

This application also includes a request to amend the Lakes District and Schooner Cove Phased Development Agreement (PDA) to accommodate the proposed development. The key changes to the PDA are to accept a floating boardwalk using the marina floats rather than a land based route, timing and trigger mechanisms for the required amenities, access to the existing boat ramp, and fire protection equipment.

In accordance with the PDA, the applicant is proposing a number of community amenities in conjunction with this phase including a floating waterfront pathway/boardwalk, public access and open space, a multi-use pathway and upgrades along Dolphin Drive, and other associated improvements.

Representatives of the RDN and the applicant met with the Snaw-Naw-As First Nation Chief and members of their Council to discuss the proposed development. Given the issues identified, the applicant has advised that they will work directly with Snaw-Naw-As First Nation to address their areas of interest.

Given that the Development Permit (DP) guidelines have been met and no negative impacts are anticipated as a result of the proposed variances, staff recommends that the Board approve the development permit with variance pending the outcome of public notification and subject to the terms and conditions outlined in Attachment 2. Given that the proposed PDA Amendment Agreement would provide an equivalent community amenity package, staff recommends that the Board approve the PDA amendment agreement as outlined in Attachment 13.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from 1042719 BC Ltd. to permit the construction of 50 dwelling units and 1,924 m² of commercial floor space on the subject properties, which are within Phase 1Sc of Schooner Cove as identified in the PDA. The land proposed to be developed is approximately 1.3 hectares in area, contains a large previously-occupied vacant commercial building (Building A), and is located at the northwest corner of Dolphin Drive and Outrigger Road (see Attachment 1 – Subject Property Map and Proposed Development Context Map). The topography slopes down moderately in a north-west direction from a high point of approximately 15.0 metres geodetic at the corner of Dolphin Drive and Outrigger Road to the natural boundary of the ocean.

The subject property is zoned Village Mixed Use (CD45-MU). The Marina and a small portion of Building A are located within the Marina subzone (CD45-MA) (see Attachment 1 – Subject Property Map – Current Zoning and Proposed Development Context). Adjacent uses include, an existing multiple-unit residential building (Schooner House Strata) and undeveloped land zoned for multiple-unit residential to the east, undeveloped land zoned for multi-unit residential to the south, existing single unit detached residential to the south and west, and the Schooner Cove Marina to the north. The property is serviced by RDN community water and community sewer services.

The proposed development is subject to the following Development Permit Areas (DPA) as per the Schooner Cove Neighbourhood Plan:

1. Schooner Cove DPA 1: Village Form and Character

2. Schooner Cove DPA 2: Environmentally Sensitive Development
3. Schooner Cove DPA 3: Hazardous Conditions
4. Schooner Cove DPA 4: Energy Conservation, Water Conservation and the Reduction of Greenhouse Gases

Proposed Development

The application includes the renovation of the existing building (Building A) to be repurposed to include 11 dwelling units and approximately 1,830 m² of commercial floor area. The proposal also includes the construction of a new six storey residential building containing 39 dwelling units and approximately 94 m² of commercial floor area (Building B). The proposed residential units have been designed to adaptive housing standards allowing future conversions of the units to accommodate residents' future needs. A range of amenities, including a publicly accessible waterfront boardwalk, internal pathways, public access open space, and other improvements and infrastructure works required by the PDA and PDA Amendment Agreement, are proposed in conjunction with the development. Signage for the proposed development is not included as part of this application as the applicant has indicated that signage will be addressed through a separate development permit application to reflect the tenant mix.

Development Implications

The following provides an overview of the proposed development with regard to the applicable DPA Guidelines followed by a brief discussion on individual buildings, parking and requested variances.

To satisfy DPA 1 Guidelines, the applicant has submitted site plans and building elevations dated June 21, 2017 prepared by Collabor8 Architecture and Design (See Attachments 3 and 4). The applicant has also submitted a detailed landscaping plan dated May 8, 2017, prepared by PMG Landscape Architects (See Attachment 5), along with an itemized landscaping cost estimate, and security deposit in the amount of \$181,545. The applicant has also submitted a grading and drainage plan dated February 22, 2017 prepared by McElhanney Consulting Services Ltd. which directs rainwater from impervious surfaces to an oil water separator before discharging it into the ocean (See Attachment 6).

This first phase of development at Schooner Cove is intended to reenergize the neighbourhood and reintroduce commercial services that had been discontinued some years ago. The provision of local commercial services is critical to implementation of the neighbourhood plan and the creation of a compact complete community. The scale and design mixed commercial use along with multi-residential dwellings is in keeping with the Official Community Plan vision and is supported by the Schooner Cove Neighbourhood Plan.

The buildings incorporate natural and non-combustible building materials in accordance with the development permit guidelines. Features such as bicycle racks, pedestrian pathways, and public access open space contribute to the creation of a well-defined public realm and encourage active transportation. With respect to general site design, the proposed development is consistent with the applicable DPA 1 Guidelines.

To satisfy DPA 2 Guidelines, the applicant has submitted a Marine Habitat Assessment Report dated May 2017 prepared by Archipelago Marine Research Ltd. The report indicates that no sensitive habitats were observed and the proposed marina gangway ramp locations are natural bedrock formations. The Assessment recommends shoreline intertidal zone and subtidal habitat enhancements on the subject

property. Development in accordance with the Marine Habitat Assessment Report has been included as a condition of approval (See Attachment 2 – Terms and Conditions of Permit).

To satisfy DPA 4 Guidelines, the applicant is proposing to include a number of approaches to promote energy and water conservation and the reduction of greenhouse gases including native drought-tolerant plant species, large balconies and other design features which provide shade. In addition, the proposed reuse of the existing building will eliminate a significant volume of construction waste, reduce construction traffic, and reduce the use of raw materials.

Building A – Design and Variances

The applicant is proposing to replace the roof and cladding and renovate Building A in its current location (see Attachment 3 and 4). A slight modification to the roof is proposed to add insulation. In order to satisfy the DPA 1 Guidelines, the applicant is adding dormers and other architectural features to break up the massing of the building and to add architectural interest. Given that the applicant is proposing to retain Building A and has made efforts to reduce the massing of the building and to add architectural detail, Building A is consistent with DPA 1 Guidelines.

The following variances to the height requirements of the CD45-MU and CD45-MA zones are required to recognize the height of the existing building within those zones and allow roof insulation to be added as outlined in Attachment 2.

- **Section 3.4.145.5 – Maximum Size of Buildings and Structures** to increase the height of a portion of Building A from 18.0 m geodetic to 20.1 m geodetic to recognize the existing structure and incorporate roof insulation.
- **Section 3.4.145.6 – Maximum Size of Buildings and Structures** to increase the height of a portion of Building A from 7.0 m geodetic elevation or 1 storey whichever is less to 16.32 m or 3 storeys, whichever is less to recognize a portion of the existing building which is encroaching into the CD45-MA zone.

Building A has been in its current location for many years and the proposed variances would increase the height of the existing building by approximately 30 cm, as such, it is not anticipated that the requested variances relating to Building A would have an impact on views from adjacent properties.

Building B – Design and Variances

Building B has been designed in a manner consistent with the DPA 1 Guidelines including the following:

- reduced overall building massing by setting it into the topography and stepping it along the south, east, and west elevations;
- articulation and architectural details which further reduce the building mass;
- authentic detailing and exterior finishes such as stone finishing at the building base;
- deep overhangs and covered balconies; and,
- a colour pallet of rich earthy tones.

This application has requested two variances that relate to Building B. The first is an increase in the maximum number of storeys permitted from five to six but not to increase the permitted height. Building B is located within Height Area E within the CD45-MU zone which permits a maximum height of

31.0 metres geodetic. Building B will have a maximum height of 30.8 metres geodetic, which complies with the maximum height permitted in the zone.

In considering this variance to the number of storeys, where there are sloping lots and underground parking is incorporated, the Schooner Cove Neighbourhood Plan permits two additional storeys. For the purpose of interpreting the CD45-MU zone, a storey must be above grade for it to be counted in the maximum number of storeys. The proposed development includes a complex building on a sloping lot with a maximum of six storeys and underground parking. While maintaining the overall permitted building height, the proposed six storey building would limit the overall footprint, would accommodate two additional levels of underground parking, and would help minimize impervious surfaces. The proposed increase to the number of storeys from five to six is consistent with the Schooner Cove Neighbourhood Plan and DPA Guidelines.

The second variance related to proposed Building B is for a roof overhang which is located approximately 18.0 metres above grade adjacent to Dolphin Drive. The proposed roof overhang is intended to help articulate the elevation along Dolphin Drive and is part of a series of similar features proposed for the building. As the proposed roof overhang is located below the highest ridge of the building no impacts on views from adjacent properties are anticipated.

The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (as per the PDA) as outlined in Attachment 2:

- **Section 3.4.145.5 – Maximum Size of Buildings and Structures** to increase the maximum number of storeys permitted from 5 to 6 for Building B.
- **Section 3.4.145.5 – Minimum Setback Requirements** to reduce the minimum setback requirements for lot lines fronting a highway from 4.5 m to 3.0 m to permit an architectural roof overhang on proposed Building B which is approximately 6.9 m in width and is located approximately 18 m above grade adjacent to Dolphin Drive.

Parking – Design and Variance

In addition to the general site design features discussed above, in order to satisfy the DPA 1 Guidelines, the applicant is proposing that parking requirements for the proposed development are being satisfied through a combination of surface and two levels of underground parking. In addition, surface parking and loading areas include extensive landscaping and screening.

The parking requirements in the CD45-MA zone permit a minimum of 25% of the required parking for marina use to be located in the CD45-MU Zone. The remaining 75% of the marina parking may be provided on the lands zoned CD45-RMD (see Attachment 1 – Current Zoning). Parking for other uses must be located on the same site as the use which the parking accommodates. The off-site parking location is currently used as an informal parking area for vehicles and boat trailers.

Since a portion of the off-site parking area is temporary in nature and the balance of the off-site parking is subject to change pending the future design of development on that parcel, landscaping and security lighting on the off-street parking area was not addressed in this development permit application. The

applicant provided written confirmation of the commitment to address landscaping and security lighting of the of-site parking area through a subsequent development permit application.

To ensure that adequate parking is provided during the construction of Building B, a variance is required to allow off-site parking on a temporary basis. If approved, the proposed variance would allow parking to be located near the tennis courts on the parcel legally described as Lot 1, District Lot 78, Nanoose District, Plan 28544 generally as shown on Attachment 3 – Proposed Variances Page 2. This temporary off-site parking would be for up to 24 months following the issuance of this development permit with variance and would be secured through easement and covenant (see Attachment 2 – Terms and Conditions of Permit). The proposed parking improvements and parking variance represent an overall improvement over existing conditions as it would help to formalize this parking area.

The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (as per the PDA) as follows and as outlined in Attachment 2:

- **Schedule 3B – Off-Street Parking and Loading Spaces Section 1.1 – Location** to permit temporary off-street parking on the parcel legally described as Lot 1, District Lot 78, Nanoose District, Plan 28544 for a duration not to exceed 24 months from the date of issuance of this development permit to satisfy the parking requirements for Building A.

Board Policy B1.5 "Development Variance Permit, Development Permit with Variance & Floodplain Application Evaluation

Board Policy B1.5 for the evaluation of variance applications requires that there is an adequate demonstration of an acceptable land use justification prior to the Board's consideration of a variance proposal. Staff have reviewed the applicant's requested variances in consideration of Board Policy B1.5 and are of the opinion that an acceptable land use justification has been provided and the applicant has made reasonable efforts to reduce the extent of the variances requested.

Given that the applicant has satisfied Board Policy B1.5 guidelines, the proposal is consistent with the DPA Guidelines, and the requested variances are not anticipated to negatively impact adjacent properties, staff recommends that the requested development permit with variance application PL2016 -188 be approved subject to the conditions of approval in Attachment 2.

Phased Development Agreement and Amendment Agreement Implications

The existing PDA sets out the requirements for the provision and timing of amenities that are to be provided by the owner in conjunction with development of the Schooner Cove and Lakes District lands. The proposed PDA amendments are largely required as a result of the applicant's proposal to retain rather than to demolish Building A and to develop by simply constructing a new building and modifying an existing building rather than proceeding by subdivision as originally contemplated. The amendments require the provision of these public amenity improvements to within 18 months from the issuance of a building permit or subdivision, whichever occurs first within a phase. A summary of the proposed changes to the PDA is provided in Attachment 8.

Proposed amendments to the PDA have been prepared and are in the form of a PDA Amendment Agreement (See Attachment 13). The applicant is in concurrence with the proposed changes and has signed the proposed PDA Amendment Agreement.

In staff's assessment, the proposed changes to the PDA would result in an equivalent overall community amenity package as compared to the original agreement. It is also anticipated that the proposed PDA amendments would result in some amenity improvements relative to the original agreement including the retention of a publicly accessible boat ramp and a floating walkway with ample opportunity to interact with the marine environment. Therefore, staff recommends that the Board approve the proposed PDA Amendment Agreement included as Attachment 13.

The PDA includes a number of amenities and requirements in conjunction with Phase 1Sc which generally include the construction of the first segment of the waterfront boardwalk/pathway, the construction of an upgraded road standard for Dolphin Drive fronting Phase 1Sc lands (subject to MOTI approval – see Attachment 7), a multi-use pathway adjacent to Dolphin Drive from Outrigger Road to Schooner Road (subject to MOTI approval), a location for a future transit shelter. As per the PDA the owner is required to pay for bus shelter once transit service is established, public art and interpretive signage, and publicly accessible open space and pathways. With regard to road improvements, the applicant is proposing to upgrade approximately 261 metres of Dolphin Drive generally fronting the subject property to include resurfacing, concrete curb and gutter and a boulevard planted with grass. The applicant is also proposing to construct approximately 343 metres of the 3.0 metres wide multi-use pathway extending from Outrigger Road to Schooner Road which is also anticipated in the PDA (see Attachments 3 and 7 for proposed road and multi-use trail improvements).

Procedural Implications

The proposed PDA amendments are considered “minor amendments” in accordance with Section 519 of the *Local Government Act* and paragraph 61 of the PDA. Should the Board wish to approve the proposed PDA Amendment Agreement, it would do so through an authorizing resolution.

To ensure that the proposed development is consistent with the requirements of the PDA, it is recommended that the Board consider the PDA Amendment Agreement prior to its consideration of development permit with variance application PL2016-188. Should the Board wish to deny the proposed PDA Amendment Agreement, it is recommended that the Board refer the development permit with variance application and PDA Amendment Agreement back to staff with direction.

Intergovernmental Implications

The application was referred to Snaw-Naw-As First Nation, Ministry of Transportation and Infrastructure (MOTI), and the Nanoose Volunteer Fire Department (NVFD). The NVFD indicated that it was satisfied with the proposed site plan and fire protection measures.

Representatives of the RDN met with the Snaw-Naw-As First Nation Chief and members of their Council on May 8, 2017 to discuss the proposed development. Although no written submissions have been received in response to the written referral, four concerns related to marina operation and development of the land were identified including the impact of Styrofoam on the marine environment, a spill containment plan and identifying the location of the marina fuel tanks, archaeological monitoring during the development process, and access to Crown lands. In response to the above concerns, the applicant has agreed to have Snaw-Naw-As First Nation members on site during the initial archaeological investigation and during excavation for proposed Building B. The applicant has advised that they will

work directly with Snaw-Naw-As First Nation to address the issues raised that relate to operation of the marina.

The MOTI provided referral comments on June 20, 2017 which indicate that a commercial access permit, a setback permit, and a permit for works within the road right-of-way are required (see Attachment 9). The MOTI indicated that it will not assume responsibility for the proposed multi-use pathway which is inconsistent with the commitments made by MOTI as outlined in a letter received by the RDN from Minister Stone dated August 28, 2013 (See Attachment 10). Minister Stone's letter indicates that MOTI would assume responsibility for both existing and new sidewalks in Schooner Cove and the Lakes District. In response to MOTI's comments of June 20th 2017, staff recommends that the Board direct staff to prepare a letter to MOTI advising that it is the RDN's expectation that MOTI will retain responsibility for sidewalks in the Lakes District and Schooner Cove as per Minister Stone's commitment of August 28, 2013.

In recognition of the recent change to MOTI's position with respect to maintenance of the multi-use pathway, and in order to move this application forward in a timely manner, staff have included provisions in the proposed PDA amendment agreement that will ensure responsibility for sidewalks is addressed before development can proceed (see Attachment 8 – Summary of PDA Amendments). To address the maintenance of the multi-use pathway, the proposed PDA amendment would require the owner to petition the RDN to establish a Local Service Area if MOTI does not follow through with Minister Stone's commitment for MOTI to take responsibility for sidewalks.

The MOTI also provided comments related to future off-site road improvements in relation to both Schooner Cove and the Lakes District. The Ministry will require roads internal to the development and off-site improvements to roads and intersections as subdivision and development of the lands occur and based on an analysis of the traffic demands resulting from development. The developer will be providing improvements to Dolphin Drive in proximity of the development anticipated in the PDA which are beyond the standards required by MOTI. As per the PDA, the developer will address any additional off-site improvements as required by MOTI through the commercial access permit for this phase of development.

Public Consultation Implications

A Public Information Meeting (PIM) hosted by the RDN was held on May 30, 2017. Approximately 200 members of the public attended and two written submission were received at the PIM (see Attachment 12 – Minutes of the Public Information Meeting). A number of concerns were raised at the PIM including impacts on traffic and road safety, impacts on views from adjacent properties, height of building B, loss of village feel, and the impacts of construction traffic.

As per the PDA and in response to the concerns raised in relation to construction traffic, the applicant has provided a Construction Traffic Management Plan (CTMP) (see Attachment 11) as part of the Construction Environmental Management Plan (CEMP). The recommendations contained in the CTMP address a number of road safety items including construction parking, site access, traffic control, hours of work, and construction signage and fencing. The PDA requires that the CEMP be registered on title as a Section 219 covenant prior to subdivision, or the issuance of a building permit, whichever occurs first.

Pending the Electoral Area Services Committee’s recommendation and pursuant to the *Local Government Act* and the “Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005”, property owners and tenants of parcels located within a 50.0 metre radius of the subject property will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variances prior to the Board’s consideration of the application on July 25th, 2017.

ALTERNATIVES

1. To approve Development Permit with Variance No. PL2016-188 and the Phased Development Agreement Amendment Agreement subject to the terms and conditions outlined in Attachments 2 to 7.
2. To deny Development Permit with Variance No. PL2016-188 and the Phased Development Agreement Amendment Agreement.

FINANCIAL IMPLICATIONS

Although there are no financial implications related to the Financial Plan, it should be noted that the RDN Planning Service Fees Charges Bylaw does not include any fees related to amending or drafting a PDA. Considerable staff time and resources were required in order to process this PDA amendment and amendments to the Bylaw are required to reflect the resource allocation where Phased Development Agreements accompany OCP, zoning amendment applications or Development Variance Permits. In the fall, staff will prepare a report outlining required amendments to “Regional District of Nanaimo Planning Service Fees and Charges Bylaw No. 1259, 2002” by adding fees relating to PDA amendments and the creation of new PDAs.

The owner will be responsible for maintaining the boat ramp, floating walkway, and publicly accessible open space and pathways. If MOTI maintains its position with respect to maintenance of the multi-use pathway as per its June 20, 2017 comments, a Local Service Area (LSA) will be established for the multi-use pathway and all costs will be covered by the participants of the LSA. In addition, it is envisioned by the Memorandum of Understanding between the RDN and the owner of the lands subject to the PDA dated July 23, 2014 that LSAs would be established or extended to provide for the operation and maintenance of street lighting and other behind the curb improvements. This may also extend to the public art and interpretive signage.

STRATEGIC PLAN IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal will contribute towards the RDN Strategic Priorities by fostering economic development, supporting an aging population by designing adaptive housing units, and helping to support active transportation through transit infrastructure and walking and cycling improvements. The proposal will also contribute towards an enhancement of the marine environment through mitigation efforts proposed as part of this application.



Greg Keller
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July 05, 2017

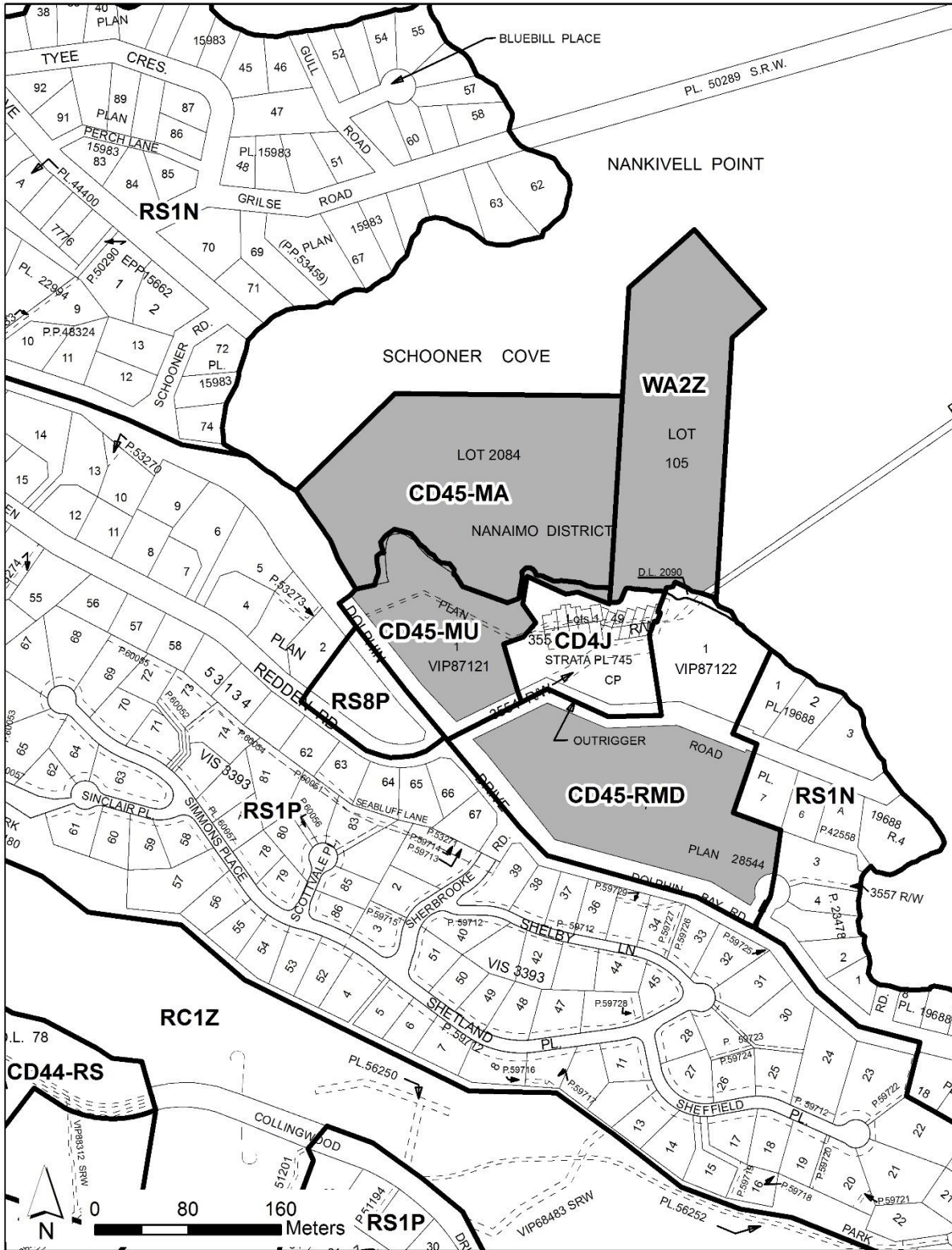
Reviewed by:

- J. Holm, Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

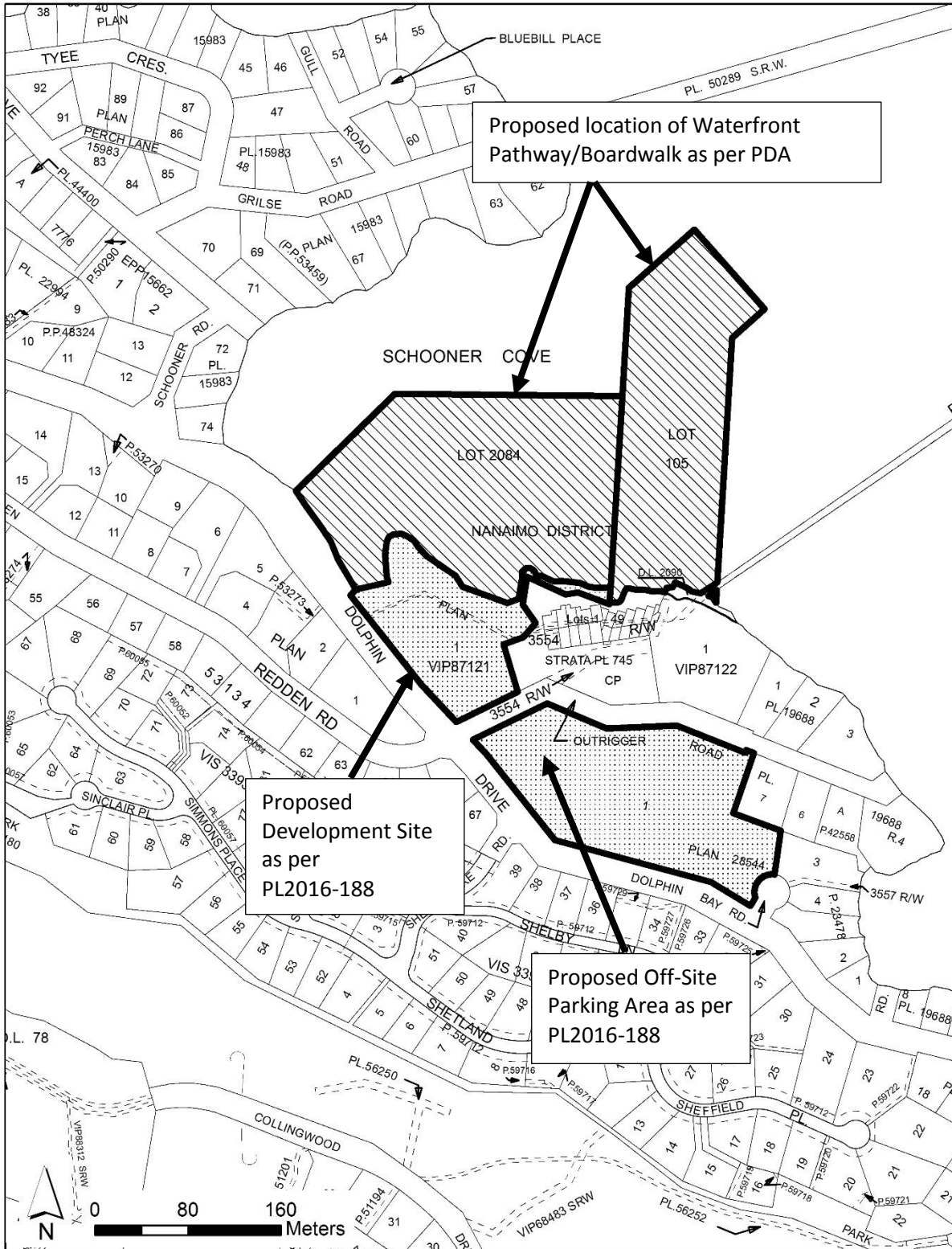
Attachments

1. Subject Property Map
2. Terms and Conditions of Permit
3. Proposed Site Plan and Variances
4. Building Elevations and Plans
5. Proposed Landscaping Plans
6. Grading and Drainage Plan
7. Proposed Dolphin Drive and Multi-Use Pathway General Design
8. Summary of PDA Amendments
9. MOTI Comments – June 20, 2017
10. Minister Stones Letter – August 28, 2013
11. Construction Traffic Management Plan
12. Minutes of the Public Information Meeting Held on May 30, 2017
13. Draft PDA Amendment Agreement

Attachment 1 (Page 2 of 3)
Subject Property Map – Current Zoning



Attachment 1 (Page 3 of 3)
Subject Property Map – Proposed Development Context



Attachment 2 Terms and Conditions of Permit

The following sets out the terms and conditions of Development Permit with Variance No. PL2016-188:

Bylaw No. 500, 1987 Variances

With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (as per the PDA) is varied as follows:

- **Section 3.4.145.5 – Maximum Size of Buildings and Structures** to increase the height of a portion of Building A from 18.0 m geodetic to 20.1 m geodetic to recognize the existing structure and incorporate roof insulation.
- **Section 3.4.145.6 – Maximum Size of Buildings and Structures** to increase the height of a portion of Building A from 7.0 m geodetic elevation or 1 storey whichever is less to 16.32 m or 3 storeys, whichever is less to recognize a portion of the existing building which extends into the CD45-MA zone.
- **Section 3.4.145.5 – Maximum Size of Buildings and Structures** to increase the maximum number of storeys permitted from 5 to 6 for Building B.
- **Section 3.4.145.5 – Minimum Setback Requirements** to reduce the minimum setback requirements for lot lines fronting a highway from 4.5 m to 3.0 m to permit an architectural roof overhang on proposed Building B which is approximately 6.9 m in width and is located approximately 18.0 m above grade adjacent to Dolphin Drive.
- **Schedule 3B – Off-Street Parking and Loading Spaces Section 1.1 – Location** to permit temporary off-street parking on the parcel legally described as Lot 1, District Lot 78, Nanoose District, Plan 28544 for a duration not to exceed 24 months from the date of issuance of this development permit to satisfy the parking requirements for Building A.

Conditions of Approval

1. Staff shall withhold the issuance of this Permit until the applicant, at the applicant’s expense and to the satisfaction of the Regional District of Nanaimo, registers an easement and Section 219 Covenant in favour of Lot 1, District Lot 78, Nanoose District and District Lots 2085, 2086, 2087, and 2089, Nanaimo District Plan VIP 87121 which includes the following:
 - a. A requirement that Building A cannot be used for any purpose until the following have been completed to the satisfaction of the Regional District of Nanaimo:
 - i. Parking has been constructed for the uses contained in Building A on site in the location approved by Development Permit with Variance PL2016-188 in accordance with the minimum required number and standards set out in Bylaw 500 or,

- ii. Off-site parking has been constructed in the general location approved by Development Permit with Variance PL2016-188 and in accordance with the minimum required number and standards set out in Bylaw 500.
 - b. A requirement that, in the event that Building B is not constructed within 24 months from the date of issuance of Development Permit with Variance PL2016-188, that parking be constructed on-site in the general location approved by Development Permit with Variance PL2016-188 and in accordance with the minimum required number and standards set out in Bylaw 500.
 - c. If on-site parking is constructed as required in (b) above, landscaping of the parking area shall be required in accordance with Attachment 5. If landscaping is not consistent with Attachment 5, a new Development Permit would be required for that portion.
 - d. To allow the easement and covenant to be discharged once the parking requirements have been satisfied on Lot 1, District Lot 78, Nanoose District and District Lots 2085, 2086, 2087, and 2089, Nanaimo District Plan VIP 87121 to the satisfaction of the Regional District of Nanaimo.
2. The site is developed in accordance with the Site Plan prepared by Collabor8 Architecture and Design, dated June 21, 2017 and attached as Attachment 3.
 3. The proposed development is in compliance with the plans and elevations prepared by Collabor8 Architecture and Design, dated June 21, 2017 and attached as Attachments 3 and 4.
 4. The proposed development shall be developed in accordance with the plans and specifications included in Attachments 3 to 7.
 5. The proposed landscaping shall be provided and maintained in accordance with the Landscaping Plan prepared by PMG Landscape Architects, dated December 21, 2016 and attached as Attachment 5.
 6. The applicant shall provide a landscaping security in the amount of \$181,545 to be held until all of the landscaping works as required by Attachment 5 have been completed to the satisfaction of the RDN. Upon completion, a one-year written guarantee from a landscape contractor shall be required, otherwise 25% of the landscaping cost will be retained to ensure proper maintenance for a one year period.
 7. All parking to be provided in accordance with Bylaw 500 (as per the PDA), except where varied by this permit.
 8. The subject property shall be developed in accordance with the recommendations contained in the Geotechnical Engineer's report dated April 28, 2017 prepared by RJC Engineers.
 9. The subject property shall be developed in accordance with the recommendations contained in the Marine Habitat Assessment Report dated May 2017 prepared by Arhipelago Marine Research Ltd. Once the mitigation work has been completed, a confirmation letter from a qualified Marine

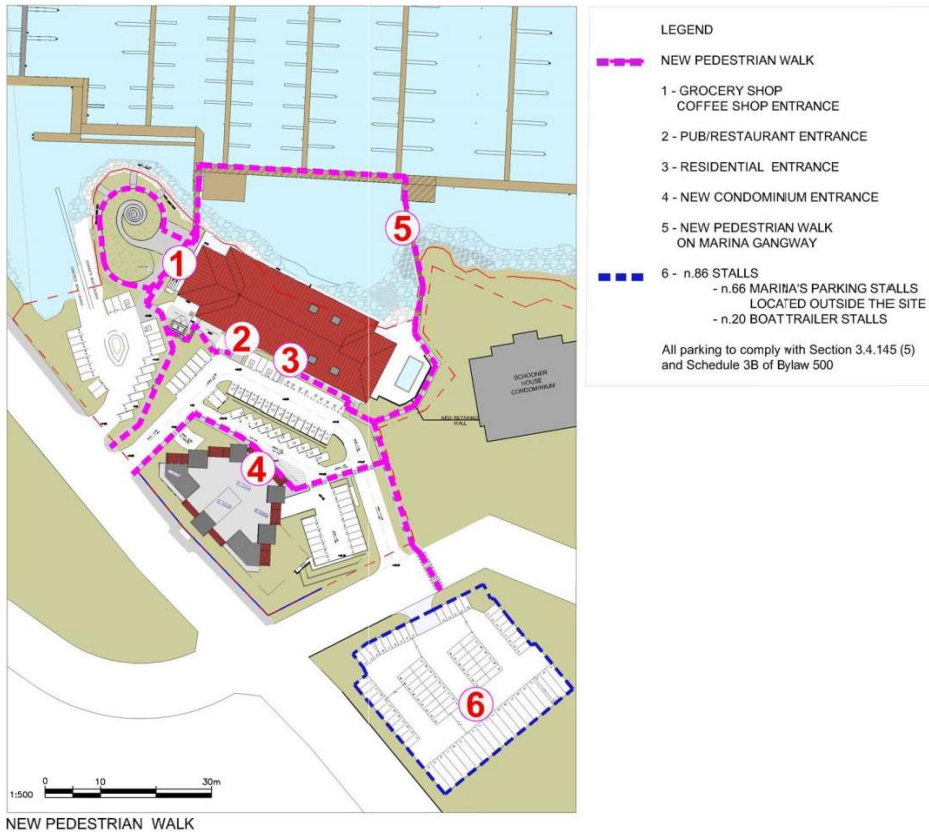
Biologist shall be required to certify that the mitigation work has been completed in accordance with the report.

