living with limited mobility.
- Transportation accessibility improves livability for all citizens of Nanaimo.

ATTACHMENTS:

Attachment A – Excerpt from minutes of 2021-MAY-26 Special Advisory Committee on Accessibility and Inclusiveness |

Submitted by:

Jamie Rose
Manager, Transportation |

Concurrence by:

Poul Rosen
Director, Engineering |

Attachment A

MINUTES – SPECIAL ADVISORY COMMITTEE ON ACCESSIBILITY AND INCLUSIVENESS
2021-MAY-26
PAGE 4

It was moved and seconded that the Advisory Committee on Accessibility and Inclusiveness approve the recommendations, with revisions, in the LEAP Program Review and recommend Staff forward them to Council for consideration. The motion carried unanimously.

(b) Allocation of Pedestrian Budget to Enhance Accessibility

Introduced by Jamie Rose, Manager, Transportation:

- Allocation of the remainder of the pedestrian unallocated funds
- Identifying projects that will have a significant impact in the community

Committee discussion took place. Highlights included:

- Annual collision statistics to identify accident prone intersections
- Transit stops where the curb makes it difficult for people with walkers
- Disability parking at the BC Services building on Selby Street
- Tactile panel to identify bus stops helpful for people with low vision
- The use of grooves instead of rumble strips to avoid people getting caught up on the rumble strips
- Working with transit company to contribute funds towards transit accessibility
- Supportive of the list of proposed accessibility upgrades to transit stops listed in Attachment B of the report
- The use of high contrast paint to aid individuals with low vision
- Adding covered areas at the more frequently used bus stops

It was moved and seconded that the Advisory Committee on Accessibility and Inclusiveness recommend the following allocations of Pedestrian Unallocated Funds for Council's consideration:

- \$200,000 for transit stop accessibility improvements
- \$250,000 for traffic signal accessibility improvements
- \$45,000 for miscellaneous accessibility improvements allocated to the Small Scale Road Improvement budget.

The motion carried unanimously.

5. OTHER BUSINESS:

(a) Proposed Recommendations from Sarah Cameron

Introduced by Deborah Hollins, At Large Member.

It was moved and seconded that the Advisory Committee on Accessibility and Inclusiveness recommend that Council and municipal Staff adopt the use of pronouns in all written and electronic communications. The motion carried unanimously.

DATE OF MEETING | June 21, 2021 |

AUTHORED BY | LAINY STEVENSON, PLANNER, CURRENT PLANNING |

SUBJECT | **DEVELOPMENT PERMIT APPLICATION NO. DP1205 –
478 MACHLEARY STREET** |

OVERVIEW

Purpose of Report

To present for Council's consideration, a development permit application for a proposed duplex at 478 Machleary Street.

Recommendation

That Council issue Development Permit No. DP1205 at 478 Machleary Street with the following variances to:

- increase the maximum allowable principal building height from 7.75m to 8.75m; and
- increase the maximum allowable fence height within the front yard setback from 1.2m to 2.2m for the proposed decorative arbours.

BACKGROUND

A Development Permit application, DP1205, was received from Sun Porch Homes Ltd. for a proposed duplex at 478 Machleary Street.

Subject Property and Site Context

<i>Zoning</i>	R13 – Old City Duplex Residential
<i>Location</i>	The subject property is located in the 400 block of Machleary Street between Albert Street and Franklyn Street.
<i>Total Area</i>	872m ²
<i>Official Community Plan (OCP)</i>	Map 1 – Neighbourhood; Map 3 – Development Permit Area DPA No. 8 – Old City Neighbourhood; Development Permit Area No. 9 - Commercial, Industrial, Institutional, Multiple Family, and Mixed Commercial/Residential development.
<i>Old City Neighbourhood Plan</i>	Sub Area 1a Single Family / Duplex
<i>Relevant Design Guidelines</i>	General Development Permit Area Design Guidelines Old City Multiple Family Residential Design Guidelines

The subject property is located within the Old City Neighborhood Plan area. The neighbourhood plan encourages sensitive infill that is consistent with the historical, architectural character of the neighbourhood.

The lot is rectangular in shape and slightly sloped upward from south to north. No buildings or structures are currently located on the property. The subject property formerly contained a duplex that was damaged by a fire and later demolished in 2014. The surrounding area is predominantly characterized by established single family residential properties.

DISCUSSION

Proposed Development

The applicant is proposing to construct a two-storey side-by-side duplex with a detached garage. The building contains 2 four-bedroom units, approximately 188.25m² in floor area, with a total gross floor area (GFA) of approximately 423m².

Site Design

The proposed duplex is set back 10.55m from the front property line on Machleary Street, which is consistent with the siting of other homes along the street. Each unit has a covered porch facing Machleary Street with direct pedestrian access to the street and to the rear of the building.

A two-car detached garage is located at the rear of the lot, and is accessed by the lane. Two additional parking spaces are located on either side of the detached garage, providing the required four parking spaces. There are also two roughed-in electric vehicle (EV) charging stations proposed for the parking area and secure bike storage within the garage. Garbage and recycling bins will be stored to the rear of each unit.

Building Design

The proposed building faces Machleary Street and provides a visual connection to the street. Finishing materials include board and batten, horizontal vinyl siding, vinyl shingles, and wood. Gable and hip roofs with a steep pitch (8:12), heavy trim, and rectangular windows reflect the residential character of the Old City neighbourhood in accordance with the City's design guidelines. Southern-facing windows and projecting features provide articulation and interest.

Landscape Design

The proposed landscape plan includes a private yard for each unit with flowering trees, shrubs, and perennials. A terraced boulder garden wall with supplemental plantings is provided in front of Unit B. The planting list predominantly features indigenous and drought-tolerant plants to reduce water consumption. Aggregate concrete walkways and patios are provided with supplemental gravel edging around the building.

A wooden fence is proposed to be located along the perimeter of the property. Two decorative arbours with gates are proposed at the walkway entrances to each unit along Machleary Street. Lighting is provided both on the building and along the pathways for wayfinding.

Design Advisory Panel

The Design Advisory Panel, at its meeting held on 2020-OCT-22, accepted DP001205 as presented with support for the proposed variances. The following recommendation was provided:

- Consider the addition of more trees and landscape features to the property.

The applicant responded to the DAP recommendations by adding more trees to the landscape plan.

Proposed Variances

Maximum Building Height

A variance is required to increase the maximum allowable building height from 7.75m to 8.75m; a proposed variance of 1.0m. The additional height is requested in order to accommodate the steep roof pitch (8:12) that is intended by the Old City Multiple Family Residential Design Guidelines and is consistent with the character of the surrounding neighbourhood. Staff support the proposed variance.

Maximum Fence Height

A variance is required to increase the maximum allowable fence height within the front yard setback from 1.2m to 2.2m, a proposed variance of 1.0m, in order to add two decorative arbours with gates adjacent to the sidewalk. The remainder of the proposed fencing complies with the maximum permitted fence height. These landscape features will identify the unit entries from the street and add interest to the property frontage as intended by the Old City Multiple Family Residential Design Guidelines. Staff support the proposed variance.

SUMMARY POINTS

- Development Permit Application No. DP1205 is for a proposed duplex at 478 Machleary Street.
- Variances are requested to increase the maximum allowable principal building height and fence height for the proposed decorative arbours.
- The proposed development meets the City's design guidelines and Staff support the proposed variances.

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Context Map
ATTACHMENT C: Location Plan
ATTACHMENT D: Survey Plan
ATTACHMENT E: Building Elevations and Details
ATTACHMENT F: Landscape Plan and Details
ATTACHMENT G: Aerial Photo

Submitted by:

Lainya Rowett
Manager, Current Planning

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
General Manager, Development Services

||

ATTACHMENT A

PERMIT TERMS AND CONDITIONS

TERMS OF PERMIT

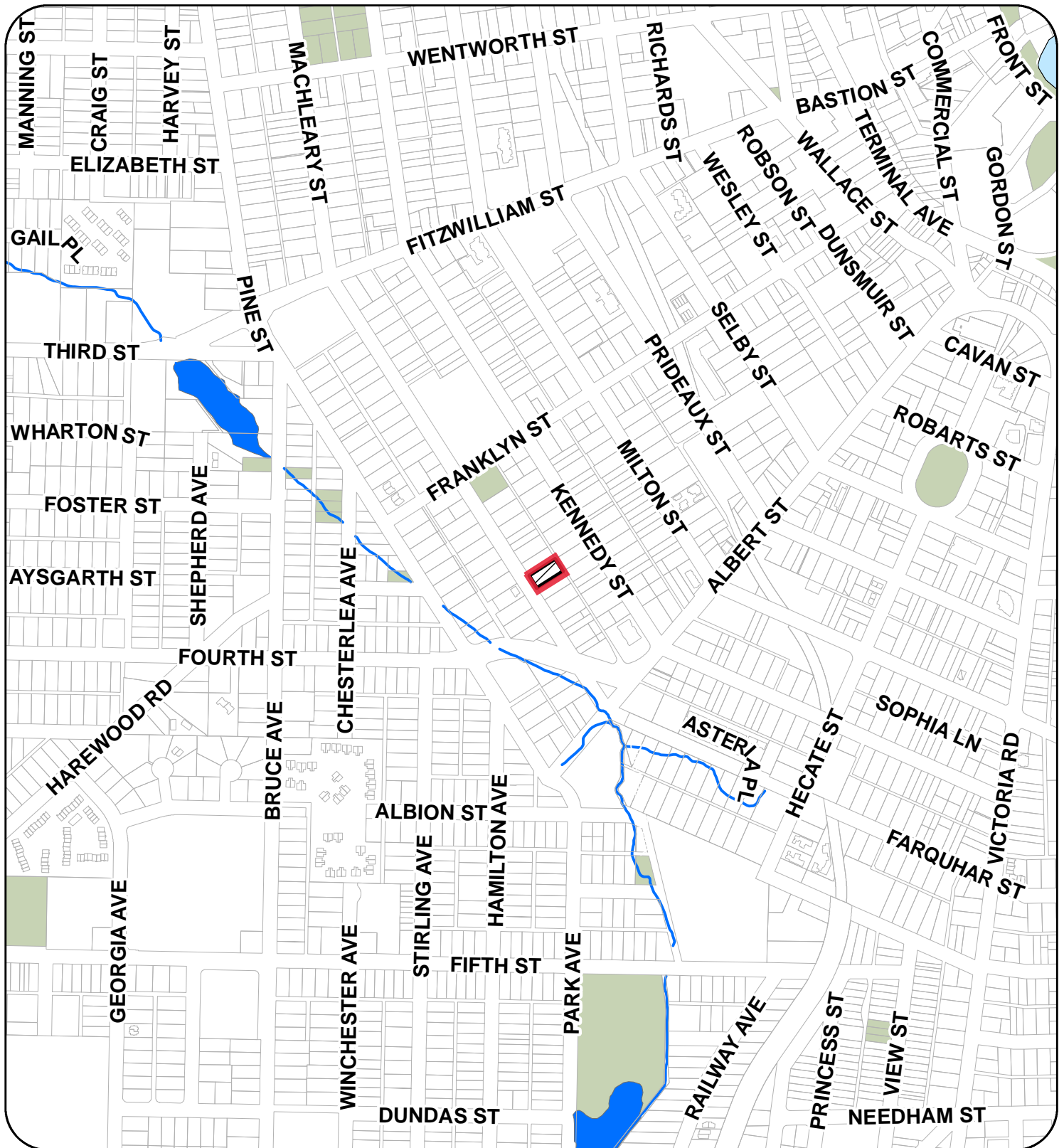
The “City of Nanaimo Zoning Bylaw 2011 No. 4500” is varied as follows:

1. *Section 7.6.1 Size of Buildings* – to increase the maximum allowable principal building height from 7.75m to 8.75m.
2. *Section 6.10.2 Fence Height* – to increase the maximum allowable fence height within the front yard setback from 1.2m to 2.2m for the proposed decorative arbours with gates.

CONDITIONS OF PERMIT

1. The subject property is developed in substantial compliance with the Site Survey prepared by Harbour City Land Surveying Ltd., dated 2021-MAY-06, as shown on Attachment D.
2. The development is in substantial compliance with the Building Elevations and Details prepared by Sun Porch Homes Ltd. received 2020-JUL-23, and 2021-MAY-12, as shown on Attachment E.
3. The subject property is developed in substantial compliance with the Landscape Plan and Details prepared by Sun Porch Homes Ltd. received 2021-MAY-13, as shown on Attachment F.

ATTACHMENT B CONTEXT MAP



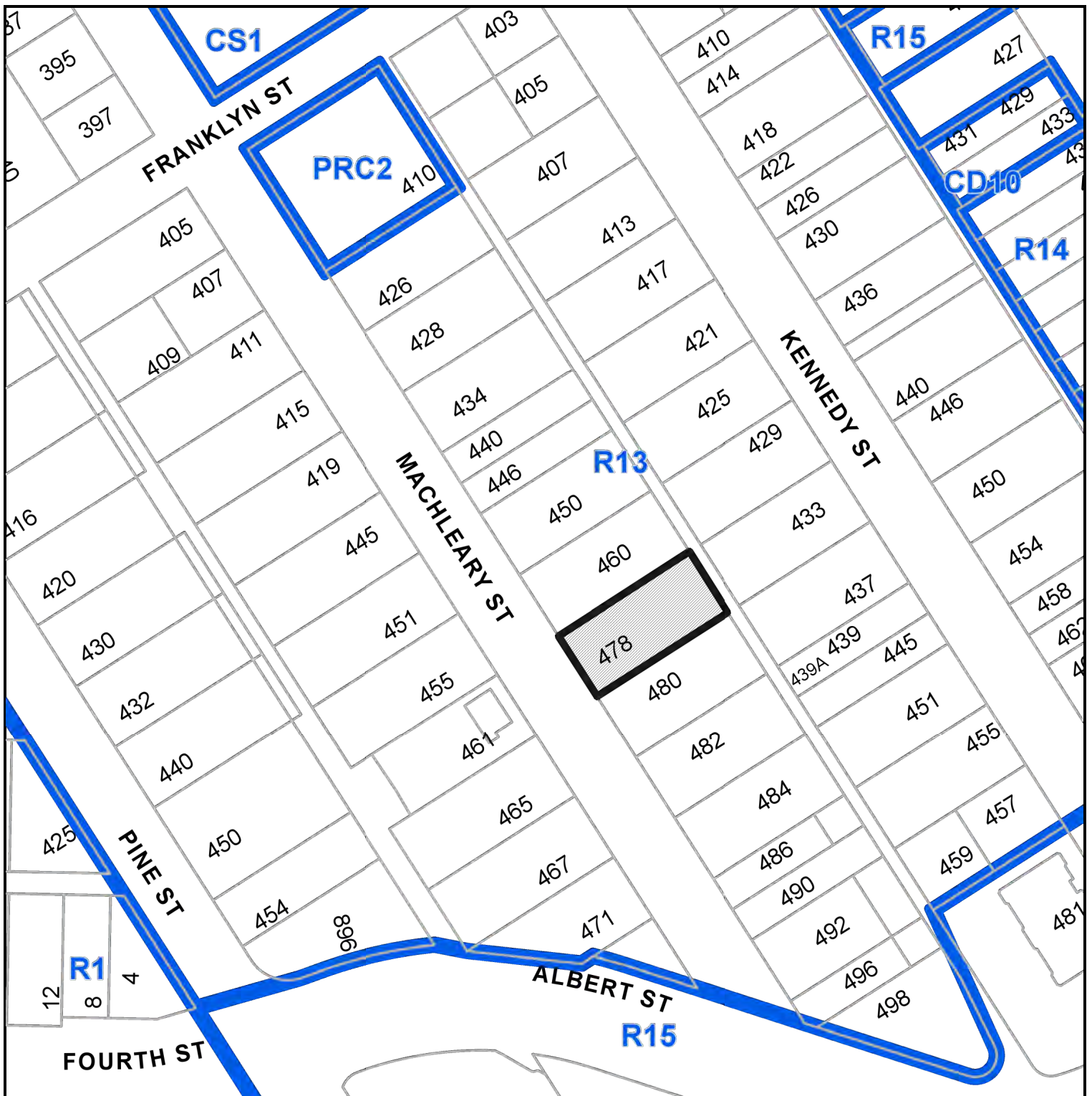
DEVELOPMENT PERMIT APPLICATION NO. DP001205

N



478 MACHLEARY STREET

ATTACHMENT C
LOCATION PLAN



Subject Property

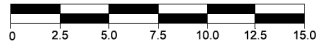
DEVELOPMENT PERMIT APPLICATION NO. DP001205

CIVIC: 478 MACHLEARY STREET

LEGAL: SECTION D, LOT 8, BLOCK W, SECTION 1, NANAIMO DISTRICT, PLAN
584

ATTACHMENT D SURVEY PLAN

B.C. LAND SURVEYOR'S CERTIFICATE OF PROPOSED LOCATION ON:
SECTION D, LOT 8, BLOCK W, SECTION 1, NANAIMO DISTRICT, PLAN 584.



ALL DISTANCES AND ELEVATIONS ARE IN METRES AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.

THE INTENDED PLOT SIZE OF THIS PLAN IS 432 mm IN WIDTH BY 279 mm IN HEIGHT (B SIZE)
WHEN PLOTTED AT A SCALE OF 1:250.

LOT DIMENSIONS ARE DERIVED FROM REGISTERED PLANS.

CIVIC ADDRESS: 478 MACHLEARY STREET, NANAIMO.

PID: 003-482-120 ZONING: R-13.

