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BOARD	✓

MEMORANDUM

TO: Jeremy Holm
Manager, Current Planning

DATE: November 26, 2013

FROM: Lainya Rowett
Senior Planner

FILE: PL2012-096 / PL2012-097

SUBJECT: Proposed Revisions to Amendment Bylaw No. 500.385, 2013
Lakes District & Schooner Cove

PURPOSE

To make text and mapping amendments to “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.385, 2013” to address concerns raised by the community, and to update the Board on the status of the Lakes District and Schooner Cove rezoning applications.

BACKGROUND

On November 12, 2013 the Regional Board at its Special Board meeting gave first and second reading to Amendment Bylaws No. 500.384, 500.385, and 500.388 to allow the rezoning of the subject properties in Lakes District and Schooner Cove and to amend the subdivision servicing standards for community water and sewer to facilitate development in accordance with the Neighbourhood Plans. The proposed amendments for Lakes District would allow residential development in a range of densities and housing types with some mixed-use/commercial development. The Schooner Cove amendments would allow the development of a waterfront mixed-use village with a marina and multiple residential development.

The draft bylaws were presented to the community at the Public Information Meeting held on September 23, 2013. No concerns regarding the Schooner Cove Amendment Bylaw were raised at that time. However, following introduction of these bylaws, staff received communications from residents expressing their concerns about the proposed uses, building height, and parcel coverage affecting the marina portion of Schooner Cove (see Attachment 4). It was identified that the proposed zoning provision would not reflect the intent of the conceptual development plans presented by the applicant through the neighbourhood planning process. The applicant proposes to revise Amendment Bylaw 500.385 (Attachment 1) in order to address these concerns as outlined in the Land Use Implications section of this report.

A Phased Development Agreement (PDA) and a Memorandum of Understanding (MoU) are also proposed in relation to the proposed developments; however, the PDA and MoU are not ready for Board consideration at this time as staff are working with the applicant to negotiate the remaining issues and finalize the terms of the PDA and MoU in order to introduce a PDA Authorization Bylaw.

ALTERNATIVES

1. To receive this report with the proposed amendments to “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.385, 2013”, rescind second reading, and give second reading to Amendment Bylaw 500.385, 2013 as amended.
2. To not rescind the seconding reading of “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.385, 2013”.

LAND USE IMPLICATIONS

Zoning Implications

The proposed changes to the November 12, 2013 draft of Amendment Bylaw 500.385 as outlined in Attachments 2 and 3 of this report would not alter the development theme for Schooner Cove but would address specific concerns raised by the community with regards to the marina area (proposed CD45-MA sub zone), including:

- To reduce the maximum permitted height for wind turbines, which are not proposed currently, but could be developed in the future;
- To remove “assembly use” from the permitted principal uses;
- To reduce the maximum permitted height for buildings and structures from 11.0 m geodetic or 3 storeys to 7.0 m geodetic elevation or 1 storey, whichever is less, notwithstanding one jib crane hoist shall not exceed 11.0 m geodetic elevation and floating buildings and structures shall not exceed 5.0 m measured from the surface of the water;
- To reduce the maximum parcel coverage from 10% per parcel and up to 5% for individual buildings to a maximum of 5% per parcel and 1% for individual buildings; and,
- To align the boundary between the Marina (CD45-MA) and Village Mixed Use (CD45-MU) sub-zones with the boundary between Area’s ‘A’ and ‘B’ on the Maximum Building Height Plan.

The proposed revisions are consistent with the intent of the Schooner Cove Neighbourhood Plan and address concerns raised by residents by ensuring permitted development would be more consistent with conceptual development plans as presented to the public through the Neighbourhood Planning and Zoning Amendment processes.

Applications Review

As noted in the November 12th staff report, the proposed PDA Authorization Bylaw and MoU are not ready for the Board’s consideration. A revised PDA was submitted on November 19th, and staff continue to negotiate the terms of the PDA and MoU. The following issues remain central to these negotiations:

- Ensuring certainty with regard to the developer’s obligations to stormwater management ; and,
- Establishing certainty with regard to the developer’s obligations for wastewater treatment expansion.

Once the PDA and MoU terms have been resolved, a PDA Authorization Bylaw will be introduced to the Board for its consideration, and a public hearing for the zoning Amendments Bylaws (500.384, 500.385, and 500.388) and the PDA Authorization Bylaw would be scheduled concurrently. A resolution on these matters is fundamental to ensuring that the PDA clearly articulates the provision of community

amenities and the advancement of development phasing in accordance with the policies and objectives of the Lakes District and Schooner Cove neighbourhood plans.

Public Consultation Implications

If the Board decides to proceed with the recommendations of this report, this will ensure that the public has adequate time to be made aware of the proposed revisions to the Bylaw prior to a public hearing being scheduled. A hearing for the proposed amendment bylaws (500.384, 500.385 and 500.388), including revisions to Bylaw 500.385 if granted second reading, will be scheduled concurrently with a public hearing for the PDA Authorization Bylaw. Staff will continue to work with the applicant to resolve the remaining issues and ensure the public interest is addressed in accordance with the neighbourhood plan policies prior to scheduling the statutory hearing.

Sustainability Implications

The proposed revisions to Amendment Bylaw No. 500.385 would result in the following sustainability implications:

- The reduction in the allowance for parcel coverage and maximum building height will increase opportunities to protect ocean views; and,
- The change to not allow wind turbines to exceed the maximum permitted building height, in the marina area only, addresses the community's concern about visual impacts while still allowing smaller wind turbines to be located in the marina area. Taller wind turbines, if proposed in the Marina Zone (CD45 – MA), would require a development variance permit application through which the merits and impacts of such a structure could be evaluated at that time.

SUMMARY/CONCLUSIONS

On November 12, 2013 the Regional Board of Directors gave second reading to Amendment Bylaw 500.385 to allow the proposed redevelopment of Schooner Cove. Since that time, residents in the Schooner Cove area have requested revisions to the Amendment Bylaw, particularly for the regulations affecting the marina area. If the Board chooses to proceed with the changes as recommended in this report to Amendment Bylaw 500.385, second reading would be rescinded and the Bylaw would be given another second reading. This will allow the public to be made aware of the changes and to have sufficient time to review the revised Bylaw prior to a public hearing being scheduled.

Staff are also negotiating the terms of the Phased Development Agreement (PDA) and Memorandum of Understanding (MoU) which are associated with the proposed zoning amendments. Central to these negotiations is the need to resolve the proposed project phasing, the provision of community amenities such as regional park dedication and commitments to waste water treatment expansion and storm water management . Once the PDA and MoU terms have been resolved, a PDA Authorization Bylaw will be introduced to the Board for its consideration. A public hearing for the zoning Amendments Bylaws (500.384, 500.385, and 500.388) would be scheduled concurrently with a hearing for the PDA Authorization Bylaw.

RECOMMENDATIONS

1. That second reading of "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.385, 2013" be rescinded.
2. That "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.385, 2013" be amended as set out in Attachment 2 of the staff report.
3. That "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.385, 2013" be amended as set out in Attachment 3 of the staff report.
4. That "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.385, 2013" be read a second time as amended.



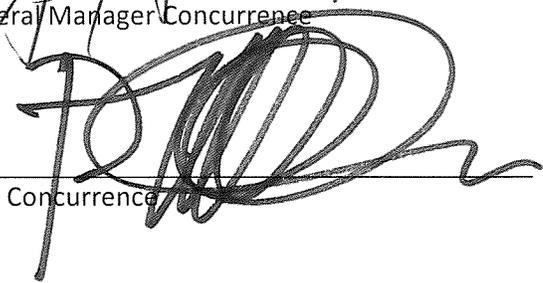
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

Attachment 1
Amendment Bylaw No. 500.385 as introduced on November 12, 2013

REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 500.385

A Bylaw to Amend Regional District of Nanaimo
Land Use and Subdivision Bylaw No. 500, 1987

The Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

- A. This Bylaw may be cited as “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.385, 2013”.
- B. “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”, is hereby amended as follows:
 1. Under **PART 3 LAND USE REGULATIONS, Section 3.1 Zones** by adding the following Zone Classification and corresponding short title after Section 3.4.143 Schooner Bay Manor Seniors Mobile Home Park Comprehensive Development Zone (CD43):
Schooner Cove Comprehensive Development Zone (CD45)
 2. By adding Section 3.4.145 (CD45) as shown on Schedule ‘3’ which is attached to and forms part of this Bylaw.
 3. By rezoning the lands shown on the attached Schedule ‘1’ and legally described as
 - a. Lot 1, District Lot 78, Nanoose District, Plan 28544;
 - b. Lot 1, District Lot 78, Nanoose District, and District Lots 2085, 2086, 2087, 2088 and 2089 Nanaimo District Plan VIP87121;
 - c. Lot 1, District Lot 2090 Nanaimo District and District Lot 78 Nanoose District Plan VIP87122 and,
 - d. District Lot 2084, Nanaimo District, (Commercial Marina) Licence 109021.

from Commercial 5 (CM5) Zone, Subdivision District ‘J’, Residential 5 (RS5) Zone, Subdivision District ‘J’, and Water 2 (WA2) Zone, Subdivision District ‘Z’ to Schooner Cove Comprehensive Development Zone (CD45), as shown on Schedule ‘1’, and with the following CD45 Sub-Zoning Areas as shown on Schedule ‘2’, which is attached to and forms part of this Bylaw:

Village Mixed Use	CD45 – MU
Marina	CD45 – MA
Residential Multiple Dwelling	CD45 – RMD

Introduced and read two times this 12th day of November 2013.

Public Hearing held this ___ day of _____ 20__.

Read a third time this ___ day of _____ 20__.

Adopted this ___ day of _____ 20__.

