

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA SERVICES COMMITTEE
AGENDA

Tuesday, May 8, 2018

1:30 P.M.

RDN Board Chambers

This meeting will be recorded

Pages

1. CALL TO ORDER
2. APPROVAL OF THE AGENDA
3. ADOPTION OF MINUTES
 - 3.1 Electoral Area Services Committee Meeting - April 10, 2018 5
That the minutes of the Electoral Area Services Committee meeting held April 10, 2018, be adopted.
4. DELEGATIONS
 - 4.1 Sharon Sedola, re Noise Bylaw in Electoral Area 'E' 8
5. CORRESPONDENCE
6. UNFINISHED BUSINESS
7. COMMITTEE MINUTES
That the following minutes be received for information:
 - 7.1 Electoral Area 'B' Parks and Open Space Advisory Committee - April 9, 2018 9
 - 7.2 Electoral Area 'F' Parks and Open Space Advisory Committee - March 21, 2018 11
 - 7.3 Electoral Area 'G' Parks and Open Space Advisory Committee - March 14, 2018 14

8. COMMITTEE RECOMMENDATIONS

8.1 Electoral Area 'B' Parks and Open Space Advisory Committee

- 8.1.1 Cox Community Park Trails** 17
Please note: Committee recommendation came from Business Arising from Correspondence

That staff be directed to work with Gabriola Lands and Trail Trust and to establish trails in the west section of Cox Community Park.

- 8.1.2 Huxley Community Park Phase 2 Construction Drawings** 20

- 1. That up to \$75,000 of Electoral Area 'B' Community Works Funds be allocated for Huxley Community Park Phase 2 Construction Drawings.
- 2. That the Gabriola Skatepark Preferred Conceptual Plan be approved.
- 3. That up to \$10,000 of Electoral Area 'B' Community Works Funds be allocated for placement of pickleball court lines at the sport court at Huxley Community Park.

8.2 Electoral Area 'F' Parks and Open Space Advisory Committee

- 8.2.1 Signage Strategy for Community Parks and Trails - Electoral Area 'F' Review** 42

That Malcom Community Park be the pilot park for the new signage.

8.3 Electoral Area 'G' Parks and Open Space Advisory Committee

- 8.3.1 Signage Strategy for Community Parks and Trails – Electoral Area 'G' Review** 47

That the pilot park for new signage for Electoral Area 'G' be Maple Lane Community Park and Stanhope Trail.

- 8.3.2 Maple Lane Park**
Please note: Committee recommendation has no accompanying staff report

That staff develop a plan and short term costs for Maple Lane Community Park and add it to the priorities for the Five Year Plan for Electoral Area 'G' Community Parks.

9. PLANNING

9.1 Development Variance Permit

9.1.1 Development Variance Permit Application No. PL2018-001 - 3672 Horne Lake Caves Road, Electoral Area 'H' 52

1. That the Board approve Development Variance Permit No. PL2018-001 to increase the maximum floor area on a single storey of a recreational residence from 70 m² to 95 m² subject to the terms and conditions outlined in Attachment 2 to 4.

2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2018-001.

9.2 Development Variance Permit and Request for Frontage Relaxation

9.2.1 Development Variance Permit Application No. PL2017-153 and Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement in Relation to Subdivision Application No. PL2017-151 - 2120 and 2130 Sherritt Drive, Electoral Area 'E' 62

1. That the Board approve the request to relax the minimum 10% perimeter frontage requirements for proposed Lots 1 and 2 in relation to Subdivision Application PL2017-151, subject to the terms and conditions outlined in Attachments 2 and 3.

2. That the Board approve Development Variance Permit No. PL2017-153 to increase the permitted parcel depth of proposed Lots 1 and 2 subject to the terms and conditions outlined in Attachment 2 to 3.

3. That the Board direct staff to complete the required notification for the Development Variance Permit No. PL2017-153.

9.3 Other

9.3.1 Non-medical Cannabis Retail Store Licence Applications Policy 69

That the Board adopt Regional District of Nanaimo Policy B1.24 Non-medical Cannabis Retail Store Licence Applications.

9.3.2 Liquor Licence Amendment Application No. PL2018-040 - 395 and 403 Lowry's Road, Electoral Area 'G' 143

1. That the Board consider submissions or comments from the public regarding Liquor Licence Amendment Application No. PL2018-040.

2. That the Board adopt the resolution pertaining to Liquor Licence Amendment Application No. PL2018-040 attached to this report as Attachment 2.

10. BUILDING INSPECTION

10.1 Building Permit Activity – First Quarter 2018 150

That the report Building Permit Activity – First Quarter 2018 be received for information.

11. BUSINESS ARISING FROM DELEGATIONS

12. NEW BUSINESS

12.1 Directors' Forum

12.1.1 Planning

12.1.2 Community Parks

12.1.3 Emergency Preparedness

12.1.4 Fire Protection

12.1.5 Bylaw Enforcement

12.1.6 Building Inspection

12.1.7 Other Electoral Area Matters

13. ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE ELECTORAL AREA SERVICES COMMITTEE MEETING

Tuesday, April 10, 2018

1:30 P.M.

RDN Board Chambers

In Attendance:	Director J. Stanhope	Chair
	Director A. McPherson	Electoral Area A
	Director M. Young	Electoral Area C
	Director B. Rogers	Electoral Area E
	Director J. Fell	Electoral Area F
	Director W. Veenhof	Electoral Area H
Regrets:	Director H. Houle	Electoral Area B
Also in Attendance:	P. Carlyle	Chief Administrative Officer
	R. Alexander	Gen. Mgr. Regional & Community Utilities
	G. Garbutt	Gen. Mgr. Strategic & Community Development
	T. Osborne	Gen. Mgr. Recreation & Parks
	D. Wells	Gen. Mgr. Corporate Services
	W. Idema	Director of Finance
	D. Pearce	Director of Transportation & Emergency Services
	J. Hill	Mgr. Administrative Services
	J. Holm	Mgr. Current Planning
	T. Mayea	Legislative Coordinator
	B. Ritter	Recording Secretary

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting took place.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as presented.

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES

Electoral Area Services Committee Meeting - March 13, 2018

It was moved and seconded that the minutes of the Electoral Area Services Committee meeting held March 13, 2018, be adopted.

CARRIED UNANIMOUSLY

DELEGATIONS

Ian Lawrie and Sarah Shipp, re Electoral Area 'A' - Driftwood Road Beach Access Improvements

Ian Lawrie and Gordon Houston spoke in opposition of the installation of additional parking spaces at the Driftwood Road beach access trail improvement site.

CORRESPONDENCE

The following correspondence was received for information:

Daniel and Patricia Johnston, re Electoral Area 'A' – Driftwood Road Beach Access Improvements

COMMITTEE MINUTES

It was moved and seconded that the following minutes be received for information:

Electoral Area 'H' Parks and Open Space Advisory Committee - February 28, 2018

Electoral Area 'A' Parks, Recreation and Culture Commission - February 21, 2018

CARRIED UNANIMOUSLY

COMMITTEE RECOMMENDATIONS

Electoral Area 'H' Parks and Open Space Advisory Committee

Signage Strategy for Community Parks and Trails

It was moved and seconded that the pilot park for new signage within Electoral Area 'H' be the Wildwood Community Park.

CARRIED UNANIMOUSLY

Electoral Area 'A' Parks, Recreation and Culture Commission

Glynneath Road Community Park - Tree Root Rot

It was moved and seconded that Glynneath Road Community Park be kept in a natural state and invasive plants be managed as needed.

CARRIED UNANIMOUSLY

PLANNING

Zoning Amendment

Zoning Amendment Application No. PL2017-130 - 575 Horne Lake Road, Electoral Area 'H' - Amendment Bylaw 500.416, 2018 - First and Second Reading

It was moved and seconded that Zoning Amendment Application No. PL2017-130 - 575 Horne Lake Road, Electoral Area 'H', be rejected.

CARRIED UNANIMOUSLY

COMMUNITY PARKS

Dunsmuir Community Park Phase 1 Construction

It was moved and seconded that the Preferred Conceptual Plan for Dunsmuir Community Park be approved.

CARRIED UNANIMOUSLY

It was moved and seconded that up to \$100,000 be allocated from the Electoral Area 'H' Community Works Funds for the Dunsmuir Community Park Phase 1 Development.

CARRIED UNANIMOUSLY

It was moved and seconded that staff proceed with tendering Phase 1 of Dunsmuir Community Park.

CARRIED UNANIMOUSLY

Electoral Area 'A' – Driftwood Road Beach Access Improvements

It was moved and seconded that staff proceed with the final design, permitting and construction of the Driftwood Road beach access trail improvements in 2018 and not plan for additional parking at this time.

CARRIED UNANIMOUSLY

EMERGENCY PREPAREDNESS

Neighbourhood Emergency Preparedness Program Update

It was moved and seconded that the Neighbourhood Emergency Preparedness Program Update Report be received for information.

CARRIED UNANIMOUSLY

NEW BUSINESS

Directors' Forum

The Directors' Forum included discussions related to Electoral Area matters.

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 2:06 PM

CHAIR

CORPORATE OFFICER

Delegation: Sharon Sedola, re Noise Bylaw in Electoral Area 'E'

Summary: An oral presentation will be provided supporting a request for a no-construction noise bylaw for Nanoose.

Action Requested: Requesting a no-construction noise bylaw for Sundays only for residents of Nanoose.

REGIONAL DISTRICT OF NANAIMO**MINUTES OF THE ELECTORAL AREA 'B' PARKS AND OPEN SPACE ADVISORY COMMITTEE MEETING****Monday, April 9, 2018****7:00 P.M.****Gabriola Arts Centre**

In Attendance:	Director H. Houle	Chair
	G. Borsuk	Member at Large
	R. Brockley	Member at Large
	K. Clifford	Member at Large
	T. Gambrill	Member at Large
	D. Kilbourn	Member, Gabriola Recreation Society
	C. McMahon	Member at Large

Also in Attendance:	E. McCulloch	Parks Planner
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CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting takes place.

INTRODUCTION OF NEW MEMBERS

The Chair welcomed and introduced new members C. McMahon and T. Gambrill.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as presented.

CARRIED UNANIMOUSLY

ELECTION OF SECRETARY

The Chair called for nominations for the position of Secretary.

D. Kilbourn was nominated for the position of Secretary.

D. Kilbourn accepted the nomination.

There being no further nominations, the Chair declared D. Kilbourn elected by acclamation as Secretary for 2018.

ADOPTION OF MINUTES**Electoral Area 'B' Parks and Open Space Advisory Committee Meeting - November 20, 2017**

It was moved and seconded that the minutes of the Electoral Area 'B' Parks and Open Space Advisory Committee meeting held November 20, 2017, be adopted.

CARRIED UNANIMOUSLY

CORRESPONDENCE

It was moved and seconded that the following Correspondence be received for information:

Gabriola Lands & Trails Trust to Electoral Area 'B' Parks and Open Space Advisory Committee, re: Cox Community Park and Descanso Bay Regional Park Trail Proposal.

CARRIED UNANIMOUSLY

It was moved and seconded that staff be directed to work with Gabriola Lands and Trail Trust and to establish trails in the west section of Cox Community Park.

CARRIED UNANIMOUSLY

REPORTS

Parks Update Report - Fall 2017

It was moved and seconded that the Parks Update Report - Fall 2017 be received for information.

CARRIED UNANIMOUSLY

Huxley Community Park Phase 2 Construction Drawings

It was moved and seconded that up to \$75,000 of Electoral Area 'B' Community Works Funds be allocated for Huxley Community Park Phase 2 Construction Drawings.

CARRIED UNANIMOUSLY

It was moved and seconded that the Gabriola Skatepark Preferred Conceptual Plan be approved.

CARRIED UNANIMOUSLY

It was moved and seconded that up to \$10,000 of Electoral Area 'B' Community Works Funds be allocated for placement of pickleball court lines at the sport court at Huxley Community Park.

CARRIED UNANIMOUSLY

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 8:30 PM

CHAIR

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE ELECTORAL AREA 'F' PARKS AND OPEN SPACE ADVISORY COMMITTEE MEETING
OF THE REGIONAL DISTRICT OF NANAIMO

Wednesday, March 21, 2018
7:00 P.M.
Annex Building (Coombs Fairground)

In Attendance:	Director J. Fell	Chair
	A. Dunn	Member at Large
	K. Kril	Member at Large
	R. Nosworthy	Member at Large
	R. Shackleton	Member at Large
	B. Smith	Member at Large
Also in Attendance:	R. Lussier	Parks Planner

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting takes place.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as amended with the addition of Trail Development to New Business.

CARRIED UNANIMOUSLY

ELECTION OF SECRETARY

The Chair called for nominations for the position of Secretary.

B. Smith was nominated for the position of Secretary.

B. Smith accepted the nomination.

There being no further nominations, the Chair declared B. Smith elected by acclamation as Secretary for 2018.

ADOPTION OF MINUTES

Electoral Area 'F' Parks and Open Space Advisory Committee Meeting - October 11, 2017

It was moved and seconded that the minutes of the Electoral Area 'F' Parks and Open Space Advisory Committee meeting held October 11, 2017, be adopted with the deletion of the reference to Benson Creek Park on page 2.

CARRIED UNANIMOUSLY

CORRESPONDENCE

The request contained in the letter from A. Jablonski, Corcan Meadowood Residents' Association was that the proposed Meadowood Community Hall be constructed and open by the end of 2018. The Hall is a project worked on from staff from the Recreation and Parks Department but details on the project are not yet available. The suggestion is that further enquiries on the timeline be brought up to the Recreation Commission. R Nosworthy will pursue this.

It was moved and seconded that the following correspondence be received:

A. Jablonski, Corcan Meadowood Residents' Association to T. Osborne, Regional District of Nanaimo, re: Community Hall

CARRIED UNANIMOUSLY

REPORTS

Parks Update Report – Fall 2017

It was moved and seconded that the Parks Update Report - Fall 2017 be received for information.

CARRIED UNANIMOUSLY

NEW BUSINESS

Sign Strategy for Community Parks and Trails Review

R. Lussier reviewed the various types of signs proposed for the parks. Chair Fell advised that the Board wished to “tone down” the negative signage. The recommendation is that all of the signage have a similar vocabulary so that the signs are instantly recognizable as RDN ones. The different signs for identification, entrance, welcome, trail head, directional, interpretative, regulatory and safety were displayed on the wall with favourable feedback.

The committee discussed the signage for Area F and R. Lussier answered their questions.

It was moved and seconded that Malcom Community Park be the pilot park for the new signage.

CARRIED UNANIMOUSLY

Errington Community Park - Preliminary Concept Plan

The preliminary Master Plan design was developed as a result of three community meetings and very positive feedback from the participants. The overall plan will be tweaked. The major element is the bike park – jump line, technical trail and a pump track. In addition the diagram included a parkour design using local product/wood. The cost of the development is a concern but there are opportunities to partner with groups and share costs.

Trail Development

B. Smith advised that she was trying to connect Malcolm Community Park to Tralee logging road and Carson Road through Woodlot 97. It was suggested that she contact the woodlot manager to discuss trail siting.

R. Nosworthy discussed the east west trail system with the aid of the Community Parks & Trails Strategy Final Concept Plan Map 2: Electoral Area F East. East west connecting trails were reviewed. Specifically, the Palmer Road East Gazetted Road to Station Road was identified as a trail that needs to be included in the 5 year Plan.

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 8:28 PM

CHAIR

REGIONAL DISTRICT OF NANAIMO**MINUTES OF THE ELECTORAL AREA 'G' PARKS AND OPEN SPACE ADVISORY COMMITTEE MEETING****Wednesday, March 14, 2018****4:00 P.M.****Oceanside Place**

In Attendance:	Director J. Stanhope	Chair
	R. Alexander	Member at Large
	B. Coath	Member at Large
	M. Foster	Member at Large
	T. Malyk	Member at Large
	D. Round	Member at Large
Regrets:	J. Dean	Member at Large
Also in Attendance:	M. Dobbs	Superintendent, Park Operations & Capital Projects
	R. Lussier	Parks Planner
	A. Harvey	Recording Secretary

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting took place.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as amended to include Maple Lane Park, comments from the gallery, Area G Recreation Council under New Business, and to go In Camera to discuss land issues.

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES**Electoral Area 'G' Parks and Open Space Advisory Committee Meeting - November 1, 2017**

It was moved and seconded that the minutes of the Electoral Area 'G' Parks and Open Space Advisory Committee meeting held November 1, 2017 be adopted.

CARRIED UNANIMOUSLY

UNFINISHED BUSINESS

Little Qualicum Hall Update

It was moved and seconded that the Little Qualicum Hall Update report be received for information.

CARRIED UNANIMOUSLY

It was moved and seconded that Option 2 - Life Safety and Accessibility – be pursued from the Little Qualicum Hall Update report, for urgent repairs to address occupant safety and accessibility sufficient to reopen Little Qualicum Hall.

CARRIED UNANIMOUSLY

REPORTS

Parks Update Report – Fall 2017

R. Lussier answer questions from the Committee members about the report.

It was moved and seconded that the Parks Update Report - Fall 2017 be received for information.

CARRIED UNANIMOUSLY

NEW BUSINESS

Signage Strategy for Community Parks and Trails – Electoral Area 'G' Review

The Committee members discussed the sign samples and R. Lussier answered their questions. They expressed their concerns for the small size and colour of some of the post signs.

It was moved and seconded that the Signage Strategy for Community Parks and Trails – Electoral Area 'G' Review report be received for information.

CARRIED UNANIMOUSLY

It was moved and seconded that the pilot park for new signage for Electoral Area 'G' be Maple Lane Community Park and Stanhope Trail.

CARRIED UNANIMOUSLY

Maple Lane Park

R. Alexander told the Committee about the state of Maple Lane Park and what the San Pareil-Shorewood Owners and Residents Association (SPORA) would like to see upgraded in phases. He asked that the Committee consider adding this park upgrade to the Five Year Electoral Area 'G' Community Park Plan.

It was moved and seconded that staff develop a plan and short term costs for Maple Lane Community Park and add it to the priorities for the Five Year Plan for Electoral Area 'G' Community Parks.

CARRIED UNANIMOUSLY

Comments from Gallery

The Committee received commentary from the gallery.

Area G Recreation Council Account

B. Coath told the Committee about the Area 'G' Recreation Council that was the committee prior to the POSAC being created. There is an account at Coastal Community Credit Union from the Council that still has about \$1,300 in it. The second signer on the account is deceased and in order to access and transfer the funds to the Electoral Area 'G' POSAC, someone from the POSAC needs to be assigned as a signatory.

It was moved and seconded that Jackie Thompson be removed as a signatory on the Area G Recreation Council Coastal Community Credit Union account and Duane Round be assigned as the second signatory.

CARRIED UNANIMOUSLY

IN CAMERA

It was moved and seconded that pursuant to Section 90(1) (e) of the *Community Charter* the Committee proceed to an In Camera Committee meeting to consider items related to land issues.

CARRIED UNANIMOUSLY

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 5:09 PM

CHAIR



Cox Community Park and Descanso Bay Regional Park Trail Proposal

Submitted to Parks and Open Space Advisory Committee (Electoral Area B)

by

Gabriola Land and Trails Trust

Background

The Regional District of Nanaimo (RDN) purchased the lands now known as Cox Community Park in 2002 on behalf of the residents of Electoral Area B (Gabriola, Mudge, and De Courcy Islands). The eastern portion of the park (east of Taylor Bay Road) had several pre-existing trails, and these trails were soon supplemented by the construction of a new trail to River Place on the eastern park boundary and a new trail approximately parallel with Taylor Bay Road to link the two west-side entrances to the park. The latter trail was the inaugural trail project of the newly formed Gabriola Land and Trails Trust (GaLTT). A proposal for a new trail in Cox Community Park was submitted by GaLTT to the Parks and Open Space Advisory Committee (POSAC) in early 2014, and it was subsequently approved by the RDN. The new “Mallett Creek” trail was located, marked, and built by GaLTT volunteers and provides walking access to the formerly inaccessible southeastern portion of the park. It has become a very popular walking loop within the park.

There are currently no trails in the approximately 11 ha (27-acre) western portion of Cox Community Park (west of Taylor Bay Road and north of McConvey Road), nor is there suitable linkage between the existing trails in Cox Community Park and the adjacent Descanso Bay Regional Park.

GaLTT proposes a two-phase trail project within Cox Community Park and Descanso Bay Regional Park to address these two issues.

Objectives

GaLTT was formed in 2004 with the stated purpose: “... to secure, develop, and sustain a network of parkland and trails on Gabriola Island for the benefit of the public...”. The objectives of this proposal are consistent with that purpose. Specifically, the objectives are to:

1. To provide public trail access to the western portion of Cox Community Park.
2. To provide a direct link between existing trails in Cox Community Park and Descanso Bay Regional Park.

3. To provide a new, ~ 1.7 km loop trail route in Cox Community Park and Descanso Bay Regional Park.

Project Details

GaLTT proposes a two-phase project to achieve the objectives.

In Phase 1 (solid red line in Figure 1), a new trail (~ 1.0 km in length) will be constructed in the 11-ha western portion of Cox Community Park. The new trail will intersect Taylor Bay Road opposite an existing trail in the eastern portion of the park. The selected route meanders over well-drained and gently sloping terrain in a westerly direction, keeping mainly to areas of lower tree density, minimal deadfall, and sparse ground vegetation. No cutting of standing trees will be required to construct the trail. The selected route makes use of several small, unauthorized trails previously established by unknown users. The trail route eventually turns southward and intersects McConvey Road opposite an existing trail that leads down the cliffside into the campground in Descanso Bay Regional Park and campground. The Phase 1 trail will be constructed to a standard suitable for bicycles and pedestrians with moderate mobility.

Upon completion of Phase 1, users exiting the new trail at McConvey Road may proceed down the existing “cliff trail” and continue through the campsite, exiting at Taylor Bay Road opposite the main entrance to Cox Community Park. Upon exiting the campsite, users may continue into Cox Community Park via the signed main park entrance and select one of several route options.



In Phase 2 (dotted green line in Figure 1), a new trail (~ 0.7 km in length) will be constructed in Descanso Bay Regional Park, beginning at the foot of the existing “cliff trail” from McConvey Road, and ending near the intersection of McConvey Road and Taylor Bay Road. The proposed route follows a slightly elevated path along the base of the escarpment south of McConvey Road to avoid any negative impact to the wetter and more ecologically fragile lowland (western redcedar, sword fern, salal) beside Winthuysen Creek. Due to the slightly rougher terrain (i.e., steeper grade and rockier ground), the Phase 2 trail will be more challenging and thus may not be suitable for bicycles or for pedestrians with limited mobility. Upon exiting the trail at McConvey Road, users may continue into Cox Community Park via the most northern of the two main park entrances on Taylor Bay Road.

Timeline

Phase 1 – completion in 2018, following recommended approval by POSAC and final approval by the Regional District of Nanaimo.

Phase 2 – completion in 2019, following consultation with, and approvals from, appropriate governing bodies and groups (e.g., Streamkeepers) to ensure adequate protection of the Winthuysen Creek ecosystem.

Responsibilities

Gabriola Land and Trails Trust – identify and mark proposed routes; ensure consultation with, and approvals from, appropriate agencies and groups; trail construction with GaLTT volunteers; installation of posts and signage.

Regional District of Nanaimo – project approval; provision of posts and signage; GPS mapping.

TO: Electoral Area 'B' Parks and Open Space Advisory Committee **MEETING:** April 9, 2018

FROM: Elaine McCulloch, Parks Planner **FILE:** 2018-030

SUBJECT: Huxley Community Park Phase 2 Construction Drawings

RECOMMENDATIONS

1. That up to \$75,000 of Electoral Area 'B' Community Works Funds be allocated for Huxley Community Park Phase 2 Construction Drawings.
2. That the Gabriola Skatepark Preferred Conceptual Plan be approved.
3. That up to \$10,000 of Electoral Area 'B' Community Works Funds be allocated for placement of pickleball court lines at the sport court at Huxley Community Park.

SUMMARY

The Huxley Community Park Master Plan (2015) identifies a series of park improvements which are to be implemented through a phased approach as funding becomes available. Phase 1 park improvements were recently completed in 2017 and planning for Phase 2 is underway. Phase 2 improvements will include a new skatepark, park entrance, and parking lot.

The Preferred Conceptual Plan for the Skatepark is now complete and the next step is to develop Phase 2 Construction drawings and project costing that will further assist with budget planning and future grant application purposes. In order to proceed with Phase 2 Construction drawings, up to \$75,000 from Electoral Area 'B' Community Works Funds is required.

In addition to advancing the above construction drawings, it has been requested that pickle ball lines be added to the sport court which are estimated to cost up to \$10,000. These works can also be funded through Electoral Area 'B' Community Works Funds.

BACKGROUND

Huxley Community Park was acquired by the Regional District of Nanaimo in 2011 and a Master Planning process for Huxley Community Park was completed in 2015 (Attachment 1). The Park Master Plan identifies a series of park improvements including upgrades to the existing volunteer-built tennis and sports courts as well as a new playground, skatepark, parking lot/park entrance, bleachers and plaza. Park improvements are to be implemented through a phased approach as funding becomes available.

Phase 1 improvements were completed in 2017 and include a new playground, tennis court resurfacing, and new dashboards for the sports court. Final Phase 1 construction costs were \$369,321. Phase 1 funding sources included \$67,000 from grants, \$219,000 from the EA 'B' Community Works Fund,

\$26,193 in community donations, with the remainder being funded through Electoral Area 'B' Community Parks Capital Reserves and Operations.

Phase 2 improvements are identified in the work plan for 2020 and will include a new concrete, cast-in-place, 762 sq.m. skatepark as well as a new park entrance, parking lot and pedestrian path connections into the park. The first step towards Phase 2 planning was to complete a detailed conceptual plan for the skatepark. At the April 28, 2015 Regional District of Nanaimo Board meeting, the following motion was passed.

That staff be directed to commence the detailed concept plan and costing for the Skate Park and Flow Trail elements at Huxley Park.

In January 2017, a consultation team specializing in the design and construction of skateparks was retained by the Regional District of Nanaimo to develop a conceptual design and cost estimate for the Gabriola Skatepark. New Line Skateparks Inc. and RDN Parks staff held two design workshops in the community. Participants were invited to provide input on design elements for the skatepark and to provide feedback on an initial conceptual skatepark design (Attachment 2). A central theme that emerged through community consultation was a desire for the skatepark to be unique. As a result, it has been designed to be primarily "transition style" with some "street style" elements thereby differentiating it from other skateparks in the Nanaimo area. It is designed for beginner to intermediate skill levels. The final conceptual design for the skatepark reflects the feedback received from the community with an estimated construction cost \$360,000 however, due to increasing construction costs, it is anticipated that 2020 construction costs will be approximately \$420,000 (Attachment 3).

The next step towards Phase 2 planning is to proceed with the Huxley Community Park Phase 2 Construction Drawings and the development of project cost estimates. Detailed design development will also include the submission of a Setback Variance Permit application to the Islands Trust requesting a relaxation of the current 6m side yard setback along the eastern property line adjacent to the skatepark.

In addition to advancing the above construction drawings, it has been requested that pickle ball lines be added to the sport court which are estimated to cost up to \$10,000. These works can also be funded through Electoral Area 'B' Community Works Funds.

ALTERNATIVES

1. That the Gabriola Skatepark Preferred Conceptual Plan be approved and that up to \$75,000 be allocated from the Electoral Area 'B' Community Works Funds for Huxley Community Park Phase 2 Construction Drawings and up to \$10,000 for the placement of pickle ball lines at the sport court.
2. That the Gabriola Skatepark Preferred Conceptual Plan be approved and the development of construction drawings for Huxley Community Park Phase 2 and the placement of pickle ball lines at the sport court be deferred until an alternate source of funds in the amount of \$85,000 is secured to undertake these project elements.
3. That alternative direction be provided.

FINANCIAL IMPLICATIONS

The estimated cost for Huxley Community Park Phase 2 Construction Drawings is \$75,000. The funds are not available in the 2018 Electoral Area 'B' Community Parks Budget. In order to proceed with Phase 2 planning, \$75,000 from the Electoral Area 'B' Community Works Funds is required.

Currently there is \$811,000 in Electoral Area 'B' Community Works Funds of which \$111,000 remains uncommitted and can be accessed to further this initiative.

Huxley Community Park Phase 2 project cost estimates will be provided once construction drawings are complete. Phase 2 project construction funding is not identified in the Five Year Financial Plan, however it is anticipated that the local community will contribute up to \$72,000 towards the construction of the skatepark. At this time it is anticipated the remaining Phase 2 project costs are to be funded by the Electoral Area 'B' Community Works Funds and applicable government grants. Once detailed costing has been completed, the findings will be further reviewed and incorporated into the Five Year Financial Plan (2019-2014) for Electoral Area 'B' Community Parks.

It has been the RDN's experience that with detailed construction drawings and project costing in place there is a higher chance of successfully obtaining grants with "shovel ready" projects.

Prior to the completion of Phase 1 improvements Huxley Community Park received minimal maintenance and had a yearly maintenance cost of \$3,750. With the addition of the new playground combined with increased park usage and higher maintenance expectations from user groups the estimated yearly maintenance costs is currently \$11,500. Once Phase 2 is complete, the estimated yearly maintenance costs for the improved park facility is \$18,850 which includes increased regular maintenance services, garbage pick-up services, porta-potty services, power washing as well as specialty maintenance for the skatepark. Park Operations staff hours would be approximately 84 hrs (12 days) per year and would involve playground inspections (every 90 days), regular park inspections and minor maintenance (weekly).

STRATEGIC PLAN IMPLICATIONS

The Strategic Plan 2016-2020 identifies a focus on Service and Organizational Excellence and through the development of Huxley Community Park, the RDN will provide a critical recreational amenity for the residents of Electoral Area B.



Elaine McCulloch
emcculloch@rdn.bc.ca
March 23, 2018

Reviewed by:

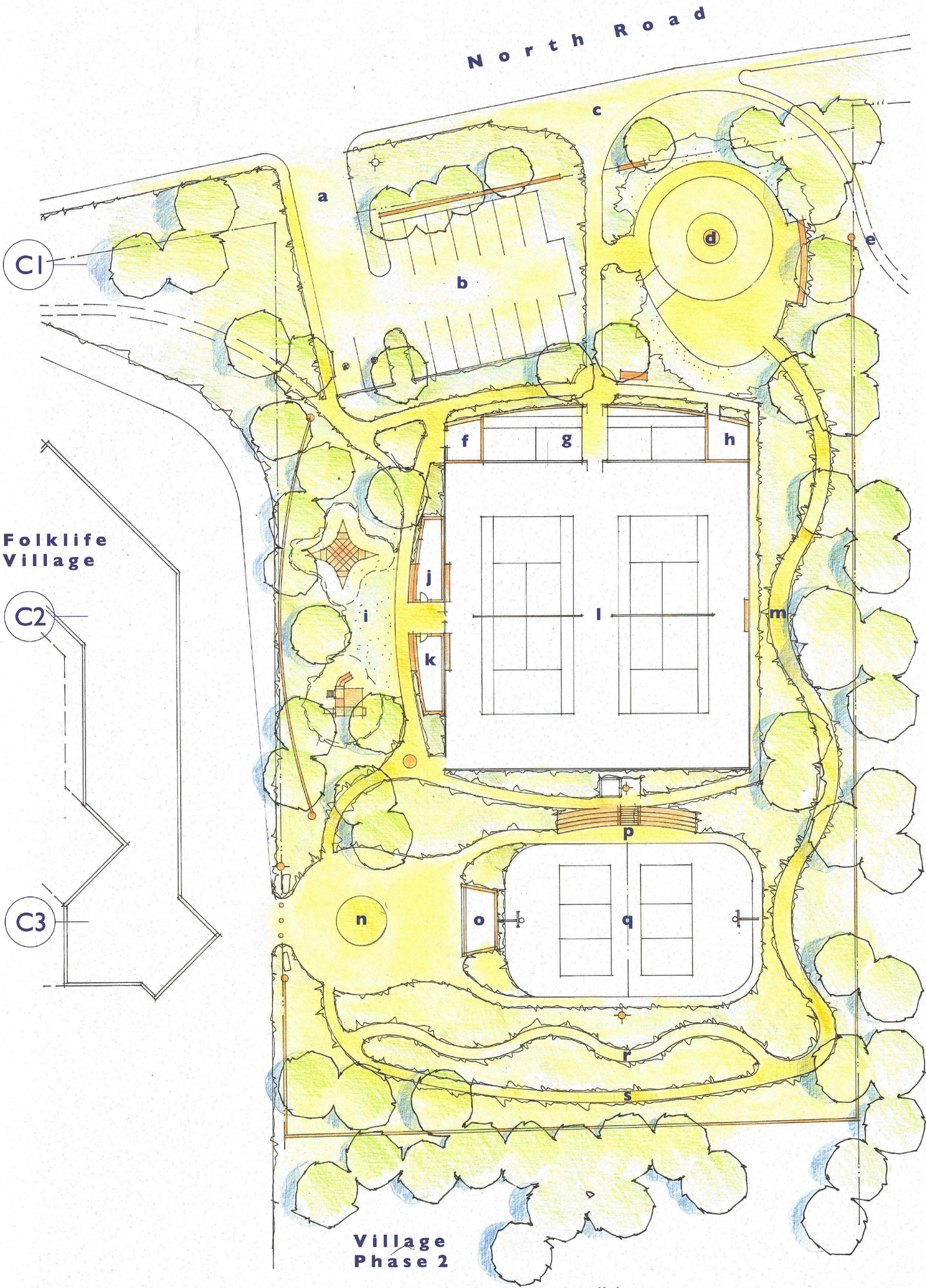
- W. Marshall , Manager, Parks Services
- W. Idema, Director of Finance
- T. Osborne, General Manager, Recreation and Parks
- P. Carlyle, Chief Administrative Officer

Attachments

1. Huxley Community Park Master Plan (2015)
2. Gabriola Skatepark Summary of Community Consultation
3. Gabriola Skatepark Preferred Concept Plan

**ATTACHMENT 1
Huxley Community Park
Master Plan (2015)**

North Road



Gabriola Commons

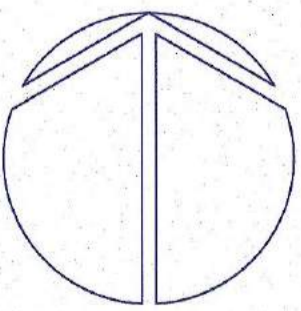
Key

- a Vehicle Entranceway
- b Parking
- c Gertie Stop
- d Skate Bowl
- e Commons Pathway
- f Washroom
- g Tennis Practice Courts
- h Park Storage
- i Play Environment
- j Recreation Office
- k Park Storage
- l Tennis Courts
- m Flow Path
- n Huxley Plaza
- o Open Stage
- p Bleachers
- q Sport Court
- r Bump Path
- s Glide Path

Folklife Village

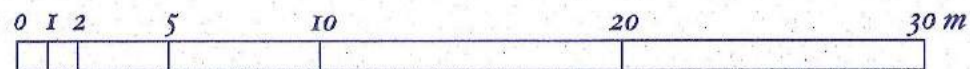
Village Phase 2

March 12, 2015
 September 20, 2014 / conceptual plan C
 July 7, 2014 / parks & open space advisory committee
 March 24, 2014 / open house plan A & B
 February 20, 2014 / parks & open space advisory committee



Huxley
 Community Park

Regional District of Nanaimo **Recreation & Parks**
 North Road Gabriola Island BC



Preferred Concept Plan
 Scale 1:250

TOPOGRAPHICS
 landscape architecture
 250 247 9720

ATTACHMENT 2
Gabriola Skatepark
Summary of Community Consultation

1. Workshop #1 Summary
2. Workshop #2 Summary



DESIGN WORKSHOP SUMMARY – FEBRUARY 22nd 2017

Date: February 22nd 2017 Project File No.: SK2016-39

Attention: Elaine McCulloch Project Name: Huxley Park Skatepark
Gabriola Island, BC

The following is a summary of the feedback gathered at the February 22nd Design Workshop held in on Gabriola Island for the Huxley Park Skatepark. The Design Workshop was held to gain input regarding the types of active terrain elements preferred by the local users, as well as ideas on park theme and character. This input will be considered in determining the design direction for the project. Please review and contact us with any questions or comments.