LEGEND:

X DENOTES SPOT ELEVATION;
FG DENOTES FINISHED GRADE;
NG DENOTES NATURAL GRADE.

ELEVATION DATUM IS DERIVED FROM OBSERVATION TO GEODETIC MONUMENT 77H5102.
MONUMENT ELEVATION = 69.816.

HOUSE DESIGN FROM SUN PORCH HOMES.
DRAWINGS DATED JUNE 2020.

THIS PLAN PURPORTS TO POSITION ONLY THE ACTUAL AND/OR PROPOSED IMPROVEMENT(S) SHOWN RELATIVE TO ONLY THE BOUNDARIES SHOWN OF OR APPURTENANT TO THE ABOVE DESCRIBED PARCEL(S).
THIS PLAN PROVIDES NO WARRANTY OR REPRESENTATION WHATSOEVER WITH RESPECT TO THE LOCATION OF ANY OTHER ACTUAL OR PROPOSED IMPROVEMENT(S) RELATIVE TO ANY BOUNDARY OF OR APPURTENANT TO THE ABOVE DESCRIBED PARCEL(S).
THIS PLAN IS NOT TO BE USED TO RE-ESTABLISH BOUNDARY LINES.

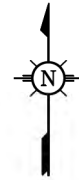
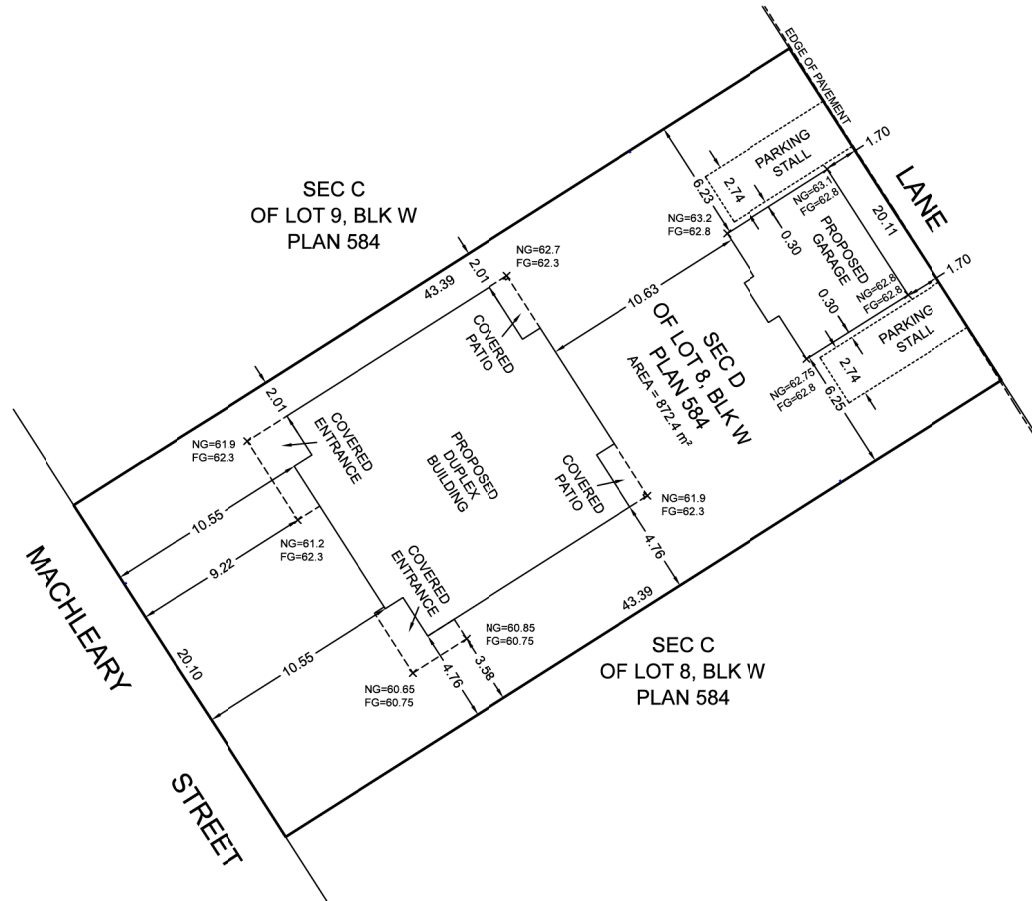
Harbour City Land Surveying Ltd.
1825 LATIMER ROAD © 2020
NANAIMO BC V9S 5H2
PHONE: 250-758-4180

DRAWING: 17014-HS-JUNE 2020.DWG
LAYOUT: 1

MAX. GARAGE SLAB ELEVATION PER CITY OF NANAIMO GUIDELINES FOR SINGLE FAMILY ACCESSES	
EDGE OF PAVEMENT ELEVATION	62.9
MAXIMUM RECOMMENDED RISE	0.16
MAX. GARAGE SLAB ELEVATION	63.16
PROPOSED SLAB ELEVATION	62.90

MAXIMUM HOUSE HEIGHT CALCULATION	
MEAN FG	61.78
MEAN NG	61.53
MAXIMUM HEIGHT PER BYLAW	7.75
MAXIMUM MID-ROOF	69.28
PROPOSED MAIN FLOOR	62.50
HEIGHT MAIN TO MID-ROOF	7.69
PROPOSED MID-ROOF	70.19
VARIANCE REQUIRED	0.91

MAXIMUM GARAGE HEIGHT CALCULATION	
MEAN NG	62.96
MEAN FG	62.80
MAXIMUM HEIGHT PER BYLAW (8/12)	5.5
MAXIMUM ROOF PEAK	68.30
PROPOSED SLAB FLOOR	62.90
HEIGHT SLAB TO PEAK	4.77
PROPOSED ROOF PEAK	67.67



THE UNDERSIGNED CONFIRMS THAT HE HAS BEEN RETAINED BY SUN PORCH HOMES TO PROVIDE FOUNDATION LAYOUT IN ACCORDANCE WITH THE FOUNDATION LOCATION SHOWN ON THIS PLAN.

THIS PARCEL MAY BE SUBJECT TO REGISTERED CHARGES, INTERESTS AND LEGAL NOTATIONS AS SHOWN ON TITLE NO: CA5914993.

THIS PLAN DOES NOT PURPORT TO VERIFY COMPLIANCE WITH THE RESTRICTIONS THEREIN.

THE SIGNATORY ACCEPTS NO RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES THAT MAY BE SUFFERED BY A THIRD PARTY AS A RESULT OF ANY DECISIONS MADE, OR ACTIONS TAKEN BASED ON THIS DOCUMENT.

THIS BUILDING LOCATION CERTIFICATE HAS BEEN PREPARED IN ACCORDANCE WITH THE MANUAL OF STANDARD PRACTICE AND IS CERTIFIED CORRECT THIS DATE OF: MAY 6, 2021.

RECEIVED
DP1205
2021-MAY-12
Current Planning

Digitally signed by Andre McNicoll OHSJGW
DN: cn=Vernity ID at
www.sundel.com, o=JPL, st=BC, c=CA, email=Andre.McNicoll@OHSJGW-CA
Andre McNicoll OHSJGW
Reason: Height Survey
Contact: info.andre@mcnicoll.ca
Date: 2021.05.06 10:21:21 -07'00'

ANDRE MCNICOLL B.C.L.S.
THIS DOCUMENT IS INVALID UNLESS ELECTRONICALLY SIGNED.

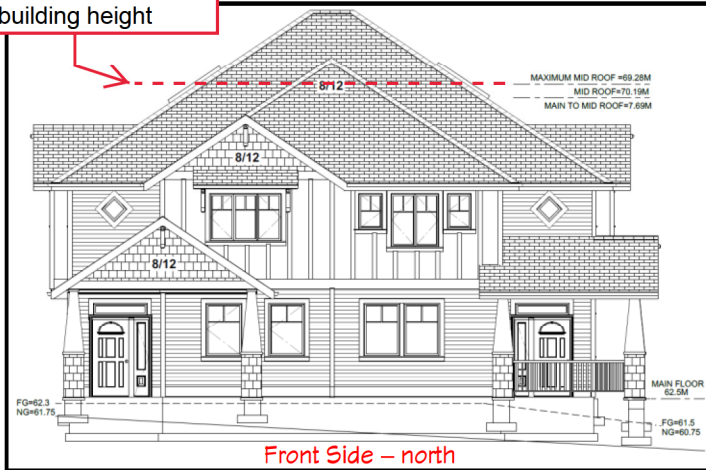
ATTACHMENT E
BUILDING ELEVATIONS AND DETAILS
478 Machleary Street



1 of 4

Two Unit Attached Duplex

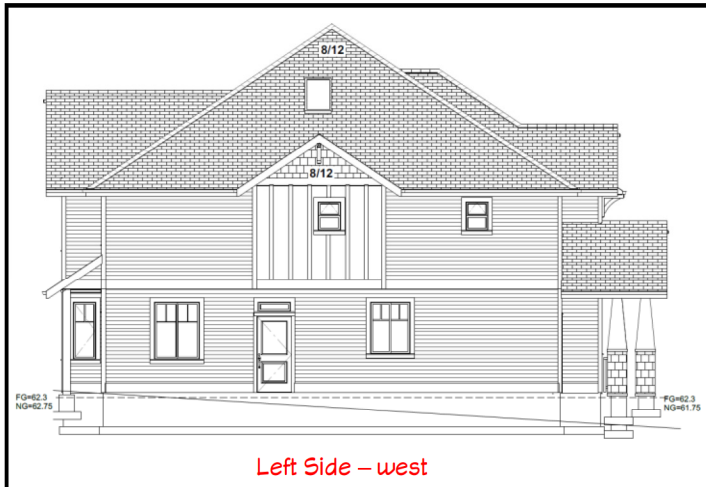
Maximum allowable
building height



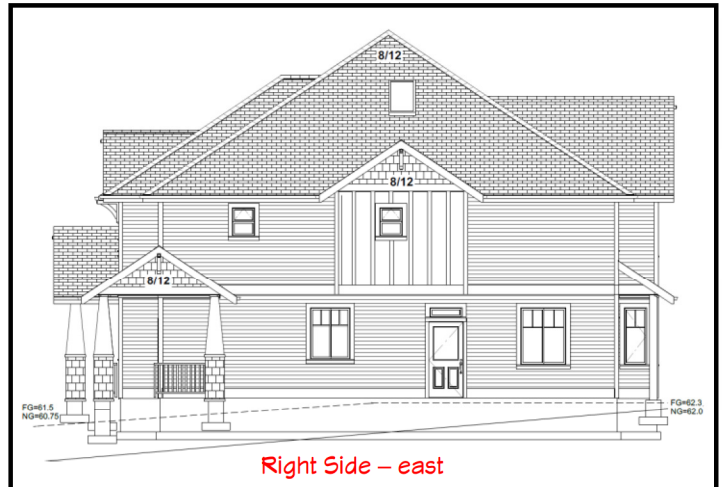
Front Side - north



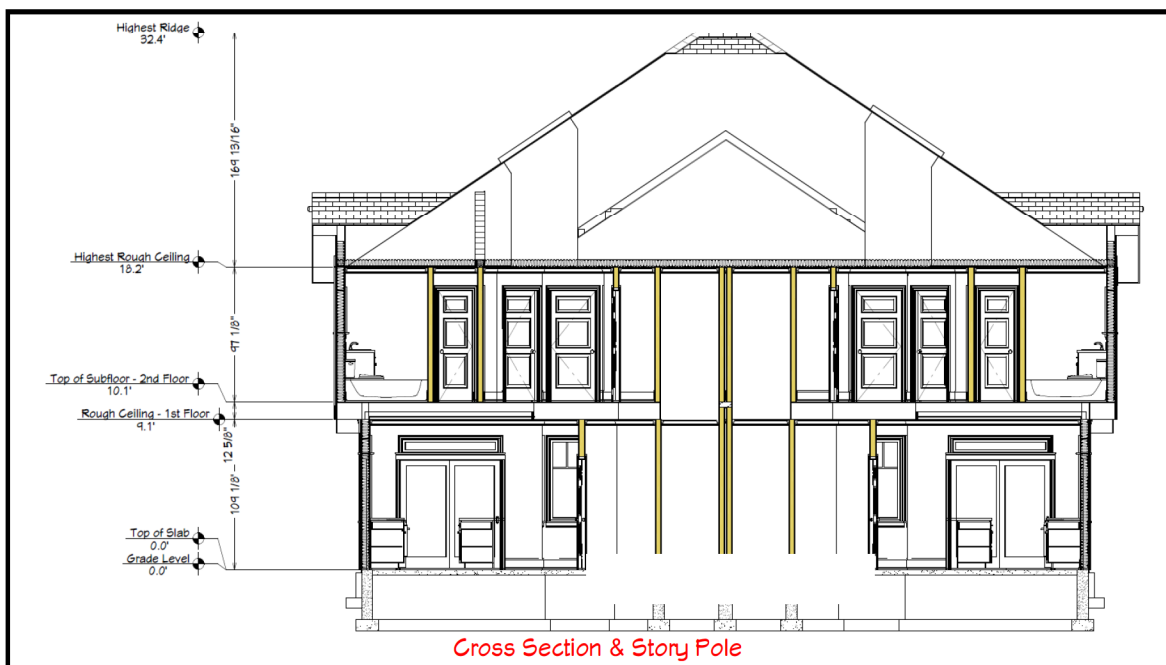
Back Side - south



Left Side - west



Right Side - east



Cross Section & Story Pole

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DETACHED GARAGE



Left View



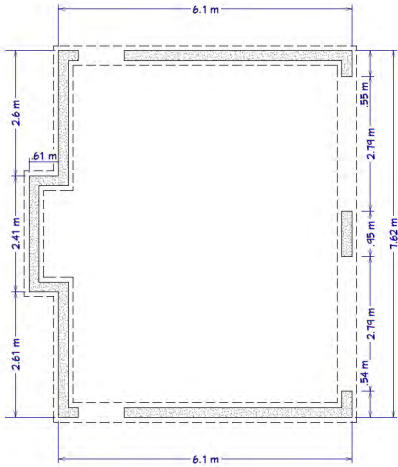
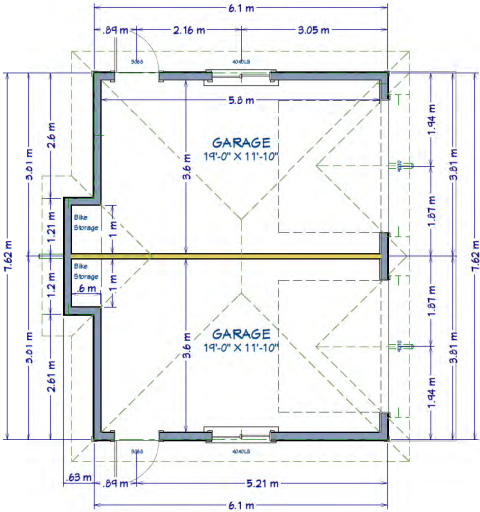
Back View



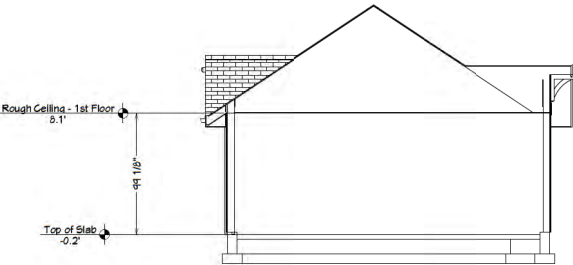
Right View



Front View



2 of 4



ROOF:
FIBERGLASS SHINGLES
1/2" SHEATHING
8/12 ENGINEERED TRUSSES

EXTERIOR WALLS
VINYL SIDING
2 LAYERS 30min. BUILDING PAPER
1/2" SHEATHING

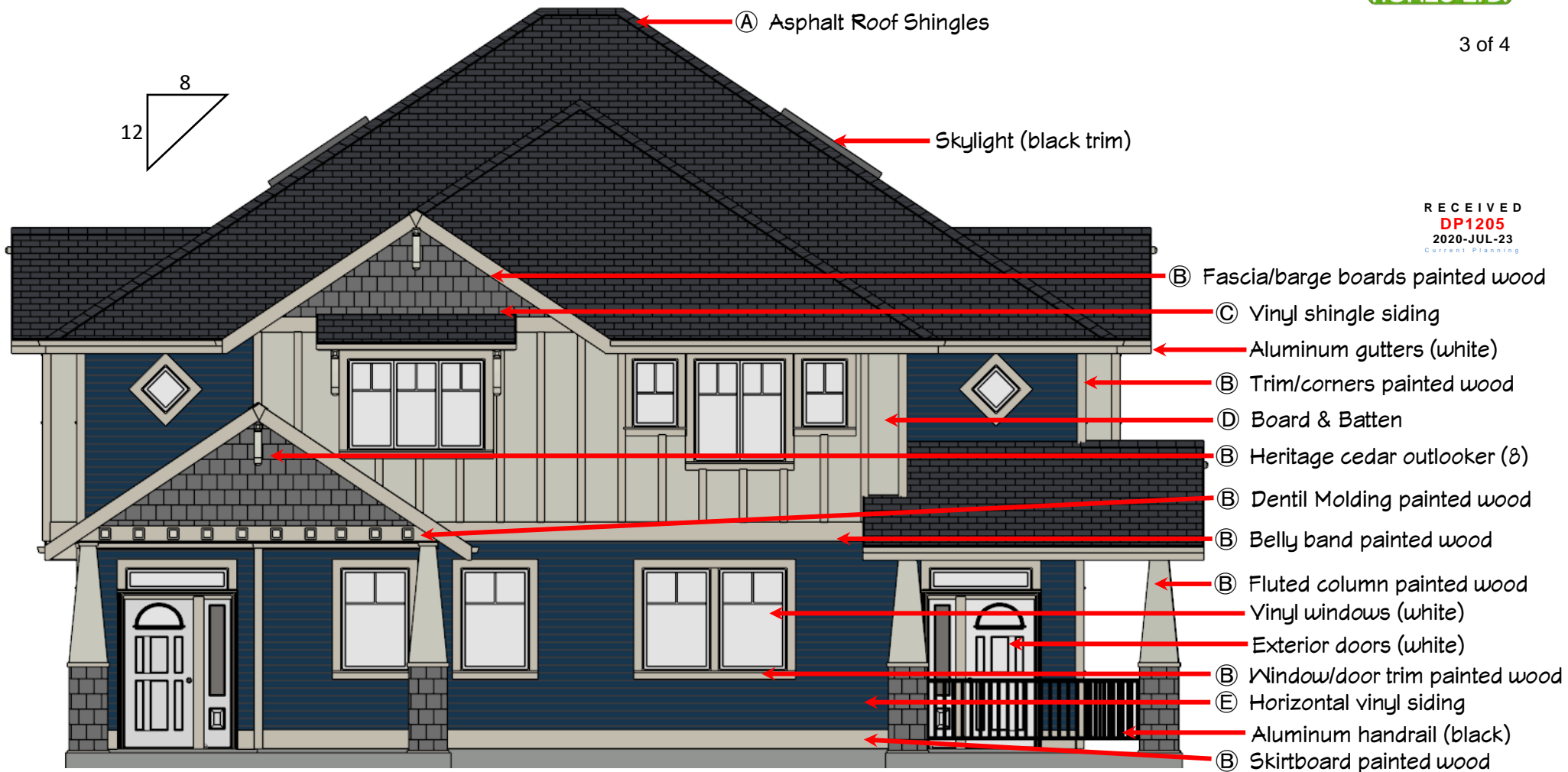
4" CONCRETE SLAB ON GRADE
6" COMPACTED GRAVEL