10. The property owner shall obtain the necessary permits for construction in accordance with the Regional District of Nanaimo Building Regulations.
11. The property owner shall develop the property in substantial compliance with “Regional District of Nanaimo Phased Development Agreement (Lakes District and Schooner Cove) Authorization Bylaw No. 1692, 2013” as amended.
12. The owner shall secure the necessary approvals including a setback relaxation, permit for works within a road right-of-way, and a commercial access permit from the Ministry of Transportation and Infrastructure.

Attachment 3
Proposed Site Plan – Enlarged for Convenience (page 2 of 3)

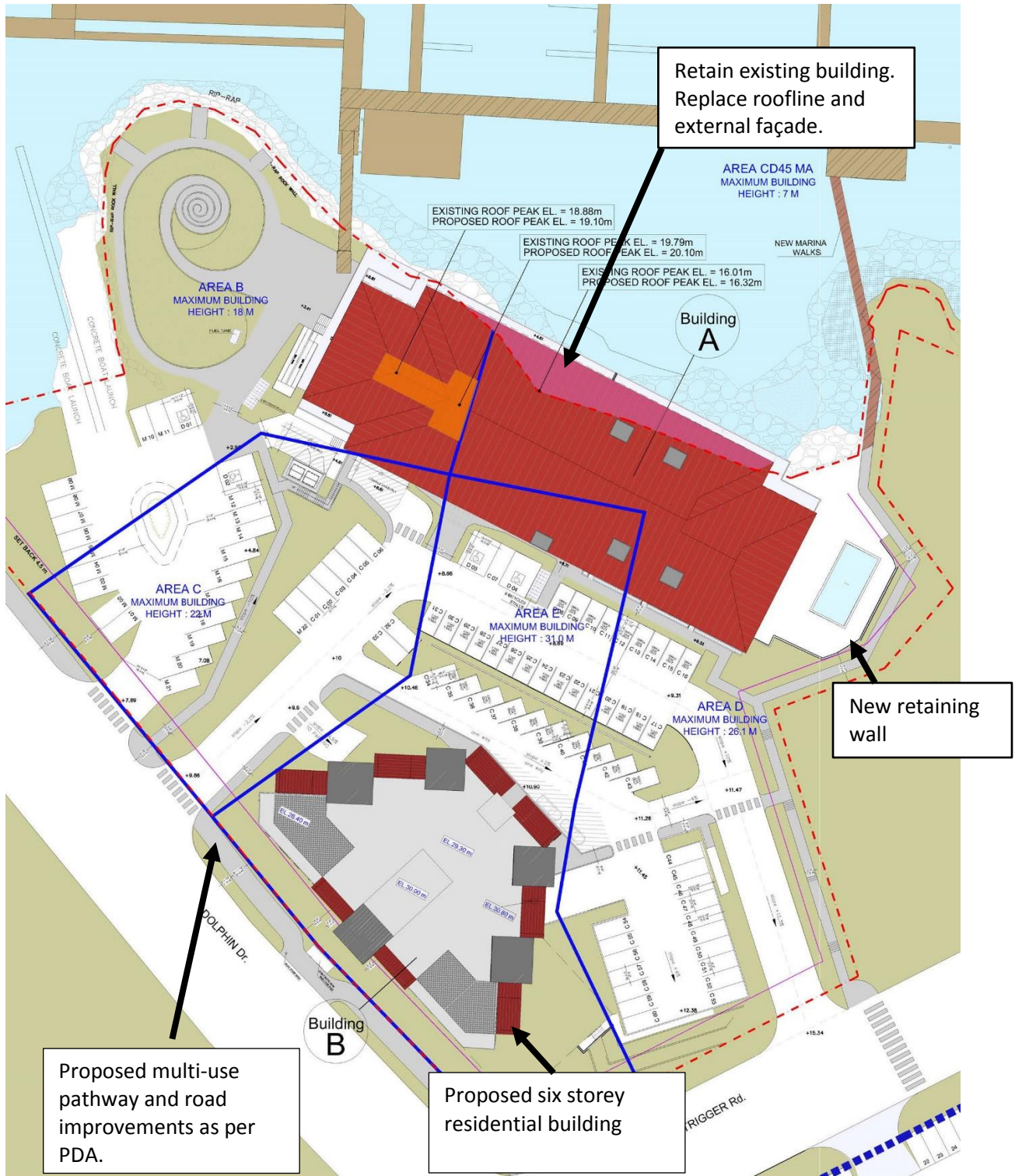


SITE LOCATION

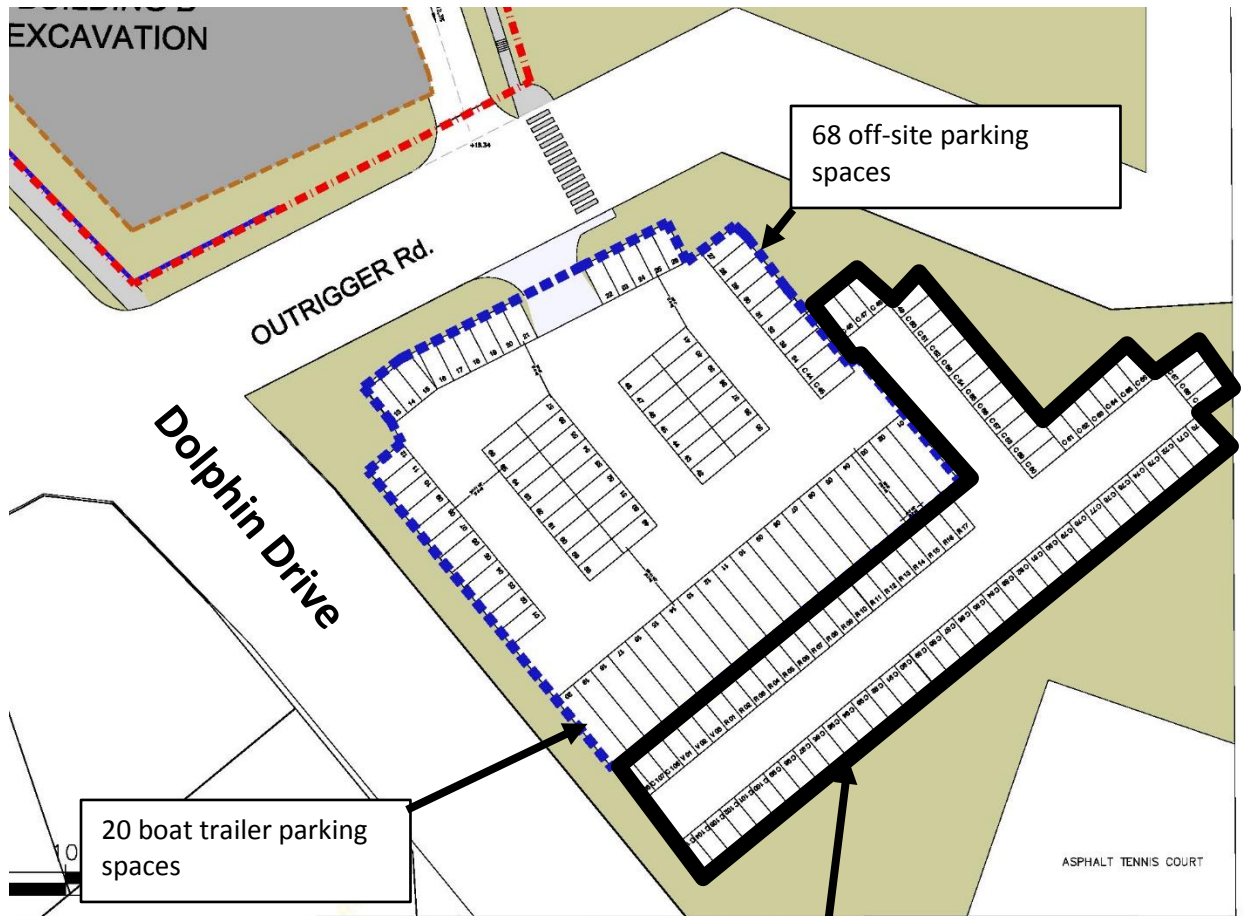


NEW PEDESTRIAN WALK

Attachment 3
Proposed Site Plan – Enlarged for Convenience (page 3 of 3)

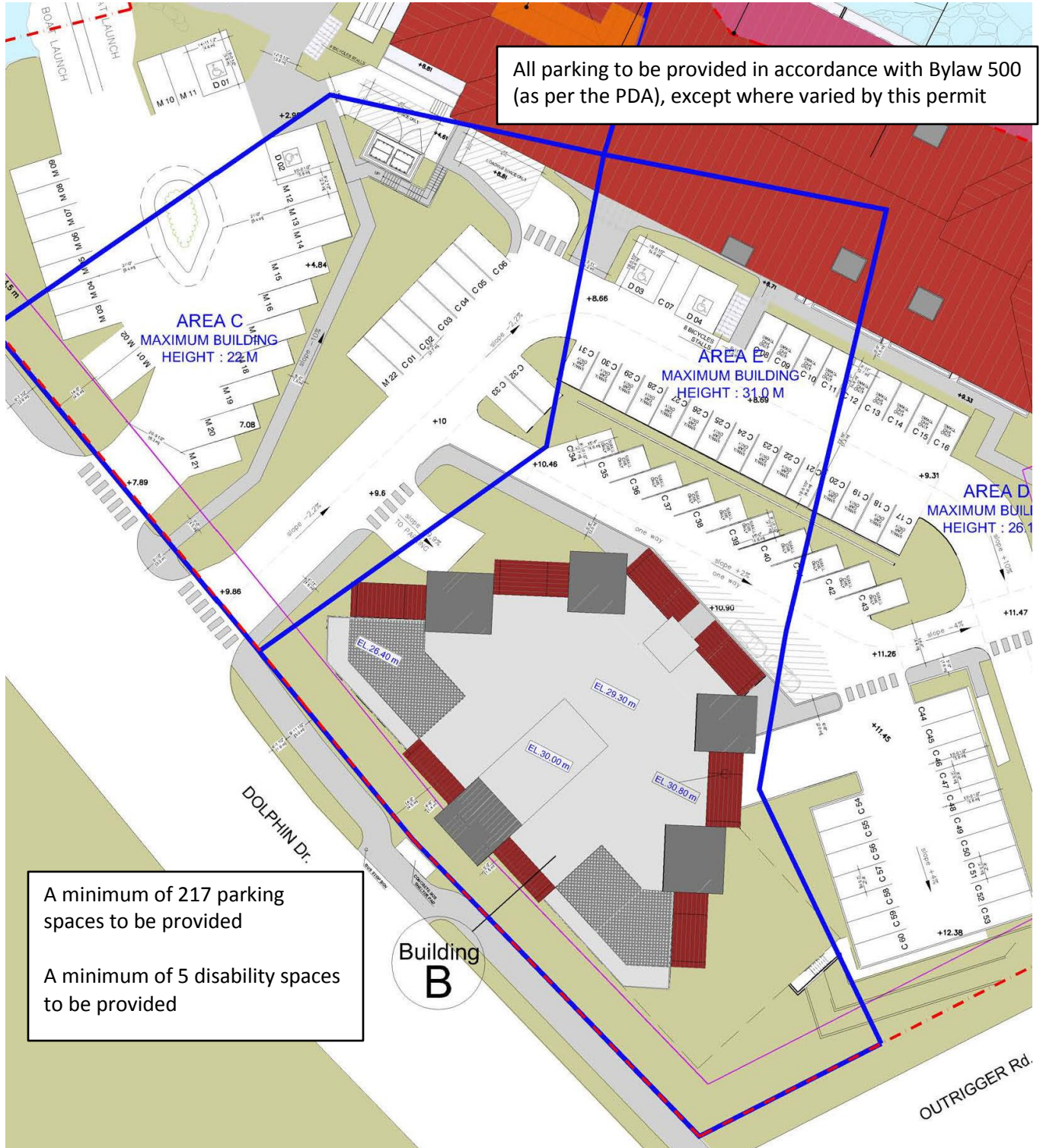


Attachment 3
Proposed Variances (Page 2 of 2)

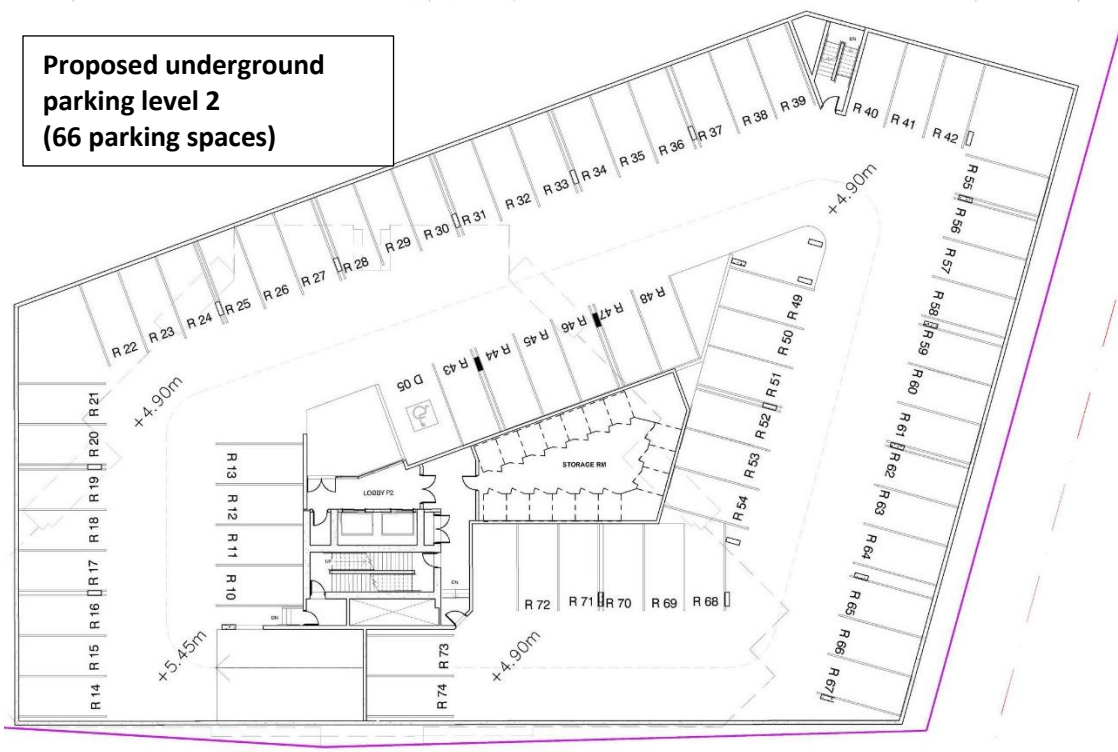
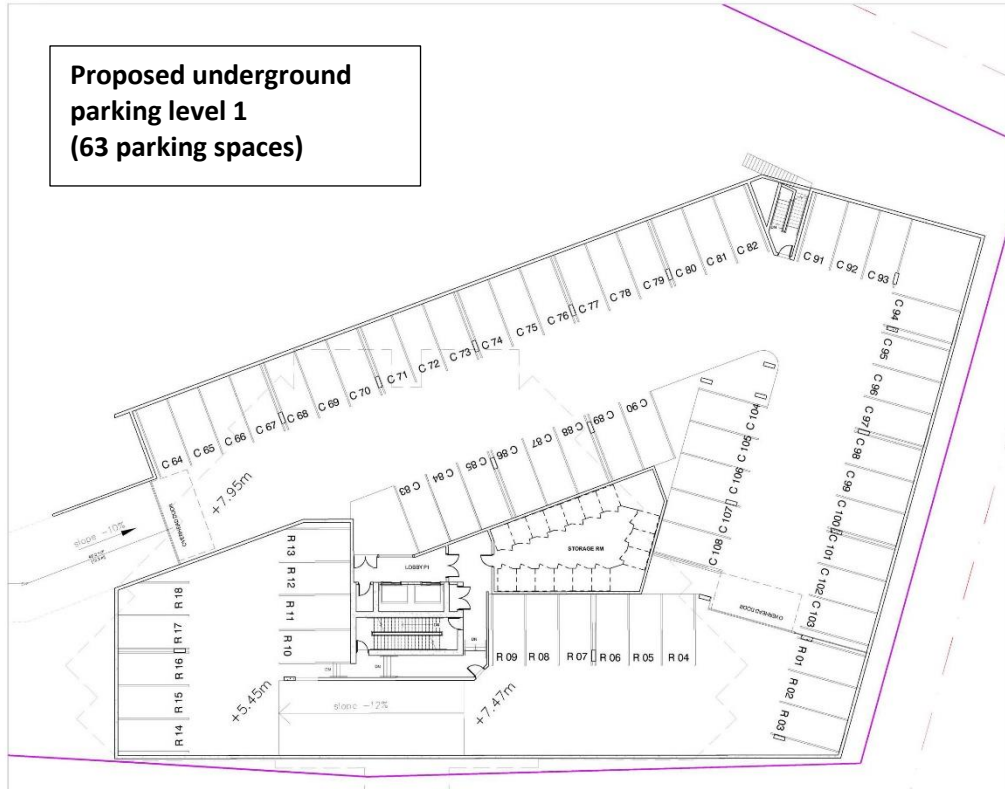


Proposed variance to permit 83 temporary off-street parking spaces on the parcel legally described as LOT 1, DISTRICT LOT 78, NANOOSE DISTRICT, PLAN 28544 for a duration not to exceed 24 months from the date of issuance of this development permit to satisfy the parking requirements for Building A.

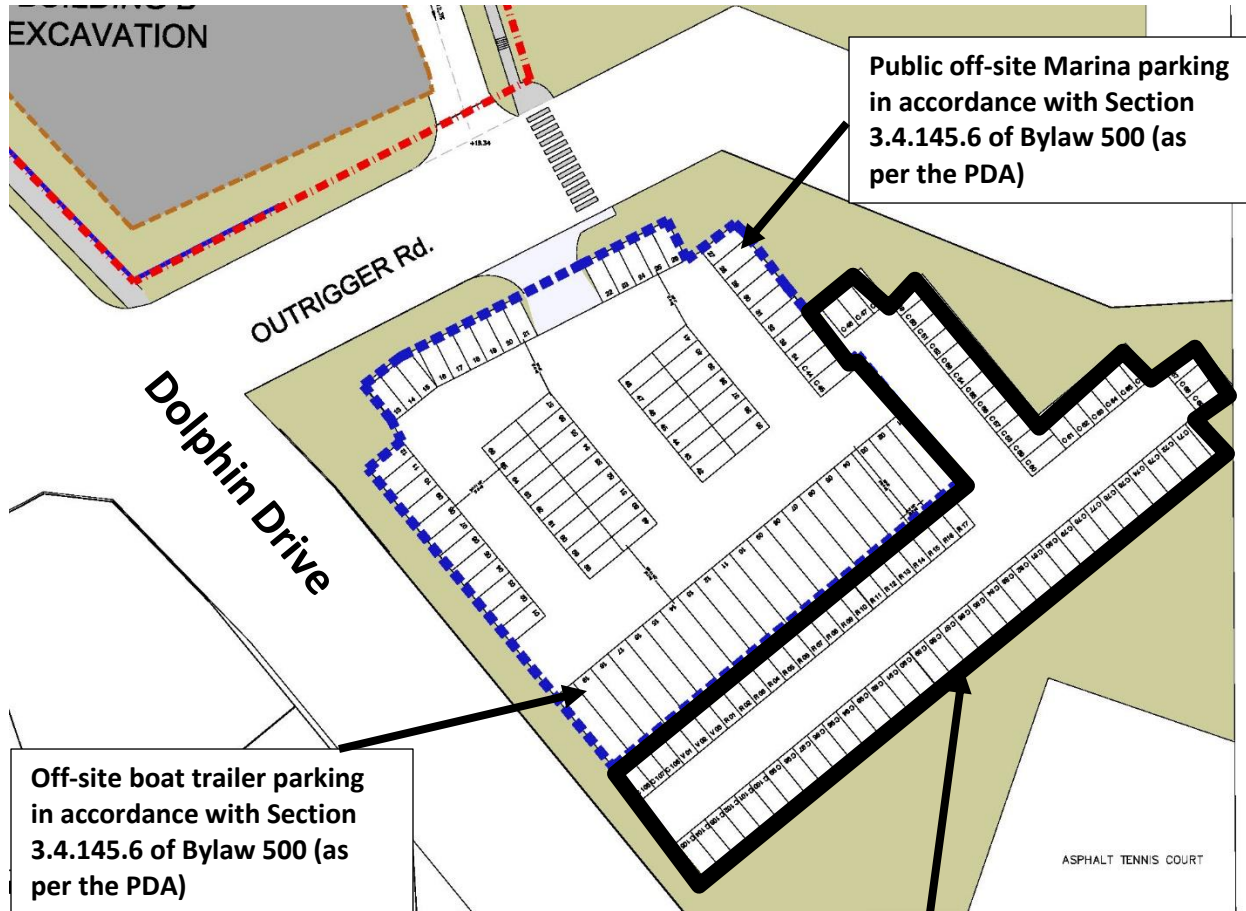
Attachment 3
Proposed Parking Areas (page 1 of 4)
Proposed Surface Parking Overview



Attachment 3
Proposed Parking Areas (page 2 of 4)
Proposed Underground Parking Facility beneath Building B



Attachment 3
Proposed Parking Areas (page 3 of 4)
Proposed Off-Site Parking

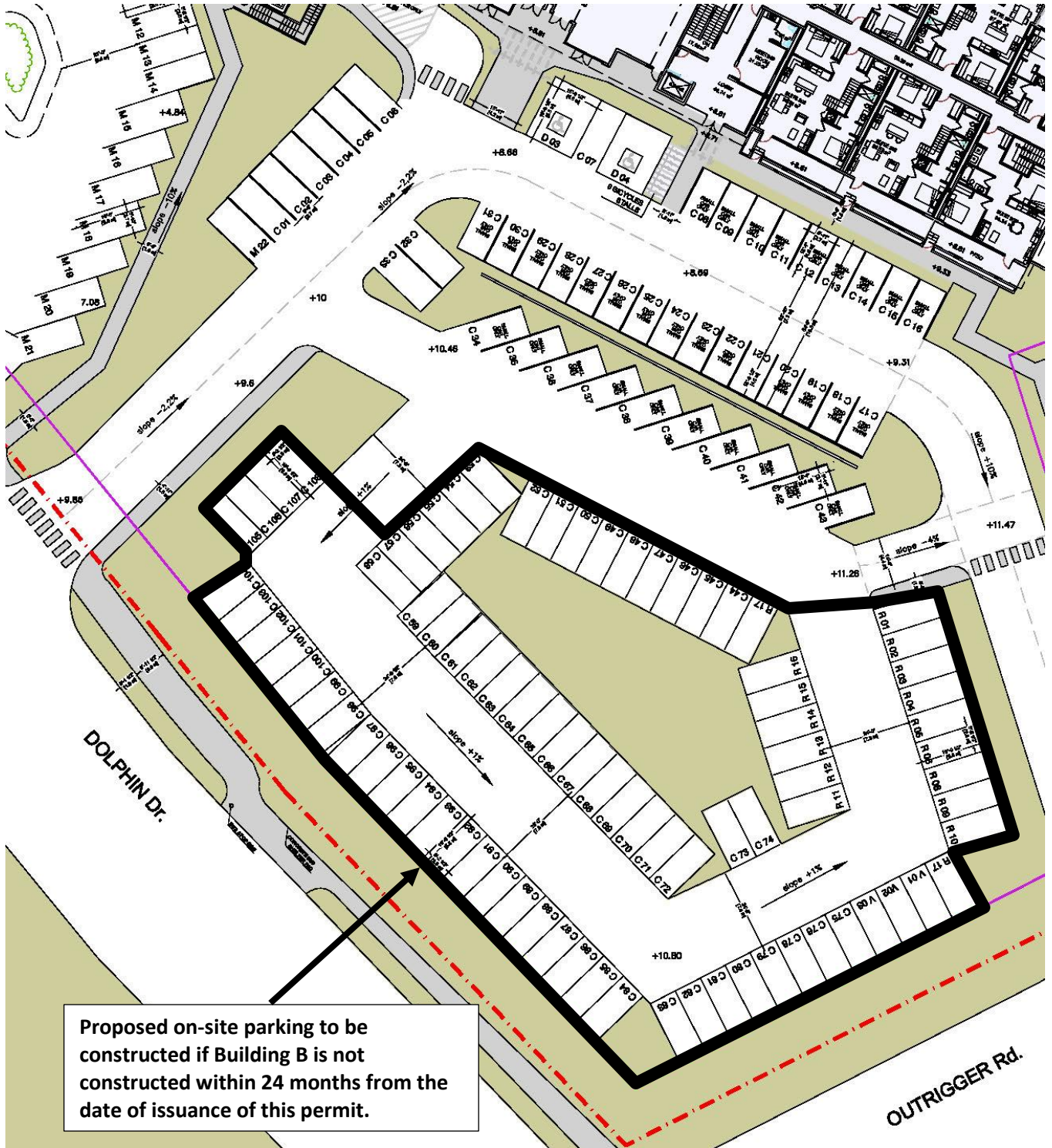


Off-site boat trailer parking in accordance with Section 3.4.145.6 of Bylaw 500 (as per the PDA)

Public off-site Marina parking in accordance with Section 3.4.145.6 of Bylaw 500 (as per the PDA)

Temporary off-site parking to be removed once Building B is constructed or within 24 months from the date of issuance of this permit and prior to occupancy of Building A.

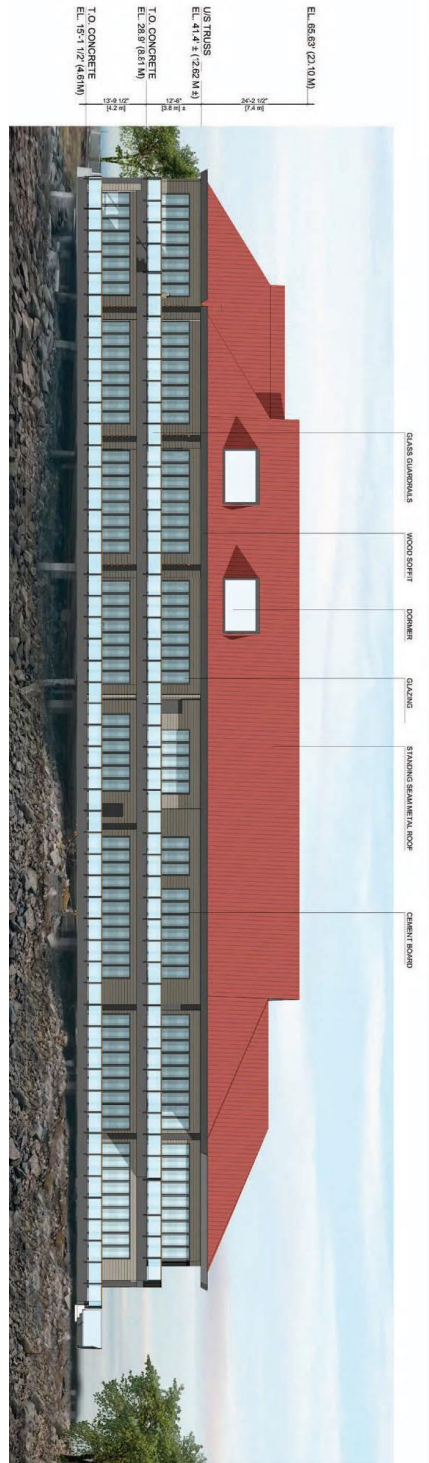
Attachment 3
Proposed Parking Areas (page 4 of 4)
Proposed Surface Parking (if Building B is not constructed)



Attachment 4 Building Elevations – Building A (page 1 of 3)



Attachment 4
Building Elevations – Building A (page 2 of 3)



North Elevation

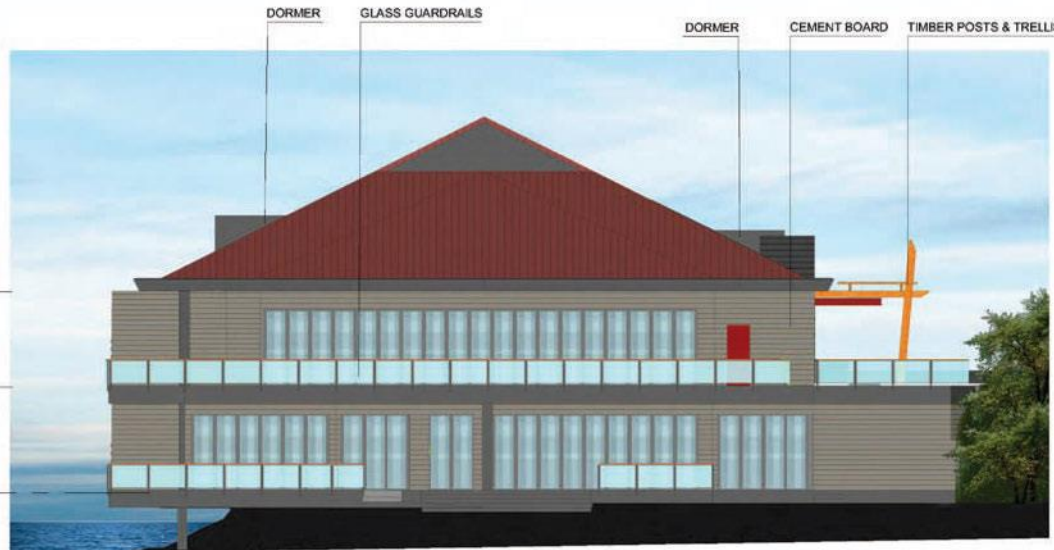


South Elevation

Attachment 4
Building Elevations – Building A (page 3 of 3)



East Elevation



West Elevation

Materials Palette



WOOD



ROOFING METAL
STANDING SEAM RED

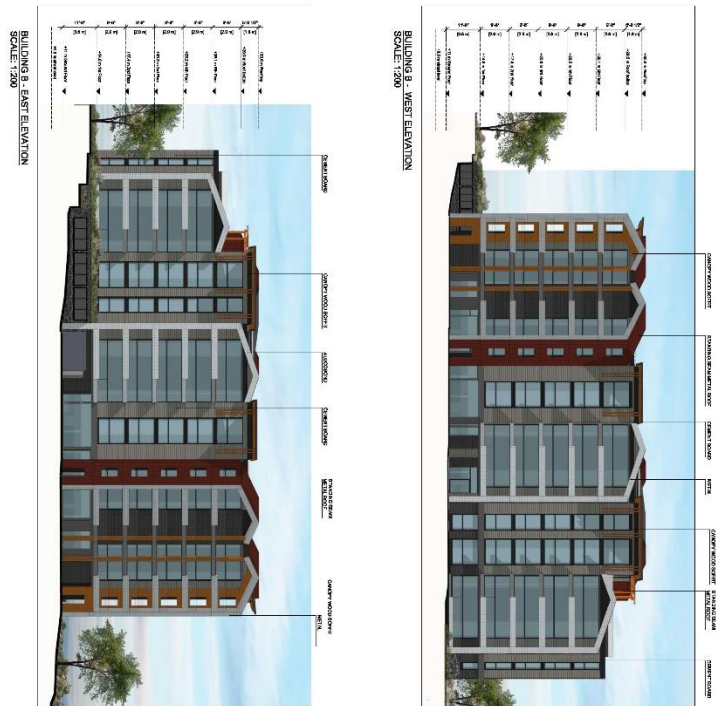


FIBER CEMENT
LIGHT GREY



FIBER CEMENT
DARK GREY

Attachment 4 Building Elevations – Building B (page 1 of 5)