Feedback Form Responses

Total Number of Forms Filled out: 15 (ranked by 15 people)

Gender of Participants

Gender	Male	Female
Replies	13	2
Percentage	87%	13%

Frequency of skating / bmx'ing / riding

	Every Chance I Get	Once or Twice Per Week	A Couple Times Per Month	Not Very Often / Never
Replies	5	1	2	7
Percentage	33%	7%	13%	47%



DESIGN WORKSHOP SUMMARY – FEBRUARY 22nd 2017

Rate the type of terrain preferred in order of importance (1 to 4).

	Ranked 1	Ranked 2	Ranked 3	Ranked 4
Bowl / Flow Terrain	7	3	2	1
Obstacle / Transition Terrain	1	5	5	2
Street / Plaza Terrain	3	2	1	7
Organic Flow Terrain	2	3	5	3

Feedback Forms Participants requested to note top (5) favored features.

Terrain Priority "Dot" Boards A possible (90) large dots were dispersed to identify "1st priority" features.

A possible (180) small dots were dispersed identify "secondary priority" features.

	Feedback Forms	Large Dots	Small Dots
<u>BOWL</u>		9	
Flow Bowl	xxxxxxxxxx		xxxxxx
Pool-Style Bowl	xxxxxx		xxxx
Deep-Vert Bowl	xxxxxxxx		xxxxxxxxxxxxxxxxxxxxxx
Mini Ramp	xxxx		xx
Ditch Feature			31
	37%	43%	36%
<u>FLOW</u>		4	
Snake Run Feature	xxx		xxx
Organic Terrain	xxxxxxxx		Xxxxxxxxxxxxxxxxxxxx - 19
	16%	19%	22%
<u>STREET</u>		8	
Stairs and Drops	xxx		x
Ledges Benches Rails	xxxxxxxx		xxxxxxxx
Gaps	xx		xxxxxxxx
Manual Pads	xxx		
Custom Skateable Art	xx		xxx -24
	25%	38%	28%
<u>OBSTACLE</u>		0	
Quarter Pipes	xxxxxx		x
Banks	xxxx		
Hips / Pyramid	xxx		x
Slappies	x		x
Funbox Feature	xx		xxxxxx - 13
Other	x		xxxx (step-up, doorway gauntlet)
	22%	0%	15%



DESIGN WORKSHOP SUMMARY – FEBRUARY 22nd 2017

Provide thoughts on the sociability, integration and comfort for the park.

(i.e. seating/viewing spaces, landscaping, shade etc.):

- Viewing / seating area (3)
- Aesthetically pleasing
- Lights (3)
- Roof / shelter
- Integration into natural forest / natural landscaping (3)

Provide thoughts on the culture, character and appearance for the park

(i.e. local heritage, integrated artwork, colour, materials, programming etc.):

- “Ride Free” Memorial / Stephen Smith / John Shepherd
- Malaspina Galleries / Sandstone / “Tafoni” bubble pattern / Driftwood
- Bridge Gap / “no bridge”

General Comments

- Vert
- Seylynn snake run

Feedback Summary

The meeting had a great vibe. Discussion was wide open, with participants freely expressing their ideas and asking questions. The age of attendees varied, but the majority were adults, which resulted in well informed, educated input. The majority of attendees were skateboarders, with BMX’ers also represented.

Analysis of TERRAIN PRIORITIES from the Feedback Forms, Dot Boards, Discussion and Additional Sketches shows a clear preference toward bowl terrain, then street terrain. These two terrain types are polar opposites, which is perfect, as this will encourage a skatepark that will cater to most every rider.

<u>Bowl</u>	37% of FB Form responses	43% of Large Dots	36% of Small Dots – Average: 39%
<u>Organic</u>	16% of FB Form responses	19% of Large Dots	22% of Small Dots – Average: 19%
<u>Street</u>	25% of FB Form responses	38% of Large Dots	28% of Small Dots – Average: 30%
<u>Obstacle</u>	22% of FB Form responses	0% of Large Dots	15% of Small Dots – Average: 12%

The input and feedback that was received will now be considered during the next phase of concept design development.

Please also see the attached appendix of the Terrain Prioritization Boards noted above.

Huxley Park Skatepark

Terrain Priorities: Bowl/Transition Terrain



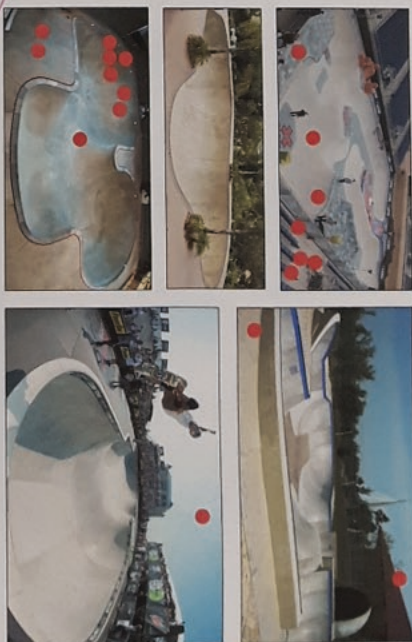
FLOW BOWL



POOL-STYLE BOWL



DEEP/VERT BOWL



MINIRAMP

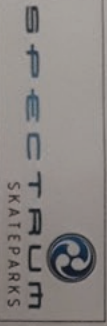


OTHER

If there is a certain feature that you would like to see considered for the design concepts that has not been noted in the other categories, please draw or write it down here.

poss. vert obj. for channel

UNIQUE EPIC DRAW



Huxley Park Skatepark

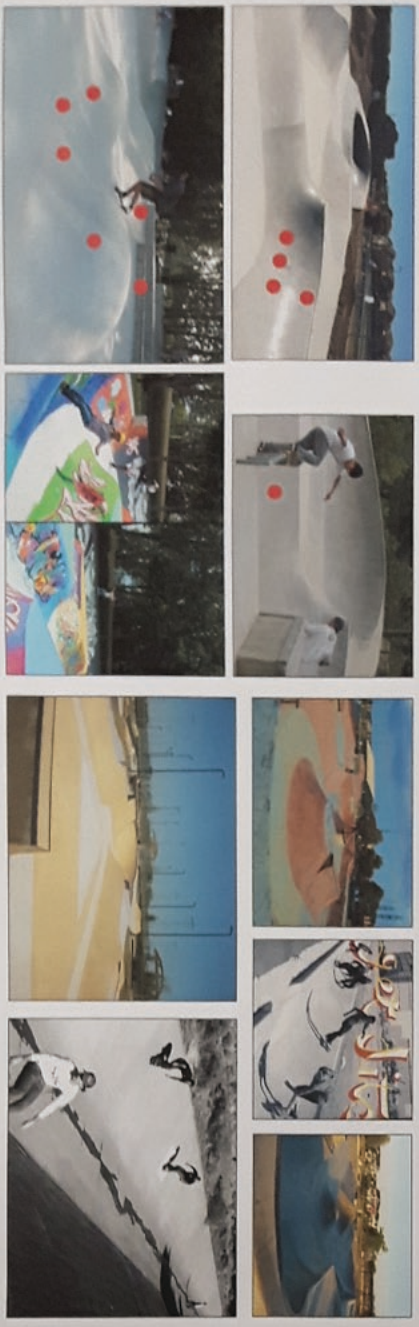
Terrain Priorities: Organic Flow Terrain



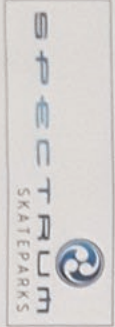
ORGANIC FLOW



DITCH FEATURE



SNAKERUN FEATURE



Gabriola Island, BC

February 2017
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www.spectrumskateparks.com

Huxley Park Skatepark

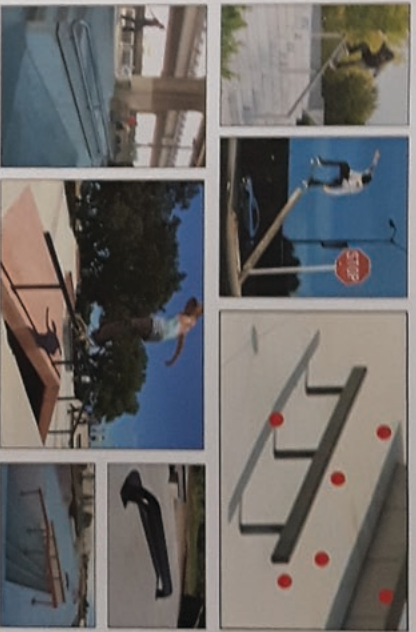
Terrain Priorities: Street/Plaza Terrain



STAIRS AND DROPS (w / hubbas and rails)



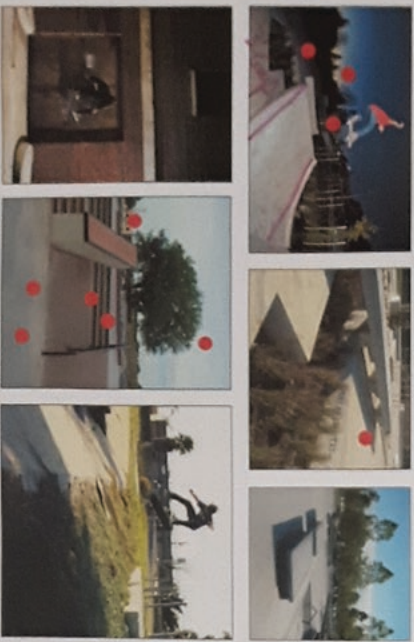
RAILS



LEDGES AND BENCHES



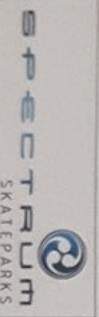
GAPS



MANUAL PADS



CUSTOM SKATEABLE ART FEATURES



Huxley Park Skatepark

Terrain Priorities: Obstacle Terrain

QUARTERPIPES



BANKS



HIP/PYRAMID



SLAPPIES



FUNBOX FEATURES



OTHER



Gabriola Island, BC

February 2017

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www.spectrumskateparks.com



DESIGN WORKSHOP SUMMARY – SEPTEMBER 13th 2017

Date: September 13th 2017 Project File No.: SK2016-39

Attention: Elaine McCulloch Project Name: Huxley Park Skatepark
Gabriola Island, BC

The following is a summary of the feedback gathered at the September 13th Design Workshop held in on Gabriola Island for the Huxley Park Skatepark from 6:30-8:30pm at the Gabriola Arts Centre. The Design Workshop was held to gain input regarding the draft conceptual plan. This input has been considered in the design of the final preferred conceptual plan.

Attendance: 18 people attended the workshop

Workshop #2 Summary:

REQUEST: eliminate “porthole” in northern 8’6” Quarterpipe

ACTION: done

REQUEST: use concrete pool coping on northern 8’6” Quarterpipe

ACTION: done

REQUEST: add more “easy entry / roll-in points”

ACTION: one added

REQUEST: allow access to “bump to rail” from both sides

RESPONSE: not possible due to width of park / restricted budget

QUESTION: wondering if park was too advanced

RESPONSE:

- The park is actually intermediate, with the majority of ramps being 5’ tall quarterpipes (a lower intermediate ramp height).
- Noted the fairly significant quantity of very small 3’9” and 3’ quarterpipes, plus the very gentle rolling organic features (1’6” high, 1’8” high, 2’ high, 3’6” high, 3’8” high) that make up a significant portion of the park.
- A very clear path for progression is included in the design of the park, as indicated above with the progression in gentle rolling features, as well as with quarterpipe heights progressing from 3’, 3’9”, 5’, 6’, 7’ and 8’6”. Note that 8’6” is on the very low end of advanced, with many skateparks regularly reaching heights of 12’ and even 14’. Further still, the 8’6” ramp height has ranges of difficulty within it, specifically the quantity of “vert” it has at the top. It has just 3” as opposed to a more advanced ramp having 1’.

QUESTION: consider changing the 3 set of stairs to 4

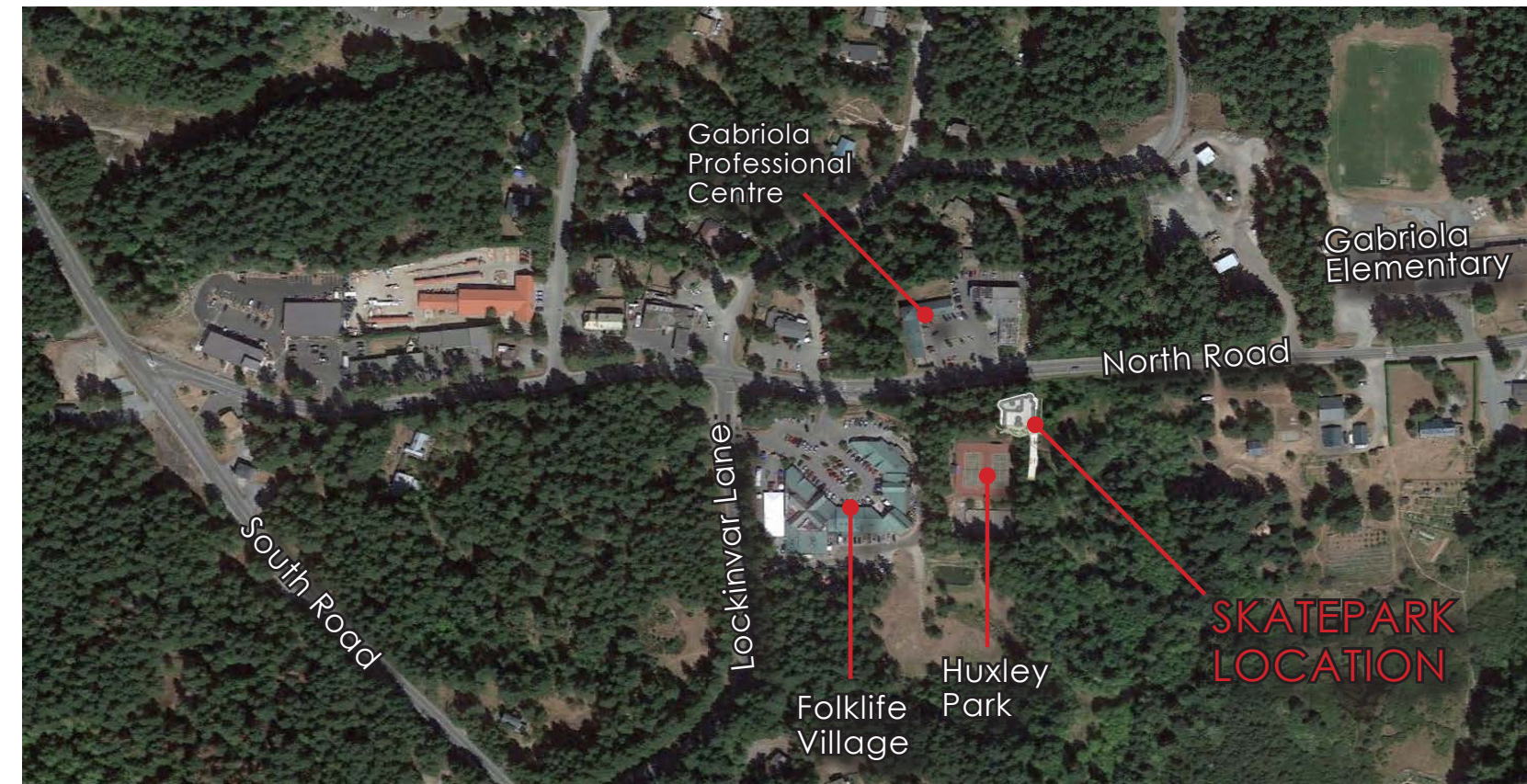
RESPONSE: to be explored during detailed design, as it relates to grading

An important note to include is that the majority of meeting attendees loved the design, it was a very small minority that had questions.

Huxley Skatepark, Gabriola Island

Concept Design - Site Plan & Context

Context Plan



Site Plan



Skatepark Features

- 1** - TRANSITION/FLOW ZONE
- A** - CLAMSHELL
- B** - WATERFALLS
- C** - MEGA ROUNDED HIP
- D** - HIP BLASTERS TO VERT WALL
- E** - VERT WALL WITH PORT HOLE
- F** - DOUBLE PUMP BUMP COMBO
- G** - VERT WALL
- H** - PUMP BUMP
- I** - DECK PUMP BUMP/ROLL-IN HIP

- 2** - STREET RUN
- A** - 3' STARTING QUARTER PIPE
- B** - 3 STAIR RAIL, BANK, HUBBA & LEDGE COMBO
- C** - STRAIGHT LEDGE & FLAT BAR WITH SANDSTONE ROCK FLAT GAP
- D** - MANUAL PAD & LEDGE COMBO
- E** - OVERVERT TRANSITION "MALASPINA GALLERY"

Precedent Parks



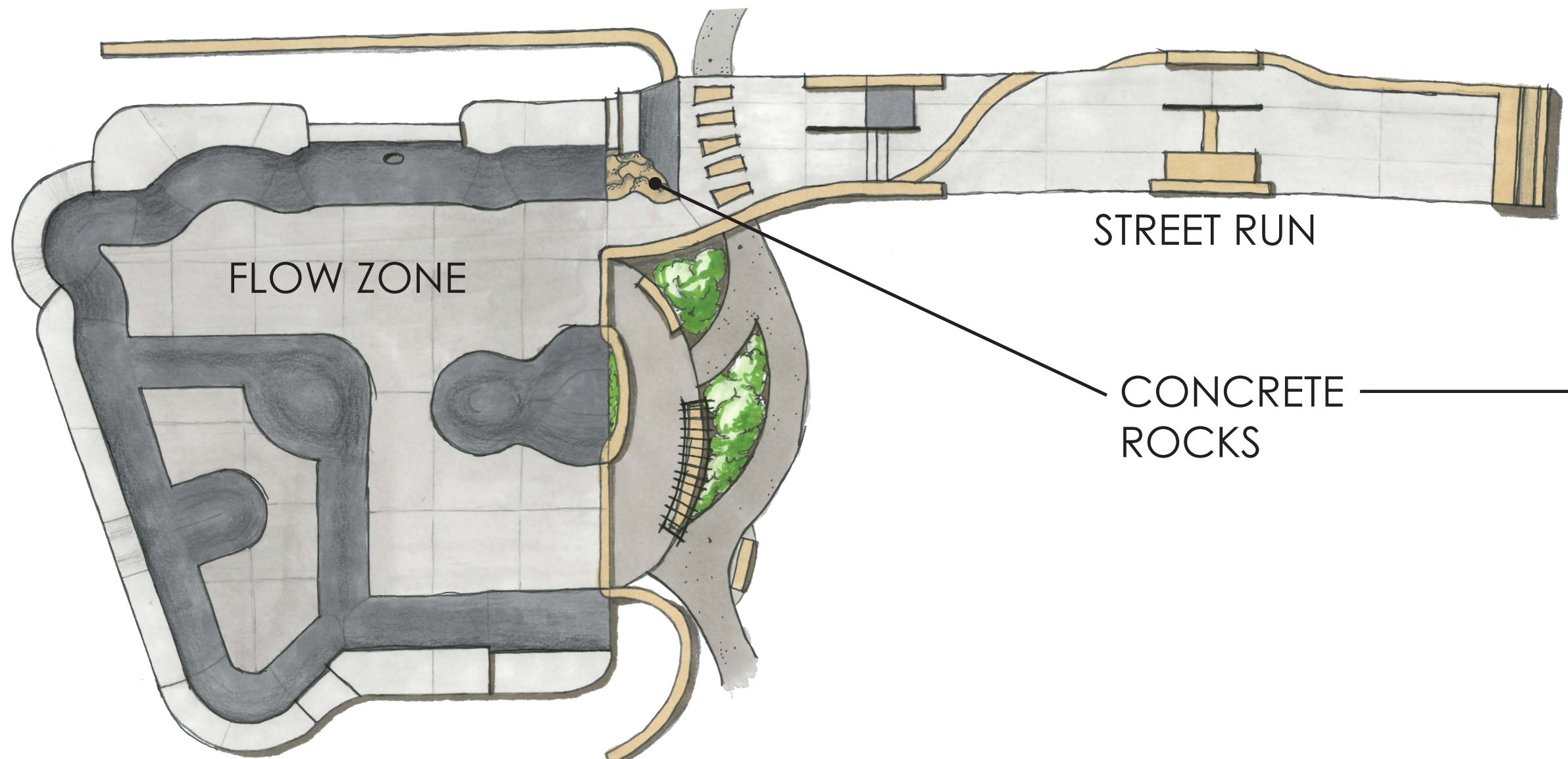
Gabriola, BC
April 2017

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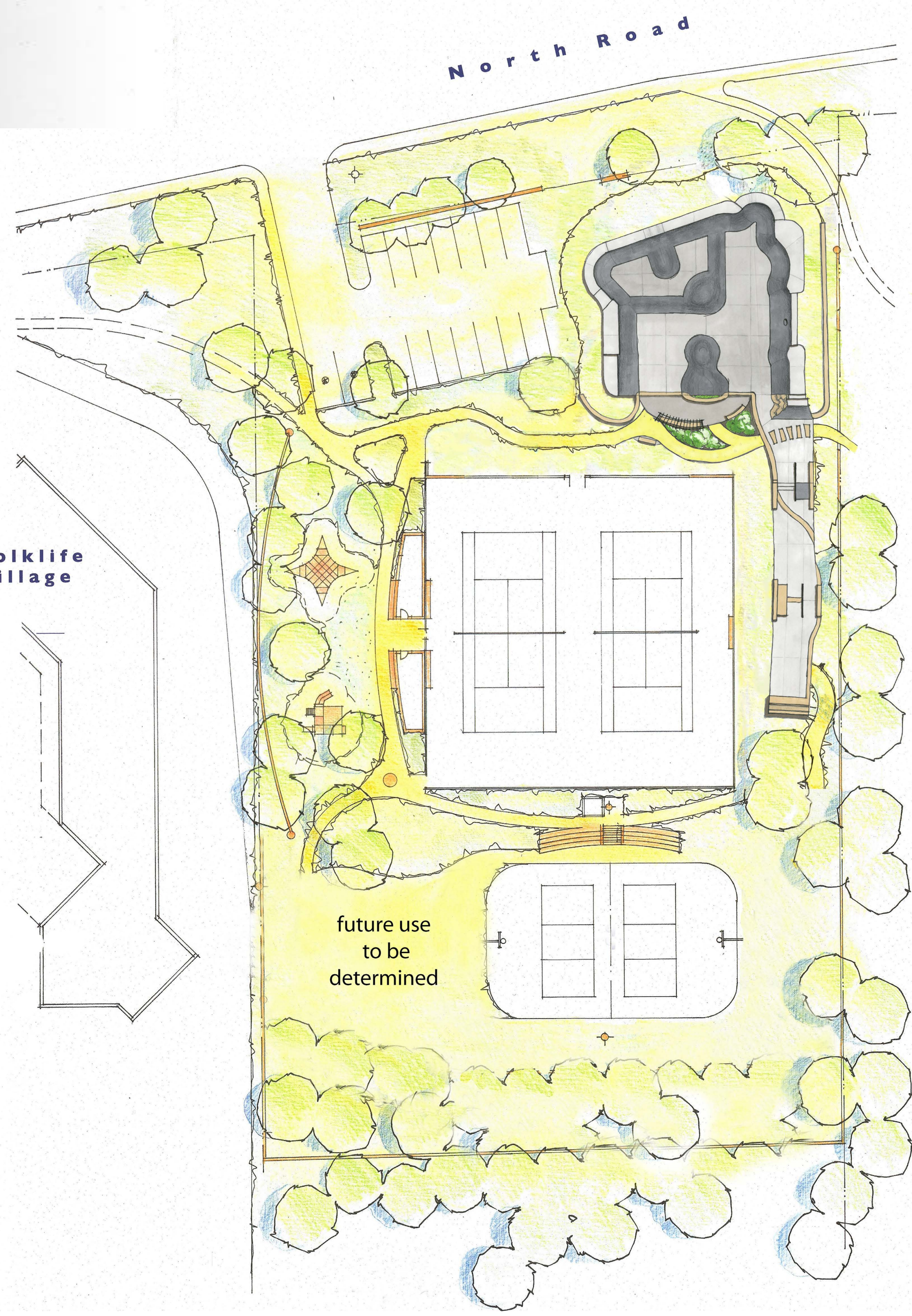


Huxley Skatepark, Gabriola Island

Concept Design - Terrain Inspiration & Park Plan



Malaspina Gallery
Feature



Huxley Park Concept Plan

Flow Inspiration

Street Inspiration



Gabriola, BC
April 2017

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Huxley Skatepark Timeline

2015

**Huxley Community Park
Master Plan**

Identifies Huxley Park as location
for the Gabriola Skatepark



Feb 2017

**Skatepark Design
Workshop #1**

All riders and
community members
invited to provide input
into the skatepark
design.

Sept 2017

**Skatepark Design
Workshop #2**

All riders and community
members invited to
provide feedback on the
initial conceptual skatepark
design.

Fall 2017

**Final
Conceptual Design**

Final design to be
presented on RDN website

[www.rdn.bc.ca/
gabriolaskatepark](http://www.rdn.bc.ca/gabriolaskatepark)

2018

**Prepare
Construction
Drawings**

Shelf-ready plans and
cost estimates ready for
grant applications

2019 - ?

**Secure
Project Funding**

- grant applications
- RDN matching funding
- donations



?

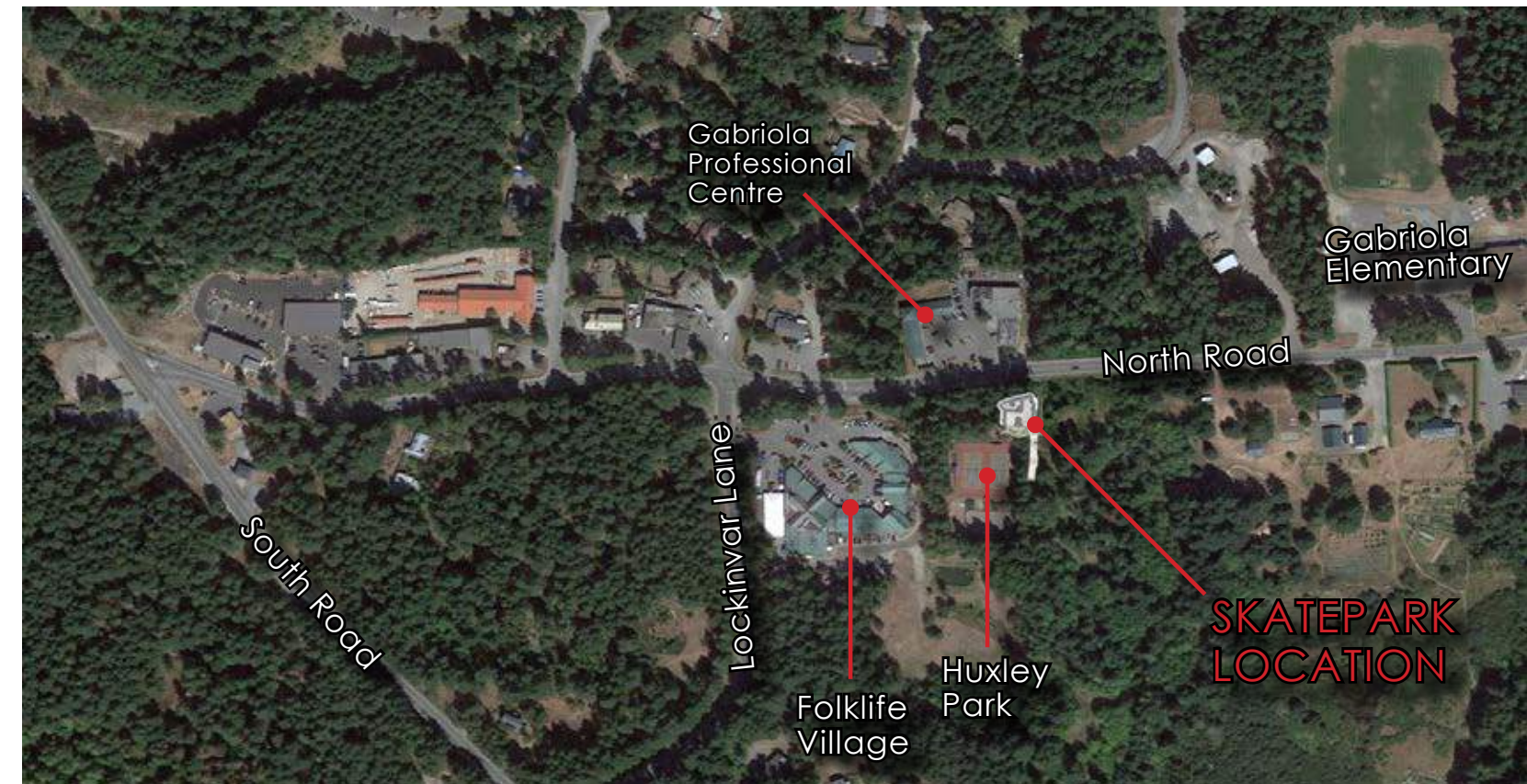
**Project
Construction**

**ATTACHMENT 3
Gabriola Skatepark
Preferred Conceptual Plan**

Huxley Skatepark, Gabriola Island

Concept Design - Site Plan & Context

Context Plan



Site Plan



Skatepark Features

- 1** - TRANSITION/FLOW ZONE
- A** - 6'10" CLAMSHELL
- B** - 2' WATERFALLS
- C** - HIGH TO LOW COMBO BUMP
- D** - HIP BLASTERS TO VERT WALL
- E** - 8'6" VERT WALL WITH POOL COPING
- F** - 2' & 3'6" DOUBLE PUMP BUMP COMBO
- G** - 8'6" VERT WALL
- H** - 1'8" PUMP BUMP
- I** - DECK PUMP BUMP/ROLL-IN



Huxley Park Concept Plan 

- 2** - STREET RUN
- A** - 3' STARTING QUARTER PIPE
- B** - 4 STAIR RAIL, BANK, HUBBA & LEDGE COMBO
- C** - STRAIGHT LEDGE & FLAT BAR WITH SANDSTONE ROCK FLAT GAP
- D** - 6" MANUAL PAD & 1' LEDGE COMBO
- E** - OVERVERT TRANSITION "MALASPINA GALLERY"

Precedent Parks



Gabriola, BC

October 2017

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Huxley Skatepark, Gabriola Island

3D Renderings - Overviews



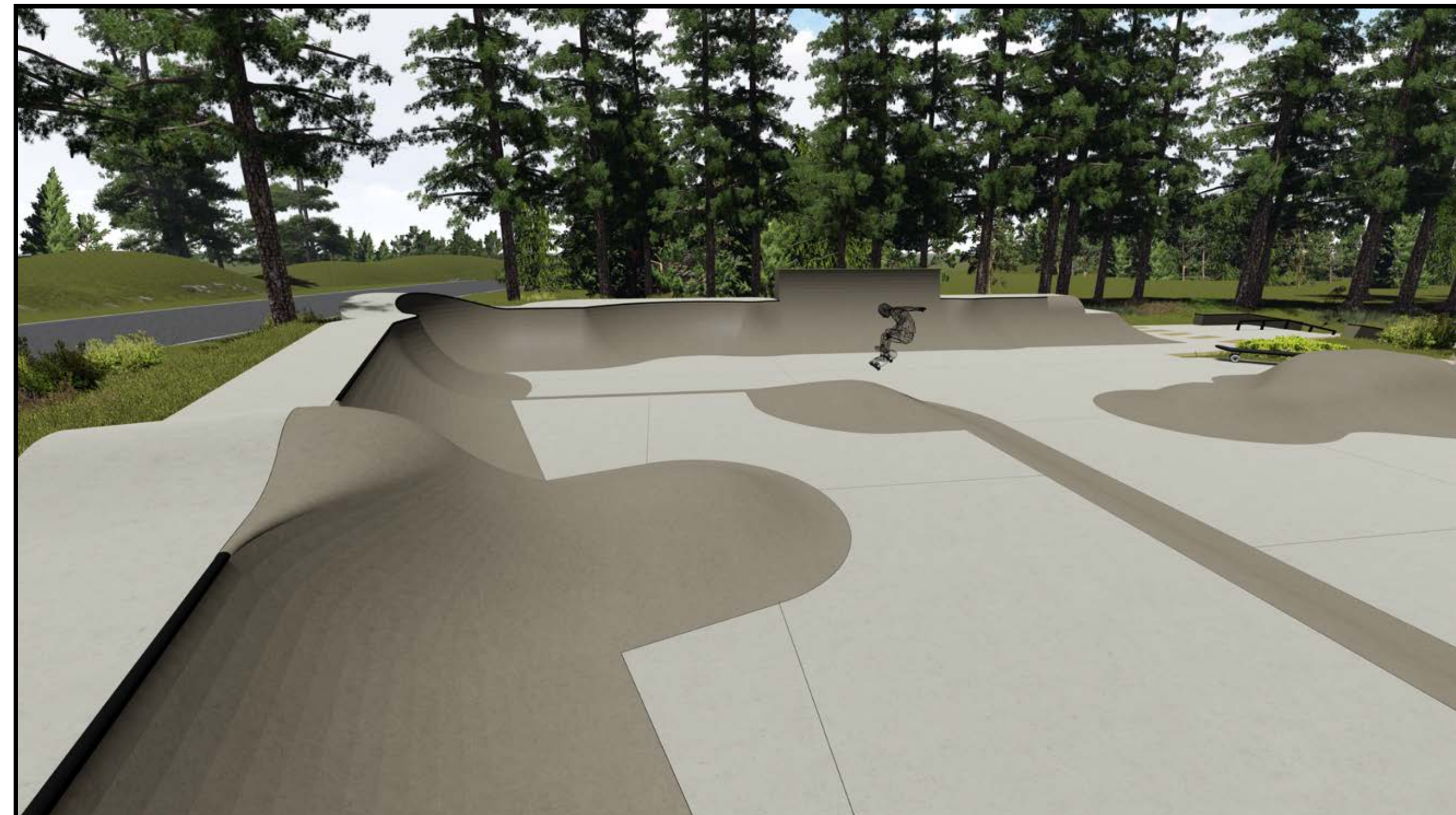
Flow Inspiration

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Huxley Skatepark, Gabriola Island