SHEET TITLE: Floor Plan/Foundation Cross Section	
DRAWINGS PROVIDED BY: Trevor Young	DATE: 2021-04-28
PROJECT DESCRIPTION: 478 Machleary Garage	SCALE: 1/4" = 1'
	SHEET: A-1

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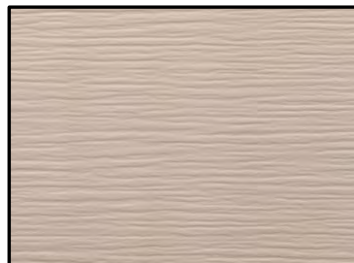
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2020-JUL-23
CURRENT PLANNING



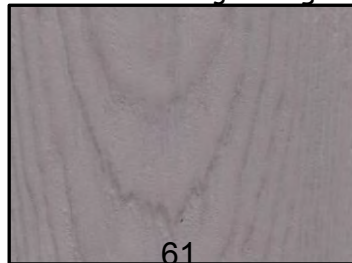
(A) Roofing: double laminate shingles 'Shadow Black'



(B) Wood Trim: 'Wicker Café'



(C) Shingle Siding: Sequoia Select 'Heritage Grey'



(D) Board & Batten: Hardie Board 'Canyon Clay'



(E) Horizontal Siding: Sequoia Select 'Marine Dusk'



Elevation – 'left side' ~ north/east



Elevation – 'right side' ~ north/west



Elevation – 'back of building' ~ north



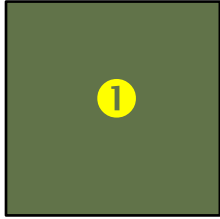
ATTACHMENT F LANDSCAPE PLAN AND DETAILS

1 of 2

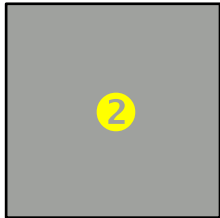


Landscape Plan ~ 478 Machleary Street

① Lawn: Fescue blend



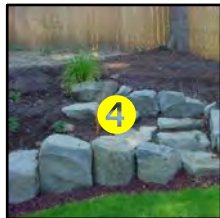
② Aggregate concrete walkways & patios



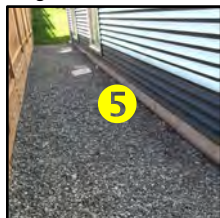
③ Driveway & parking driveway chip



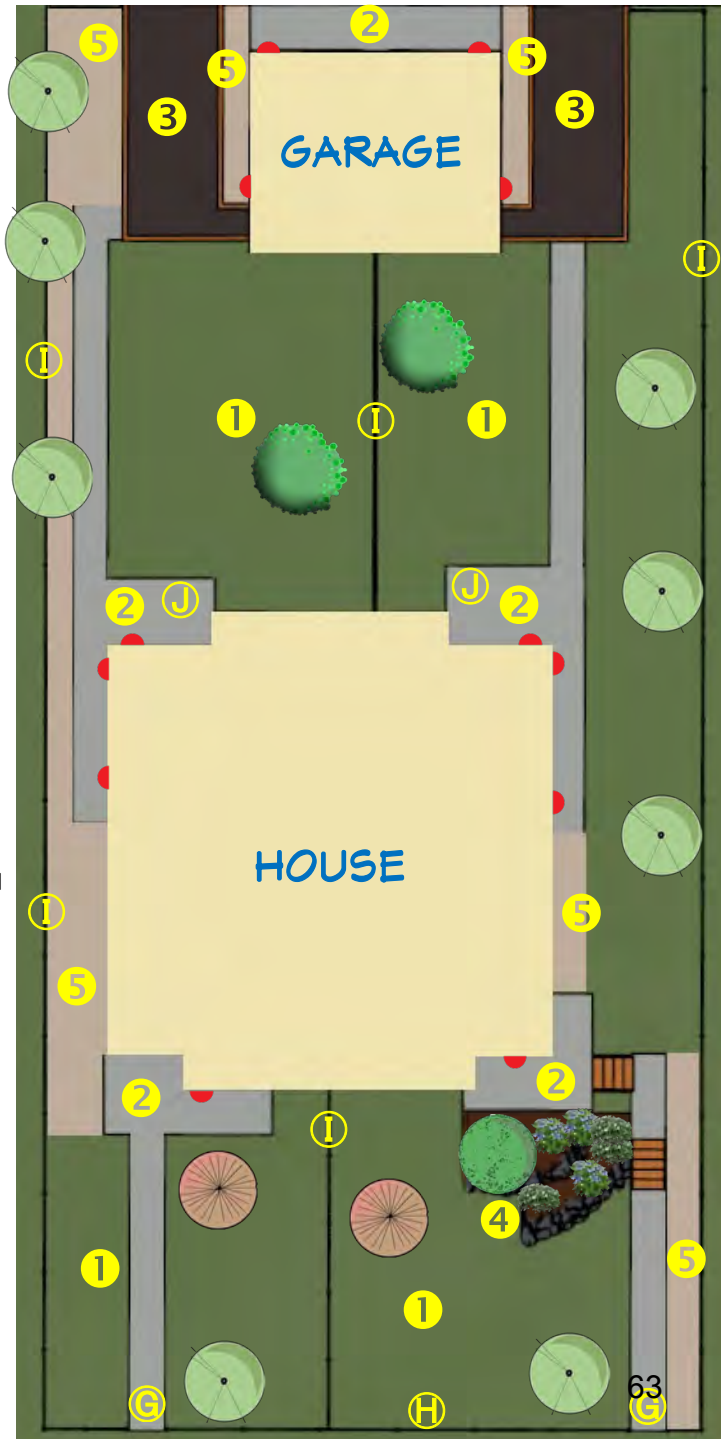
④ Basalt boulder garden wall



⑤ Ornamental rocks around building for maintenance



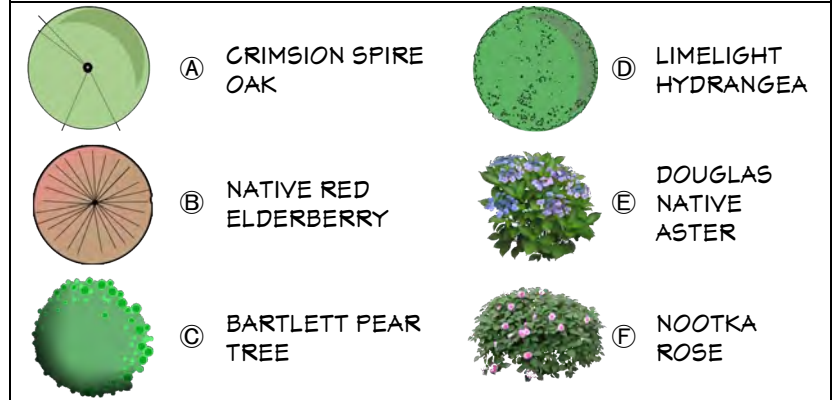
⑥



PLANT NAMES, QUANTITIES & SIZES

TYPE	NAME	#	SIZE
① TREE	CRIMSON SPIRE OAK [Quercus 'Crimson Spire']	8	#7 POT
② FLOWERING TREE	NATIVE RED ELDERBERRY [Sambucus racemosa]	2	#7 POT
③ FLOWERING TREE	BARTLETT PEAR [Pyrus communis 'Bartlett']	2	#2 POT
④ SHRUB	LIMELIGHT HYDRANGEA [Hydrangea paniculata]	2	#2 POT
⑤ PERENNIALS	DOUGLAS NATIVE ASTER [Aster douglasii subspicatus]	3	10CM POT
⑥ PERENNIALS	NOOTKA ROSE [Rose nutkana]	3	10CM POT

PLANT LEGEND



FENCING & LIGHTING

ITEM	COMMENTS
⑦ FRONT ENTRY (2)	CLOSING & LOCKING
⑧ FRONT FENCE	47" (1.2M) HIGH
⑨ SIDE/REAR FENCE	94.4" (2.4M) HIGH
⑩ GARBAGE CANS	1 STORAGE AREA PER UNIT
⑪ HOUSE LIGHT	12 WALL/SOFFIT MOUNTED



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2021-MAY-13
Current Planning

PLANT PHOTO LEGEND



Ⓐ CRIMSON SPIRE OAK



Ⓑ NATIVE RED ELDERBERRY



Ⓒ BARTLETT PEAR



Ⓓ LIMELIGHT HYDRANGEA



Ⓔ DOUGLAS NATIVE ASTER



Ⓕ NOOTKA ROSE

Things to Note:

1. Predominantly native plants have been selected for the landscaping to reduce water consumption and to encourage better rooting through acclimatization.
2. A low maintenance blend of Fescue grass has been chosen as this grass blend is deep rooted requiring less water while also needing less fertilizer and less maintenance as its maximum growing height is about 6 inches.
3. The circumference of the building is skirted in an ornamental rock covering with a board edging. This rock skirting will prevent moisture and insect damage.
4. An underground sprinkler system was not considered as the property's landscaping plan is orientated toward the reduction of water consumption. Also, four hose bibbs will be installed on this property.
5. As this side-by-side duplex has no common areas, the homeowners of Unit A and Unit B will be able to further develop their own landscaping plans independently.

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An aerial photograph of a residential neighborhood with white property lines overlaid. The property at 478 is highlighted with a red rectangle. The street MACHLEARY ST runs diagonally from the bottom left towards the top right. The street KENNEDY ST runs diagonally from the top right towards the bottom left. Various house numbers are visible, including 411, 415, 419, 426, 428, 434, 440, 445, 451, 455, 461, 465, 467, 471, 478, 480, 482, 484, 486, 490, 492, 430, 436, 440, 445, 449A, 451, 455, 461, 465, 467, 471, 478, 480, 482, 484, 486, 490, 492, 430, 436, 440, 445, 449A, 451, 455, 461, 465, 467, 471, 478, 480, 482, 484, 486, 490, 492.



DATE OF MEETING June 21, 2021

AUTHORED BY SADIE ROBINSON, PLANNING ASSISTANT, CURRENT PLANNING

SUBJECT **DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP421 – 5524 CLIFFSIDE ROAD**

OVERVIEW

Purpose of Report

To present for Council's consideration, a development variance permit application to increase the maximum allowable building height and perimeter wall height for a proposed dwelling at 5524 Cliffside Road.

Recommendation

That Council issue Development Variance Permit No. DVP421 at 5524 Cliffside Road with the following variances:

- to increase the maximum allowable height for a proposed dwelling with a flat roof from 7m to 9m; and
- to increase the perimeter wall height from 7.32m to 9.30m on the east and west elevations, and increase the perimeter wall height from 9.14 to 9.50m on the south elevation.

BACKGROUND

A development variance permit application, DVP421, was received from Michel and Robin Brulotte to vary the provisions of the "City of Nanaimo Zoning Bylaw 2011 No. 4500" (the "Zoning Bylaw") to increase the maximum permitted building height and perimeter wall height for a proposed single residential dwelling at 5524 Cliffside Road. The subject property is a vacant lot with mature trees that is located in an area characterized by single family homes. The buildable area has 17% slope, and there is a 9m-high cliff running through the middle of the lot.

Subject Property and Site Context

<i>Zoning</i>	R1 – Single Residential Dwelling
<i>Location</i>	The subject property is located on the north side of Cliffside Road between Altavista Drive and Smokey Crescent.
<i>Total Area</i>	3,651m ²
<i>Official Community Plan</i>	Map 1 – Future Land Use – Neighbourhood

Statutory notification has taken place prior to Council's consideration of the proposed variances.

DISCUSSION

Proposed Development

The applicant proposes to construct a two-storey 332.6m² (3,580 ft²) single family dwelling with a small daylight basement that is necessitated by the steeply sloping rock topography of the site. A detached garage is also proposed that does not require variances.

The proposed siting was selected to minimize the impact of the built form on the natural landscape of the site and the wish to maximize the views to the water and mountains from the house. The proposed dwelling will be located in the southeasterly portion of the lot, nearest the existing panhandle access. The development is designed to maintain the natural lot surface and minimize excavation to the greatest extent possible, while minimizing the impact on the natural environment of the site by retaining as many trees as practical on the lot. The upper level of the home is accessed via a bridge. The built form steps down the sloping site. The building uses a flat roof, which reduces the vertical extent of the building.

Proposed Variances

Building Height

The maximum permitted height for a single residential dwelling with a flat roof (< 4:12 pitch) is 7m. The applicant proposes to construct a single residential dwelling with a flat roof up to 9m in height. This represents a variance of 2m.

Despite siting the house on the most practical area of the property, the natural grade varies by approximately 3m at the location of the proposed dwelling. Due to the lower natural grade on one side, this skews the average grade to be lower, which reduces the overall height permitted on the higher portion of the property. This limits the ability to achieve two storeys in the area with the highest natural grade.

The applicant has provided a Shadow Study (Attachment G) that considered the potential impacts of the proposed development on neighbouring properties. The study included 13 surrounding properties and concluded that when comparing a house with compliant height to the proposed house with height variances, there was a negligible difference as a result of the variances, especially with the building separation (approximately 17m-70m) between existing residences and the proposed dwelling. The applicant has also provided three letters of support from neighbours at 5577 Sunridge Place, 5567 Lost Lake Road, and 5530 Cliffside Road.

The subject property is relatively large when compared to neighbouring properties, allowing for increased setbacks on the west (18.63m), north (21.67m), and east (18.39m) sides. The dwelling is proposed to be set back 3.6m from the nearest property (south), which exceeds the minimum required 1.5m side yard setback. The nearest dwelling (south) is approximately 17m from the proposed dwelling, and the second nearest dwelling (east) is approximately 34m from the proposed dwelling.

The main floor of the proposed dwelling is approximately 12m higher than the adjacent properties to the north, approximately 16m higher than the properties to the west, and there are mature trees on neighbouring properties to the north screening the lower houses from view.

The proposed dwelling is of comparable height with the two adjacent properties fronting on Cliffside Road.

Tree removal is minimized by building primarily on the steeply sloping exposed bedrock. The proposed dwelling meets all other bylaw requirements, including lot coverage and setbacks. While the zoning permits a 40% lot coverage, the proposed development (including detached garage) has a combined lot coverage of approximately 6%. The applicant has made an effort to minimize impacts on neighbours and the natural environment by opting for a more compact building form and size that is comparable to other homes in the neighbourhood. Despite the request for additional building height, the proposed dwelling is well separated and screened by trees from homes on the north side, and would appear as a single storey from Cliffside Road.

Perimeter Wall Height

The Zoning Bylaw permits a maximum perimeter wall height up to 7.32m, except on rear and internal side yard elevations where a perimeter wall height of 9.14m is permitted when the wall face does not exceed 7.32m in width. The applicant proposes to vary the perimeter wall height from 7.32m to 9.30m on the east and west side elevations, and to vary the perimeter wall height from 9.14 to 9.50m on the south side elevation. This represents a variance of 1.98m on the east and west elevations, and 0.36m on the south elevation.

Due to the steeply sloping building site, the perimeter wall height increases as it extends toward the area where natural grade is lowest. The applicant proposes to maintain the two-storey structure with a gradual stepping down the terrain, rather than bringing more fill onsite to increase the finished grade.

The proposed dwelling is well separated from neighbouring properties, and there are mature trees to the north of the property that help maintain privacy, and minimize the impact of shadowing and overlook on surrounding properties. The architect has made an effort to break up building massing, while creating an architecturally significant design based on the unique characteristics of the site.

Staff support the proposed variances.