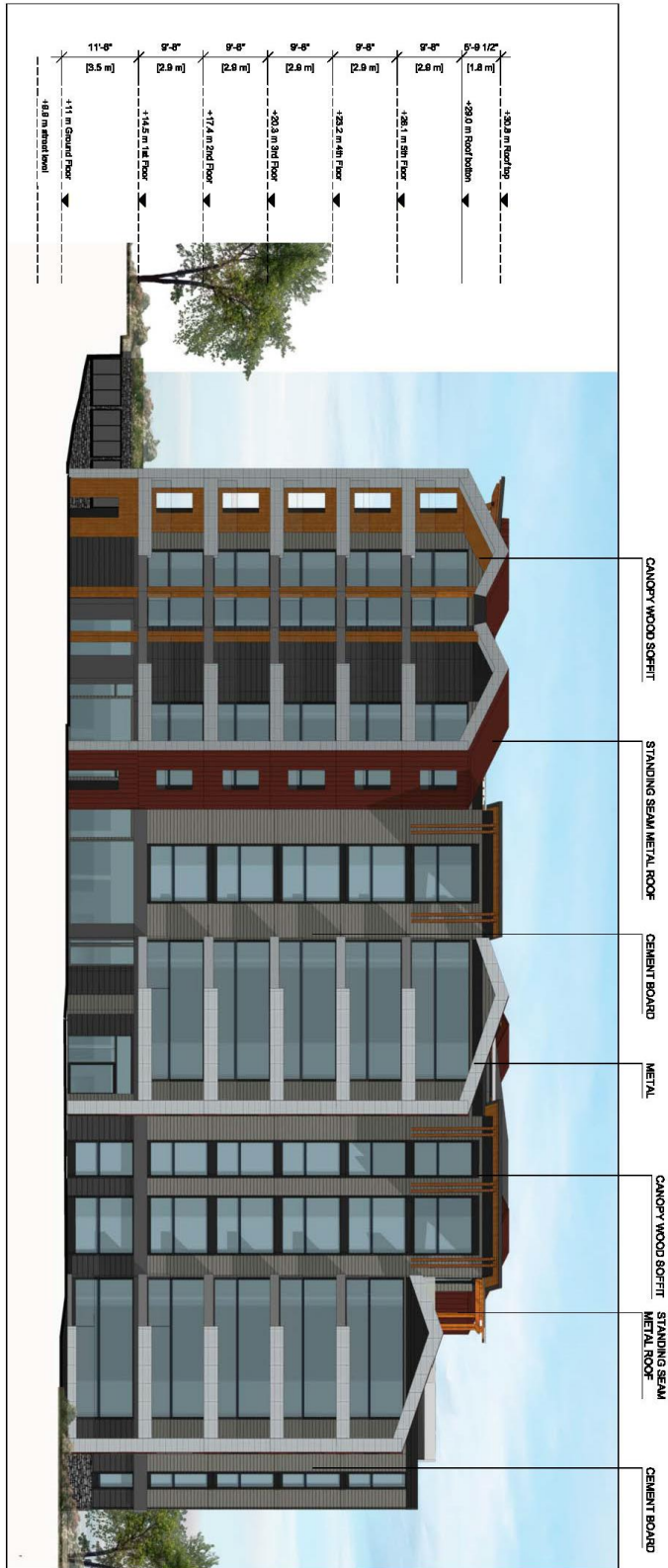
Attachment 4
Building Elevations Enlarged for Convenience – South West Elevation Building B (page 2 of 5)



Attachment 4
Building Elevations Enlarged for Convenience – North East Elevation Building B (page 3 of 5)



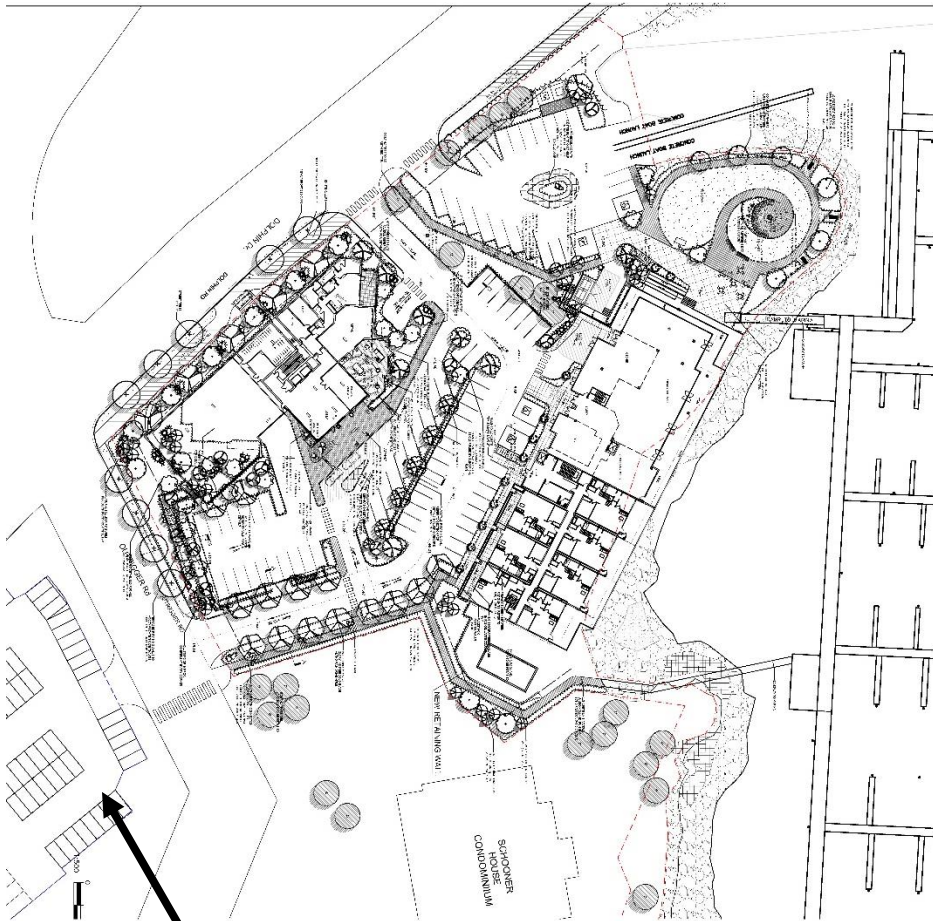
Attachment 4
Building Elevations Enlarged for Convenience – West Elevation Building B (page 4 of 5)



Attachment 4
South East View of Proposed Buildings A and B



**Attachment 5
 Proposed Landscaping Plan (page 1 of 6)**



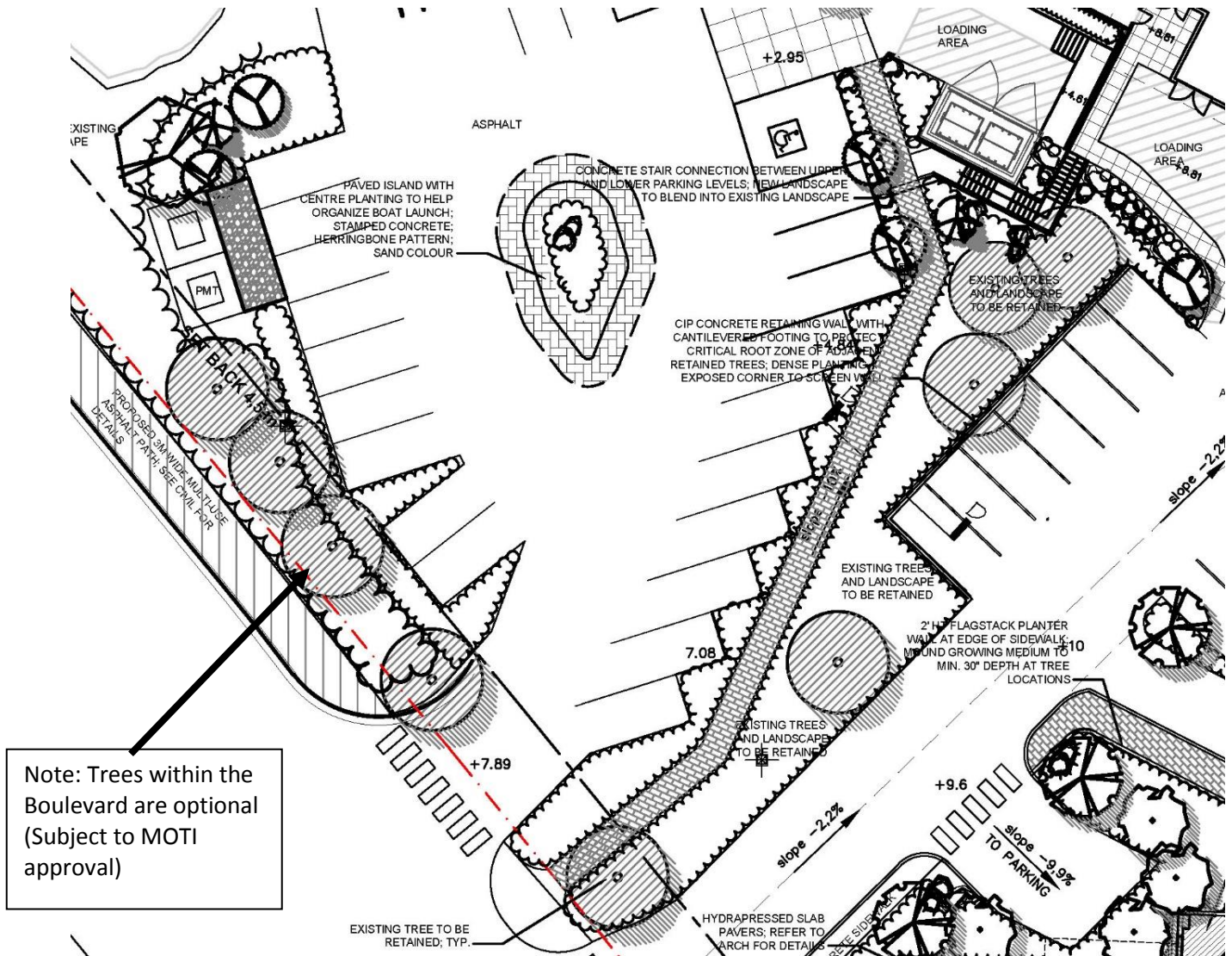
Landscaping in off-site parking area to be addressed through subsequent development permit application.



CONCEPT IMAGES

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY LAYOUT	11/15/16	PM
2	REVISIONS	11/15/16	PM
3	REVISIONS	11/15/16	PM
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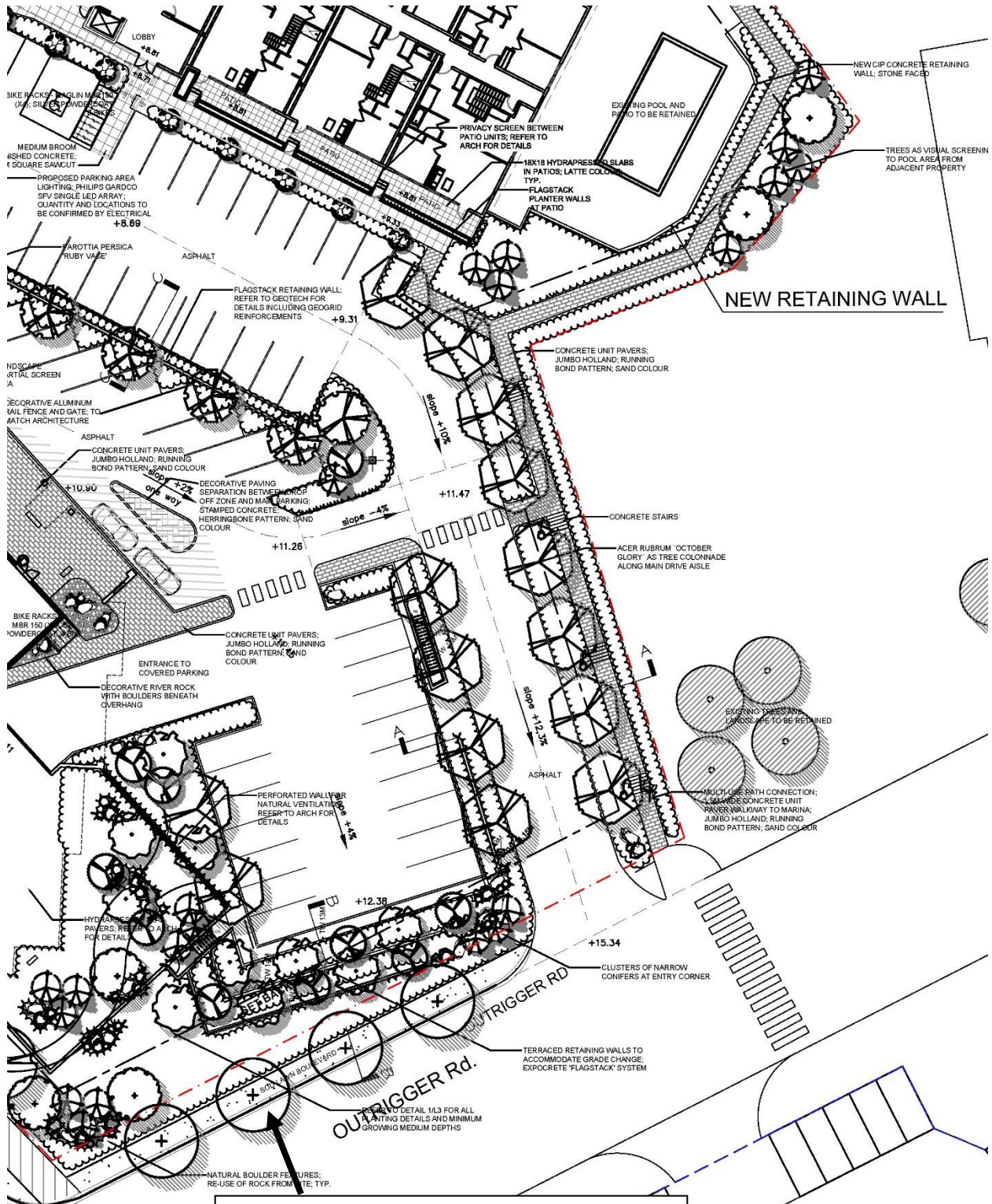
Attachment 5
Proposed Landscaping Plan (page 4 of 6) South West Portion Enlarged for Convenience



IRRIGATION NOTE:

HIGH EFFICIENCY DRIP IRRIGATION SYSTEM TO BE DESIGNED AND INSTALLED BY AN IRRIGATION INDUSTRY ASSOCIATION OF BRITISH COLUMBIA CERTIFIED IRRIGATION DESIGNER; IRRIGATION TO BE SUPPLIED FOR ALL ON SLAB PLANTING, INDIVIDUAL PLANTERS AND IN HIGH TRAFFIC AREAS

Attachment 5
Proposed Landscaping Plan (page 5 of 6) South East Portion Enlarged for Convenience

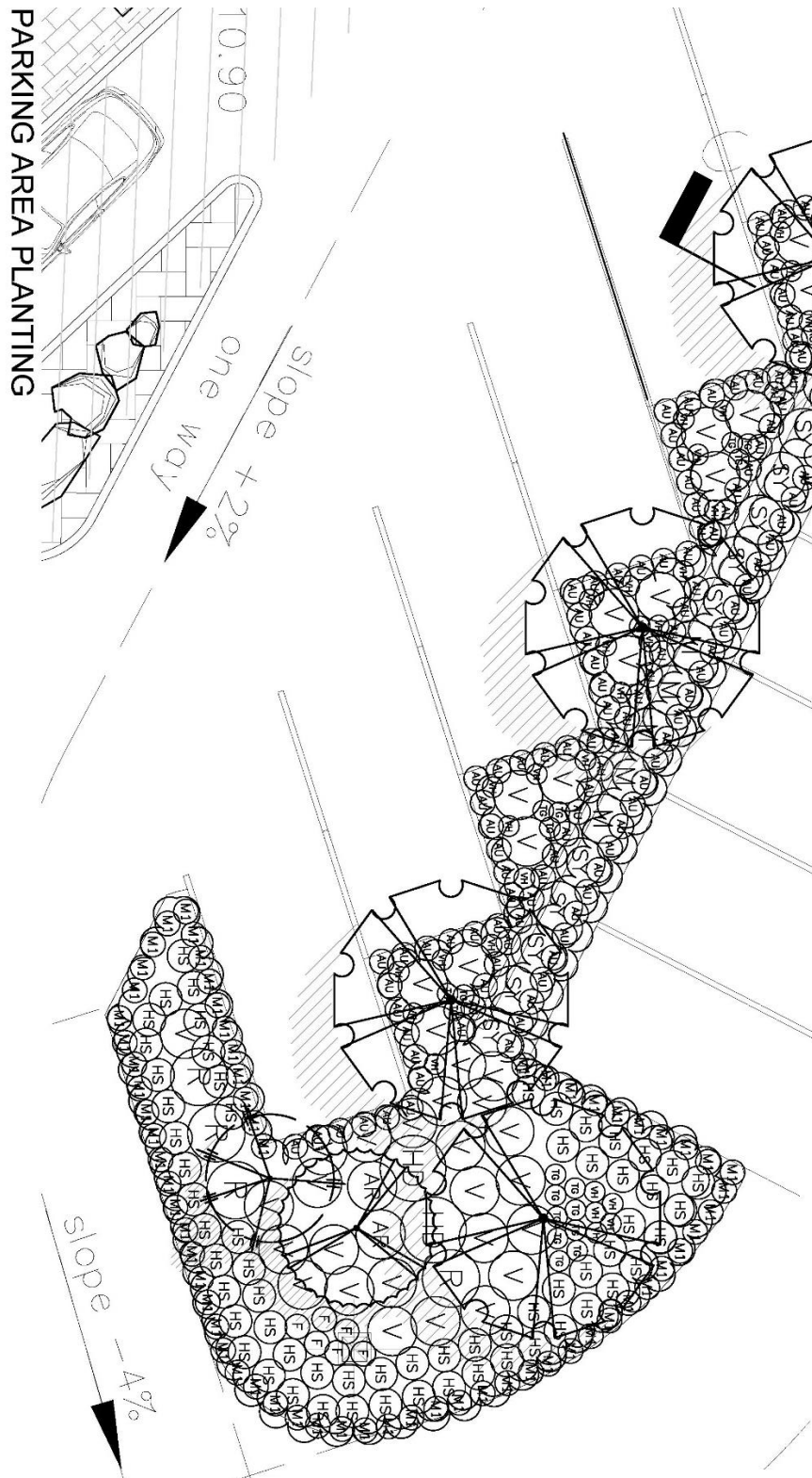


Note: Trees within the Boulevard are optional
(Subject to MOTI approval)

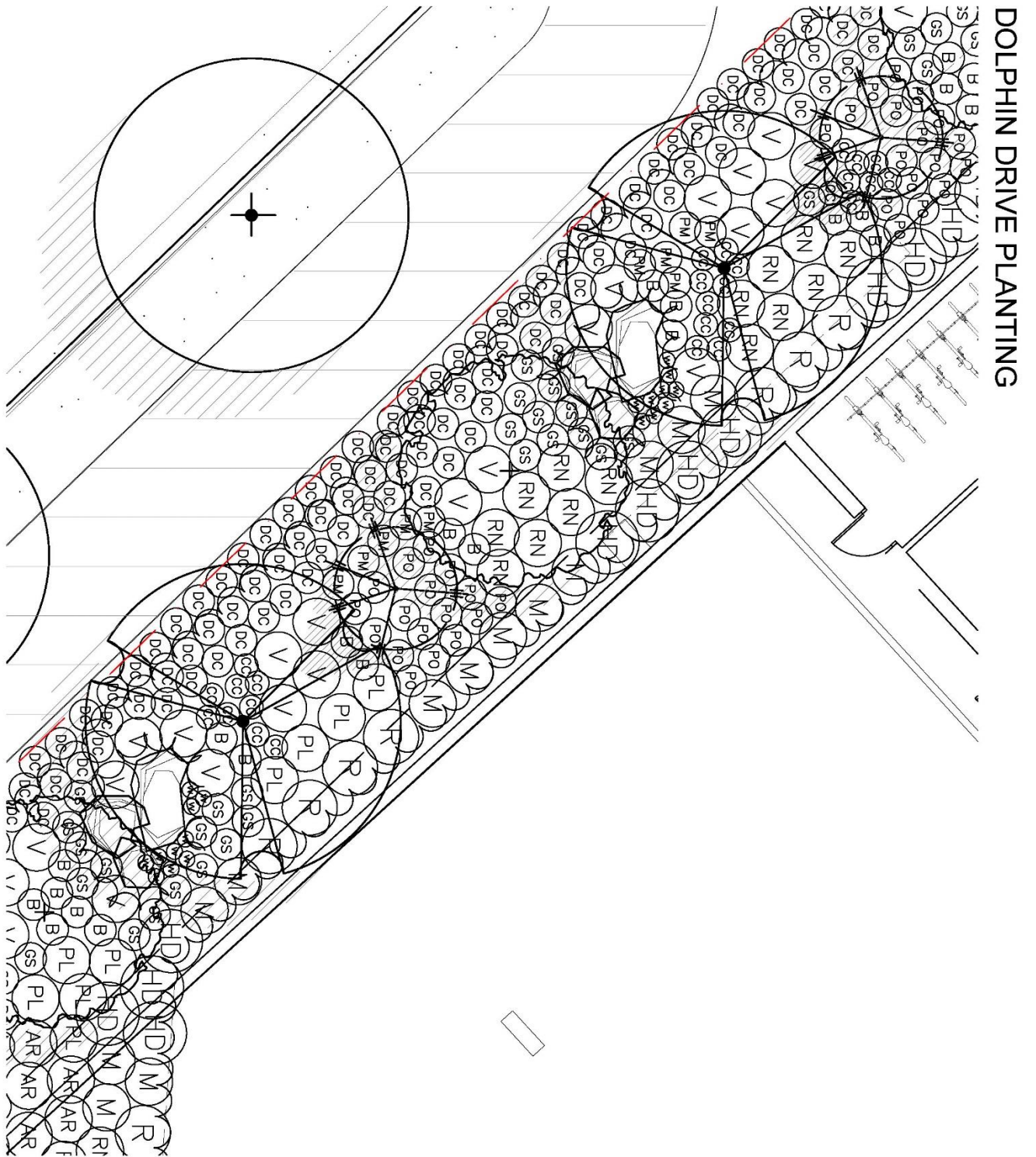
Attachment 5
Proposed Landscaping Detail (Page 1 of 4)

PROPOSED SHRUB SCHEDULE			PMG PROJECT NUMBER: 16-205
KEY	QTY	BOTANICAL NAME	COMMON NAME
			PLANTED SIZE / REMARKS
SHRUB			
(A)		ARONIA MELANOCARPA	CHOKEBERRY
(B)		CORNUS SERICEA 'KEL SEYI'	DWARF KEISEY DOGWOOD
(C)		GAULTHERIA SHALLOON	SALAL
(D)		HOLODISCUS DISCOLOR	OCEANSPRAY
(E)		MAHONIA AQUIFOLIUM	OREGON GRAPE
(F)		PACHYSTIMA MYRSINITES	FALSE BOX
(G)		PHILADELPHUS LEWISII	LEWIS' MOCK ORANGE
(H)		RIBES SANGUINEUM	RED FLOWERING CURRANT
(I)		ROSA NUTKANA	NOOTKA ROSE
(J)		SYMPHORICARPOS ALBUS	SNOWBERRY
(K)		TAXUS X MEDIA 'HICKSII'	HICKS' YEW
(L)		VACCINIUM OVATUM	EVERGREEN HUCKLEBERRY
GRASS			
(M)		CALAMAGROSTIS ACUTIFLORA 'KARL FOERSTER'	FEATHER REED GRASS
(N)		DESCHAMPSIA CESPITOSA	TUFTED HAIR GRASS
(O)		HELICTOTRICHON SEMPERVIRENS	BLUE OAT GRASS
(P)		STIPA TENUISSIMA	MEXICAN FEATHER GRASS
PERENNIAL			
(Q)		ARMERIA MARITIMA	COMMON THRIFT
(R)		LAVENDULA ANGSTIFOLIA 'MUNSTEAD'	ENGLISH LAVENDER; COMPACT; VIOLET-BLUE
(S)		TELLIMA GRANDIFLORA	FRINGE CUP
(T)		VANCOUVERIA HEXANDRA	INSIDE-OUT FLOWER
(U)			
(V)		ARCTOSTAPHYLOS UVA-URSI	KINNIKINNICK
(W)		BLECHNUM SPICANT	DEER FERN
(X)		CORNUS CANADENSIS	BUNCHBERRY
(Y)		FRAGARIA VIRGINIANA	WILD STRAWBERRY
(Z)		MAHONIA REPENS	CREeping OREGON GRAPE
(AA)		POLYSTICHUM MUNITTUM	WESTERN SWORD FERN
(AB)		VACCINIUM VITIS IDAEA	LINGONBERRY
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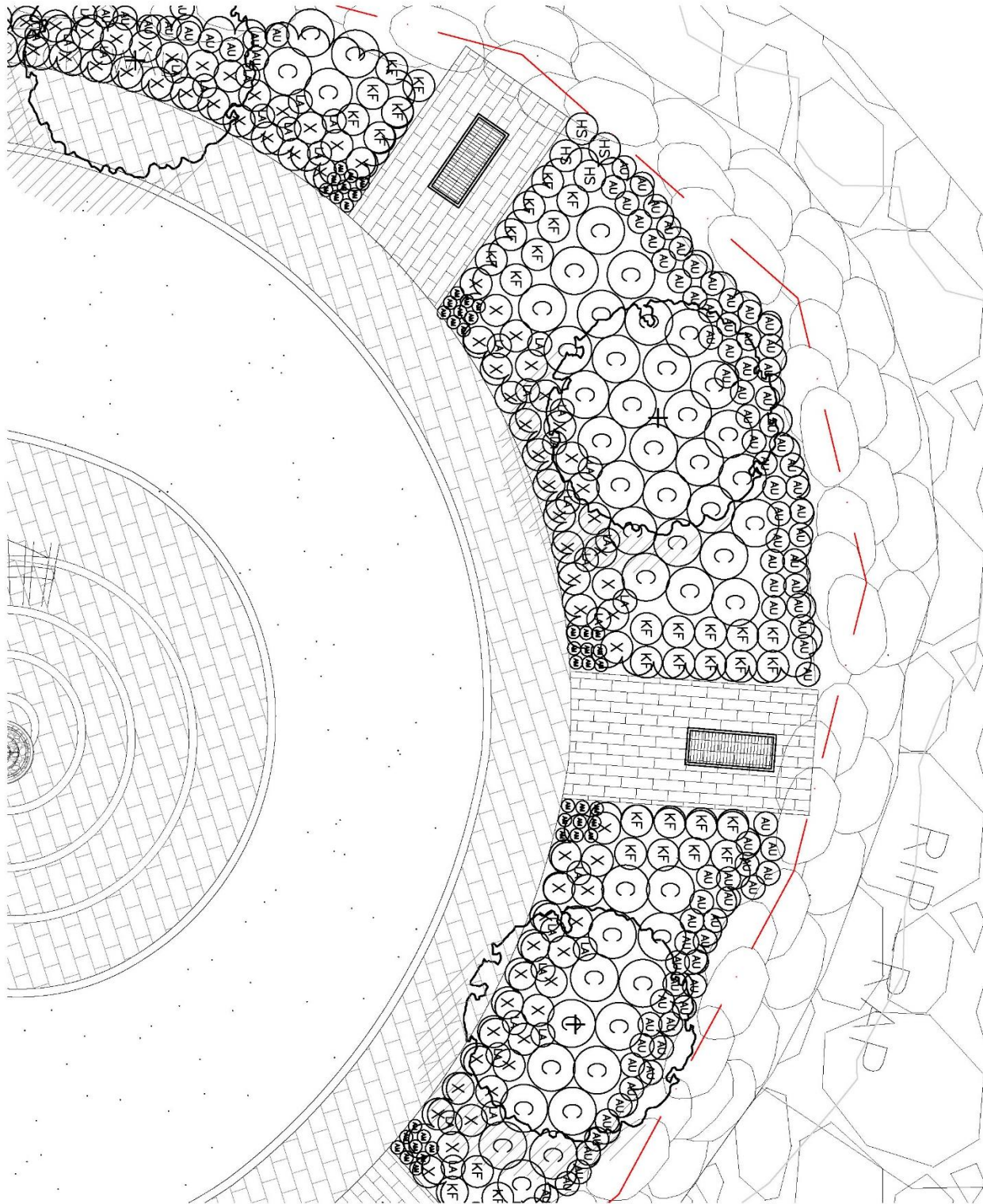
Attachment 5
Proposed Landscaping Detail (Page 2 of 4)



Attachment 5
Proposed Landscaping Detail (Page 3 of 4)

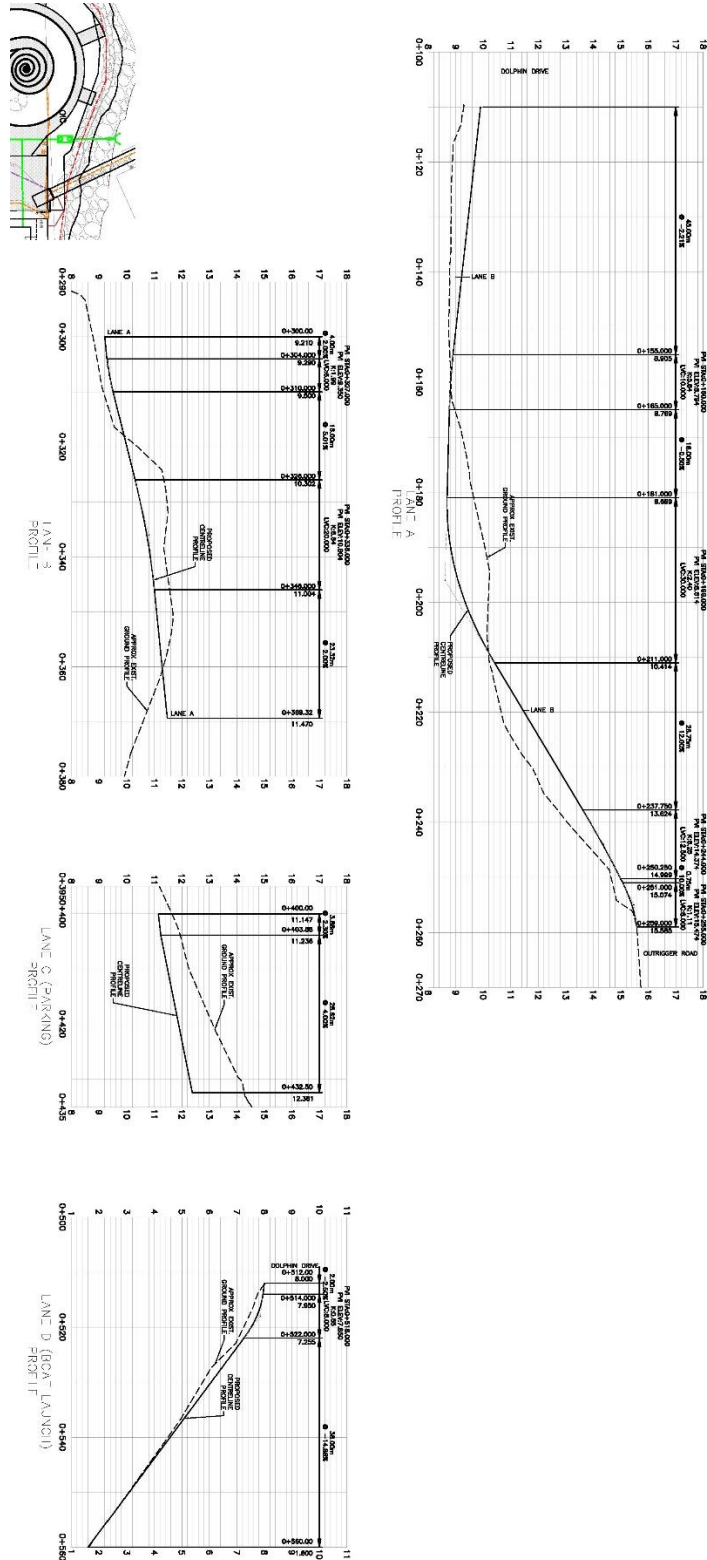


Attachment 5
Proposed Landscaping Detail (Page 4 of 4)