3D Renderings - Features



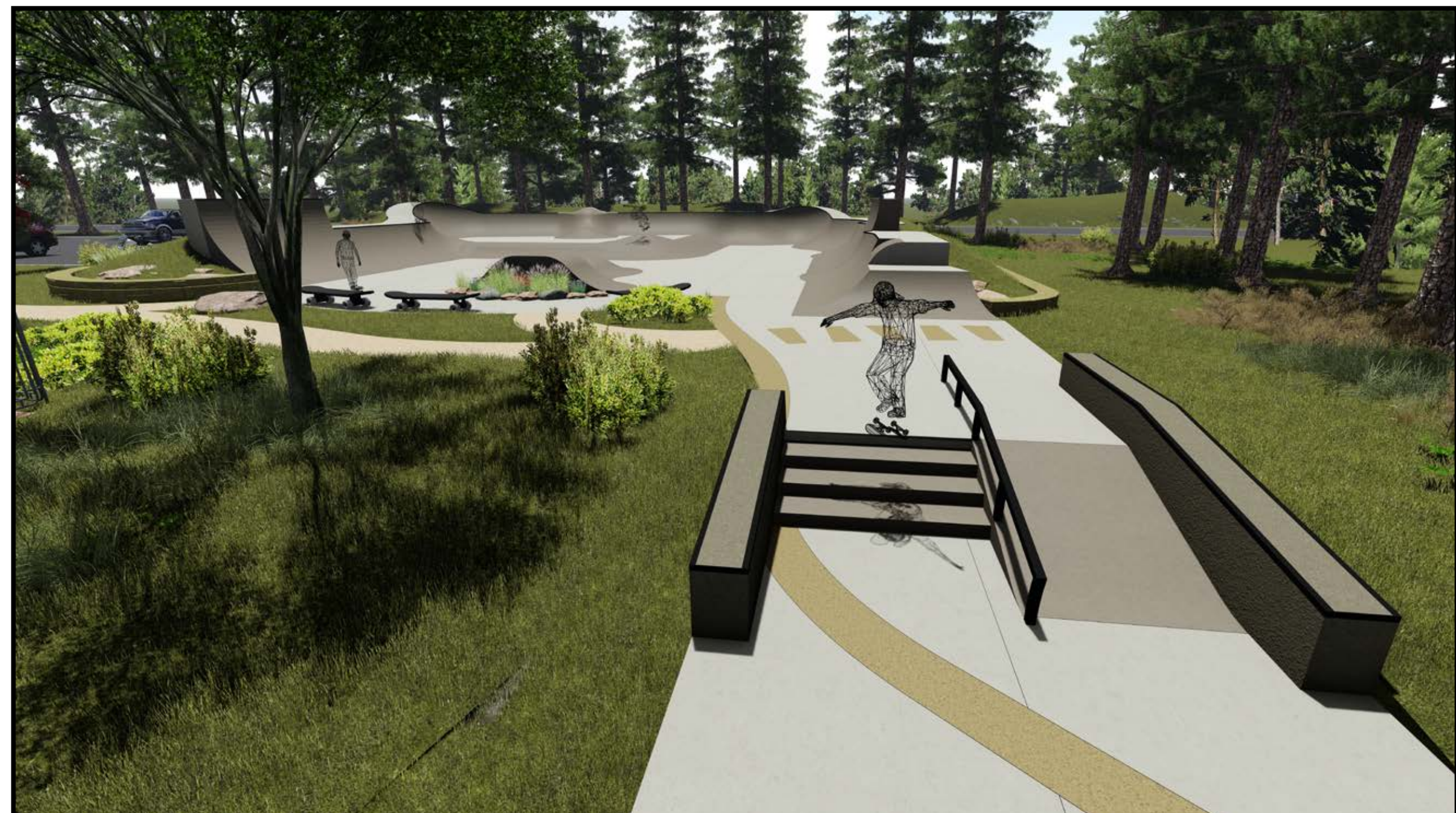
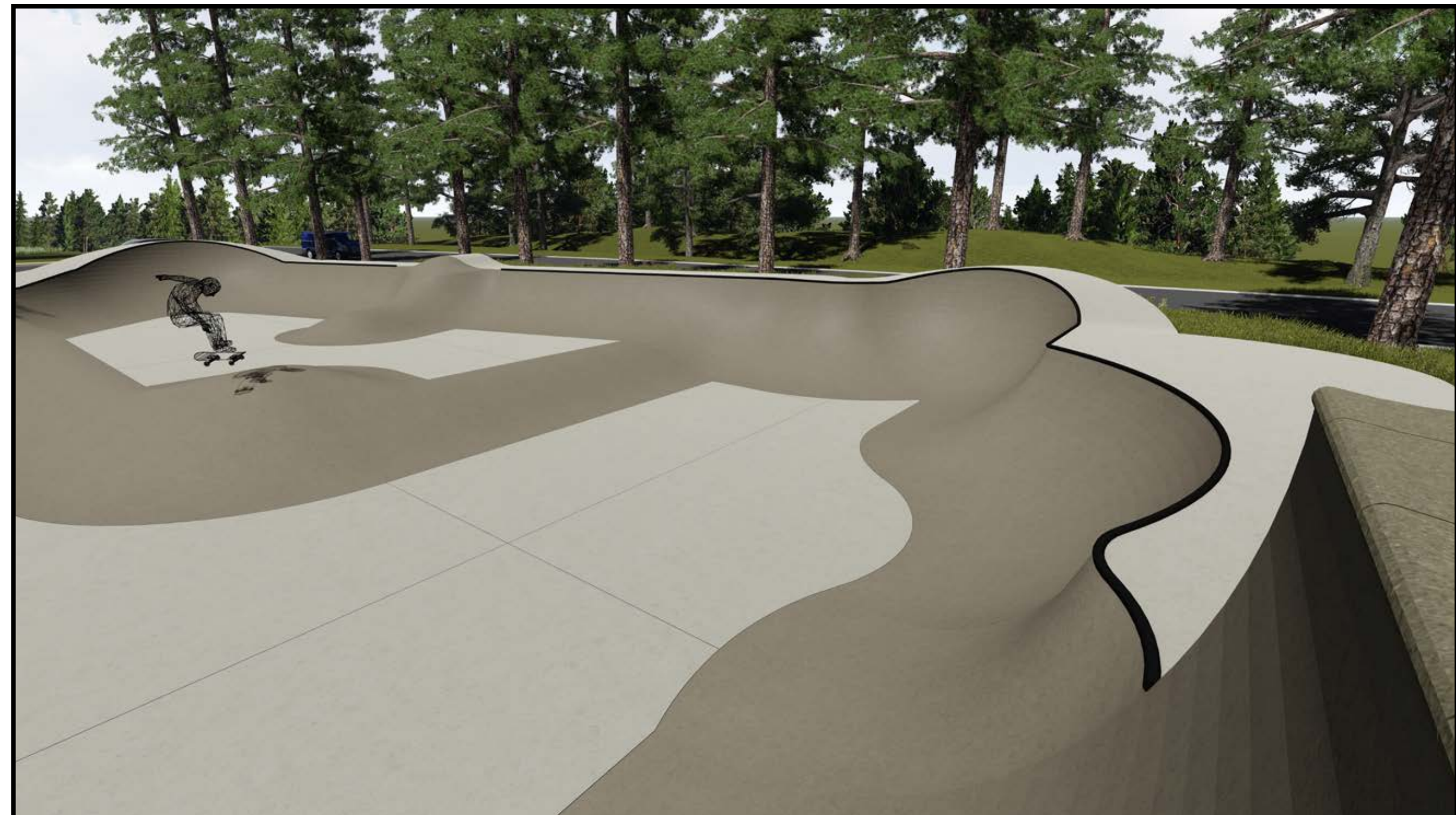
Malaspina Gallery Feature

Gabriola, BC
October 2017
www.newlineskateparks.com
www.spectrumskateparks.com



Huxley Skatepark, Gabriola Island

3D Renderings - Features



Street Inspiration

Gabriola, BC
October 2017
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www.spectrumskateparks.com



TO: Electoral Area 'F' Parks and Open Space Advisory Committee **MEETING:** March 21, 2018

FROM: Renée Lussier, Parks Planner **PROJECT NO.:** 2016-18

SUBJECT: Signage Strategy for Community Parks and Trails – Electoral Area 'F' Review

REQUEST

1. That the Parks and Open Space Advisory Committee in each Electoral Area provide final review of the Signage Strategy for Community Parks and Trails.

SUMMARY

The proposed Signage Strategy for Community Parks and Trails is a standardized system of signs, typefaces and graphics to welcome and communicate information to visitors of RDN parks and trails. The goals are to develop a Signage Strategy to create signs that identify a site as a RDN Community Park or Trail site, to identify the park and/or trail, to be visible and legible upon approach to the site and along a trail, to be contemporary and aesthetically pleasing, and to be cost effective in fabrication and installation. Developing a new signage program after the launch of the RDN's new graphic standards is an opportunity to align Parks Services with corporate branding.

The Signage Strategy for Community Parks and Trails was presented to the EASC on February 13, 2018 in response to earlier direction by the Board to replace current Community Park signs with new welcoming signs. At the February 27th meeting, the Board passed a resolution directing staff to proceed in the consultation with Electoral Area POSACs to define signage elements.

It was moved and seconded that the Signage Strategy for Community Parks and Trails be received and approved pending final review from the Parks and Open Space Advisory Committees.

BACKGROUND

Through the development of the Community Parks and Trails Strategy, signage was identified as the most requested park improvement feature by the public for community parks.

At the October 4, 2016 Board meeting the following resolution #16-617 was approved.

"That staff be directed to remove the negative Regional District of Nanaimo signage from all water accesses and community parks and replace it with simple water access/community park identification signage."

The old signs were removed and research into signage for parks and trails in other jurisdictions was completed to better understand the graphic direction the Signage Strategy could take. The variety of design options is vast – there are many precedent ideas that could work for RDN Parks. Staff focused efforts on the cost effective qualities of signage while maintaining clear wayfinding options and branding opportunities. Staff met with RDN team members in Building & Bylaw Services, Corporate Services, and within Parks Services to better understand their signage needs. All were presented with an overview of the Signage Strategy and their feedback was considered and integrated into the sign design.

Staff examined the 2014 Parks and Trails Guidelines as a reference for the proposed Signage Strategy for Community Parks and Trails. The proposed new signs will reflect an updated graphic style and the RDN Graphic Design Standards. The corporate branding for the RDN uses a specific font type and colour palette; the new sign design integrates these branding components. An updated RDN logo will be provided on the new signs as well.

The signage classifications are as follows:

Identification Signage

Identification Signage is intended to mark the location of the park or trail at the earliest approach point to the park or trail itself. The signage is intended primarily to be visible from a distance by visitors traveling by vehicle at higher speeds but also useful to visitors arriving by bicycle or on foot. A wood sign would be placed adjacent the main road into the park or adjacent the parking area, where possible. The signage would be used at parks with larger entrances.

Entrance Signage

Entrance Signage are small signs intended to mark the entrance to a park or trail in small and less developed parks. It should be to pedestrian scale, visible from a distance, and legible upon approach. A combination of Entrance and Welcome Signage would highlight the main entrance.

Welcome Signage

The welcome sign would provide historic and current information about the park or trail, provide a park map or trail system (or both), identify park or trail amenities, identify park or trail regulations, and provide contact information for RDN Parks.

Trail Head Signage

Trail Head Signage is intended to mark the beginning of a trail. It would provide the trail name, the trail condition (easy, moderate, difficult), the length of the trail, identify trail use (hiking vs walking), and provide a trail system map with “You are here” identified.

Directional Signage

Directional Signage is intended to be placed where required in a park or along a trail. The purpose is to direct park and trail users to areas of interest. Directional Signage would be a wayfinding tool for park and trail users not referencing maps. Where necessary, park or trail system diagrams with a location identified will be provided to enhance the wayfinding experience.

Interpretive Signage

Interpretive Signage is intended to provide historical, environmental, and/or educational information for park and trail users. Interpretive Signage would be used in parks in areas of significance or along trails to highlight points of interest.

Regulatory Signage

Regulatory Signage is intended to reinforce Bylaw 1399 and to clearly identify uses permitted/not permitted in RDN Parks and along RDN Trails. It would provide universally understood icons to highlight uses permitted/not permitted and provide contact information for RDN Parks. Regulatory Signage would be customizable to reflect the individual park or trail in which the sign would be placed.

Safety Signage

Safety Signage is intended to alert park and trail users of possible dangerous conditions or unusual activities. Their placement is key to ensure the safety of the public. The established use of yellow for ‘Caution’ and red for ‘Danger’ would be maintained.

A final signage type is included in the Signage Strategy for Community Parks and Trails is ‘Banners and Flags’. Banners would be used at community events to identify a RDN Parks Services booth, or other location. Flags would be incorporated into the Signage Strategy to enhance wayfinding at a public event.

FINANCIAL IMPLICATIONS

The general cost to produce a signage set for a larger community park is \$5,000. The breakdown is as follows:

<i>Item</i>	<i>Cost</i>
New identification sign (72" long, with 2 posts and a concrete pad)	\$3,000
New signage set	
2 entrance signs at \$150 each	\$300
2 welcome signs at \$250 each	\$500
4 interpretive signs at \$250 each	\$1000
2 trail head signs at \$50 each	\$100
6+ directional signs	\$100
TOTAL	\$5,000

Costs may vary depending on specific park needs or requirements. Material and printing are the primary costs associated with the Signage Strategy – cost savings can be achieved by completing installation and providing ongoing maintenance with staff only.

A pilot program in Community Parks and Trails is planned to assess the cost impact and the overall effectiveness of the Signage Strategy. Each Electoral Area has \$2,000 in the sign budget that could be used for a pilot project in a selected park or trail.

GOAL AND NEXT STEPS

The goal for the POSAC meeting is for members to receive the information regarding the Signage Strategy for Community Parks and Trails, provide comment and feedback, and to discuss which park and/or trail would be best suited to be the pilot site for new signage. Staff will ultimately assess the success of the signage for the park or trail, compare how it functions to the other pilot sites in the EAs, and determine potential changes required to improve on the signage prior setting it as the standard for

RDN Parks. The results of the signage at the pilot sites will be shared with the POSACs after a reasonable amount of time has passed to assess the overall success of the signage.



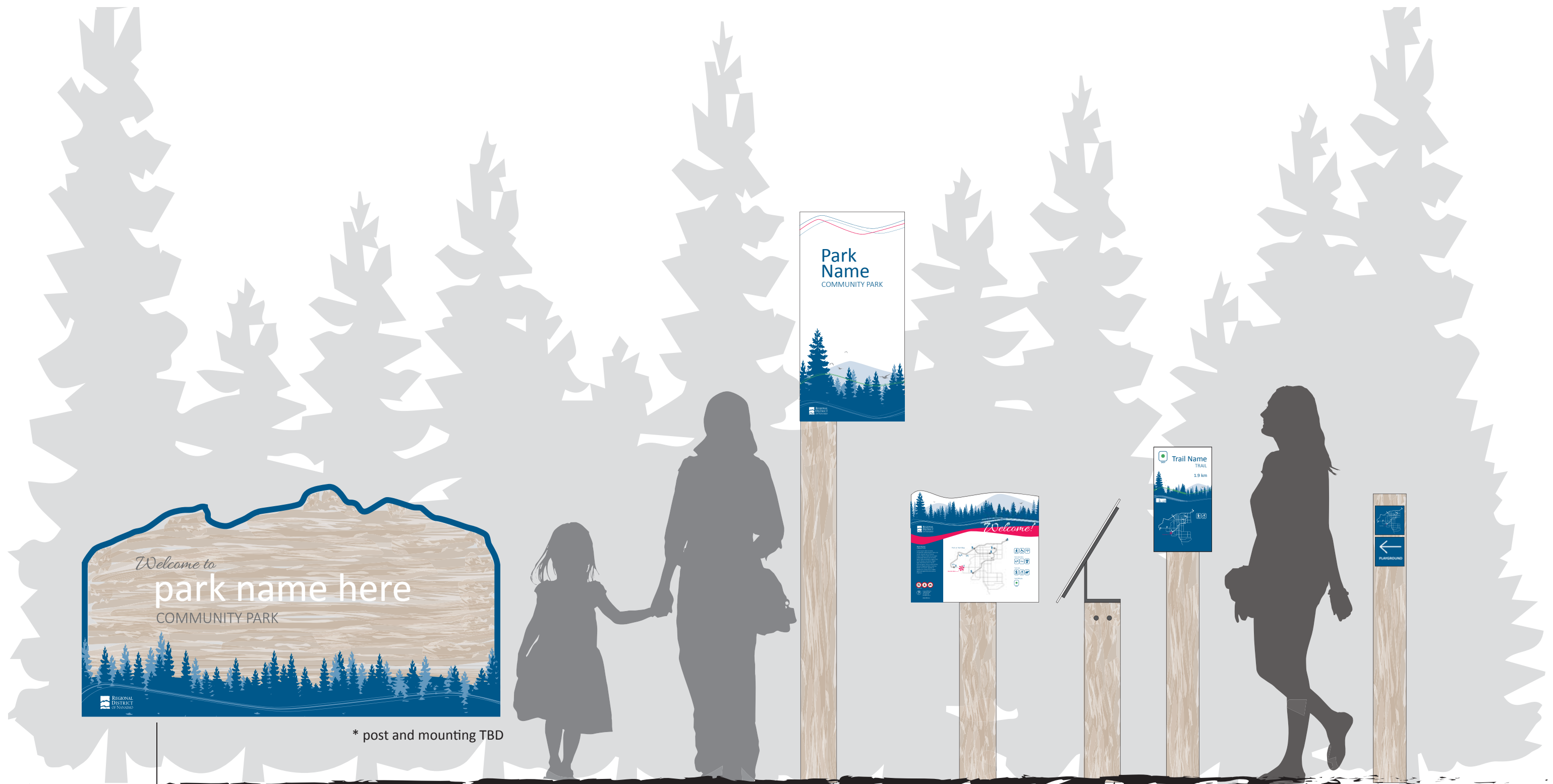
Renée Lussier
rlussier@rdn.bc.ca
08 March 2018

Reviewed by:

- W. Marshall, Manager of Parks Services

Attachments

1. Signage Family for Community Parks and Trails



* post and mounting TBD

IDENTIFICATION sign
cedar wood product and dimensions
to remain

ENTRANCE sign
size: 18x36"
height to
top of sign: 8'

WELCOME sign
size: 18x22"
height to top of sign: 4'
*panel tilt 30° back

INTERPRETIVE sign
size: 18x22"
height to top of sign: 4'
*panel tilt 30° back

TRAIL HEAD sign
size: 10x18"
height of top of sign: 4'-8"

DIRECTIONAL sign
size: 5x5"
height to top of sign: 4'

SIGNAGE CLASSIFICATION FOR THE SIGNAGE STRATEGY FOR COMMUNITY PARKS AND TRAILS
EASC Meeting February 13th, 2018

TO: Electoral Area 'G' Parks and Open Space Advisory Committee **MEETING:** March 14, 2018

FROM: Renée Lussier, Parks Planner **PROJECT NO.:** 2016-18

SUBJECT: Signage Strategy for Community Parks and Trails – Electoral Area 'G' Review

REQUEST

1. That the Parks and Open Space Committee in each Electoral Area provide final review of the Signage Strategy for Community Parks and Trails.

SUMMARY

The proposed Signage Strategy for Community Parks and Trails is a standardized system of signs, typefaces and graphics to welcome and communicate information to visitors of RDN parks and trails. The goals are to develop a Signage Strategy to create signs that identify a site as a RDN Community Park or Trail site, to identify the park and/or trail, to be visible and legible upon approach to the site and along a trail, to be contemporary and aesthetically pleasing, and to be cost effective in fabrication and installation. Developing a new signage program after the launch of the RDN's new graphic standards is an opportunity to align Parks Services with corporate branding.

The Signage Strategy for Community Parks and Trails was presented to the EASC on February 13, 2018 in response to earlier direction by the Board to replace current Community Park signs with new welcoming signs. At the February 27th meeting, the Board passed a resolution directing staff to proceed in the consultation with Electoral Area POSACs to define signage elements.

It was moved and seconded that the Signage Strategy for Community Parks and Trails be received and approved pending final review from the Parks and Open Space Advisory Committees.

BACKGROUND

Through the development of the Community Parks and Trails Strategy, signage was identified as the most requested park improvement feature by the public for community parks.

At the October 4, 2016 Board meeting the following resolution #16-617 was approved.

"That staff be directed to remove the negative Regional District of Nanaimo signage from all water accesses and community parks and replace it with simple water access/community park identification signage."

The old signs were removed and research into signage for parks and trails in other jurisdictions was completed to better understand the graphic direction the Signage Strategy could take. The variety of design options is vast – there are many precedent ideas that could work for RDN Parks. Staff focused efforts on the cost effective qualities of signage while maintaining clear wayfinding options and branding opportunities. Staff met with RDN team members in Building & Bylaw Services, Corporate Services, and within Parks Services to better understand their signage needs. All were presented with an overview of the Signage Strategy and their feedback was considered and integrated into the sign design.

Staff examined the 2014 Parks and Trails Guidelines as a reference for the proposed Signage Strategy for Community Parks and Trails. The proposed new signs will reflect an updated graphic style and the RDN Graphic Design Standards. The corporate branding for the RDN uses a specific font type and colour palette; the new sign design integrates these branding components. An updated RDN logo will be provided on the new signs as well.

The signage classifications are as follows:

Identification Signage

Identification Signage is intended to mark the location of the park or trail at the earliest approach point to the park or trail itself. The signage is intended primarily to be visible from a distance by visitors traveling by vehicle at higher speeds but also useful to visitors arriving by bicycle or on foot. A wood sign would be placed adjacent the main road into the park or adjacent the parking area, where possible. The signage would be used at parks with larger entrances.

Entrance Signage

Entrance Signage are small signs intended to mark the entrance to a park or trail in small and less developed parks. It should be to pedestrian scale, visible from a distance, and legible upon approach. A combination of Entrance and Welcome Signage would highlight the main entrance.

Welcome Signage

The welcome sign would provide historic and current information about the park or trail, provide a park map or trail system (or both), identify park or trail amenities, identify park or trail regulations, and provide contact information for RDN Parks.

Trail Head Signage

Trail Head Signage is intended to mark the beginning of a trail. It would provide the trail name, the trail condition (easy, moderate, difficult), the length of the trail, identify trail use (hiking vs walking), and provide a trail system map with “You are here” identified.

Directional Signage

Directional Signage is intended to be placed where required in a park or along a trail. The purpose is to direct park and trail users to areas of interest. Directional Signage would be a wayfinding tool for park and trail users not referencing maps. Where necessary, park or trail system diagrams with a location identified will be provided to enhance the wayfinding experience.

Interpretive Signage

Interpretive Signage is intended to provide historical, environmental, and/or educational information for park and trail users. Interpretive Signage would be used in parks in areas of significance or along trails to highlight points of interest.

Regulatory Signage

Regulatory Signage is intended to reinforce Bylaw 1399 and to clearly identify uses permitted/not permitted in RDN Parks and along RDN Trails. It would provide universally understood icons to highlight uses permitted/not permitted and provide contact information for RDN Parks. Regulatory Signage would be customizable to reflect the individual park or trail in which the sign would be placed.

Safety Signage

Safety Signage is intended to alert park and trail users of possible dangerous conditions or unusual activities. Their placement is key to ensure the safety of the public. The established use of yellow for ‘Caution’ and red for ‘Danger’ would be maintained.

A final signage type is included in the Signage Strategy for Community Parks and Trails is ‘Banners and Flags’. Banners would be used at community events to identify a RDN Parks Services booth, or other location. Flags would be incorporated into the Signage Strategy to enhance wayfinding at a public event.

FINANCIAL IMPLICATIONS

The general cost to produce a signage set for a larger community park is \$5,000. The breakdown is as follows:

<i>Item</i>	<i>Cost</i>
New identification sign (72" long, with 2 posts and a concrete pad)	\$3,000
New signage set	
2 entrance signs at \$150 each	\$300
2 welcome signs at \$250 each	\$500
4 interpretive signs at \$250 each	\$1000
2 trail head signs at \$50 each	\$100
6+ directional signs	\$100
TOTAL	\$5,000

Costs may vary depending on specific park needs or requirements. Material and printing are the primary costs associated with the Signage Strategy – cost savings can be achieved by completing installation and providing ongoing maintenance with staff only.

A pilot program in Community Parks and Trails is planned to assess the cost impact and the overall effectiveness of the Signage Strategy. Each Electoral Area has \$2,000 in the sign budget that could be used for a pilot project in a selected park or trail.

GOAL AND NEXT STEPS

The goal for the POSAC meeting is for members to receive the information regarding the Signage Strategy for Community Parks and Trails, provide comment and feedback, and to discuss which park and/or trail would be best suited to be the pilot site for new signage. Staff will ultimately assess the success of the signage for the park or trail, compare how it functions to the other pilot sites in the EAs, and determine potential changes required to improve on the signage prior setting it as the standard for

RDN Parks. The results of the signage at the pilot sites will be shared with the POSACs after a reasonable amount of time has passed to assess the overall success of the signage.



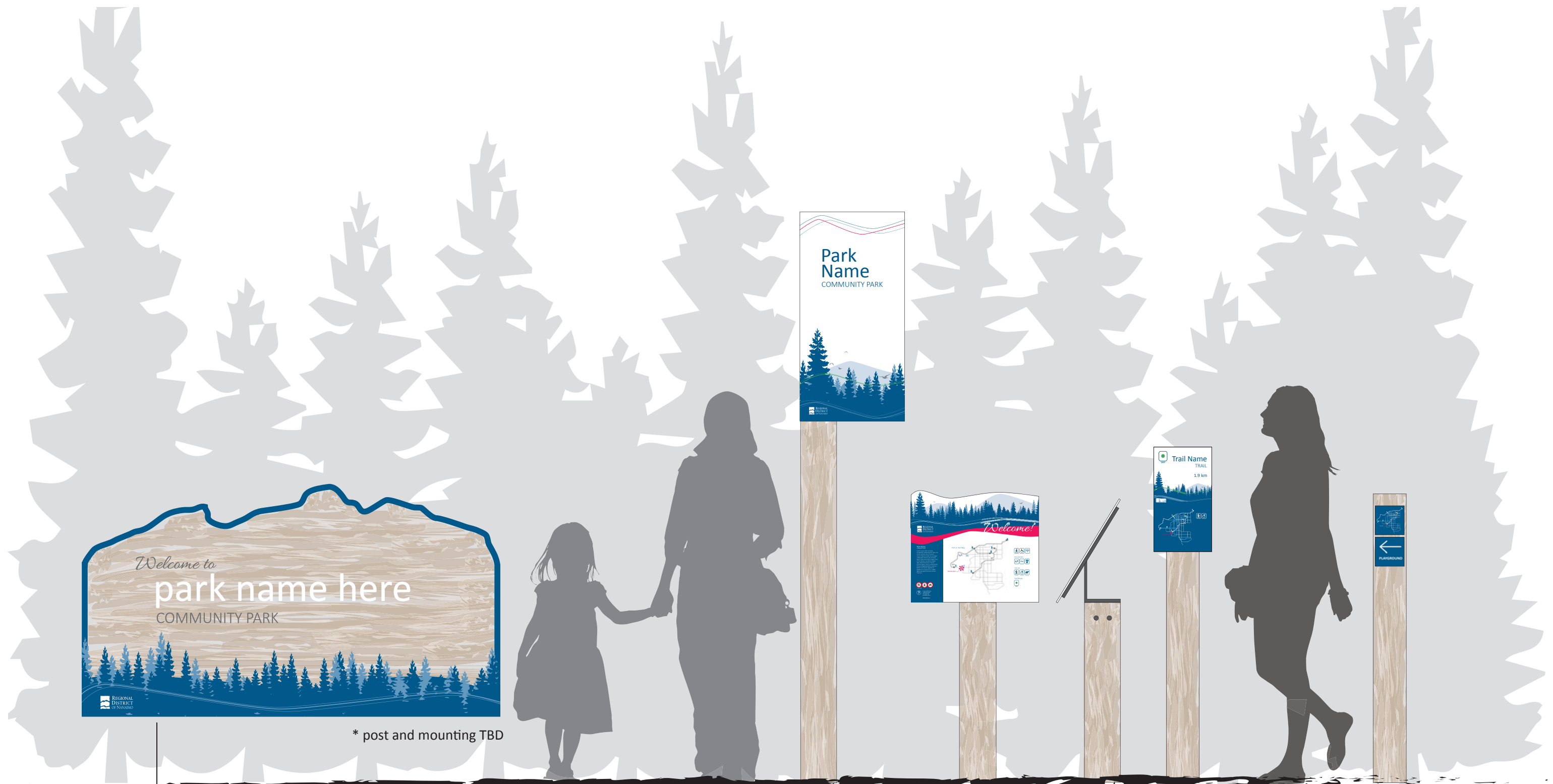
Renée Lussier
rlussier@rdn.bc.ca
06 March 2018

Reviewed by:

- W. Marshall, Manager of Parks Services

Attachments

1. Signage Family for Community Parks and Trails



* post and mounting TBD

IDENTIFICATION sign
cedar wood product and dimensions
to remain

ENTRANCE sign
size: 18x36"
height to
top of sign: 8'

WELCOME sign
size: 18x22"
height to top of sign: 4'
*panel tilt 30° back

INTERPRETIVE sign
size: 18x22"
height to top of sign: 4'
*panel tilt 30° back

TRAIL HEAD sign
size: 10x18"
height of top of sign: 4'-8"

DIRECTIONAL sign
size: 5x5"
height to top of sign: 4'

SIGNAGE CLASSIFICATION FOR THE SIGNAGE STRATEGY FOR COMMUNITY PARKS AND TRAILS
EASC Meeting February 13th, 2018

TO: Electoral Area Services Committee **MEETING:** May 8, 2018

FROM: Greg Keller
Senior Planner **FILE:** PL2018-001

**SUBJECT: Development Variance Permit Application No. PL2018-001 3672 Horne Lake Caves Road – Electoral Area ‘H’
Strata Lot 408, District Lot 251, Alberni District, Strata Plan VIS5160 Together With an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V**

RECOMMENDATIONS

1. That the Board approve Development Variance Permit No. PL2018-001 to increase the maximum floor area on a single storey of a recreational residence from 70 m² to 95 m² subject to the terms and conditions outlined in Attachment 2 to 4.
2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2018-001.

SUMMARY

This is an application to increase the maximum floor area on a single storey of a recreational residence from 70 m² to 95 m² to facilitate an addition to an existing cabin at Horne Lake. No negative impacts are anticipated as a result of the proposed variances and it is recommended that the Board approve the development variance permit pending the outcome of public notification and subject to the terms and conditions outlined in Attachments 2 to 4.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Pierre Boudreau to allow the permitted recreational residence floor area to be combined on one storey to facilitate an addition to an existing recreational residence. The subject property is approximately 2,238 m² in area and is zoned Horne Lake Comprehensive Development Zone 9 (CD9), pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is located to the south of Horne Lake Caves Road on the north shore of Horne Lake and is adjacent to other recreational properties (see Attachment 1 – Subject Property Map).

The property contains an existing single-storey recreational residence and an accessory building and is serviced by pump and haul sewage disposal and a water license from Horne Lake.

Development Variance Permit No. 90803 was previously issued on March 25, 2008 to permit the construction of a series of retaining walls over 1.0 metre in height on the subject property.

Proposed Development and Variance

The proposed development includes an addition to an existing recreational residence. The addition would result in 95 m² of recreational residence floor area on the main floor, rather than 70 m² on the main floor and 35 m² on an upper or lower floor as permitted in CD9 zone (see Attachment 3 – Proposed Site Plan and Variances). The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 3.4.107.2 – Maximum Number and Size of Buildings Structures and Uses c) i)** to increase the maximum cabin floor area from 70 m² to 95 m².
- **Section 3.4.107.6 – Other Regulations xi)** to decrease the maximum permitted floor area on a second storey from 35 m² to 0 m².
- **Section 3.4.107.6 – Other Regulations xiii)** to decrease the floor area used for porches and decks from 40 m² to 15 m².

Land Use Implications

The CD9 zone permits a recreational residence with a maximum 70 m² of main floor area and an additional 35 m² of upper, or lower floor area. The total permitted floor area of a recreational residence in the CD9 zone is 105 m². The CD9 zone also limits the combined footprint of a recreational residence and deck to a maximum area of 110 m². The maximum footprint can consist of up to 70 m² for the recreational residence main floor and up to 40 m² for an attached porch or deck. The limitations on floor area and footprint in the CD9 zone was originally intended to limit the scale of recreational residences, reinforce the recreational use of the properties, and protect the environment and water quality of Horne Lake.

The applicant proposes to construct an addition which would result in a single-story cabin with a total floor area of 95 m². The proposal represents an increase in the permitted main floor area from 70 m² to 95 m². The proposal also reduces the permitted loft floor area from 35 m² to 0 m².

In order to limit the combined footprint for a cabin and attached porch, or deck in a manner consistent with the original intent of the CD9 zone, the maximum area of porches and decks will be reduced from 40 m² to 15 m² (see Attachment 2 – Terms and Conditions of Permit). The applicant is proposing to reduce the size of the existing deck to ensure that the maximum combined area for the recreational residence and deck is 110 m². The proposal is in keeping with the spirit and intent of the CD9 zone.

“Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation” for evaluation of Development Variance Permit Applications requires that there is an adequate demonstration of an acceptable land use justification prior to the Board’s consideration. The applicant has provided the following justification for the requested variances:

- The existing recreational residence was relocated and then renovated in its current location and is only 51.4 m² in area and will not accept a second floor due to its 2"x 4" construction.
- The proposed addition is located in a previously disturbed area and will have minimal environmental impact.
- The overall building footprint and recreational residence floor area would not be increased beyond that which is permitted in the CD9 zone.

Given that the applicant has provided sufficient rationale and the variance will not result in negative view implications for adjacent properties, the applicant has made reasonable efforts to address Policy B1.5 guidelines.

Public Consultation Implications

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 variance prior to the Board's consideration of the application.

The Horne Lake Strata owners have indicated their general support to the Horne Lake Strata Council for increases to the main floor area of cabins through combining the permitted loft floor area with the permitted main floor area, which is consistent with this application.

ALTERNATIVES

1. To approve Development Variance Permit No. PL2018-001 subject to the conditions outlined in Attachments 2 to 3.
2. To deny Development Variance Permit No. PL2018-001.

FINANCIAL IMPLICATIONS

The proposed development has been reviewed and has no implications related to the Board 2018 – 2022 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal has no implications for the 2016 – 2020 Board Strategic Plan.



Greg Keller
gkeller@rdn.bc.ca
April 23, 2018

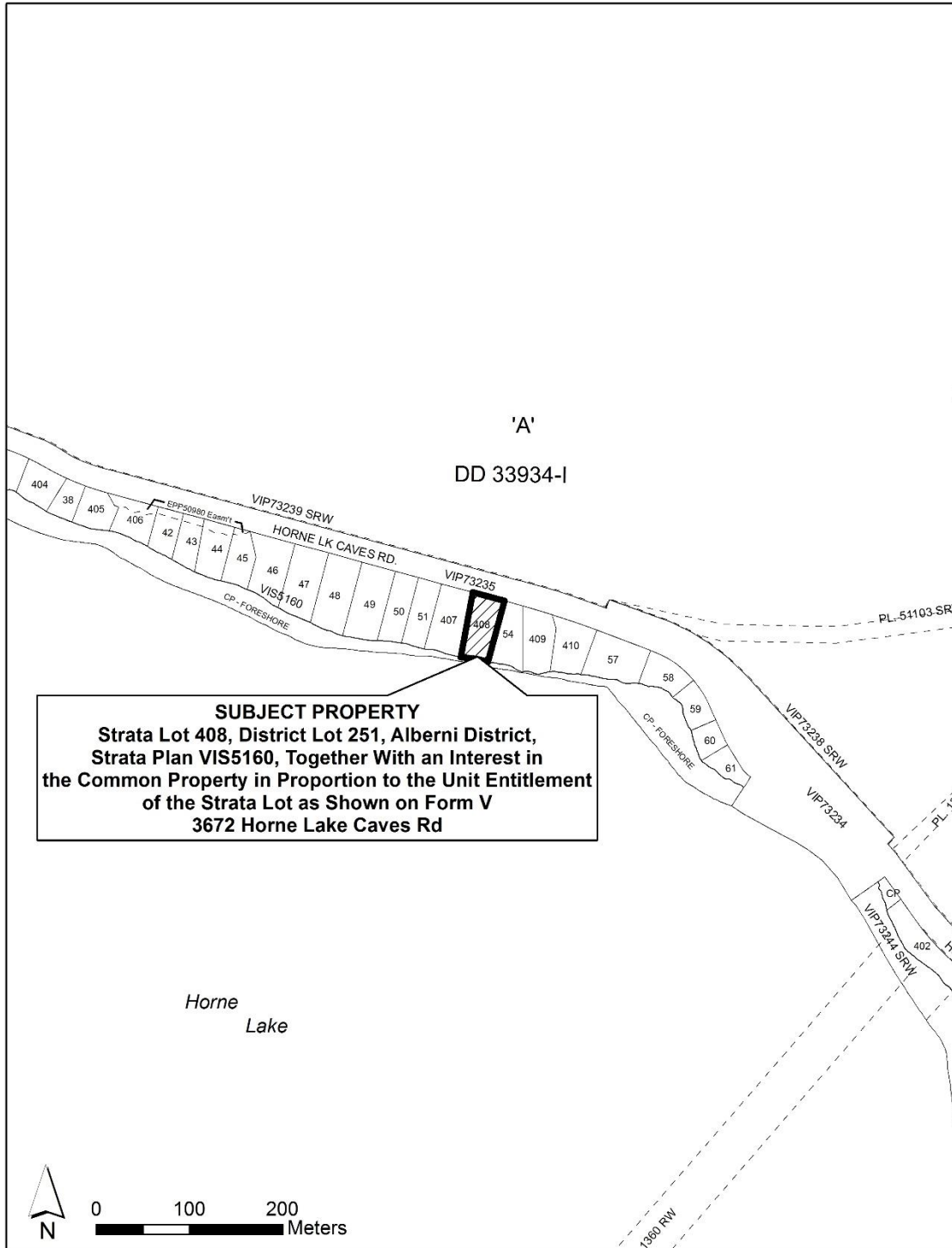
Reviewed by:

- 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

Attachment 1
Subject Property Map



Attachment 2 Terms and Conditions of Permit

The following sets out the terms and conditions of Development Variance Permit No. PL2018-001:

Bylaw No. 500, 1987 Variances

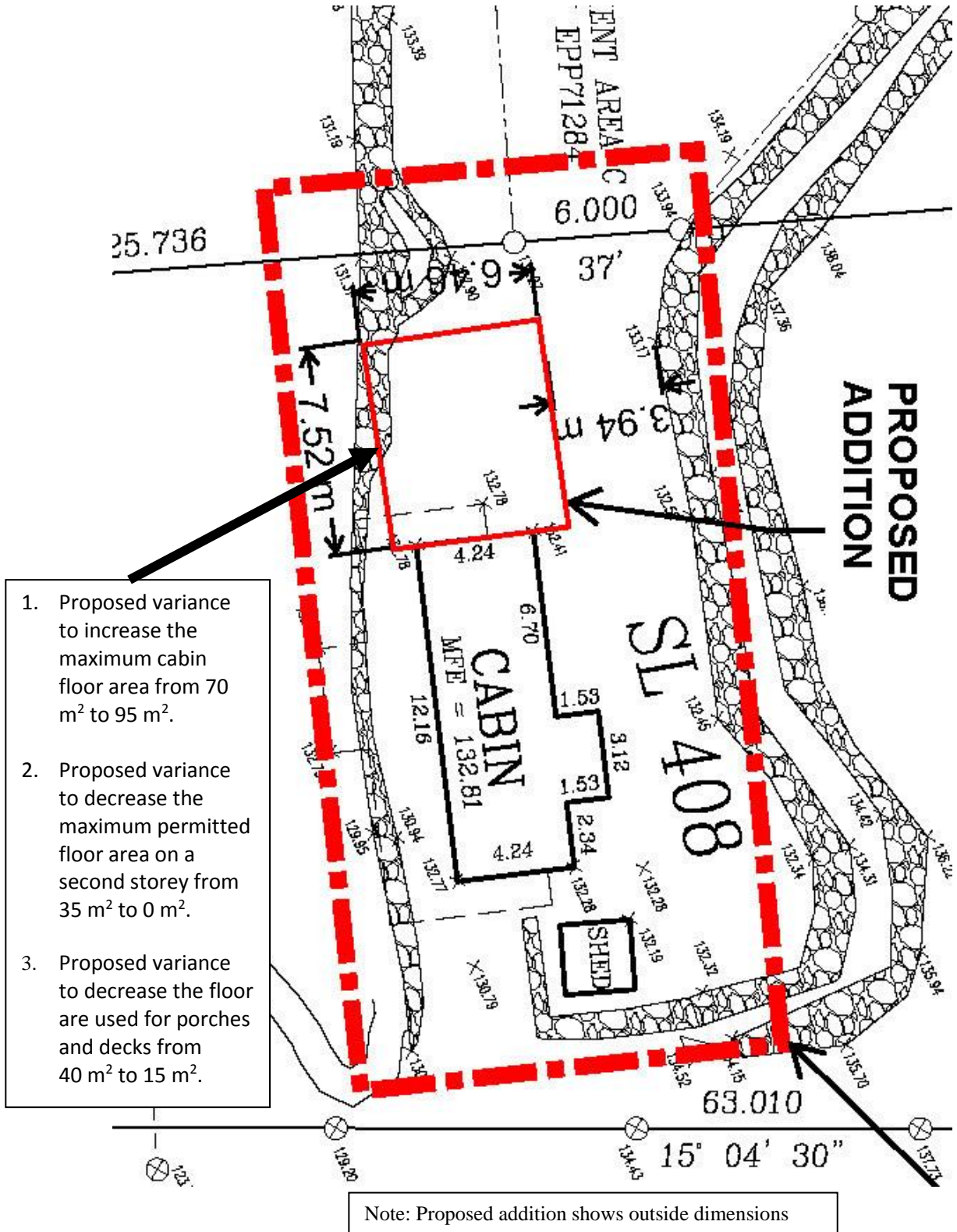
With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” is varied as follows:

1. **Section 3.4.107.2 – Maximum Number and Size of Buildings Structures and Uses c) i)** to increase the maximum cabin floor area from 70 m² to 95 m².
2. **Section 3.4.107.6 – Other Regulations xi)** to decrease the maximum permitted floor area on a second storey from 35 m² to 0 m².
3. **Section 3.4.107.6 – Other Regulations xiii)** to decrease the floor are used for porches and decks from 40 m² to 15 m².

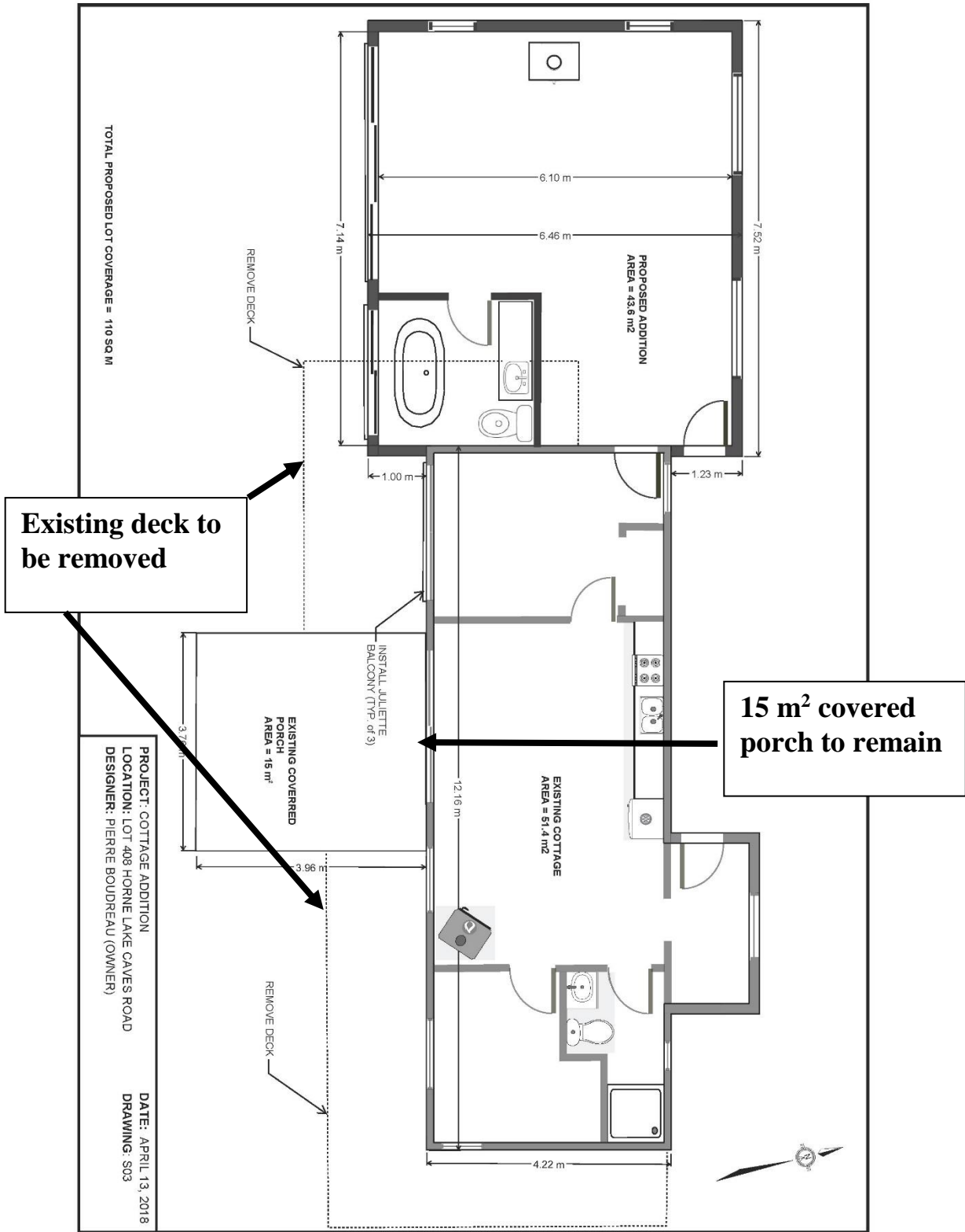
Conditions of Approval

1. The site is developed in accordance with the site plan prepared by Pierre Boudreau, dated April 13, 2018 and attached as Attachment 3.
2. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

Attachment 3 (Page 2 of 4)
Proposed Site Plan and Variances – Enlarged for Convenience



Attachment 3 (Page 4 of 4)
Proposed Site Plan and Variances – Enlarged for Convenience



TO: Electoral Area Services Committee **MEETING:** May 8, 2018

FROM: Stephen Boogaards
Planner **FILE:** PL2017-153

**SUBJECT: Development Variance Permit Application No. PL2017-153
Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement
In Relation to Subdivision Application No. PL2017-151
2120 and 2130 Sherritt Drive – Electoral Area ‘E’
Lot 24, District Lot 37, Nanoose District, Plan 30072**

RECOMMENDATIONS

1. That the Board approve the request to relax the minimum 10% perimeter frontage requirements for proposed Lots 1 and 2 in relation to Subdivision Application PL2017-151, subject to the terms and conditions outlined in Attachments 2 and 3.
2. That the Board approve Development Variance Permit No. PL2017-153 to increase the permitted parcel depth of proposed Lots 1 and 2 subject to the terms and conditions outlined in Attachment 2 to 3.
3. That the Board direct staff to complete the required notification for the Development Variance Permit No. PL2017 - 153.

SUMMARY

The applicant requests a parcel depth variance and a relaxation of the minimum 10% perimeter frontage requirement to allow for a two lot subdivision on Sherritt Drive in Electoral Area ‘E’. To address “Board Policy B1.5 Development Variance Permit Application Evaluation”, the applicant has provided a justification that the proposed lots will be consistent with the character of the neighbouring lots and will allow for uses permitted by zoning. Given the applicant’s justification, as well as the existing deep lot configuration, the variance is determined to be consistent with Board Policy B1.5 and no negative impacts are anticipated as a result of the proposed variance. It is recommended that the Board approve the development variance permit pending the outcome of public notification and subject to the terms and conditions outlined in Attachments 2 and 3.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Greg Clark on behalf of Steven John Heinz and Jill Diane Ferris for a two lot subdivision. The subject property is approximately 2.0 hectares in area and is zoned Residential 1 Zone (RS1), Subdivision District ‘F’, pursuant to “Regional

District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (Bylaw 500). The zoning for the property permits a minimum parcel size of 1.0 hectare, and the proposal is for an average lot size of 1.0 hectare between both lots. The property is surrounded by other RS1 properties and is located to the east of Sherritt Drive (see Attachment 1 – Subject Property Map).

The property contains an existing dwelling unit and is serviced by individual well and on-site septic disposal.

Proposed Development and Variance

The proposed subdivision will require a variance to the subdivision regulations to allow the parcel depth greater than 40% of the perimeter of the parcel for each of proposed Lots 1 and 2. The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 4.5.1 – Parcel Shape and Dimensions** to increase the permitted parcel depth for Lot 1 from 40% to 40.3% of the length of the perimeter of the parcel and Lot 2 from 40% to 40.6% of the length of the perimeter of the parcel.

The applicant has requested the parcel depth variance as follows:

Proposed Lot No.	Perimeter	Maximum Parcel Depth (40%)	Proposed Parcel Depth	Proposed Parcel Depth as a % of the Parcel Perimeter
1	510.2 m	204.1 m	205.7 m	40.3%
2	506.9 m	202.7 m	205.6 m	40.6%

Minimum 10% Perimeter Frontage Requirement

Proposed Lots 1 and 2 as shown on the submitted plan of subdivision do not meet the minimum 10% parcel frontage requirement pursuant to Section 512 of the Local Government Act. The applicant has requested approval of the RDN Board to reduce the frontage requirements as follows:

Proposed Lot No.	Perimeter	Required Frontage (m)	Proposed Frontage (m)	% of Perimeter
1	510.2 m	51.0 m	50.9 m	9.9%
2	506.9 m	50.7 m	49.9 m	9.7%

Land Use Implications

The applicant’s proposal will not comply with the maximum parcel depth requirements in Bylaw 500 and road frontage requirements of the *Local Government Act*. The purpose of these requirements is to ensure that each lot created has sufficient access, buildable area, servicing and space for the permitted uses. “Board Policy B1.5 Development Variance Permit Application Evaluation” requires a demonstration of a land use justification or rationale to address why the proposal cannot comply with the regulations and how the proposal can provide for efficient land use. Further, “Board Policy B1.4

Frontage Requirements for Rural Lots” establishes criteria for reviewing frontage relaxation proposals, including site constraints, consistency with the character of surrounding properties, and ability to accommodate the permitted uses.

For land use justification, the applicant has identified that the proposal is consistent with the character of the subdivision of neighbouring properties and the property do not contain constraints that would limit the permitted uses of the property under the RS1 zone, including setbacks and lot coverage. The existing driveway will remain on proposed Lot 2, and a new driveway will be constructed on proposed Lot 1. The new lot line is deflected slightly to allow for the preservation of the tree near the front property line and provide additional room adjacent to the existing dwelling and deck for a larger setback and privacy.

The RDN Board policies are intended to ensure that the character of development is consistent with the surrounding residential properties, and that the impacts from future development of the lot is minimized. Given the RS1 zoning on the property, future development of the lots are limited to a dwelling unit and 250 m² of accessory building floor area, including a potential detached secondary suite. The existing deep lot configuration would also limits the ability to subdivide the parcel in a manner consistent with the required parcel depth and minimum frontage. Given the consistency of the subdivision with the surrounding community, ability to accommodate the permitted uses and existing configuration, the applicants have made reasonable efforts to address Policy B1.4 and B1.5 guidelines.

Intergovernmental Implications

The Ministry of Transportation and Infrastructure reviewed the subdivision application and has issued the Preliminary Layout Approval.

Public Consultation Implications

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 variance prior to the Board’s consideration of the application.

ALTERNATIVES

1. To approve Development Variance Permit No. PL2017-153, and the request of the minimum 10% frontage requirement, subject to the conditions outlined in Attachments 2 to 3.
2. To deny Development Variance Permit No. PL2017-153, and the request of the minimum 10% frontage requirement.

FINANCIAL IMPLICATIONS

The proposed development has been reviewed and has no implications related to the Board 2018 – 2022 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

The proposed development has been reviewed and has no implications for the 2016 – 2020 Board Strategic Plan.



Stephen Boogaards
sboogaards@rdn.bc.ca
April 12, 2018

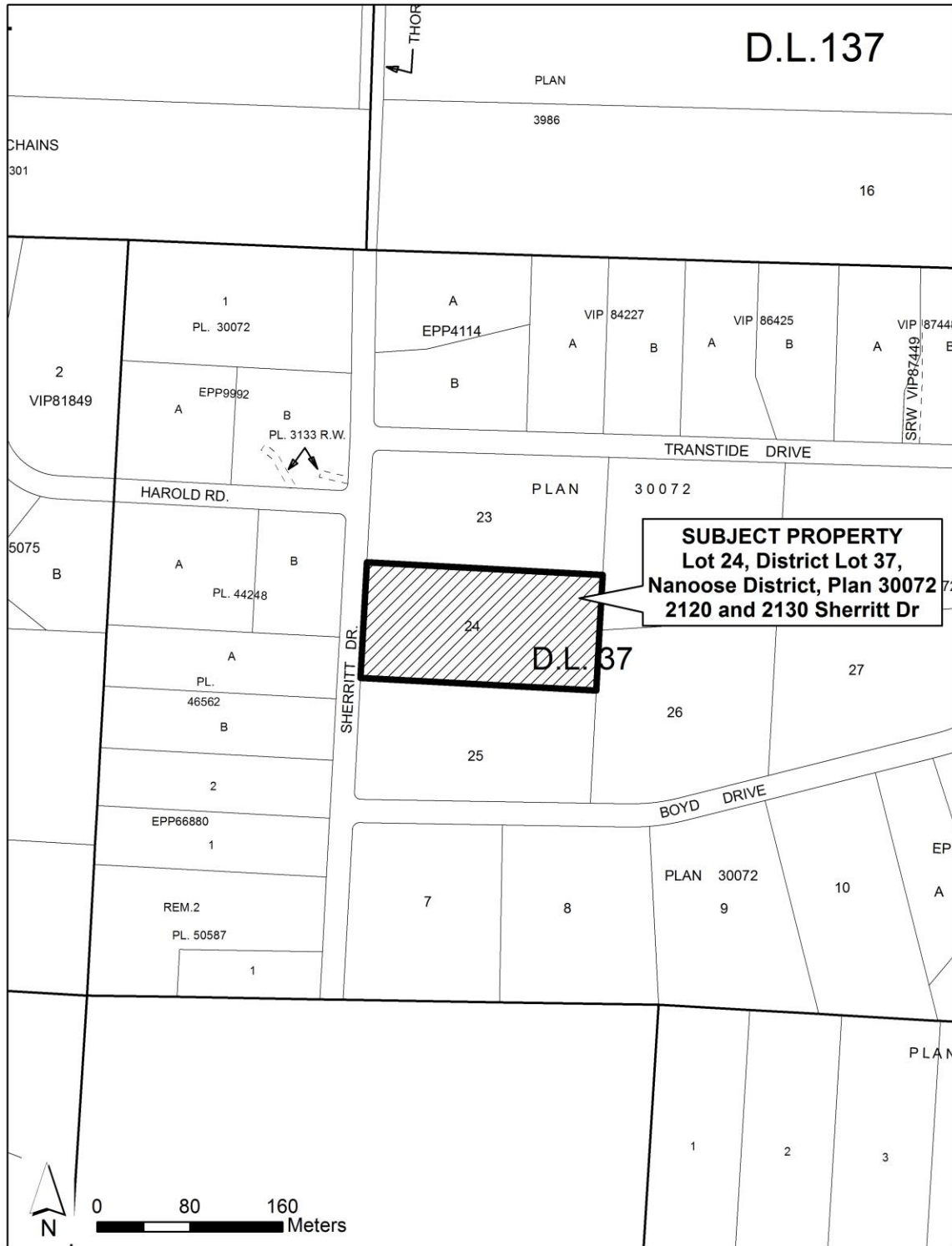
Reviewed by:

- 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 Survey Plan and Variances

Attachment 1
Subject Property Map



Attachment 2
Terms and Conditions of Permit

The following sets out the terms and conditions of Development Variance Permit No. PL2018-153:

Bylaw No. 500, 1987 Variance

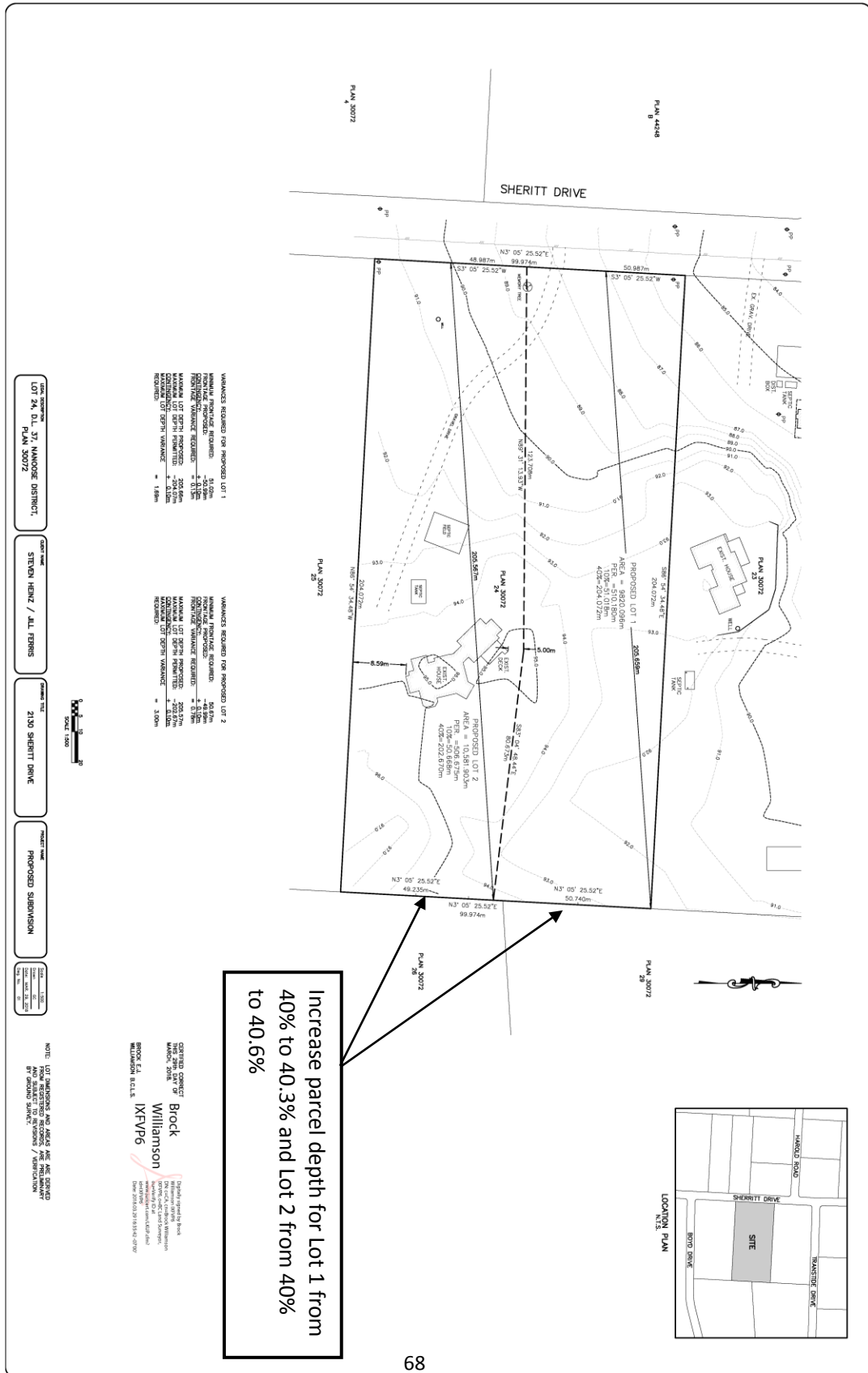
With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” is varied as follows:

Section 4.5.1 – Parcel Shape and Dimensions to increase the permitted parcel depth for Lot 1 from 40% to 40.3% of the length of the perimeter of the parcel and Lot 2 from 40% to 40.6% of the length of the perimeter of the parcel.

Conditions of Approval

The site is developed in accordance with the Survey Plan prepared by Brock Williamson dated March 29, 2018 and attached as Attachment 3.

Attachment 3
Proposed Survey Plan and Variances



Increase parcel depth for Lot 1 from 40% to 40.3% and Lot 2 from 40% to 40.6%

TO: Electoral Area Services Committee **MEETING:** May 8, 2018
FROM: Nick Redpath
Planner **FILE:** 0125-20-CANNABIS
SUBJECT: Non-medical Cannabis Retail Store Licence Applications Policy

RECOMMENDATION

That the Board adopt Regional District of Nanaimo Policy B1.24 Non-medical Cannabis Retail Store Licence Applications.

SUMMARY

The nationwide legalization of non-medical cannabis (NMC) by the summer of 2018 presents challenges to all levels of government. The federal government will continue to oversee the medical cannabis regime under the *Access to Cannabis for Medical Purposes Regulations* and will take on the responsibility of regulating the production of NMC upon its legalization. In British Columbia, the wholesale distribution of NMC will be solely through the Liquor Distribution Branch (LDB). The LDB will be the operator of government-run retail stores and the Liquor Control and Licensing Branch will be responsible for licensing and monitoring the retail sector using a mixed public/private model. The Province has advised that it will permit local governments to decide whether they wish to have NMC retail stores in their communities and for the Province to issue a retail licence, support of the local government must be obtained by an applicant. Draft Policy B1.24 (see Attachment 1 – Draft Policy B1.24 Non-medical Cannabis Retail Store Licence Applications) is proposed to establish a framework in guiding the review of NMC retail store licence applications in the Regional District of Nanaimo (RDN).

BACKGROUND

The federal government will be responsible for the supply of cannabis (regulation, production and product standards) and set industry-wide standards around the types of products available, packaging and labelling requirements, serving sizes and potency standards, prohibiting the use of certain ingredients and promotional restrictions. The federal government is also responsible for establishing minimum conditions that provincial and territorial legislation will be required to meet to ensure consistency. The conditions set by the federal government relate to personal possession limits (maximum 30 grams per adult), personal cultivation (maximum four plants per residence) and setting of a minimum age of consumption (18 years). Continued oversight of the medical cannabis regime will also fall under federal jurisdiction.

Provincial and territorial governments will assume responsibility for many aspects of non-medical cannabis regulation in their respective jurisdictions. On April 26, 2018, the Province introduced legislation to provide for legal, controlled access to NMC in British Columbia. The proposed *Cannabis*

Distribution Act (CDA) will establish the Province's exclusive jurisdiction over wholesale distribution of cannabis and provide authority for public retail sales. The proposed *Cannabis Control Licensing Act (CCLA)* establishes provincial control over the sale, supply and possession of NMC and establishes licensing of private cannabis retailers, including registration and training requirements for those who will work in cannabis retail. The *CCLA* also outlines restrictions on the possession, personal cultivation and consumption of cannabis by adults, prohibitions for minors and includes an extensive compliance and enforcement regime.

Regional districts are likely to be most active in the areas of land use management (administering and enforcing zoning regulations pertaining to cannabis production facilities and non-medical cannabis retail sales), public consumption (regulation and enforcement around public consumption in local government facilities), cannabis in the workplace (maintaining safe municipal workplaces) and enforcement issues (building code and bylaw enforcement). The Federation of Canadian Municipalities released a Municipal Guide to Cannabis Legalization to assist Canadian local governments in preparing for the upcoming nationwide legalization this summer (see Attachment 2 – Municipal Guide to Cannabis Legalization).

Land Use Management

To address cannabis production facilities within the RDN, "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.415, 2018" and "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285.31, 2018" were adopted to reflect the change in terminology used by the federal government from "marihuana" production to "cannabis" production and regulate the production of cannabis for medical and non-medical purposes in anticipation of legalization later this year.

The Province released a private retail licensing guide (see Attachment 3 – B.C. Cannabis Private Retail Licensing Guide) for NMC retail store licence applications. This guide provides information for those considering applying for a provincial licence to retail NMC and assists local governments in preparing for potential retail store licence applications within their communities. The rules governing NMC retail stores will be similar to those currently in place for liquor, and public and private retailers will have similar operating rules. The Province requires that a local government review NMC retail store licence applications, consider community impacts and provide a resolution to indicate whether or not the local government supports the licence application. The Province is currently working with local governments and the Union of B.C. Municipalities to finalize the application process, including what information local governments will need to have in order to provide informed comments and pass a resolution on applications.

The RDN's review of NMC retail store licence applications have implications on both the Community Planning budget and staff resources. "Regional District of Nanaimo Planning and Services Fees and Charges Amendment Bylaw No. 1259.12", 2018" was recently adopted to help cover the cost of reviewing NMC retail store licence applications.

Regulatory Options

A number of different regulatory approaches exist to address the retail aspect of NMC. Three of these options are outlined below and it is up to local governments to decide on the best approach for their respective community.

1. Allow NMC shops as a retail use under existing zoning and provide locational input through the licence application process and create a policy to guide the review of licence applications.
(recommended option)
2. Adopt specific NMC retail land use regulations and only permit the use in specific zones deemed suitable to accommodate these shops.
3. Establish an initial prohibition on NMC retail stores through land use regulations and require a zoning amendment application for each proposed NMC retail store.

Recommended Option - Policy B1.24 Non-medical Cannabis Retail Store Licence Applications

With the Province requiring local governments to review NMC retail store licence applications, draft Policy B1.24 is being proposed to establish a framework to guide the review of these licence applications within the RDN. This approach is consistent with the RDN Liquor Licence Applications Policy B1.6 used in the review of liquor licence applications received from the Province. The intent of this policy is to outline criteria to be considered by the Regional District of Nanaimo Board and assist in forming a resolution as part of the Province's CDA licensing process for NMC retail stores. The draft policy approach is flexible and adaptive to community interests and concerns. The draft policy is intended to provide guidance to applicants and RDN staff as part of the application process and address potential adverse community impacts of NMC retail stores, including inappropriate exposure of minors to cannabis and undesirable concentration of these retail stores.

The Province intends to introduce special provisions for rural areas to provide access to NMC to rural populations and will review whether rural agency stores that currently sell liquor will also be eligible for NMC sales. Draft Policy B1.24 applies to both regular NMC retail store and rural agency store licence applications and a review of the proposed policy may be required once the Province finalizes details of the application process.

Local governments throughout the province are taking different regulatory approaches to address the upcoming challenges faced with the legalization of cannabis. Allowing NMC shops as retail under existing zoning and providing locational input through the licence application process is recommended for the RDN. Draft Policy B1.24 will help guide RDN staff and potential licence applicants to help create an efficient and effective process in preparation for legalization. The Province has yet to finalize the application process for NMC retail licences and has indicated that a local government resolution is required prior to issuing final approval. Should the Board adopt draft Policy B1.24, staff would monitor for further Provincial guidance and changes to the NMC licensing process and bring forward recommended policy revisions for the Boards consideration as necessary.

Zoning

At present, similar to alcohol, the selling of cannabis would fall under general retail use within "Regional District of Nanaimo Land use and Subdivision Bylaw No. 500, 1987" and "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002", and is permitted in any zone that allows that use. In reviewing all applications, draft Policy B1.24 requires that all NMC retail stores be located in a zone where retail store is a permitted principal use.