Chairperson

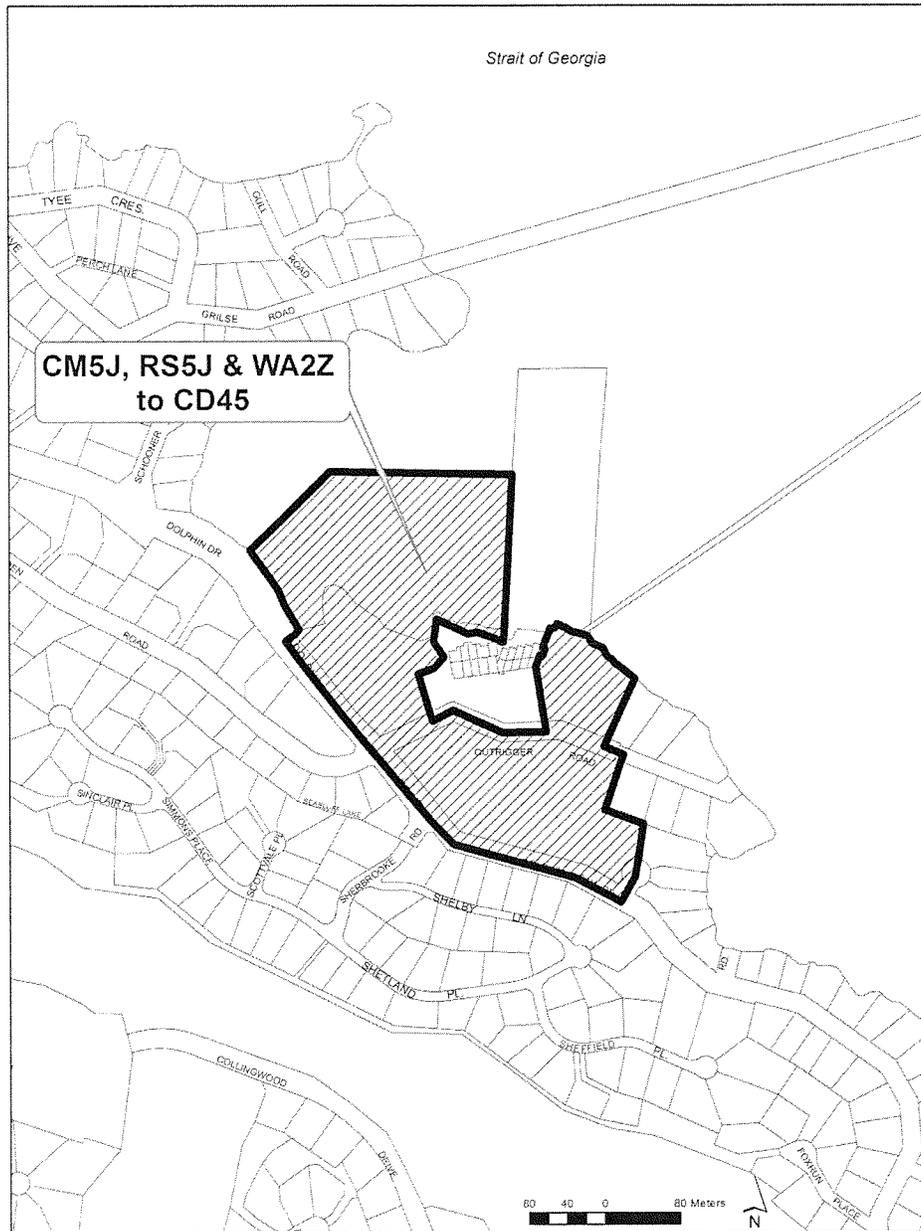
Corporate Officer

Schedule '1' to accompany "Regional District of Nanaimo Land Use and
Subdivision Amendment Bylaw No. 500.385, 2013"

Chairperson

Corporate Officer

Schedule '1'
CD45 Zone Area

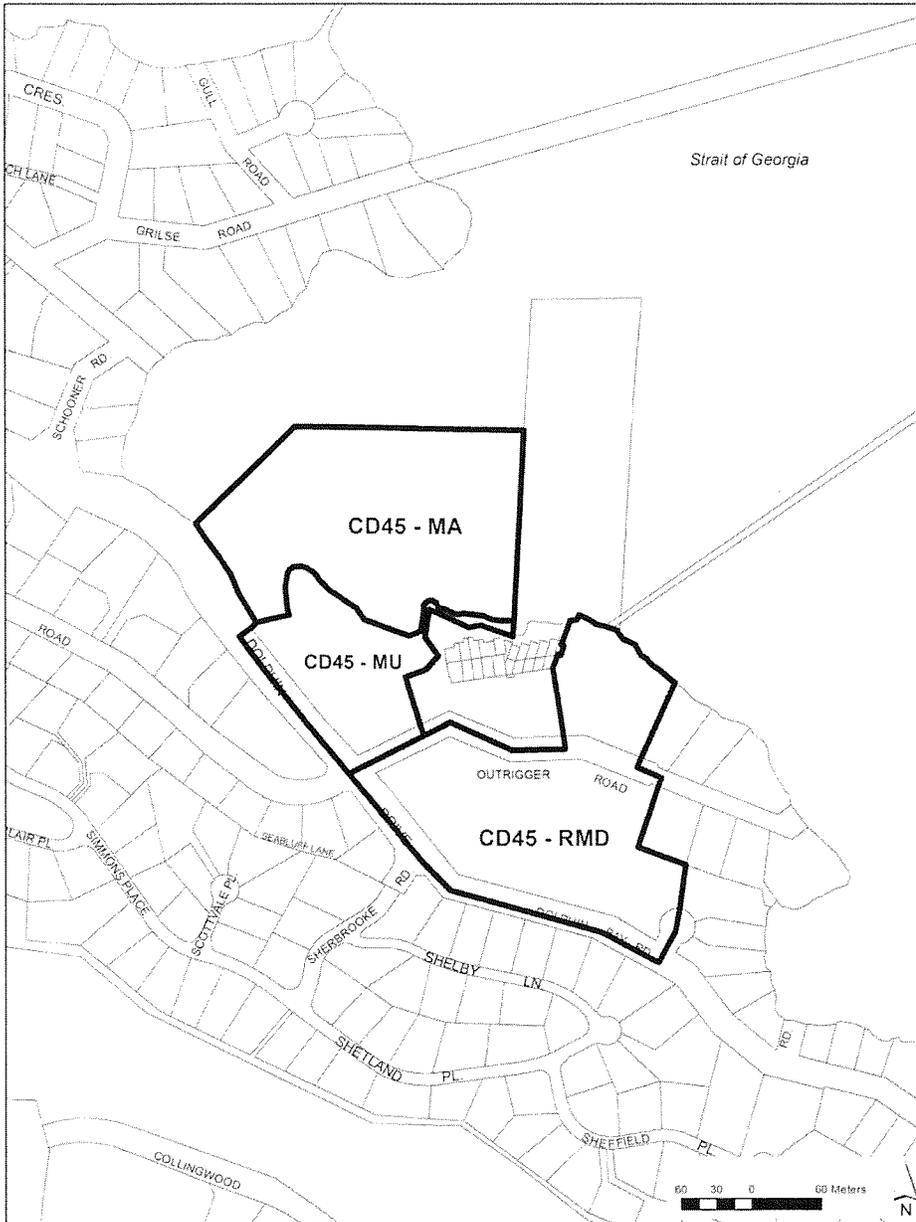


Schedule '2' to accompany "Regional District of Nanaimo Land Use and
Subdivision Amendment Bylaw No. 500.385, 2013"

Chairperson

Corporate Officer

Schedule '2'
CD45 Sub-Zoning Areas



Schedule '3'
Schooner Cove Comprehensive Development Zone Regulations

Section 3.4.145

SCHOONER COVE COMPREHENSIVE DEVELOPMENT ZONE

CD45

3.4.145.1 APPLICABILITY OF THE BYLAW

The regulations of Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 shall apply to the lands zoned CD45. In addition to these regulations, and where there is a conflict with these regulations, the regulations of the CD45 Zone shall apply.

3.4.145.2 PURPOSE

The purpose of the CD45 Zone is to allow a mixed-use waterfront village with neighbourhood-oriented commercial shops and services, a marina, a range of multiple dwelling housing types, and a publicly accessible network of waterfront boardwalks, plazas, and pathways in accordance with Schedule 'C' – Schooner Cove Neighbourhood Plan in the Nanoose Bay Official Community Plan Bylaw No. 1400, 2005.

The lands encompassed within the CD45 Zone are divided into three sub-zoning areas including: Village Mixed Use (CD45 – MU), Marina (CD45 – MA), and Residential Multiple Dwelling (CD45 – RMD). Specific regulations apply to each zoning area, in addition to the Definitions and General Regulations as set out in the CD45 Zone.

The extent of each zoning area in the Lakes District Comprehensive Development Zone is shown on Schedule '3A' Zoning Maps of Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.

3.4.145.3 DEFINITIONS

assembly use means the use of land, buildings or structures to accommodate exhibits, special events or meetings and includes auditorium, church, museum, community hall, fraternal lodge, youth centre, theatre;

artisan workshop means production, service, repair or maintenance of an article, substance, material, fabric or compound, provided uses are not noxious or offensive to the immediate neighbourhood or the general public by reason of emitting odours, dust, gas, noise, effluent, or hazard; and having a gross floor area not exceeding 200 m² including retail sales accessory to the principal use;

boat launching facility means jib crane hoist, boat ramp or other means to launch and/or retrieve watercraft;

commercial parking means use of land, buildings and structures for the purpose of providing short-term commercial parking spaces;

commercial use means the occupancy or use of a building or land for the purpose of carrying out business, professional activities, artisan workshop, retail or personal service use;

community garden means a non-commercial facility for the cultivation of fruits, flowers, vegetables or ornamental plants;

geodetic elevation means the vertical elevation or height of a given point on land or above the surface of the water measured from the geodetic datum as determined by a BC Land Surveyor;

grocery store means a sales outlet contained under one roof, having a gross floor area not exceeding 750 m², and providing for the retail sale and display of food and related goods;

height means that part of a building or structure measured above the geodetic datum as determined by a BC Land Surveyor to the outermost exterior walls or supports as indicated on a plan showing any complete vertical section of that part of a building or structure where permitted in the applicable zone;

impermeable surface area means the sum total horizontal area as measured from the outermost perimeter of all buildings or part thereof together with any ground covering that does not naturally exist on the site and cannot be readily penetrated by water, such as roads, paved parking areas, driveways, patios, games courts and the like, on the parcel expressed as a percentage of the total parcel area;

liquor store means a retail store licensed under the Liquor Control and Licensing Act, and amendments thereto, for the sale of beer, wine and other alcoholic beverages;

live/work unit means the use of a building or portion thereof for an economic activity including artisan workshop, personal service use or office in combination with a dwelling unit;

marina means moorage, boat launching facilities, and outdoor recreation use, including the rental and maintenance of boats and seaplanes, and which may be equipped with administration facilities, washrooms, showers and refuse disposal facilities;

mobile food cart means a mobile cart from which food and/or drink is dispensed, and where the entire stock of goods offered for sale is carried and contained in the cart and which may change locations from time to time, and which is not located in a permanent building or structure, and is removed from public access when not in use;

multiple dwelling unit development means the establishment of three or more dwelling units within a building on a parcel;

neighbourhood pub means an establishment with a liquor primary licence issued pursuant to the Liquor Control and Licensing Act and amendments thereto;

resort condominium development means a hotel and includes hotel units subdivided pursuant to the Strata Property Act and amendments thereto, with continuous occupancy not exceeding ninety (90) calendar days and does not include residential use;

restaurant means an eating establishment providing for the sale of prepared foods and beverages to be consumed on or off the premises, and may include café, delicatessen, and take-out restaurant but specifically excludes neighbourhood pub, drive-in and drive-thru establishment;

retail store means a sales outlet contained under one roof, having a gross floor area not exceeding 250 m², and providing for the retail sale and display of goods, but specifically excludes industrial uses and gasoline service station;

seniors' congregate housing means a residential or institutional facility which provides for seniors' congregate housing units with common living facilities, one or more meals per day and housekeeping services, contains a common dining area with a capacity sufficient to accommodate all residents of the facility, and may contain accessory personal service use and accessory convenience store use;

seniors' congregate housing unit means a sleeping unit or a dwelling unit containing one or more sleeping units within a seniors' congregate housing facility;

sleeping unit means a bedroom or other area which is used or intended to be used for sleeping, or sleeping and living purposes, and which does not contain provisions for cooking;

storey means that portion of a building situated between the top of any floor and the top of the floor next above it, and if there is no floor above it, that portion between the top of the floor and the ceiling above it;

temporary building means a building which is not supported on permanent foundations and which may or may not be connected to community water or sewer;

tourist accommodation means the rental of a lodging unit in a hotel, motel, and cabin for the temporary accommodation of the traveling public with continuous occupancy not exceeding ninety (90) calendar days and specifically excludes a manufactured home and residential use; and,

unit density means a measurement of development intensity on a parcel, represented by the total number of dwelling units on a parcel divided by the parcel area in hectares (units per hectare) but excludes dedicated road and dedicated park.