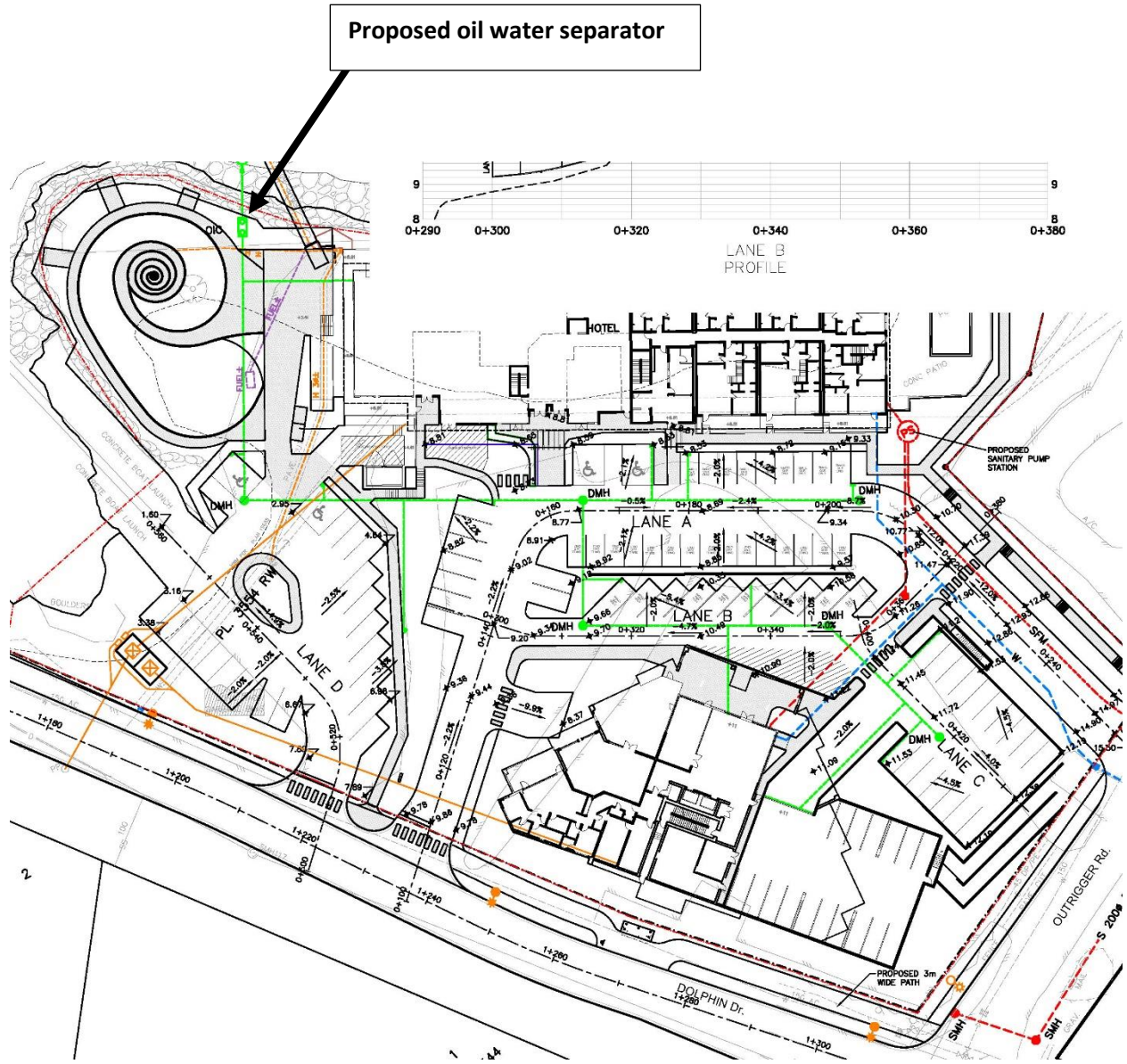


PARK / WATERFRONT PLANTING

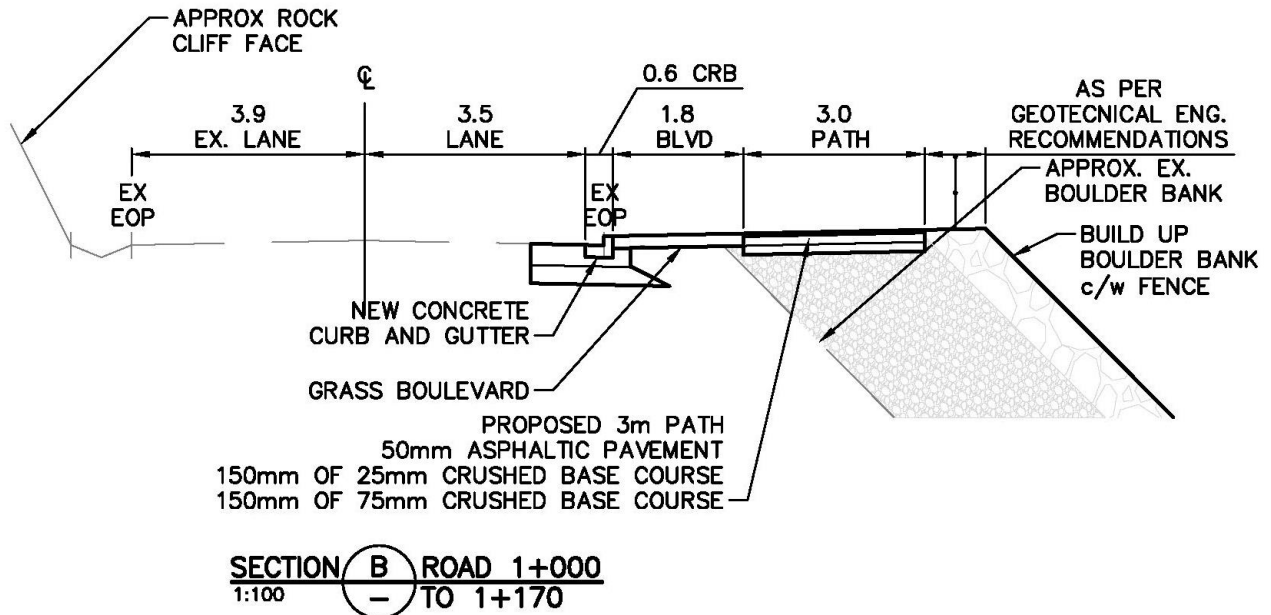
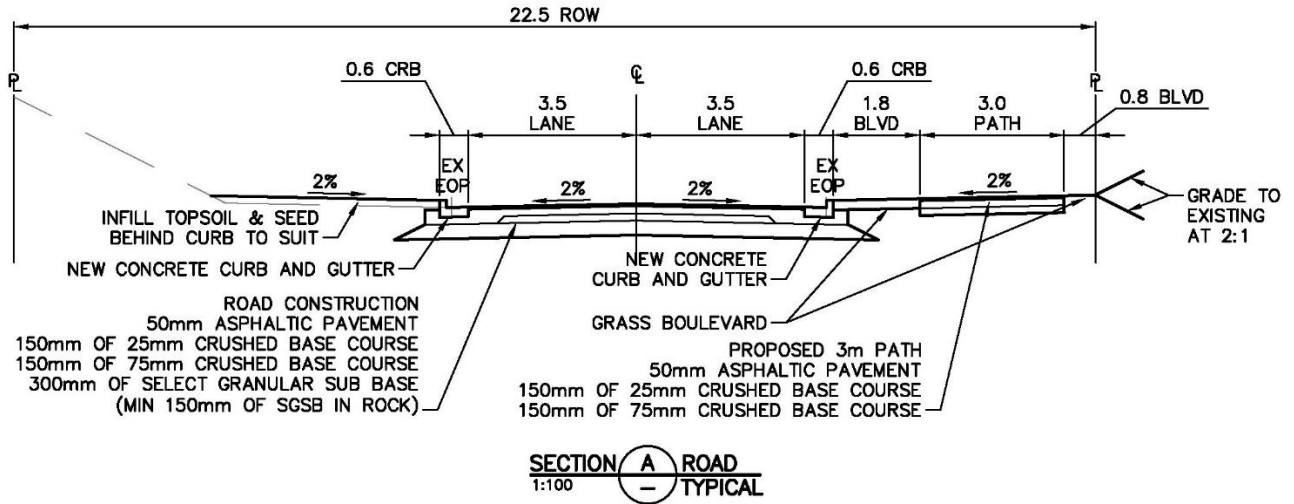
Attachment 6
Grading Plan (Page 2 of 3) – Enlarged for Convenience



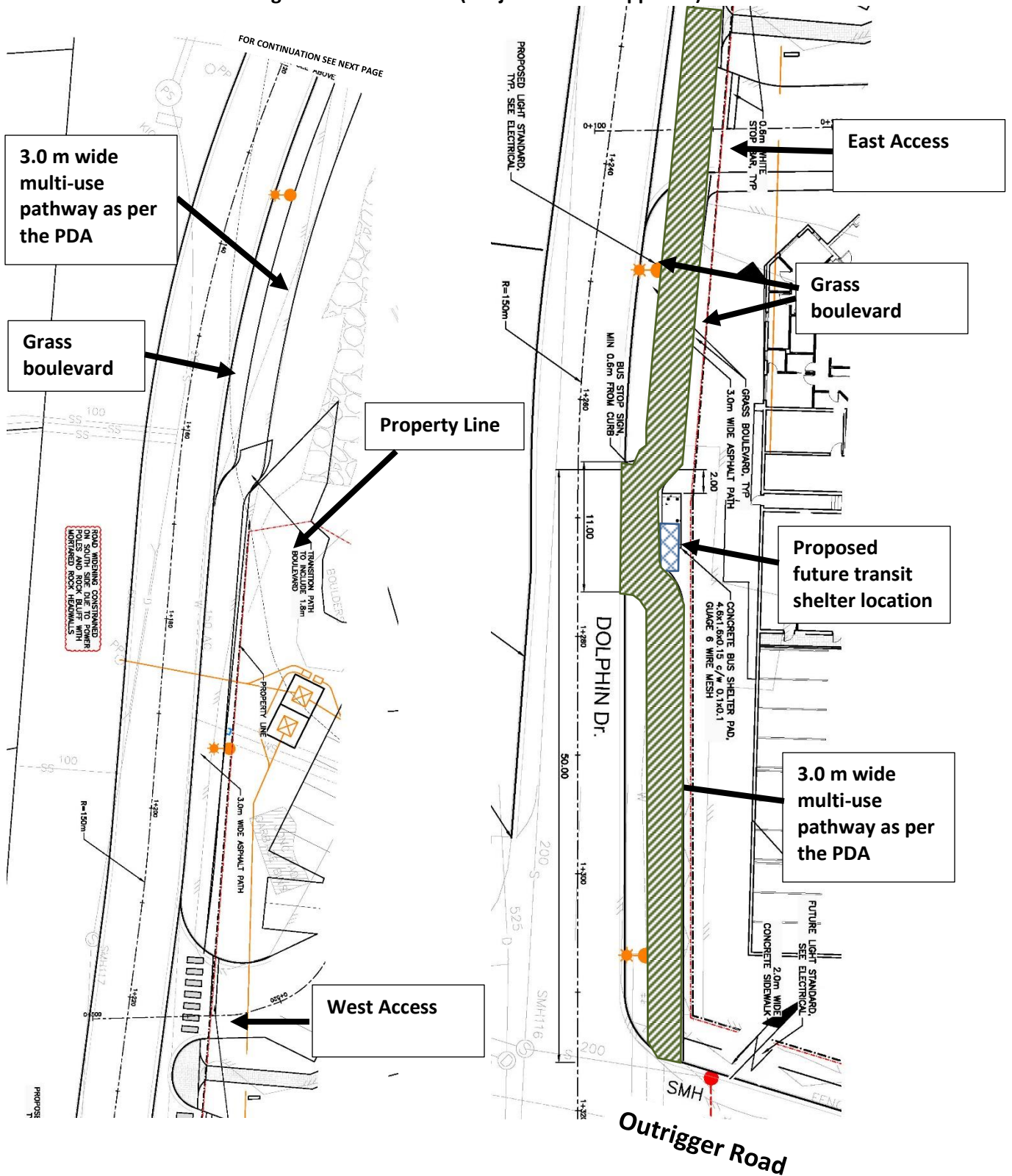
Attachment 6
Grading and Drainage Plan (Page 3 of 3) – Enlarged for Convenience



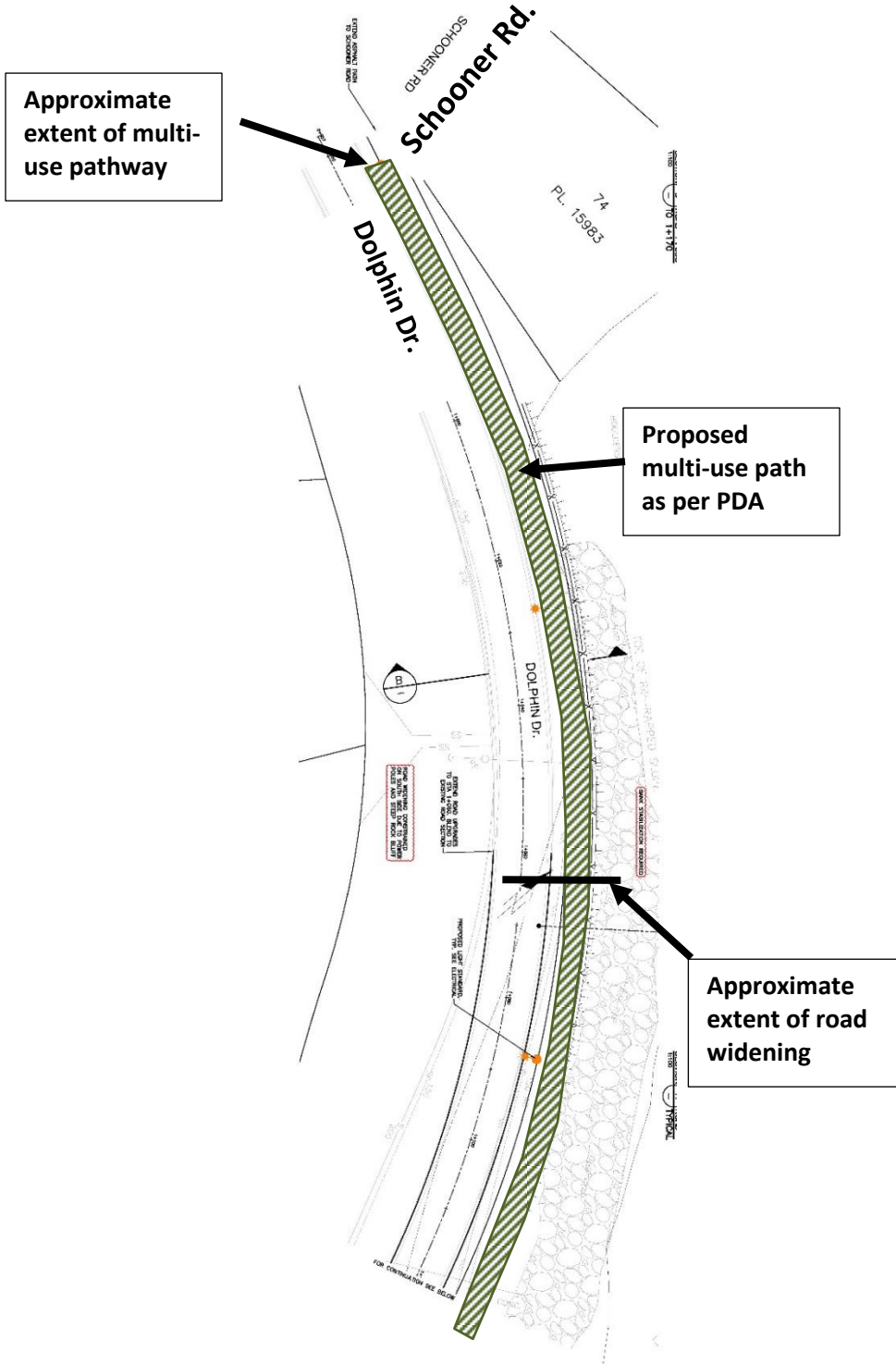
Attachment 7
Proposed Dolphin Drive and Multi-Use Pathway Design (Page 1 of 4)



Attachment 7
Proposed Dolphin Drive and Multi-Use Pathway Design – Section A Portion (Page 3 of 4)
Enlarged for Convenience (Subject to MOTI approval)



Attachment 7
Proposed Dolphin Drive and Multi-Use Pathway Design – Section B Portion (Page 4 of 4)
Enlarged for Convenience (Subject to MOTI approval)



Attachment 8 Summary of PDA Amendments

The following information provides a summary of the proposed PDA amendments.

Waterfront Boardwalk and Pathway

Schedule I of the current PDA currently requires the owner to provide a publicly accessible land-based waterfront boardwalk/pathway to be provided and constructed by the owner along the foreshore in front of phases 1Sc and 2Sc in Schooner Cove. Under the current PDA, the RDN would assume responsibility for the boardwalk. Now that the proposal is to retain Building A, the land-based route is no longer feasible on the portion of the owner's land occupied by Building A. In response, the applicant is proposing to use marina floats for some or all of the waterfront boardwalk.

The proposed boardwalk is located within two water lots which are held under lease by the owner. Since the floating boardwalk would not be located on titled land, it is not possible to grant the RDN a statutory right-of-way, as originally envisioned by the PDA for the land-based waterfront boardwalk. As a result, the proposed floating boardwalk does not provide security of tenure equivalent to the acceptance of a land-based route. Unlike a perpetual statutory right-of-way which cannot be discharged without the RDN's consent, if the owner were to default on the water lot leases, the leases may not be renewed and the public could lose access to the floating boardwalk. The shift towards a floating boardwalk has resulted in a need to consider the following amendments to the PDA:

1. To include language and requirements that continue to identify that the land-based waterfront boardwalk route is the preferred option and to include requirements in support of securing a land-based route where feasible over time. In the event that Building A is demolished, a land-based route would be required.
2. To specify that the owner, rather than the RDN, will be responsible for any floating portions of the waterfront boardwalk.
3. To include a process and requirements for protecting public access across the floating boardwalk. The proposed changes would require the owner to provide the RDN with a license providing public access to the floating portion of the waterfront pathway as well as a covenant that requires the owner to use the land in a manner that allows public access to the floating boardwalk.
4. To mitigate the risk associated with the potential loss of the water lot leases by requiring the owner to provide an amenity contribution in the event that any one of the water lot(s) are no longer available for public use that can be used to provide an amenity with comparable public value elsewhere within the general vicinity of the waterfront boardwalk/pathway.

Maintenance of the Multi-Use Pathway

In response to MOTI's comments of June 20, 2017 that indicate it will not maintain the multi-use pathway, the proposed amendments will require one of the following two options to occur prior to the first subdivision, or within 18 months of the issuance of the first building permit, and prior to occupancy:

1. MOTI agrees to take on maintenance of the multi-use pathway or, in the event that it does not;
2. the owner successfully petitions the RDN Board to establish a local service area for the maintenance, operation, and management of the multi-use pathway.

Timing and Trigger Mechanisms

The current PDA relies almost exclusively on development being initiated with the subdivision of land or strata subdivision within a particular development phase. As a result, the requirements and amenities outlined in the PDA are triggered at the time of subdivision and not through the development permit or building permit stage.

In general terms, the proposed amendments to trigger mechanisms for the provision of amenities are a result of the proposal not to initiate development activities through the subdivision of land. The proposed amendments are intended to ensure that the requirements of the PDA are fulfilled at logical stages of development regardless of how development proceeds in the future whether initiated by subdivision or building permit.

Boat Ramp

The current PDA requires the owner to provide a jib crane hoist as the development concept at that time was to remove the boat ramp in order to utilize that area for development. As the land near the boat ramp is no longer required for development and there is public interest to maintain the boat ramp, the applicant is proposing to retain the boat ramp and omit the jib crane hoist from the PDA.

The proposed PDA amendment would require the owner to register a statutory right-of-way to secure public access to the existing boat ramp on a fee for use basis.

Fire Protection Equipment

The applicant is proposing to install a fire alarm system in Building A and B and a video monitoring system in Building B. To secure these commitments, the proposed PDA amendment requires the owner to install the proposed fire protection equipment.

Attachment 9
MOTI Comments – June 20, 2017



June 20, 2017

Greg Keller
Senior Planner
6300 Hammond Bay Road
Nanaimo, BC
V9T 6N2

Re: Fairwinds Landing Development Permit with Variance PL2016-188 and Phased Development Agreement Amendment Referral

Dear Greg,

Thank you for the information provided regarding the proposed development.

The Ministry's comments are as follows:

- Approval from the Minister is not required in accordance with Section 505 of the *Local Government Act* as the proposed development is not exceeding 4,500 square metres of commercial or industrial gross floor area. The Ministry understands that the proposed development is 1,830 square metres (Building A) and 94.36 square metres of commercial floor area.
- A commercial access permit is required from the Ministry.
- A setback permit is required to address the proposed roof overhang.
- Additional details are required regarding the temporary parking that is being proposed on the adjacent lot (Lot 1, District Lot 78, Nanoose District, Plan 28544). What would be the length of time that this would be in place? What vehicles would be using this temporary parking?
- A permit for works is required for any upgrades to Dolphin Drive. A detailed design will be reviewed by the Ministry at such time. Any proposed landscaping within the right of way will be maintained as per the existing road and bridge maintenance contract. As per Maintenance Specification Chapter 4-350, Section 3.2.1.c this includes "Shoulder mowing when the grass reaches 25 cm; up to a maximum of 2 cuts per year".
- The Ministry will not maintain the proposed multi-use pathway. The developer may obtain a permit for the construction and installation of the multi-use pathway and the RDN may then obtain a permit for the maintenance of the multi-use pathway. This is consistent with the

maintenance of various other trails and multi-use pathways existing within the Ministry's jurisdiction, which are maintained by the RDN.

- The Ministry has reviewed 'The Lakes District and Schooner Cove Neighbourhoods Traffic Impact Study' completed by Opus International Consultants Limited, dated January 2010 and comments on this are as follows:
 - The study identifies that changes would be required at the intersection of NW Bay Road and Powder Point Road. Does the developer have any details of what is proposed to address this?
 - The study identifies the increased movement that would occur as a result of the development at the Highway 19/NW Bay Road intersection. The study reaches the conclusion that the developer would need to construct a dual left turn lane coming out of NW Bay Road turning left onto Highway 19, to go South into Nanaimo. The Ministry would like confirmation that the developer will be addressing this concern and constructing this offsite improvement stated in the study.
 - The study states that the right turn movement off of Highway 19 and onto NW Bay Road cannot be improved due to the proximity of the bridge on the highway. The Ministry recognizes this and does not have the expectation that the developer will change anything on the right turn.
 - The study recommends that the eastbound left turn lane off of Highway 19 on to NW Bay Road be a protected-permissive left turn. This reflects what is existing today, therefore the Ministry will not be implementing any changes to the eastbound left turn lane onto NW Bay Road.
 - As per the study's findings regarding the increased traffic at the Highway 19/NW Bay Road intersection, the Ministry would like to request that the developer extend the existing east bound left turn slot in length.

Please let me know if you have any questions or require further discussion.

Sincerely,



Anika Johal
District Development Technician
Ministry of Transportation and Infrastructure

CC: Michael Pearson, Operations Manager
Dave Edgar, Transportation Planning Engineer

Attachment 10
Minister Stone's Letter – August 28, 2013



RDN CAOS OFFICE			
CAO	<input checked="" type="checkbox"/>	GM R&P	
GMS&CD	<input checked="" type="checkbox"/>	GM T&SW	
GM R&CU		DF	
SEP 10 2013			
DCS		BOARD	
CHAIR	<input checked="" type="checkbox"/>		

AUG 28 2013

Joe Stanhope, Chair
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo BC V9T 6N2

Reference: 218099

Dear Chair Stanhope:

Re: Thank You

I am writing in response to your letter of June 25, 2013, congratulating me on my appointment as Minister of Transportation and Infrastructure and following up on the Regional District's request for authority over local sidewalks, boulevards and roadside trails within the ministry's rights-of-way.

I appreciate your kind words about my new role. It is an honour to serve British Columbians, and I am committed to drawing on the insights and experiences of local residents and leaders like you as we make important decisions for our shared future.

I am glad to know progress relating to the proposed Fairwinds development has been positive and, as requested in your letter, I am pleased to confirm the ministry has committed to assuming responsibility for the existing 9.4 kilometres of existing sidewalk within the Fairwinds community. The ministry has also committed to issuing permits for the future development of the sidewalks within Lakes District and Schooner Cove, and will assume responsibility for these sidewalks also.

With regards to your request for authority over all local sidewalks within the ministry's rights-of-way, I have asked District Manager Renée Mounteney to follow up with Regional District representatives on this matter and can confirm a response from her is forthcoming.

.../2

- 2 -

Should you have additional questions or concerns in the meantime, Ms. Mounteney can be reached directly at 250 751-3282 or by e-mail at Renee.Mounteney@gov.bc.ca.

Thank you again for taking the time to write.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Stone". The signature is written in a cursive, somewhat stylized font.

Todd Stone
Minister

Copy to: Renée Mounteney, District Manager
Vancouver Island

Attachment 11
Construction Traffic Management Plan



3521 DOLPHIN DRIVE
Construction Traffic Management Plan

Prepared for: ICR Projects Inc.
Prepared by: **Watt Consulting Group**
Our File: 2172.B01
Date: June 8, 2017

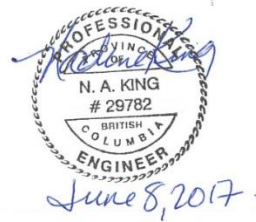




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1.0 GENERAL INFORMATION

1.1 INTRODUCTION

This Construction Traffic Management Plan provides plans and procedures to safely maintain traffic flow for the Phase 1 construction at 3521 Dolphin Drive. The plan is intended to minimize traffic disruptions, provide local access, protect the general public, and maintain mobility of construction workers and equipment. This Plan has been developed from the *2015 Interim MoTI Traffic Management Manual for Work on Roadways*.

1.2 PROJECT LOCATION AND DESCRIPTION

Phase 1 of the project involves the renovation of the existing building's exterior and construction of a new 39 unit residential condominium building at 3521 Dolphin Drive in Nanoose Bay (RDN).

1.3 HOURS OF WORK

Work will generally occur between 7am and 5pm Monday to Saturday on the site. The Contractor will follow the RDN Area E Noise Bylaw. No Work is permitted on Sundays or Statutory Holidays.

No work on the roadways, that causes traffic delays is permitted between 7am and 9am and 3pm and 5pm. This includes any minor random interruptions of traffic.

1.4 ROAD CHARACTERISTICS

Dolphin Drive is classified as a rural collector road in the Regional District of Nanaimo. Since RDN does not have road jurisdiction, this road is under the jurisdiction of the Ministry of Transportation. Dolphin Drive is a two lane paved road with a 50km/h speed limit.

Outrigger Road is a local road with a speed limit of 50km/h. Outrigger Road does not have any pavement markings to delineate lanes or paved shoulders.

1.5 LANE CLOSURES

Lane closures on Dolphin Drive and Outrigger Road are not expected to occur as part of the project. Traffic Control Personnel (TCP) may be on site to provide access / egress to the site for truck traffic as well as maintain residential access to Outrigger Road at all times.

2.0 OPERATIONS & SIGNAGE

2.1 SITE FENCING

The site will be fenced as shown in Figure 1 to prevent pedestrians from accessing the site. C-018 signs will be installed in advance of the site (a minimum of 40m from other signs, Dolphin Road, or the work site depending on the approach).



Figure 1 Site Setup

2.2 TRUCK ACCESS POINTS

Construction vehicles and trucks will access the site directly from Dolphin Road or via the Phase 1 parking lot depending on the area of work.

2.3 SIGNAGE

- All signage and supports shall conform to the BC Ministry of Transportation and Infrastructure's *Traffic Management Manual for Work on Roadways* and all signage will be in accordance with the current Catalogue of Standard Traffic Signs.



- Signage will be located as shown in the **Figure 1**.
- All signs will be maintained regularly to allow for maximum visibility. All signs will remain clear of any materials that may reduce their visibility.
- All signage will be set up so as to command the respect of vehicles in order to ensure the safety of both the travelling public and the workers.
- All safety apparel and traffic control retro-reflectivity signs and devices will be as per Section 5.4 of MoTI's *Traffic Management Manual for Work on Roadways*.
- All signage will be reviewed / inspected a minimum of once daily (24 hour period). If traffic control devices are in place during active work the devices will be checked and reviewed immediately after installation and at least twice during the shift. If devices are maintained during non-active periods the devices will be checked at least once every 24 hours.

3.0 USERS AND ACCESS

3.1 PEDESTRIANS

The access to the Marina will be maintained by providing a pedestrian walkway on the grassy plot to the north side of the building. This walkway will be 7 – 10 m away from the building edge and separate from the site by fencing. The walkway will be gravel and accessible for all users. Secured transitions between changes in elevation will be provided.

3.2 COLLECTION SERVICES

The Contractor will ensure that access for all collection services to local residents on Outrigger Road including garbage collection, recycling collection, yard waste collection, and mail delivery are maintained.

3.3 CONSTRUCTION PARKING

Construction parking will be in a designated location as identified below. No construction vehicle (or equipment) parking is permitted on public roads.

Construction parking for Phase 1 will be provided on the space proposed for the new building. Phase 2 parking will be provided (if required) in the parcel of land south west of the Dolphin Drive - Outrigger Road intersection. Construction parking, including parking heavy (concrete, gravel, etc.) trucks will not be permitted to park on Outrigger Road and block / narrow the road.

The Traffic Control Supervisor will monitor construction vehicle parking and ensure that they are not blocking any roads, and / or driveways. Construction worker parking will not be permitted on Outrigger Road or along Dolphin Road. A site orientation will be undertaken with workers on how and where to park when entering and exiting the site. This will include routing to and from the site.

3.4 MARINA PARKING

Parking for the vehicles intending to use the Marina will be maintained in the area closest to the Boat Launch until work occurs in this parking lot at which time it will be moved temporarily to the Phase 2 parking lot, as shown in Figure 1.

3.5 ACCESS TO THE BOAT LAUNCH

Access to the boat launch area will be maintained at all times during construction except during the re-surfacing work in the parking lot area. The closure of the boat launch will be minimized and advance notification provided to users. Notifications may be undertaken using the Fairwinds website, contacting Fairwinds members, and posted notifications at the property.

3.6 ACCESS TO OUTRIGGER ROAD

Two way access to Outrigger Road will be maintained at all times during construction. A minimum width of 6m or existing width is to be provided at all times.

3.7 TRUCK ROUTING

The trucks will utilize Highway 1 to North West Bay Road to Stewart Road to Dolphin Drive to access the site and vice versa as shown in Figure 2. A site orientation will be undertaken with all workers, including sub-contractors, on the required truck routing to and from the site.

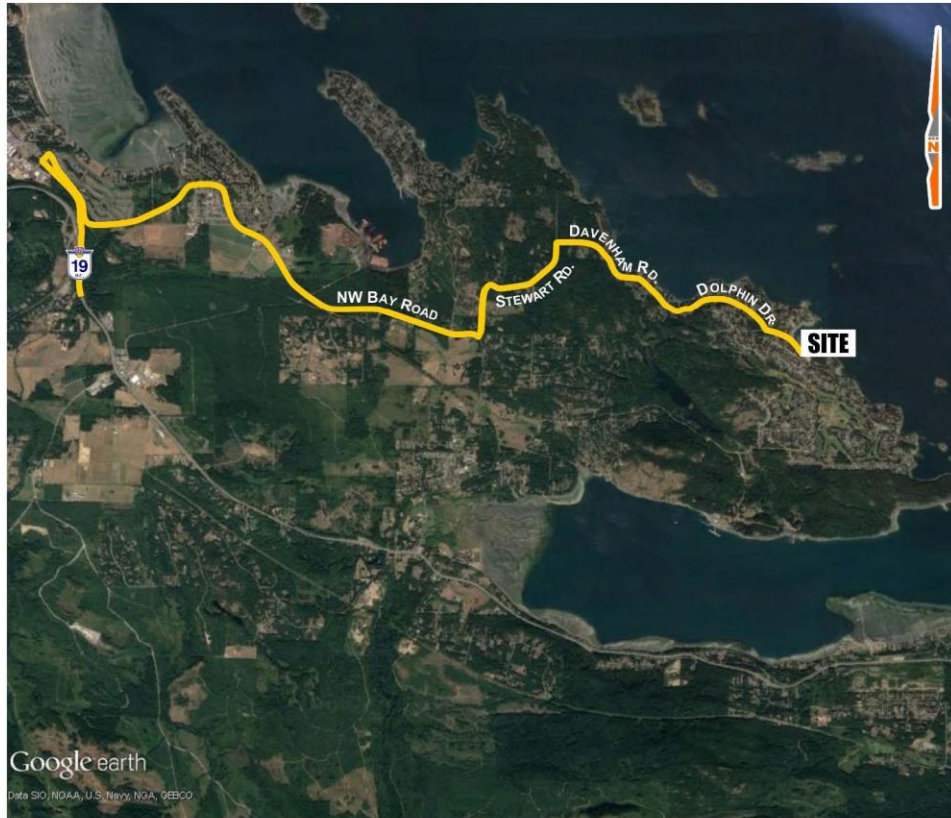


Figure 2 Truck Access Route

To minimize traffic disruptions when accessing or leaving the work zone, the following procedures will be abided by:

- Workers will use good judgment when entering and exiting the Work Site;
- Construction vehicles will enter and exit the work zone in the same direction as traffic.



4.0 INCIDENT MANAGEMENT PLAN

4.1 INTRODUCTION

The purpose of the Incident Management Plan is to have an action plan prepared in the event of an incident, which affects traffic adjacent to the site.

An Incident is defined as a motor vehicle accident with or without injuries, vehicle breakdown, stall, hazardous spills, damage from falling objects, construction accident, or any other event, which impedes the flow of traffic. The incident may result in a full or partial roadway blockage.

The duties of the Traffic Control Supervisor with respect to incident management is to prudently respond and communicate incidents as they occur with the Site Superintendent, and / or the relevant emergency service provider (911). The Site Superintendent will contact the MoT Area Operations Manager immediately to inform them of an incident adjacent to the site on Dolphin Road. The TCS will ensure the safe movement of traffic through or around the incident and to provide access for all emergency vehicles. During an incident the Traffic Control Supervisor will provide traffic control around an incident as quickly as possible. The TCS will work with emergency responders to determine appropriate traffic control.

4.2 NOTIFICATION

Emergency Services will be contacted (by phone by the TCS) if the severity of the incident warrants them attending. The Contractor's Site Superintendent will inform all crews (by radio or directly talking to them) working within the incident area of the incident and the possibility of emergency crews arriving. For all incidents on Dolphin Road, at the site, the MoT Area Operations Manager will be notified immediately of the incident, the planned clearance time of the incident, the estimated time of the incident and the planned clearance measure planned to remove the incident and updated every half hour.

Traffic control personnel may be used to inform the travelling public of all delays due to incidents by talking to drivers stopped due to the incident.

4.3 INCIDENT REVIEW

An Incident Response Team will review incidents which occur within the work area where traffic management is considered a contributing cause. The team members will include the Site Superintendent and Traffic Control Supervisor and will know the importance of an effective and efficient Incident Management Plan. After every incident within the work zone, the Incident Management Team will meet and discuss what happened, why did it happen, how could it have been prevented and what measures will be taken on site to help reduce similar types of incidents from occurring in the future.