Separation from Sensitive Uses and other Non-medical Cannabis Retail Stores

To address potential adverse community impacts and provide guidance to applicants for non-medical cannabis licences, draft Policy B1.24 proposes a minimum 300 metre setback between each NMC retail store and other uses deemed sensitive. Identified sensitive uses include schools, playgrounds, community centres and daycares. The intent of the proposed minimum setbacks within draft Policy B1.24 is to mitigate inappropriate exposure of minors to cannabis, minimize public impact and prevent undesirable concentrations of NMC retail stores.

The minimum 300 metre setback from sensitive uses and other NMC retail stores was selected after a review of existing regulations for other local governments within BC and the United States of America took place. In 2014, Washington State legalized cannabis and permitted the retail sale of NMC in storefronts. The Washington State Liquor and Cannabis Board implemented a 1000 feet (300 metre) distance requirement from restricted entities including schools, playgrounds, recreation facilities, child care centres, public transit centres, libraries and arcades. The City of Vancouver mirrored Washington State and implemented 300 metre setbacks from schools, community centres, neighbourhood houses, youth facilities that serve vulnerable youth and other cannabis related businesses. The City of Victoria implemented a 200 metre setback from public or independent elementary, middle or secondary schools and a 400 metre setback between cannabis retail stores.

Contact has been made with member municipalities to discuss approaches to address NMC retail and proposed setback distances between sensitive uses and other NMC stores. Many jurisdictions are in the early stages of preparing to receive NMC retail store licence applications and no confirmed setback distances have been implemented by member municipalities to date. Continued communication will take place to provide opportunity for consistency within the region.

Notification Distance

To address potential adverse community impacts and provide an opportunity for owners and tenants within the vicinity of a NMC retail store licence application to submit feedback, a 200 metre notification area is proposed within draft Policy B1.24. Consistent with RDN Liquor Licence Applications Policy B1.6, the RDN will mail, or otherwise deliver, written notice to owners and tenants in occupation of any part of a parcel within a distance of 200 metres at least 10 days prior to the date of the hearing advising the public of the application and their opportunity to be heard at the hearing. Policy B1.24 anticipates minor amendments to licenced NMC retail stores in the future and includes provisions which are consistent with those provided in existing liquor licence Policy B1.6.

ALTERNATIVES

1. Adopt Policy B1.24 Non-medical Cannabis Retail Store Licence Applications.
2. Do not adopt Policy B1.24 Non-medical Cannabis Retail Store Licence Applications.
3. Provide alternate direction.

FINANCIAL IMPLICATIONS

This report and draft Policy B1.24 have been prepared in response to the Provincial *Cannabis Distribution Act* and NMC retail store licence application process in anticipation of the upcoming

legalization of non-medical cannabis. Draft Policy B1.24 can be accommodated within the existing Community Planning budget.

The implications to the Community Planning budget for review of non-medical cannabis retail store licence applications could be significant depending on the number received. Recent bylaw amendments creating a \$4,000 fee to review non-medical cannabis retail store licence applications will help recover the cost associated with review and processing of these applications.

STRATEGIC PLAN IMPLICATIONS

A focus on “Economic Health” is one of the strategic priorities in the RDN Strategic Plan 2016 – 2020. In particular, the strategic plan directs that the RDN will foster economic development and support diversification of our regional economy. Retail of non-medical cannabis could provide local business opportunities in this emerging sector and promote economic health through the diversification of our regional economy.

The Strategic Plan 2016-2020’s “Focus on Service and Organizational Excellence” states that the RDN will ensure our processes are as easy to work with as possible. Draft Policy B1.24 is intended to bring clarity to potential applicants and provide a framework that is easy to work with, delivering an efficient and effective process.



Nick Redpath
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May 1, 2018

Reviewed by:

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

Attachments

1. Draft Policy B1.24 Non-medical Cannabis Retail Store Licence Applications
2. Municipal Guide to Cannabis Legalization
3. B.C. Cannabis Private Retail Licensing Guide

REGIONAL DISTRICT OF NANAIMO

P O L I C Y

SUBJECT:	<i>DRAFT Non-medical Cannabis Retail Store Licence Applications</i>	POLICY NO: B1.24 CROSS REF.:
EFFECTIVE DATE:	TBD	APPROVED BY: Board
REVISION DATE:		PAGE: 1 of xx

PURPOSE

This document is intended to outline the process employed by the Regional District of Nanaimo in the review and processing of requests for local government resolutions for non-medical cannabis (NMC) retail store licence applications.

POLICY

1. Applications

a) Application Forms

Applications for a Board resolution shall be made to the Manager of Current Planning on the form provided by the Manager, and shall contain the following at a minimum:

- i) Name, address, and signature of the applicant
- ii) Name, address, and signature of registered owner, if different from the applicant, or a letter of consent from the owner, if the applicant is not the owner
- iii) Title search for the property (dated within 30 days of the application), including copies of any charges on title, and corporate registry search (if applicable)
- iv) The legal description of the property and street address of the property
- v) Plans in support of the application, including a site plan, floor plan and signage details in a format consistent with the RDN’s development permit application requirements
- vi) A description of the proposed NMC retail store, including: the proposed store’s size, proposed hours of operation and specific market segment being targeted
- vii) A community impact statement that outlines the NMC retail store’s potential positive impacts on the community, potential negative impacts on the community, and measures taken to address the store’s potential negative impacts
- viii) Identification of any sensitive uses and NMC retail stores within the specified separation distance from the subject property established in the Community Impact Evaluation Criteria section of this policy
- ix) A copy of a completed Liquor Control and Licensing Branch (LCLB) application form.

b) Application Fees

At the time of application for a local government resolution the applicant shall pay the Regional District of Nanaimo an application fee in the amount set out in Regional District of Nanaimo Fees and Charges Bylaw No. 1259, 2002, and any amendments thereto.

2. Community Impact Evaluation Criteria

The Board may consider the following when providing a resolution with respect to an application for a new NMC retail store licence, or an amendment to an existing licence:

- i) Location of the proposed NMC retail store
- ii) The proximity of the proposed NMC retail store to existing NMC retail stores and sensitive uses, including schools, playgrounds, community centres and daycares, which are in operation at the time the application is made. A separation distance of 300 metres should be provided between the subject property and properties containing these uses
- iii) The size of the proposed NMC retail store and proposed hours of operation
- iv) The number and market focus or clientele of liquor primary establishments in proximity to the proposed NMC retail store
- v) Traffic and parking
- vi) Official Community Plan policies and zoning allowing for 'retail store' as a principle permitted use
- vii) Population, density, and trends in the surrounding community
- viii) Relevant socio-economic information
- ix) Referral responses and comments received through public notification
- x) The impact on the community if the application is approved.

3. Public Consultation

The Regional District of Nanaimo will solicit and receive the views of residents that may be impacted by the application as follows:

a) Public Meetings

The RDN shall hold a hearing, which shall be advertised in accordance with this policy. On the date identified in the public notice, the Electoral Area Director or designate, will hear the applicant and members of the public it considers may be impacted if the NMC retail store licence is granted. The RDN may, at its discretion, hold a public information meeting prior to the hearing to facilitate additional consultation with the public.

Where an application for a local government resolution is associated with an Official Community Plan (OCP) Amendment or an application for land use and subdivision bylaw change, the hearing for that application shall be used to obtain public input on the NMC retail store licence application.

b) Minor Amendments

Notwithstanding the above the Board may also consider a minor amendment application to an existing NMC retail store licence, without the requirement to hold a hearing, if the proposal is not anticipated to negatively impact the surrounding community and complies with other applicable RDN bylaws and policies. All other requirements of this policy must be met and notice of the Board's consideration of the licence amendment application will be provided in accordance with the public notification requirements of this policy.

c) Notification Requirements

Public notification of the proposed NMC retail store will be required as follows:

- i) Upon receipt of a complete application the applicant shall post a notice on the subject property in a format prescribed by the Manager of Current Planning in a location unobstructed to view from the adjacent highway or street, advertising that the property is subject to an NMC retail store licence application.
- ii) The RDN will mail, or otherwise deliver, written notice to owners and tenants in occupation of any part of a parcel which is the subject of the application, and within a distance of 200 metres of all parcels that are the subject of the application at least 10 days prior to the date of the hearing advising the public of the application and their opportunity to be heard at the hearing.
- iii) The RDN shall place two consecutive advertisements in a local newspaper. The publication will appear not less than 3 nor more than 10 days before the date of the hearing advising the public of the application and their opportunity to be heard at the hearing.
- iv) The purpose of the letter and newspaper notice will be to:
 - inform the public that the Board has received a request for a local government resolution for a NMC retail store licence
 - identify the general terms and intent of the application
 - make available the time and date on which public representations will be heard by the Board, or designate
 - outline any proposed changes to an existing NMC retail store licence if the application is for an existing licensed NMC retail store.

4. Consideration of Applications

A report on a NMC retail store licence application shall be submitted to the Electoral Area Services Committee and shall contain: details of the application; an evaluation of the proposal; a summary of referral responses and comments received through public consultation; and a draft resolution for the Board's consideration. The Board may approve the draft resolution, amend the draft resolution and approve it, or provide no comment regarding the application.

Municipal Guide to Cannabis Legalization

A roadmap for Canadian
local governments



Disclaimer

This guide provides general information only. It is not meant to be used as legal advice for specific legal problems. This guide should not be used as a substitute for obtaining legal advice from a lawyer licensed or authorized to practice in your jurisdiction.

Information about the law in this guide has been checked for legal accuracy at the time of its publication, but may become outdated as laws or policies change. Links to non-FCM resources are provided for the convenience of readers of this guide. FCM does not create or maintain these non-FCM resources, and is not responsible for their accuracy.

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Rising to the local challenge of cannabis legalization



To municipal leaders and staff across Canada,

The nationwide legalization of non-medical cannabis by the summer of 2018 presents major challenges for all orders of government.

And of course, municipalities form the order of government closest to daily life and commerce—building more livable communities, handling crises, and doing what it takes to keep residents safe and well-served. We are also very much on the front lines of implementing this new federal commitment. Our cities and communities, after all, are the places where non-medical cannabis will be legally sold and consumed.

Getting this right is a big job.

Local governments will face significant new enforcement and operational challenges in the months and years ahead. And those challenges don't end with policing. There is a world of bylaws to develop and business licensing rules to review. There are processes to adopt across as many as 17 municipal departments. And that's where this guide comes in.

FCM worked with legal, land-use planning and policy experts to develop a roadmap for how municipalities might choose to adapt and develop bylaws in domains ranging from land use management to business regulation to public consumption.

Building on last summer's [Cannabis Legalization Primer](#), this guide offers policy options and practical suggestions for local rules and by-laws. And this roadmap was strengthened by technical and financial contributions from your provincial and territorial municipal associations across the country.

As you forge ahead locally, FCM continues to advocate at the federal level for deeper engagement with municipalities. Municipalities also need new financial tools—and we're making progress on accessing a fair share of cannabis excise tax revenues. While local policing is largely outside the scope of this guide, its costs are inside the scope of many municipal budgets. Those costs, layered onto the new administrative costs you will face, need to be sustainable.

This work and this guide are designed to help you do what you do best: protect and strengthen your communities as sustainably and durably as possible. Legalizing non-medical cannabis across this country requires a strong partnership among orders of government. And your tireless efforts, in communities of all sizes, from coast to coast to coast, are central to getting the job done.

A handwritten signature in black ink that reads "J Gerbasi". The signature is fluid and cursive, with the first letter of each name being capitalized.

Jenny Gerbasi
Deputy Mayor of Winnipeg
President, FCM

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Saskatchewan Urban Municipalities Association
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Union of British Columbia Municipalities
Union of Municipalities of New Brunswick
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This project's Technical Advisory Group has worked tirelessly to keep it grounded in the realities of communities addressing all aspects of legalization:

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Finally, FCM thanks its nearly 2,000 members—Canadian municipalities of all sizes and regions, from coast to coast to coast. These are the local governments on the front lines of implementing the federal commitment to legalize non-medical cannabis. They are the fuel that powers FCM's policy and advocacy work.

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1

Federal framework

On April 13, 2017, the federal government tabled two bills to legalize and regulate cannabis in Canada:

- [Bill C-45](#), *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts (the “Cannabis Act”)*.
- [Bill C-46](#), *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*.

With a planned Summer 2018 adoption date, the *Cannabis Act* creates a regulatory framework for the production, distribution, sale, cultivation, and possession of cannabis across Canada. Bill C-46 addresses offences relating to cannabis trafficking, and focuses on strengthening impaired-driving measures.



1.1 Bill C-45, the proposed *Cannabis Act*

As outlined by the federal government, the *Cannabis Act* seeks to achieve the following objectives:

- ▶ Restrict youth access to cannabis.
- ▶ Regulate promotion or enticements to use cannabis.
- ▶ Enhance public awareness of the health risks associated with cannabis.
- ▶ Impose serious criminal penalties for those breaking the law, especially those who provide cannabis to young people.
- ▶ Establish strict product safety and quality requirements.
- ▶ Provide for the legal production of cannabis.
- ▶ Allow adults to possess and access regulated, quality-controlled, legal cannabis.
- ▶ Reduce the burden on the criminal justice system.

For local governments, the *Cannabis Act* has significant implications for local land use regulation, business regulation and licensing, and the regulation of public consumption and personal cultivation of cannabis. There will also be, to a certain extent, variations across provincial and territorial jurisdictions. The most significant variance will be whether these jurisdictions choose to distribute non-medical cannabis through a government or a privately run system.

When implementing a strategy to regulate cannabis locally, municipal governments should first consider and work within any existing or anticipated provincial/territorial and federal initiatives that affect the public consumption of cannabis. Under the *Cannabis Act*, the federal government proposed significant restrictions on the marketing

and promotion of cannabis products. We address this in [CHAPTER 2: LAND USE MANAGEMENT](#) and [CHAPTER 4: PUBLIC CONSUMPTION](#).

Public smoking and alcohol consumption legislation varies greatly across provinces and territories. We anticipate that many will extend existing legislation to public cannabis consumption.

Local governments should be attuned to where consumption of cannabis is, or is not, permitted in their province or territory. Local governments should also be aware of what cannabis consumption regulations the federal and provincial/territorial governments introduce. This will help them determine whether or how the local government wishes to contribute to and work within those regulations in their community.

1.2 Bill C-46, on impaired driving

While the *Cannabis Act* and Bill C-46 were proposed at the same time and relate to the regulation of cannabis, they have distinct focuses. Bill C-46 addresses offences relating to cannabis conveyancing and trafficking, as well as enhancing impaired-driving investigation and enforcement measures.

Bill C-46 has significant implications for law enforcement as well as individual rights protected by the Charter. A brief summary of the proposed legislation follows, but Bill C-46 is otherwise outside the scope of this guide.

- ▶ **Part 1 creates three new offences** for having specified levels of a drug in the blood within two hours of driving. The penalties would depend on the drug type and the levels of drug or the combination of alcohol and drugs, with the drug levels to be set by regulation.



For THC, the main psychoactive compound in cannabis, a person found driving with a blood content of 2 or more nanograms of THC would be subject to a summary conviction criminal offence. A person found driving with higher THC blood content levels, or a combined alcohol and THC blood content level, would be subject to even more severe criminal penalties.

- **Part 2 replaces the current Criminal Code** regime dealing with transportation offences. It would allow for mandatory alcohol and drug screening by police at roadside stops, as well as increased minimum fines for impaired driving.

Under the proposed mandatory alcohol and drug screening provisions, law enforcement officers would

be able to demand an oral fluid sample at roadside if they suspect a driver has a drug, including THC, in their body. For alcohol, if law enforcement officers have an “approved screening device” at hand, they will be permitted to demand breath samples of any drivers they lawfully stop without first suspecting that the driver has alcohol in their body.

The proposed legislation would also allow for police officers to provide opinion evidence in court, as to whether they believe a driver was impaired by a drug at the time of testing. This is without the need for an expert witness in each trial.

▶ **Law enforcement practices by local police forces and the RCMP will be affected if Bill C-46 is enacted.**

Many of the legislative changes in Bill C-46 relate to amending the Criminal Code or involve policing and law enforcement practices. The focus of this Guide is to assist local governments in the regulation of cannabis under the *Cannabis Act*. If a local government is concerned about the impact of Bill C-46, consultation with local police forces and the RCMP is recommended.

1.3 Medical vs. non-medical cannabis regimes

The laws regarding cannabis do not change until the *Cannabis Act* has passed. Until such time, the [Access to Cannabis for Medical Purposes Regulations](#) (ACMPR), released August 2016, remain the authority for lawful cannabis production and possession. Currently, cannabis may be grown by registered persons and licensed producers for medical purposes only, unlicensed possession of any cannabis is illegal, and the retail distribution of cannabis in “dispensaries” and other storefront operations is also illegal.

Although the federal government has indicated it may revisit the ACMPR regime if the *Cannabis Act* becomes law, the current ACMPR regime continues under the Act. Medical practitioners will continue to be able to prescribe cannabis for medical purposes. Individuals with a prescription, including those under 18, will continue to

be able to access medical cannabis. The *Cannabis Act* also provides that those licensed under the ACMPR for commercial medical cannabis production will continue to be authorized to produce medical cannabis under the *Cannabis Act*, and be deemed to hold licenses for the production of non-medical cannabis.

Definitions: Cannabis vs marihuana

Cannabis is commonly used as a broad term to describe the products derived from the leaves, flowers and resins of the *Cannabis sativa* and *Cannabis indica* plants, or hybrids of the two. These products exist in various forms, such as dried leaves or oils. They are used for different purposes, including medical, non-medical, and industrial purposes. Under the *Cannabis Act*, cannabis is broadly defined and includes:

- ▶ Any part of the cannabis plant, other than mature stalks that do not contain leaves, flowers or seeds, the cannabis plant fibre, or the plant root.
- ▶ Any substance or mixture of substances that contains or has on it any part of a cannabis plant.
- ▶ Any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.

Marihuana (marijuana) is commonly used to refer to parts of a cannabis plant, such as the leaves or flowers. It not a defined term under the *Cannabis Act*. Under the *Controlled Drugs and Substances Act*, marihuana is referred to as a form of cannabis.

“Cannabis” is preferable to “marihuana” for the regulatory context. Furthermore, “marihuana” is often seen spelled two different ways: the “h” is common in federal communications, while the “j” is associated with a phonetic Mexican Spanish usage—which has also drawn critique for a xenophobic association. Although cannabis and marihuana have historically been used interchangeably, the definition for cannabis is broader, and better able to include cannabis products and other substances than marihuana.

1.4 Jurisdictional issues

Federal responsibilities

Under the *Cannabis Act*, the federal government is responsible for establishing and maintaining a comprehensive and consistent national framework for regulating production of cannabis. This also includes setting standards for health and safety and establishing criminal prohibitions. Under the *Cannabis Act*, the federal government is specifically responsible for:

- ▶ Individual adult possession of cannabis, including determining the maximum allowable cannabis possession and home cultivation quantities.
- ▶ Promotions and advertising, including regulating how cannabis or cannabis accessories can be promoted, packaged, labelled and displayed.
- ▶ Licensing commercial cannabis production.
- ▶ Industry-wide regulations on the quantities, potency, and ingredients in the types of products that will be allowed for sale.
- ▶ Registration and tracking of cannabis from seed to sale.
- ▶ Minimum conditions for provincial/territorial distribution and retail sale; and allowing for the federal government to license distribution and sale in any province/territory that does not enact such legislation.
- ▶ Law enforcement at the border.
- ▶ Criminal penalties for those operating outside the legal system.

Provincial and territorial responsibilities

Under the proposed federal legislation, the provinces and territories are authorized to license and oversee the distribution and sale of cannabis, subject to minimum federal conditions. Some of these minimum conditions are that cannabis, including cannabis accessories and other products, may only be sold if it:

- ▶ qualifies as fresh cannabis, cannabis oil, cannabis plants or seeds;
- ▶ does not have an appearance, shape or attribute that could be appealing to a young person;
- ▶ does not contain ingredients such as caffeine, alcohol, or nicotine; and
- ▶ has not been recalled.

Edibles, or foods such as candy and baked goods that have been infused with cannabis, are not currently authorized under the proposed federal regime. Although these additional forms of cannabis may be authorized and regulated in the future.

All retailers must be authorized to sell cannabis under the proposed federal Act, or by provincial legislation that meets the minimum federal conditions on retail sale. These minimum conditions are that an authorized retailer can only sell cannabis produced by a federally authorized producer that is sold:

- ▶ to a person older than 18;
- ▶ with appropriate record-keeping measures in place;
- ▶ under conditions to prevent diversion to an illegal market or activity; and
- ▶ not through a self-service display or vending machine.

Delegation of authority

Many of the activities involved in cannabis legalization fall within the exclusive jurisdiction of provinces. Federal enabling legislation may grant similar legislative powers to the territorial governments. In some circumstances, provincial or territorial governments have further delegated or recognized local government authority to address certain matters. As a general principle, a federal role does not necessarily oust provincial/territorial or local government jurisdiction. Throughout this guide, we examine how jurisdictional authority is applied in the context of non-medical cannabis.

Municipal governments should examine their enabling legislation, as well as federal legislation and regulations, to understand the full extent of their potential scope of action.

Summary of possible roles and responsibilities

Federal	Provincial/Territorial	Municipal
Cannabis production Cannabis possession limits Trafficking Advertising Minimum age limits (18) Oversight of medical cannabis regime, including personal cultivation registration	Wholesale and retail distribution of cannabis Selection of retail distribution model Workplace safety Discretion to set more restrictive limits for: <ul style="list-style-type: none"> • minimum age for consumption • possession amount 	Zoning (density, location) Retail locations Home cultivation Business Licensing Building Codes Nuisance Smoking restrictions Odours Municipal workplace safety Enforcement Regulations around public consumption Personal possession Municipal cost considerations related to local policing

Charter issues

Over the past few years, the *Controlled Drugs and Substances Act* provisions dealing with the possession of medical cannabis have been held to be contrary to the *Canadian Charter of Rights and Freedoms*. But there currently does not appear to be a basis in the Charter for a challenge on local government restrictions applying to the production, distribution, retail sale or consumption of cannabis for non-medical purposes. Neither the right to life, liberty and security of the person, nor any other right guaranteed by the Charter, would be infringed by such restrictions.

As an example, the Charter should not prevent local governments from enforcing building construction and safety standards in relation to home cultivation of cannabis. These would likely qualify as “reasonable limits” on any Charter right to access a supply of non-medical cannabis. We note other specific Charter considerations in subsequent sections of this guide.

2 Land use management

The location, scale and density of cannabis cultivation and retail facilities will have real impacts for local communities. Commercial cultivation presents challenges ranging from odours to use of public water and energy utilities. Retail facilities influence the social and economic character of neighbourhoods, and residents have concerns about proximity to parks and schools.

Local governments' ability to manage land use with tools like zoning will depend on the authority that provinces and territories delegate, as will as the retail models they choose to adopt. Personal cultivation of cannabis is an issue that will require extensive public consultation—and municipalities will face difficult decisions about whether to develop a regulatory response.



2.1 Jurisdictional issues

Planning and zoning regulations fall within the scope of matters for which the *Constitution Act, 1867* assigns exclusive jurisdiction to the provinces. This includes matters of a merely local and private nature, and property and civil rights. Federal enabling legislation grants similar legislative powers to the territorial governments.

In most circumstances, local government regulations addressing land use activities related to the cultivation, processing, retail sale and consumption of non-medical cannabis would fall within the scope of these provincial/territorial matters. They could fall to local governments, depending on the extent to which the relevant provincial or territorial government delegates appropriate powers.

If a business obtains a federal licence under the *Cannabis Act*, it will not mean that the company will not be subject to provincial/territorial or local government regulations dealing with land use management. Locally, this constitutional arrangement can provide municipalities with the authority to prohibit particular land uses. We recommend that municipalities consult their individual provincial/territorial enabling land use laws for specific direction. But generally, there is no obligation for municipalities to permit cannabis cultivation in specific areas.

Delegation of land use regulation

The provinces and territories have largely delegated their authority over planning and land use management to local and, in some cases, regional governments. The wording of the enabling legislation defines the precise scope of planning and land use management authority. This can be done through stand-alone legislation like Prince Edward Island's

Planning Act, or through a more general statute like Alberta's *Municipal Government Act*.

Local governments are entitled to interpret enabling legislation broadly enough to address emerging issues and respond effectively to community objectives. However, they cannot extend its scope beyond what the wording of the legislation can reasonably bear. Some enabling legislation across Canada may allow local governments to deal with particular uses on a "conditional use" or "direct control" basis, which might be particularly appropriate in the case of new land use activities (such as those associated with cannabis) whose impacts are not well-understood at the outset.

Note that a provincial or territorial government might choose to exercise its jurisdiction over planning and land use management to control cannabis-related activities directly. For example, as a matter of general policy, the government might not wish to allow the use of residential premises for the cultivation of cannabis plants for non-medical use, as is the case in Quebec. This is despite the federal government's willingness to allow that type of private production under the *Cannabis Act*. Municipal governments should monitor the development of the relevant provincial or territorial regime before initiating their own regulations.

What does this mean for municipalities?

None of the land use activities that are expected to result from the legalization of cannabis are likely to diverge from the existing enabling legislation and interpretations noted above. The land use activities contemplated relative to the *Cannabis Act* are similar to activities associated with other consumable commodities such as food, beverages and tobacco.

Given the existing regulatory framework and role of municipal governments, there are several issues related to land use management that local governments may have to address.

2.2 Location and scale of commercial cultivation and processing

This section addresses commercial-scale cannabis production. For information on personal cultivation of cannabis for non-medical consumption, see [SECTION 2.4: PERSONAL CULTIVATION](#).

Typical land use impacts: agriculture and production

Producing cannabis for non-medical use at a commercial scale is an activity that has some similarities to certain agricultural uses carried out in greenhouses, usually but not necessarily in agricultural zones. Greenhouse agriculture is sometimes carried out in industrial zones and business parks as well.

Federal authorization for commercial cannabis cultivation under the *Cannabis Act* will address two scales of cultivation: standard cultivation and micro-cultivation. It will authorize activities typically associated with this type of land use, including research and development, product storage and transportation—but not packaging, labelling or retail sale to the public.

Whether local government regulations should distinguish between standard and micro-cultivation will depend, in part, on whether the distinction the federal licensing regime is making would be practical as a local government distinction. It might be if it is based on cultivation area, but might not be if it is based on product weight or volume. This issue is addressed in greater detail below.

Municipally-operated utilities

As a type of intensive agriculture, cannabis production needs a supply of water for irrigation, of electricity for lighting, and of energy for heating. The availability of adequate utilities is a basic land use management consideration.

As a result, zoning regulations whether for agricultural or industrial zones should always be in step with the capacity of utility systems to support the permitted land uses.

Cannabis production has some special impacts in relation to odour emissions and a need for heightened security that can be associated with high-value crops. All of these factors can reasonably inform locational criteria for land use management purposes.

There are currently around 90 commercial-scale facilities in Canada licensed by Health Canada for medical cannabis production, and many more worldwide. Municipalities may wish to examine these existing facilities to identify and evaluate likely land use impacts and assess the need for a local regulatory framework. Locations of licensed Canadian facilities can be found on the [Health Canada website](#).

Other considerations

Commercial-scale processing of cannabis may give rise to additional considerations. Extraction of cannabis oil, for example, can involve the use of butane, which is explosive at ordinary temperatures. This is an industrial-type activity, which may be appropriate only in industrial zones, or in buildings with particular design and construction characteristics.

The federal government is proposing to license cannabis processing separately from cultivation and retail sales. These authorizations will include research and development activities, product storage and transportation, and the sale of product to licensed retail distributors. Again, both standard-scale and micro-scale processing facilities might be authorized. This suggests that land use regulations should address cannabis production and cannabis processing as separate activities. In addition, local regulations could distinguish between different scales of processing reflecting the federal licensing regime, if such a distinction is practical to enforce.

Typical land use restrictions

As noted earlier, commercial-scale cannabis production is a form of agriculture. Most zoning bylaw definitions of agriculture would include it, unless the cultivation of this particular crop has been carved out of the permitted use category.

A carve-out for cannabis would have been rare prior to the enactment of federal legislation permitting the cultivation of

cannabis for medical use. In general, most zoning bylaws are designed to prohibit land uses in particular zones unless the regulations expressly permit the use.

For clarity, some bylaws also contain a list of expressly prohibited uses, to avoid any doubt. Explicitly forbidding a specific land use would provide more certainty than relying on an omission in the list of permitted activities.

The Land Use Bylaw of Grande Prairie, AB, is typical and defines an “agricultural operation” as *“An agricultural activity conducted for gain or reward or in the hope of expectation of gain or reward, and includes, but is not limited to ... the production of fruit, vegetables, sod, trees, shrubs and other specialty horticultural crops.”*

Municipalities can write land use regulations to make very fine distinctions, for example between manufacturing plants for furniture and manufacturing plants for automobiles, if the uses have different land use impacts and there is accordingly a policy reason for making the distinction. Likewise, a local government could distinguish between the cultivation of cannabis and the cultivation of other types of crops—prohibiting one but not others.

Similarly, regulations can reflect distinctions that the federal government may be making between standard-scale cannabis production and micro-production facilities run by small-scale growers. Enforcing such a distinction could be difficult, though, if the federal distinction is based on a revenue or production criterion rather than plant numbers or growing area. It is a good practice to establish a basis for such distinctions by documenting and analyzing a comparison between potential impacts.

Proximity and clustering restrictions

Once Health Canada began licensing commercial production facilities for medical cannabis, some local governments amended their land use regulations to address community concerns. This included clustering cannabis businesses in certain districts by imposing minimum distances between the facilities. In some cases, cities established minimum distances between the production facilities and land uses involving children, such as parks and schools. In

these cases, municipalities did not feel that the equivalent federal licensing criteria were sufficient.

To this extent, the facilities were being dealt with in the same manner as pawnshops and adult entertainment venues. Applying similar criteria should be considered carefully in the context of local considerations, including health, safety, and economic development. This is an example of an instance where the federal role does not necessarily oust provincial/territorial or local government’s jurisdiction.



What can municipalities do?

Policy options

- ▶ Simply allow the activities to occur within the rubric of existing land use regulations, as agricultural or industrial activities in the case of production and industrial or manufacturing activities in the case of processing.
- ▶ Carve the activities out from existing permitted use categories, to be permitted only at locations specified in the regulations or under the authority of a special use permit.
- ▶ Carve the activities out from existing permitted use categories, with an exception for existing cannabis production operations that were established under the medical cannabis regime.
- ▶ Prohibit the activities entirely, as activities that the local government simply does not wish to permit within its jurisdiction, if the enabling legislation permits prohibition of uses.

Regulatory options

- ▶ Make no regulatory change, or amend existing regulations to make it clear that activities related to the commercial production or processing of cannabis are included in permitted or permissible use categories.
- ▶ Amend existing permitted or permissible use categories to exclude commercial cannabis production or processing activities, except at specific locations or under the authority of a special permit.
- ▶ As immediately above, but limit production to the scale that is appropriate to supply cannabis for medical uses.

- Add these activities to a list of prohibited uses, or amend all permitted or permissible use categories that could conceivably include them, to specifically exclude the activities.

Possible regulatory language

A land use bylaw definition of “agriculture” usually refers to the cultivation of crops. A definition could be modified to reflect a local regulatory choice about cannabis cultivation, adding wording that excludes “the cultivation of cannabis, other than cultivation authorized under either Part 1 or Part 2 of the Access to Cannabis for Medical Purposes Regulations under the *Controlled Drugs and Substances Act* (Canada).”

The reference to the ACMPR would reflect a policy choice to allow this use only to the extent that it serves a medicinal market. The exclusion could be narrowed to refer to specific locations where cannabis cultivation or processing is allowed, or to a local conditional use permit or other discretionary authorization being obtained.

Under the *Cannabis Act*, Part 1, authorizations are for commercial-scale operations. Part 2 deals with personal use and designated person production as originally authorized under the [Medical Marijuana Access Regulations](#). Excluding cannabis production from permitted “agricultural” uses could either permit or forbid both types of production—or allow one of them but not the other.

2.3 Location and density of retail facilities

Anticipated land use impacts

One of the key variations in provincial/territorial frameworks is the type of retail model that will be implemented. There are exclusively public models where the province or territory takes control of the entire retail system. There are hybrid models where a mix of private retailers and government

run stores will be present. There is also the option of an exclusively private model where the province controls distribution but private businesses are responsible for retail sale.

Diverse retail sales models

At the time of writing, six provinces/territories are moving toward a Crown corporation (public) distribution model for cannabis retail sales. Four other jurisdictions signalled they will develop a private retail system. One territory will run a public retail system but with no bricks and mortar storefronts—online sales only. Another two provinces/territories will have a hybrid system with both private and public retail distribution.

Municipalities should consult their specific provincial/territorial cannabis legislation as well as general enabling land use planning legislation to better understand where their own municipal roles and responsibilities will originate on the issue of non-medical cannabis.

The storefront sale of cannabis for non-medical use is essentially a type of retail trade with similarities to the sale of other consumable commodities such as food and beverages. Cannabis is already being sold in Canada, in illegal storefront dispensaries that some local governments have tolerated in mixed-use neighbourhoods.

The use does not appear to have any unusual characteristics in relation to functional aspects such as deliveries of product, off-street parking or signage requirements. It has some similarity to pharmacy uses and banks in relation to the need for secure storage. Hours of operation may be different from other types of business, but would usually be addressed via business regulations. See [CHAPTER 3: BUSINESS REGULATION](#) for more information.

Local governments will have to consider what behaviours they wish to incent. And they may be limited in this regard by restrictions set out in a specific province or territory. For example, if a municipality wants to use the availability of non-medical cannabis to promote tourism, they may wish to focus on creating tourist commercial districts.

Local governments would benefit from speaking with municipal staff members from U.S. cities where retail cannabis sale is already permitted. Even some bigger Canadian cities have a good sense of the challenges associated with cannabis clientele, based on their experience with storefront dispensaries. This could help guide Canadian municipalities in deciding whether to enact special land use restrictions to either encourage or control the growth of cannabis-related businesses.

Commercial consumption facilities

Smoking tobacco is illegal in most enclosed public places in Canada. The legalization of cannabis use for non-medical purposes will mean that municipalities must clarify whether smoking laws automatically include cannabis. This would mean examining both provincial/territorial and municipal laws.

In Vancouver, for example, the Public Health Bylaw is drafted in such a way that cannabis is likely covered.

Vancouver's Health Bylaw No. 9535 defines “smoking” as including *“burning a cigarette or cigar, or burning any substance using a pipe, hookah pipe, lighted smoking device or electronic smoking device.”*

Municipalities may have to amend smoking bylaws that contain narrower definitions restricting their scope to tobacco use. The same policy concerns that gave rise to this type of public health bylaw, including second-hand tobacco smoke, would presumably extend equally to cannabis.