3.4.145.4: GENERAL REGULATIONS

1) Total Number of Dwelling Units

The total number of dwelling units within the lands zoned CD45 shall not exceed 360 dwelling units.

2) Uses Permitted in all Zones

The following uses are permitted in all zoning areas of the CD45 Zone:

- a) *Community garden*

3) Rainwater Harvesting

Where a Building Permit is not required for rainwater harvesting structures, equipment and apparatus, including rain barrels and cisterns, they are excluded from the building setback requirements.

4) Seniors' Congregate Housing

Seniors' congregate housing, where permitted in the zone, is subject to the following regulations:

- a) For the purposes of calculating unit density, each *sleeping unit*, and each *sleeping unit* within a dwelling unit within a seniors' congregate housing facility is equal to 0.2 units;
- b) The gross floor area of a *seniors' congregate housing unit* shall not be less than 26 m² and not more than 50 m²; and
- c) Accessory personal service and convenience store uses, where provided, shall be contained within the seniors' congregate housing facility and shall be accessible only from an internal hallway or corridor. The combined total floor area of all accessory personal service and convenience store uses shall not exceed 150 m² per seniors' congregate housing facility.

5) Temporary Buildings, Structures and Uses for Seasonal Vending

Temporary buildings, structures, or mobile food carts for the purpose of seasonal vending on properties are permitted within any commercially zoned properties provided that potable water and washroom facilities are available on-site if food is served.

6) Resort Condominium and Tourist Accommodation

Temporary stays within *resort condominium development* or *tourist accommodation* is limited to a maximum consecutive or non-consecutive stay of ninety (90) calendar days per visitor in any twelve (12) month period within any resort condominium or tourist accommodation unit on a parcel. The relocation of a visitor to another unit within the parcel does not constitute the start of a new stay.

7) Building Height

The following regulations apply to building height within all zoning areas of the CD45 Zone:

- a) Structures such as antennae, chimney stacks, steeples, elevator housings, roof stairway entrances, ventilating equipment or enclosures for such equipment, skylights, flagpoles and the like are exempt from the height requirement.
- b) Structures for sustainable building technologies, such as wind turbines, solar panels and rain barrels, cisterns and the like are permitted to exceed the height requirement provided that:
 - i) No such structure covers more than 20% of the parcel area; or
 - ii) If located on a building, no such structure covers more than 10% of the roof area; and,
 - iii) No such structure shall exceed twice the maximum building height permitted by the zone.

3.4.145.5 VILLAGE MIXED USE

CD45 – MU

Purpose

The intent of the Schooner Cove Village Mixed Use zoning area is to establish a vibrant commercial and civic core with a pedestrian-oriented village on the waterfront and ground-oriented commercial uses such as restaurants, shops and services with residential uses above.

Permitted Principal Uses

- a) artisan workshop
- b) assembly use
- c) grocery store
- d) office
- e) liquor store
- f) live/work
- g) multiple dwelling unit development use
- h) neighbourhood pub
- i) outdoor recreation
- j) personal service use
- k) recreation facility
- l) resort condominium development use
- m) restaurant
- n) retail store
- o) seniors' congregate care
- p) tourist accommodation

Accessory Uses

- a) commercial parking
- b) marina sales
- c) tourist information booth

Maximum Density

Maximum 50 dwelling units permitted in the CD45 – MU Zone.

Minimum Parcel Size

Commercial / mixed use	900 m ²
Multiple dwelling unit development	2,000 m ²

Maximum Size of Buildings and Structures

The maximum permitted building height shall be as shown on **Schedule 1 Maximum Building Height Plan** in the CD45 Zone and as summarized below:

Height

Principal buildings

Area B	18.0 m geodetic elevation or 3 storeys, whichever is less
Area C	22.0 m geodetic elevation or 3 storeys, whichever is less
Area D	26.1 m geodetic elevation or 5 storeys, whichever is less
Area E	31.0 m geodetic elevation or 5 storeys, whichever is less

Accessory buildings

Area D	One accessory building is permitted to a height of 2 storeys, provided that a storey does not exceed 5.0 m.
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Maximum Floor Area	Total combined floor area for non-residential uses shall not exceed 2,325 m ² .
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Parcel Coverage	70% 80% where the required parking spaces are located directly beneath the principal building.
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Impermeable Surface Area	80% 85% where the required parking spaces are located directly beneath the principal building.
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Minimum Setback Requirements

- | | |
|---|-------|
| a) Lot lines fronting a highway | 4.5 m |
| b) Lot lines that are common with Lot B, District Lot 78, Nanoose District Strata Plan 745 | 4.5 m |
| c) All other lot lines | 0.0 m |
| d) Notwithstanding Section 3.3.9 b) Setbacks - Sea for Electoral Area 'E', a 0.0 m setback for buildings is permitted for up to a maximum of 35 percent of the length of the parcel boundary that is common to the sea. | |

- e) Notwithstanding Section 3.3.9 b) Setbacks - Sea for Electoral Area 'E', a 0.0 m setback is permitted for structures.

Off-Street Parking Requirements

Seniors' congregate housing	1 space per 2 employees and 1 per 5 beds
Commercial use, restaurant use, neighbourhood pub use	74 spaces in total, plus 1 space per 3 seats where a restaurant or neighbourhood pub exceeds 100 seats.

For other uses permitted in this zone, parking shall be provided as set out under Schedule '3B' Off-Street Parking & Loading Spaces.

In addition to the requirements of Schedule '3B' Off-Street Parking & Loading Spaces, the following bicycle parking is required:

Use	Required Bicycle Parking Spaces
Commercial use, restaurant use, neighbourhood pub use	1 space per 475 m ² commercial floor area adjacent to primary building entrances.
Multiple dwelling unit development use	1 secure interior space per 2 dwelling units, and 4 spaces adjacent to the primary building entrance.
Seniors' congregate housing	1 secure interior space per 10 employees.

Other Regulations

- a) Non-residential uses shall comprise at least 20% of the total building floor area within a parcel.
- b) A maximum of one grocery store is permitted within the Village Mixed Use Zone.
- c) Notwithstanding Schedule '3F' Landscaping Regulations and Standards, Section 2.1.1 a landscape buffer is not required for a designated highway adjacent to a commercial use and multiple dwelling unit development.

3.4.145.6 MARINA

CD45 – MA

Purpose

The intent of the Marina zoning area is to allow the operation of a marina business including a moorage, marina office, marine fuel supply station, and other ancillary marina services and facilities.

Permitted Principal Uses

- a) assembly use
- b) boat launching facility
- c) marina use

Accessory Uses

- a) convenience store
- b) marina fuel supply station
- c) marina sales

Maximum Size of Buildings and Structures

The maximum permitted building height shall be as shown on **Schedule 1 Maximum Building Height Plan** in the CD45 Zone and as summarized below:

Height	
Area A	11.0 m geodetic elevation or 3 storeys, whichever is less
Parcel Coverage	10% provided that no individual building covers more than 5% of a parcel.

Minimum Setback Requirements

Notwithstanding Section 3.3.9 b) Setbacks - Sea for Electoral Area 'E', a 0.0 m setback is permitted for buildings and structures.

Off-Street Parking Requirements

Marina use	1 parking space per 4 marina slips
Boat launching facility	20 boat trailer parking spaces

For other uses permitted in this zone, parking shall be provided as set out under Schedule '3B' Off-Street Parking & Loading Spaces.

A minimum of 25% of the parking required for marina use in the CD45 – MA Zone shall be provided within the lands zoned CD45 – MU and a maximum of 75% of the marina parking

may be provided within the lands zoned CD45 – RMD, provided that none of the required off-street parking is located within a highway.

The off-street parking required for a *boat launching facility* shall be provided within the lands zoned CD45 – RMD.

In addition to the requirements of Schedule '3B' Off-Street Parking & Loading Spaces, the following bicycle parking is required:

Use	Required Bicycle Parking Spaces
Marina use	8 spaces

3.4.145.6 RESIDENTIAL MULTIPLE DWELLING

CD45 – RMD

Purpose

The Residential Multiple Dwelling zoning area allows for the development of multiple dwelling housing types including ground-oriented and low-rise condominium buildings. These smaller unit types are intended to provide opportunities for downsizing and ageing-in-place in close proximity to publically-accessible open space and village commercial uses.

Permitted Principal Uses

- a) commercial parking
- b) multiple dwelling unit development use
- c) seniors' congregate housing

Maximum Density

Maximum 310 dwelling units permitted in the CD45 – RMD Zone

Minimum Parcel Size

Multiple dwelling unit development	2,000 m ²
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Maximum Size of Buildings and Structures

The maximum permitted building height shall be as shown on **Schedule 1 Maximum Building Height Plan** in the CD45 Zone and as summarized below:

Height	
Principal buildings	
Area D	26.1 m geodetic elevation or 5 storeys, whichever is less
Area F	37.0 m geodetic elevation or 5 storeys, whichever is less
Area G	42.0 m geodetic elevation or 5 storeys, whichever is less
Accessory buildings	
Area D	One accessory building is permitted to a height of 2 storeys, and all other accessory buildings shall not exceed 1 storey, provided that a storey does not exceed 5.0 m.
Area F	One accessory building is permitted to a height of 2 storeys, and all other accessory buildings shall not exceed 1 storey, provided that a storey does not exceed 5.0 m.
Area G	One accessory building is permitted to a height of 2 storeys, and all other accessory buildings shall not exceed 1 storey, provided that a storey does not exceed 5.0 m.

Parcel Coverage	60%
	70% where the required parking spaces are located directly beneath the principal building.
Impermeable Surface Area	80%
	85% where the required parking spaces are located directly beneath the principal building.

Minimum Setback Requirements

All lot lines	5.0 m
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Off-Street Parking Requirements

Seniors' congregate housing	1 space per 2 employees and 1 per 5 beds
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For other uses permitted in this zone, parking shall be provided as set out under Schedule '3B' Off-Street Parking & Loading Spaces.