4.4 INCIDENT PROCEDURES

In the event of unforeseen traffic obstructions such as a stalled vehicle, equipment failures, vehicle accidents, etc. that blocks one travel lane, the following measures will be taken:



1. The TCS will verify that an incident has occurred and inform the Site Superintendent;
2. The Site Superintendent will contact MoT Area Operations Manager to inform them of the incident, response measures, estimated delay, and when the incident has been cleared;
3. The Site Superintendent will ascertain what, if any, work activities need to be stopped until the incident is cleared. Site Superintendent will contact Spill Reporting and / or WorkSafe BC as necessary;
4. The TCS will identify the number of Traffic Control Personnel (if required) and call them to the site to inform the public of the incident, if TCP are not on site;
5. The TCS will assess the nature of the incident call towing, RCMP, fire, and / or ambulance as needed;
6. The TCS will assess traffic impacts and ascertain if traffic can safely be maintained around the incident, or if the roadway needs to be closed;
7. If the TCS ascertains traffic can be safely maintained around the incident:
 - a. Measures will be implemented to reroute traffic around the obstruction safely and efficiently;
 - b. TCPs will be utilized to provide safe access for all emergency vehicles;
 - c. MoT Area Operations Manager to be updated as new information is available, or at minimum every 30 minutes;
 - d. If queues occur, TCP will walk the queue in each direction and make travelers aware of the events, their options, the estimated time of opening, and level of confidence of that estimate;
 - e. Traffic re-route will remain in place until the incident is cleared;
8. If the TCS ascertains the roadway needs to be closed:
 - a. The TCS will advise over the radio of the road closure and coordinate with TCPs;
 - b. TCPs will assist in guiding motorists;
 - c. TCPs to provide safe access for all emergency vehicles;
 - d. MoT Area Operations Manager to be updated as new information is available, or at minimum every 30 minutes;
 - e. If queues occur, TCP will walk the queue in each direction and make travelers aware of the events, their options, the estimated time of opening, and level of confidence of that estimate;
9. The TCS will complete an Incident Report. A copy of the report will be sent to the MoT Area Operations Manager within 12 hours of the end of the incident.

4.5 GENERAL SAFETY

- Any incident will be promptly investigated and correction of potential hazards will be rectified;
- All hazards to both workers and the travelling public will be identified and minimized;
- Accidents, near misses, and dangerous situations or acts, will be reported to the Traffic Control Supervisor and the causes will be corrected.

5.0 TRAFFIC CONTROL SUPERVISOR

The Contractor shall appoint a traffic control supervisor (TCS) to be responsible for the traffic control for this project. The TCS may be the site supervisor or hold another position on the project (i.e. first aid attendant, safety officer, etc.). The TCS may designate an alternate. The alternate must be familiar with the roles and responsibilities of the TCS position. The TCS will:

- Be responsible for monitoring the effectiveness of traffic control during the Works, and keeping daily traffic control logs and incident management reports.
- Have full authority over any traffic control personnel on site.
- Ensure daily traffic reports, logs, inspection forms and an up to date traffic control plan are available to the RDN, MoTI, a WorkSafe BC Officer or any other party interested in traffic control on the site upon request.
- Respond to any traffic concerns of the RDN, MoTI, RCMP, and / or WorkSafe BC.
- Ensure that all traffic control procedures are in accordance with the BC Ministry of Transportation and Highways' *Traffic Management Manual for Work on Roadways* and the Worker's Compensation Board of British Columbia's Occupational Health & Safety Regulation Part 18.
- Ensure that traffic control arrangements and procedures for the work are made known to all the people involved in the work.
- Ensure that all traffic control devices are properly maintained and checked during working and non-working hours.
- Ensure that any person assigned to be a traffic control person is adequately trained in a manner acceptable to WorkSafe BC and effectively performs their role in the traffic control arrangements and procedures for the work.
- Ensure that traffic control personnel are positioned in a safe location clear of potential environmental hazards.
- Ensure that each member of the traffic control operation wears the required personal protective clothing and equipment as per WorkSafe BC regulations.
- Ensure that all TCP are performing their duties competently and safely.
- Ensure that TCP work together as a team when working in groups of two or more.



6.0 COMMUNICATION PLAN

The Contractor will provide notification (by fax or email) at least one (1) week prior to the start of work to the following stakeholders:

- All emergency services
 - RCMP Nanaimo Detachment
 - Nanoose Bay Fire Department
 - BC Ambulance
- Regional District of Nanaimo
- Ministry of Transportation

The Contractor will coordinate traffic control with any other works in the area, as applicable.

The Contractor will keep the RDN and MoT Area Operations Manager up to date construction works. The Contractor will notify the RDN and MoT Area Operations Manager immediately before conditions change unless the change is to rectify an immediate safety issue. The Traffic Control Manager will keep the Contract Administrator informed and updated when approved changes to the Traffic Management Plan are required.

The TCS will contact emergency services of any unscheduled delays.

Contacts are located in *Section 7.0*.



7.0 CONTACT LIST

EMERGENCY SERVICES

Emergency – RCMP, Fire, Ambulance	911
Oceanside RCMP (non-emergency)	250-248-6111
Nanaimo RCMP (non-emergency)	250-754-2345
Nanoose Bay Fire Department (non-emergency)	250-468-7141
BC Ambulance (non-emergency)	1-800-461-9911
Air Ambulance	604-872-5456
Earthquake, Flood, Dangerous Goods Spills (24 hrs)	1-800-663-3456
WorkSafe BC	1-888-621-7233
WorkSafe BC (After hours)	1-866-922-4357
Workers Compensation Board	1-604-276-3100
Workers Compensation Board (After hours)	1-604-273-7711

MEDICAL SERVICES

Location	Address	Phone
Nanaimo Regional General Hospital	1200 Dufferin Cres, Nanaimo, BC	250-755-7691

CONTRACTOR – TBD*

Contact	Email	Cell
Site Superintendent - TBD		TBD
Traffic Control Manager / Supervisor		TBD

*Note this information will be provided at a later date

WATT CONSULTING GROUP LTD

Contact	Email	Phone
Nadine King – Traffic Engineer	NKing@wattconsultinggroup.com	250-388-9877

MEDIA

Company	Type	Phone	Email
The Wave/The Wolf	Radio	250-758-1131	
Parksville Qualicum Beach News	Newspaper	250-248-4341	



APPENDIX A: ACCIDENT REPORTING PROCEDURES



ACCIDENT REPORTING PROCEDURES

ACCIDENT REPORTS

The Traffic Control Supervisor (TCS) will notify the Contract Administrator after any accident involving personal injury, fatalities, damage or complaints from residents or the travelling public. The notification can be made in person or by telephone.

The TCS will prepare a detailed written report of all accidents involving personal injury, fatalities or damage. The report is to be reviewed and initialed by the Site Superintendent and the Contractor Manager and sent to the Contract Administrator by the next workday.

The report submitted to the Contract Administrator will contain the following information:

- What happened?
- Who was injured?
- Who was involved, but not injured?
- What changes are being made in the operation?
- A copy of the hazard analysis for the operation.
- Any revisions made in the hazard analysis.
- Copies of the crew's four previous toolbox-meeting reports.
- What disciplinary action, if any, was taken?

INVESTIGATION

A. Investigate

- Take photographs. Get close ups and different angles of:
- Anything a person slipped on, fell from or collided with.
- All damaged property (equipment, the job itself, tools, buildings, etc.).
- Collect hard facts.
- Collect names and addresses of all parties involved in the incident.
- Ask for names and addresses of witnesses.
- Identify persons or companies that could have indirectly contributed to the accident.
- Identify the item(s) that contributed such as a drill or loose step. List all damaged items with their ID numbers.



B. Report Accidents Involving Workers

Near Miss

- Fill out near miss incident report and file all forms on site alphabetically under the injured employee's name.
- First aid only (timecard is marked "injured" but there is no medical attention sought).
- Fill out Foreman's Accident Report.
- Photocopy both sides of the timecard.
- Photocopy any diary notes (witness statements or other relevant information).
- File all forms on site alphabetically under the injured employee's name.

Medical attention is required.

- Fill out Foreman's Accident Report.
- Fill out Accident Investigation Report (identify any witnesses).
- Fill out WorkSafe BC Employee Claim Form.
- Photocopy any diary notes, timecard or other relevant documents.
- File all forms on site alphabetically under the injured employee's name.

Attachment 12
Minutes of the Public Information Meeting Held May 30, 2017

Summary of the Public Information Meeting
Held at Nanoose Place Community Centre
2925 Northwest Bay Road, Nanoose Bay
Tuesday, May 30, 2017 at 6:30 pm

Development Permit with Variance Application PL2016-188 and Lakes District and Schooner Cove
Phased Development Agreement Amendment Application involving the properties located at
3521 Dolphin Drive

Note: This summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments and questions of those in attendance at the Public Information Meeting.

There were approximately 200 members of the public in attendance at this meeting.

Present for the Regional District of Nanaimo:

Director Bob Rogers, Electoral Area 'E' (the Chair)
Geoff Garbutt, General Manager of Strategic & Community Development
Jeremy Holm, Manager of Current Planning
Greg Keller, Senior Planner
Sarah Preston, Planning Technician
Paula Sherman, Recording Secretary

Present for the Applicant:

Leo Mariotto, President, ICR Project Inc. (Agent)
Christopher Block, Principal, Collabor8 (Architect)
Sofia Bedynski, Technologist, Collabor8
Georgia Desjardins, Asset Manager, Seacliff Properties Ltd. (Subject Property Owner)

The Chair opened the meeting at 7:00 pm, outlined the evening's agenda, and introduced the RDN staff and the applicant's representatives in attendance.

The Chair respectfully acknowledged the Snaw-Naw-As first Nations on whose traditional territory the meeting took place.

The Chair then stated the purpose of the Public Information Meeting and asked the Senior Planner to provide background information concerning the development permit with variance and Phased Development Agreement amendment application.

Greg Keller, Senior Planner, provided a summary of the development proposal and proposed variances and then provided an overview of the amendments to the Lakes District and Schooner Cove Phased Development Agreement.

The applicant was invited to give a presentation of the development proposal.

Leo Mariotto, Agent, presented an overview of the proposal.

Chris Block, Architect, presented the site plans and explained the rationale for the layout and provided an overview of the design elements in the development proposal.

Following the presentation, the Chair outlined the procedure for the speakers and invited questions and comments from the audience starting with the people from the Speakers List.

Paula Chase, 3505 Shetland Place, said considerations need to be made regarding the impact on the surrounding community and that her concerns are traffic, parking in the development, the proposed height of the new building and sidewalk and street-lighting needs. Ms. Chase provided a written letter for the record as attached.

Chris Block, Architect, responded that there will be sidewalks along Dolphin Drive to Outrigger Road. There will be parking for the marina with additional parking where the tennis courts currently are. The variance for the new building is not for additional height but for number of storeys.

John Tosney, 3565 Shetland Place, said that he would like to see the proposal return to the 'Village' concept, would like an idea of the scope of the construction for future development at the location, would like a schedule of the length of time for construction and information on what's in place to mitigate construction traffic and can the development handle the additional impacts on services such as power and water. Mr. Tosney provided written notes for the record as attached.

Leo Mariotto, Agent, replied that the project will take approximately 14 to 15 months. Mr. Mariotto indicated that construction parking will not be allowed on the adjacent streets.

Bob Clark, 3605 Sheffield Place, asked if a traffic analysis had been done as Dolphin Drive is a narrow winding road.

Leo Mariotto, Agent, replied that the development does have a Construction Traffic Management Plan.

Jeremy Holm replied that the Ministry of Transportation and Infrastructure reviewed the construction Traffic Management Plan.

Gail Hill, 2360 Bonnington Drive, stated that she is concerned about public safety on the roads and she thought that the parkway connector needed to be built before construction started on the development site. Ms. Hill asked what is going to be done to ensure safety and the monitoring of construction vehicles going to the development.

Leo Mariotto, Agent, replied that the parkway connector is not required for this phase of the development.

Jeremy Holm explained that the Ministry of Transportation and Infrastructure has jurisdiction over roads and that future subdivision would trigger construction of the parkway connector as determined by MOTI.

Steve Leasing, 3503 Seabluff Lane expressed his concern for current owners whose ocean view will be obstructed and suggested that the building could have less impact if it were rotated. Mr. Leasing asked if the developer had intentions of purchasing the undeveloped lot.

Chris Block, Architect, replied that they had looked at the undeveloped lot but didn't have any intentions with it.

Stephanie Francis, 3511 Seabluff Lane, asked what has happened to the open village plan. She suggested that if the developer put the new building over by Outrigger Road that would provide better views for the building and not block or obstruct the views of neighbouring properties. Ms. Francis asked about boardwalks, walkways, open space and landscaping.

Chris Block, Architect, replied by showing a map of the landscaping plan with pedestrian pathways using groundwater absorption.

Steve McNally, 2242 Chelsea Place, inquired about the marina office and whether the docks will be secure.

Leo Mariotto, Agent, said that the marina office will be in the existing building and there will be a security gate at each dock.

Lorne Grace, 1956 Crowsnest Lane, asked when the first concrete truck will come down Dolphin Drive.

Leo Mariotto, Agent, responded by saying as soon as they get their building permit.

The Chair outlined what the process is for the developer to get to the building permit stage.

Jeremy Holm explained that comments from the meeting will be discussed with the applicant and the earliest opportunity to bring the report to the EASC will be July 11, 2017.

Gail Hill, 2360 Bonnington Drive, restated her concern with traffic and asked who is responsible for safety on the road.

Greg Keller replied that the Ministry of Transportation and Infrastructure was satisfied with the developer's Traffic Management Plan and the development permit with variance application has been referred to them

Bill Hamilton, 2430 Andover Road, asked what plans are in place for construction vehicles and suggested that perhaps park and ride could be an option along with a schedule for delivery vehicles.

Leo Mariotto, Agent, replied that once construction begins there will be a full-time person responsible for monitoring traffic and that there will be a contact number available.

Henry Benskin, 2070 Radford Place, asked what the context of the entire development is and asked if the developer will effect improvements along parts of the road so that the pathways lead somewhere.

Leo Mariotto, Agent, replied that they are starting to work on the next phase but they don't have a concept. Mr. Mariotto briefly explained the proposed improvements along Dolphin Drive.

Tom Hazewinkel, 3001 Anchor Way, asked what's going to happen with the extra sewage.

The Chair replied that the current sewage treatment plant is underutilized and that there is a secondary treatment plant in the budget being projected for 2023.

Carey McIver, 1964 Crowsnest Lane, said that she was very disappointed with the development drawings.

Rick Bleiker, 3580 Sheffield Place, said that the drawings don't have the village feel and that the existing building should be removed.

Paula Chase, 3505 Shetland Place, requested that the developer alter their development plans to not block existing views as this would be more desirable.

The Chair asked if there were any further questions or comments.

Being none, the Chair thanked those in attendance and announced that the Public Information Meeting was closed.

The meeting was concluded at 8:35 pm.



Paula Sherman
Recording Secretary

3505 Shetland Place
NanOOSE Bay, B. C. V9P 9J8
May 30, 2017

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, B. C.
V9T 6N2

Dear Sir/Madam:

Re: Development Permit with Variance Application No. PL2016-188 &
Phased Development Agreement Amendment
3521 Dolphin Drive, NanOOSE Bay, B.C.

As an owner and resident in Schooner Ridge, I have some concerns and comments regarding the proposed development plan for the Schooner Marina property. I would like to begin by stating I am not opposed to the development but I do believe considerations need to be made regarding the impact it will have on the surrounding community. I believe if proper consideration is given to those concerns, the resulting development could be something that works for everyone.

My first concern is with regard to the traffic impact. My understanding is the total phased development will add 310 units to the community in a very concentrated area. Considering the entire Fairwinds Community to date has little more than 700 units, adding almost 50% more units will undoubtedly significantly increase traffic around the Schooner area. I approached various representatives of the developer at their last community open house and asked what plans they would be making to ensure this would not cause traffic safety issues in the area but not one of them could provide an answer.

Currently, the area of Dolphin Drive along the property is narrow with no curb or sidewalk, is winding and has some blind spots. Within this area is the entry road to Schooner Ridge, being Sherbrooke Road, as well as Redden Road. Beyond vehicle traffic, this road is used by pedestrians, bike riders and more than the occasional deer. It is also very dark at night. At times, it is already somewhat hazardous but increased traffic without some alterations will almost certainly increase the danger. I believe one solution would be a requirement for sidewalks along Dolphin Drive throughout the length of the development as that would at least get pedestrians off the road. I also believe there should be a lot of consideration towards good lighting at night and possibly reduced speeds. I also wonder whether it might be advisable to have a 3 way stop at Sherbrooke Road as another method of slowing traffic to reduce hazards.

My second concern has to do with parking in the development, most specifically marina parking. This development was first and foremost an active marina and that has continued to be the case despite the closure of the main building. Boaters using the marina on a day basis transport their boats on trailers, towed by another vehicle, both of

which remain in the area while the boater is on the water. Currently, there are sufficiently sized spaces for these vehicles and trailers to park on the property. The plans I observed at the developer's open house did not appear to have such parking available. I feel it is imperative that appropriate vehicle and trailer sized parking spaces located near the boat launch be required in the plan. If they are not, it is inevitable that boaters will leave their vehicles and trailers along Dolphin Drive, further increasing the traffic hazard.

My final concern is with the proposed height of the 39 unit building, which I understand would require a height variance. At the developer's open house, I thought that various drawings of this building showed 6 floors, at least from certain views. I asked all 4 representatives about this. Three of the reps insisted the building was only 5 stories while the fourth one conceded that the back side of the building would be 6 stories with 5 stories in the front. I note that the RDN's notice for this Public Information Meeting notes this building is, in fact, 6 stories. As such, I have a concern that the developer misrepresented the number of stories to residents at their open house. Regardless, allowing a variance from the currently zoned height for this area will most definitely block views for existing homes in Schooner Ridge, most particularly for those on Seabluff Lane and along Dolphin Drive and Redden Road. To my knowledge, all lots in the Fairwinds development have height restrictions attached to them and individual home owners had to build their homes and devise their landscaping so as not to block the views of surrounding dwellings. It seems most unfair and unreasonable to me that this proposed development should not be held to the same standard. I could understand a variance being allowed on some of the other proposed buildings for the site, ones that would not block views from existing homes but that is not the case for this particular building. As such, I believe this particular building should not receive any height variance.

In closing, I would like to reiterate that I am not opposed to a well-planned and thought-out development of the Schooner Marina but I do believe that existing homeowners have a stake in this plan proceeding in a manner that does not reduce our quality of life nor damage our property values. Being a good neighbour by not blocking views or creating road hazards would go a long way towards winning over the support of more of the community. And the RDN should protect the interests of the existing community by not allowing variances or amendments that would negatively affect current homeowners.

Sincerely,



Paula Chase



JOHN TOSKEY, 3565, SHETLAND PLACE.

- COMMENTS - FAIRWINDS LANDING PHASE 1 SC
- PREAMBLE - APPRECIATE OPPORTUNITY TO FINALLY EXAMINE REAL INFORMATION ON SPECIFIC PROPOSALS.
- WHILE USEFUL, WHAT IS PROVIDED IS INCOMPLETE BUT REPRESENTS CONSIDERABLE CHANGE FROM ORIGINAL CONCEPTS
- INCOMPLETE - NO INDICATION OF HOW THIS PHASE FITS INTO THE FULL SCOPE OF LANDING DEVELOPMENT - (FULL DISCLOSURE)
- NO SCHEDULE PROVIDED FOR THIS AND SUBSEQUENT PHASES OF WORK (2YR OR 6YR + DISTURBANCE)
- CHANGES - IN PARTICULAR EARLIER INFORMATION SHOWED UNITS NO HIGHER THAN 3/4 STOREYS, A TRUE "VILLAGE CONCEPT", ~~W/ FULL WATERFRONT ACCESS, SMALL STORES AND PROFESSIONAL OUTLET(S)~~ WITH FULL WATERFRONT ACCESS, SMALL STORES AND PROFESSIONAL OUTLET(S) - THIS PROPOSAL IS SIGNIFICANTLY DIFF.
- ACCESS WAS TO PROVIDED THROUGH A NEW CONNECTOR ROAD ONTO SCHOONER COVE DRIVE
- COMMENT - TRAFFIC MANAGEMENT PLAN STATES DOLPHIN DRIVE IS A TWO LANE ROADWAY WITH PAVED SHOULDER (- NOT)
- CONSTRUCTION WORKER PARKING NOT ALLOWED ON OUTRIGGER OR DOLPHIN, PLAN IS SILENT ON SCHOONER RIDGE AND REDDEN
- AT TIME OF INITIAL DISCUSSIONS ASSURANCES SOUGHT ON RELIABILITY OF CLEAN WATER SUPPLY AND CONSISTENT ELECTRICAL POWER AVAILABILITY. INFORMATION ON IMPACT OF THIS PROPOSAL IS REQUESTED OF HOW CONSTRUCTION IMPACTS WILL BE MANAGED
- OTHER POINTS - FIRE PROTECTION (OCCUPANCY NPPS) - PRESERVE UNNECESSARY
- R.P. BIG FEE CONSTRUCTION JAN 1 - FEB 31 (NOTING) - SERIOUS
- REQUEST 1 - RETURN TO VILLAGE CONCEPT TO EXTENT POSSIBLE
2 - FULL DISCLOSURE ON SCOPE OF CONSTRUCTION (3 HIGHRISES);
3 - A REASONABLE SCHEDULE TO INDICATE DURATION OF IMPACT
4 - COMPLETE INFORMATION TO MITIGATE TRANSPORT/CONST POWER AND WATER
D. E. JAMES

Attachment 13
Draft PDA Amendment Agreement

**PHASED DEVELOPMENT AGREEMENT
AMENDMENT AGREEMENT**

THIS AGREEMENT dated for reference this ____ day of _____, 2017

BETWEEN:

1040985 B.C. LTD. NO. BC1040985
305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

AND

1042719 B.C. LTD., INC. NO. BC1042719
305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

AND

1040984 B.C. LTD., INC. NO. BC1040984
305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

(collectively the “**Owner**”)

AND:

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

(the “**Regional District**”)

WHEREAS:

- A. By agreement under section 516 of the *Local Government Act* dated July 23, 2014, the Owners, as defined in that Agreement, and the Regional District entered into a Phased Development Agreement (“**PDA**”) with BCIMC Realty Corporation and 3536696 Canada

Inc. (the “**First Owners**”) to govern the development of the Lands as described in Schedule “A” to the PDA.

- B. By agreement dated the ____ day of ____ 20____, (the “**Assignment Agreement**”) the First Owners assigned their interest in the PDA to 1042719 B.C. Ltd, 1040984 B.C. Ltd, and 1040985 B.C. Ltd (collectively the “**New Owners**”) and the New Owners have assumed the obligations of the Owners under the PDA;
- C. The New Owners wish to amend the scheme of the development and the amenities described in the PDA as it applies to the Schooner Cove Land and the Regional District has agreed to amend the PDA as requested by the New Owners on the terms and conditions set out in this Agreement; and
- D. The parties have agreed to additional amendments to the PDA to better define the obligations and rights of the parties;

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to sections 516 and 519 of the *Local Government Act* and in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, the parties agree as follows:

A. Definitions and Interpretation

In this Agreement, the following words and phrases have the following meanings:

“**PDA**” means the Phased Development Agreement dated July 23, 2014 between BCIMC Realty Corporation and 3536696 Canada Inc. as “Owner” and the Regional District.

“**Schooner Cove Land**” has the same meaning as in the PDA, as amended by this Agreement.

B. Amendments to PDA

The parties agree that the PDA is amended as follows:

1. Definitions

The definitions are amended to read as follows:

A new definition is added as follows:

“**Building A**” means the building existing as of July 1, 2017 on Lot 1, District Lot 78, Nanoose District, and District Lots 2085, 2086, 2087, 2088 and 2089, Nanaimo District Plan VIP87121 within the Schooner Cove Land to be substantially altered and renovated for use as a mixed-use building;

A new definition is added as follows:

“Building B” means a new mixed use building to be constructed on Lot 1, District Lot 78, Nanoose District, and District Lots 2085, 2086, 2087, 2088 and 2089, Nanaimo District Plan VIP87121.

A new definition is added as follows:

“Canada” means Her Majesty the Queen in Right of Canada.

The definition of **“PDA Bylaw”** is amended by inserting the bylaw number ‘1692,’ before ‘2013’.

A new definition is added as follows:

“Schooner Cove Water Lot (BC)” means land owned by the Province having a legal description of District Lot 2084, Nanaimo District held under Lease No. 109021 in favour of 1042719 B.C. Ltd.

A new definition is added as follows:

“Schooner Cove Water Lot (Canada)” means land owned by Canada having a legal description of District Lot 105, Nanaimo District.

A new definition is added as follows:

“Schooner Cove Water Lots” means the Schooner Cove Water Lot (BC) and the Schooner Cove Water Lot (Canada).

The definition of **“Statutory Right of Way for Public Access (Strata Maintained)”** is deleted and replaced with the following:

“means a statutory right of way for a public access that will be maintained by a strata corporation, under section 218 of the *Land Title Act* to include a covenant under section 219 of the *Land Title Act* to secure the obligations of the strata corporation and substantially in the form that is attached as Schedule “M” hereto.”

A new definition is added as follows:

“Statutory Right of Way for Public Access to Boat Ramp (Strata Maintained)” means a statutory right of way for a public access that will be maintained by a strata corporation, under section 218 of the *Land Title Act* to include a covenant under section 219 of the *Land Title Act* to secure the obligations of the strata corporation and substantially in the form that is attached as Schedule “FF” hereto.

A new definition is added as follows:

“Option A” means that portion of the route of the Waterfront Pathway / Boardwalk located on the water frontage of the Schooner Cove Lands and the lands of Schooner House Strata VIS745, commencing at a point adjacent to the landward terminus of the breakwater

within the Schooner Cove Water Lot (Canada) and ending at a point adjacent to the northwesterly corner of Building A, as those landmarks are shown on the Schooner Cove Public Open Space Phasing Plan attached as Schedule “I” to the PDA as it existed on the date of adoption of Regional District of Nanaimo Phased Development Agreement (Lakes District and Schooner Cove) Authorization Bylaw No. 1692, 2013.

A new definition is added as follows:

“Option A (Schooner House Strata Segment)” means that portion of Option A located on the lands of Schooner House Strata VIS745.

A new definition is added as follows:

“Option B” means that portion of the route of the Waterfront Pathway / Boardwalk located on the Schooner Cove Water Lots and traversing the improvements within the Schooner Cove Water Lots, commencing at a point adjacent to the landward terminus of the breakwater within the Schooner Cove Water Lot (Canada) and ending at a point adjacent to the northwesterly corner of Building A, as those landmarks are shown on the Schooner Cove Public Open Space Phasing Plan (Schedule “I”).

A new definition is added as follows:

“Province” means Her Majesty the Queen in Right of the Province of British Columbia.

A new definition is added as follows:

“Multi-Use Pathway” means the multi-use pathway shown on the Schooner Cove Public Open Space Phasing Plan (Schedule “I”).

2. Phasing - Schooner Cove Land

2.1 Section 3(a) is amended by replacing the first 3 (three) lines of section 3(a) with the following:

“the development of Phases 1SC to 3SC shall be such that, unless consented to by the Regional District, the Owner will not make application for registration of a Subdivision, nor shall the Owner be entitled to issuance of a building permit within.”

2.2 Section 3(a)(i) of the PDA is amended by adding the words “(or other rights, where permitted in section 12A)” after the words “statutory rights of way” and by deleting the words:

“in section 12 and in section 13 hereof”

and replacing them with the following:

“in sections 12, 12A and 13 hereof”.

- 2.3 Section 3(a)(ii) of the PDA is amended by adding the words “(or other rights, where permitted in section 12A)” after the words “statutory rights of way” and by deleting the words:

“section 12 and section 13 hereof”

and replacing them with the following:

“sections 12, 12A and 13 hereof”.

- 2.4 Section 3(a)(ii) of the PDA is amended by deleting the following:

“the Jib Crane Hoist has been constructed or security for same has been provided as set out in section 22 hereof;”

3. Amenities, Amenity Payments and related items- Schooner Cove Public Access

- 3.1 Section 12 of the PDA is amended by deleting the opening words:

“The Owner shall, concurrently with the registration of the first Subdivision within:

and replacing them with the following:

“The Owner shall, prior to the registration of the first Subdivision, or within 18 months of the issuance of the first building permit, whichever occurs first, and in any event prior to the issuance of the first occupancy permit within:”.

- 3.2 Section 12 of the PDA is amended by adding a new section (d) as follows:

“(d) use reasonable commercial efforts to cause the grant to the Regional District of a 3.0 metre wide statutory right of way, substantially in the form set out in Schedule “L”, for public access over Option A (Schooner House Strata Segment);”

and by re-numbering the existing section (d) as section (e).

- 3.3 Section 12 of the PDA is amended by adding the following words after subsection (e):

“For certainty, the registration of the first Subdivision or the issuance of the first building permit (as the case may be) within either of Phase 1SC (the Village) or Phase 2SC (the Waterfront) shall trigger the requirements in subsections (c), (d) and (e) above with respect to that particular Phase only, not the other Phase, and the requirements in subsections (c), (d) and (e) above shall be triggered with respect to the other Phase by the registration of the first Subdivision or the issuance of the first building permit (as the case may be) within it.

3.4 A new Section 12A is added to the PDA immediately following section 12 as follows:

- “12A The Owner shall, prior to the registration of the first Subdivision, or within 18 months of the issuance of the first building permit, whichever occurs first, and in any event prior to the issuance of the first occupancy permit within Phase 1SC (the Village) shown on the Schooner Cove Land Use Phasing Plan (Schedule “H”):
- (a) grant or cause the grant to the Regional District, with the consent of the Province or Canada, as the case may be, as land owner, a licence to enable public use of the improvements located within the Schooner Cove Water Lots for public pedestrian purposes upon and across Option B on terms and conditions satisfactory to the Regional District, in its sole discretion, to include the obligation of the Owner to maintain the Waterfront Pathway / Boardwalk to a high standard of maintenance and indemnify the Regional District for any loss or injury arising from public use of the Waterfront Pathway / Boardwalk arising other than from the Regional District’s negligence;
 - (b) covenant with the Regional District by way of covenant registered under section 219 of the Land Title Act registered against title to Lot 1, District Lot 78, Nanoose District, and District Lots 2085, 2086, 2087, 2088 and 2089, Nanaimo District Plan VIP87121 (“Schooner Cove Land-Lot 1”) substantially in the form attached to this Agreement as Schedule “EE”, to use the Schooner Cove Land – Lot 1 only in a manner that permits public access to the Schooner Cove Water Lots, and to pay an amenity contribution to the Regional District in the event that the licence referred to in subsection (a) above expires or terminates for any reason, whether in whole or in part; and
 - (c) satisfy the obligation of the Owner under section 13(d) in relation to Phase 1SC (the Village), regardless of whether or not the requirement under section 13(d) has been triggered in relation to Phase 1SC (the Village) pursuant to the provisions of section 13.

3.5 A new Section 12B is added to the PDA immediately following Section 12A as follows:

“12B Notwithstanding any other provision of this Agreement, in the event title is raised to the Schooner Cove Water Lot (BC) or the Schooner Cove Water Lot (Canada), the Owner shall, not more than 12 months after title is raised, grant or use best efforts to cause the grant to the Regional District of a statutory right of way and covenant under sections 218 and 219 of the *Land Title Act* in favour of the Regional District for public pedestrian passage over that portion of the Waterfront Pathway / Boardwalk within the Schooner Cove Water Lot (BC) or the Schooner Cove Water Lot (Canada), as the case may be (it being understood and agreed that the requirements of this Section 12B shall apply separately and with equal force to each of the Schooner Cove Water Lots), on terms and conditions satisfactory to the Regional District in its sole discretion (including covenants relating to the

maintenance by the Owner of the Waterfront Pathway / Boardwalk, and an obligation of the Owner to indemnify the Regional District for any loss or injury arising from public use of the Waterfront Pathway / Boardwalk arising other than from the Regional District's negligence).

4. Amenities, Amenity Payments and related items – Schooner Cove Waterfront Pathway/ Boardwalk, Walking Pathway and Public Access Open Space Improvements – Owner's Land

4.1 The heading "(a) Owner's Land" immediately prior to section 17 of the PDA is deleted and replaced with the heading "(a) Construction".

4.2 Section 17 of the PDA is deleted and replaced with the following:

"The Owner shall, not more than 18 months after the issuance of the first building permit within Phase 1SC (the Village), Phase 2SC (the Waterfront) or Phase 3SC (the Commons), as the case may be, and prior to the issuance of an occupancy permit in respect of any building or improvement in that Phase, complete the construction at its own cost of the Waterfront Pathway/Boardwalk, Walking Pathway, Public Access Open Space and Multi-Use Pathway within that Phase:

(a) in the locations shown on the Schooner Cove Public Open Space Phasing Plan (Schedule "I"); and

(b) to the standards set out in the Schooner Cove Pathway and Floating Boardwalk Standards (Schedule "J"),

provided that the Owner shall not be obligated to construct the Waterfront Pathway/Boardwalk within Option B if the Owner has already constructed the Waterfront Pathway/Boardwalk within Option A, and provided further that the Owner shall, within 12 months of the demolition of Building A, and notwithstanding any other provision of this Agreement, construct, at its own cost, the Waterfront Pathway / Boardwalk improvements within that portion of Option A within Phase 1SC."

5. Amenities, Amenity Payments and related items – Schooner House Strata section

5.1 The heading "(b) Schooner House Strata section" immediately prior to section 18 of the PDA is amended by deleting the word "section" and replacing it with the word "Segment".

5.2 Section 18 of the PDA is amended by deleting subsection 18(b) and replacing it with the following:

"(b) so soon thereafter as the Owner is able, using reasonable commercial efforts, to secure at the Owner's cost a statutory right of way in favour of the Regional District substantially in the form set out in Schedule "L" to permit public access to and along the Waterfront Pathway/Boardwalk within Option A (Schooner House Strata Segment),".

5.3 Section 18 of the PDA is amended by deleting subsection 18(c) and (d) and replacing them with the following:

“(c) within Option A (Schooner House Strata Segment); and

(d) to the standards set out in the Schooner Cove Pathway and Floating Boardwalk Standards (Schedule “J”).”