SUMMARY POINTS

- Development Variance Permit No. DVP421 proposes a variance to increase the maximum allowable building height for a flat roof, and the maximum allowable perimeter wall height on the east, west, and south elevations to accommodate a dwelling on a steeply sloping lot.
- The proposed dwelling meets lot coverage and setback requirements.
- Letters have been provided in support of the application.

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Context Map
ATTACHMENT C: Location Plan
ATTACHMENT D: Survey Plan
ATTACHMENT E: Building Elevations
ATTACHMENT F: Perspective Views
ATTACHMENT G: Shadow Study Images
ATTACHMENT H: Aerial Photo

Submitted by:

Lainya Rowett
Manager, Current Planning

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
General Manager, Development Services

ATTACHMENT A

PERMIT TERMS AND CONDITIONS

TERMS OF PERMIT

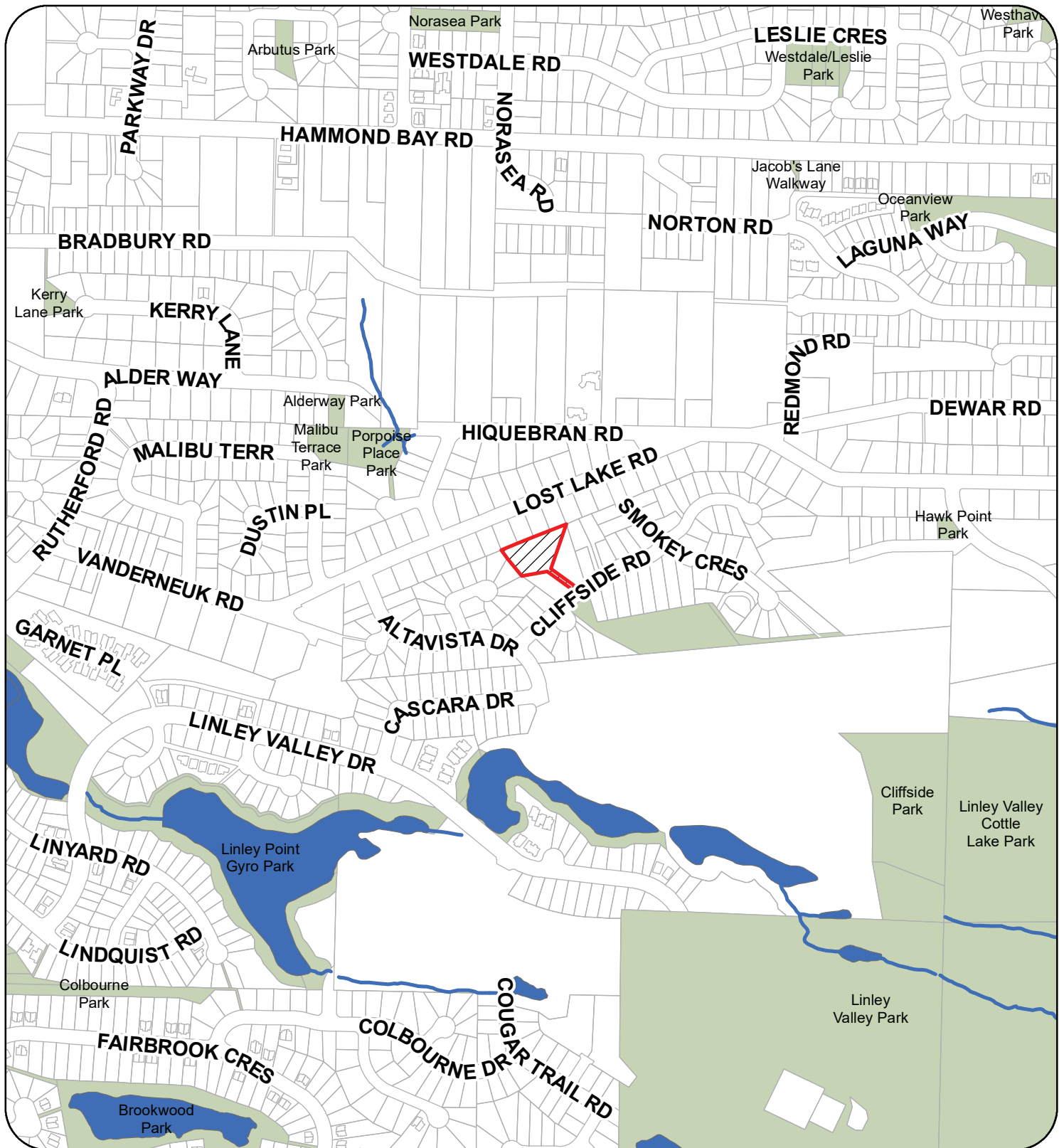
The “City of Nanaimo Zoning Bylaw 2011 No. 4500” is varied as follows:

1. *Section 7.6.1 Size of Buildings* – to increase the maximum allowable height of a principal building with a flat roof (< than 4:12 pitch) from 7m to 9m.
2. *Section 7.6.1 Size of Buildings* – to increase the maximum permitted perimeter wall height from 7.32m to 9.30m on the east (side) and west (side) elevations.
3. *Section 7.6.6 Maximum Perimeter Wall Height* – to increase the maximum permitted perimeter wall height from 9.14 to 9.50m on the south (side) elevation.

CONDITIONS OF PERMIT

1. The subject property shall be developed in accordance with the Survey Plan prepared by Tyler Hansen of Williamson & Associates Professional Surveyors, dated 2021-MAR-16, as shown on Attachment D.
2. The subject property shall be developed in substantial compliance with the Building Elevations prepared by Colizza Bruni Architecture, received 2021-APR-27, as shown on Attachment E.

ATTACHMENT B CONTEXT MAP



DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP00421

N



5524 CLIFFSIDE ROAD



LEGAL: LOT 13, DISTRICT LOT 50, WELLINGTON DISTRICT, PLAN VIP77213

ATTACHMENT D SURVEY PLAN

B.C. LAND SURVEYOR'S CERTIFICATE OF PROPOSED LOCATION ON:

LOT 13, DISTRICT LOT 50, WELLINGTON DISTRICT, PLAN VIP77213

SCALE 1:250
0 2 4 6 8 10 15 metres
DISTANCES AND ELEVATIONS ARE IN METRES.

NOTES:

CIVIC ADDRESS: 5524 CLIFFSIDE ROAD, NANAIMO

LOT DIMENSIONS ARE DERIVED FROM REGISTERED PLANS.

ELEVATION DATUM IS DERIVED FROM INTEGRATED SURVEY CONTROL MONUMENTS.

HOUSE DESIGN FROM COLIZZA BRUNI ARCHITECTURE DRAWINGS RECEIVED MARCH 15, 2021.

THE UNDERSIGNED CONFIRMS THAT HE HAS BEEN RETAINED BY MICHEL AND ROBIN BRULOTTE TO PROVIDE FOUNDATION LAYOUT IN ACCORDANCE WITH THE FOUNDATION LOCATION SHOWN ON THIS PLAN.

182.00 DENOTES PROPOSED GARAGE SLAB.

FG 177.4 DENOTES TYPICAL SPOT ELEVATION OF PROPOSED FINISHED GRADE (FG).

NG 177.4 DENOTES TYPICAL SPOT ELEVATION OF NATURAL GRADE (NG) IN CONFORMANCE WITH THE CITY OF NANAIMO BYLAW.

CONTOURS SHOWN ARE DERIVED FROM 2019 FIELD SURVEY OF EXISTING CONDITIONS AND ARE 1.0 METRE INTERVAL.

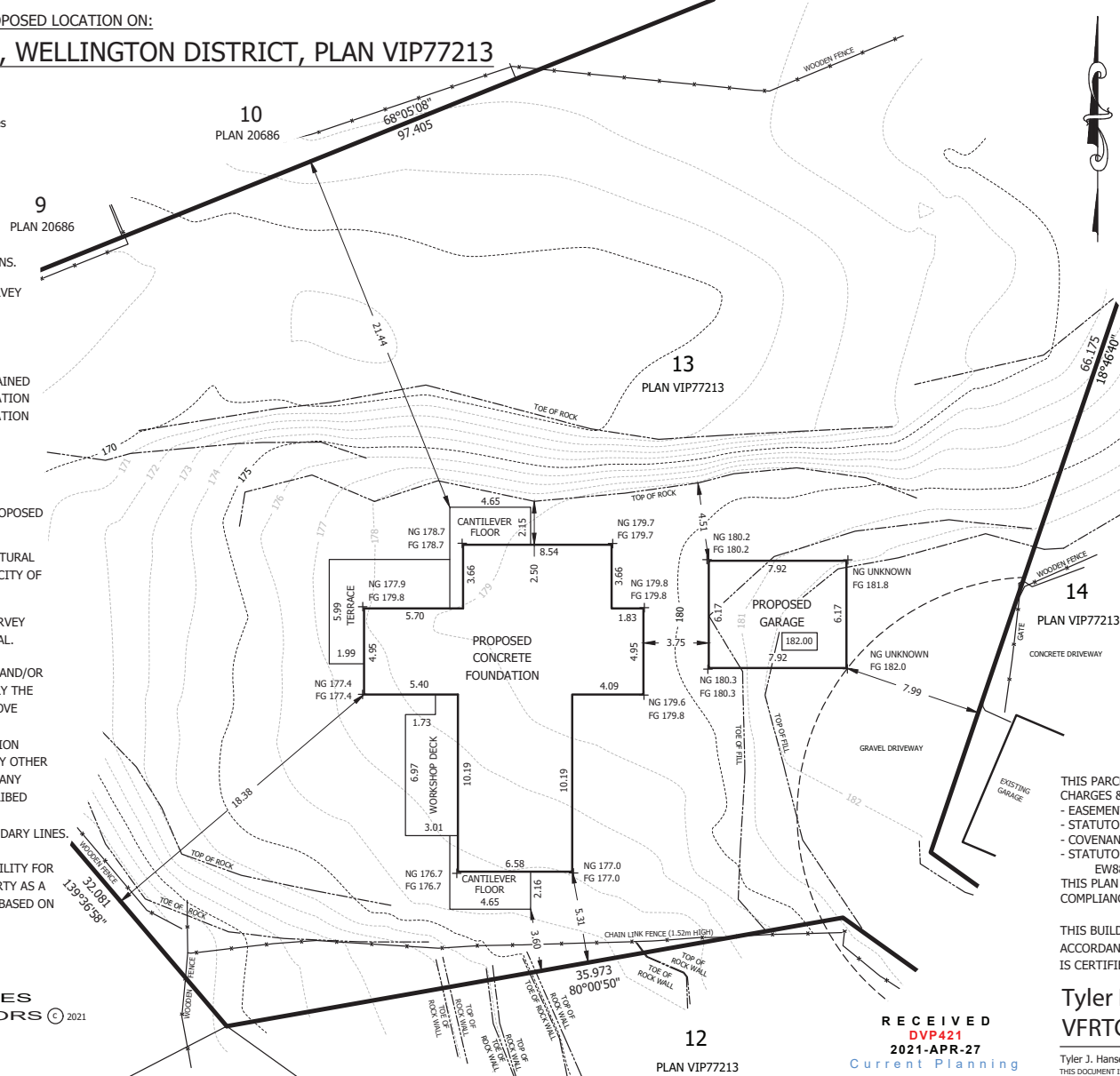
THIS PLAN PURPORTS TO POSITION ONLY THE ACTUAL AND/OR PROPOSED IMPROVEMENT(S) SHOWN RELATIVE TO ONLY THE BOUNDARIES SHOWN OF OR APPURTENANT TO THE ABOVE DESCRIBED PARCEL(S).

THIS PLAN PROVIDES NO WARRANTY OR REPRESENTATION WHATSOEVER WITH RESPECT TO THE LOCATION OF ANY OTHER ACTUAL OR PROPOSED IMPROVEMENT(S) RELATIVE TO ANY BOUNDARY OF OR APPURTENANT TO THE ABOVE DESCRIBED PARCEL(S).

THIS PLAN IS NOT TO BE USED TO RE-ESTABLISH BOUNDARY LINES.

THE SIGNATORY ACCEPTS NO RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES THAT MAY BE SUFFERED BY A THIRD PARTY AS A RESULT OF ANY DECISIONS MADE, OR ACTIONS TAKEN BASED ON THIS DOCUMENT.

WILLIAMSON & ASSOCIATES
PROFESSIONAL SURVEYORS © 2021
3088 BARONS ROAD NANAIMO B.C. V9T 4B5
PHONE: 250-756-7723 FAX: 250-756-7724
EMAIL: WAPS@VIBCLS.CA
FILE: 19118-2 HEIGHT SURVEY (BASE PLAN 06128)



MAXIMUM HOUSE HEIGHT
CALCULATION BY GRADES

MEAN FG	=	178.61
MEAN NG	=	178.35
MAXIMUM HEIGHT	+	7.00
CON MAXIMUM ROOF PEAK	=	185.35
PROPOSED MAIN SLAB	=	180.00
APPROX. HEIGHT TO 2ND FLOOR	+	3.14
PROPOSED 2ND FLOOR	=	183.14
APPROX. HEIGHT TO PEAK	+	4.17
PROPOSED ROOF PEAK	=	187.31

PROPOSED ROOF PEAK	=	187.31
CON MAXIMUM ROOF PEAK	=	185.35
VARIANCE REQUIRED	=	1.96

MAXIMUM GARAGE HEIGHT
CALCULATION BY GRADES

MEAN FG	=	181.08
MEAN NG	=	180.25
MAXIMUM HEIGHT	+	7.00
CON MAXIMUM ROOF PEAK	=	187.25
PROPOSED GARAGE SLAB	=	182.00
HEIGHT TO TOP OF DORMER	+	4.68
TOP OF DORMER	=	186.68

THIS PARCEL MAY BE SUBJECT TO REGISTERED CHARGES & PERMITS:
- EASEMENT EW88161;
- STATUTORY BUILDING SCHEME EW88103;
- COVENANT EW88097;
- STATUTORY RIGHT OF WAYS EW88096, EW88098, EW88099 & EW88101;
THIS PLAN DOES NOT PURPORT TO VERIFY COMPLIANCE WITH THE RESTRICTIONS THEREIN.

THIS BUILDING LOCATION CERTIFICATE HAS BEEN PREPARED IN ACCORDANCE WITH THE PROFESSIONAL REFERENCE MANUAL & IS CERTIFIED CORRECT THIS DATE OF: MARCH 16, 2021

Tyler Hansen
VFRTQ3

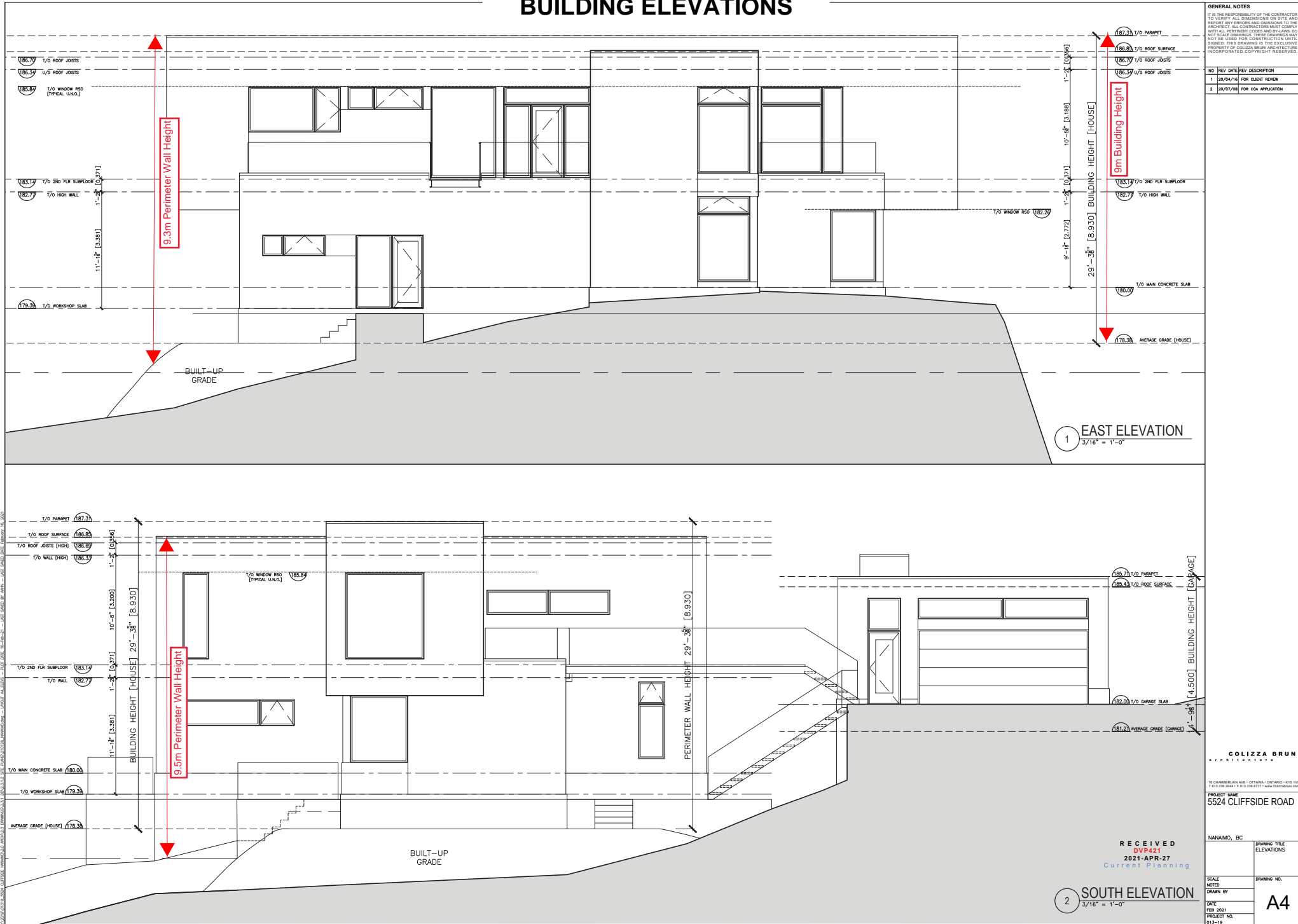
Digitally signed by Tyler Hansen VFRTQ3
DN: c=CA, cn=Tyler Hansen VFRTQ3,
o=BC Land Surveyor, ou=Verity ID at
www.juricert.com/LKUP.cfm?id=VFRTQ3
Date: 2021.03.16 13:59:53 -0700