In addition to the requirements of Schedule '3B' Off-Street Parking & Loading Spaces, the following bicycle parking is required:

Use	Required Bicycle Parking Spaces
Multiple dwelling unit development use	1 secure interior space per 2 dwelling units, and 4 spaces adjacent to the primary building entrance.
Seniors' congregate housing	1 secure interior space per 10 employees.

Other Regulations

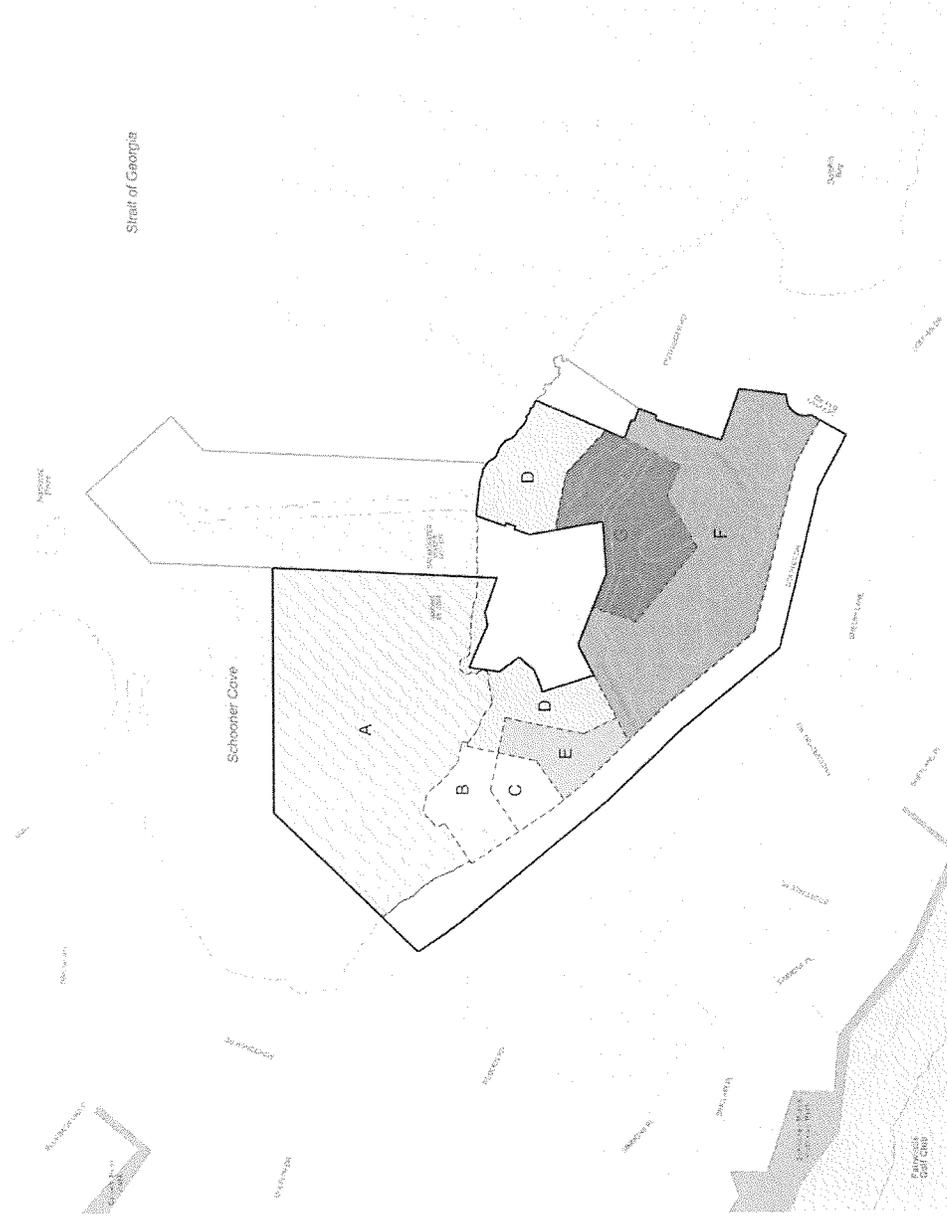
Notwithstanding Schedule '3F' Landscaping Regulations and Standards, Section 3.2.1, a minimum 3.0m wide landscape buffer shall be provided within the setback area of a parcel adjacent to a highway for a multiple dwelling unit development.

**Schooner Cove Comprehensive Development Zone CD45
 Schedule 1 Maximum Building Height Plan**

SCHOONER COVE
 ZONING

**MAXIMUM BUILDING
 HEIGHT PLAN**

-----	Schooner Cove Neighborhood Real Boundary
-----	CD45 Boundary
-----	Proposed Building & Public Right-of-Way
A	Maximum Building Elevation - 15m
B	Maximum Structure Elevation - 15m
C	Maximum Structure Elevation - 20m
D	Maximum Structure Elevation - 25m
E	Maximum Structure Elevation - 30m
F	Maximum Structure Elevation - 35m
G	Maximum Structure Elevation - 40m



Attachment 2
Text Amendments to Schedule '3' of "Regional District of Nanaimo Land Use and Subdivision
Amendment Bylaw No. 500.385, 2013"

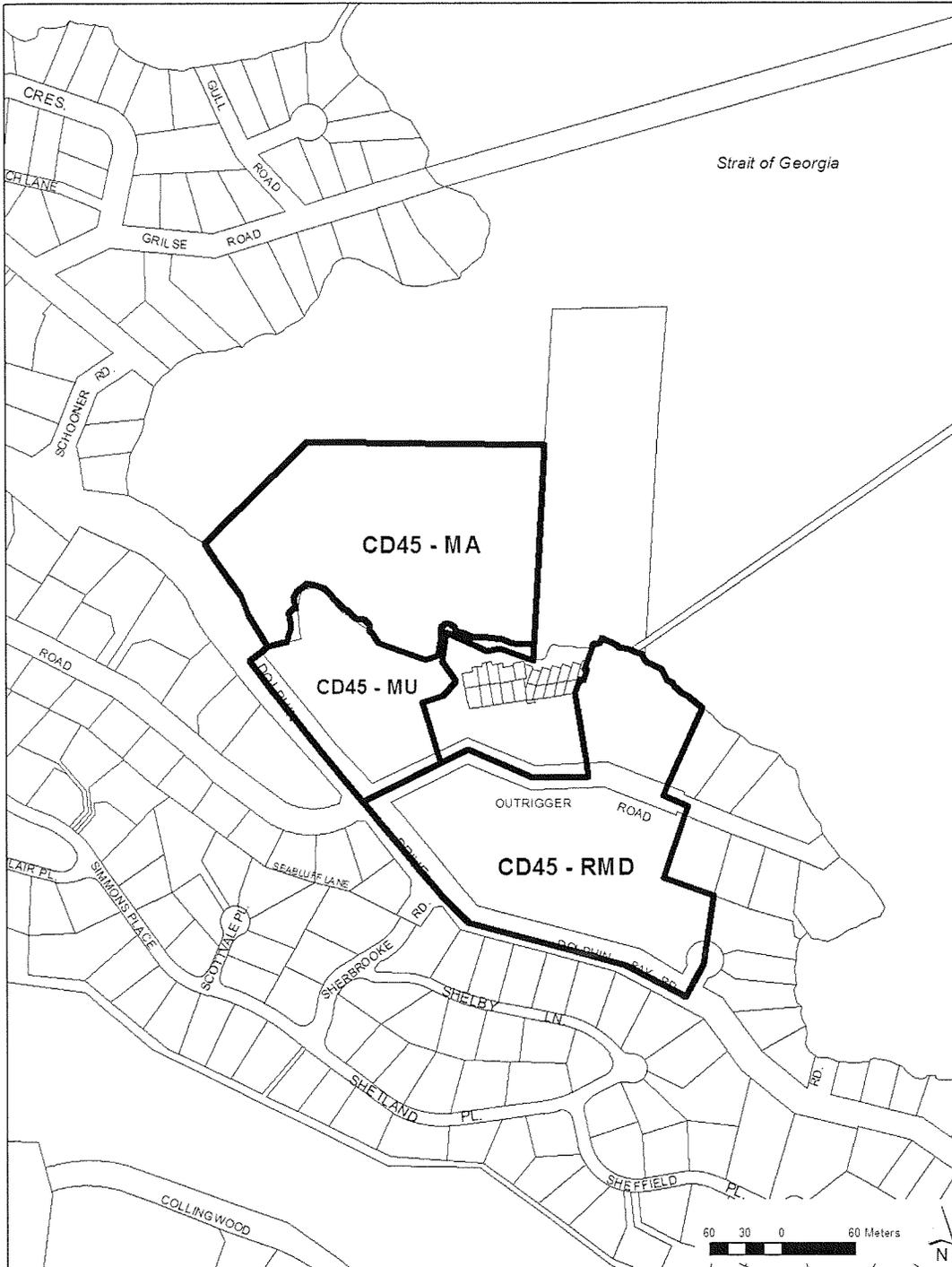
Amendment Bylaw Section	Proposed Revision
Section 3.4.145.4.7 General Regulations - Building Height	Remove text and insert underlined text as follows: b) Structures for sustainable building technologies, such as wind turbines , solar panels and rain barrels, cisterns and the like are permitted to exceed the height requirement provided that: i) No such structure covers more than 20% of the parcel area; or ii) If located on a building, no such structure covers more than 10% of the roof area; and, iii) No such structure shall exceed twice the maximum building height permitted by the zone. c) <u>Notwithstanding 7 b) above, wind turbines in Area 'A' shall not exceed the maximum permitted building height as shown on Schedule 1 of the CD45 Zone.</u>
Section 3.4.145.6 Marina Zone - Permitted Principal Uses	Delete a) "assembly use" and renumber as underlined: a) assembly use b) a) boat launching facility c) b) marina use
Section 3.4.145.6 Marina Zone - Maximum Size of Buildings and Structures	Remove text and insert underlined text as follows: Height – Area 'A' 11.0 m <u>7.0 m geodetic elevation or 3-storeys 1 storey, whichever is less, notwithstanding one jib crane hoist shall not exceed 11.0 m geodetic elevation and floating buildings and structures shall not exceed 5.0m measured from the surface of the water.</u>
Section 3.4.145.6 Marina Zone - Maximum Size of Buildings and Structures	Remove text and insert underlined text as follows: Parcel Coverage 10% <u>5%</u> <i>provided that no individual building covers more than 5% 1% of a parcel.</i>

Attachment 3 (Page 1 of 3)
**Map Amendments to Schedules '2 and 3' of "Regional District of Nanaimo Land Use and Subdivision
 Amendment Bylaw No. 500.385, 2013"**

Amendment Bylaw Section	Proposed Revision
Bylaw 500.385, 2013 Schedule 2 CD45 Sub-zoning Areas. Schooner Cove Comprehensive Development Zone - Schedule 1 Maximum Building Height Plan	<ol style="list-style-type: none"> 1. Replace the CD45 Sub-zoning Areas map and the Maximum Building Height Plan to amend the boundaries between the CD45-MU and CD45-MA Sub-zoning areas and Areas 'A' and 'B' to ensure consistent common boundaries. 2. Revise the Area 'A' building height on the Maximum Building Height Plan to be consistent with the proposed text revisions.