5.4 Section 19 of the PDA is deleted and replaced with the following:

“In the event the Owner is unable to secure the grant of a statutory right of way over Option A (Schooner House Strata Segment) prior to the registration of the first Subdivision within Phase 3SC (the Commons), the Owner shall provide security to the Regional District for 125% of the cost of construction and materials of the section of the Waterfront Pathway/Boardwalk within Option A by way of a clean irrevocable letter of credit, and shall renew the same prior to its expiry until construction is complete. The construction by the Owner of the Waterfront Pathway/Boardwalk within Option B shall not relieve the Owner of the obligation to provide security under this section 19, and the Owner shall provide, maintain and renew such security as aforesaid until such time as a statutory right of way over Option A (Schooner House Strata Segment) has been granted and the Owner has completed construction of the section of the Waterfront Pathway/Boardwalk within Option A.”

6. Amenities, Amenity Payments and related items – Management of park and public access

6.1 Section 20(a) of the PDA is amended by adding the following after the word “shall” in the second line:

“, except as provided in sections 12A and 12B,”.

6.2 A new section 20A is added to the PDA immediately following section 20 as follows:

“The Owner shall, prior to the registration of the first Subdivision, or within 18 months of the issuance of the first building permit, whichever occurs first, and in any event prior to the issuance of the first occupancy permit within each of Phase 1SC (the Village), Phase 2SC (the Waterfront) or Phase 3SC (the Commons), as the case may be, do one of the following:

- (a) secure an agreement, satisfactory to the Regional District, acting reasonably, from the Ministry of Transportation and Infrastructure (“MOTI”) whereby MOTI assumes ongoing responsibility for the maintenance, operation and management of the portion of the Multi-Use Pathway within that Phase; or
- (b) successfully petition the board of the Regional District to adopt a bylaw establishing a local area service for the maintenance, operation and management of the portion of the Multi-Use Pathway within that Phase, with “success” for purposes of this section meaning that the board has adopted such a bylaw.”

7. Amenities, Amenity Payments and related items –Security

7.1 Section 22 of the PDA is deleted and replaced with the following:

“The Owner agrees to provide the Regional District with security for the construction of the improvements provided for in sections 14, 15, 16, 17 and 18, as a precondition to the approval of the Subdivision or, where Subdivision is to occur (if at all) only after construction or renovation of a building, as a precondition to the issuance of the building permit to which the construction obligation relates, which security shall cover 125% of the cost of construction and materials, and shall be by way of a clean, irrevocable letter of credit, which the Owner shall renew prior to its expiry until construction is complete.”

8. Amenity Payments, and amenity work – Fire safety

8.1 A new section 35A is added to the PDA immediately following section 35 as follows:

“35A The Owner shall:

- (a) Concurrently with the renovation of Building A, and prior to the issuance of an occupancy permit for the renovated Building A, install to the satisfaction of the Regional District a sprinkler system and a fire alarm system within Building A; and
- (b) Concurrently with the construction of Building B, and prior to the issuance of an occupancy permit for Building B, install to the satisfaction of the Regional District a sprinkler system, fire alarm system, and video monitoring (for firefighting purposes) system within Building B.

9. Amenities, Amenity Payments and related items – Improvements for private commercial operations

9.1 Section 40 of the PDA is deleted and replaced with the following:

“The Owner shall, prior to the registration of the first Subdivision, or within 18 months of the issuance of the first building permit, whichever occurs first, and in any event prior to the issuance of the first occupancy permit within Phase 1SC (the Village), grant a statutory right of way substantially in the form attached as Schedule “FF” in favour of the Regional District for and on behalf of the public to permit public access to the existing boat access ramp, provided that the Regional District agrees that such public access may be subject to such reasonable fees for use of the boat ramp as may be imposed by the Owner from time to time and provided that the Owner may, at the time of granting of the statutory right of way, propose amendments to the form attached as Schedule “FF” for the purpose of better assuring the Owner’s ability to maintain, manage and secure the boat access ramp, and the Regional District shall not unreasonably refuse its agreement to such amendments so long as the intended right of public access to the boat ramp is, in substance, preserved.

10. Subdivision and Development Infrastructure – Infrastructure Works

- 10.1 Section 44 of the PDA is amended by deleting the first 3 lines and replacing them with the following:

“The Owner further agrees to provide the supporting material from a Qualified Professional, Qualified Environmental Professional, or qualified Archaeologist set out in subsections (a) through (d) below as part of its Subdivision applications or, where Subdivision is to occur (if at all) only after construction or renovation of a building, concurrent with the application for the development permit to which the construction obligation relates (provided that in the case of the CEMP referred to in subsection (d) below, where the Owner proposes or intends to carry out any land alteration or other development activities prior to Subdivision, the Owner must provide the CEMP to the Regional District prior to the issuance of a development permit authorizing such land alteration or development activities):”

- 10.2 Section 45 of the PDA is amended by deleting the first 4 lines and replacing them with the following:

“Without limiting the generality of section 42, subject to the qualifications set out therein, the Owner further agrees to the incorporation of a requirement for a Construction Covenant, substantially in the form attached as Schedule “S” hereto, speaking to the following matters, as a precondition to Subdivision approval or issuance of a building permit, whichever comes first, within a Phase:”

11. Term, termination, enforcement and arbitration

- 11.1 Add the following as a new subsection 64(c)(iv)

- (i) sections 17 and 18 [Schooner Cove Waterfront Pathway / Boardwalk, Public Pathway and Public Access Open Space Improvements]

and renumber the existing subsection (iv) as (v).

- 11.2 Subsection 68(a)(xii) is amended by deleting the words “Jib Crane Hoist” and replacing them with the words “boat access ramp”.

12. Other

- 12.1 A new section 81A is added as follows:

“81A – Security

Wherever the Owner is required in this Agreement to provide financial security to the Regional District for the satisfaction of an obligation, whether such security takes the form of cash, an irrevocable letter of credit, or otherwise, the Owner must maintain and renew such security indefinitely until such time as the corresponding obligation of the Owner is satisfied. If, upon the date that is six (6) months prior to the expiration of the Term of this Agreement, or upon the effective date of the earlier termination of this Agreement, whichever is first, any security remains held by the Regional District for which the corresponding obligation of the Owner has

not been satisfied, then such security shall without further notice be forfeited to the Regional District absolutely, and the Regional District may thereupon draw down, use, and spend the entirety of such security as it deems fit for the purpose of carrying out any unsatisfied obligations of the Owner under this Agreement, or for the purpose of providing public amenities within the Lakes District Land or the Schooner Cove Land or lands adjacent thereto, all in the sole discretion of the Regional District, and all without prejudice to any other right or remedy the Regional District may have in respect of a default of the Owner.”

13. Schedules

The following schedules to the PDA are replaced by the corresponding appendix to this Agreement as set out below:

Schedule Reference	Document Name	Appendix Reference
Schedule “A”	Owner’s Land	Appendix 1
Schedule “B”	Site Plan	Appendix 2
Schedule “H”	Schooner Cove Land Use Phasing Plan	Appendix 3
Schedule “I”	Schooner Cove Public Open Space Phasing Plan	Appendix 4
Schedule “J”	Schooner Cove Pathway Standards	Appendix 5
Schedule “K”	Schooner Cove Infrastructure Phasing Plan	Appendix 6
Schedule “M”	Statutory Right of Way for Public Access (Strata Maintained)	Appendix 7
Schedule “EE”	Boardwalk Alternative Covenant	Appendix 8
Schedule “FF”	Statutory Right of Way for Public Access to Boat Ramp (Strata Maintained)	Appendix 9

and reference is added to section 82 of the PDA (and the Index) to “Schedule “EE” – Boardwalk Alternative Covenant”, and Schedule “FF” – Statutory Right of Way for Public Access to Boat Ramp (Strata Maintained).

14. Preamble

Recital clause “E” in the preamble to the PDA is amended by inserting “2014” into each of the three (3) blank spaces.

C. Interpretation

In this Agreement:

- (a) the headings and captions are for convenience only and do not form a part of this Agreement and will not be used to interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions;
- (b) the word “including” when following any general term or statement is not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar terms or matters but rather as permitting it to refer to other items or matters that could reasonably fall within its scope;

- (c) a reference to currency means Canadian currency;
- (d) a reference to a statute includes every regulation made pursuant thereto, all amendments to the statute or to any such regulation in force from time to time and any statute or regulation that supplements or supersedes such statute or any such regulation;
- (e) a reference to time or date is to the local time or date in Nanaimo, British Columbia;
- (f) a word importing the masculine gender includes the feminine or neuter, and a word importing the singular includes the plural and vice versa;
- (g) a reference to approval, authorization, consent, designation, waiver or notice means written approval, authorization, consent, designation, waiver or notice;
- (h) a reference to a section means a section of this Agreement, unless a specific reference is provided to a statute; and
- (i) This Agreement is to be constructed in accordance with and governed by the laws applicable in the Province of British Columbia.

D. Notice

A notice, demand, statement, request or other evidence required or permitted to be given hereunder must be written and will be sufficiently given if delivered in person, transmitted by facsimile or mailed in Canada by registered mail addressed as follows:

- (a) if to the Owner:
c/o _____

Attention: _____

- (b) if to the Regional District:

REGIONAL DISTRICT OF NANAIMO
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2
Fax: 250-390-4163

Attention: Director of Corporate Services

in which case such notice, demand, statement, request or other evidence will be considered to have been given to the party to whom it is addressed on the third business day following the date of mailing, and a party at any time may give notice to the others of a change of address after which the address so specified will be considered to be the address of the party who gave the notice. Any notice, demand, statement, request or other evidence delivered in person will be considered to have been given at the time of personal delivery and any notice, demand, statement, request or other evidence

transmitted by facsimile will be considered to have been given to the party to whom it is addressed on the next business day following the date of such transmission.

E. Counterparts

This Agreement may be executed in counterparts and delivered by facsimile transmission or other means of electronic communication capable of producing a printed copy, each of which so executed and delivered shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument, and notwithstanding the date of execution will be deemed to be effective as of the date first written above. Any party that delivers a counterpart copy of this Agreement by facsimile or electronic transmission shall deliver an originally executed copy of this Agreement promptly thereafter; provided that the failure to do so shall not affect the validity or enforceability of this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

1040985 B.C. LTD. NO. BC1040985,)
by its authorized signatory(ies):)
)
_____)
Name:)
)
_____)
Name:)

1042719 B.C. LTD., INC. NO. BC1042719,)
by its authorized signatory(ies):)
)
_____)
Name:)
)
_____)
Name:)

1040984 B.C. LTD., INC. NO. BC1040984)
by its authorized signatory(ies):)
)
_____)
Name:)
)
_____)
Name:)

REGIONAL DISTRICT OF NANAIMO,)
by its authorized signatory(ies):)
)
_____)
Name:)
)
_____)
Name:)

Appendix 1 Schedule A – Owner’s Land

SCHEDULE “A”: OWNER’S LAND

The Owner’s Land is those certain lands legally described below.

A. Lakes District Land

Parcel	PID	Legal Description	(hectares)	Registered Owner
1	002-730-421	LOT 1, DISTRICT LOTS 30 AND 78, NANOOSE DISTRICT, PLAN 26219, EXCEPT THOSE PARTS IN PLANS 28246, 29574, 30072, 30262, 34675, 36514, 48548 AND VIP53001	188.9 ha	1040985 B.C. LTD.
2	006-598-439	A PORTION OF THE LANDS LEGALLY DESCRIBED AS DISTRICT LOT 78, NANOOSE DISTRICT, EXCEPT THAT PART SHOWN OUTLINED IN RED ON PLAN DEPOSITED UNDER DD19579; EXCEPT PARCELS A AND B (DD7528N); AND EXCEPT THOSE PARTS IN PLANS 813R, 1567 OS, 14212, 14250, 14275, 15075, 15193, 22836, 24012, 25366, 26219, 27129, 27206, 29869, 34675, 47638, 48548, 48585, 49669, 50872, 51142, VIP51603, VIP51706, VIP51707, VIP53134, VIP57407, VIP59180, VIP59494, VIP60049, VIP60602, VIP71781, VIP73214, VIP78139, VIP80854, VIP80855, VIP80856, VIP85588 and VIP88308	60.2 ha	1040985 B.C. LTD.
3	006-598-323	A PORTION OF THE LANDS LEGALLY DESCRIBED AS DISTRICT LOT 30, NANOOSE DISTRICT, EXCEPT THOSE PARTS IN PLANS 15193, 26219, 48585, VIP51706, VIP51707, VIP52451, VIP53134, VIP57407, VIP60049, VIP60602 and VIP88308	25.8 ha	1040985 B.C. LTD.
4	006-598-242	A PORTION OF THE LANDS LEGALLY DESCRIBED AS DISTRICT LOT 7, NANOOSE DISTRICT, EXCEPT THAT PART OUTLINED IN RED ON PLAN 1567 OS, 48548, VIP59496 AND VIP80856	0.02 ha	1040985 B.C. LTD.
5	006-598-293	DISTRICT LOT 11, NANOOSE DISTRICT, EXCEPT THAT PART OUTLINED IN RED ON PLAN 1567 OS, 48548 AND VIP59496	6.1 ha	1040985 B.C. LTD.

6	001-279-084	LOT 8, DISTRICT LOT 78, NANOOSE DISTRICT PLAN 30262	2.0 ha	1040985 B.C. LTD.
---	-------------	--	--------	----------------------

Total			283.02 ha	
--------------	--	--	------------------	--

B. Schooner Cove Land

Parcel	PID	Legal Description	(hectares)	Registered Owner
1	028-022-998	LOT 1, DISTRICT LOT 78, NANOOSE DISTRICT, and DISTRICT LOTS 2085, 2086, 2087, 2088, 2089, NANAIMO DISTRICT, PLAN VIP87121	1.6 ha	1042719 B.C. LTD.
2	001-760-068	LOT 1, DISTRICT LOT 78, NANOOSE DISTRICT, PLAN 28544	2.5 ha	1040984 B.C. LTD.
3	028-023-391	LOT 1, DISTRICT LOT 2090, NANAIMO DISTRICT AND DISTRICT LOT 78, NANOOSE DISTRICT, PLAN VIP87122	0.8 HA	1040984 B.C. LTD.
Total			4.9 ha	

C. Schooner Cove Water Lot

(Owned by Province, leased to 1042719 B.C. LTD.)

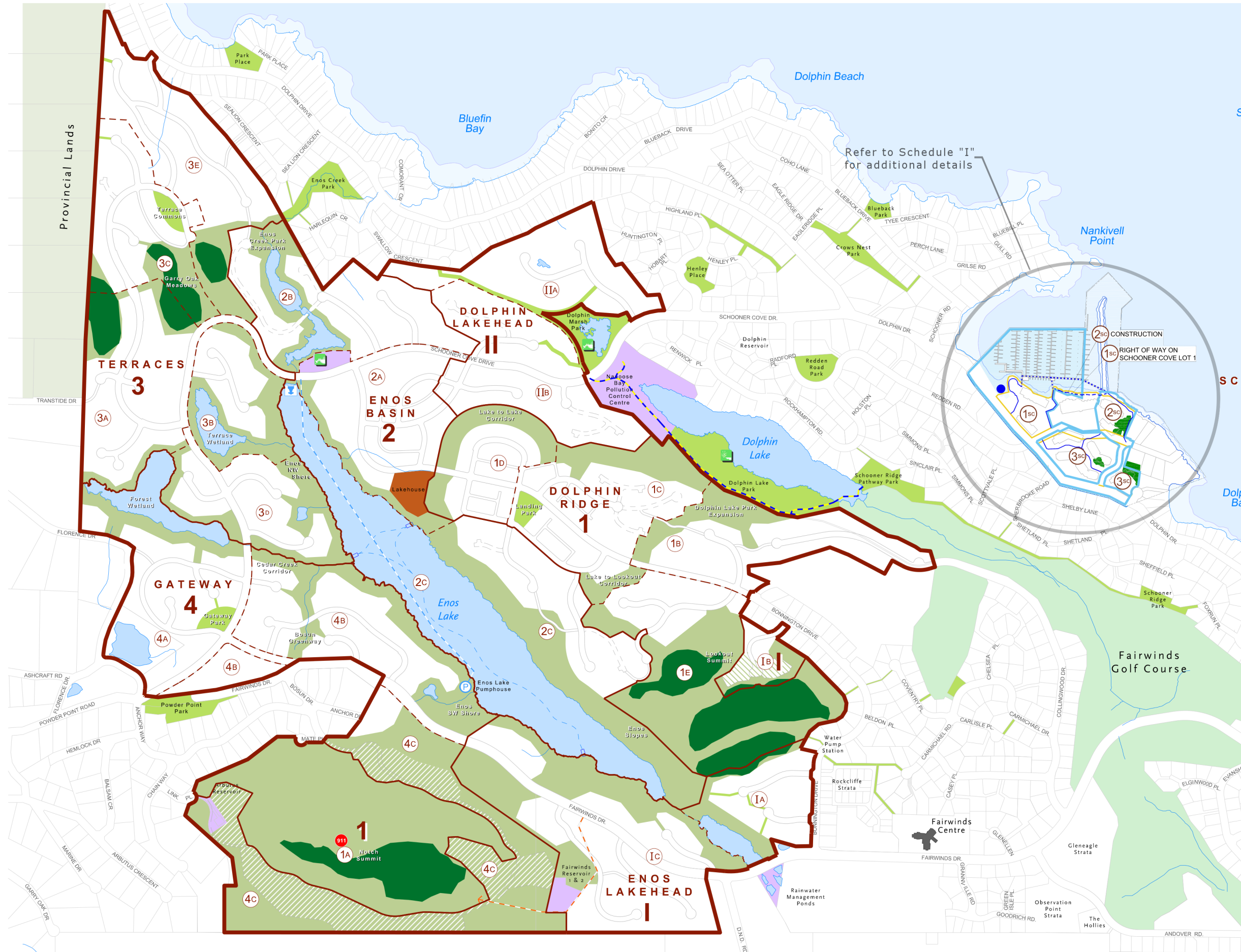
Parcel	PID	Legal Description	(hectares)
4	n/a	DL 2084, NANAIMO DISTRICT, (COMMERCIAL MARINA) LICENCE 109021	3.8 ha

Note: the land areas set out in this Schedule are drawn from Land Title records. In order to ensure consistency as between the various area references, the land areas referenced in the body of this Agreement and in the other Schedules to this Agreement are derived from CAD drawings, which includes an updating of old survey information where available. All areas are subject to confirmation upon legal survey.

Appendix 2
Schedule B - Site Plan

LAKES DISTRICT & SCHOONER COVE PHASED DEVELOPMENT AGREEMENT

SCHEDULE B SITE PLAN



LEGEND

- The Lakes District Plan Area
- 1** (1A) Lakes District Development Phases & Sub-Phases
- Schooner Cove Plan Area
- 1sc Schooner Cove Development Phases
- Owner's Land
- Regional Park
- Community Park
- Lookout Development Lands subject to Option to Purchase
- Notch Park Lands subject to Option to Purchase
- Garry oak Meadow Polygons
- Lakehouse
- Civic Infrastructure
- Schooner Cove Waterfront Pathway / Boardwalk
Refer to Schedule "I" for additional details form Boardwalk options
- Schooner Cove Walking Pathway
- Dolphin Lake Park & NBPCC Trail
- Enos Lake Submerged Water Line
- Notch Trail SRoW
- Enos Lake Docks
- Rainwater Management Pond
- Enos Lake Outlet Weir
- Enos Lake Pumphouse
- Boat Ramp
- 911 Repeater - Approximate Location



Appendix 3
Schedule H - Schooner Cover Land Use Phasing Plan

SCHOONER COVE ALL PHASES

PHASE 1SC

Village Mixed Use	23%	1.37 ha 3.86 ac
Marina	64%	3.72 ha 9.19 ac
Multi-Dwelling Residential	-	-
Public Road ROW	13%	0.78 ha 1.93 ac
Total	100%	5.87 ha 14.51 ac

PHASE 2SC

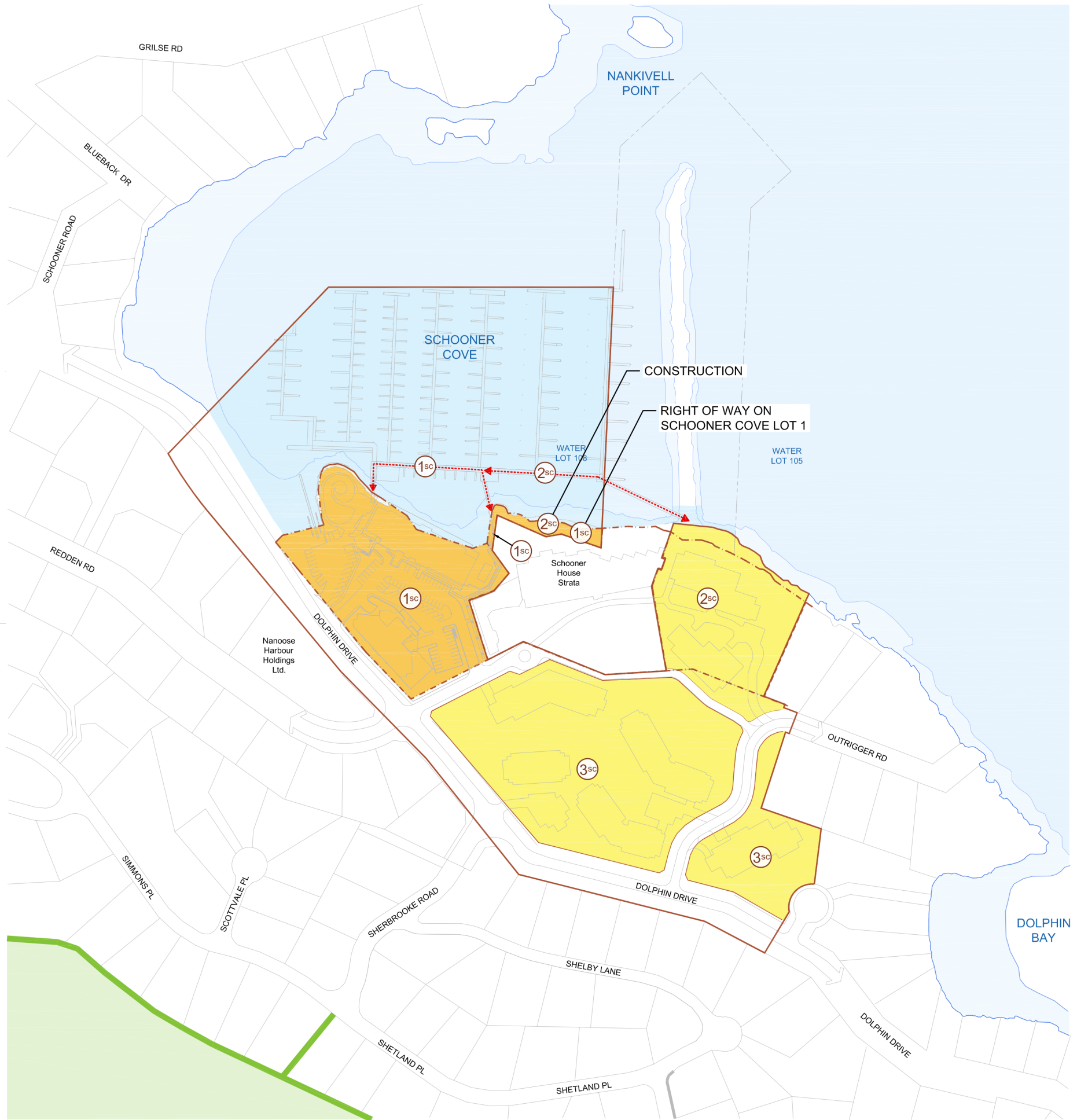
Village Mixed Use	6%	0.07 ha 0.17 ac
Marina	-	-
Multi-Dwelling Residential	67%	0.94 ha 2.32 ac
Public Road ROW	27%	0.38 ha 0.94 ac
Total	100%	1.40 ha 3.46 ac

PHASE 3SC

Village Mixed Use	-	-
Marina	-	-
Multi-Dwelling Residential	79%	2.48 ha 6.13 ac
Public Road ROW	21%	0.67 ha 1.66 ac
Total	100%	3.15 ha 7.78 ac

TOTAL

Village Mixed Use	14%	1.44 ha 3.56 ac
Marina	36%	3.72 ha 9.19 ac
Multi-Dwelling Residential	33%	3.42 ha 8.45 ac
Public Road ROW	17%	1.83 ha 4.52 ac
Total	100%	10.42 ha 25.75 ac



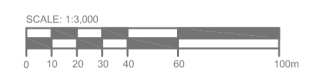
SCHOONER COVE LAND USE PHASING

SCHEDULE "H"



LEGEND

- Village Mixed Use
- Marina
- Multi-Dwelling Residential
- Public Road ROW



Appendix 4
Schedule I - Schooner Cove Public Open Space Phasing Plan

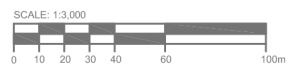
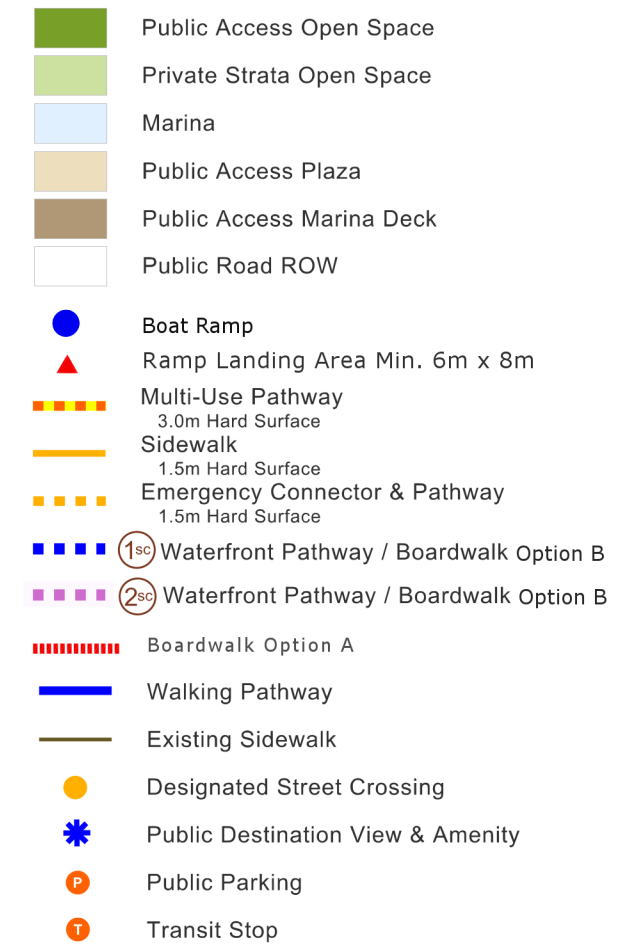
SCHOONER COVE ALL PHASES



SCHOONER COVE PUBLIC OPEN SPACE PHASING SCHEDULE "I"



LEGEND



Appendix 5
Schedule J - Schooner Cove Pathway and Floating Boardwalk Standards

**SCHEDULE "J": SCHOONER COVE PATHWAYS AND FLOATING BOARDWALK STANDARDS
JUNE 2017**

Schooner Cove Pathway and Floating Boardwalk Standards

JUNE 2017



EXAMPLE OF THE PUBLIC DESTINATION VIEW AND AMENITY AREA

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1 SCHOONER COVE NEIGHBOURHOOD

Introduction

Schooner Cove Neighbourhood Plan, OCP Amendment Bylaw No.1400, adopted by the Regional District of Nanaimo in 2011, provides for the creation of a maritime village to live, work, shop and play. The 12.39 ha neighbourhood contributes towards the implementation of the Regional Growth Strategy and a more sustainable community.

The design for Schooner Cove takes its cue from traditional maritime villages with a focus on celebrating its relationship to the coast, featuring neighbourhood-scaled and community-oriented commercial services, all structured by public open spaces and pathways.

Through the design and implementation of the Neighbourhood Plan, Schooner Cove will foster a vibrant public realm featuring a waterfront green and boardwalk, plazas, public art, and pedestrian network.

The pedestrian network at Schooner Cove enhances the public realm through its interconnected system of sidewalks, pathways and trails with access to the waterfront preserved as a public amenity.

The following Pathway Standards serve as a framework to implement the public open space vision adopted in the Neighbourhood Plan. The methods and technical information used are sourced from Best Management Practices, as well as the following professional reporting:

- *The Lakes District Preliminary Geotechnical Terrain Assessment*, (Trow Associates, 2008);
- *Archaeological Overview Assessment: Lakes District & Schooner Cove Neighbourhood Plan Areas, Nanoose Bay, BC*, (IR Wilson Consultants, 2008);
- *The Lakes District Study Area; Fairwinds Development Detailed Biophysical Inventory*, (Cascadia Biological, 2009);
- *Schooner Cove Nearshore Marine Assessment*, (Archipelago Marine Research Ltd, 2009); and,
- *Fairwinds' The Lakes District and Schooner Cove Neighbourhood Plan; Environmental Impact Assessment*, (Pottinger Gaherty Environmental Consultants, 2010).

General design standards for each pathway type are tailored with the goal of implementing and celebrating the public realm within Schooner Cove. Guidelines provide general directions for pathway construction; it is recognized that implementation may require adjustments. Future detailed design will be completed at the construction stage, under the supervision of a registered professional where applicable and required.



2 SCHOONER COVE PUBLIC REALM



FIG. 1 Schooner Cove Open Space Plan

- | | | |
|---------------------------|--|---|
| Public Access Open Space | Multi-Use Pathway
3.0m Hard Surface | Designated Street Crossing Public |
| Private Strata Open Space | Sidewalk
1.5m Hard Surface | Public Destination View & Amenity |
| Marina | Emergency Connector & Path
3.0m Hard Surface | Parking |
| Public Access Plaza | Waterfront Floating Boardwalk | Transit Stop |
| Public Access Marina Deck | Walking Pathway | Alternate boardwalk
Preferred option |
| Public Road ROW | Existing Sidewalk | Subject to acceptable agreement
between the developer and the
Schooner House Strata |
| | Ramp Landing Area
Min. 6m x 8m
Refer to page 7 | |

The Schooner Cove Neighbourhood envisions a vibrant mixed-use village as the waterfront heart for Nanoose Bay. Public access and open space is established through site-planning and design with particular attention to existing landform and landscape character, desired Village program, and opportunities for environmental conservation and enhancement.

A robust public realm design – including publicly accessible gathering spaces and plazas, pathways, pavilions, gardens and greenways – for the Schooner Cove Neighbourhood, integrates the range of Village land uses and provides an inviting ‘sense of place.’ The same intent extends to the private realm to create a thread of visual continuity and physical connectivity to the surrounding residential precincts, while addressing landscape buffers between the commercial, mixed-use and residential precincts.

SCHOONER COVE - elements of the public realm

- A Public Waterfront Boardwalk**

A key feature of the Schooner Cove Village, the public waterfront boardwalk links the commercial marina and waterfront village to the larger network of public access open space and inland pathways.
- B Waterfront Commons**

Designed to enhance the existing community green at Schooner Cove, the “waterfront Green” is the central social gathering space for the Schooner Cove Village, framed by the waterfront programs of the Marine Service office and waterfront commercial area.
- C Multi-use pathway**

The Multi-use pathway provides a continuous pedestrian connection between the Lakes District and Schooner Cove Neighbourhoods. In addition to improving pedestrian access to the Village, the pathway creates greater physical separation between existing residential areas and the future residential area, while creating a more informal landscape edge to the Village and neighbourhood building program.
- D Neighbourhood focal points**

Each residential district within the Neighbourhood – including the mixed-use Village, the Commons and the waterfront and Ridge – is organized around feature open space to serve as gathering areas and recreational program for residents.
- E Forested Walk**

A meandering pathway through the central forested lands provides connections to residential areas on the upper bench of Schooner Cove. In addition to providing a recreational amenity, the pathway and ridgetop forest creates significant landscape edges and transitions between residential areas while assisting to visually screen development from existing neighbourhoods.
- F Walking Path**

An extension to the Public waterfront Boardwalk, the walking path completes the recreational promenade along the waterfront and connects to the local transportation network.
- G Emergency connector pathway**

The Emergency Collector Pathway compliments the greater pathway network, while ensuring emergency vehicle accessibility within the Neighbourhood.
- H Local sidewalk**

The on-street pedestrian system includes 1.5m wide sidewalks throughout the Schooner Cove transportation network, ensuring local pedestrian access to all residential units within the Schooner Cove Neighbourhood.

4.0 PATHWAY CLASSIFICATIONS AND DESIGN STANDARDS

4.1 Pathway Hierarchy

The Schooner Cove pedestrian system includes a hierarchy of three pathway categories outlined below and summarized in Fig.2.

Each pathway type is tailored to reflect the landscape terrain and its designated use:

Multi-use pathway (2.5 - 3.0m): As the link between the Schooner Cove and the Lakes District Neighbourhoods, the Multi-use Pathway provides a continuous pedestrian route along the Community Parkway, connecting to Dolphin Drive and the Schooner Cove village. The multi-use pathway is engineered to accommodate high traffic and a range of low-speed activities including walking, jogging and cycling, and is suitable for strollers or mobility impaired individuals where reasonably feasible due to existing topography.

Boardwalk (2.0-3.0m wide, 4m at floating boardwalk): A key feature of the Schooner Cove village, the public waterfront boardwalk links the marina and waterfront village to the larger public open space network.

Walking path (1.0-1.8m wide): Narrower than the multi-use pathway, the walking trail completes the waterfront boardwalk promenade.

Surface materials may vary depending on level of use.