Assuming that provincial/territorial health laws allow local governments the flexibility to consume publicly, local governments wishing to allow smoking in particular types of premises such as “cannabis cafés” may need to make an exception in their own smoking bylaws. This is in addition to addressing this land use category in zoning and business regulations.

Provincial and territorial occupational health and safety regulations that require employers to protect workers from second-hand smoke in the workplace may complicate the operation of such premises, or even make it impossible.

Alberta's proposed *Act to Control and Regulate Cannabis* provides that: *“No person may smoke or vape cannabis ... in any area or place where that person is prohibited from smoking under the Tobacco and Smoking Reduction Act or any other Act or the bylaws of a municipality.”*

Proximity and clustering restrictions

Municipalities can use local land use regulations to prevent the clustering of too many of one kind of business. They can also keep similar types of businesses or activities in one place, and/or away from other land uses. Common candidates for such treatment are so-called “adult” businesses, arcades, pawnshops and thrift stores.

In terms of restrictions on cannabis consumption and sales or production, regulations about minimum distance from other facilities like schools should be specific. Does the distance requirement refer to a school site on which a school might be built? Or is a school scheduled to be built there? Does the regulation refer to an unused school building, or only a school that is actually in operation? Also, regulations should address what kind of school needs to be a minimum distance away from a cannabis business—public, private, commercial, technical or post-secondary.

In the case of spacing between retail cannabis sales outlets, local governments should consider several questions as they develop regulations:

- ▶ When exactly does a “cannabis sales use” start, and therefore become subject to proximity or clustering considerations?
- ▶ Is a building permit or business licence sufficient, or must the use actually be in operation?
- ▶ Is an application for a building permit or business licence sufficient?

In all cases, details on how the requisite distance is to be measured need to be defined and could include how the distance is calculated, and how variances will be approached.

Some local governments will be permitted by their land use management enabling legislation to deal with retail cannabis sales as a conditional use. This would allow them to use direct control as well as or in the place of zoning, taking clustering and spacing considerations into account when issuing site-specific land use approvals. In these cases, they will not need to address those matters in generally applicable regulations. The one-off nature of such approvals does not eliminate the need, though, for conditions to be grounded in an evidence-based land use impact analysis and for the clustering and spacing requirements to be communicated clearly to stakeholders.

Considerations for medical cannabis

Prohibitions and regulations regarding retail sales of cannabis will have to acknowledge that sales of cannabis for medical purposes will continue. Pre-legalization, pharmacists in some jurisdictions were allowed to dispense cannabis to patients with appropriate prescriptions, though most preferred not to stock or dispense the drug. This may change after legalization if the black market for cannabis is substantially reduced and having the drug in inventory no longer constitutes a special security risk. Local governments should therefore be careful not to restrict this type of cannabis sales with overly broad regulations.

Retail signs

Retail trade facilities require signage. Under the *Canadian Charter of Rights and Freedoms*, there is a right to freedom of commercial expression. Local government regulations that limit the types and sizes of signs that can be used in commercial areas are generally acceptable. Examples include prohibitions on large window signs and other types of signage that detract from the visual attractiveness of an area, or restrictions on temporary signage associated with the opening of a new business.

Sign regulations that attempt to directly control the message conveyed by a commercial sign could, however, potentially risk interfering with the right to freedom of commercial expression under the Charter.

The federal government intends to address the packaging and labelling of cannabis products with regulations under the *Cannabis Act*. These regulations will have to respect provincial and territorial jurisdiction over land use management, and are therefore unlikely to touch on retail signage.

For their part, provincial and territorial governments may choose to address advertising issues as they create their own cannabis distribution regimes. Neither of these regimes is likely to deprive local governments of their entire jurisdiction over the use of commercial signage.

Typically, local government signage regulations address the types of signs that are permitted on particular premises—whether freestanding or mounted on a building, for example. These regulations can also specify the extent of sign area permitted in relation to the size of the business premises. Business operators are often subject to landlord controls as well, such as those requiring a consistent signage format or theme in a retail mall.

Quebec's proposed *Cannabis Regulation Act* contains the following: *“All direct or indirect advertising for the promotion of cannabis, a brand of cannabis, the Société québécoise du cannabis or a cannabis producer is prohibited where the advertising ... is disseminated otherwise than ... in printed newspapers and magazines that have an adult readership of not less than 85%; or ... by means of signage visible only from the inside of a cannabis retail outlet.”*

Another aspect of signage relates to public health and the desire to reduce public consumption through marketing and advertising. We address this in [CHAPTER 4: PUBLIC CONSUMPTION](#).



What can municipalities do?

Policy options

- ▶ Allow and issue authorization for cannabis shops. Permit this as you would any other business in a commercial district.
- ▶ Carve this type of retail sales out of existing permitted use categories. Only permit cannabis businesses at particular locations or under the authority of a special permit.
- ▶ Prohibit cannabis retail stores completely if the enabling legislation permits prohibition of uses.

Regulatory options

- ▶ Make no regulatory change, or amend existing regulations to make it clear that retail cannabis sales are included in permitted retail trade land use categories.
- ▶ Amend existing permitted use categories to exclude retail cannabis sales activities, except at specific locations or under the authority of a special permit, from all land use categories that could conceivably include the use.
- ▶ Add these activities to a list of prohibited uses.

Possible regulatory language

- ▶ “Retail trade” means the sale of consumer goods at retail, including retail trade in bakeries, but excludes the retail sale of cannabis other than in licensed pharmacies.

2.4 Personal cultivation

Personal use and designated personal cultivation

The use of residential premises for the cultivation of medical cannabis plants has caused major problems for Canadian municipalities over the past several decades. It has meant a significantly compromised housing stock, heavy demands on policing resources, local nuisance complaints, and erosion of the culture of compliance on which the effectiveness of local bylaws largely depends.

These problems were exacerbated because people holding Health Canada production licenses failed to adhere to the terms of their licence regarding plant quantities. Health Canada also failed to enforce those terms. And many of these licences actually authorized cannabis production at a scale (hundreds of plants) that is simply inappropriate for a typical residential dwelling.

Residential buildings are usually not designed or constructed to accommodate cannabis production. The mechanical systems in non-industrial buildings are usually not appropriate to support this kind of use without modifications (that are often carried out by unqualified persons and without permits). The location of dwellings where cannabis is being grown exposes neighbours to odours and other impacts. The federal government’s initiatives in commercial production of medical cannabis were, in part, an attempt to alleviate these problems by shifting cannabis production from residential premises to properly designed and constructed facilities.

Personal use under the *Cannabis Act*

The *Cannabis Act* permits people over 18 to grow up to four cannabis plants within a “dwelling-house.” Provincial and territorial governments will be able to exercise their own jurisdiction to prohibit or regulate this scale of production, although only Manitoba and Quebec have announced the intention to do so.



The relevant definition of “dwelling-house” makes no distinction between a detached dwelling and a dwelling in a multiple-unit building. It also includes any adjacent yard or garden where the plants could be grown outdoors. No federal permit or licence would be required.

The *Cannabis Act* prohibits the use of residential premises for the production of cannabis for non-medical use at a larger scale. Health Canada will continue to authorize,

however, the production of medical cannabis under Part 2 of the ACMPR, including production under up to four registrations per production site.

Local regulation of medical cannabis production in residential premises will continue to engage Charter issues. We suggest that you carefully consider these issues before attempting to further regulate medical cannabis production.

The courts have found that commercial-scale cannabis production facilities were not a complete answer, constitutionally, to patients' needs for medical cannabis, and assumed that cannabis production, distribution and possession were otherwise illegal. Legalization profoundly undermines that assumption, and will likely result in broad availability of the drug across the country.

Ordinary land use regulations prohibiting cannabis production in residential premises may, over time, become a reasonable limit on access to medical cannabis, and therefore wholly constitutional, if there are plentiful alternative sources of supply.

Manitoba's proposed *Safe and Responsible Retailing of Cannabis Act* provides that *"a person must not cultivate cannabis at his or her residence."* The Act does not apply to the *"cultivation of cannabis for medical purposes that occurs in accordance with the requirements of the applicable federal law."*

Land use impacts

Local governments in provinces and territories that have not prohibited this activity will need to consider whether personal use cannabis production in a dwelling, at the minor scale permitted by the *Cannabis Act*, will raise land use management issues.

Residence-based cannabis production under the federal medical cannabis regime did cause certain challenges from a municipal health and safety perspective. But this regime is likely not an accurate predictor of how non-medical personal cultivation will be taken up by the public at large.

Regardless, municipalities may be skeptical about whether or not people will comply with the four-plant limit and if federal government will enforce the rule. Personal-use cannabis production at the scale permitted by the *Cannabis Act* would seem to engage no different land use management issues than the cultivation of other types of domestic plants. Possible exceptions could be odour issues and those associated with the risks of outdoor cultivation to children and domestic pets.

This all assumes an adequate commercial supply of cannabis that will eliminate the black market. In an ideal world, an adequate legal supply would eliminate the security issues associated with cannabis production in residential premises. The incentive to obtain a licence to produce medical cannabis and then violate the terms of that licence, may significantly reduce after legalization.

Local governments might consider whether any of this could be addressed by requiring licences for personal home cultivation. A registration system could help identify where cannabis production is actually occurring—though it is worth evaluating whether citizens would be likely to comply with such a requirement.

In the land use management context, growing four cannabis plants either indoors or outdoors in residential premises would probably be like growing other types of domestic plants. It would constitute an ordinary incidental, accessory or ancillary use of the premises not requiring express authorization in the relevant land use regulations.

Local governments contemplating a regulatory response to this aspect of the *Cannabis Act* should examine their accessory or ancillary use regulations. If the regulations already address in detail the types of plant cultivation that is permitted and cannabis is not mentioned, the regulations might be interpreted, by implication, to prohibit the cultivation of this particular plant species.

The *Land Use Bylaw of the Town of Truro, NS* defines an *"accessory use"* as *"the use or uses which take place on the same site as the principal use, and of a nature customarily and clearly secondary and incidental to the principal use."*

Nuisance regulation

An alternative approach to the issue would be to address the actual impacts of cannabis cultivation in residential areas. This would mean enacting regulations that deal directly with the physical impacts of the activity. A local government may have nuisance regulation and abatement powers that have already been, or could be, exercised in

relation to odour-producing activities. In that case, cannabis production would not need to be addressed at all via land use regulations. We examine nuisance regulations in greater detail in the [CHAPTER 6: ENFORCEMENT ISSUES](#).

B.C.'s *Community Charter* authorizes local governments, under their authority to deal with nuisances, to regulate, prohibit and impose requirements in relation to *“the emission of smoke.”*

Proprietary jurisdiction of other entities

Cultivation of cannabis in residential premises, while potentially subject to local government regulation, is also subject to supervision by other interested parties including landlords, condominium corporations and co-operative boards. They deal more directly with complaints from neighbours and may therefore seek to regulate its cultivation or use to some degree.

Saskatchewan's *Condominium Property Act*, Section 47(1)(e), gives a condominium corporation the authority to pass bylaws *“governing the management, control, administration, use and enjoyment of the units, common property and common facilities.”*

Landlords, including local governments that manage their own rental housing portfolio, have an interest in ensuring that their premises are not used in a manner that is inherently damaging or unsafe. Boards composed of owners

have a similar interest in ensuring that multi-unit buildings are not used in such a way as to create nuisances or unsafe conditions. Local governments with concerns about this use in multiple-unit buildings might reasonably conclude that they can manage the four-plant scenario in their own rental housing portfolio via tenancy agreements. They may also choose to leave the management of home cannabis cultivation in other buildings for owners to deal with as they see fit.

Choosing to regulate

The issue of home cultivation of cannabis—even with a four-plant limit in place—is one that will require public consultation. It is also the issue that will be the most challenging for municipalities to decide on whether to develop a regulatory response. The impacts of cannabis cultivation at this scale are perhaps minor, and other actors may be likely to address them via separate mechanisms such as tenancy agreements and strata association bylaws.

Citizens expect governments to enforce regulations. The issue of how to regulate home cultivation of cannabis will apply to the greatest number of properties. Of all the regulations that might be considered in relation to the legalization of cannabis, this one has the potential to generate the greatest number of enforcement complaints.



What can municipalities do?

Policy options

- ▶ Accept minimum-scale plant cultivation (four plants) in residential premises without a local regulatory response.
- ▶ Require some type of permit for this scale of cannabis cultivation in residential premises. Clarify that this is not a commercial activity that would require a business licence. Local government permit records would be public.
- ▶ Regulate the activity by permitting indoor production only, or by permitting it only in certain areas such as detached-dwelling zones.
- ▶ Prohibit the activity in all residences. (Accepting that such a prohibition could be unenforceable in relation to individuals who hold a personal use production licence for medical cannabis.)

Regulatory options

- ▶ Do nothing.
- ▶ Amend the zoning regulations to require a land use permit for the cultivation of cannabis in residential premises, and establishing a permit application procedure.
- ▶ Amend the zoning regulations to specify that accessory cultivation of cannabis is permitted only in certain zones, or is only permitted indoors.
- ▶ Amend the zoning regulations by adding a prohibition on cannabis cultivation in residential premises generally, or by excluding cannabis cultivation from the “accessory use” category that is permitted in residential zones.

Possible regulatory language

This suggested language could support the options above. A definition of the term “cannabis” could be included, referring to its definition in the *Cannabis Act*, or it could be left undefined. Consider these options for amending the land use regulations:

- ▶ Add a regulation along these lines: “No person, other than a person who is authorized to do so under Part 2 of the Access to Cannabis for Medical Purposes Regulation under the *Controlled Drugs and Substances Act* (Canada), shall use any residential premises for the growing of a cannabis plant, unless the person has registered the premises with the [municipality] as a residential cannabis production site.”
- ▶ Establish a registration process that includes a registration fee sufficient to cover the costs of administering the process.
- ▶ Specify that the use of residential premises for the growing of a cannabis plant is permitted only if the premises are [a detached dwelling] [located in a single-family residential (RS1) or two-family residential (RS2) zone].
- ▶ Specify that the use of residential premises for the growing of a cannabis plant is permitted only if the plant is located within a dwelling unit.
- ▶ Specify that the use of residential premises for the growing of a cannabis plant is prohibited, except in the case of premises in respect of which a registration has been issued by Health Canada under Part 2 of the Access to Cannabis for Medical Purposes Regulation under the *Controlled Drugs and Substances Act* (Canada).

3 Business regulation

Local governments expect to have some scope to regulate cannabis cultivation, processing and retail businesses in their communities. Once again, that scope will depend on the specific regulatory authority that individual provinces and territories choose to delegate to municipalities in their enabling legislation.

Local governments may use tools like business licensing to protect public health and safety, to protect youth and restrict their access to cannabis, to deter illicit activities, to mitigate public nuisances, and more. In doing so, it will be essential to strike an effective balance between empowering legal cannabis businesses to operate and addressing legitimate community concerns.



3.1 Jurisdictional issues

Constitution Act

Business regulations are exclusively the domain of provinces. According to the [*Constitution Act, 1867*](#), provinces have 1) the power to regulate particular trades or callings under “property and civil rights”; and 2) the power to make laws in relation to “shop, saloon, tavern, auctioneer and other licences in order to the raising of a revenue for provincial, local, or municipal purposes.”

Federal enabling legislation grants similar legislative powers to territorial governments. In many cases, provinces or territories have delegated this authority to local governments. In these cases, municipalities are free to regulate business activities related to the cultivation, processing, retail sale and consumption of non-medical cannabis.

Provincial/territorial delegation of regulation

The extent to which provinces and territories delegate their authority over business regulation to local governments will depend on the wording of the enabling legislation. For example, in British Columbia, local governments but not regional governments have been delegated the authority to regulate businesses. The authority does not include the authority to prohibit businesses. It also requires that before council adopts a business regulation bylaw, it give notice and provide an opportunity for people who say they are affected to make representations to council.

In New Brunswick, local governments do not have the broad general powers to make business licensing bylaws but do have the power to regulate and license only certain businesses. In Winnipeg, the municipal charter states that a bylaw passed under the general authority to regulate businesses must not require a licence to be obtained for “selling agricultural produce grown in Manitoba if the sale is made by the individual who produced it, a member of the immediate family of the individual or another individual employed by the individual.”

Conflicts with legislation

Business regulations would only be rendered inoperative if there is a conflict with federal or provincial/territorial legislation regulating the same subject matter. In this regard, a conflict may arise where one enactment says “yes” and the other says “no.” In these cases, citizens are being told to do inconsistent things. The exception is in cases in where the relevant provincial/territorial legislation specifies a different legal test.

This is another example where the mere existence of federal or provincial/territorial legislation does not oust local government jurisdiction to regulate the same subject matter. Thus, as discussed in [CHAPTER 2: LAND USE MANAGEMENT](#), a federal licence does not automatically mean a business is immune from local business regulations.

Local government business regulations may, for example, enhance the statutory scheme by complementing or filling in certain gaps in the federal or provincial/territorial legislation. They may also impose higher standards of control than those in related federal or provincial/territorial legislation.

Federal and provincial lands and cannabis businesses

One restriction on a local government's delegated authority in relation to business regulation is in relation to any cannabis businesses operated by the federal government or on land owned by the federal government. The *Constitution Act* gives exclusive jurisdiction over the use of federal lands to the federal government. As a result, neither the provincial/territorial governments nor local governments may regulate in relation to the use of federal lands.

A further restriction in some provinces/territories is in relation to cannabis businesses operated by the provincial/territorial government or on land owned by the provincial/territorial government. As noted in [CHAPTER 2: LAND USE MANAGEMENT](#), at least six provinces/territories will run public retail distribution models, meaning there is likely to be legislation that grants provincial/territorial governments immunity from some or all local government regulations. In most cases this will mean a limited role on the land management and business licensing aspects of retail cannabis sales in jurisdictions with government run stores as the exclusive retail distributor.

In Ontario, the *Legislation Act* is broadly worded such that no Act or regulation binds or affects the provincial Crown unless it expressly states an intention to do so. This would include local government business regulations. In contrast, in British Columbia, the *Interpretation Act* only makes local government regulations inapplicable to the provincial Crown in its use and development of land.

3.2 Business regulation power

Scope and municipal purpose

To the extent that a province or territory has delegated business regulation powers to local governments, local governments may place restrictions on businesses. This is true even if those restrictions may adversely affect the

profitability of the business in some circumstances. Local governments should ensure, however, that such regulations are enacted for a proper municipal purpose.

There are several "municipal purposes" that support regulating cannabis businesses. For example, a local government may wish to regulate such businesses to protect public health and safety, to protect youth and restrict their access to cannabis, to deter illicit activities, and to mitigate nuisances.

Types of business regulations

One of the most common business regulations is a requirement that people obtain a licence from the local government in order to run a business. The local government may establish in the bylaw terms and conditions that must be met for obtaining, continuing to hold or renewing a business licence. It can also designate someone to impose these terms and conditions. The bylaw may suspend or cancel a business licence for failing to comply with the terms and conditions.

The local government may set out in the bylaw specific regulations for certain types of businesses. Types of regulations may include, for example: the days and hours of operation of the business, the age of individuals on the premises, the keeping of records, or the display and advertising of products at the premises.

The City of Whitehorse's Business Licence Bylaw

requires every person who offers adult books, adult magazines or adult videos for sale where such items are on display to the public to place such items:

- at a distance not less than 1.5 meters above the floor;
- in display cases in such a manner that only the title is displayed; and
- in display cases that are within clear view of the area
- where payment is made for purchased items.

Another common type of business regulation is a requirement in the bylaw that the business comply with all applicable federal and provincial laws. In British Columbia,

local governments have been successful in enforcing such a provision in their business licence bylaws against storefront medical cannabis retailers. The business licence applications were rejected on the basis that the retail sale of cannabis was unlawful under the federal law.

In this regard, the business bylaw may be a helpful tool to address any ongoing issues with cannabis retail businesses that are operating without a business licence.

Business bylaws may also require that the business comply with all applicable municipal bylaws such as zoning and building bylaws. Local governments should be careful, however, not to use their business regulation powers to prevent, for land use management reasons, a particular type of business that is permitted by the applicable zoning regulations.

It is usually also a general requirement in the bylaw for people to pay a fee to obtain a business licence. Such a fee should be calculated to correspond with the cost of administering and enforcing the regulatory scheme, to preserve its constitutionality as a regulatory charge.

3.3 Cannabis retail businesses

Typical business regulations

As noted in [CHAPTER 2: LAND USE MANAGEMENT](#), storefront cannabis retailers have been lawful in some U.S. states for several years now. Despite their illegal status in Canada, these storefront operations have proliferated under many local governments. To manage these businesses, some jurisdictions have enacted specific regulations. Others may choose to do so before cannabis becomes legal in 2018.

Many of these regulations parallel alcohol and tobacco related regulations. For example, Alberta, Manitoba and Newfoundland and Labrador are proposing to amend their

liquor legislation to impose a licensing regime for the sale of cannabis with some similarities to liquor sales. These provinces are considering allowing private retailers to sell cannabis administered through the applicable liquor commission or corporation.

The manner and extent to which the applicable provincial/territorial government intends to regulate such businesses may prevent or influence a local government's decision whether to implement its own regulations. An example is how the LCBO in Ontario will have the exclusive right to sell cannabis.

Typical business regulations for cannabis retail businesses might include:

- ▶ Requiring the applicant to submit certain documents such as a security plan, proof of a security alarm contract, 24/7 contact information, a list of employees and a police information check.
- ▶ Prohibiting minors on the premises, limiting the hours of operation and requiring security measures.
- ▶ Prohibiting consumption on the premises.
- ▶ Restricting the sale of other products on the premises.
- ▶ Prohibiting the display and advertising to minors.
- ▶ Prohibiting online sales and home delivery.
- ▶ Requiring business owners to keep records of all business activities.
- ▶ Restricting the number of licences that may be issued to each person and the total number of licences that may be issued in the jurisdiction.
- ▶ Requiring that a minimum number of employees with specific qualifications be on the premises when open.
- ▶ Restricting the advertising and signs visible from the outside of the premises.
- ▶ Requiring a transparent storefront.
- ▶ Requiring measures to prevent nuisances.

The City of Vancouver's Licence Bylaw requires the following security measures to be installed and maintained on the business premises of a medical marijuana-related retail business:

- Video surveillance cameras that monitor all entrances and exits and the interior of the business premises at all times.
- Video camera data must be retained for at least 21 days after it is gathered.
- A security and fire alarm system must be monitored at all times.
- Valuables must be removed from the business premises or locked in a safe on the business premises at all times when the business is not in operation.

Local governments should monitor the development of the relevant provincial or territorial regime and may wish to seek legal advice before initiating their own business regulations.



What can municipalities do?

Policy options

- Simply allow the activities to occur within existing business regulations as business activities, which may or may not require a business licence under the applicable regime and which are not subject to any particular regulations.
- Specifically regulate cannabis retail businesses to address issues related with these types of businesses, if the provincial/territorial enabling legislation permits this.

Regulatory options

- Make no regulatory change, or amend existing regulations to specify the applicable business licence fee for this category of business, if the enabling legislation permits this.
- Amend existing regulations to set out specific business regulations for cannabis retail businesses, if the enabling legislation permits this.

3.4 Commercial cultivation and processing facilities

Typical business regulations

Most municipal governments have yet to enact specific regulations for cannabis-related businesses. It could be because the [Access to Cannabis for Medical Purposes Regulations](#) (ACMPR) already addresses the commercial cultivation and processing of cannabis for medical purposes. Regulations under ACMPR include:

- Requiring a criminal record check.
- Security features such as video surveillance cameras and an intrusion detection system.
- Detailed record-keeping.
- Air filter equipment to prevent the escape of odours.

At the time of writing, the proposed Health Canada *Cannabis Act* regulations have established similar licensing requirements related to location, physical and personal security, record keeping and good production practices.

This does not mean local governments cannot also manage such businesses. Some of the types of business regulations for cannabis retailers noted above may be equally

applicable to cannabis cultivation and processing businesses. In the U.S., some states and local governments have enacted specific regulations to manage these businesses, including:

- ▶ Prohibiting minors on the premises.
- ▶ Prohibiting consumption on the premises.
- ▶ Restricting the advertising and signs on the premises.

Local governments may also wish to enact specific regulations in relation to cannabis cultivation and processing businesses to:

- ▶ Prevent nuisances by requiring the annual maintenance and documentation of odour control equipment.
- ▶ Support community aesthetics by prohibiting the outdoor storage of production or processing equipment.



What can municipalities do?

Policy options

- ▶ Allow the activities to occur within the existing regulations as business activities, which may or may not require a business licence under the applicable regime and which are not subject to any particular regulations.
- ▶ Specifically regulate cannabis cultivation and processing businesses to address any related issues.

Regulatory options

- ▶ Make no regulatory change, or amend existing regulations to specify the applicable business licence fee for this category of business.
- ▶ Amend existing regulations to set out specific business regulations for cannabis cultivation and processing businesses.



4 Public consumption

The public consumption of cannabis is associated with a range of potential public harms, from health impacts of second-hand smoke to behavioural modelling effects for children and youth. The tools and options available to municipalities to mitigate potential harms will depend on the space of authority that provinces and territories choose to delegate.

Established practices in regulating tobacco and alcohol consumption offer a foundation for developing a strategy that reflects local priorities. Many factors other than the law influence how and when people consume cannabis—from social customs to product availability—and no single regulatory approach eliminate all harmful public impacts.



4.1 Jurisdictional issues

As with most local governance matters, municipalities must consider the extent to which they are authorized to regulate cannabis consumption. This chapter addresses how local governments can regulate public consumption through bylaws and policies. As the factors influencing public consumption of cannabis are diverse, we recommend that municipalities consider a combination of these approaches, alongside consultation with legal counsel.

Public consumption cannot be regulated by a local government on the moral grounds that cannabis consumption should be considered a criminal activity. Under the constitutional division of powers, the federal government has the exclusive authority to regulate with respect to criminal law matters. Local bylaws or regulations that are based on a moral position, or perceptions and stereotypes about people who consume cannabis, are unlikely to withstand a challenge before the courts.

Many aspects of cannabis consumption, such as possession, advertising and smoking, are regulated by the federal and provincial/territorial orders of government. Most local governments are able to regulate cannabis only as it relates to a power that has been granted to the local government by the provincial or territorial government.

In assessing how to effectively address issues associated with public cannabis consumption, local governments must first consider the aspects of public cannabis consumption it intends to regulate, and determine whether it is authorized, or necessary, to do so.

4.2 Provincial smoking restrictions

Across Canada, provincial and territorial governments have regulated, or indicated they will regulate, aspects of public consumption of cannabis. They plan to use a combination of cannabis-specific legislation, tobacco smoking legislation, as well as occupational health and safety regulations.

Smoking is the most common form of cannabis consumption, and most provincial/territorial governments have sought to incorporate cannabis into the legislation addressing tobacco smoking. Some provinces have done so through expanding the definition of “smoke” to include cannabis as well as tobacco and other vapour products. This approach results in existing tobacco smoke restrictions also applying to cannabis.

New Brunswick's *Smoke-Free Places Act* contains a broad definition for smoking that extends to cannabis. Specifically, “smoke” means:

- (a) to smoke, hold or otherwise have control over an ignited tobacco product or another ignited substance that is intended to be smoked, or
- (b) to inhale or exhale vapour from, or to hold or otherwise have control over, (i) an activated electronic cigarette, (ii) an activated water pipe, or (iii) another activated device containing a substance that is intended to be inhaled or exhaled.

In addition to including cannabis in the relevant definitions under the smoking legislation, many provincial/territorial governments have enacted specific legislation or regulations to restrict the places in which cannabis may be consumed.

In some cases, these prohibitions on the public consumption of cannabis are broader than the prohibitions on smoking tobacco. In Ontario's *Cannabis Act*, for example, consuming cannabis for non-medical purposes is specifically prohibited in all public places in the province. This applies in workplaces under the *Occupational Health and Safety Act*, as well as in vehicles or boats. By comparison, the prohibitions under the *Smoke-Free Ontario Act*, establish that tobacco smoking is prohibited in enclosed public places and enclosed workplaces, and that no person shall smoke tobacco in a vehicle while another person who is less than 16 years old is present in the vehicle.

Put simply, someone accustomed to walking through an Ontario town smoking a tobacco cigarette will not be able to do the same with non-medical cannabis. But how local rules will be enforced remains to be clarified (see [CHAPTER 6: ENFORCEMENT ISSUES.](#))

In other regions, occupational health and safety regulations address the public consumption of cannabis by limiting the places in which a person may smoke any substance. In the Northwest Territories, smoking in public is primarily regulated in this way. Under those regulations, smoking is prohibited in almost all enclosed workplaces, within a buffer zone around those workplaces, as well as in outdoor bus shelters.

Ontario's *Cannabis Act, 2017*, Section 11, prohibits the non-medical consumption of cannabis in public places, workplaces, vehicles or boats, or any other place prescribed by the regulations. A “public place” is defined as “any place to which the public has access as of right or by invitation, whether express or implied, and whether or not a fee is charged.” These prohibitions are broader than those in the provincial tobacco smoking legislation.

New Brunswick's *Cannabis Control Act* (Bill 16)

proposes restrictions on the places in which cannabis may be consumed in addition to those in the provincial smoking legislation:

17 (1) No person who is 19 years of age or older shall consume cannabis unless the person is in lawful possession of the cannabis and

- a) is in a private dwelling and has obtained the consent of the occupant,
- b) is on vacant land and has obtained the consent of the owner or occupant, or
- c) is in a place prescribed by regulation and in the circumstances prescribed by regulation, if any

(2) For greater certainty, no person who is 19 years of age or older shall consume cannabis in a place to which the public has access as of right or by express or implied invitation, or any other place prescribed by regulation.

[...]

19 Despite any other provision of this Act or the regulations, no person shall smoke cannabis or medical use cannabis in a place where smoking is prohibited under the *Smoke-free Places Act*.

4.3 Public health and welfare

Where a local government has been empowered to regulate the public health or welfare of its community, it may be able to further regulate the public areas in which cannabis may be consumed.

In British Columbia and Ontario, many of the municipal bylaws regulating the areas in which smoking is permitted

have been enacted through such authority. Generally, the understanding that tobacco consumption can be harmful to respiratory health and contribute to cancers, and that second-hand smoke can have similar negative health impacts, has qualified as health-related reasons for municipal restrictions on tobacco consumption. Local governments are likely to be able to draw on a similar approach for cannabis consumption where authorized.

In Vancouver, the Parks Board was delegated authority to enact bylaws to regulate smoking in parks to protect and promote public health—adopting language like the following:

3.1 A person must not smoke:

- (a) in a park;
- (b) on a sea wall or beach in a park;
- (c) in a building in a park, except in a caretaker's residence;
- (d) in a customer service area in a park;
- (e) in a vehicle for hire in a park;
- (f) on public transit in a park; or
- (g) in an enclosed or partially enclosed shelter in a park where people wait to board a vehicle for hire or public transit.

3.2 Except as permitted by Section 3.1, a responsible person must not suffer or allow a person to smoke in:

- (a) a building in a park;
- (b) customer service area in a park; or
- (c) a vehicle for hire in a park.

4.4 Municipally-owned or managed property

Local governments can also regulate the locations in which cannabis may be consumed as owners or operators of property. In the event that provincial/territorial smoking legislation does not already prohibit cannabis consumption in a park, a local government may be able to enact such a prohibition through its authority as the owner of that park. A similar approach can be taken to municipally-operated property, such as community centres or recreational facilities.

Community events and municipal alcohol policies

The approach many municipalities have taken in developing a municipal alcohol policy could be adapted to apply to cannabis. For example, an agreement for the use of municipal property for special events, such as festivals or sporting events, could also be used to manage the public consumption of cannabis. This could also apply to community centre and arena rentals.



The City of Ottawa's **Municipal Alcohol Policy** applies to all City Staff, volunteers, community partners who either manage or have control over City property, rental clients, and organizers of events, on City property, at which alcohol will be sold, served or consumed. This Policy applies to the sale, serving and consumption of alcohol on City property, or at locations or for events under the City's control (collectively "City Property"), whether or not a facility is operating under a liquor licence issued by the Alcohol and Gaming Commission of Ontario (AGCO), a Special Occasion Permit, a liquor licence with a Catering Endorsement, or any other approval that has been issued by the AGCO.

City Property includes the following:

- All City-owned properties,
- All properties leased by the City,
- City Highways (including the travelled portion of the Highway (roadway), boulevards, sidewalks or other areas of the Highway),
- Properties controlled by local boards over which City Council may require that general policies be followed,
- Events held by the City at partner or third-party premises, and,
- City Properties under a Public-Private Partnership Agreement, as determined on a case-by-case basis by the General Manager of Recreation, Cultural and Facility Services

Special challenges for municipalities

Regulating cannabis consumption presents multiple challenges and options for local governments. Their authority to regulate smoking cannabis in public depends on provincial or territorial legislation. Their authority, and need, to regulate smoking also varies greatly across the provinces and territories.

Regulating the public consumption of cannabis that is not smoked presents further challenges as identifiable markers of consumption, such as smoke or odours, are not as easy to detect. The health risks associated with smoking are also less present.

In regulating public consumption, local governments should be aware that cannabis may be consumed in many different forms. The *Cannabis Act* allows the production of cannabis as fresh, dried or oil-based products. While smoking remains the most common, consumption methods that do not produce smoke, including herbal vaporizers or e-cigarettes, or other cannabis-oil based products such as skin creams, are also available.

"Edibles," or foods such as candy and baked goods that have been infused with cannabis, are not currently authorized under the proposed federal regime, although such additional forms of cannabis may be authorized and regulated in the future.

Public consumption exceptions for the use of cannabis for medical purposes, or for traditional ceremonial practices, must also be considered.



What can municipalities do?

Policy options

- Allow cannabis smoking within the framework of the existing provincial and federal regulations.
- Regulate the conditions under which the smoking of cannabis may occur in public places.
- Prohibit the locations in which the smoking of cannabis may occur in public places.

Regulatory options

- ▶ Make no regulatory changes to public place policies or bylaws.
- ▶ Amend existing bylaws and policies to clarify that smoking cannabis is only permitted in accordance with the regulations and policies.
- ▶ Specifically regulate conditions under which the smoking of cannabis may occur in public places, or specific public places.
- ▶ Prohibit the smoking of cannabis on specific public places, such as parks, community centres, and sports arenas.
- ▶ For special events, develop policies regarding an event host's responsibility to control and be accountable for the smoking of cannabis.