Attachment 3 (Page 2 of 3)
**Map Amendments to Schedules '2 and 3' of "Regional District of Nanaimo Land Use and Subdivision
Amendment Bylaw No. 500.385, 2013"**

Bylaw 500.385, 2013
Schedule 2
'CD45 Sub-zoning Areas'



Attachment 4
Public Correspondence Regarding Proposed Amendment Bylaw 500.385

Holm, Jeremy

From: Brian Harschnitz <harschnb@telus.net>
Sent: Saturday, November 16, 2013 2:48 PM
To: George Holme
Cc: Holm, Jeremy; gathom@telus.net; dapatterson@shaw.ca; rtibbles@bentallkennedy.com; Fenske@ekistics.ca; cbrook@brookpooni.com
Subject: Draft zoning for Schooner Cove
Attachments: RDN Zoning Feedback.pdf

Dear Mr. Holme. Please find attached a letter from my wife and I outlining our concerns with the draft zoning for Schooner Cove recently posted to the RDN website. Feel free to contact me by return email if there is anything we can do to clarify or follow-up on our comments, Brian and Karen Harschnitz

Please note that I have copied Jeremy Holm, the executive of the FCA, and key representatives of the developer on this note, and I am open to any comments or feedback they may have to offer.

November 16th, 2013
Brian and Karen Harschnitz
harschnitz@telus.net

George Holme
Electoral Area E Director
gholme@shaw.ca

Re: Fairwinds Schooner Cove Development

Dear Mr. Holme:

I am writing to you to provide feedback on the draft Regional District Of Nanaimo Bylaw No. 500.385 (A Bylaw to Amend Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987) recently posted to the RDN Website. As the long time owners of Lot 3 Redden, my wife and I have a direct interest in how the proposed development at Schooner Cove unfolds, and we are extremely concerned with the maximum permitted building heights, size of buildings, and Permitted Principal Uses allowed in Area A and the west corner of Area B. All of this area is currently part of the water / sea area of the marina, yet the contemplated zoning allows for up to 116,000 square feet of building development¹ contained in 3 storey buildings of up to 36ft in height² for uses as diverse as a convenience store, marina office, auditoriums, churches, museums, community halls, fraternal lodges, youth centres, and theatres³. On top of this, up to 20% of the parcel can be used for a farm of wind turbines of up to 72 feet in height⁴. While this seems to be an extreme interpretation of what could happen to the current water portion of the marina, it's important to note that what was originally proposed by the developers in 2008/9 included many of these features⁵. There were several structures proposed in what is now designated Area A and the west corner of Area B, portions of which were 3 stories high, and consisted of a marina office, marina store, gourmet market, bakery café, marina amenities, and activity center, ALL LOCATED OVER WHAT IS CURRENTLY WATER!

The earliest proposals created quite a stir, as well as significant opposition. After receiving feedback, the developer rolled out "Key Guiding Principles" that included "Building placement and form should respond to the existing topography and responds to natural site features" and "Existing vegetation should be used to screen development and help define smaller neighbourhood clusters" and "building placement should reinforce or create views to the water" and "limit building height and/or locate taller buildings or elements in areas that will minimally impact views"⁶. They also responded to the feedback by modifying the proposed layout, moving the bulk of the structures onto what is currently land, and scaling back the massing of the buildings that would have the biggest effect on the marina views of the neighbouring houses⁷. In mid-2009 they conducted a detailed "view analysis", where they digitally superimposed the proposed buildings into the exact views from all of the affected residences, showing how minimal the impact would be.

These positive trends continued as the consultation process progressed, to where the "Final Neighbourhood Plan" first tabled in early 2011 scaled back building size and massing in the westerly most portion of the development even further, and no material structures (aside from the fuel dock and similar amenities) are included over what is currently water. Figure 1 outlines the progression of the building footprints over time throughout the consultation process. These new proposals developed tremendous public support, to the point where the June and September 2013 sessions were very well received in the community, and in fact the community was now exerting pressure on the RDN to proceed expeditiously with the approval process.

The materials presented to the public as late as September 23, 2013, reflect the efforts of more than 5 years of consultation and collaboration with the community, and represent a workable plan that has won broad support throughout the community. It's unfortunate that all of this was thrown away and totally disregarded in the only document that really matters, the Draft Zoning Bylaw now before the RDN. The proposed zoning not only allows the developer to proceed with the plans originally tabled in 2008, it allows them to go well beyond them in terms of the footprint of erected structures within the water area of the marina zone, destroying rather than "creating views to the water" and decimating rather than "minimally impact views" the views of the local residents. The View Analysis shared with local residents doesn't come close to reflecting the impacts possible with the proposed zoning. Figure 2 shows the proposed zoning areas superimposed on the "Adopted" land use designations displayed at the September meetings.

Since it is clear the developer has no intent of honouring the process that has unfolded to date, it's critical that the RDN take the steps necessary to modify the proposed zoning so that it aligns with the developer's proposals that have garnered so much community support over the past few years. I understand the developers desire to retain as much flexibility as possible within the zoning to ensure a viable development when the final planning gets underway. However, the proposed zoning goes far beyond providing flexibility, allowing the very uses and development that the developer has moved away from during the extensive community consultation process.

At a minimum the following changes are requested to align the zoning with what the developer has proposed to the public over the past two years:

- 1) Modify Area A and B outlines to include the water area in the west corner of B as part of Area A.
- 2) Modify the maximum height of buildings and structures in Area A to 4m or 1 storey, whichever is less
- 3) Modify the permitted uses of Area A to include only
 - a. Boat launching facility
 - b. Marina use
- 4) Eliminate the allowance for a 0.0m setback from the sea in area B
- 5) Eliminate the permitted erection of wind turbines up to 72 feet tall over 20% of Area A

While it is important to keep the process moving along in a timely manner, it is even more important to ensure that the zoning approved by the RDN reflects the outcomes of the extensive consultation process conducted to date. It is the zoning, not the poster boards presented over the years (with riders such as "For illustrative Purposes" or "subject to refinement"), that will ultimately control what is built at Schooner Cove. The proposed draft zoning goes way beyond what would be required to allow the developer reasonable flexibility in executing the latest proposals when it comes to Area A and the western corner of Area B.

Note that we have limited our comments to Area A and the western corner of Area B, as we have not had the time to review the rest of the documentation. We trust that you will find this feedback helpful.

Respectfully submitted by

Brian and Karen Harschnitz

Figure 1: Progression of building outlines over time

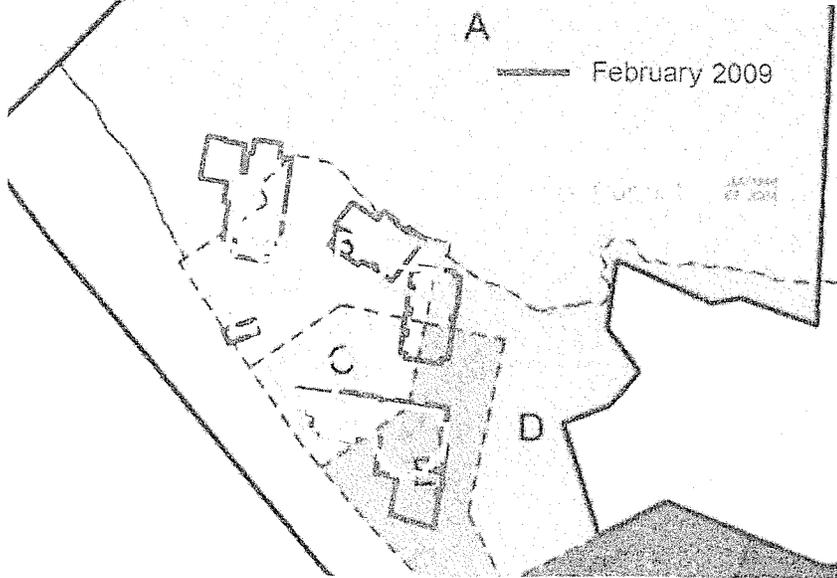
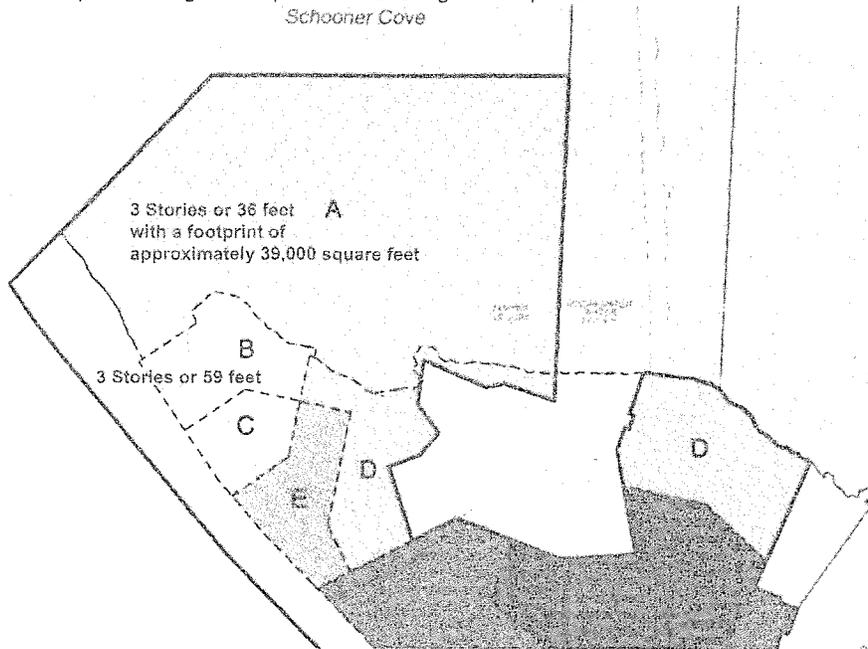


Figure 2: Proposed Zoning and Adopted Land use Designation September 2013:
Schooner Cove



Footnotes:

1. REGIONAL DISTRICT OF NANAIMO BYLAW NO. 500.385
3.4.145.6 MARINA CD45 – MA
Parcel Coverage 10% provided that no individual building covers more than 5% of a parcel.