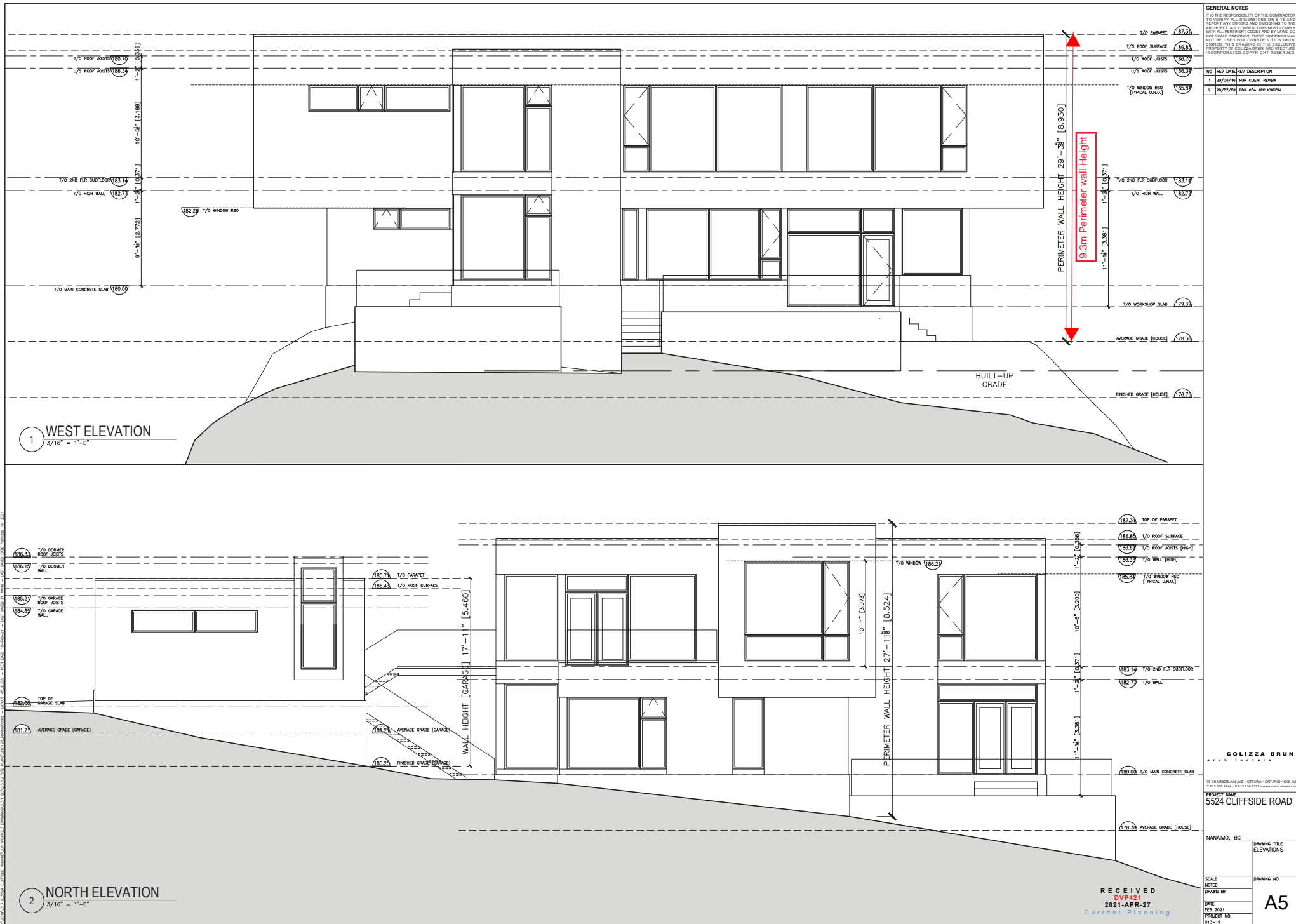
Tyler J. Hansen B.C.L.S.
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ATTACHMENT E BUILDING ELEVATIONS

1 of 2





ATTACHMENT F PERSPECTIVE VIEWS

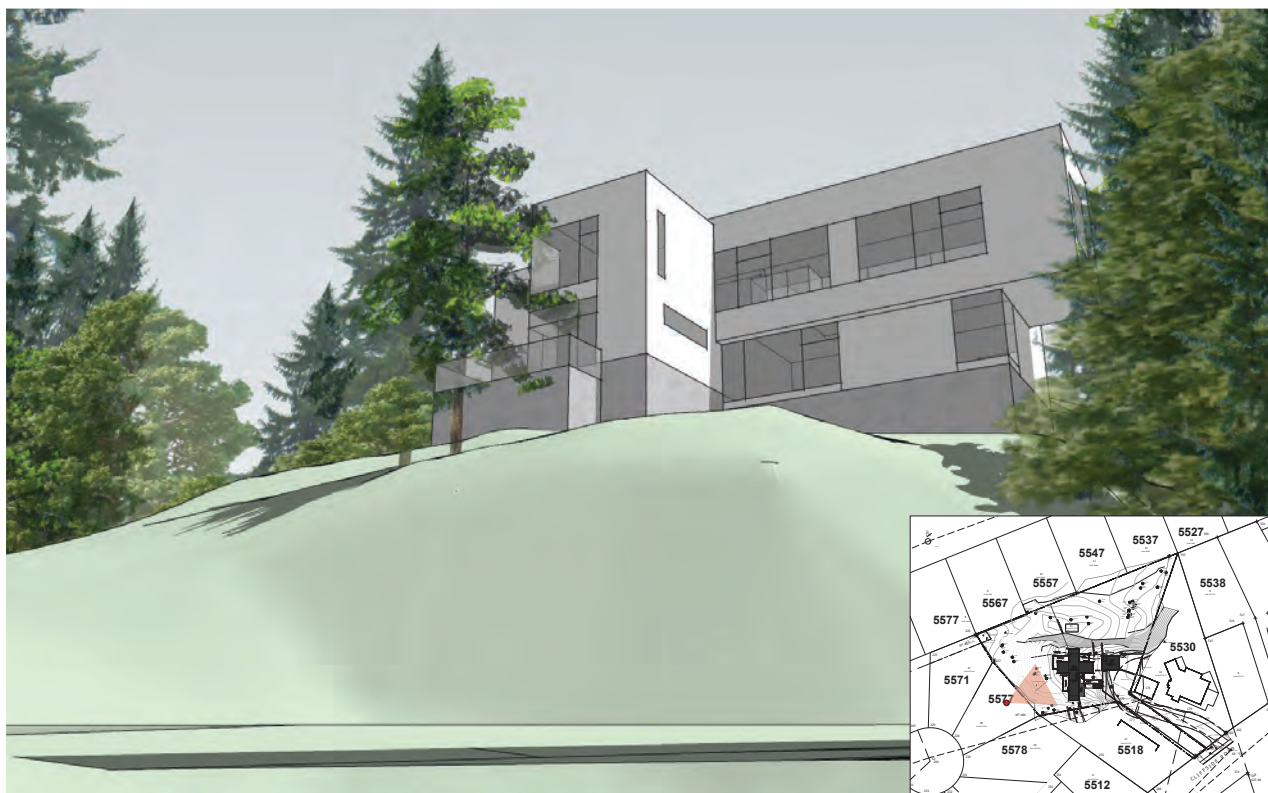


VIEW FROM 5578 SUNRIDGE PL.

5524 CLIFFSIDE DRIVE

JANUARY 2020

GODIEZA BRUNI
architecture
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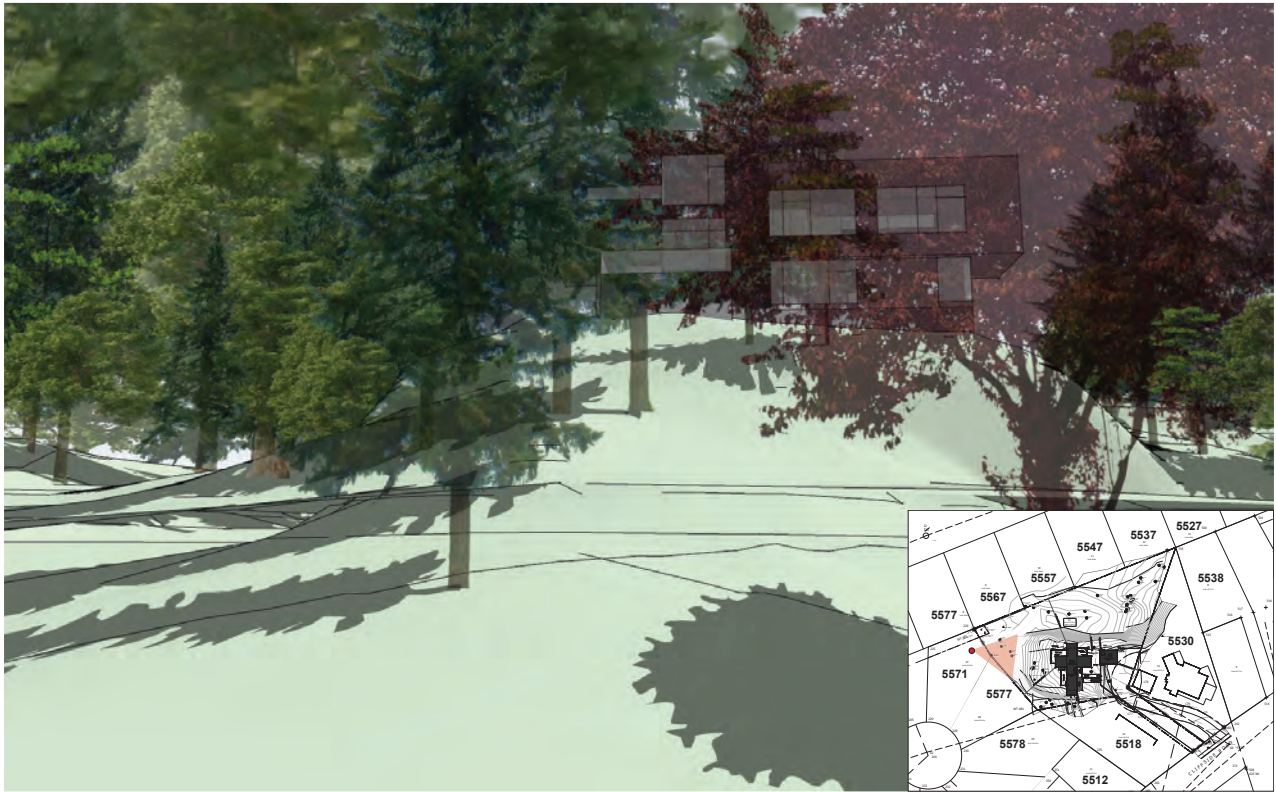


VIEW FROM 5577 SUNRIDGE PL.

5524 CLIFFSIDE DRIVE

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Current Planning 2.2



VIEW FROM 5571 SUNRIDGE PL.

5524 CLIFFSIDE DRIVE

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JANUARY 2020

2.3



VIEW FROM 5577 LOST LAKE RD.

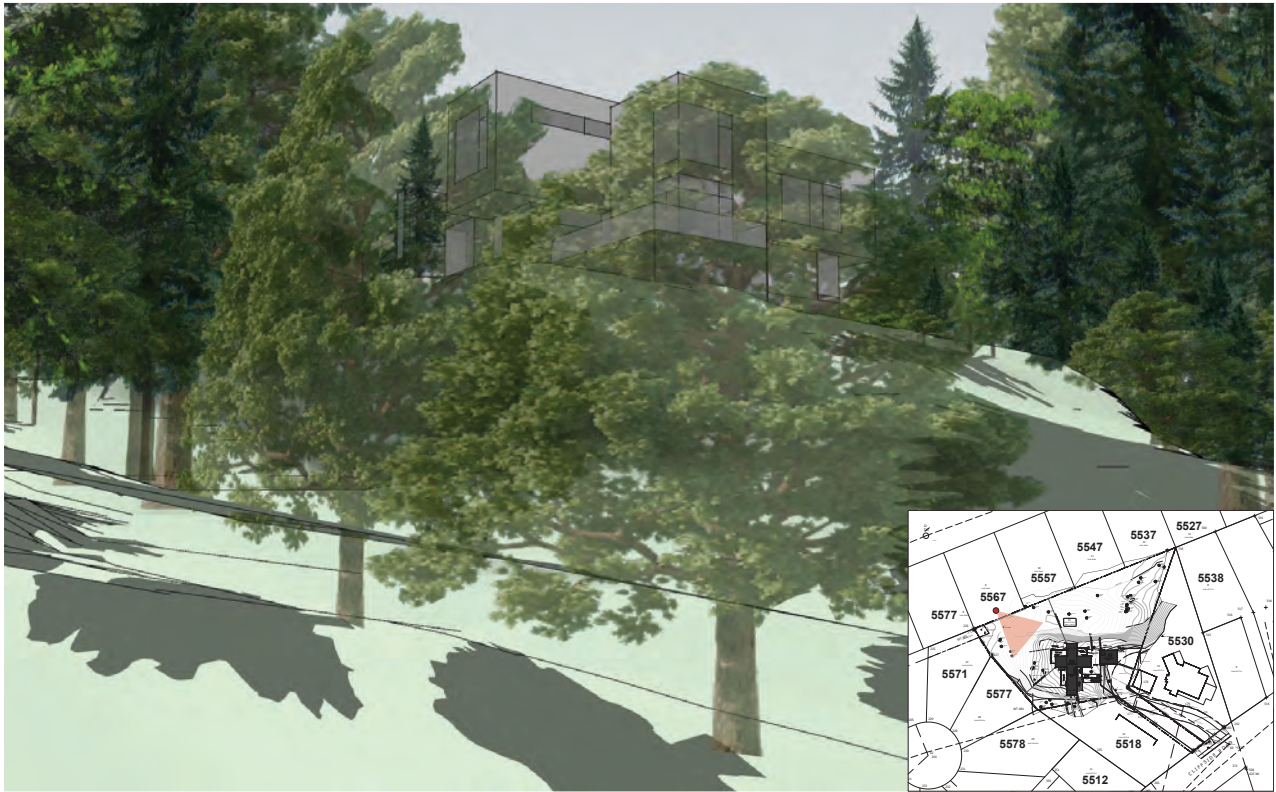
5524 CLIFFSIDE DRIVE

GODIEZA BRUNI
architecture RECEIVED
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2021-APR-27
Current Planning

JANUARY 2020

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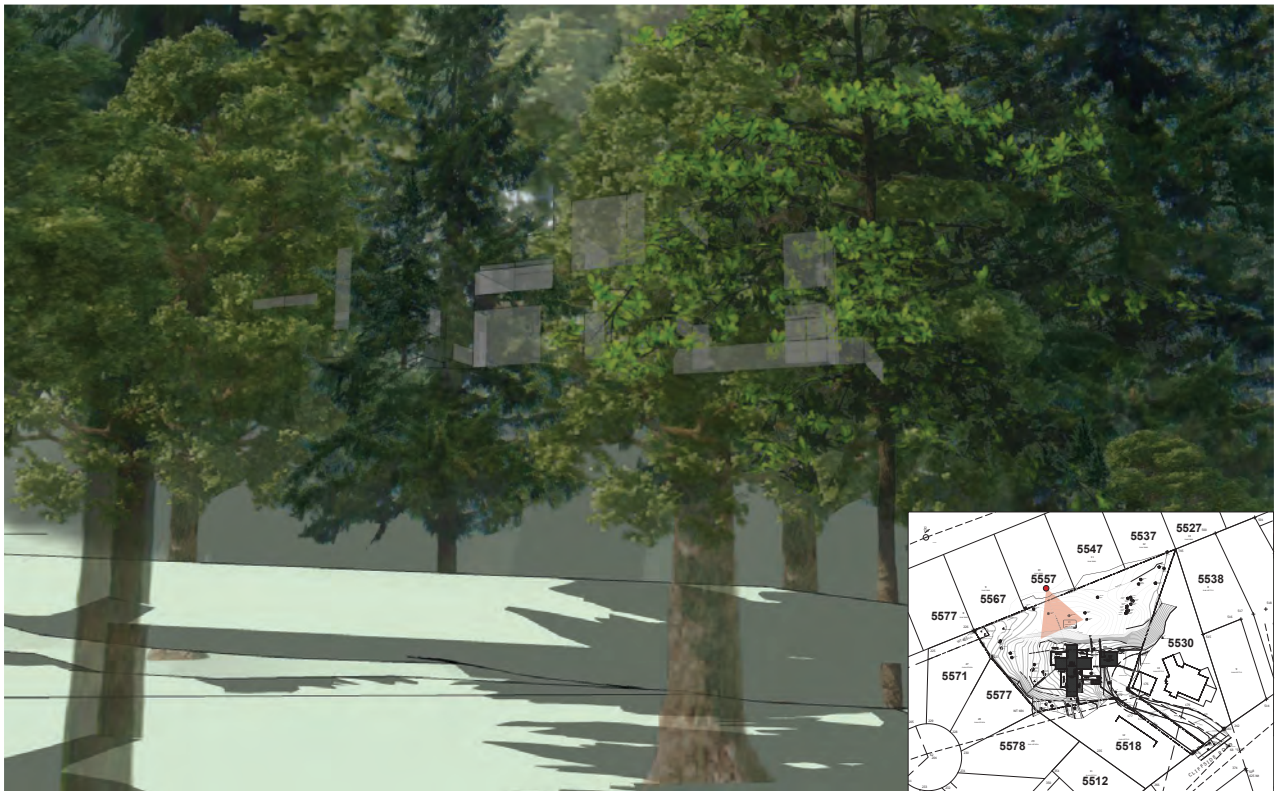
VIEW FROM 5567 LOST LAKE RD.