4.5 Promotions, advertising and signage

Local governments should also be aware of how other orders of government have responded to concerns relating to public consumption of cannabis. Similar to the *Tobacco Act*, the federal government has set standards on how cannabis can be marketed across Canada, as well as minimum standards for the packaging of cannabis products. When a local government is concerned about how promotion and advertising may influence public consumption, an important first step is to be aware of the federal regulations on these matters.

Federal regulation of cannabis promotions

Under the *Cannabis Act*, the federal government has prohibited cannabis products from being promoted in a manner that:

- ▶ Refers to its price or distribution.
- ▶ Is appealing to young people.

- ▶ Uses testimonials or endorsements.
- ▶ Uses depictions of real or fictional characters.
- ▶ Presents cannabis brand elements as glamorous, risky, exciting or daring.
- ▶ Induces the purchase of cannabis through monetary incentives, lotteries, or contests.
- ▶ Is misleading about the characteristics, safety, and health effects of cannabis.

The federal government has also proposed restrictions on the venues in which advertising for cannabis may occur. The *Cannabis Act* prohibits the use of cannabis branding elements in locations where people under the age of 18 are permitted, in sponsorships for people, events and facilities, as well as in foreign media.

Marketing regulation and content

Local governments may have the authority to regulate business and public health regulations and business marketing options when it comes to cannabis. But the rules must be consistent with the federal *Cannabis Act* and any related federal or provincial enactments.

Awareness of the impact of cannabis consumption on human functioning and development can influence and reduce the consumption of cannabis. Some local governments may have the ability to regulate aspects of how cannabis is promoted, which may indirectly affect cannabis consumption levels.

In considering this approach, municipal governments should be aware that regulating expressive content, which includes advertising, has the potential to conflict with the right to freedom of expression under the *Canadian Charter of Rights and Freedoms*.

Any content-related signage regulations must be connected to a proper municipal purpose and should not infringe on this right. This is an area where it is extremely important to consult legal counsel familiar with the applicable municipal regulatory framework and expression rights.

5

Cannabis in the workplace

As employers, municipalities have a duty to ensure safe workplaces—and a cannabis-impaired employee can pose safety risks to co-workers and the public. This duty may sometimes collide with an employer’s duty to accommodate people with medical needs or disabilities. Achieving the right balance is vital.

Municipalities will face practical and policy challenges here. Cannabis impairment remains difficult to establish objectively. Banning cannabis use among all employees is problematic because some may be using it as prescribed by a doctor. Fundamentally, human resources policies and interventions need to be based on an employee’s ability to do their job, rather than stereotypes or moral judgements about cannabis use.



5.1 Maintaining safe municipal workplaces

Employers are required to ensure a safe workplace, and an impaired employee can pose a safety risk to themselves, their co-workers, or the public. Whether an employee consumes a substance that may cause impairment for medical or non-medical purposes, the basic principles around impairment in the workplace continue to apply.

It is generally acceptable to maintain a policy that all employees arrive at work fit for duty and to conduct themselves in a safe and lawful manner while on duty.

When considering changes to human resource policies with respect to non-medical cannabis, municipal employers should not make any decisions about impairment based on assumptions about cannabis use and its impact on an employee's ability to do their job. Employers must rely on their observations to establish reasonable grounds to determine whether an employee is impaired or not.

5.2 Existing medical cannabis regime

Access to medical cannabis is currently permitted only under the terms and conditions set out in the Access to Cannabis for Medical Purposes Regulations (ACMPR). Although the federal government has indicated it will revisit the ACMPR regime if and once the *Cannabis Act* becomes law, the current ACMPR regime would continue under the *Cannabis Act*.

An employer should treat medically prescribed cannabis similar to other prescription medication. As outlined below, there are additional considerations for cannabis consumption for non-medical purposes.

5.3 Determining impairment

The legalization of non-medical cannabis does not affect an employer's duty to ensure a safe workplace—as well as to accommodate employees with disabilities who are being prescribed medical cannabis or employees with disabilities stemming from an addiction to cannabis. These duties to accommodate are addressed in [SECTION 5.8](#).

If an employer suspects that an employee is impaired, they must observe that the employee's conduct in the workplace and their ability to perform their work-related duties are compromised.

Employers must not make decisions based on assumptions about the use of cannabis and its impact on an employee's ability to do their jobs. On its own, information about the consumption of an impairment-causing substance, or whether it has been consumed for non-medical or medical purposes, will not determine whether an employee is impaired or not.

Accurately assessing whether a person is impaired as a result of consuming cannabis is difficult. There are limited methods to determine impairment from cannabis through testing. The effects of an average dose of cannabis for an average user will vary. And unlike the use of a blood-content level to determine impairment from alcohol, THC levels in bodily fluids cannot reliably indicate the degree of current impairment.

As it stands, blood-content levels for THC (the main psychoactive compound in cannabis) are considered under Bill C-46 in the context of impaired driving offences. Bill C-46 proposes to create three new Criminal Code offences for having specified levels of THC within two hours of driving.

However, there is no universally agreed-upon standard of measurement to determine whether a person is impaired as a result of consuming cannabis. The proposed blood content thresholds under Bill C-46 are of limited relevance

for employers, as a determination of impaired driving requires different considerations than determining that an employee is impaired in the performance of their job duties.

In considering whether an employee is impaired, a supervisor of the employee should be able to respond to the issues outlined in the following table.

Reasonable grounds for impairment: Five factors to consider

<p>1 Impairment</p>	<ul style="list-style-type: none"> • Are there facts to indicate that the employee has shown a form of impairment? • Is there a change in physical appearance, behaviour, actions or work performance? • Observations may include: slurred speech, tardiness, unsteadiness, yelling, odours, admissions of use.
<p>2 Reliable facts</p>	<ul style="list-style-type: none"> • Are the facts reliable? • Did you witness a situation personally, or are you sure that the witness(es) are reliable and have provided first-hand information?
<p>3 Reasonable facts</p>	<ul style="list-style-type: none"> • Can you explain the facts? • Would you be able to describe the observations to another person who does not know the people involved?
<p>4 Documentation</p>	<ul style="list-style-type: none"> • Are the facts capable of documentation? • Can the dates, times, names and locations be documented?
<p>5 Timeliness</p>	<ul style="list-style-type: none"> • Is the impairment situation current, today, while on the job or company property? • Is this a repeated or ongoing situation?

– Adapted from the City of Edmonton ‘Drug and Alcohol Operating Procedures’, March 2016

Once a supervisor can reasonably demonstrate that an employee may be impaired, an employer should consider the following questions:

- ▶ Is there a safety risk, or a risk of injury, illness or incident in the workplace?
- ▶ Is the safety risk based on an employee's change in behaviour or ability?
- ▶ Is the change in the employee's behaviour or ability related to the consumption of cannabis?

As the effects of cannabis will vary among consumers, employers must assess people on a case-by-case basis. The specific performance requirements of a position, as well as the individual's capacity to fulfill those requirements, must be taken into consideration.

In evaluating whether there is a safety risk as a result of an employee's consumption of cannabis, the Canadian Centre for Occupational Health and Safety has recommended employers consider additional questions such as:

- ▶ Does the person have the ability to perform the job or task safely while impaired? For instance, is the employee driving, operating machinery or equipment, or using of sharp objects?
- ▶ Is there an impact on cognitive ability or judgment while impaired?
- ▶ Are there other side effects of the medical condition or the treatment that need to be considered?

5.4 Zero-tolerance policies

A zero-tolerance policy on the use of a substance in the workplace can result in discrimination against employees who are prescribed that substance. A person who has a medical prescription for a substance, including cannabis, is generally entitled to consume that substance in accordance with their prescription.

Whether the prescribed substance is available for non-medical or medical purposes does not affect an employee's entitlement to use it in accordance with their prescription.

Zero tolerance: alcohol vs. cannabis

In most cases, the non-medical use of cannabis and alcohol can be regulated similarly in the workplace. However, the history of cannabis as a medically prescribed substance provides context for why implementing a zero-tolerance policy toward cannabis is not as straightforward as a similar prohibition on alcohol.

In developing a regulatory framework for the non-medical use of alcohol, its treatment as a medical necessity has been given significantly less attention than it has for cannabis. The regulation of alcohol has largely been developed from the perspective that it is a non-medical substance. Alcohol regulation has taken place without comparable judicial commentary on the right to access it for medical purposes, or a comparable legislative regime to enable such access.

When alcohol became regulated for non-medical consumption, the existence of a right to access it for medical purposes was unclear, and there were significantly fewer people who were prescribed alcohol for medical purposes in the first place.

Workplace policies that include a prohibition on alcohol consumption are generally justified on workplace health and safety considerations. As outlined below, a policy that is *prima facie* discriminatory may be justified on the basis of being a bona fide occupational requirement (BFOR).

An actual safety risk as a result of impairment from a substance can justify a prohibition on the use of that substance in the workplace. With alcohol, there are generally accepted methods and standards—such as a blood alcohol content and a *per se* limit—for determining an impairment threshold. As there is an accepted correlation between alcohol consumption and impairment, as well as

established thresholds to determine impairment, a specific prohibition on the use of alcohol in the workplace may be justified with regard to those standards and workplace safety considerations.

Comparable methods or norms to determine impairment do not yet exist for cannabis. It is generally accepted that the effects of cannabis consumption differ from person to person. If two people consume the same amount of cannabis within the same time frame, there is the potential that this would result in one person not being impaired and other being significantly impaired. This environment underlines the need for an observation-based approach to determining impairment.

Bona fide occupational requirements

A zero-tolerance policy may be relevant in a workplace where the employer can demonstrate that sobriety is a bona fide occupational requirement (BFOR). A BFOR is a requirement that is essential to the safe and proper performance of the job.

As a BFOR is an exception to the general prohibition against discrimination, whether a policy meets the standard of a BFOR will be given very close consideration by the courts, human rights tribunals, and labour arbitrators. A BFOR will only be valid where the employer is able to demonstrate that the requirement meets three conditions:

- It was adopted for a purpose rationally connected to the performance of the job.
- It was adopted in an honest and good faith belief that it was necessary to the fulfillment of that legitimate work-related purpose.
- It is reasonably necessary to the accomplishment of the legitimate work-related purpose, in the sense that the employer cannot accommodate the affected employee without incurring undue hardship.

A BFOR must clearly relate to the needs and performance of the job. A requirement to be able to lift a certain amount of weight may discriminate against people who have a physical disability, but may qualify as a BFOR in the context of a care home where staff are required to assist people with mobility issues. Similarly, minimum eyesight

and hearing requirements can discriminate on the basis of physical disability but may qualify as a BFOR in the context of a position as a vehicle driver.

In establishing a job requirement as a BFOR, an employer should be able to demonstrate, with credible evidence, they have considered the specific requirements of the job, and have explored alternatives to fulfill these requirements that did not result in a discriminatory effect.

5.5 Disclosure of cannabis consumption

Non-medical cannabis use

The general rule is that employers have no authority over what employees do outside working hours, unless it can be shown that an employer's legitimate business interests are affected in some way. An employee's decision to frequent a particular pub on a Monday night, for example, should not affect their employment, unless their Monday night activities impaired the employee's ability to do their job when they reported for work on Tuesday morning.

General practice suggests that a workplace standard of requiring employees to show up fit for work is acceptable. A requirement that employees self-disclose to their supervisor, or not attend work, if they believe they are impaired as a result of consuming a substance is also consistent with an employer's duty to maintain a safe workplace.

An employer is generally not entitled to request information about an employee's use of substances while off-duty. An important consideration in dealing with employees who use cannabis is to not make decisions based on assumptions about the use of cannabis and its impact on an employee's ability to do their job. An employer may, however, investigate an employee's off-duty conduct if the employer has reasonable grounds to believe that the employee's off-duty conduct is negatively affecting their ability to fulfill the requirements of their job. An employer's reasonable grounds must be based on observations of the employee in the workplace, and a connection between the alleged off-conduct impairing the employee while on-duty.

Medical cannabis use

Employers may be able to require that employees disclose their use of medical cannabis in the same manner as other prescription drugs that cause impairment. In obtaining this information, an employer's right to medical information does not typically extend to the right to learn about specific illness or conditions for which an employee may have a drug prescription.

The focus of any employer enquiries should be on the impact on the ability of the employee's ability to perform their job duties. Questions about the likelihood of the prescribed medication causing impairment while on duty are more likely to be acceptable than those that ask for information about why the medication was prescribed.

If there are reasonable concerns about impairment, employers may be able to request confirmation from the doctor that the prescribed cannabis usage does not impair an employee's ability to perform their job duties safely. Depending on the requirements of an employee's position, the employer may also be able to request medical information about the amount and type of cannabis that has been prescribed, as well as the frequency of use. The more safety-sensitive the workplace or position is, the more medical information an employer will be able to justify requesting.

If an employer has reasonable concerns that an employee is impaired while at work, even if as a result of consuming cannabis for medical purposes, the employer may be able to require the employee to provide medical information about their consumption of impairment-causing substances. Decisions on any further actions should be based on the nature of the job duties and appropriate medical evidence.

5.6 Substance use policies

Employers should update their substance use policies to address any changes to the legal status of cannabis possession and consumption. Any substance use policy must focus on impairment, and what it means to be fit for duty.

At a minimum, substance use policies should address:

- ▶ Employee conduct standards.
- ▶ Guidelines for the use of substances that may cause impairment.
- ▶ Standards and procedures for supervisors and managers to address impairment.
- ▶ Consequences of violating the policy.

Employee conduct standards

A workplace standard requiring employees to show up fit for work is acceptable. Similar to alcohol or smoking, employers may be able to prohibit the consumption of cannabis for non-medical purposes while in the performance of one's employment duties or on a worksite.

Employer policies prohibiting alcohol consumption in the workplace and during work hours can be amended to include the use of non-medical cannabis once it is legal. Anti-smoking laws will likely apply to cannabis as they do to tobacco, in that smoking in most enclosed workplaces is likely to be prohibited.

Local governments should review such legislation from their province/territory to evaluate the extent to which, if at all, cannabis smoking may be permissible in the workplace.

Guidelines for employee use of substances

A substance use policy should identify the circumstances in which an employee should report the use of substances that may cause impairment. It should also specify any requirements to provide appropriate medical information. A standard that employees self-disclose to their supervisor—or not attend work—if they believe they are impaired as a result of consuming a substance is consistent with an employer's duty to maintain a safe workplace.

Addressing substance-related impairment

Guidelines for supervisors and managers to assist in evaluating whether an employee is impaired in the workplace should be included in a substance use policy ([SEE REASONABLE GROUNDS FOR IMPAIRMENT: FIVE FACTORS](#)). Employers may wish to establish a documentation or

reporting procedure, such as a checklist, to help determine whether indicators of impaired behaviour are present in the workplace.

Where an employer has reasonable grounds to believe that an employee is impaired in the workplace, they may request additional information from that employee. The level of information that can be requested, including medical documents where appropriate, will depend on the circumstances and must be assessed case-by-case. Policies will need to incorporate flexibility and focus on impairment and safety, not the use of cannabis or other substances.

Employers are also required to accommodate employees with disabilities. Substance use policies should provide managers and supervisors with guidelines for situations where an employee may be misusing substances in connection with a substance dependence.

The policy should outline any consequences of a policy violation, including disciplinary action, or assessment and rehabilitation measures. For unionized workplaces, consultation with the union regarding any proposed changes to the current substance use policies is recommended.

5.7 Substance testing

We strongly suggest that municipalities consult with legal counsel if they are considering a workplace substance testing policy.

Workplace safety concerns vs. privacy interests

Privacy and safety are highly sensitive and significant workplace interests that are occasionally in conflict. The right to privacy and the related right to security of the person are fundamental individual rights protected by the *Canadian Charter of Rights and Freedoms*. A workplace substance testing policy will often infringe on some aspect of these individual rights. This is because substance testing typically involves some

form of bodily intrusion and surrender of bodily substances in a coercive environment, and can result in disciplinary consequences or public embarrassment.

Employer substance testing policies tend to be motivated by employer perceptions of workplace safety risks. Any substance testing policy must balance an employee's privacy and human rights with an employer's ability to require personal information to achieve worksite safety.

The courts, arbitrators and tribunals have overwhelmingly rejected employer-imposed substance testing policies, particularly those involving mandatory random testing of employees. The only exception is if there is evidence of enhanced safety risks, including evidence of workplace substance misuse problems.

Employers should also be aware there is a growing body of research questioning the efficacy of drug testing programs for establishing impairment. Drug testing indicates the presence of a substance, not how the body interacts with it. With cannabis, it is recognized that a standard dose will affect individuals differently. Technology to establish a standard mechanism to determine impairment from cannabis consumption is being researched and developed, particularly in the context of tools to assist law enforcement in determining impaired driving in a roadside stop. But at this point, there is no reliable measurement on which employers can rely.

In considering any workplace substance testing policy, the onus is on the employer to establish the reasonableness of its policy. The evidence to demonstrate that the extent of the safety risk justifies the imposition of a substance testing policy will depend on the circumstances of the specific case. The jurisprudence has outlined that, where a substance testing policy is motivated by safety concerns, those concerns must be real and tangible. Uncertain or speculative health and safety risks, including those based on stereotypes or perceptions of substances or disabilities, will not justify such an invasion of employee privacy.

When substance testing policies may be permitted

Substance testing policies have been upheld by the courts in situations where they represent a proportionate response to legitimate safety concerns as well as privacy interests. In those cases, evidence of the following factors has supported the implementation of a substance testing policy:

- ▶ The workplace or industry is safety-sensitive.
- ▶ There are known problems involving impaired employees in the workplace.
- ▶ The procedures for and methods of testing for substance are minimally invasive.
- ▶ Affected employees are given advance notice of the substance testing policy, including prior to the commencement of their employment.

Workplace substance testing for individual employees may be justifiable for individual employees as part of a post-incident response. A post-incident substance test should only be conducted when the employee's actions or lack of actions have contributed to the cause of the incident, a "near-miss" or a potentially dangerous situation.

Prior to any testing, an employer should have a post-incident substance testing protocol in place that identifies the specific circumstances in which testing will take place. Language should not be retaliatory, or discourage the reporting of illnesses or injuries.

Workplace substance testing may also be permissible as part of a return-to-work program, including a last-chance agreement or a contingency behaviour contract. For example, substance testing may be part of return-to-work conditions for an individual employee who is returning to a safety-sensitive job after treatment for a substance addiction.

In safety-sensitive worksites, reasonable cause testing may be permitted. Individual employees may be required to undergo substance testing where the employer believes on reasonable grounds that an employee is impaired while on duty or their actions are in contravention of an established workplace substance use policy.

In all cases, the onus is on the employer to establish the reasonableness of any workplace substance testing policy, and employers must ensure that any substance testing procedures and methods are reasonable, not onerous, and minimally invasive.

The Halifax Regional Municipality's Substance Abuse Prevention Policy specifies that alcohol and drug testing is appropriate for employees working in safety sensitive positions and are subject to testing for alcohol and drugs, as funded by the applicable business unit, under the following situations:

- Post-accident, near miss, or potentially dangerous incidents;
- Reasonable grounds;
- Return to work program after primary treatment;
- Return to work program while in aftercare.

The policy contains checklists to assist in documenting observations about the potential impairment of an employee, as well as procedures for testing based on reasonable grounds or post-incidents.

Whether a particular risk is sufficient to justify an employer's drug-testing policy will depend on a variety of circumstances and considerations, including the employer's evidence to demonstrate these factors. Legal counsel is strongly encouraged if an employer is considering a workplace substance testing policy.

5.8 Duty to accommodate

Employers are required to accommodate employees with disabilities. With cannabis, this duty is likely to arise in two ways in the workplace:

- The employee is addicted to cannabis, which is a disability in and of itself under the *Canadian Human Rights Act*.
- An employee is not addicted to cannabis, but uses cannabis to treat a disability.

The laws in regard to employees who are addicted to cannabis will not necessarily change when it is legalized, as employers already have the duty to accommodate employees addicted to substances like alcohol and prescription drugs. Where an employee has a legal prescription for medical cannabis, there are three requirements to trigger an employer's duty to accommodate:

- the employee has a disability;
- the employee has been legally prescribed cannabis by a medical practitioner in accordance with the relevant regulations to treat the disability; and
- the employee is using cannabis in accordance with the prescription.

Accommodations for the use of medical cannabis will need to be treated in the same manner as when other employees are prescribed medication that could cause impairment. That the prescribed medication is cannabis as opposed to another type of prescription medication does not change the employer's obligations in the consideration of whether an employee can be accommodated. This is the case even for employees in safety-sensitive positions, though the duty to accommodate may be different than for employees who are not in safety-sensitive positions.



6

Enforcement issues

For years, local governments have faced enforcement issues arising from illegal cannabis production and sale. While enforcing federal law on controlled substances falls to local police and the RCMP, municipalities have also developed by-laws to address community impacts. Though the former is beyond this guide's scope, we explore interplays between local police and bylaw services.

With legalization, municipal enforcement roles will include inspection and compliance with provincial building codes and municipal bylaws, including regulating neighbourhood disputes over nuisance issues. Critically, in designing new bylaws and tools, municipalities must carefully weigh how practical they will be to enforce, and how well they can align with the work of police services.



6.1 Cultivation: Building code and bylaw enforcement

Building code compliance issues related to illegal cannabis production are well known to local governments. Cannabis production in residential premises has been associated with shoddy construction, overloaded or bypassed electrical wiring, and private security measures that block required fire exits. Other dangers include unauthorized municipal water connections that risk back-flow into municipal water services, and mould and air quality issues that endure even after cannabis production has ended.

Local governments have had a role to play in inspecting such operations, and enforcing building codes and other construction standards. Some local governments have passed bylaws specifically aimed at addressing these building code, fire, health and safety issues—recovering investigation and enforcement costs from building owners.

Context: medical cannabis

With the advent of the Access to Cannabis for Medical Purposes Regulations (ACMPR) and predecessor federal regulations, some cannabis cultivation for medical purposes within residences became legal under federal law. Under the ACMPR, a registered person is permitted to grow up to five indoor cannabis plants for each daily gram of dried cannabis they have been prescribed for medical purposes.

A registered person may grow cannabis plants themselves, or assign a designated person to do so. A designated person may grow plants for up to two registered persons, and any particular civic address can be used for production under up to four registrations. This can result in a significant number of cannabis plants being cultivated by one or more designated people, including within residential premises. While the ACMPR regime may be amended or replaced at some point, there has been no indication that these arrangements will change once non-medical cannabis is legalized.

As this level of cannabis cultivation is completely legal under federal law, there is no reason (other than avoiding costs) for those engaged in the activity not to comply with applicable building construction and safety standards. They don't need to stay “under the radar” of law enforcement. Nevertheless, building code compliance issues in relation to such matters as electrical safety and air quality may continue to arise in these lawful production sites, as owners and tenants attempt to alter their premises to accommodate activities for which they were not originally designed or constructed.

If the *Cannabis Act* has its desired effect, the commercial availability of an adequate, quality supply of cannabis will reduce the need for people to grow the plants themselves. Local governments may, however, wish to consider how they will inspect for and properly enforce building code requirements in relation to large scale indoor operations that the ACMPR allows in residential premises.

Provincial/territorial or municipal building construction and safety laws could be found to infringe a person's right under

the *Canadian Charter of Rights and Freedoms* to a reasonable supply of medical cannabis. But this infringement would have a good chance of being found to be a justifiable limit of that right under Section 1 of the Charter, given the compelling rationale for building safety requirements. Local governments have little reason to be timid about enforcing these types of standards.

Non-medical cannabis

The non-medical cannabis regime will authorize a maximum of four plants per household for personal cultivation, which may be indoors or outdoors. Provincial and territorial regimes may further restrict or prohibit this type of cannabis production, which may pose risks for young children and domestic pets, particularly if carried on outdoors.

This minor scale of production may not ordinarily create health or safety issues or lead to contraventions of building safety standards. There are no *Charter of Rights and Freedoms* issues with laws restricting or prohibiting the production of cannabis that has no medical purpose.

The extent to which federal officials will police and enforce the four-plant limit is unknown. For the same reasons that federal officials may have little inclination to enforce this limit, local governments should carefully consider whether they have the resources to monitor compliance with any overlapping local limit, whether enacted in a zoning bylaw or some other regulatory bylaw.

Unlawful production operations

One of the goals of the legalization of non-medical cannabis is to undermine its unlawful production. However, local governments may still be called upon to inspect illegal cannabis production facilities operating without federal permits or at a scale that exceeds the federal authorization.

Municipalities should take care both to protect the safety of inspectors and to act within the authority they have to inspect and enforce bylaws, without allowing the inspection to become an unlawful search and seizure for the purposes of enforcing federal law. However, these operations may be unlawful under applicable local government land use and/or business regulations, or may involve contraventions of building construction or fire safety standards. Inspections are wholly appropriate for those purposes.

Many local governments have found it helpful to coordinate inspections of known or suspected unlawful cannabis production operations with police and provincial health inspectors. While police cannot participate in inspections for enforcement of federal law without a warrant, they can accompany other inspectors for the purposes of ensuring their safety. In some cases, a warrant may also be advisable. This is an example of the interplay between local police and municipal bylaw services that will need to drive successful enforcement approaches.

The Coordinated Safety Response Team (CSRT) in Calgary

provides a coordinated approach to identifying potentially unsafe conditions on construction sites or buildings and conducts comprehensive joint reviews, inspections and investigations of these sites. CSRT members include:

- City of Calgary: Safety Response Unit, Calgary Community Standards, Calgary Police Service
- Occupational Health and Safety Alberta
- ALERT: Green Team South and Safer Communities and Neighbourhoods
- Alberta Health Services

The team is designed to quickly respond to incidents and help ensure public safety. It also builds strategies to help the construction industry decrease risk, including through the remediation and demolition of cannabis grow-op sites.

Local government permits and licences

Permit and licence issuance remains an important part of the bylaw enforcement function for many local governments. Its application will vary across provinces and territories depending on the regulations and authorities they

provide to local governments. Broadly speaking, building permit and business licence applications are a significant opportunity for local governments to review bylaw compliance. This includes a review of zoning, provincial and local building and fire safety standards. In the case of business licences, local governments may review any federal and provincial/territorial authorizations that may be required.

6.2 Nuisance bylaws and enforcement issues

Local governments are key regulators when it comes to neighbourhood disputes over nuisance issues. Many local governments have special powers in this regard, and may even be able to make nuisance abatement orders. As a starting point, though, local governments should be cognizant of all nuisance management aspects of regulations from other orders of government.

As noted in [CHAPTER 3: BUSINESS REGULATION](#), federal government authorizations for medical cannabis production facilities have, from the outset, required the installation of odour control equipment. This suggests that local governments might wish to focus efforts on proper use and operation of the equipment—a matter that the federal government may tend to leave unaddressed.

Odours

As local governments anticipate an increase in nuisance complaints with legalized cannabis, odour issues rank among their top concerns—and these are notoriously difficult to regulate and remediate.

Because odours are hard to quantify objectively in terms of strength or character, setting regulatory standards is challenging. While some odour testing labs exist in Canada, their usefulness for regulatory purposes is questionable, and testing can be onerous and expensive. Even if and when the quantification of odour can be satisfactorily addressed, an odour's source can be challenging to prove to the standard needed in court.

Proactive approaches to cannabis-related odour and nuisance abatement are therefore preferable. For example,

odour impact assessments and control plans might be included in requirements for rezoning applications or development approvals in circumstances where these are authorized and warranted.

Zoning setbacks, landscaping, buffer or similar requirements may be considered for certain types of facilities that are anticipated to cause odour or other nuisances. This is in addition to the basic locational criteria that have traditionally restricted problem activities to their own special zones.

Municipalities may also want to set business licence conditions that could reduce nuisance concerns around cannabis production and retail facilities. For more on this, see [CHAPTER 3: BUSINESS REGULATION](#). In addition, public consumption regulations, where authorized, may be used to contain or limit public exposure to odours and smoke. For more on this, see [CHAPTER 4: PUBLIC CONSUMPTION](#).

6.3 Potential liability and non-enforcement

Given the potential nuisance, health and safety issues that might arise, responsibility for cannabis-related regulation and enforcement has led to some concern over potential liability issues for local governments. However, the liability potential in this area is no more significant than any other area of local government regulation.

It is sometimes alleged in lawsuits against local governments that failure to enforce local regulations in relation to a nuisance has depressed the value of adjacent properties. These lawsuits claim that the local government is under a legal duty to enforce its regulations to prevent the nuisance, and that it must therefore compensate property owners for the reduced value. Generally, this legal proposition is not sound. (The property owner may have a good claim in nuisance against their neighbour, however.)

Local governments can decide, for *bona fide* reasons, not to enforce particular regulations in relation to particular factual circumstances, even if non-enforcement might cause financial harm to affected neighbours or owners. *Bona fide* reasons include such factors as the severity, scale or duration of the contravention and the cost to the local government of securing compliance with the regulation.

Further, enforcement is sometimes suspended while a regulation is under review or in the process of being amended or repealed. However, the position of any citizen complainant must also be considered. Good governance suggests that the maker of a valid complaint is entitled to an explanation of any local government decision not to investigate or enforce.

Building inspection is an established area where local governments owe a duty of care to those who may occupy or purchase property. Ensuring a consistent level of care in monitoring building code compliance will be important once non-medical cannabis is legalized. No local government is required to establish any particular type of regime for inspection and enforcement of building standards, except in some jurisdictions in relation to fire safety inspections. However having established a particular regime, such as one based on complaints from tenants or neighbours, local governments should be diligent about following that regime in relation to each individual complaint.

6.4 Enforcement tools and policies

Bylaw drafting

Residents will likely expect enforcement of any regulations that have been adopted with regard to the legalization of cannabis. This expectation should be kept in mind as regulations are drafted and considered for enactment. Enacting regulations that the local government has no realistic intention or ability to enforce is not a good governance practice. It can lead to reduced voluntary compliance with respect to that regulation as well as other enforcement areas.

Having elected to regulate, local governments should keep enforcement practicalities in mind when drafting the regulations, consulting with legal counsel as to the elements of any offence that will have to be proven to obtain a conviction or fine.

Enforcement practices

Enforcement policies are an important tool for managing expectations and resources. Local governments should consider whether to implement proactive enforcement and investigations, or only to investigate where complaints have been made.

Any complaints made under a complaint-based enforcement policy should be documented. Proactive enforcement practices should also be documented so staff, elected officials and the public know what they can expect, and the extent of resources that may be invested.

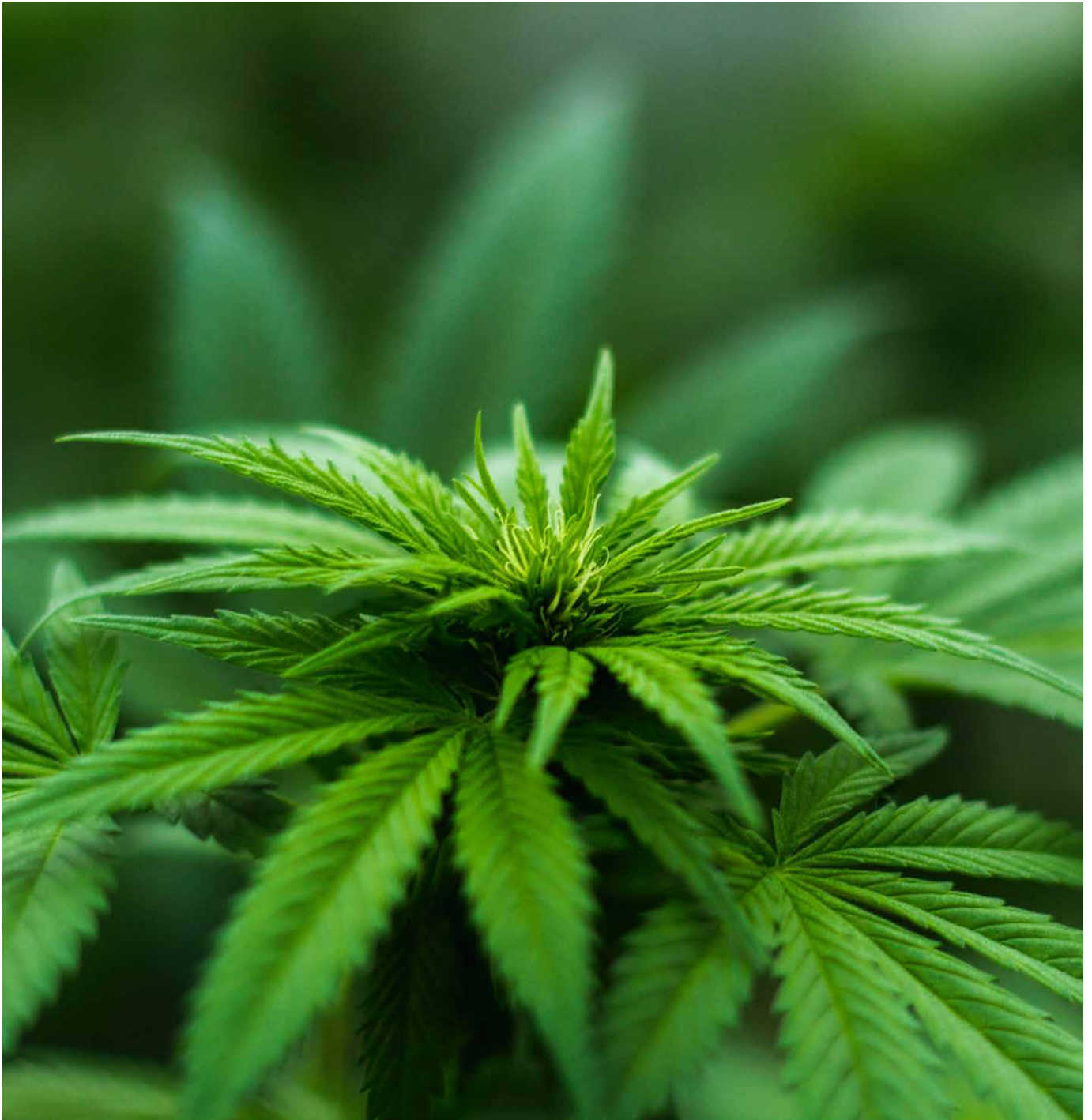
Generally speaking, prompt attention to bylaw contraventions once discovered, whether by complaint or proactive investigation, will result in better compliance rates overall.

Enforcement remedies for cannabis-related complaints and contraventions may vary greatly, depending on the enactment that has been breached. Self-help remedies are often attempted first.

Businesses breaching zoning or business licensing conditions, or even federal or provincial/territorial enactments—depending on how the business licensing regulations have been drafted—may be subject to licence suspension or revocation.

Building permits may be withheld or stop-work orders issued if proposed or actual construction does not respect applicable building codes or bylaw standards—including those pertaining to signage on retail premises. Remedial action orders can be considered for existing buildings in which contraventions are detected, such as bypassed electrical breaker panels or barricaded exit doors.