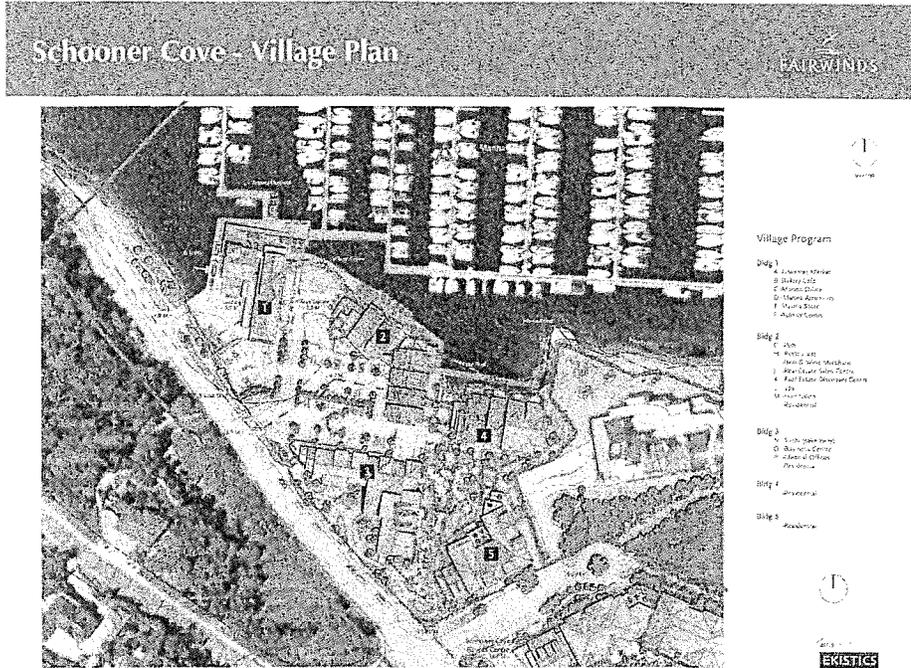
Parcel area A is approximately 36,000 square meters or 390,000 square feet in size. 10% is approximately 39,000 square feet. At three stories, total permissible development is approximately 116,000 square feet.

2. REGIONAL DISTRICT OF NANAIMO BYLAW NO. 500.385
3.4.145.6 MARINA CD45 – MA
Maximum Size of Buildings and Structures
Area A 11.0 m geodetic elevation or 3 storeys, whichever is less
3. REGIONAL DISTRICT OF NANAIMO BYLAW NO. 500.385
3.4.145.6 MARINA CD45 – MA
Purpose
The intent of the Marina zoning area is to allow the operation of a marina business including a moorage, marina office, marine fuel supply station, and other ancillary marina services and facilities.
Permitted Principal Uses
a) assembly use
b) boat launching facility
c) marina use

where “assembly use” means: “the use of land, buildings or structures to accommodate exhibits, special events or meetings and includes auditorium, church, museum, community hall, fraternal lodge, youth centre, theatre;”

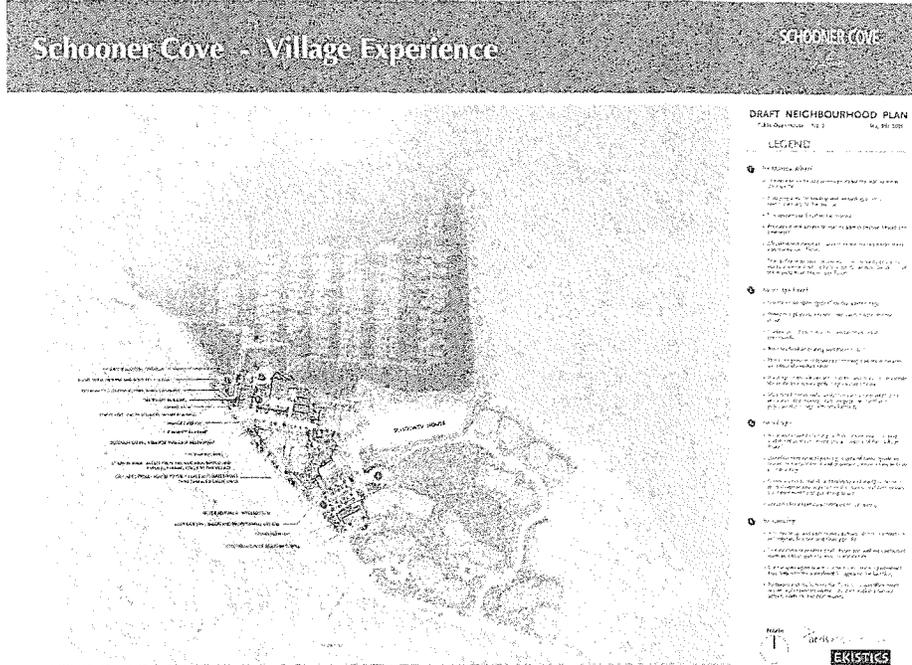
4. REGIONAL DISTRICT OF NANAIMO BYLAW NO. 500.385
3.4.145.4: GENERAL REGULATIONS
7) Building Height
The following regulations apply to building height within all zoning areas of the CD45 Zone:
b) Structures for sustainable building technologies, such as wind turbines, solar panels and rain barrels, cisterns and the like are permitted to exceed the height requirement provided that:
i) No such structure covers more than 20% of the parcel area;

5. Excerpt from the Schooner Cove Draft Plan, February 2009 (Zoning Areas from Draft Bylaw 500.385 added)



6. text from display materials presented at Public Open House Number 3

7. Public Open House Number 3 Draft Neighbourhood Plan



Holm, Jeremy

From: george holme <gholme@shaw.ca>
Sent: Monday, November 18, 2013 12:07 PM
To: Holm, Jeremy
Subject: FW: Draft Zoning for Schooner Cove

Just a heads-up.

George.

-----Original Message-----

From: Bruce Petry [mailto:brucepetry26@icloud.com]
Sent: November-17-13 5:12 PM
To: gholme@shaw.ca
Cc: harschnb@telus.net; Nettie Kokura
Subject: Draft Zoning for Schooner Cove

This message pertains to correspondence forwarded to you from Brian and Karen Harschnitz via email dated 16 Nov 2013. I too am a resident of Redden Road.

I am in agreement with the concerns Mr. Harschnitz addresses in his message.

It indeed disappointing that after such a long process that your draft not reflect the collective agreement of all concerned. Perhaps at the next public meeting you might be prepared to clarify why this particular draft has been presented.

Bruce Petry.
3353 Redden Rd.

Sent from my iPad=

Holm, Jeremy

From: Hewitt, Nicole on behalf of Planning Email
Sent: Tuesday, November 19, 2013 2:24 PM
To: 'Nettie Kokura'; George Holme; Joe Stanhope; Planning Email; O'Halloran, Matt; Holm, Jeremy; Rowett, Lainya; Garbutt, Geoff
Cc: Fairwinds Comm. Assoc.; rtibbles@bentall.com
Subject: RE: Submission re: Bylaw 500.385
Attachments: RDN Bylaw 500 385.pdf

Good Afternoon Nettie,

As per my phone conversation this afternoon, I have converted the Microsoft Works file into an Adobe PDF file so that it is readable. This letter is also being sent to Matt O'Halloran our Legislative Coordinator so that it is put on the Agenda as correspondence.

Thank you,

Nicole Hewitt
Senior Secretary, Strategic & Community Development
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2
Direct Line: 250-390-6525
Fax Line: 250-390-7511

From: Nettie Kokura [<mailto:nkokura@shaw.ca>]
Sent: Tuesday, November 19, 2013 2:12 PM
To: George Holme; Joe Stanhope; Planning Email
Cc: Fairwinds Comm. Assoc.; rtibbles@bentall.com
Subject: Submission re: Bylaw 500.385

Dear George Holme:

The attached submission addresses some of the concerns we have with The Draft Bylaw 500.385 as it pertains to Schooner Cove. We sincerely hope that you, The RDN Board, The Planning department and all concerned seriously consider our requests for changes. and modify the Bylaw.

Regards

Nettie and William Kokura

November 19th, 2013
Nettie and William Kokura
3483 Redden Rd.,
Nannose Bay, BC

George Holme
Electoral Area E Director
Gholme@shaw.ca

Re: Fairwinds Schooner Cove Development, Bylaw 500.385

Dear Mr. Holme:

Upon reviewing the Draft Bylaw 500.385, we realize that this Draft Bylaw does not, correspond with the proposal as presented to the public by the developer as late as September 2013. Bylaw 500.385 after 3rd reading is the **ONLY LEGAL** document the community will have to control development in Schooner Cove.

The proposal presented by the developer September, 23, 2013, (while seeking support of the Community to pressure the RDN into a hasty approval,) was expected to be reflected in the Bylaw controlling that development. The draft **does not offer protection** to view properties adjacent to the development or for distance views. 1) The draft allows for buildings with a foot print of approximately 44,433 sq. ft. (Exhibit 1) and 3 stories high (11.0 m or 36ft) for a total of 133,300. Sq ft., with no restrictions as to the location of this building/s within Area A. 2) Up to 20% of Area A may be used for a Wind Turbine farm, with a height of 22.0 m or 72ft. As this applies to all areas within Schooner Cove there is potential for a tower of 276 ft. (Area G) Any property with as much as a minimal view of Schooner Cove would be impacted by such development. These examples by no means cover all the discrepancies in the Bylaw.

The Bylaw treats Area A, the Leased Marina Area (Exhibit 1) In the same manner as developer owned land. Under the terms of the lease the Leased Lands must be able to be restored to the condition (including boundaries) at the time of the commencement of the lease. Exhibit 2. There appears to be differing figures as to area and boundaries of Area A. The RDN should ensure that all outlines correctly reflect these appropriately as in Exhibit 1. The permitted uses as outlined in the Bylaw differ substantially from those permitted in the Lease agreement. Exhibit 3. Eliminating the 0.0 m setback in the Bylaw would protect the boundary of the leased area.

The Current owner/developer has presented a proposal in order to get community support for approval of a development, without guarantees to the community that the presented proposal would be respected. The developer has on occasion threatened the community with disposing of the properties, to devious developers. It is critical that the RDN protect the community by modifying the Draft Bylaw to reflect what has been proposed by the developer, after all the amendments from 2009 to September, 23, 2013 and accepted by the community. Anything less would be negligence on the part of the RDN. The potential for "sustainable building technologies" such as cell phone towers or wind turbines were never mentioned during the consultation process.

It is my understanding that a proposed Phasing Bylaw will be brought to the Board for 1st. And 2nd reading at the next Board meeting or soon thereafter. This Bylaw is expected to contain a clause requested by the developer for a moratorium of 20 years, whereby the Community and the RDN cannot interfere with their activities. It is imperative that the RDN notify the Nanoose

communities of the impacts of this Bylaw prior to the public hearing, in plain language. It was clearly explained to me by the RDN, that any comments, requests for changes or arguments, regarding this Bylaw and the proposed Bylaw must be received prior to the end of the Public Hearing. Should people who learn of a discrepancy at the public hearing decide to challenge the Bylaw, their complaint will not be heard or considered, once that meeting is ended. The Bylaws then go to 3rd reading and become Law, unchallengeable fo 20 years.