5524 CLIFFSIDE DRIVE

JANUARY 2020

GODIEZA BRUNI
architecture RECEIVED
DVP421
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Current Planning

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VIEW FROM 5557 LOST LAKE RD.

5524 CLIFFSIDE DRIVE

JANUARY 2020

GODIEZA BRUNI
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VIEW FROM 5547 LOST LAKE RD.

5524 CLIFFSIDE DRIVE

JANUARY 2020

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Current Planning

2.7



VIEW FROM 5537 LOST LAKE RD.

5524 CLIFFSIDE DRIVE

JANUARY 2020

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Current Planning

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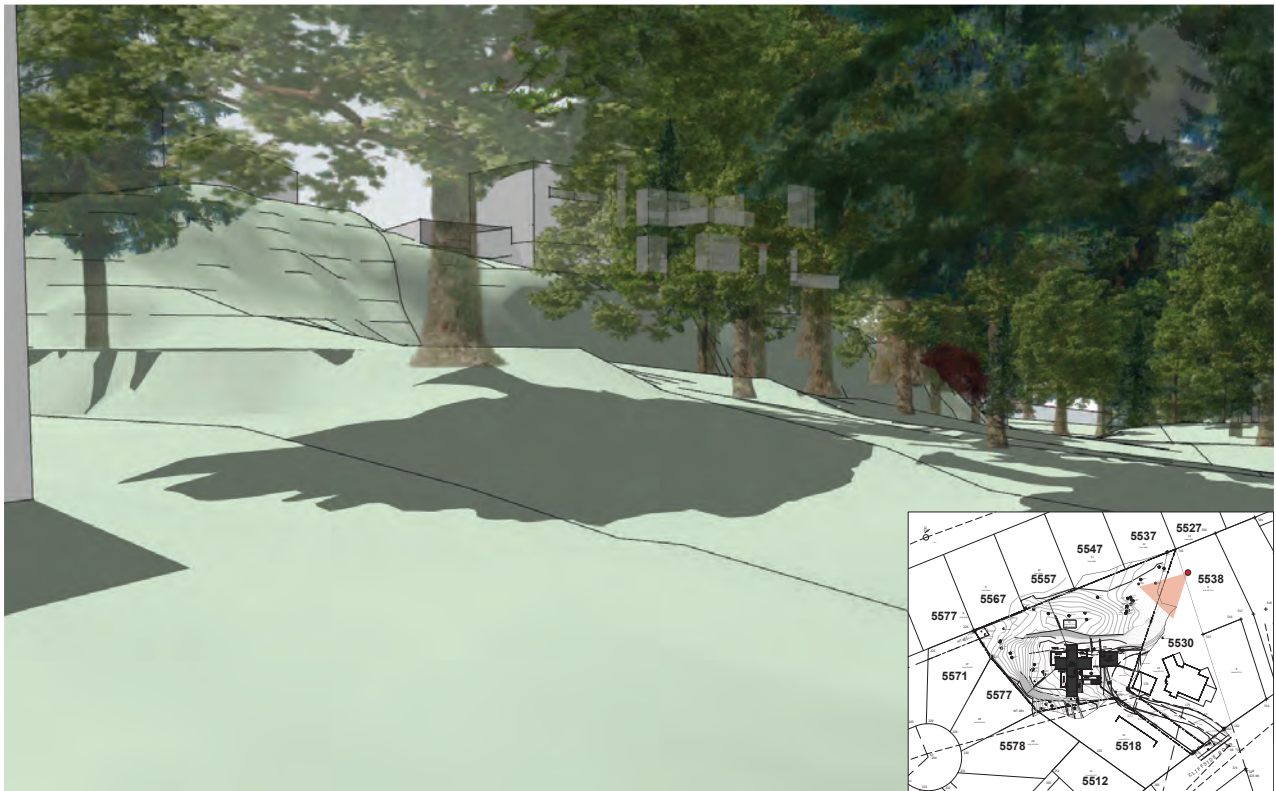


VIEW FROM 5527 LOST LAKE RD.

5524 CLIFFSIDE DRIVE

JANUARY 2020

GODIEZA BRUNI
architecture
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DVP421
2021-APR-27
Current Planning
2.9



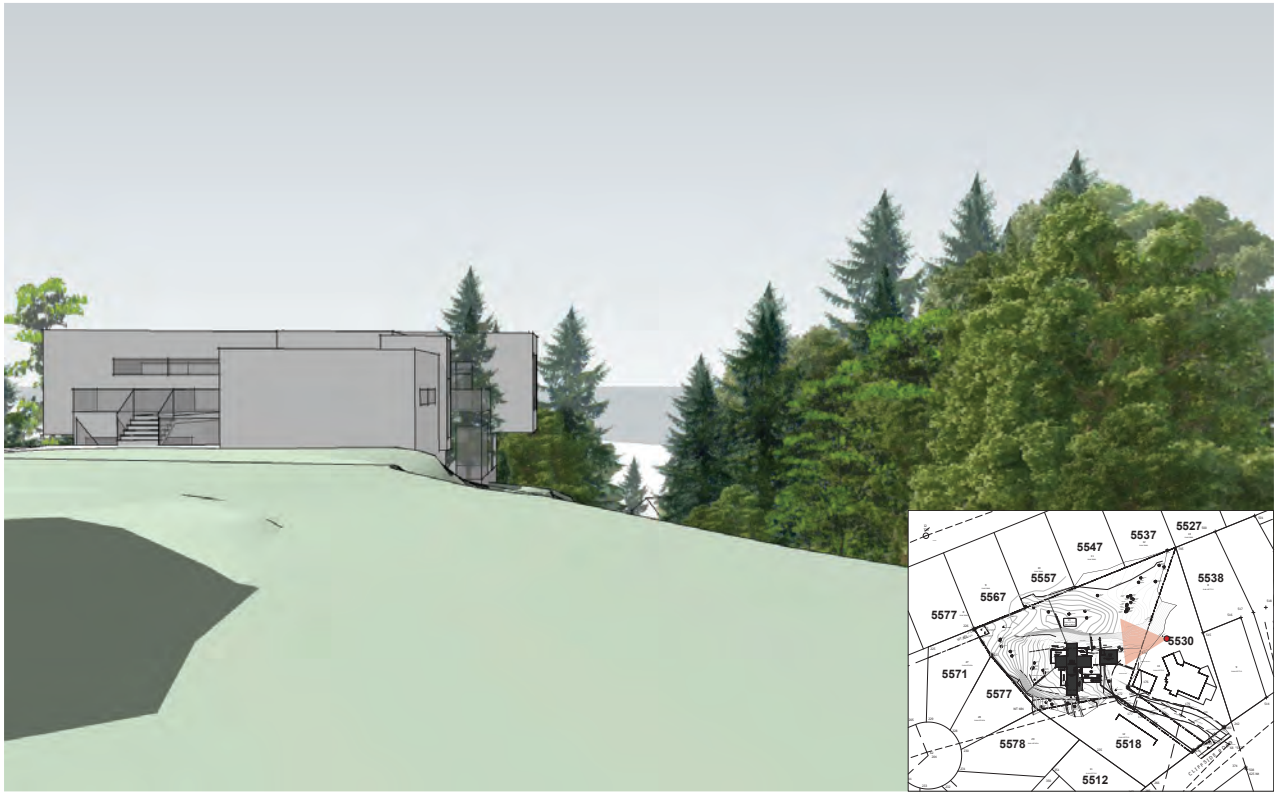
VIEW FROM 5538 CLIFFSIDE RD.

5524 CLIFFSIDE DRIVE

JANUARY 2020

80

GODIEZA BRUNI
architecture
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DVP421
2021-APR-27
Current Planning
2.10

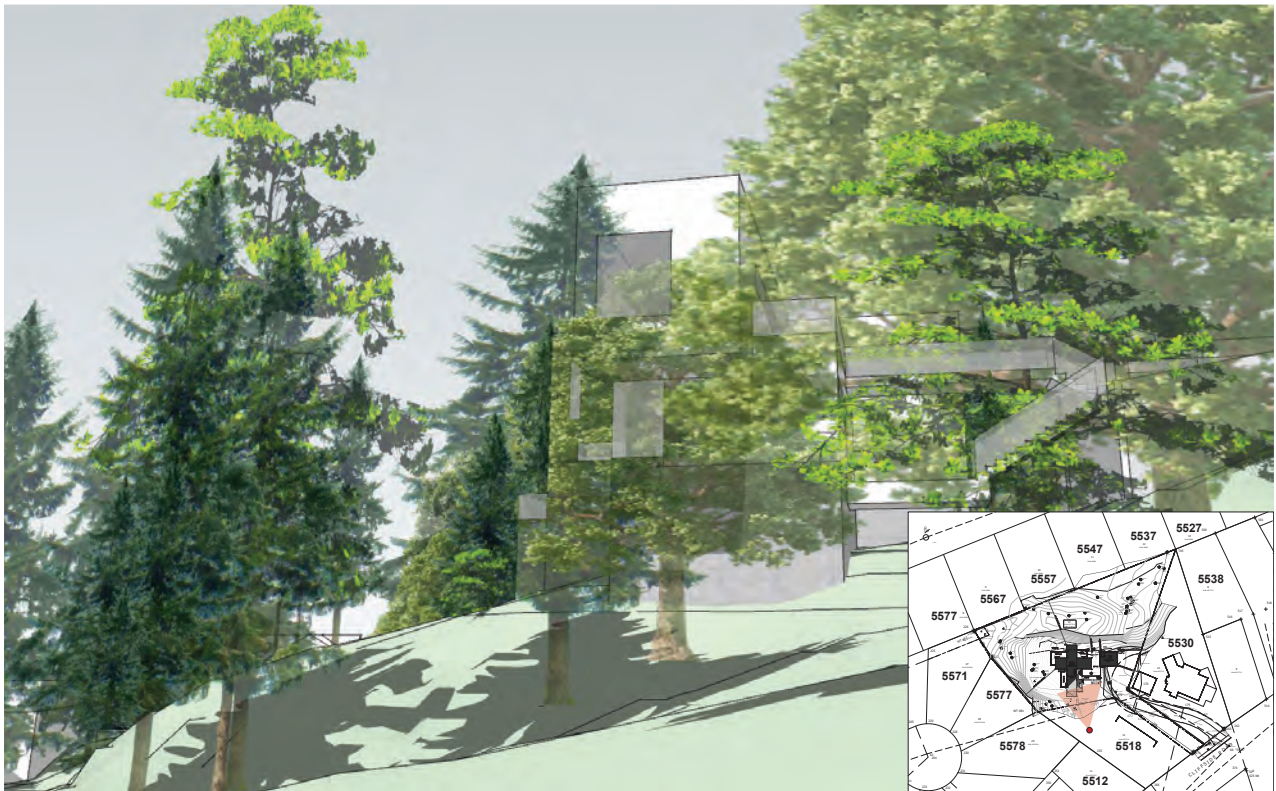


VIEW FROM 5530 CLIFFSIDE RD.

5524 CLIFFSIDE DRIVE

JANUARY 2020

GODIEZA BRUNI
architecture
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2021-APR-27
Current Planning
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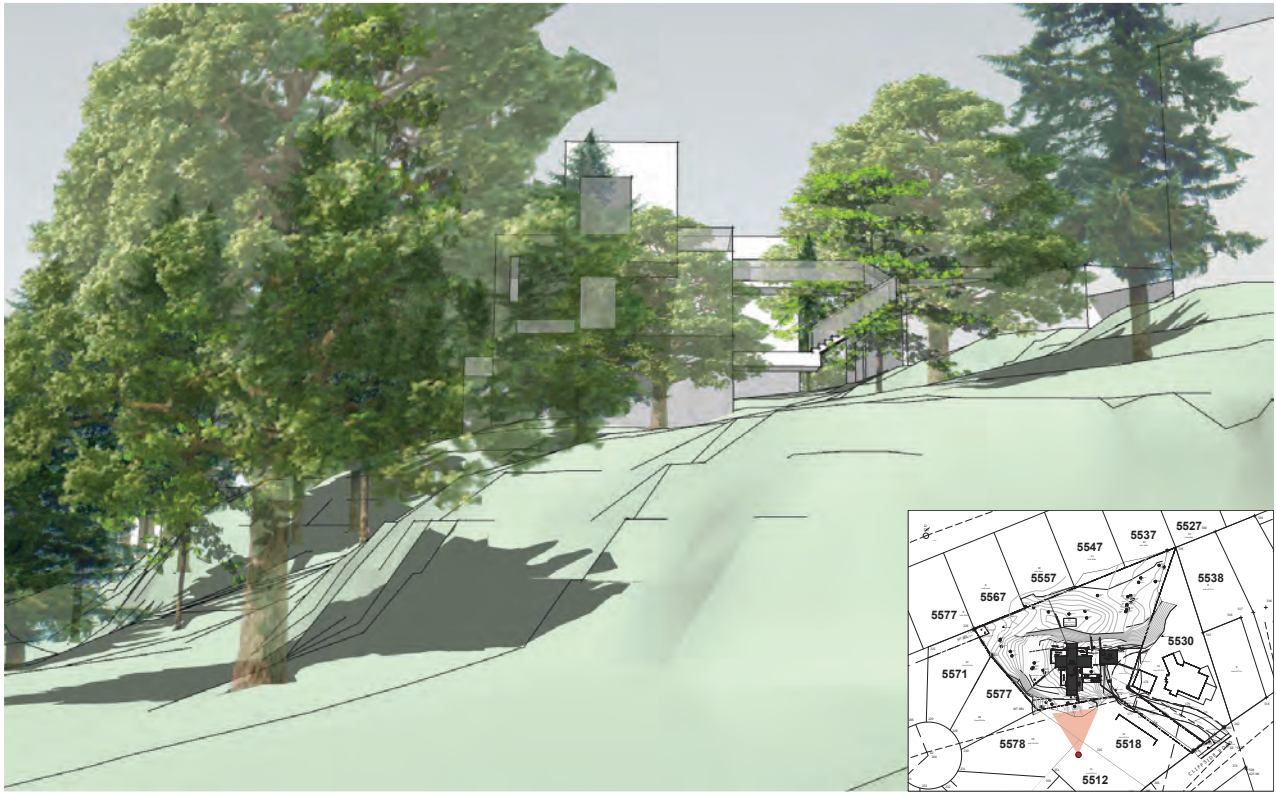


VIEW FROM 5518 CLIFFSIDE RD.

5524 CLIFFSIDE DRIVE

JANUARY 2020

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architecture
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2021-APR-27
Current Planning
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VIEW FROM 5512 CLIFFSIDE RD.