Municipal ticketing, injunctions and other court proceedings are usually a last resort. These remedies are almost always more expensive, and to some degree take the matter out of the local government's hands, exposing it to procedural delays.



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B.C. Cannabis

PRIVATE RETAIL LICENSING GUIDE

Applications and Operations



**BRITISH
COLUMBIA**

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B.C. Cannabis

PRIVATE RETAIL LICENSING GUIDE

Applications and Operations

In B.C., the wholesale distribution of non-medical cannabis will be solely through the Liquor Distribution Branch (LDB). The LDB will be the operator of government-run retail stores and the Liquor Control and Licensing Branch (LCLB) will be responsible for licensing and monitoring the retail sector using a mixed public/private model.

The rules governing retail stores will be similar to those currently in place for liquor, and public and private retailers will have similar operating rules. Note that while this document sets out Government's intentions for B.C.'s retail framework, it is subject to legislation yet to be passed at both the federal and provincial levels.

Who is this guide for?

This guide provides information for those who are considering applying for a provincial licence to retail non-medical cannabis. It contains preliminary information to help applicants make business decisions and describes the application process. This information will also assist local governments in preparing for potential retail store applications within their communities.

The Province recognizes that retail access in rural areas will require a different approach than the one employed in urban communities. There is a separate section related to rural areas at the end of this document.

Engagement with Indigenous governments and organizations is an important element in the development of the provincial regulatory framework for non-medical cannabis. To ensure the retail model appropriately addresses the unique considerations that must be taken into account with respect to Indigenous peoples, the Province remains committed to working in partnership with Indigenous peoples, governments and organizations. These discussions are ongoing and will continue beyond the initial date of federal legalization of cannabis.

Who is eligible?

All applicants will be assessed using the same evaluation criteria, which includes obtaining local government support and background checks of police/criminal records which will be examined on a case by case basis.

Application Process

In spring 2018, the Province will launch an online application portal for individuals and businesses who are interested in applying for a non-medical cannabis retail licence. Additional information on applicant registration will be posted on the website <https://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing/cannabis-regulation> as it becomes available.

■ **What is the process for applying for a non-medical cannabis retail licence?**

When the application portal opens, you may start the application process by entering the required information and documents. This will allow you to provide the required information early so that the assessment of your application can begin as soon as possible once the applicable legislation is passed.

■ **How long will the application process take?**

The Province is committed to conducting thorough reviews of applicants and applications in order to ensure that licensed retailers will operate in a safe and lawful manner. A significant number of applications are anticipated, and plans are being put in place to enable the applications to be processed as efficiently as possible.

■ **Will there be an application fee?**

Yes, each applicant will be required to pay an application fee and a licensing fee. The amount of the fees has not yet been determined. Once the fees have been determined, they will be posted here <https://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing/cannabis-regulation>.

Eligibility

■ **If I operated an illegal dispensary prior to legalization, am I prohibited from receiving a licence to operate legally?**

Having operated an illegal dispensary will not, on its own, exclude you from being considered for a licence. All applicants will be assessed using the same evaluation criteria, including background checks and local government support. Persons who have operated dispensaries prior to legalization will not receive preferential treatment in the provincial application process.

■ **Does having a record of criminal activity exclude me, or a shareholder in my company, from obtaining a non-medical cannabis retail licence?**

Having a record of criminal activity will not necessarily exclude you from obtaining a licence. As part of the required background check, police/criminal records will be examined on a case by case basis and evaluated in relation to their relevance to the application and the recentness of the activity or offence(s) committed. For example, low risk criminal activity may not exclude a person from becoming a licensee whereas associations with organized crime will exclude a person from becoming a licensee.

■ **I already have a liquor and/or tobacco licence. Am I automatically allowed to sell non-medical cannabis at my liquor store?**

No, you must apply for a non-medical cannabis retail licence. In addition, if you are granted a licence, you will be required to operate the non-medical retail cannabis store in a completely separate business location from any liquor and/or tobacco sales.

■ **If I, a family member, or a business partner, have an interest in a federally licensed producer or processor, can I be considered for a retail licence?**

Yes, a person or company may have an interest in both a producer and a retailer. However, the LCLB will place restrictions on the business relationship between the producer and the retailer. Where there is a close association (financial or otherwise) between a licensed producer and a non-medical cannabis retail business, the retail business will be prohibited from selling any products from the licensed producer. This restriction ensures that the market remains diverse and larger participants do not consolidate and control the market. The Province may create exceptions in the future to support micro-producers.

Application: Required Information

■ **Will I have to undergo a background check?**

Yes, you will be required to consent to a background check in order to be considered for a licence. Policy work is currently underway to determine which members of a corporation, partnership, or other legal business will be required to undergo a background check.

■ **What kind of information do I need to supply to the Province about my company?**

Depending on the type of entity your company is (corporation, partnership, society, etc.) the application system will prompt you to supply the related documents and names of partners, shareholders, directors, officers, and/or senior management.

■ **What information do I have to provide about my proposed location?**

You will need to provide the parcel identifier number (PID), proof of ownership or a copy of a fully executed lease that does not expire for at least 12 months from the date of licence approval, and a floor plan. If additional information is necessary it will be requested during the application process.

■ **Does my store have to be a certain distance from schools or other retailers?**

The Province will not impose distance requirements for non-medical cannabis retailers. However, local governments will have the authority to impose additional requirements. Therefore, you should inquire with your local government about local requirements before committing to a location.

■ **Are there any rules about what I can name my store?**

Your store name must be approved by the LCLB. The name of your store cannot be misleading as to what type of business you operate. As a non-medical cannabis retailer, you cannot choose a name that would lead people to believe you are a provider of medical cannabis. For example, the words “pharmacy”, “apothecary”, and “dispensary” all have meanings linked to the selling of medicines, so these words cannot be used in association with a non-medical cannabis store.

You must also comply with federal legislation and regulations respecting advertising and promotion.

Application: Local Government Requirements

The Province will permit local governments to decide whether they wish to have a non-medical cannabis retail store in their community. For the Province to issue a licence, applicants must have the support of the local government in the community where the proposed store would be located.

■ **What is the process for obtaining local government support?**

The local government must ask residents in the vicinity of the proposed retail location to comment on how the store would impact the community. The local government must consider this public input when deciding whether or not to support the application and must notify the LCLB of their decision by way of a council resolution.

■ **Can I get local government support in advance of the provincial application?**

The Province is working with local governments and the Union of B.C. Municipalities to develop the application process, including what information local governments will need to have in order to provide informed comments on the application. Further details will be announced once they are available. In the interim, it is recommended you check with your local government to ensure that you meet any criteria that are specific to your jurisdiction and to ensure that proper zoning is in place.

■ **Do public stores have to go through the local government process?**

Yes, public stores must also have local government support.

Licences

To sell non-medical cannabis in British Columbia, retailers will be required to obtain a licence from the Province. There will be two types of retail licences for:

- ▶ self-contained cannabis stores, and
- ▶ stores in rural communities.

■ **Will there be a cap on the number of non-medical cannabis retail licences issued in B.C.?**

The Province is not capping the number of licences issued. However, local governments will have the authority to make local decisions based on the needs of their communities. This means that some local governments may choose not to allow retail cannabis stores, while others may choose to cap the number of stores that are permitted to operate within their jurisdiction.

■ **I only want to sell medical cannabis; can I apply for a medical cannabis retail licence?**

No, medical cannabis will continue to be sold online by federally licensed producers only. However, like other Canadians, medical users will be able to buy cannabis from retailers of non-medical cannabis.

The federal government has committed to conducting a review of the medical cannabis system in five years.

- **Will there be any restrictions on where a non-medical cannabis retail outlet can be located?**

The Province is not regulating the location of stores. However, local governments may choose to do so. For example, local governments may set requirements about the proximity of a store to another cannabis store, schools, daycares or other places.

- **Will the Province be licensing consumption lounges?**

No, not at this time. The Province is focussed on introducing a safe and responsible retail non-medical cannabis sector; consideration will be given to other types of licences at a later date.

- **Will sales of non-medical cannabis be permitted at outdoor festivals and other events?**

Initially, non-medical cannabis sales will only be permitted at the licenced retail site. Offsite sales may be considered in the future.

Operations

Provincial and federal governments are committed to ensuring that non-medical cannabis is sold in a lawful, responsible manner. To this end, a range of requirements will be put in place; from who a retailer can buy product from, to who may enter a store, to what type of products may be sold.

Operations: Physical store

- **Are there any rules about the physical layout or construction of my store?**

To protect youth, the federal government requires that cannabis products must not be visible from outside your store. There will be many different ways for you to achieve this requirement (e.g. window designs). In addition, please remember that you must comply with federal requirements respecting advertising and promotion.

- **Are there any security requirements for my location?**

You have a strong incentive to secure your premises both during and after operating hours to protect your inventory from theft. The Province is considering what security requirements will be necessary. In addition, local governments may also choose to impose security requirements.

- **Can I sell non-medical cannabis as part of another business such as a liquor store or pharmacy?**

Not at this time. The Province may consider exceptions in the future, but for now, your non-medical cannabis retail store must be a self-contained business.

There will be exceptions for rural stores, similar to rural liquor stores. The criteria for determining rural areas are currently under development.

Operations: General

■ Can minors enter my store?

No. Unlike liquor stores, where minors are permitted if they are accompanied by a parent or guardian, minors must not enter your cannabis retail store.

There will be exceptions for rural stores to allow entrance by minors. The criteria for determining rural areas are under development.

■ What hours can I be open?

Cannabis retail stores can operate between 9 am to 11 pm unless further restrictions are put in place by your local government.

■ Are there any rules around pricing?

Policy work is ongoing and information on pricing will be made available as soon as possible.

■ Is there a limit on how much non-medical cannabis I can sell to a person?

The proposed federal *Cannabis Act* prohibits an individual from possessing in a public place a total amount of non-medical cannabis, in any authorized form, that is equivalent to more than 30 grams of dried cannabis. Non-medical cannabis must not be sold in amounts greater than this.

This means that if you sell different forms of non-medical cannabis to a single customer, the combined total amount sold must not exceed the equivalent amount of 30 grams of dried cannabis.

Equivalent amounts to 30 grams of dried non-medical cannabis for other cannabis products are listed in Schedule 3 of the proposed federal *Cannabis Act*.

■ Can I sell products online?

No, only the public retailer will be permitted to sell non-medical cannabis products online at this time. Consideration may be given to allowing private online sales in the future.

■ Can people consume non-medical cannabis in my store?

No. Consumption of any kind will not be permitted in the store, and providing samples will not be permitted.

■ Can I deliver my products?

No, retailers will not be permitted to offer a delivery service.

■ Do my employees and/or I need any special training or background checks?

In collaboration with industry, the Province will develop a mandatory training program for non-medical cannabis retail employees, which will be implemented over time. The Province will also be developing a registration requirement for employees which will include background checks. Details of this program are still being developed. Information will be provided as soon as that work is complete.

■ **Where do I have to store my inventory?**

All cannabis products will be required to be stored at your retail site. No offsite storage will be permitted.

■ **Will I be required to have a certain product tracking/inventory control system?**

The federal government has committed to creating a national seed-to-sale tracking system. This is currently under development and more information on retailers' responsibilities in relation to this system will be announced as it becomes available.

■ **Can I advertise my product?**

The federal government is regulating the advertisement of cannabis under the proposed *Cannabis Act* (Bill C-45). See the "Further Resources" section at the end of this document for a link to the Bill.

■ **Can my store sponsor events or teams?**

The federal government is regulating sponsorship under the proposed *Cannabis Act* (Bill C-45). See the "Further Resources" section at the end of this document for a link to the Bill.

Supply

■ **How do I obtain non-medical cannabis to sell in my store?**

The LDB will be the only source of legal wholesale non-medical cannabis. Retailers will not be permitted to purchase any cannabis products directly from licensed producers or any other source.

■ **Can I make financial arrangements with federally licensed producers?**

You cannot accept or request any inducement from a producer. This means you must not:

- ▶ pay money to secure access to a supplier's product;
- ▶ request money from a supplier in return for providing benefits such as preferential shelf space;
- ▶ accept money in exchange for agreeing not to stock a competitor's product.
- ▶ make agreements that give a retailer exclusive access to a producer's product, or product line.

■ **What types of non-medical cannabis can I sell?**

You can sell dried cannabis, cannabis oils and seeds that comply with federal requirements.

■ **Can I sell edibles?**

No, the proposed federal *Cannabis Act* does not permit the commercial production of edibles at this time. Therefore, you cannot legally sell them. The federal government has stated that edibles will be regulated within 12 months of legalization.

■ **What else can I sell besides dried cannabis and cannabis oil?**

You may sell “cannabis accessories,” as defined in the proposed federal *Cannabis Act*:

“Cannabis accessory” means a thing, including rolling papers or wraps, holders, pipes, water pipes, bongs and vaporizers that is represented to be used in the consumption of cannabis or a thing that is represented to be used in the production of cannabis.

You cannot sell snacks, tobacco or other non-cannabis related items.

■ **What format will cannabis products be distributed in?**

LDB will distribute pre-packaged product only, with labelling compliant with federal standards, in ready-to-sell formats (no bulk products). The product brands belong to the licensed federal producers.

Retailers will not be authorized to re-package the product with their own branding. Information about specific size formats will be confirmed at a later date.

Inspections and Compliance

To ensure that non-medical cannabis is being sold in a lawful and responsible manner, the Province will establish a compliance program that will include education, inspection and enforcement activities. The focus will be on encouraging voluntary compliance.

■ **How often will I be inspected?**

Your store will be inspected at least once annually and any time the LCLB investigates a complaint about your store.

■ **What happens if I am found to be out of compliance?**

If an inspector observes a contravention of the provincial legislation at your establishment, you will be issued a Contravention Notice and the inspector may recommend enforcement action. Penalties for contraventions are under development, but could include a monetary penalty or a licence suspension or cancellation. There will be a reconsideration process for licensees that wish to challenge the result of an enforcement hearing.

■ **Can the police enter and inspect my store?**

Yes, police can enter and inspect your store to ensure you are operating in compliance with the legal requirements.

■ **What should I do with any product I have obtained from unlicensed sources?**

Once you have been issued your licence you must not sell cannabis obtained from a source other than the LDB.

Rural Areas

The Province is aware that it may be necessary to introduce special provisions for rural areas in order to provide access to non-medical cannabis to rural populations.

- **Can an existing business in a rural area be authorized to sell non-medical cannabis, like they are for liquor?**

The Province is considering this possibility because a self-contained non-medical cannabis retail store may not be a viable business in some rural areas.

- **Will the rural agency store model (RAS) used for liquor be used for cannabis?**

Many of the operational requirements of the RAS model used for liquor may be applied to non-medical cannabis. However, the Province is still evaluating how to best meet the need for rural access.

- **If I operate a RAS, will I automatically be able to sell non-medical cannabis?**

No, if a current RAS operator is interested in retailing non-medical cannabis, they will be required to apply for a licence specifically for non-medical cannabis.

Further Resources

Bill C-45 the draft federal Act can be found here <http://www.parl.ca/LegisInfo/BillDetails.aspx?billId=8886269>

Contact information: cannabisregs@gov.bc.ca

TO: Electoral Area Services Committee **DATE:** May 8, 2018
FROM: Angela Buick
Planner **FILE:** PL2018-040
SUBJECT: Liquor Licence Amendment Application No. PL2018-040
395 and 403 Lowry's Road – Electoral Area 'G'
Lot 2, District Lots 19, and 83, Nanoose District Plan EPP16024

RECOMMENDATIONS

1. That the Board consider submissions or comments from the public regarding Liquor Licence Amendment Application No. PL2018-040.
2. That the Board adopt the resolution pertaining to Liquor Licence Amendment Application No. PL2018-040 attached to this report as Attachment 2.

SUMMARY

An application has been received from Morningstar Springs Farm Ltd. to amend winery licence #303137 issued to Morningstar Creek Winery Ltd., to include a permanent winery lounge endorsement for the Mooberry Winery. The winery lounge endorsement would permit wine service by the glass on the existing patio area. The licensee has indicated on their application that it is their intention to open an outdoor (seasonal) patio-lounge immediately adjacent to the existing licenced winery store and sampling bar. The applicants currently possess a patio endorsement that permits patrons to drink wine in the patio area that they have purchased or sampled from the facility. The requested lounge endorsement would simply add the ability for the applicant to sell and serve wine by the glass along with food from the menu.

The amendment requires a resolution from the Board before it can be processed by the Liquor Control and Licensing Branch (LCLB). The Regional District of Nanaimo (RDN) is requested by the LCLB to consider the impact on the community, as well as to consult with neighbouring property owners. Given that the proposed lounge endorsement is complementary to the existing winery licence and within an established licensed café patio area, no negative community impacts are anticipated from the proposed lounge endorsement. It is recommended that the resolution shown on Attachment 2 be supported by the Board and forwarded to the LCLB pending the outcome of public notification.

BACKGROUND

The LCLB has referred an application to the RDN for the Mooberry Winery for a permanent amendment to the existing winery liquor licence. The applicant is requesting to include a lounge endorsement as a

compliment to their existing patio endorsement. The proposed lounge service area would include the covered deck that has a licenced capacity of 10 persons and the gravel patio that has a licenced capacity of 30 persons. The existing patio endorsement permits patrons to drink wine they have purchased by the bottle or sampled from facility within the same area proposed for the lounge endorsement. If approved, the lounge endorsement would permit the sale and service of liquor by the glass along with food from the menu. The LCLB requires the RDN to provide a Board resolution within 90 days of receiving the application, commenting on the permanent change to a liquor licence prior to approval by the LCLB. The LCLB requests that the local government gather the views of the nearby residents affected by the liquor licence amendment.

The licensee, Mooberry Winery, is located within the Morningstar Springs Farm (see Attachment 1 – Subject Property Map). The property is zoned Agriculture 1 (AG1) pursuant to the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. Adjacent properties are also zoned Agriculture 1 (AG1) (see Attachment 3 – Current Zoning Map). Other uses on the Morningstar Springs Farm include a 75-dairy cow operation including a dairy processing plant, Little Qualicum Cheese works, 32 hectares of crops, a winery, a café, a petting area and a farm gate store. The area is surrounded by large agricultural properties and established farm operations.

Proposed Development

The applicant requests a lounge endorsement as an addition to their existing winery licence in order to allow service by the glass on the existing patio area and covered deck. The requested lounge endorsement is intended for daytime use and summer months only and is intended to add the option of serving wine by the glass to the existing small café style menu. The applicant is not requesting a change to the current permitted hours of liquor service and sales, which is 9:00 am until 6:00 pm, seven days a week. As the area of liquor service and hours of sales and service are not changing, this application is considered to a minor amendment to the existing liquor licence.

Liquor License Implications

Prior to LCLB consideration of the application, under the *Liquor Control and Licensing Act*, the applicant is required to obtain a resolution from the local government providing input on the proposed liquor licence amendment. The LCLB requires the Board to provide a resolution on the potential for noise for nearby properties, impact on the community, the consistency of the amendment with the purpose of a food-primary license, and the views of area residents. The Board resolution is required to take the general form of the draft resolution included as Attachment 2, which has been prepared for the Board’s consideration. This resolution may be amended as deemed necessary by the Board and pending the outcome of public notification.

The RDN’S Liquor Licence Applications Board Policy B1.6, provides guidance for how the RDN should review and consider liquor licence applications from LCLB. The policy requires a public hearing, public notice sign on the property, mail out notice to adjacent property owners, and advertisements in a local newspaper. Under the Board Policy B1.6, the RDN may consider a minor amendment to an existing liquor licence, without the requirement to hold a public hearing. All other requirements must be met for public notice, and the LCLB must be satisfied that residents have had an opportunity to provide their views on the proposal.

Policy B1.6 also provides guidelines to the Board for consideration of community impact including the location of the establishment, proximity to other social or public buildings, occupant load, and liquor

primary establishments within a reasonable distance, traffic, noise, parking, zoning, and other social or demographic trends. The proposed lounge endorsement identified in the licensee's winery licence amendment application compliments existing uses, including wine tasting and touring, café patio service including light fare, farm made cheese, milk and wine. Zoning for the Morningstar Spring Farm Ltd. property also allows other complimentary farming and agri-tourism uses. Uses directly adjacent to the property are a composting facility to the west, vacant land to the south, farming operations to the north and east.

The requested lounge endorsement to the existing winery licence proposes to maintain the current hours of service from 9:00 am until 6:00 pm and would provide for the service of wine by the glass within an area that is currently licenced to allow consumption of products purchased or sampled from the facility. There are no foreseen negative impacts to the surrounding lands from the proposed liquor licence amendment as reflected in the draft Board resolution included as Attachment 2.

Intergovernmental Implications

The applicant's proposal has been referred to RDN Building Inspection, the local RCMP, and the Ministry of Transportation and Infrastructure. No comment or concerns with the proposal were expressed by the department and agencies.

Public Consultation Implications

As part of the proposed liquor licence amendment the required public notification process, pursuant to the Board Policy B1.6, a notice on the subject property and the proposed amendment is required to be advertised in a local newspaper. A notice will be posted on the property 10 days prior to the Electoral Area Services Committee (EASC) meeting on May 8, 2018. Provided the application receives endorsement from the EASC to be considered at the Regional Board, notice will be published in an edition of the Parksville Qualicum Beach News informing the public that the Board will be considering the proposed liquor licence amendment. Property owners and tenants located within a 200 metre radius, will also receive a direct notice of the liquor license amendment, and will have an opportunity to comment on the proposed amendment prior to the Board's consideration of the application on May 22, 2018.

ALTERNATIVES

1. To approve the attached resolution to support liquor licence application PL2018-040.
2. To provide a resolution that does not support liquor licence application PL2018-040.
3. To not provide a resolution and have the Liquor Control and Licencing Branch undertake its own public input process and consider the application without Board input.

FINANCIAL IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2018 – 2022 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

Staff have reviewed the application and note that the proposal supports the Board's 2016 - 2020 Strategic Plan, specifically the Strategic Priority to Focus on Economic Health by supporting business and fostering economic development.



Angela Buick
abuick@rdn.bc.ca
April 25, 2018

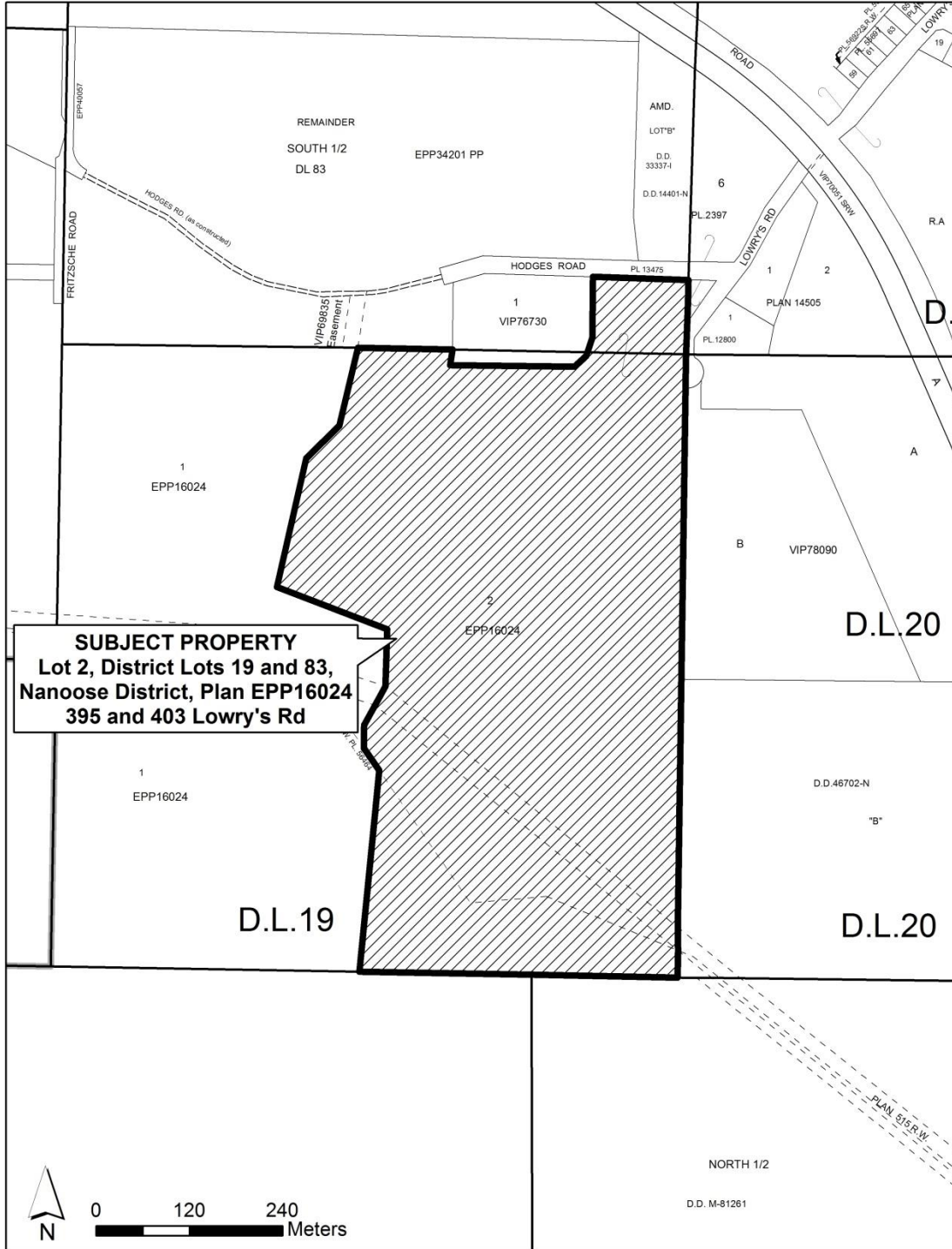
Reviewed by:

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

Attachments

1. Subject Property Map
2. Resolution for Mooberry Winery Liquor Licence Amendment
3. Current Zoning Map

Attachment 1
Subject Property Map

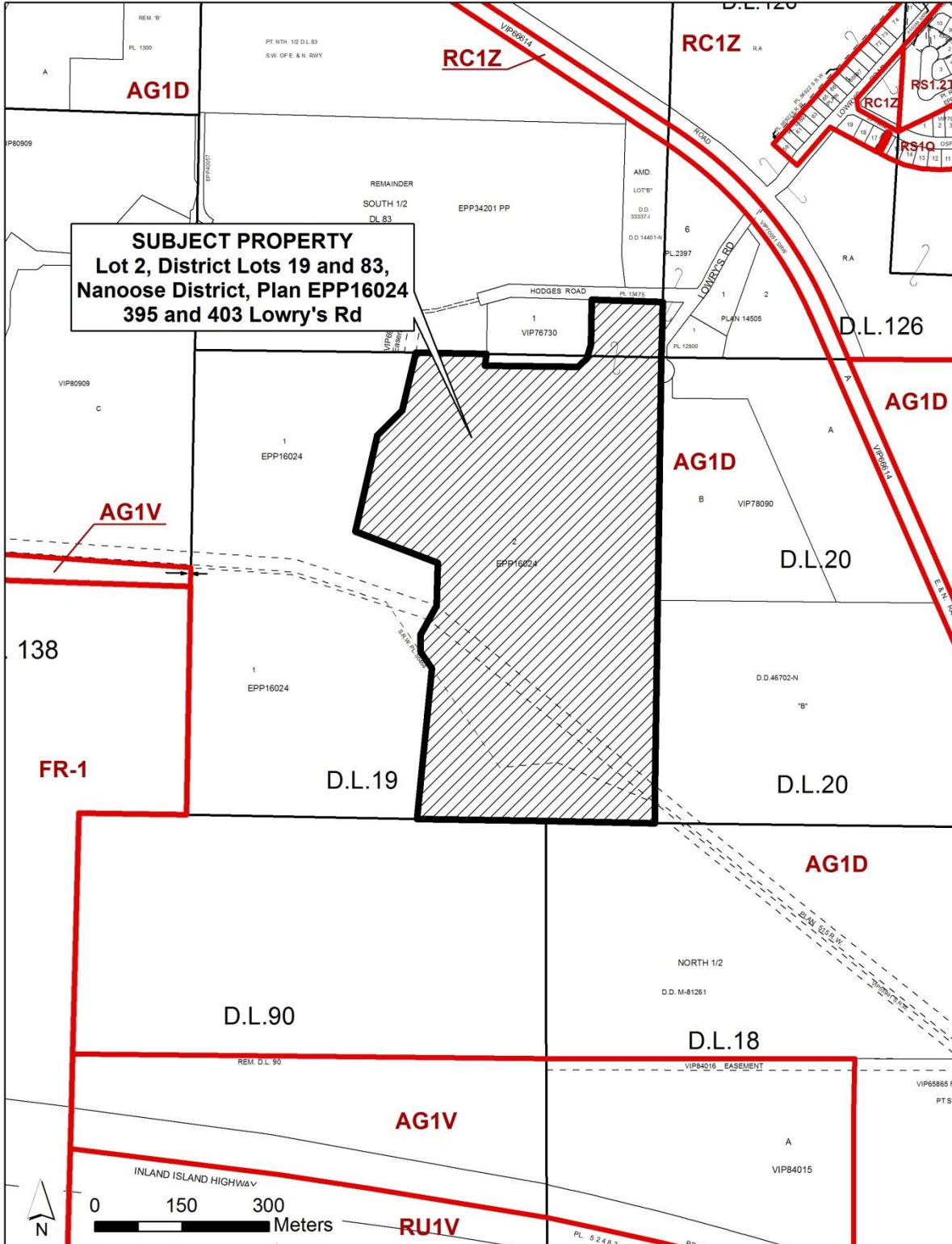


Attachment 2
Resolution for Mooberry Winery Licence Amendment
Liquor Licence Amendment No. PL2018-040

Be it resolved that:

1. **RDN Board Recommendation** - The Board of the Regional District of Nanaimo recommends the amendment of the winery license to allow a lounge endorsement.
2. The Board's comments on the prescribed considerations are as follows:
 - a. **Community Impact:** The licensee's winery licence amendment application for a lounge endorsement compliments the nature of existing uses. These include: wine tasting and touring, café patio service including light fare, farm made cheese, milk and wine. Zoning for the Morningstar Spring Farm Ltd. property also allows other complimentary farming and agri-tourism uses. Uses directly adjacent to the property are a composting facility to the west, vacant land to the south, farming operations to the north and east. The potential impact on the surrounding lands would be minimal as the activities and areas of use are not changing significantly beyond what is currently offered.
 - b. **Parking and Traffic:** Since the lounge endorsement is incidental to the patio endorsement, traffic and parking demand will not likely change.
 - c. **Noise:** Given that there is no proposed change to the hours of operation or expansion of the liquor service area, there are no anticipated changes in noise beyond the existing activities.
 - d. **Consistency with Intent of Winery License:** The proposed sale of liquor by the glass along with other café menu items appears to be consistent with and complimentary to the winery licence.
 - e. **Public Notification:** A notice of the Board's intent to receive public input and consider a resolution regarding a proposed amendment to the existing liquor licence was delivered to owners and tenants in occupation of land within a distance of 200 metres from the property. The Regional District of Nanaimo also provided notice in the May 15 and 17, 2018 editions of the Parksville Qualicum Beach News. All interested residents were invited to attend the Board meeting and provide comments on the proposal. Prior to considering the resolution, the Board asked for comments from the gallery on this application. A notice was also posted on the property advertising that the property is subject of a liquor licence amendment application and directing inquiries to the RDN Planning Department.

**Attachment 3
Current Zoning Map**



the District of Lantzville for the first quarter of 2018. Data for the years 2017 and 2016 is shown for comparison.

Building Permit Applications

The RDN received 195 building permit applications in the first quarter of 2018, consistent with the number of permit applications received in the same period in 2017. A total of 166 permits were issued, representing a 27% increase over the first quarter of 2017 and a 73% increase over the same period in 2016. The overall construction value of the permits issued in this quarter was \$27.8 million, a 16% increase over 2017 and a 94% increase in construction value over 2016.

Non-Residential Building Permits

Non-residential (commercial/industrial) building permits represent a relatively small number of the overall permits issued. However, the value of these permits can be high, depending on the scope of the commercial or industrial projects. In the first quarter of 2018, the RDN issued 14 non-residential permits valued at \$880,000, 11 permits valued at \$160,000 in 2017, and 4 non-residential permits valued at \$850,000 in 2016.

Building Permits by Electoral Area

As noted above, the RDN continues to experience increased building activity levels in the Electoral Areas. The following table provides a breakdown of building permits issued by Electoral Area and Lantzville in the first quarters of 2016 to 2018:

Electoral Area	Building Permits Issued – First Quarter 2018		
	2016	2017	2018
A	14	19	19
B	15	15	23
C	9	8	13
E	15	32	28
F	11	19	26
G	16	29	25
H	9	7	21
Lantzville	7	1	11
Total Q01 Permits issued	96	130	166
Total Construction Value (\$m)	\$14.3	\$23.9	\$27.8

Building Permit Approvals and Inspection Scheduling

Building Permit approval times can vary depending on the project complexity and increased volumes of applications during the busiest periods for construction activity. During the first quarter of 2018, the

turn-around time for permit approvals was 3 to 4 weeks. Permit approvals and inspection scheduling times in the RDN remain consistent with or lower than other regional districts and municipalities on Vancouver Island.

Service Enhancements

Permit processing times and the delivery of inspection services has an impact on our customers' ability to deliver product to their clients. In response to this, we have incorporated a continuous improvement model to review our processes and incorporate new technologies. Service levels are adjusted within the plan review and inspection functions to ensure that permit approvals and inspection scheduling benchmarks are maintained during periods of increased application and inspection volumes. As previously reported, the department is fully staffed and work is continuing on the initiative to implement a public portal in 2018 for online building permit applications and inspection scheduling.

The public portal will be fully integrated with the RDN's internal processes and is designed to give the public the option to "self-serve" their building permit application and inspection requests from their home, office or mobile device. Use of the portal will eliminate the need for clients to travel to the RDN office or schedule their inspections by telephone, which in turn will enhance the overall efficiency of the permit/inspection process for the public and staff alike.

ALTERNATIVES

1. Receive the report on Building Permit Activity - First Quarter 2018 for information.
2. Provide alternate direction to staff.

FINANCIAL IMPLICATIONS

There are no financial implications in receiving this report.

STRATEGIC PLAN IMPLICATIONS

Reporting on building permit activity enhances regional governance by providing Area Directors with information on development activity and trends within each Electoral Area and the region overall.



Tom Armet
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May 2, 2018

Reviewed by:

- G. Garbutt, General Manager, Strategic and Community Development
- P. Carlyle, Chief Administrative Officer