Although I have not addressed all the possible discrepancies, the following changes are requested for the protection of the community:

- 1) Modify Area A and B outlines to include the water area in the west corner of B as part of Area A (ensure the boundaries of Area A are as in Exhibit 1).
- 2) Modify the maximum height of buildings and structures in Area A to 4m or 1 storey, whichever is less
- 3) Modify the permitted uses of Area A to include only
 - a. Boat launching facility
 - b. Marina use
- 4) Eliminate the allowance for a 0.0m setback from the sea in area B
- 5) Eliminate the permitted erection of wind turbines by removing the wording "wind turbines from 3.4.145.4: GENERAL REGULATIONS 7) Building Height b).
- 6) Change 7) b) iii) to:
 - iii) No such structure shall exceed 110% of the maximum building height permitted by the zone.

While it is important to keep the process moving along, it is even more important to ensure that the zoning approved by the RDN reflects the outcomes of the extensive consultation process conducted to date. It is the zoning Bylaw that will ultimately control what is built at Schooner Cove. The proposed draft zoning as provided by the developer to the RDN, goes way beyond what would be required to allow the developer reasonable flexibility in executing the latest proposals when it comes to Area A and the western corner of Area B.

Respectfully submitted

Nettie and William Kokura

Cc: planning@rdn.bc.ca
rtibbles@bentall.com
jstanhope@shaw.ca
Mat O'Halloran, Legislative co-ordinator
FCA

Lease No.:

100021

File No.: 0297600

Disposition No.: 145452

Exhibit 1) 4.128 ha. = 444,344.2 sq.ft. 10%= 44,433.4 sq. ft. X 3 =133,300 sq. ft.

Lease

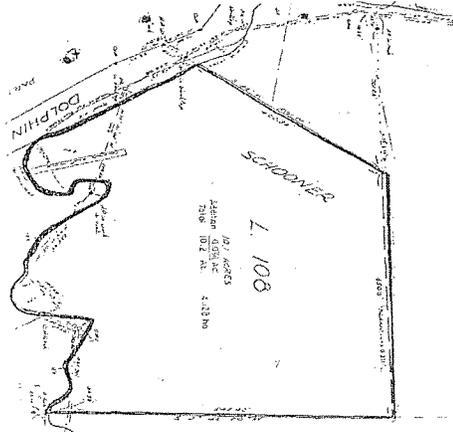
100021

File No.: 0297600

Disposition No.: 145452

LEGAL DESCRIPTION SCHEDULE

District Lot 108, Nanaimo District, containing 4.128 hectares more or less, shown outlined in bold on the sketch below.



MARINA & YC LEASE-U

Page 18 of _____

Exhibit 2)

- (iv) restore the surface of the Land as nearly as may reasonably be possible to the same condition as it was on the Commencement Date, to our satisfaction, but if you are not directed or permitted to remove an Improvement under paragraph (iii), this paragraph will not apply to that part of the surface of the Land on which that Improvement is located,

Exhibit 3)

2.1 On the terms and conditions set out in this Agreement, we grant you a lease of the Land for commercial marina purposes.

The Lessee will use the Land and the Improvements solely for the purpose of conducting the business of a marina, which may include the provision of the following services and facilities:

- (a) sale and distribution of petroleum products, boat charter service, boat rental service, operation of a café and grocery store ancillary to the marina facility;

and, the Lessee will not use or permit the Land and the Improvements, or any part of them, to be used for any other purpose.

Holm, Jeremy

From: harschnb <harschnb@telus.net>
Sent: Thursday, November 21, 2013 11:55 AM
To: George Holme
Cc: Holm, Jeremy; gathom@telus.net; Fenske@ekistics.ca; Russell Tibbles
Subject: Re: Draft zoning for Schooner Cove

Re: Follow-up to my zoning submission dated November 16th, 2013

Dear Mr. Holme:

While the proposed zoning caused me to question Fairwinds' motives, their response has been commendable. Russell Tibbles followed up promptly, and the phone meeting he scheduled would be best characterized as a sincere discussion focused on ensuring the requested zoning was modified to reasonably reflect the current Neighbourhood Plan that everyone has worked so hard on - no more, no less. Russell was very passionate about the proposed Neighbourhood Plan, and he showed a strong commitment to a development that reflected the results of the ongoing consultation process. His proposed modifications to the zoning differ slightly from my request, but do a good job of fulfilling the intent of aligning the documents, while allowing the normal flexibility required to move the development forward. I have also followed up with Jeremy Holm, and my understanding of the consensus position is that the zoning document will be modified as follows:

- 1) The application will be amended to re-align the Area A / Area B boundary of the Maximum Building Height Plan to match the sub-zoning area depicted on Schedule '2' of the Schooner Cove CD Zone. At the development stage, a Development Variance Permit will be required in order to allow the jib crane hoist within the Marina zone.
- 2) The application will be amended to reduce the building height in Area A to the current maximum permitted in the marina of 1 storey or 5m. In addition, the permitted total parcel coverage in the Marina sub-zone (A) will be cut in half to 5%, with no single building exceeding 1% parcel coverage.
- 3) I have no issue with the intent of allowing meeting space for groups such as Schooner Cove Yacht Club at their current "Afterdeck" building. Jeremy is to discuss the appropriate wording with Fairwinds based on their revised submission.
- 4) No change will be made to the proposed 0.0m setbacks in Area B. To implement the Neighbourhood Plan vision of a waterfront village, the CD Zone allows a limited amount of building footprint (35%) on the water's edge. In addition, a 0m setback for structures is required to enable the planned public waterfront boardwalk. I agree that this is consistent with the Neighbourhood Plan
- 5) The RDN has sustainability goals, including specific technologies such as wind turbines, and Jeremy will explore with Fairwinds the concept of removing Area A from this requirement.

Once incorporated into the zoning, these changes will fully address the concerns with the original proposal that my wife and I expressed in our submission of November 16, 2013. We really appreciate both Fairwinds' and the RDN's quick response in addressing this. I look forward to hearing how the modified zoning is progressing through the process.

Best Regards, Brian Harschnitz

Holm, Jeremy

From: Graham Marrion <marrion@telus.net>
Sent: Wednesday, November 20, 2013 2:54 PM
To: George Holme
Cc: Holm, Jeremy; rtibbles@bentall.com
Subject: Concerns - Schooner Cove Development Draft Bylaw
Attachments: Concerns - Draft Bylaw, Nov 20, 2013.pdf

Dear Mr. Holme,

Please find attached a letter from my wife and I outlining our concerns with the draft zoning Bylaw for Schooner Cove recently posted to the RDN website. Feel free to contact me if there is anything we can do to clarify or follow-up on our comments.

Thank-you,

Graham Marrion
250 468-9526

Graham and Trish Marrison
gmarriOn@telus.net

November 20, 2013

George Holme
Electoral Area E Director
gholme@shaw.ca

Dear Hr. Holme:

Re: Fairwinds Schooner Cove Development

My wife and I reside at 3496 Grilse Road, Nanoose Bay. We purchased our home in September 2012. Our intention is to reside here for many years with the thought of "aging in place". The property is located directly across the water from the marina in Schooner Cove. The primary factor in choosing to move to the area was the uniqueness of the cove. The quaint size, amazing vistas and the blending of residential and marina use into the natural landscape makes it a special place indeed. The possibility of the Fairwinds Schooner Cove Development was an added consideration which on a broad basis, we whole heartedly support.

The draft Regional District of Nanaimo Bylaw No. 500.385 (A Bylaw to Amend Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987) has recently come to our attention. Most concerning is the provision under the General Regulations, Section 7 Building Height, which provides for "Sustainable building technologies, such as wind turbines, solar panels " ... that can cover up to 20% of the parcel area and exceed up to twice the maximum building height. Potentially this means up to 20% of Parcel A (the marina water lot) could be covered with wind turbines or solar panels to a height of 22 metres (72 feet). The placement of such structures is totally inconsistent with the character of the neighbourhood. While the developer is unlikely to build such structures in the near term, the Bylaw as it is drafted does make the provision. We strongly urge the Regional District Board to remove that portion of the Bylaw so as to provide certainty for local residents. If and/or when there is an interest in building such structures, the appropriate planning process can be undertaken.

We have attended several meetings since moving to the area and this is the first occasion to hear of the provision. The Nanaimo Regional District should ensure that local residents who could be impacted are properly advised so their concerns can be noted. Additionally, the Bylaw provides for maximum building height of the lesser of 11 metres or 3 stories in Parcel A. Given the proximity to residents across the cove and the visual impact of a taller building, a maximum height of 2 stories would be more appropriate.

Thank-you for considering our comments and please feel free to contact us for further information.

Yours sincerely,



Graham and Trish Marrison

cc: jholm@nrd.bc.ca Jeremy Holm, Manager, Current Planning, NRD
rtibbles@bentall.com

Holm, Jeremy

From: Richard Schnuth <dschnuth@yahoo.com>
Sent: Friday, November 22, 2013 6:19 AM
To: George Holme
Cc: Holm, Jeremy
Subject: Schooner Cove Development Draft Bylaw

November 21, 2013

Please find this email written on behalf of myself and my wife. We reside at 3482 Grilse Road, Nanoose Bay. Our property faces directly onto Fairwinds Schooner Cove Marina. We have owned our property for several years and have watched, over the years, the decline of the adjacent Fairwinds Marina site. We have followed the process to arrive at the draft of the Regional District of Nanaimo Bylaw number 500.385. We feel that the overall project would be very beneficial to Schooner Cove and surrounding area, however, we feel that the wording of the proposed Bylaw for the marina portion CD45-MA should not be included with the other 2 parcels MU and RMO. We feel that the marina portion should have a building height restriction of one storey and no wind turbines or solar panels. CD45-MA should have the sole use as a marina. In reviewing the draft, it is noted that Dolphin Drive will be closed to vehicle traffic which we fully support. Unfortunately, we see, on the drawings, the roadway will be used for vehicle parking. We do not believe this should be permitted. It should be used for a public pedestrian walkway and park area only. We are very excited for this project to begin but we can only hope these changes can be implemented.

Thank you your attention to this matter and we hope these concerns will be met.

Sincerely,

Dwight and Joani Schnuth

3482 Grilse Road

Nanoose Bay, B.C.

Holm, Jeremy

From: harschnb <harschnb@telus.net>
Sent: Friday, November 22, 2013 7:51 AM
To: George Holme; Holm, Jeremy
Cc: gathom@telus.net; Fenske@ekistics.ca; Russell Tibbles
Subject: Re: Draft zoning for Schooner Cove

George / Jeremy - I have asked Russell to call me to help me understand this better as it is not intuitively obvious to me that if similar structures exist today, and the current zoning is 5m, why it needs to be 40% higher, at 7m for the new zoning. I sent my response to you and a number of the residents of Fairwinds (same distribution as my submission) early yesterday afternoon, after receiving Russell's letter specifying Fairwinds was supportive of 5m and talking to Jeremy, long before hearing about this issue. If the new draft zoning changes from the 5m, I owe it to myself, and the other residents I have been in contact with, to understand it well enough to be able to clearly explain it. Since the height ripples through to the other aspects such as footprint and uses, my earlier response to you may have been negated by this change - without more information I simply can't say one way or the other. I hope to hear from Russel soon, and will let you know what my position is on this as soon as practical after that, although I will be driving to Edmonton from 9:00 am Pacific to about 12:00 Pacific. If you need to reach me to discuss, my cell is (403) 803-0920.