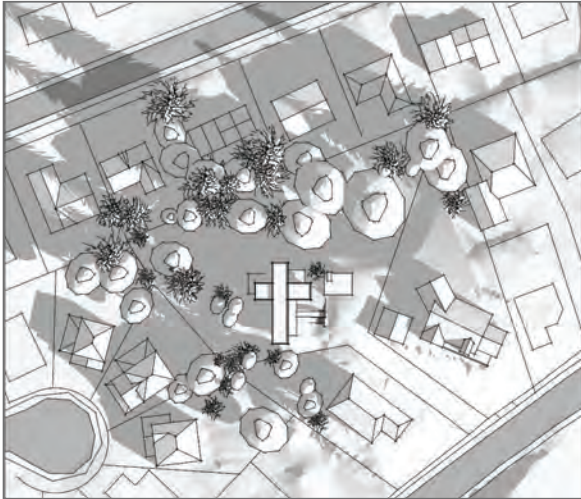
5524 CLIFFSIDE DRIVE

GODIEZA BRUNI
architecture RECEIVED
DVP421
2021-APR-27
Current Planning

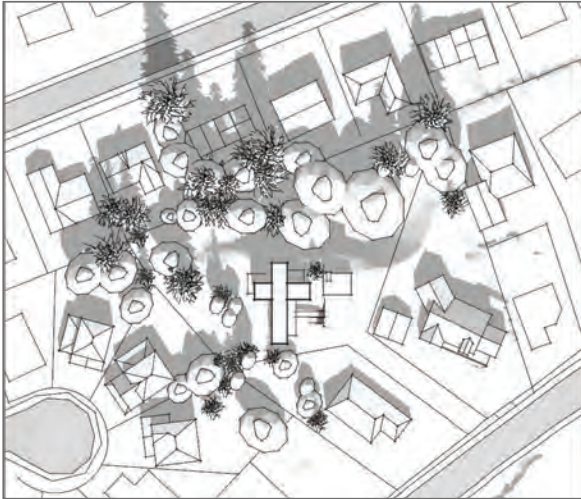
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2.13

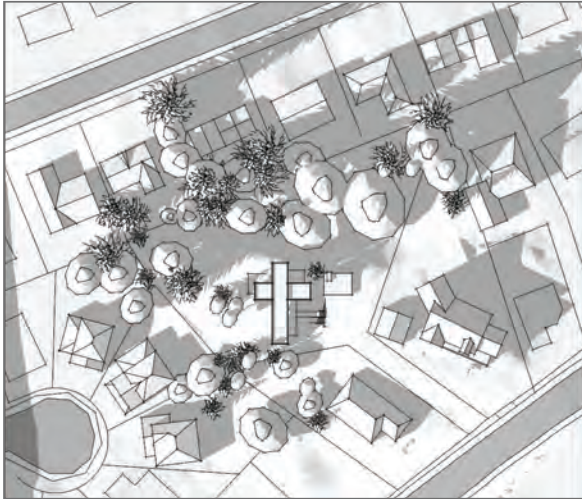
ATTACHMENT G
SHADOW STUDY IMAGES



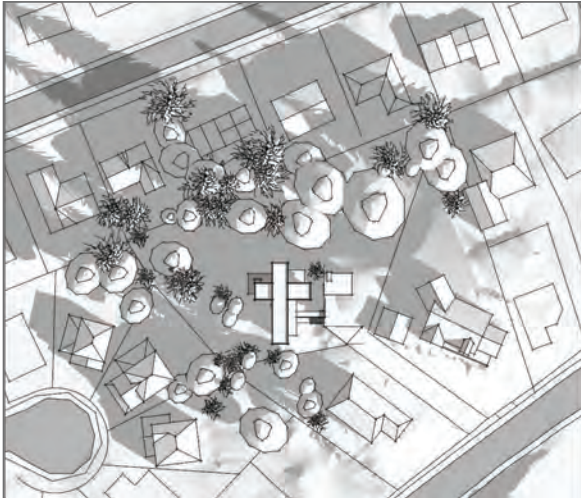
MARCH 20th - 9:00am - COMPLIANT HEIGHT



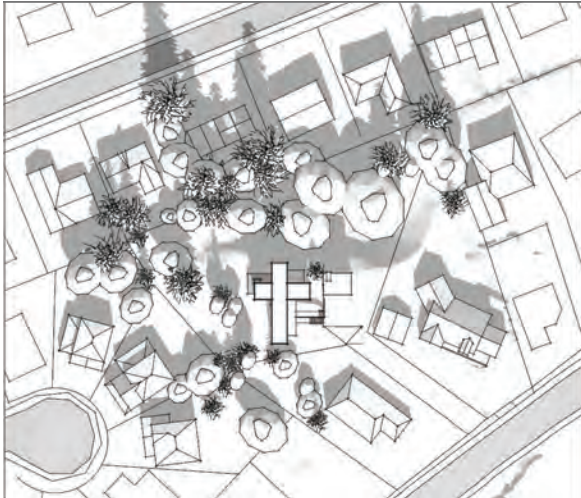
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MARCH 20th - 4:00pm - COMPLIANT HEIGHT



MARCH 20th - 9:00am - PROPOSED HEIGHT



MARCH 20th - 12:00pm - PROPOSED HEIGHT



MARCH 20th - 4:00pm - PROPOSED HEIGHT

SUN STUDY - COMPLIANT VS. PROPOSED - SPRING/FALL

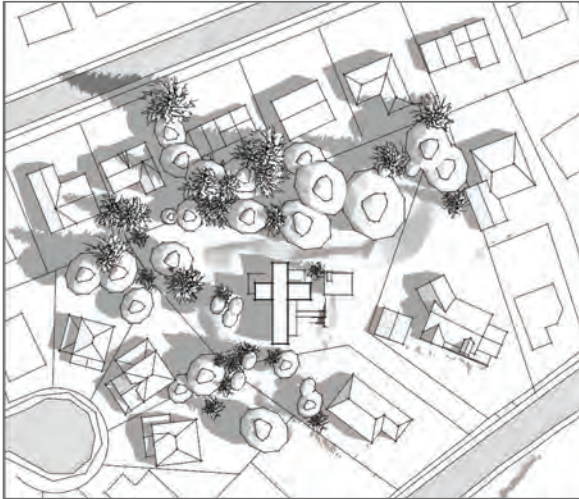
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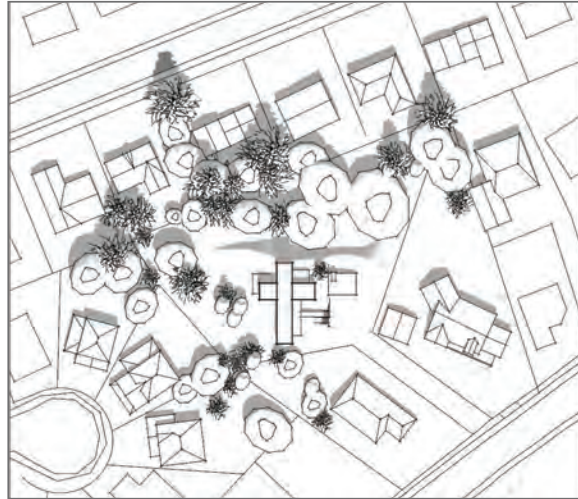
COLIZZA BRUNO
architecture

RECEIVED
DVP421
2021-APR-27
Current Planning

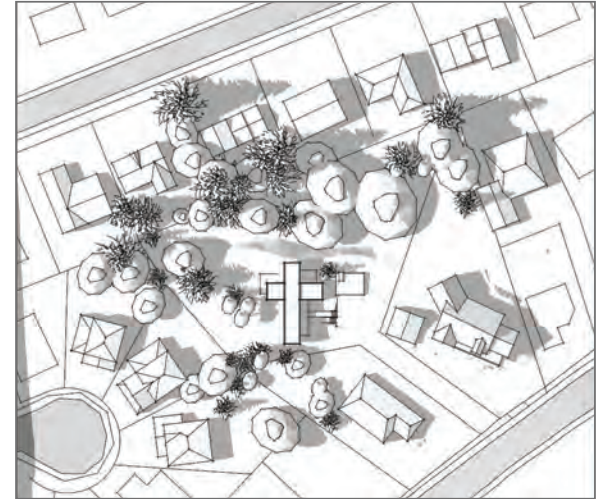
JANUARY 2021



JUNE 20th - 9:00am - COMPLIANT HEIGHT



JUNE 20th - 12:00pm - COMPLIANT HEIGHT



JUNE 20th - 4:00pm - COMPLIANT HEIGHT



JUNE 20th - 9:00am - PROPOSED HEIGHT



JUNE 20th - 12:00pm - PROPOSED HEIGHT



JUNE 20th - 4:00pm - PROPOSED HEIGHT

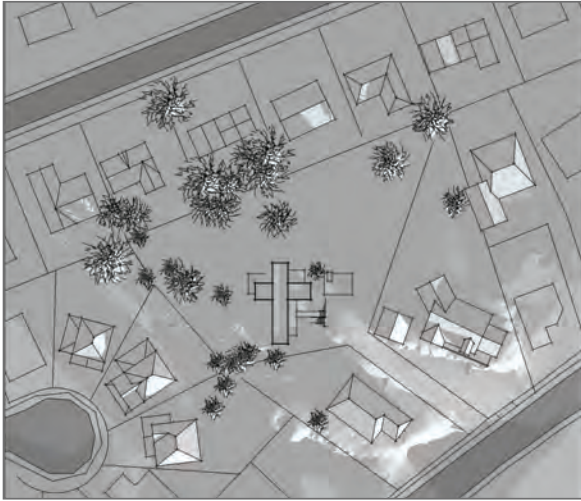
SUN STUDY - COMPLIANT VS. PROPOSED - SUMMER

5524 CLIFFSIDE DRIVE

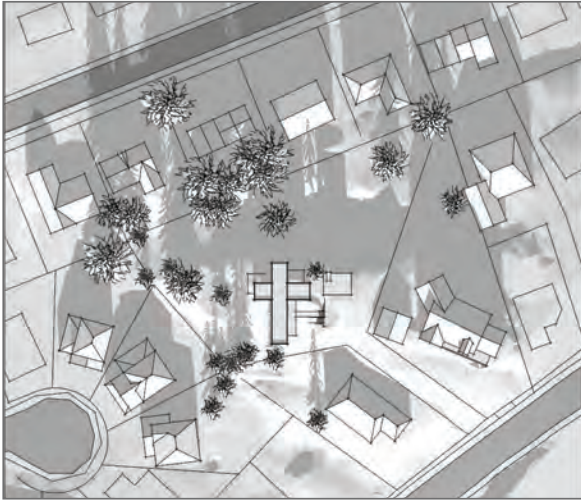


COLIZZA BRUNI
architecture

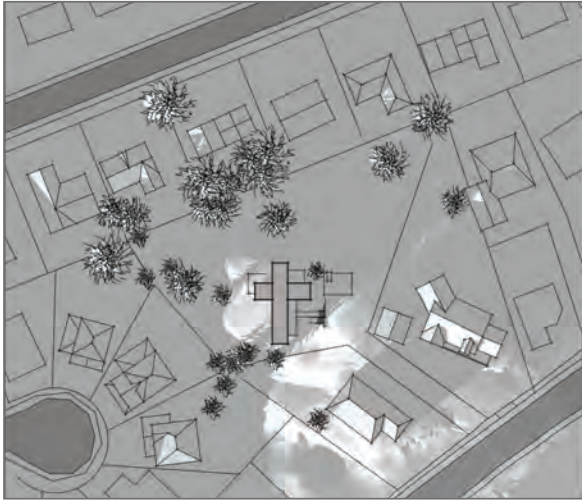
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2021-APR-27
Current Planning



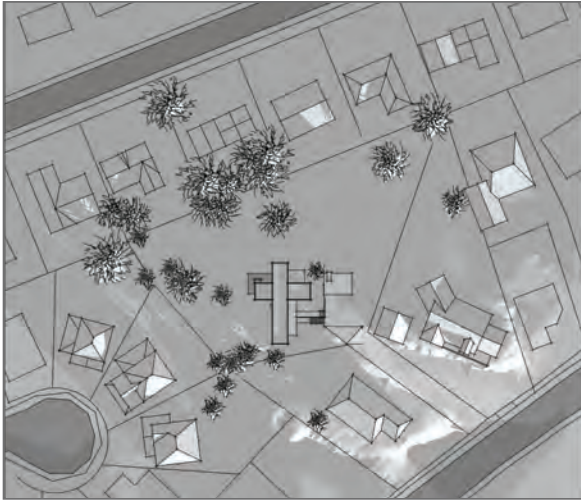
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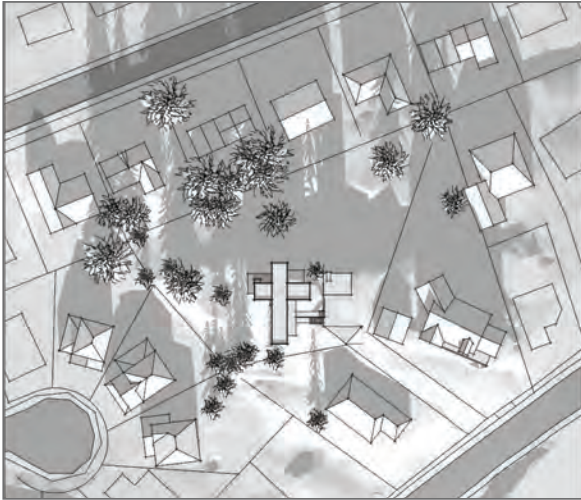
DECEMBER 20th - 12:00pm - COMPLIANT HEIGHT



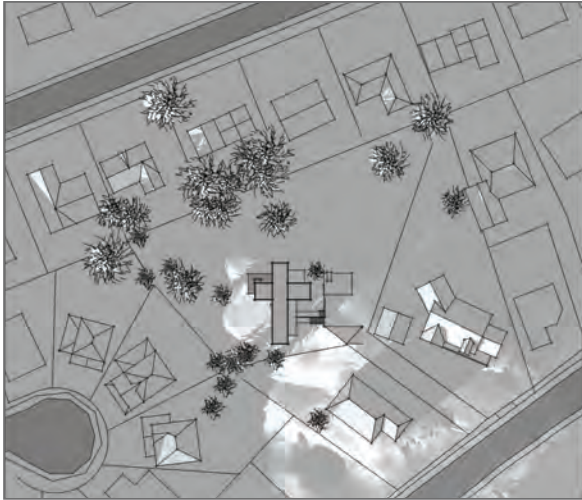
DECEMBER 20th - 4:00pm - COMPLIANT HEIGHT



DECEMBER 20th - 9:00am - PROPOSED HEIGHT



DECEMBER 20th - 12:00pm - PROPOSED HEIGHT



DECEMBER 20th - 4:00pm - PROPOSED HEIGHT

SUN STUDY - COMPLIANT VS. PROPOSED - WINTER

5524 CLIFFSIDE DRIVE



COLIZZA BRUNI
architecture

RECEIVED
DVP421
2021-APR-27
Current Planning 1.3

JANUARY 2021



CITY OF NANAIMO

BYLAW NO. 4500.180

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

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 464, 465, 469, 477, 479, 480, 481, 482, and 548 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 2021 No. 4500.180".
2. The "City of Nanaimo Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

By deleting "Schedule D - Amenity Requirements for Additional Density" and replacing it with the Schedule '1' attached to this Bylaw.

PASSED FIRST READING: 2021-MAY-03

PASSED SECOND READING: 2021-MAY-03

PUBLIC HEARING HELD: 2021-MAY-20

PASSED THIRD READING: 2021-MAY-20

MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE: 2021-JUN-08

ADOPTED _____

MAYOR

CORPORATE OFFICER

File: ZA1-23
Address: N/A

Schedule 1

Schedule D

Amenity Requirements for Additional Density

In order for a development to include the additional Tier 1 density provided for within this Bylaw, the proposed development must achieve sufficient minimum points required in at least three of the categories set out in the following table which allocates points for amenities, affordable housing and the location of the development.

In order for a development to include the additional Tier 2 density provided for within this Bylaw, the proposed development must achieve at total of 65 or more points set out in the following table which allocates points for amenities, affordable housing and the location of the development.

Category 1: Site Selection (10 points required)

Amenity		Points
A	The proposed development is located on a brownfield site.	5
B	The proposed development is located on an existing street where the location does not require any new infrastructure such as storms drains, curbs or sidewalks.	3
C	The proposed development is located within 200m of a park or trail network.	1
D	The proposed development is located within 400m of any of the following: <ul style="list-style-type: none"> • retail store; • daycare facility; • Nanaimo Regional District transit bus stop; • any PRC (Parks, Recreation and Culture) Zoned property; and / or • a CS-1 (Community Service One) zoned property. 	1 point each
E	The proposed development will add any of the following amenities on the site, or immediately adjacent to the site, as part of the proposed development: <ul style="list-style-type: none"> • retail store or public market; • daycare facility; • Nanaimo Regional District transit bus stop; • any PRC (Parks, Recreation and Culture) Zoned property; • a CS-1 (Community Service One) zoned property; and / or • public art. 	1 point each
Total		20

Category 2: Retention and Restoration of Natural Features (8 points required)

Amenity		Points
A	The proposed development includes an Environmentally Sensitive Area (ESA), as identified on Map 2 of the City's Official Community Plan and includes at least a 15m natural area buffer around the ESA.	2
B	The property includes the retention of natural vegetation, trees, shrubs, and under storey for a contiguous area that is equal to or greater than 15% of the property area, exclusive of the required watercourse leavestrip or environmentally sensitive area buffer.	3
C	The proposed development includes at least 50% retention of natural soils.	1
D	The subject property includes at least one significant tree and the proposed development will not result in the loss of any trees included on the list of significant trees within the City of Nanaimo's Management and Protection of Trees Bylaw.	2
E	The proposed development includes street trees.	1
F	After re-planting, the proposed development does not result in a net loss of trees with a caliper greater than 6cm.	1
G	Post development, the total amount of trees on the property, or adjacent road right-of-way or public space is at least 20% more than the number of trees on the property before development.	2
H	Restore a minimum of 50% of the site area (excluding the building footprint) by maintaining pervious surfaces.	3
I	The development includes permanent educational signage or display(s) regarding the protected or planted plants, trees, animal habitat or other natural features on the site.	1
Total		16

Category 3: Parking and Sustainable Transportation (10 points required)

Amenity		Points
A	Long term protected bicycle storage is provided and shower and change room facilities are provided to accommodate building employees where applicable.	3
B	At least one parking space is clearly marked and designated for the exclusive use of a vehicle belonging to a car share or car co-op.	1
C	The developer purchases a new car and gifts the car to a recognized car share provider for the inclusion of a car share space on the subject property.	4
D	The parking area within the proposed development includes at least one electric vehicle charging station.	1
E	A minimum of 80% of the total parking area is located underground or in a parking structure incorporated into the design of the building.	4
F	The proposed development includes covered and designated parking spaces for a motorized scooter or plug-in for an electronic bicycle or electric scooter, or a designated motorcycle parking space to accommodate the following number of spaces: a) multiple family residential developments: 1 motorized scooter or motorcycle space per 15 dwelling units; and b) non-residential uses: 1 motorized scooter or motorcycle space per 600m ² of Gross Floor Area for the first 5000m ² plus one space per 1500m ² of additional Gross Floor Area.; and a) a minimum of one electronic plug-in is provided to accommodate at least one electric scooter or electronic bicycle.	2
G	A pedestrian network is included in the proposed development that connects the buildings on the site with the public road right-of-way and, the pedestrian network from the adjacent site to which there is access by perpetual easement or right-of-way, provided the City agrees to accept the right-of-way.	2
H	Parking does not exceed minimum parking requirements within the City's Development Parking Regulations Bylaw.	2
I	The development includes signage or display(s) regarding sustainable transportation alternatives available on site or within the immediate area.	1
Total		20

Category 4: Building Materials (8 points required)

Amenity		Points
A	Wood is the primary building material.	1
B	The proposed development uses salvaged, refurbished or reused materials; the sum of which constitutes at least 10% of the total value of materials on the project.	2
C	At least 50% of all wood products used in construction are certified by the Forest Stewardship Council (FSC), the Sustainable Forestry Initiative (SFI), the Canadian Standards Association – Sustainable Forest Management Standard (CSA-SFM), or recognized equivalent.	3
D	The proposed development uses materials with recycled content such that the sum of the postconsumer recycled material constitutes at least 25%, based on costs, of the total value of the materials in the project.	2
E	The project developer has submitted a construction and waste management plan that, at a minimum, identifies the materials to be diverted from disposal and whether the materials will be sorted onsite or comingled.	2
F	At least 75% of the materials used in construction are renewable resources.	2
G	The property includes an existing building and at least 75% of existing building structure or shell is retained.	3
H	The development includes permanent educational signage or display(s) regarding the sustainable use of building materials used during construction of the project.	1
Total		16

Category 5: Energy Management (11 points required)

Amenity		Points
A	The proposed development meets at least the requirements of Step 2 of the BC Energy Step Code and exceeds the requirement specified in the Building Bylaw by one step.*	10*
B	The proposed development meets at least the requirements of Step 3 of the BC Energy Step Code and exceeds the requirement specified in the Building Bylaw by two steps.*	15*
C	The proposed development is considered a Part 3 within the British Columbia Building Code (BCBC) and the building meets the minimum requirements of Step 4 (Net Zero Ready) within the BC Energy Step Code; or The proposed development is considered a Part 9 within the British Columbia Building Code (BCBC) and the building meets the minimum requirements of Step 4 or 5 within the BC Energy Step Code.*	30*
D	The development includes permanent education signage or display(s) regarding sustainable energy management practices used onsite.	1
Total		31

* Points will be awarded for only one of A, B, or C.