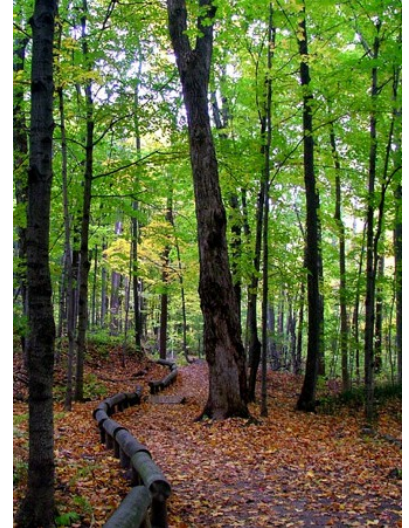
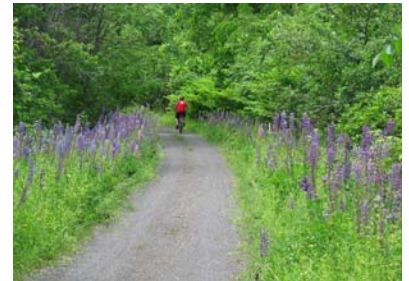
Standards for the emergency connector and sidewalks, described below, are included in the Lakes District and Schooner Cove Project Specific Street Standards:

Emergency Connector & pathway (3.0 wide): An extension of the public street providing emergency access along a controlled access pedestrian pathway.

Sidewalks (1.5m wide): As part of the pedestrian circulation system, sidewalks parallel local streets and link the multi-use pathway to Village plazas, boardwalks and neighbourhood walking paths.

In order to be successful over the long-term and to minimize maintenance, paths must be designed and built to specific standards. The exact locations and pathway types will be determined at the time of construction.

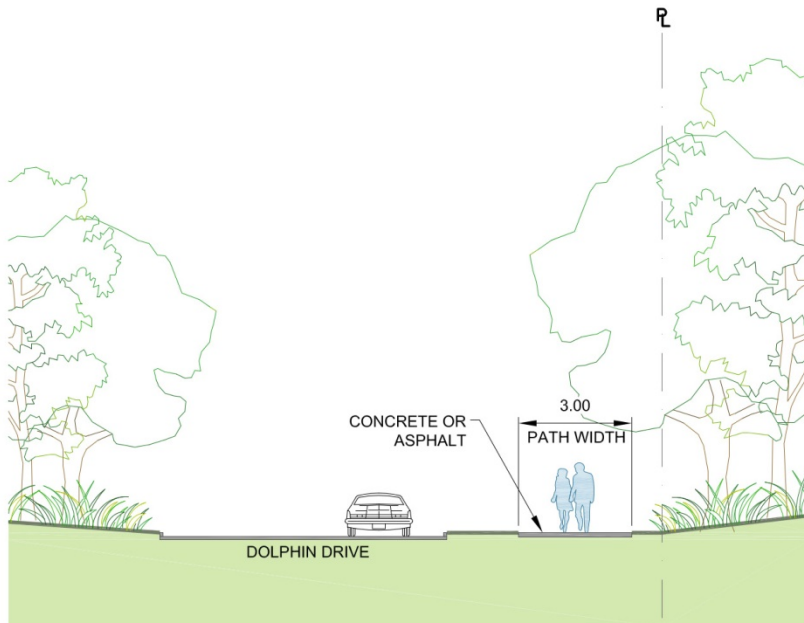
Given the variability of the terrain, the following design and construction guidelines depict typical pathway design; flexibility in design will be necessary.



	MULTI-USE	BOARDWALK	WALKING
Purpose	<ul style="list-style-type: none"> • accommodates low-speed activities, suitable for mobility impaired individuals where feasible due to existing topography. • connects residential & park uses 	<ul style="list-style-type: none"> • provides public access to the waterfront • connects village with residential uses and public spaces 	<ul style="list-style-type: none"> • provides pedestrian access to mildly sloped terrain
Level of use	HIGH	HIGH	HIGH
Type of Use	walking, jogging, walking, jogging, cycling. wheelchairs where feasible	walking, jogging. Wheelchairs where feasible	walking, jogging
Location	<ul style="list-style-type: none"> • adjacent to portions of Dolphin Drive 	<ul style="list-style-type: none"> • Waterfront 	<ul style="list-style-type: none"> • connects to Boardwalk • provides connections and recreational opportunities through strata open space
Width	2.5 - 3.0m	2.0 - 3.0m, 4m at floating boardwalk	1.0-1.8m
surface	<ul style="list-style-type: none"> • Concrete or asphalt 	<ul style="list-style-type: none"> • wood decking, exact construction to be determined based on detailed design 	<ul style="list-style-type: none"> • pavers or concrete, • native soil and crushed limestone or gravel, or • wood decking
Slope	<ul style="list-style-type: none"> • as determined by existing topography and road design. 	n/a	<ul style="list-style-type: none"> • ideally 0-5% / maximum 10% grade and short pitches up to 12%
Access	<ul style="list-style-type: none"> • universal access where feasible 	<ul style="list-style-type: none"> • universal access where feasible 	<ul style="list-style-type: none"> • universal access where feasible
Buffer	<ul style="list-style-type: none"> • landscape or distance buffers adjacent to residential lands • minimum 0.5m adjacent to Dolphin Drive 	n/a	<ul style="list-style-type: none"> • landscape or distance buffers adjacent residential uses
Drainage	<ul style="list-style-type: none"> • 1-2% cross slope • minimum 20cm ditch on uphill side of trail, both sides if on flat terrain or culverts every 50-100m, or as determined 	n/a	<ul style="list-style-type: none"> • 1-2% cross slope • shallow swale on uphill side or culverts every 50-100m every 100-150m
Surfacing Depth	<ul style="list-style-type: none"> • as required by surface type 	n/a	<ul style="list-style-type: none"> • concrete surfacing depends on subsurface • soil or crush should be 50-75mm
Clearing Width	<ul style="list-style-type: none"> • 3.5m-4.0m (0.5m each side) 	n/a	<ul style="list-style-type: none"> • 3.0m-3.8m (1.0m each side)
Vertical Clearance	<ul style="list-style-type: none"> • 2.4m 	<ul style="list-style-type: none"> • minimum 2.5m 	<ul style="list-style-type: none"> • minimum 2.5m
sight Lines	<ul style="list-style-type: none"> • minimum 20m • ideally 30m 	<ul style="list-style-type: none"> • minimum 20m 	<ul style="list-style-type: none"> • minimum 20m
Variations	<ul style="list-style-type: none"> • lookout or rest area approximately every 500m 	<ul style="list-style-type: none"> • boardwalks structures will be designed and engineered based on topography 	<ul style="list-style-type: none"> • surface materials vary depending on pathway location and purpose
Associated park features	<ul style="list-style-type: none"> • outdoor furniture: benches, garbage receptacles • orientation information and educational signage 	<ul style="list-style-type: none"> • orientation information and educational signage 	<ul style="list-style-type: none"> • outdoor furniture: benches, garbage receptacles • orientation information and educational signage

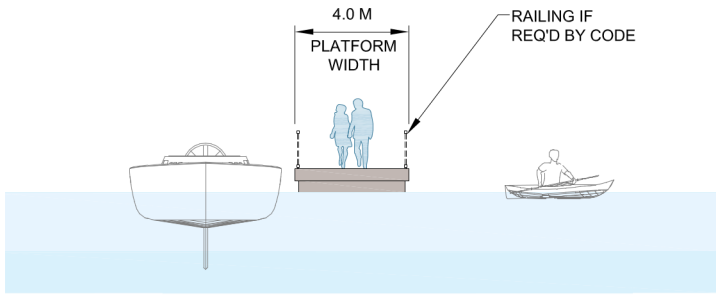
Fig. 2 Schooner Cove Pathway Hierarchy

4.2 MULTI-USE PATHWAY STANDARD



Multi-use Pathway	
Purpose	<ul style="list-style-type: none"> • accommodates low-speed activities, suitable for bikes. Strollers/mobility impaired individuals where feasible. • Connects residential & park uses
Level of use	HIGH
Type of use	walking, jogging and cycling. Strollers and wheelchairs where feasible
Location	<ul style="list-style-type: none"> • Portion of Dolphin Drive
Width	2.5 -3.0m
Surface	<ul style="list-style-type: none"> • Concrete or Asphalt
Slope	<ul style="list-style-type: none"> • As determined by existing topography and road design.
Access	<ul style="list-style-type: none"> • universal access where feasible
Trail head Barriers	<ul style="list-style-type: none"> • bollards/gates to restrict vehicles
Buffer	<ul style="list-style-type: none"> • landscape or distance buffers adjacent to residential lands • minimum 0.5m adjacent to Dolphin Drive
Riparian/ESA	<ul style="list-style-type: none"> • minimize trail widths • use fencing to protect sensitive areas from people/pets • use boardwalks to at Enos Lake and Dolphin Lake to protect riparian areas
Drainage	<ul style="list-style-type: none"> • 1-2% cross slope • minimum 20cm ditch on uphill side of trail, both sides if on flat terrain or culverts every 50-100m
Surfacing Depth	<ul style="list-style-type: none"> • as required by surface type
Clearing Width	<ul style="list-style-type: none"> • 3.5m-4.0m (0.5m each side)
Vertical Clearance	<ul style="list-style-type: none"> • 2.4m
sight Lines	<ul style="list-style-type: none"> • minimum 20m • ideally 30m
Variations	<ul style="list-style-type: none"> • lookouts/rest areas approximately every 500m
Associated park features	<ul style="list-style-type: none"> • outdoor furniture: benches, garbage receptacles • orientation information and educational signage

4.3 BOARDWALK



FLOATING BOARDWALK

BOARDWALK

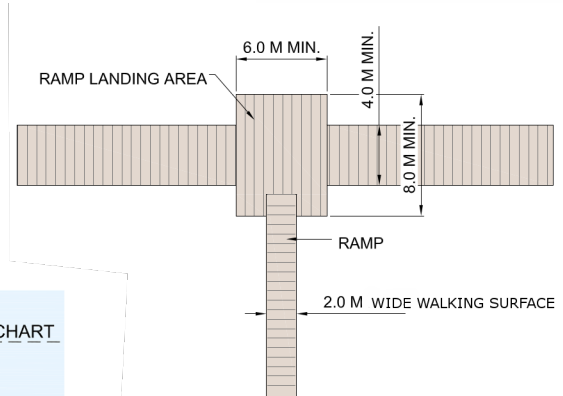
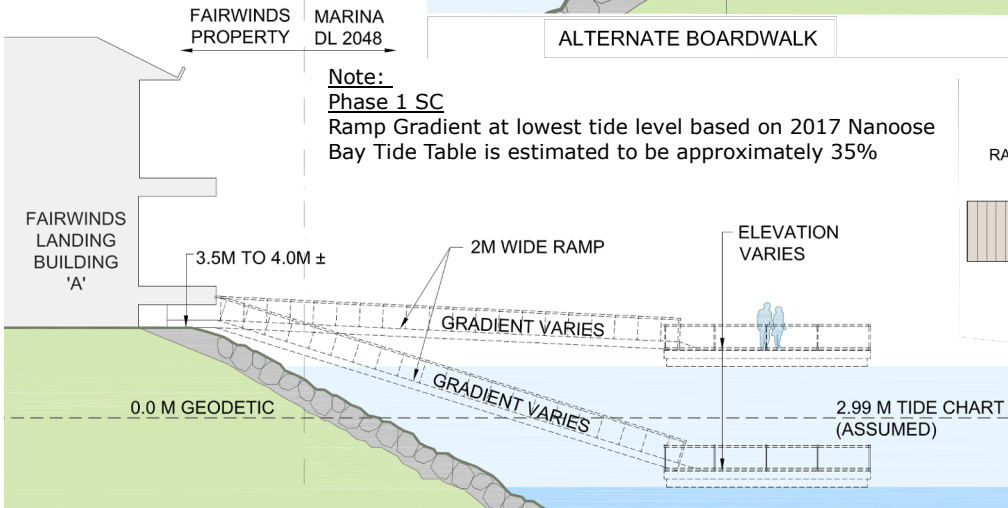
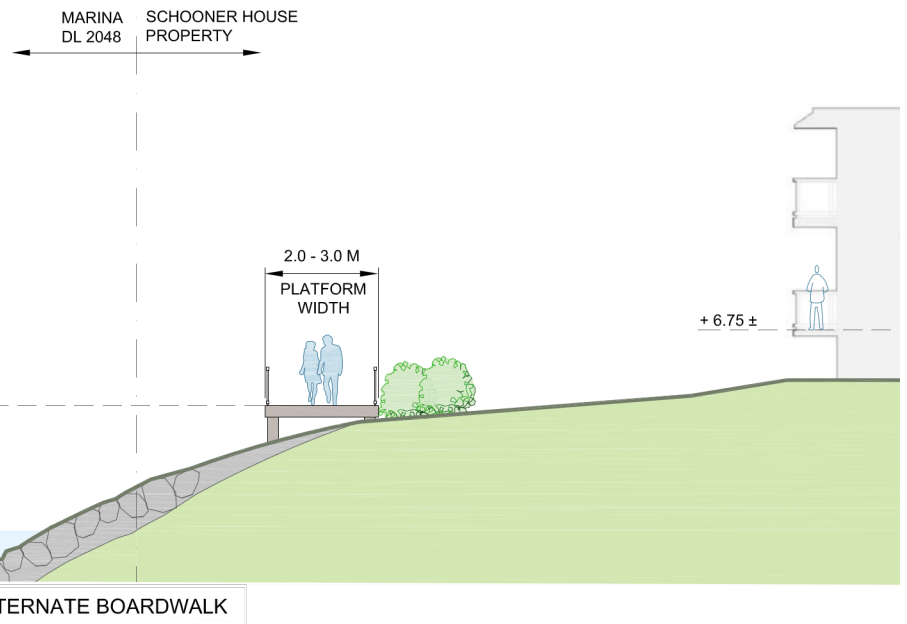
- Purpose**
 - provides public access to the waterfront
 - connects village with residential uses and public spaces
- Level of Use**
 - HIGH
- Location**
 - waterfront
- Width**
 - 2.0 - 3.0m (4 m at Floating Boardwalk)
- Surface**
 - wood decking, exact construction to be determined based on detailed design
- Vertical Clearance**
 - minimum 2.5m
- Variations**
 - boardwalks structures will be designed and engineered based on topography
- Associated Park features**
 - orientation information and educational signage

CONSTRUCTION NOTES

The deck is generally wood but a half-meter section of expanded metal in the centre can be used to add extra tread. Decking material will be rough cedar or treated lumber.

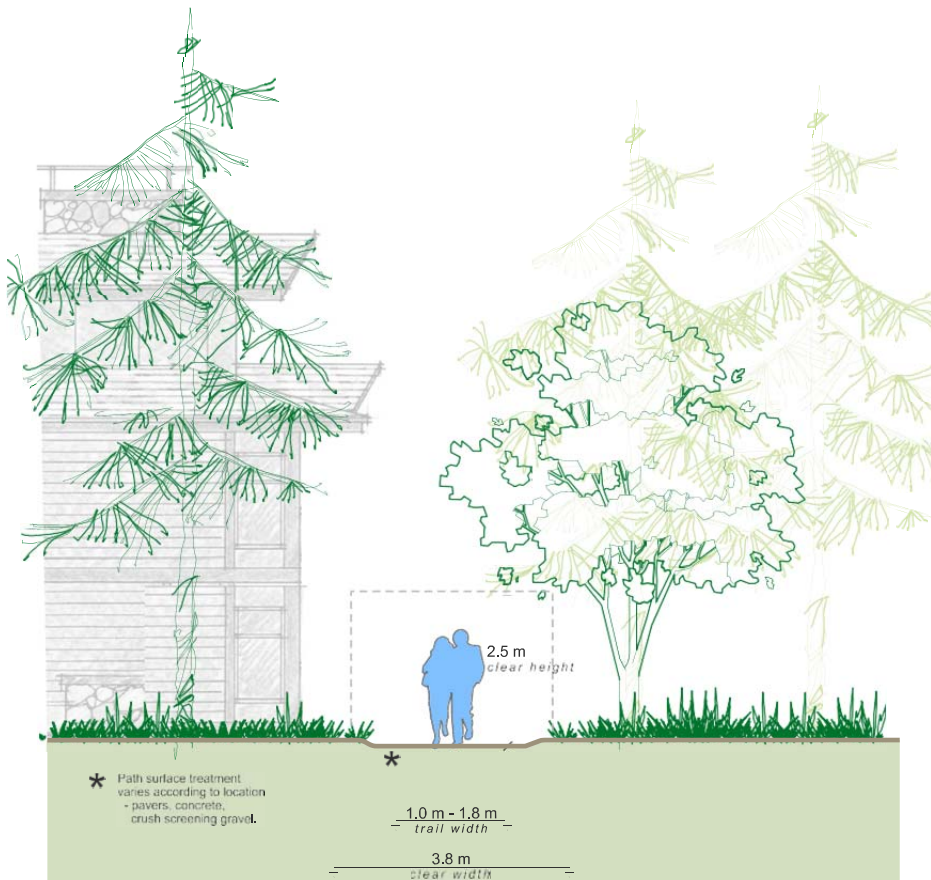
Abutments are generally precast concrete or wood; however, they must be kept as small as possible and screened with riparian vegetation to ensure a minimal presence. Hand railings, if required, will be set to Provincial Building Code. Posts will be spaced no further than 3m spacing.

All construction in riparian areas must be completed during the fisheries window, in accordance with the Fairwinds' Lakes District and Schooner Cove Neighbourhood Plans Environmental Assessment (Pottiger Gaherty Environmental Consultants Ltd 2010), and with approval of Senior Government Agencies. Adequate silt measures must be utilized to ensure that no material is disturbed into the water.



PLAN RAMP LANDING AREA

4.4 WALKING PATH STANDARD



CONSTRUCTION NOTES

- Clearing and grubbing to native soil
- Where softscape surface treatment occurs, use gravel or crush (compatible with wheel chair accessibility wherever possible) in high traffic areas to prevent erosion
- Encourage permeable surfaces, wherever feasible

WALKING	
Purpose	<ul style="list-style-type: none"> • provides pedestrian access to mildly sloped terrain
Level of use	HIGH
Type of use	walking, jogging
Location	<ul style="list-style-type: none"> • connects to Boardwalk • provides connections and recreational opportunities through strata open space
Width	1.0-1.8m
	<ul style="list-style-type: none"> • pavers or concrete, • native soil and crushed limestone or gravel, or • wood decking
Slope	<ul style="list-style-type: none"> • ideally 5% / maximum 10% grade and short pitches up to 12%
Access	<ul style="list-style-type: none"> • universal access where feasible
Buffer	<ul style="list-style-type: none"> • landscape or distance buffers adjacent to residential uses
DRAINAGE	<ul style="list-style-type: none"> • 1-2% cross slope • shallow swale on uphill side or culverts every 50-100m every 100- 150m
Surfacing Depth	<ul style="list-style-type: none"> • concrete surfacing depends on subsurface • soil or crush should be 50-75mm
Clearing Width	<ul style="list-style-type: none"> • 3.0-3.8m (1.0m each side)
Vertical Clearance	<ul style="list-style-type: none"> • minimum 2.5m
sight Lines	<ul style="list-style-type: none"> • minimum 20m
Variations	<ul style="list-style-type: none"> • surface materials vary depending on pathway location and purpose
Associated park features	<ul style="list-style-type: none"> • outdoor furniture: benches, garbage receptacles • orientation information and educational signage

5 PATHWAY PLANNING + DEVELOPMENT

These Standards provide general directions for pathway construction; it is recognized that implementation may require adjustments. Future detailed design will be completed at the construction stage, under the supervision of a registered professional where required.

5.1 Pathway Siting

Many factors influence the specific siting and placement of paths, including connections to existing trails and parks, existing site conditions, soil type, environmental sensitivity and biophysical conditions, hillside slopes, vegetation and drainage conditions.

To limit environmental impact and reduce cost, pathways will utilize existing routes wherever possible. Where unofficial trails intrude into Environmentally Sensitive Areas, preferred routes will be designated and unofficial trails will be decommissioned or discontinued.

Pathways will be designed to complement and respect the landscape. Natural features, such as rocks and logs, will be incorporated into the design to denote edges and pathway direction, and also to provide visual interest. The resulting pathway will appear to be directed by the landscape.

Steep or unstable slopes, as well as erodible soils, will be avoided. Retaining walls may be required to prevent side slopes from slumping onto trails, but will be avoided wherever possible by working with the terrain.

5.2 Drainage

Drainage is a critical component of pathway design, and if executed properly, lessens the impact to the environment while improving trail lifespan. Proper grading and site preparation enables water to flow across the trail, minimizing erosion.

The type of drainage utilized depends on the pathway location and soil types, but will include swales or culverts. Where pathways are situated on sloped hillsides, a shallow swale will be constructed on the uphill side of the pathway. Where pathways are situated on flat terrain and natural soils do not promote drainage, swales will be required on both sides of the pathway.

Culverts should be considered where pathways cross small ephemeral or intermittent watercourses, where bridges and raised walkways are not necessary or feasible. Where required, culverts should be regularly spaced on the trail to divert water. Based on slope angle, culvert spacing on multi-use paths will be between 100 and 150 metres, and on walking paths every 50 to 100m. Culverts are not required for the forested walk. In order to minimize water damage, pathways will avoid slope fall lines.



5.3 Pathway turns

To ensure visibility, safety and adequate sight lines on the boardwalk, multi-use, and walking paths, turns will be minimized. Minor turns add an element of mystery to pathways as one continues on to see what is around the corner. However, adequate visibility will be ensured.



5.4 Landscaping

Natural and planted vegetation along a trail enhances the aesthetics and character of the pedestrian network, and buffers pathways from adjacent land uses. Vegetation will be balanced with safe vertical and horizontal clearance requirement and sight lines so that pathway users can see what's ahead and anticipate trail conditions. The landscape treatment and clearance width depends on the type of pathway and surrounding area. The following guidelines apply to all landscape treatments:

- Installation and maintenance practice must conform to Canadian Landscape Standards and applicable Regional District of Nanaimo standards.
- No trees or shrubs shall be planted within the vertical or horizontal Clearances as specified in the Pathway Standards.
- Plant masses will be not be planted where they impede visibility along the trail.
- Native replanting will be required in natural areas for restoration and screening.
- Changes in drainage patterns will be minimized.
- Trees planted near trails should not damage trail surfaces or bases. Root barriers along the trail adjacent to the tree should also be used to prevent roots from growing under hard trail surfaces.
- Where pathways are close to residential properties, plantings will be used for privacy screening, trail softening and enhanced aesthetics. However, tall and dense plantings will be avoided for safety and security reasons.



5.5 Trees and Vegetation Protection

Trees and vegetation add to the aesthetic and environmental value of recreational areas and the surrounding trail system. Care will be taken to protect trees where they do not negatively impact the routing, safety and clearance of trails. The following guidelines help to preserve trees:

- where possible, pathways will be routed around the drip line of highly significant trees.
- Trees or tree roots that are to be retained will be protected during trail construction.
- For paved trails, all roots will be removed below the surface in preparing the sub-grade.
- Root barriers will be used to protect both trees and trails.

For further direction on tree planting procedures, refer to Regional District Nanaimo requirements.



5.6 Retaining Walls

Retaining walls will be used to prevent side slopes from slumping onto paths or boardwalks. As much as possible, retaining walls will be avoided through trail siting and grading. Where walls must be installed, proper drainage and anchoring must be in place. Furthermore, any wall over 1.2m may need a railing. Mechanically Stabilized Earth (MSE) will be considered to eliminate the need for retaining walls.



6 Pathway Access + Interface

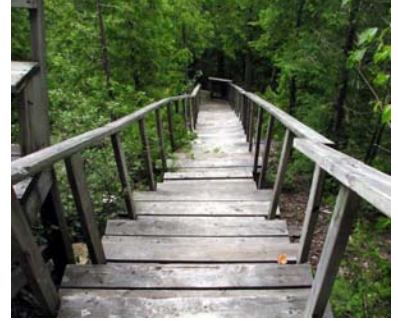
6.1 Barriers and Fences

Bollards, posts and sleeves, and gates may be used to direct pedestrian movement and preclude vehicle access on pathways. In universally accessible locations, they will allow for wheelchair access.

Where access for emergency or service vehicles and parks equipment access is required, barriers will be removable. Bollards, or posts and sleeves are the most common removable barrier and should be located at most trail heads.

Where vehicle access is a consideration, multi-use pathways will use post and sleeve barrier types. Barrier posts will be installed in odd numbers so that the centre post is positioned in the centre of the trail. Barrier posts may be fixed or removable. Pavement markings will be used to delineate posts.

Wood rail fences are used primarily to define setbacks from ESAs, protect sensitive areas and delineate private property. Low wood rail fences may also be located at viewpoints to define access yet maintain views and aesthetics. Wood fences will also be used to define circulation and prohibit access to hazards and ESAs.



6.2 Pathway Buffers

Many pathways in Schooner Cove are located adjacent roads and residential areas. Where sections of the multi-use pathway are located adjacent to road right-of-ways and residential uses, buffers or landscaping will be used to separate public and private realms. Good sightlines and Crime Prevention through Environmental Design (CPTED) Guidelines will be implemented for all trail types.

Minimum buffers from road right-of-ways are listed in the table below:

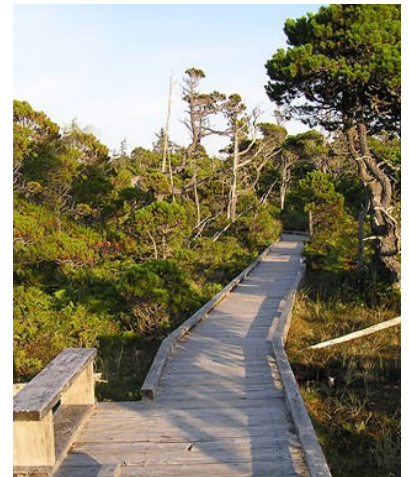
road type	minimum Buffer
Low volume (under 50km/h)	0.5m
Low volume with on-street parking	0.75m
Moderate volume (under 60km/h)	1.0m



6.3 Universal Access

The following guidelines must be taken into consideration in the design, construction and maintenance of pathways to encourage physical accessibility where reasonably feasible due to existing topography.

- Where possible slopes should not exceed 5% for long distances. Landings should be provided if the slopes exceed these grades.
- Surfacing will be uniform with no obstructions or depressions.
- Signs, light standards, power poles, power boxes, mail boxes, and bus stops can all obstruct the flow of a wheelchair or stroller. Install structures with consideration of their visual and physical impacts.
- Curb cuts will be provided where trails cross roads, where required.
- Bollards, baffles and other barriers will be spaced in such a way that a wheelchair can pass.
- Select rest areas and seating will allow wheelchairs and others to pull off the trail.
- Best Management Practices for specific accessibility and bicycle design details apply.



6.4 Pathway Street Crossing

The locations where pathways cross streets are a critical safety site for both trail users and vehicles. Several crossing treatments will be implemented to assist pathway users in safely continuing on the pathway and minimizing vehicle conflicts. The type of crossing depends on the pathway type, streets volumes, and streets design

Signed crossings are common where pathways intersect major streets with low traffic volumes. Signs and crosswalk markings will be used to indicate the crossing and improve safety.

Pathway crossings will be located at intersections and mid-block sites. Where pathways are located parallel to streets, crossings will occur at intersections or as close to intersections as possible in order to maximize crossing visibility. Mid-block crossings will also be located to maximize visibility for approaching motorists with adequate signing and illumination (and possible median islands) to increase safety and visibility. The pathway crossings will also occur at right angles to the roadway.

Pathway intersections will be well marked for both pathway users and vehicles. Signage is used to alert multi-use pathway users to stop and dismount (if on bikes). As referenced in the Barrier and Fencing section of this document, post and sleeve vehicle barriers on multi-use pathways at road intersections will be placed in odd numbers with the centre post in the centre of the pathway.



7 PATHWAY Features + Structures

7.1 Structures

The following will be implemented in all pathway types:

- Lumber used in pathway structures will be pressure treated lumber or dimensional cedar.
- To reduce risk of leaching toxic preservatives, piles in saturated soils/water will not be constructed of treated wood.
- When using cedar, walking surfaces will be rough sawn to reduce slipperiness when wet and metal-expanded grates or similar treatment should be used to prevent slipping.
- Decking will be perpendicular to the direction of travel.
- wood handrails must be sanded and bevelled as required so the railing can be grasped easily.
- where the railing is adjacent to a viewing site, it will be rounded or angled to provide comfortable leaning.
- Metal used for fences, bollards, and baffles will be aluminum or welded, powder coated, galvanized or have two coats of marine enamel. Metal fasteners will be hot dip galvanized or aluminum.
- Fasteners will be placed to avoid sharp edges and potentially snag clothes.
- Posts will be set into post saddles that have been grouted into rock or places in concrete footings.
- Railings where required will be built according to BC Building Code.
- Stair railings will be in accordance with applicable codes.



7.2 Rest Areas and Destinations

Rest areas and destination points along pathways provide opportunities for sitting, socializing and passive recreation such as wildlife and scenery viewing.

Destination points are meant to provide a sense-of-arrival within the pathway network, and may include seating areas, public art, planters and landscaping and garbage bins.

Rest areas generally consist of a bench on a flat pad, and are placed at least 500m apart. The design of the area depends on the type of pathway, and site specific conditions such as soils, slope, views, vegetation, interpretive opportunities and adjacent lands uses and features.

The exact model of benches, bike racks, and waste receptacles depends on the budget and character of each site, but will reflect the high quality amenity proposed.



7.3 Stairs

Steps and staircases will be utilized for steep sections of pathways. Step construction and material depends on the site's drainage and soil or rock substrate. Stairs will be constructed from wood, wherever feasible. The following general guidelines apply:

- All steps to have a rise and run in accordance with applicable codes.
- Landings to be provided in accordance with applicable codes.
- Handrails will be provided in accordance with applicable codes.



7.4 Pathway Signage

Signage is an important directional and character defining element of a pathway. Sign types include:

- Entry signs;
- Informational providing open space and boardwalk regulations;
- kiosks with orientation maps;
- Directional and distance;
- Seasonal or warning; and
- Interpretive/Educational signs which celebrate the natural and cultural heritage of Schooner Cove.

Interpretive signage will be used throughout the network to foster understanding of, and respect for, sensitive areas that need to be protected. In addition to providing information on the local ecology, signage reinforces why people and their pets should respect the marine ecology.

The following general guidelines apply to the placement of signs along pathways:

- Maps and kiosks will be located at all major trail heads and intersections, and will include the pathway name, regulations and permitted uses, a map of the pathway network and specific “you are here” location.
- Pathway name signs and direction/distance markers will be placed at major trail crossings and km intervals.
- Interpretive signs will be located at points of interest, ESAs, and/or rest areas.
- Although most park regulations are posted at the kiosk, hazards along the pathways, pedestrian crossings at intersections, and permitted trail user groups will be clarified through signage along the pathway.
- 2.1m is optimal height for sign legibility (excluding pathway markers). where possible, sign placement will be obvious but not obtrusive. Signs will be consolidated as much as possible to avoid sign clutter along pathway.



7.5 Bridges and Boardwalks

The boardwalk is an integral component of the network, not only to provide waterfront access but also to function as a landmark and viewing platform, while adding to the maritime character of Schooner Cove. The design of the structure depends on the height of the structure and expected load.

Handrails and Railings requirements shall conform to the BC Building Code.

The deck is generally wood but a half-meter section of expanded metal in the centre can be used to add extra tread. Decking material will be rough cedar or treated lumber.

Boardwalks will be aligned along the path so that users do not have to make sharp turns at the end of the bridge. The intersection between the bridge and trail will also be clear to ensure user safety.

If used, observation decks will bow outward from the running boardwalk to create an outward focus. End decks are suitable on the end of spurs. Decks on both side areas are useful for viewing and can aid in traffic flow in busy sections. Decks on one side focus visitor attention and allow passing points for traffic.

Abutments are precast concrete or wood; however, they should be kept as small as possible and screened with riparian vegetation to ensure a minimal presence. Re-vegetating the site also slows erosion and stabilizes the bank.

All construction in riparian areas must be completed during the fisheries window, in accordance with the Fairwinds' Lakes District and Schooner Cove Neighbourhood Plans Environmental Assessment (Pottiger Gaherty Environmental Consultants Ltd 2010), and with approval of Senior Government Agencies. Adequate silt measures must be utilized to ensure that no material is disturbed into the watercourse.

8 Pathway Construction

8.1 Pathway surfacing

The material used for pathway surfacing varies according to proposed use and level of traffic, and recommended material is listed in the Pathway Standards for each type. Permeable materials will be used wherever possible in order to allow groundwater infiltration, reduce cost, complement the existing landscape and reduce the speed of traffic.

Pathway surfacing is recommended for the Multi-use Pathway. However, application of surface materials can be reduced or eliminated for the walking Path, if the trail is located on well drained and coarse textured soil, and in areas of reduced traffic.



8.2 Clearing and Grubbing

Requirements for clearing and grubbing largely depend on the pathway standard being implemented the types of soil and vegetation present. Slope is not generally a significant factor unless slope exceeds a gradient of 50% and full bench cuts are required.

Trail dozers or excavators are generally designed to clear and grub trails that are 1.2m to 1.8m wide. Narrower pathways may need to be hand built, especially in and around environmentally sensitive areas where removal of vegetation should be minimized. In locations where trails are planned on flat terrain, additional fill may be required to ensure proper drainage and smooth surface.