Your understanding is appreciated, Brian

From: "Russell Tibbles" <RTibbles@Bentallkennedy.com>
To: "Brian Harschnitz" <harschnb@telus.net>
Cc: gholme@shaw.ca, jholm@rdn.bc.ca, gathom@telus.net, Fenske@ekistics.ca
Sent: Thursday, November 21, 2013 6:13:45 PM
Subject: RE: Draft zoning for Schooner Cove

Brian,

Further to my discussion with you of yesterday evening (followed by my letter), and your discussion with RDN of this morning, I have had the opportunity review this with my own team, as well as RDN staff today. We came to realize that, to facilitate both floating structures such as the afterdeck, as well as the proposed waterfront boardwalk, the height provision for area "A" (your item 2) should be as follows: "7.0m geodetic elevation or 1 storey, whichever is less, notwithstanding floating buildings and structures shall be measured from the surface of the water."

I hope this revision does not alter your view of the resolution, and I trust that you appreciate the delicate balance we are seeking to maintain, to ensure that the Schooner Cove Zone remains capable of enabling the vision in the Neighbourhood Plan.

Regards,

Russell

Russell Tibbles
Vice President, Development & Operations - Fairwinds

Bentall Kennedy (Canada) LP
3455 Fairwinds Drive | Nanoose Bay, BC V9P 9K6
Office: 250.339.1777 | Mobile: 250.898.4301 | Email: rtibbles@BentallKennedy.com

From: Tibbles, Russell
Sent: Wednesday, November 20, 2013 11:25 PM
To: Brian Harschnitz
Cc: gholme@shaw.ca; jholm@rdn.bc.ca; gathom@telus.net; Fenske@ekistics.ca
Subject: RE: Draft zoning for Schooner Cove

Brian,

Further to your letter, and the phone conversation of earlier this evening with you, Gerry Thompson and myself, please find attached our response. Should you have any concerns, please do not hesitate to contact me.

Regards,

Russell

Russell Tibbles
Vice President, Development & Operations - Fairwinds

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From: Brian Harschnitz [<mailto:harschnb@telus.net>]
Sent: Saturday, November 16, 2013 2:48 PM
To: gholme@shaw.ca
Cc: jholm@rdn.bc.ca; gathom@telus.net; dapatterson@shaw.ca; Tibbles, Russell; Fenske@ekistics.ca; cbrook@brookpooni.com
Subject: Draft zoning for Schooner Cove

Dear Mr. Holme. Please find attached a letter from my wife and I outlining our concerns with the draft zoning for Schooner Cove recently posted to the RDN website. Feel free to contact me by return email if there is anything we can do to clarify or follow-up on our comments, Brian and Karen Harschnitz

Please note that I have copied Jeremy Holm, the executive of the FCA, and key representatives of the developer on this note, and I am open to any comments or feedback they may have to offer.

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Holm, Jeremy

From: Holm, Jeremy
Sent: Friday, November 22, 2013 2:05 PM
To: Rowett, Lainya
Subject: FW: Re-Zoning Application: (BYLAW No. 500.384, et al): THE LAKES DISTRICT
Attachments: NanNats_Stewardship_Letter to RDN_Re-Zoning Applic_112213.pdf

From: Tony Ransom [<mailto:ahransom@gmail.com>]
Sent: Friday, November 22, 2013 11:29 AM
To: George Holme
Cc: Joe Stanhope; Holm, Jeremy; Garbutt, Geoff; fenske@ekistics.ca; Tibbles, Russell
Subject: Re-Zoning Application: (BYLAW No. 500.384, et al): THE LAKES DISTRICT

Dear George,

Please find attached a letter from the Nanoose Naturalists regarding the above. If you have not already done so, we urge that serious consideration be given to the matters raised in this letter. I realize that the approval process and drafting of the Phased Development Agreement are at an advanced stage. However, I sincerely hope that an effective enforcement process is included therein and remind you that this issue was brought to your attention back in June 2010.

Overall, we compliment all parties involved for the professional manner in which this development proposal has been handled and on the model design that is the result of their considerable efforts.

We look forward to being able to review the final PDA at or before the proposed public hearing next month.

Assuming final approval is given for the project, members of the Nanoose Naturalists will be willing to assist in any manner appropriate to ensure that the project is successfully implemented and monitored.

Kind regards,

Tony.

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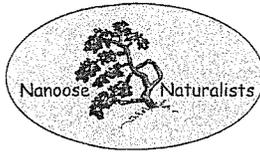
Tony Ransom

Past President and Chair (Stewardship Committee

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Nanoose Naturalists

- www.nanoosenaturalists.org



Nanoose Naturalists

www.nanoosenaturalists.org

Area E Director
RDN
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2

Sent by email: gholme@shaw.ca

November 22nd, 2013

Attention: George Holme

Dear George,

FAIRWINDS RE-ZONING APPLICATION (BYLAW No. 500.384, et al): THE LAKES DISTRICT

Over the past 5 years, the Nanoose Naturalists has written letters to the RDN and made submissions at various meetings regarding the Development Proposal by Fairwinds for The Lakes District, Nanoose Bay. This letter intends to summarize our position and remind the RDN of some of the issues and our remaining concerns.

Fundamentally, as naturalists and stewards of the environment, we would prefer the area remain pristine and no development take place. However, we recognize that the land is privately owned and is subject to an approved OCP and RGS. During the early stages of the planning process for the Neighbourhood Plan, we took an active role as a member of the CAG established by Fairwinds. We played a pivotal role, together with other members of the CAG and with the cooperation of the Fairwinds Development Team, in ensuring that the majority of the known sensitive ecosystems within the area fall under at least one form of protection and that wildlife corridors are relatively contiguous. We therefore support the Fairwinds Re-zoning Application.

Nanoose Naturalists fully embraces the Developer's stated *VISION: "Create (a vibrant new oceanfront village as the centrepiece to) sustainable residential neighbourhoods that respect and protect environmentally sensitive areas."*

If approved, the developers, with support from the RDN, will have the responsibility to implement the plan as designed and ensure that these sensitive ecosystems remain protected through appropriate covenants. If they succeed, this will be a model for future large-scale eco-friendly residential developments on the Island and indeed BC and Canada. The Lakes District in Fairwinds will surely become a most desirable place in which to reside.

However, we are deeply concerned, both during and after the implementation process, about what remedy exists should owners or contractors contravene the proposed covenants and seriously impact the areas to be protected. Particular reference is made to a letter/submission delivered to the RDN at the public hearing on June 28th, 2010, - items #6 and #7. An extract from this letter is included herewith.**

We urge you and the developers to draft into the Phased Development Agreement a comprehensive process whereby the **consequences of non-compliance with the covenants are fully defined** and that there is an **effective enforcement policy** in place that encourages compliance.

We would like to propose a “3 STRIKES AND YOU’RE OUT” approach for contractors and owners:

1. First violation: – heavy fine (say \$10,000);
2. Second Violation: – *very heavy FINE* (say, +\$50,000);
3. Third Violation: – BANNED from any future contracts in The Lakes District.

This may sound somewhat draconian – but past experience at Fairwinds demonstrates an unwillingness or inability to enforce the very covenants set by themselves. We believe it will only take one or two strict enforcements of the above proposal to ensure compliance with the rules.

Credit must be given to all those involved for a professionally designed development plan which, as it currently stands, we endorse. It would be sad to see Fairwinds’ *vision* fail because of an ineffective enforcement process.

Respectfully Submitted,

Tony Ransom

Stewardship Comm/Past President, Nanoose Naturalists.

ahransom@gmail.com

With copies to:

Joe Stanhope	RDN	jstanhope@shaw.ca
Jeremy Holm	RDN	jholm@rdn.bc.ca
Geoff Garbutt	RDN	ggarbutt@rdn.bc.ca
Paul Fenske	Ekistics	fenske@ekistics.ca
Russell Tibbles	Fairwinds/Bentall Kennedy	rtibbles@bentallkennedy.com

** Extract from above-referenced letter:

6. *Covenants, covering the buffer-zones within and between individual development property/lots and the boundaries of designated parklands, need to be carefully designed and an enforcement mechanism acceptable to the Community put in place. The Covenants should be supplemented by the requirement that Owners and Building Contractors (especially site-preparation contractors) make a SUBSTANTIAL cash security deposit against adherence to the Covenants - with a Zero-Tolerance PENALTY for violators.*
7. *Individual Building Permits should only be issued to each owner once a FINAL Building Envelope Plan has been approved. Such permit would require the owner (and their contractors) to adopt “minimum disturbance” or “Site Adaptive Design” practises taking the ecological characteristics of each site into consideration. A specific requirement before submitting a Building Envelope Plan would be that each property has an Arborist (or a similar qualified expert?) Report detailing the significant flora requiring protection. The Owner’s deposit referred to in #3 above would also cover this aspect of development and should be withheld until after final approved landscaping of each property. [Note: Covenants related to construction materials and building specifications are separate from these items]*

Holm, Jeremy

From: Virginia Jolley <gjindex@shaw.ca>
Sent: Monday, November 25, 2013 10:56 AM
To: George Holme; RTibbles@Bentallkennedy.com; Holm, Jeremy; Fenske@ekistics.ca; harschnb@telus.net; fwdscomm@shaw.ca
Subject: THANK YOU to all who helped resolve the Schooner Cove Draft Zoning Bylaw 500.385

To: George Holme
Russell Tibbles
Jeremy Holm
Paul Fenske
Brian Harschnitz
Gerry Thompson

Schooner Cove, the prime ocean front property in Fairwinds, is in my opinion the jewel of the Fairwinds community. For that reason it is important that future development provides attractive waterfront amenities that can be enjoyed by the whole community. It is important that we get it right, and most Fairwinds residents believed the Schooner Cove Neighbourhood Plan did just that.

Therefore, I was alarmed to learn about the discrepancies between the proposed draft zoning bylaw and the Neighbourhood Plan, approved as recently as last September. For most of us, it was not a specific concern about wind turbines as suggested by the FCA email, but rather the size and location of buildings in relation to the shoreline.

Except for the 20 year moratorium, which I continue to question, last week's negotiations quickly resolved most of the concerns. I want to thank the key participants in the emails and phone consultations between Fairwinds, RDN, and residents, which resulted in Mr. Tibbles' email entitled, "Schooner Cove Zoning Amendment Application". I believe we are back on track and I look forward to an ocean front development everyone can enjoy?

Sincerely,
Virginia Jolley
Fairwinds resident

Sent from my iPad