Category 6: Water Management (8 points required)

Amenity		Points
A	At least 50% of the property is covered with a permeable surface area which may include a green roof.	2
B	The proposed buildings on the property include plumbing features which will use 35% less water than the BC Building Code standard.	2
C	A green roof is installed to a minimum 30% of the roof area.	3
D	A living wall is installed to cover at least 10% of the total available wall area for the proposed project.	2
E	A non-potable irrigation system is installed and used for all on-site irrigation.	3
F	A water efficient irrigation system (such as drip) is installed.	1
G	The proposed development includes a rain garden, cistern, bioswale or storm water retention pond on the property.	2
H	The development site includes permanent educational signage or a display(s) regarding sustainable water management practices used on site.	1
Total		16

Category 7: Social and Cultural Sustainability (8 points required)

Amenity		Points
A	At least 10% of the residential dwelling units within a building are no greater than 29m ² in area.	1
B	At least 10% of the residential dwelling units meet all the accessibility requirements within the <i>British Columbia Building Code 2012 (BCBC)</i> or any subsequent Act or Acts which may be enacted in substitution therefore.	3
C	The property owner agrees to enter into a Housing Agreement with the City of Nanaimo to ensure that all residential dwelling units shall not be sold independently for at least ten years after the building receives final occupancy.*	4*
D	The property owner agrees to enter into a Housing Agreement with the City of Nanaimo to ensure that all residential dwelling units shall not be sold independently.*	7*
E	The property owner agrees to enter into a Housing Agreement with the City of Nanaimo to ensure that where residential dwelling units are subdivided under the <i>Strata Property Act</i> or otherwise sold separately, the strata corporation will not place restrictions which prevent the rental of individual residential units.*	2*
F	A permanent public art feature is included on the site in accordance with the City's Community Plan for Public Art.	2
G	A children's play area is provided.	1
H	A dedicated garden space is provided to building residents and/or members of the community in which users are given the opportunity to garden.	1
I	The development site includes permanent heritage interpretive signage or heritage building elements where relevant.	1
J	The development protects and rehabilitates heritage buildings or structures, archaeological resources and cultural landscapes considered to have historical value by the City.	3
Total		19

*Points will be awarded for only one of C, D, or E.

Category 8: Affordable Housing (10 points required)

Amenity		Points
A	The property owner enters into a Housing Agreement with the City of Nanaimo to ensure that at a portion of the residential dwelling units will be sold for at least 10% less than the median sale price for comparable units (unit type and number of bedrooms), as provided by the Vancouver Island Real Estate Board for the current year, and cannot be sold for greater than the original sale price for a period of ten years. The Gross Floor Area of the dwelling units provided for within the Housing Agreement must be greater than 29m ² in area.	1 point per 10% increment of total residential dwelling units, up to a maximum of 10 points
B	The property owner enters into a Housing Agreement with the City of Nanaimo to ensure that a portion of the residential dwelling units will be rented at less than average rent levels as determined by the CMHC. The Gross Floor Area of the dwelling units provided for within the Housing Agreement must be greater than 29m ² in area.	2 points per 10% increment of total residential dwelling units, up to a maximum of 20 points
C	The property owner enters into a Housing Agreement with the City of Nanaimo to ensure rent for a portion of the residential dwelling units does not exceed 30% of the Housing Income Limit for Nanaimo, as determined by BC Housing.	3 points per 10% increment of total residential dwelling units, up to a maximum of 30 points
Total		30

168 points total

Definitions

BC Energy Step Code: means a voluntary provincial standard enacted in April 2017 that provides an incremental and consistent approach to achieving more energy-efficient buildings that go beyond the requirements of the base BC Building Code.

Brownfield Site: means a previously commercial or industrial property which is an abandoned, idled, or underused where expansion or redevelopment is complicated by environmental contamination.

Carpool Parking Space: means a parking space clearly marked and designated for the exclusive use of a vehicle used to carry two or more people commuting to the same location.

Electric Vehicle Charging Station: means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

Non-potable Irrigation System: means a system used for providing water to plants which uses water that has not been examined, properly treated, and not approved by appropriate authorities as being safe for consumption.

Pedestrian Network: means a pedestrian trail or series of pedestrian trails that connect a developed property with an adjacent property.

Permeable Surface Area: means any surface consisting of a material that can provide for storm water infiltration.

CITY OF NANAIMO

BYLAW NO. 7159.10

A BYLAW TO AMEND THE CITY OF NANAIMO "BYLAW NOTICE ENFORCEMENT
BYLAW 2012 NO. 7159"

That Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS
FOLLOWS:

1. Title

This Bylaw may be cited as "BYLAW NOTICE ENFORCEMENT AMENDMENT BYLAW
2021 NO. 7159.10"

2. Amendments

"BYLAW NOTICE ENFORCEMENT BYLAW 2012 NO. 7159" is hereby amended as
follows:

- 2.1 By deleting Schedule "B" in its entirety and replacing it with the Schedule "B"
attached to and forming part of this Bylaw.

PASSED FIRST READING: 2021-JUN-07
PASSED SECOND READING: 2021-JUN-07
PASSED THIRD READING: 2021-JUN-07
ADOPTED:

MAYOR

CORPORATE OFFICER

SCHEDULE “B”

NANAIMO BYLAW NOTICE DISPUTE ADJUDICATION

REGISTRY AGREEMENT

This Agreement dated _____ day of _____, 2021 (the “Agreement”).

BETWEEN:

CITY OF NANAIMO, 455 Wallace Street, Nanaimo, BC V9R 5J6

(“Nanaimo”)

AND:

CITY OF DUNCAN, 200 Craig Street, Duncan, BC V9L 1W3

(“Duncan”)

AND:

CITY OF PARKSVILLE, Box 1390, 100 Jensen Avenue East, Parksville, BC V9P 2H3

(“Parksville”)

AND:

DISTRICT OF TOFINO, PO Box 9, 121 – 3rd Street, Tofino, BC V0R 2Z0

(“Tofino”)

AND:

THE VILLAGE OF PORT CLEMENTS, PO Box 198, 36 Cedar Avenue West, Port Clements, BC V0T 1R0

(“Port Clements”)

AND:

THE REGIONAL DISTRICT OF NANAIMO, 6300 Hammond Bay Road, Nanaimo, BC V9T 6N2

(“Regional District of Nanaimo”)

AND:

THE REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT, 3008 Fifth Avenue, Port Alberni, BC V9Y 2E3

("Regional District of Alberni-Clayoquot")

AND:

THE CITY OF PORT ALBERNI, 4850 Argyle Street, Port Alberni, BC V9Y 1V8

("Port Alberni")

AND:

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN, 7030 Trans Canada Highway, Box 278, Duncan, BC V9L 3X4

("North Cowichan")

AND:

ADDITIONAL LOCAL GOVERNMENTS (to be included in Schedule A, without further modification of this Agreement)

(the "Parties")

WHEREAS:

1. The *Local Government Bylaw Notice Enforcement Act* (the "*Act*") provides that a local government may, by bylaw, deal with a bylaw contravention by Bylaw Notice in accordance with the *Act*;
2. The *Act* also provides that two or more local governments may enter into an agreement adopted, by bylaw, by each local government that is party to it;
3. The Parties wish to:
 - (a) Share the costs of a bylaw notice Dispute Adjudication Registry System ("DARS"); and
 - (b) Enter an agreement to establish DARS, and to provide for the sharing of costs.

NOW THEREFORE in consideration of the mutual promises contained herein, the Parties agree as follows:

INTRODUCTORY PROVISIONS

1. Definitions

1.1 In this Agreement, the following definitions apply:

"Act"	Means the <i>Local Government Bylaw Enforcement Act</i> .
"Adjudication Fee"	Means the sum of \$25.00 payable to the applicable Party should the disputant be unsuccessful in the dispute adjudication.
"Agreement"	Means this Agreement.
"Authorizing Bylaw"	Means a bylaw adopted by each Party for the purposes of section 2 of the <i>Act</i> (application of the <i>Act</i>).
"Bylaw Adjudication Clerk"	Means a person who facilitates a hearing and assists the adjudicator.
"Bylaw Notice"	Has the same meaning as in the <i>Act</i> .
"Consult"	Means to contact the Screening Officer via telephone, email, regular mail, or in-person for the purpose of obtaining information.
"Disputant"	Has the same meaning as in the Regulation.
"Dispute Adjudication Registry System" or "DARS"	Means a system established in accordance with the <i>Act</i> that provides for the hearing and determination of disputes in respect of whether: a) a contravention in a Bylaw Notice occurred as alleged; or b) the terms and conditions of a compliance agreement were observed or performed.
"Host Municipality"	Means the City of Nanaimo.
"Parties"	Means all of Nanaimo, Duncan, Parksville, Tofino, Port Clements or any additional local governments that may be added later in Schedule A
"Party"	Means any one of Nanaimo, Duncan, Parksville, Tofino, , Port Clements or any additional local governments that may be added later in Schedule A
"Regulation"	Means the Bylaw Notice Enforcement Regulation.
"Roster Organization"	Has the same meaning as the Regulation.
"Screening Officer"	Has the same meaning as in the <i>Act</i> .
"Terms"	Means the terms of this Agreement as set out herein.

2. Establishment of DARS

2.1 Subject to the *Act* and to the adoption of the Authorizing Bylaws, the Parties agree that DARS is hereby established.

ADJUDICATION

3. Screening Officer

3.1 The Parties agree that where a Screening Officer position has been established by a Party in accordance with the *Act*, a Bylaw Notice must be reviewed by that Screening Officer in that local government before a dispute adjudication may be scheduled. If a Disputant Consults a Screening Officer of the Host Municipality, a fee will be assessed under Schedule B.

4. Dispute Adjudication Registry System

- 4.1 The Parties agree that a DARS will be established as a function to manage disputes heard by an adjudicator who is selected by a Roster Organization in accordance with the Regulation.
- 4.2 The Parties agree that Nanaimo will enter into a contract with a designated Roster Organization for the purpose of providing dispute adjudication services to DARS.

DARS OPERATIONS

5. Location

- 5.1 DARS will be located in the Service and Resource Center, City of Nanaimo, 411 Dunsmuir Street, Nanaimo, BC V9R 5J6

6. Services Provided

- 6.1 Nanaimo will provide all administrative services required by DARS, including:
- (a) providing the venue and facilities to hear dispute adjudications in accordance with the *Act*;
 - (b) submitting requests to the Roster Organization for the assignment of an adjudicator;
 - (c) providing a Bylaw Adjudication Clerk on each hearing date to facilitate and support the hearing and the adjudicator;
 - (d) providing venue security;
 - (e) providing for the collection of Adjudication Fees and any penalties payable to a Party for a bylaw contravention;
 - (f) obtaining legal advice and services to ensure this DARS is operating pursuant to the *Act*.
 - (g) Issuing cheques to the applicable Party for penalty amounts collected with the Bylaw Notice number(s); and
 - (h) Issuing invoices to the applicable Party in accordance with Schedule B.
- 6.2 Despite section 6.1(e), the collection of penalties will be the responsibility of the applicable Party if not collected by DARS immediately following the adjudication.

7. Payments and Disbursements

- 7.1 The Parties agree to pay the City of Nanaimo proportionate costs of the fees charged by the Roster Organization. Amounts owing are to be calculated based on the Fee Schedule at Schedule B and in accordance with the Municipality Rate Schedule at Schedule C.

- 7.2 Nanaimo will issue an invoice to the applicable Party within 30 days of the service being rendered. Amounts owing are due and payable within 30 days of receipt of the invoice.
- 7.3 For certainty, the Parties agree that hearing costs relating to witnesses, screening officers, bylaw enforcement officers or prosecuting lawyers will be borne by the Party that issued the Bylaw Notice and not by DARS.

GENERAL PROVISIONS

8. Amendments

- 8.1 The Parties may, in good faith, negotiate amendments to this Agreement upon request of any Party. All amendments will be in writing, approved by a two-thirds majority of the Parties by response letter only and listed as an itemized Amendment at Schedule D.

9. Dispute Resolution

- 9.1 If a dispute arises under this Agreement and is not resolved by the Parties within 60 days, it will be settled by final and binding arbitration conducted under the *Commercial Arbitration Act of British Columbia*.

10. Term

- 10.1 This Agreement comes into effect upon adoption of the authorizing bylaws and continues in effect until December 31, 2025. With the consent of a two-thirds majority of the Parties, the effect of this agreement can be extended until a new agreement is in place or until December 31st, 2026, whichever comes first. Any Party may withdraw from this Agreement upon 30 days' written notice to the other Parties.

11. Execution of Agreement

- 11.1 This Agreement may be executed in counterparts through original copies, facsimile copies, or by email PDF copies. Each counterpart will be deemed to be an original that, together with the other counterparts, constitutes one agreement having the same effect as if the Parties had signed the same document.

IN WITNESS WHEREOF all Parties have executed this Agreement on the date first above written.

THE CITY OF Nanaimo

THE City of Duncan

Mayor

Mayor

Corporate Officer

Corporate Officer

THE CITY OF Parksville

Mayor

Corporate Officer

THE DISTRICT OF Tofino

Mayor

Corporate Officer

THE REGIONAL DISTRICT OF Nanaimo

Chair

Corporate Officer

THE VILLAGE OF Port Clements

Mayor

Corporate Officer

THE CITY OF Port Alberni

Chair

Corporate Officer

**THE REGIONAL DISTRICT OF ALBERNI
CLAYOQUOT**

Chair

Corporate Officer

THE DISTRICT OF North Cowichan

Mayor

Corporate Officer

(FEES)

DARS will operate under the following cost recovery fees:

SUBJECT

FEE

Hearing	\$25.00 per bylaw notice dispute resulting in a hearing
Screening Officer from Host Municipality	\$25.00 per bylaw notice Consult if Disputant contacts Screening Officer from Host Municipality
Adjudicator Cost	Apportioned amongst attending Parties at scheduled hearing proportionate to use as determined by the Screening Officer
Security	\$25.00 per bylaw notice hearing per attending Party
Maintenance and Hospitality	\$15.00 per bylaw notice hearing per attending Party
½ Day Hearings	\$400.00 charged in addition to Adjudicator Cost where a single dispute on a bylaw notice hearing ranges between 1-3 hours
Full Day Hearings	\$800.00 charged in addition to Adjudicator Cost where a single dispute on a bylaw notice hearing exceeds 3 hours
Annual Membership Fee—Fee Level 1	\$100.00
Annual Membership Fee—Fee Level 2	\$200.00
Annual Membership Fee—Fee Level 3	\$300.00

(ADDITIONAL LOCAL GOVERNMENTS)

The following local governments have been added as parties to this Agreement as additional local governments:

Local Government	Date Joined	Fee Level

SCHEDULE C (MUNICIPALITY RATES)

This is the rate schedule for the following parties:

LEVEL	MUNICIPALITIES
Level 1	Village of Port Clements
Level 2	City of Duncan City of Parksville District of Tofino City of Port Alberni Regional District of Alberni Clayoquot
Level 3	Corporation of the District of North Cowichan City of Nanaimo Regional District of Nanaimo