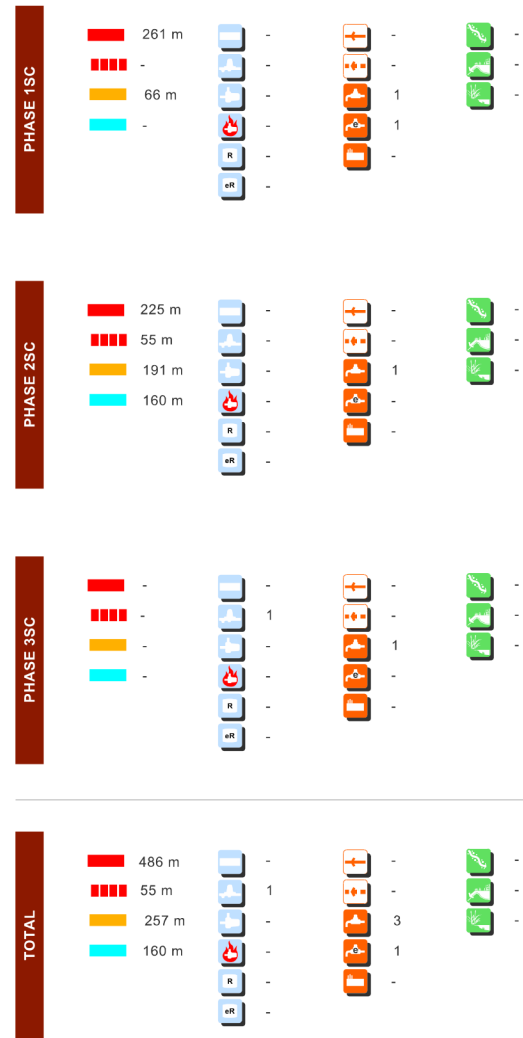
8.3 Equipment

A variety of trail building machines are available which can reduce building costs. Trail dozers or excavators are suitable for constructing the Multi-use and walking paths. Many machines have multiple attachments, including both blade and excavator arm, which can increase their versatility and eliminate the need for more than one piece of equipment. Operator experience is important to ensure that construction is safe, efficient and environmentally responsible.

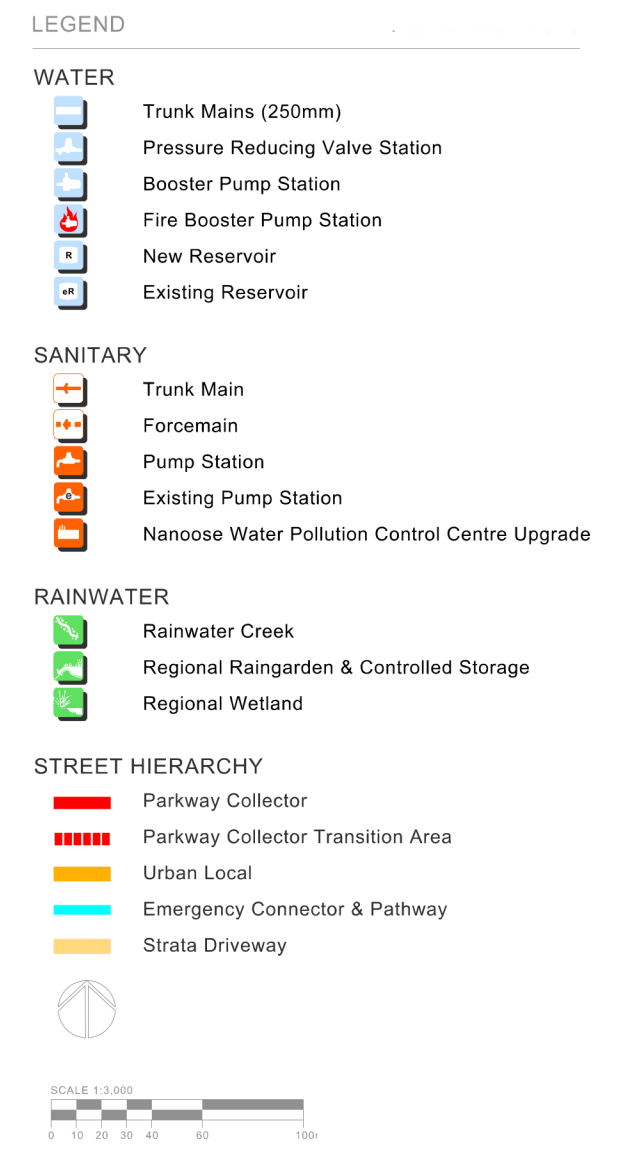
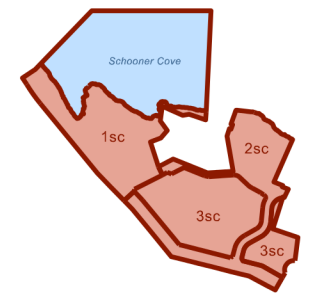


Appendix 6
Schedule K - Schooner Cove Infrastructure Phasing Plan

SCHOONER COVE ALL PHASES



SCHOONER COVE INFRASTRUCTURE PHASING SCHEDULE "K"



Appendix 7
Schedule M - Statutory Right of Way for Public Access (Strata Maintained)

SCHEDULE "M": STATUTORY RIGHT OF WAY FOR PUBLIC ACCESS (STRATA MAINTAINED)

[attach *Land Title Act* Form C General Filing Instrument – Part 1]

TERMS OF INSTRUMENT - PART 2

THIS AGREEMENT is dated for reference the ____ day of _____, 2017

BETWEEN:

1040985 B.C. LTD. NO. BC1040985

305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

AND

1042719 B.C. LTD., INC. NO. BC1042719

305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

AND

1040984 B.C. LTD., INC. NO. BC1040984

305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

(collectively the "**Owner**")

AND:

REGIONAL DISTRICT OF NANAIMO

6300 Hammond Bay Road
Nanaimo, BC V9T 6N2

(the "**Regional District**")

WHEREAS:

- A. The Owner is the registered owner of those lands and premises situate in the Regional District in the Province of British Columbia, described in Item 2 of Form C to which this Terms of Instrument is attached (the "**Lands**");
- B. Section 218 of the *Land Title Act* allows a statutory right-of-way to be granted over land without a dominant or servient tenement, and the statutory right-of-way hereinafter

provided for is essential to the operation and maintenance of the Regional District's undertaking; and

- C. To provide and facilitate public access, as provided for herein, and the reconstruction, improvement, alteration, operation, repair, maintenance and use of [♦ a public walking pathway (the "**Walking Pathway**"); or ♦ public access open space (the "**Public Access Open Space**")] by the Regional District, the Owner has agreed to grant the statutory right-of-way hereinafter mentioned.
- D. The Regional District is authorized to hold a covenant under s. 219 of the *Land Title Act*, and
- E. The Owner has agreed to transfer to the Regional District a covenant under s. 219 of the *Land Title Act* to secure the covenants of the Owner in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual covenants and agreements herein contained and the sum of One Dollar (\$1.00), now paid by the Regional District to the Owner (the receipt and sufficiency whereof is hereby acknowledged), the Owner and the Regional District hereby covenant and agree as follows:

Definitions.

1. In this Agreement:

- (a) "Plan" means the plan of the Statutory Right of Way area prepared by ♦, B.C.L.S., and attached as Appendix "1" to this Agreement; and
- (b) "Statutory Right-of-Way Area" means the area provided for on the Plan.

Grant.

- 2. THE OWNER, for himself, his heirs, executors, administrators, successors and assigns, DOES HEREBY GIVE AND GRANT, except as set out in section 3 of this Agreement, unto the Regional District, and its successors and assigns, a statutory right-of-way and the full, free and unrestricted right and liberty for the Regional District, its licencees, permittees, invitees, agents, guests, servants, officials and workmen at any time and at their will and pleasure for the benefit of the Regional District, to:
 - (a) enter, labour, go, return, pass and repass upon the Statutory Right-of-Way Area by the Regional District and, as the Regional District determines, the public, for the purposes of public access, provided however that the public shall not have access to the Statutory Right-of-Way Area with motor vehicles and may not use the Statutory Right-of-Way Area as an access road;
 - (b) free and uninterrupted access to the Statutory Right-of-Way Area to reconstruct, alter, improve, renew, repair, maintain, and inspect an improved walkway, which improved walkway shall have [♦ a maximum width of 1.75 metres; or ♦ an area of ♦] (the "Works"), for the purposes aforesaid at the Regional District's sole expense;

- (c) clear the Statutory Right-of-Way Area or any part thereof of any or all trees, shrubs, plants, buildings, fences, or obstructions of any kind, now or hereafter; and
- (d) generally do all acts reasonably necessary or incidental to the business of the Regional District in connection with the Works and the use of the Statutory Right-of-Way Area for the aforesaid purposes;

TO HAVE AND TO HOLD unto the Regional District, its successors and assigns, from and after the date hereof, forever.

3. The right of way granted herein is subject to the restrictions and limitations hereinafter set forth in favour of the Owner, being the right at all times hereafter and from time to time to eject from the Statutory Right-of-Way Area any member of the public who:
- (a) acts in a disorderly or offensive manner, molests, pesters, interferes with or obstructs (except if authorized to install, inspect, maintain or repair the Works) any other person from having access to the Statutory Right-of-Way Area, or commits an illegal act;
 - (b) presents a real and substantial threat to the safety of others or to the security of any improvements on the Statutory Right-of-Way Area or the Lands;
 - (c) takes up abode overnight on the Statutory Right-of-Way Area or attempts such abode; or
 - (d) lights any fires or burns any material on the Statutory Right-of-Way Area.

4. **Owner's Covenants.**

THE OWNER HEREBY COVENANTS AND AGREES with the Regional District that the Owner:

- (a) will, as far as reasonably necessary, carry out the maintenance, repair, replacement, renewal, reconstruction, improvement and inspection of the Works in a proper and workmanlike manner, and at the Owner's own expense;
- (b) will not erect, place or maintain any building, structure, driveway, patio, foundation or footings or any other obstruction of a permanent nature, on or above any portion of the Statutory Right-of-Way Area;
- (c) except as provided in section 3, will not do or knowingly permit to be done any act or thing in connection with the Statutory Right-of-Way which will interfere with the purpose of the Statutory Right-of-Way or interfere or damage the Works; and
- (d) at the sole expense of the Owner, do or cause to be done all acts reasonably necessary to grant priority to this Agreement over all financial charges and encumbrances which are registered against the title to the Lands in the Land Title Office, which for greater certainty does not include charges or encumbrances in favour of the Regional District or other governmental authority or those specifically approved in writing by the Regional District.

5. **Regional District's Covenants.**

THE REGIONAL DISTRICT COVENANTS AND AGREES with the Owner that the Regional District will indemnify and save harmless the Owner and its heirs, executors, administrators, successors and assigns from and against any and all actions, causes of actions, claims, suits, proceedings, costs and expenses of whatever kind, for any loss, damage, injury or death to any person or persons of any public or private property arising directly or indirectly out of the use by the Regional District, the public or any persons claiming through or under the Regional District arising from the Statutory Right-of-Way, save and except to the extent that such loss, injury, damage or death is caused by the negligence or wilful act of the Owner or its servants and agents or is to private property of the Owner.

6. **Additional Remedy for the Regional District.**

In the event that the Owner erects, places or maintains any building, structure, or obstruction of a permanent nature contrary to section 4(b) hereof, including any fencing, trees, shrubs or significant plants on, under or above any portion of the Statutory Right-of-Way Area and such erection, placement or maintenance interferes with the purposes of the Statutory Right-of-Way, the Regional District and its employees, agents or contractors may enter upon the Statutory Right-of-Way Area at any time to undertake any work which it deems necessary to remove such building, structure, or obstruction, and any costs which the Regional District may incur in doing so including any administrative and interest costs, shall be due and payable by the Owner on demand from the Regional District, or recoverable by the Regional District as part of any tax payment, levies or any other fees in respect to the Lands. In carrying out such removal work, the Regional District shall, as far as reasonably necessary, carry out such work in a proper and workmanlike manner so as to do as little injury as possible.

7. **Section 219 Covenant.**

The Owner covenants and agrees with the Regional District that every obligation and covenant of the Owner in this instrument constitutes both a contractual obligation and a statutory right of way granted under section 218 of the *Land Title Act* in respect of the Lands, and a covenant granted under section 219 of the *Land Title Act* in respect of the Lands, and this instrument burdens the Lands and runs with and binds the Owner's successors in title to the Lands.

8. **Other.**

IT IS MUTUALLY UNDERSTOOD, agreed and declared by and between the parties hereto that:

- (a) **Covenant Runs with the Land:** This Agreement shall be construed as a covenant running with the Lands and that none of the covenants herein contained shall be personal or binding upon the parties hereto, save and except during the Owner's seisin or ownership of any interest in the Lands and with respect only to that portion of the Lands of which the Owner shall be seised or which he shall have an interest, but that the Lands shall, nevertheless, be and remain at all times charged therewith;

- (b) Liability During Currency of Ownership: Notwithstanding anything herein contained, neither the Owner named herein or any future owner of the Lands, or any portion thereof, shall be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner named herein or any future owner ceases to have a further interest in the Lands;
- (c) Subdivision of Lands: This Agreement burdens and charges any parcel into which the Lands are subdivided by any means and upon which any portion of the Statutory Right-of-Way is located;
- (d) Use by the Owner: Save as aforesaid, nothing in this Agreement shall be interpreted so as to restrict or prevent the Owner from using the Statutory Right-of-Way Area in any manner which does not interfere with the unobstructed access through the Statutory Right-of-Way by the Regional District and the public;
- (e) Installations Remain Chattels: Any and all chattels and fixtures installed by the Regional District on or over the Statutory Right-of-Way shall be and shall remain chattels, any rule of law to the contrary notwithstanding and shall belong solely and exclusively to the Regional District;
- (f) Notice: Whenever it is required or desired that either party shall deliver or serve a notice on the other, delivery or service shall be deemed to be satisfactory if, and deemed to have occurred when:
 - (i) the Owner or the Corporate Officer of the Regional District has been served personally, on the date of service; or
 - (ii) mailed by prepaid registered mail, on the date received or on the sixth day after receipt of mailing by any Canada post office, whichever is earlier (except that in the event of interruption of mail service, notice shall be deemed to be delivered only when actually received by the party to whom it is addressed), so long as the notice is mailed to the party at the most recent address shown on title to lands in the records of the Land Title Office for the party, or to whatever address the parties may from time to time advise in writing;
- (g) No Derogation of Power: Notwithstanding anything contained in these presents, there are hereby reserved to the Regional District all its rights and powers of expropriation or other powers or privileges granted to the Regional District, or enjoyed by it, by or under any act or the legislature of the Province of British Columbia;
- (h) Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia;
- (i) Performance by Regional District: Without in any way limiting obligations of the Regional District to the Owner pursuant to section 5 herein, nothing herein contained shall be deemed to include or imply any covenant or agreement on the part of the Regional District with the Owner or with any other person or persons as a condition hereof or otherwise to construct or install the Works, or any of them, or

any public works or utility whatsoever provided for in this Statutory Right-of-Way or any portion thereof;

- (j) Enurement: This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns;
- (k) Number and Gender: Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties hereto so require;
- (l) Amendments only in Writing: It is expressly agreed that the benefit of all covenants made by the Owner herein shall accrue to the Regional District and that this Agreement may only be modified or discharged by agreement of the Regional District and the Owner witnessed in writing;
- (m) No Duty to Enforce: The Owner hereby covenants and agrees with the Regional District that the Regional District is under no obligation in law or equity to prosecute or enforce the terms of this Agreement in any way;
- (n) Further Documents: The parties will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement; and
- (o) Severance: If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion will be severed and the provision that is invalid will not affect the validity of the remainder of the Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day, month and year first above written by executing the Form C attached hereto.

Appendix 8
Schedule EE – Boardwalk Alternative Covenant

SCHEDULE “EE”: BOARDWALK ALTERNATIVE COVENANT

[attach *Land Title Act* Form C General Filing Instrument – Part 1]

TERMS OF INSTRUMENT - PART 2

THIS AGREEMENT is dated for reference the ____ day of _____, ____.

BETWEEN:

1042719 B.C. LTD., INC. NO. BC1042719
 305-1788 West 5th Avenue
 Vancouver, BC V6J 1P2

(the “**Owner**”)

AND:

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

(the “**Regional District**”)

WHEREAS:

- A. The Owner is the registered owner of those lands and premises situated, lying and being in the Regional District of Nanaimo, in the Province of British Columbia, described as:

PID: 028-022-998

Lot 1, District Lot 78, Nanoose District and District Lots 2085, 2086, 2087, 2088 and 2089, Nanaimo District, Plan VIP87121;

PID: 001-760-068

Lot 1, District Lot 78, Nanoose District, Plan 28544; and
 PID: 028-023-391

Lot 1, District Lot 2090, Nanaimo District and District Lot 78, Nanoose District, Plan VIP87122

(the “**Lands**”);

- B. Section 219 of the *Land Title Act*, R.S.B.C. 1996, c. 250 and amendments thereto (the “**Land Title Act**”), state that a covenant in favour of a municipality or regional district may be registered as a charge against the title to land and is enforceable against the covenantor and its successors in title even if the covenant is not annexed to land owned by the municipality or regional district;
- C. The predecessor in title to the Owner of the Lands entered into a Phased Development Agreement for the Lands, dated the 23rd of July, 2014 (the “**PDA**”), and the PDA contemplated the demolition of the existing building on the Lands and the construction of a public walkway along the waterfront on the Lands to be secured by a grant of a statutory right of way in favour of the Regional District;
- D. The Owner wishes to develop the Lands by way of the renovation and strata subdivision of the existing building on the Lands, which would eliminate the area on the Lands contemplated under the PDA for a public walkway to be secured by a statutory right of way (the “Public Walkway Right of Way”), and has requested an amendment to the PDA to replace the Owner’s obligation to construct a public walkway along the waterfront on the Lands with a public walkway along and over floats in the water, located on land described as District Lot 2084, Nanaimo District held under lease No. 10902, from the Province of British Columbia, having a term of 30 years from November 9, 2000, and District Lot 105, Nanaimo District, owned by Her Majesty the Queen in Right of Canada;
- E. The Regional District does not consider a floating walkway constructed and operated under a licence agreement to provide security of tenure equivalent to the Public Walkway Right of Way over the Lands, but has agreed to permit the Owner to substitute the floating public walkway over the water lots adjacent to the Lands for the Public Walkway Right of Way on the terms and conditions contained in this Agreement that:
 - (a) restrict the construction of a building or buildings to be constructed on or to be erected on the Lands;
 - (b) provide that the Lands are not to be used, built on or subdivided except in accordance with this Agreement; and
 - (c) obligate the Owner to construct an alternative amenity or pay an amenity contribution to the Regional District in the event the Water Lot Rights (as defined herein) or any one of them is terminated or expires.

NOW, THEREFORE, pursuant to Section 219 of the *Land Title Act* and in consideration of \$1.00 now paid by the Regional District to the Owner, the receipt and sufficiency of which is hereby acknowledged, and of the premises herein contained, the parties covenant and agree as follows:

1. **Definitions.**

1.1 In this Agreement:

“**Water Lots**” means land described as District Lot 2084, Nanaimo District, held under Lease No. 109021, and land described as District Lot 105, Nanaimo District.

“**Water Lot Rights**” means the Owner’s lease of District Lot 2084, Nanaimo District, as it may be extended or renewed, and any other right or interest secured by the Owner or otherwise necessary to permit the location of the Waterfront Pathway/Boardwalk on the Water Lots and the ongoing free public pedestrian access to and use of the Waterfront Pathway/Boardwalk on the Water Lots.

“**Waterfront Pathway/Boardwalk**” means a public pedestrian path to be provided by the Owner under and in accordance with the PDA and this Agreement;

2. **Owner’s Covenants.**

2.1 The Owner covenants and agrees with the Regional District that, except as may be consented to by the Regional District in writing:

- a. it shall use and develop the Lands only in accordance with this Agreement;
- b. it shall use the Lands only in a manner that permits ongoing free public pedestrian access to and along the floating structures located on the Water Lots and without limiting the generality of the foregoing, the Owner covenants and agrees that it shall not construct any building, structure, barrier or gate that prevents, impedes or obstructs public access from and across the Lands to the Waterfront Pathway/Boardwalk on the Water Lots; and
- c. if at any time the Water Lot Rights or any one of them is terminated or expires, and if such termination or expiry brings and end to the public right of access to and along the entirety of the Waterfront Pathway/Boardwalk located in the Water Lots and the Owner is not able to provide public pedestrian access to and along the entirety of the Waterfront Pathway/Boardwalk located on the Water Lots, then it shall do one of the following:
 - (i) construct on the Lands at the Owner’s expense, and in a manner and location satisfactory to the Regional District, acting reasonably, a Waterfront Pathway/Boardwalk or similar public pathway of a value and utility equivalent to the Public Walkway Right of Way; or
 - (ii) pay to the Regional District a sum of money (the “**Amenity Payment**”) equal to 125 percent of the estimated cost (as of the date of such termination or expiry,

and as determined by the Regional District, acting reasonably) of construction of a Waterfront Pathway/Boardwalk on the Lands.

- 2.2 If the Owner fails to satisfy either paragraph 2.1c(i) or 2.1c(ii) within six (6) months following the date of termination or expiry of the Water Lot Rights as contemplated in paragraph 2.1c (the “**Grace Period**”), then, upon expiry of the Grace Period the Lands shall not be subdivided, built on, or used for marina-associated parking, accessory marina sales or marina-related office use, until such time as the Owner has satisfied either paragraph 2.1c(i) or 2.1c(ii).
- 2.3 The Amenity Payment, once paid to the Regional District, shall be used by the Regional District for the purpose of providing a public amenity within the general vicinity of the Lands of comparable benefit to the Waterfront Pathway/Boardwalk. The nature and exact location of such public amenity shall be within the sole discretion of the Regional District.
3. **Indemnity.**
- 4.1 The Owner hereby agrees to indemnify and save harmless the Regional District, and its elected and appointed officials, officers, employees, and agents from and against any loss, damage, debts, claims, liabilities, obligations, costs or causes of action which the Regional District and its elected and appointed officials, officers, employees and agents, or any of them, may suffer, incur, or be put, arising, whether directly or indirectly, out of a breach of any covenant or condition of this Agreement by the Owner or its directors, officers, employees, or agents, or any other person for whom it is legally responsible.
4. **Other.**
- 5.1 It is further understood and agreed between the parties hereto that:
 - a. Covenants run with the Lands: The covenants contained in this Agreement charge the Lands pursuant to Section 219 of the *Land Title Act* and are covenants the burden of which run with the Lands. It is expressly agreed that the benefit of all covenants made by the Owner in this Agreement will accrue solely to the Regional District and this Agreement may only be modified or discharged by agreement of the Regional District, pursuant to the provisions of Section 219(9) of the *Land Title Act*;
 - b. Liability During Currency of Ownership: Notwithstanding anything contained in this Agreement, the Owner will not be liable under any of the covenants contained in this Agreement where such liability arises after the Owner ceases to have any further interest in the Lands;
 - c. Subdivision of Lands: This Agreement burdens and charges any parcel into which the Lands are subdivided by any means and upon which any portion of the Covenant Area is located;
 - d. Notice: Whenever it is required or desired that either party shall deliver or serve a notice on the other, delivery or service shall be deemed to be satisfactory if, and deemed to have occurred when:

- (i) the Owner or the Corporate Officer of the Regional District has been served personally, on the date of service; or
 - (ii) mailed by prepaid registered mail, on the date received or on the sixth day after receipt of mailing by any Canada post office, whichever is earlier (except that in the event of interruption of mail service, notice shall be deemed to be delivered only when actually received by the party to whom it is addressed), so long as the notice is mailed to the party at the most recent address shown on title to lands in the records of the Lower Mainland Land Title Office for the party, or to whatever address the parties may from time to time advise in writing;
- e. No Derogation of Power: Nothing contained or implied herein will prejudice or affect the rights and powers of the Regional District in the exercise of its functions under any public and private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner;
- f. Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia;
- g. Enurement: This Agreement will enure to the benefit of and be binding upon the parties to this Agreement and their respective successors and assigns;
- h. Number and Gender: Wherever the singular or masculine is used in this Agreement, the same will be construed as meaning the plural, feminine or body corporate or politic where the context of the parties so require;
- i. Amendments only in Writing: It is expressly agreed that the benefit of all covenants made by the Owner herein shall accrue to the Regional District and that this Agreement may only be modified or discharged by agreement of the Regional District and the Owner witnessed in writing;
- j. No Duty to Enforce: The Owner hereby covenants and agrees with the Regional District that the Regional District is under no obligation in law or equity to prosecute or enforce the terms of this Agreement in any way;
- k. Further Documents: The parties will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement; and
- l. Severance: If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion will be severed and the provision that is invalid will not affect the validity of the remainder of the Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement on Forms C and D to which this Agreement is attached and which form part of this Agreement, effective as of the date first above written.

Appendix 9

Schedule FF - Statutory Right of Way for Public Access to Boat Ramp (Strata Maintained)

**SCHEDULE "FF": STATUTORY RIGHT OF WAY FOR PUBLIC ACCESS TO BOAT RAMP
(STRATA MAINTAINED)**

[attach *Land Title Act* Form C General Filing Instrument – Part 1]

TERMS OF INSTRUMENT - PART 2

THIS AGREEMENT is dated for reference the ____ day of _____, 2017

BETWEEN:

1040985 B.C. LTD. NO. BC1040985

305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

AND

1042719 B.C. LTD., INC. NO. BC1042719

305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

AND

1040984 B.C. LTD., INC. NO. BC1040984

305-1788 West 5th Avenue
Vancouver, BC V6J 1P2

(collectively the "**Owner**")

AND:

REGIONAL DISTRICT OF NANAIMO

6300 Hammond Bay Road
Nanaimo, BC V9T 6N2

(the "**Regional District**")

WHEREAS:

- A. The Owner is the registered owner of those lands and premises situate in the Regional District in the Province of British Columbia, described in Item 2 of Form C to which this Terms of Instrument is attached (the "**Lands**");
- B. Section 218 of the *Land Title Act* allows a statutory right-of-way to be granted over land without a dominant or servient tenement, and the statutory right-of-way hereinafter

provided for is essential to the operation and maintenance of the Regional District's undertaking; and

- C. To provide and facilitate public access, as provided for herein, to the boat ramp and related improvements located on the Lands (collectively, the "**Boat Ramp**") the Owner has agreed to grant the statutory right-of-way hereinafter mentioned.
- D. The Regional District is authorized to hold a covenant under s. 219 of the *Land Title Act*, and
- E. The Owner has agreed to transfer to the Regional District a covenant under s. 219 of the *Land Title Act* to secure the covenants of the Owner in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual covenants and agreements herein contained and the sum of One Dollar (\$1.00), now paid by the Regional District to the Owner (the receipt and sufficiency whereof is hereby acknowledged), the Owner and the Regional District hereby covenant and agree as follows:

Definitions.

- 1. In this Agreement:
 - (a) "**Plan**" means the plan of the Statutory Right of Way area prepared by ♦, B.C.L.S., and attached as Appendix "1" to this Agreement; and
 - (b) "**Statutory Right-of-Way Area**" means the area provided for on the Plan.

Grant.

- 2. THE OWNER, for himself, his heirs, executors, administrators, successors and assigns, DOES HEREBY GIVE AND GRANT, except as set out in section 3 of this Agreement, unto the Regional District, and its successors and assigns, a statutory right-of-way and the full, free and unrestricted right and liberty for the Regional District, its licencees, permittees, invitees, agents, and guests, including the general public, at any time and at their will and pleasure for the benefit of the Regional District, to:
 - a. enter, go, return, pass and repass upon the Statutory Right-of-Way Area with or without vehicles for purposes of launching and retrieving boats and other water craft; and
 - b. generally do all acts reasonably necessary or incidental to the business of the Regional District in connection with the Boat Ramp and the use of the Statutory Right-of-Way Area for the aforesaid purposes;

TO HAVE AND TO HOLD unto the Regional District, its successors and assigns, from and after the date hereof, forever.

- 3. The right of way granted herein is subject to the restrictions and limitations hereinafter set forth in favour of the Owner, being the right at all times hereafter and from time to time to eject from the Statutory Right-of-Way Area any member of the public who:

- a. acts in a disorderly or offensive manner, molests, pesters, interferes with or obstructs (except if authorized to install, inspect, maintain or repair the Works) any other person from having access to the Statutory Right-of-Way Area, or commits an illegal act;
 - b. presents a real and substantial threat to the safety of others or to the security of any improvements on the Statutory Right-of-Way Area or the Lands;
 - c. takes up abode overnight on the Statutory Right-of-Way Area or attempts such abode;
 - d. lights any fires or burns any material on the Statutory Right-of-Way Area; or
 - e. fails or refuses to pay any reasonable fee imposed by the Owner for use of the Boat Ramp.
4. It is hereby acknowledged and agreed that the Owner shall have the right to impose fees for the use of the Boat Ramp by members of the general public, and that such fees shall not constitute an obstruction or interference with the rights granted hereunder, so long as such fees are reasonable having regard to fees or charges levied elsewhere in British Columbia for use of facilities of a comparable size, location and nature.

5. **Owner's Covenants.**

THE OWNER HEREBY COVENANTS AND AGREES with the Regional District that the Owner:

- a. will, as far as reasonably necessary, carry out the maintenance, repair, replacement, renewal, reconstruction, improvement and inspection of the Boat Ramp in a proper and workmanlike manner, and at the Owner's own expense;
- b. except as provided in section 3, will not do or knowingly permit to be done any act or thing which interferes with or obstructs the exercise of the rights granted hereunder; and
- c. at the sole expense of the Owner, do or cause to be done all acts reasonably necessary to grant priority to this Agreement over all financial charges and encumbrances which are registered against the title to the Lands in the Land Title Office, which for greater certainty does not include charges or encumbrances in favour of the Regional District or other governmental authority or those specifically approved in writing by the Regional District.

5. **Owner's Indemnity.**

THE OWNER COVENANTS AND AGREES with the Regional District that the Owner will indemnify and save harmless the Regional District and its elected and appointed officials, directors, agents, employees, successors and assigns from and against any and all actions, causes of actions, claims, suits, proceedings, costs and expenses of whatever kind, for any loss, damage, injury or death to any person or persons of any public or private property arising directly or indirectly out of the use by the Owner, the public or any other person of the Statutory Right-of-Way, save and except to the extent that such loss, injury,

damage or death is caused by the negligence or wilful act of the Regional District or its servants and agents.

6. **Additional Remedy for the Regional District.**

In the event that the Owner erects, places or maintains any building, structure, or obstruction of a permanent nature contrary to section 5(b) hereof, and such erection, placement or maintenance interferes with the purposes of the Statutory Right-of-Way, the Regional District and its employees, agents or contractors may enter upon the Statutory Right-of-Way Area at any time to undertake any work which it deems necessary to remove such building, structure, or obstruction, and any costs which the Regional District may incur in doing so including any administrative and interest costs, shall be due and payable by the Owner on demand from the Regional District, or recoverable by the Regional District as part of any tax payment, levies or any other fees in respect to the Lands. In carrying out such removal work, the Regional District shall, as far as reasonably necessary, carry out such work in a proper and workmanlike manner so as to do as little injury as possible.

7. **Section 219 Covenant.**

The Owner covenants and agrees with the Regional District that every obligation and covenant of the Owner in this instrument constitutes both a contractual obligation and a statutory right of way granted under section 218 of the *Land Title Act* in respect of the Lands, and a covenant granted under section 219 of the *Land Title Act* in respect of the Lands, and this instrument burdens the Lands and runs with and binds the Owner's successors in title to the Lands.

8. **Other.**

IT IS MUTUALLY UNDERSTOOD, agreed and declared by and between the parties hereto that:

- a. **Covenant Runs with the Land:** This Agreement shall be construed as a covenant running with the Lands and that none of the covenants herein contained shall be personal or binding upon the parties hereto, save and except during the Owner's seisin or ownership of any interest in the Lands and with respect only to that portion of the Lands of which the Owner shall be seised or which he shall have an interest, but that the Lands shall, nevertheless, be and remain at all times charged therewith;
- b. **Liability During Currency of Ownership:** Notwithstanding anything herein contained, neither the Owner named herein or any future owner of the Lands, or any portion thereof, shall be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner named herein or any future owner ceases to have a further interest in the Lands;
- c. **Subdivision of Lands:** This Agreement burdens and charges any parcel into which the Lands are subdivided by any means and upon which any portion of the Statutory Right-of-Way is located;

- d. Use by the Owner: Save as aforesaid, nothing in this Agreement shall be interpreted so as to restrict or prevent the Owner from using the Statutory Right-of-Way Area in any manner which does not interfere with the unobstructed access through the Statutory Right-of-Way by the Regional District and the public;
- e. Notice: Whenever it is required or desired that either party shall deliver or serve a notice on the other, delivery or service shall be deemed to be satisfactory if, and deemed to have occurred when:
 - (i) the Owner or the Corporate Officer of the Regional District has been served personally, on the date of service; or
 - (ii) mailed by prepaid registered mail, on the date received or on the sixth day after receipt of mailing by any Canada post office, whichever is earlier (except that in the event of interruption of mail service, notice shall be deemed to be delivered only when actually received by the party to whom it is addressed), so long as the notice is mailed to the party at the most recent address shown on title to lands in the records of the Land Title Office for the party, or to whatever address the parties may from time to time advise in writing;
- f. No Derogation of Power: Notwithstanding anything contained in these presents, there are hereby reserved to the Regional District all its rights and powers of expropriation or other powers or privileges granted to the Regional District, or enjoyed by it, by or under any act or the legislature of the Province of British Columbia;
- g. Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia;
- h. Performance by Regional District: Nothing herein contained shall be deemed to include or imply any covenant or agreement on the part of the Regional District with the Owner or with any other person or persons as a condition hereof or otherwise to construct or install the Boat Ramp, or any public works or utility whatsoever provided for in this Statutory Right-of-Way or any portion thereof;
- i. Enurement: This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns;
- j. Number and Gender: Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties hereto so require;
- k. Amendments only in Writing: It is expressly agreed that the benefit of all covenants made by the Owner herein shall accrue to the Regional District and that this Agreement may only be modified or discharged by agreement of the Regional District and the Owner witnessed in writing;
- l. No Duty to Enforce: The Owner hereby covenants and agrees with the Regional District that the Regional District is under no obligation in law or equity to prosecute or enforce the terms of this Agreement in any way;

- m. Further Documents: The parties will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement; and
- n. Severance: If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion will be severed and the provision that is invalid will not affect the validity of the remainder of the Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day, month and year first above written by executing the Form C attached hereto.