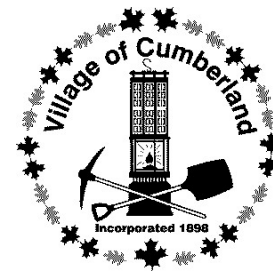


**The Corporation of the Village of Cumberland
Regular Council Meeting Agenda**

**May 30, 2022 at 5:30 p.m.
Council Chamber, 2675 Dunsmuir Avenue**



We are honoured to gather on the unceded traditional territory of the K'ómoks First Nation.

- 1. Approval of Agenda**
 - 1.1. Agenda for Regular Council Meeting - May 30, 2022
Recommendation:
 THAT Council approve the agenda for the May 30, 2022 Regular Council Meeting.

- 2. Minutes**
 - 2.1. Adoption of Minutes Recommendation: 7
 THAT Council adopt the following minutes:
 - Regular Council Meeting May 9, 2022

- 3. Delegations**
 - 3.1. School District 71 - Ian Heselgrave, Director of Operations & Brenda Hooker, Secretary Treasurer - Childcare Project Update 11
Recommendation:
 THAT Council receive the delegation of Ian Heselgrave and Brenda Hooker from School District 71.

- 4. Correspondence**
 - 4.1. City of Campbell River 12
 55+ BC Games Application for 2024, 2025 or 2026
Recommendation:
 THAT Council receive correspondence from the City of Campbell River re: 55+ BC Games Application for information.
Recommendation:
 THAT Council direct staff to report back to Council with more information to support an application for the Campbell River and Comox Valley local governments to jointly host the 55+ BC Games in 2024, 2025, or 2026.

- 5. Unfinished Business**

6. Reports

- 6.1. Development & Development Variance Permit Application 13
2727 Allen Avenue
Prepared by Meleana Searle, Planner

Recommendation:

THAT Council receive the Development & Development Variance Permit Application, 2727 Allen Avenue

Recommendation:

THAT Council refer the application for a development permit (2022-03-DP) for a new accessory dwelling unit and development variance permit (2022-04-DV) to increase the maximum permitted GFA of the ADU for 2727 Allen Avenue to the Advisory Planning Commission for comment.

- 6.2. Cumberland Childcare Project Update 47
Prepared by: Kaelin Chambers, Economic Development Officer

Recommendation:

THAT Council receive the Cumberland Childcare Project Update report.

Recommendation:

THAT Council approve the intent of the draft Memorandum of Understanding with School District 71 for the Cumberland Childcare Project; and THAT Council direct staff to finalize and execute the MOU with SD71.

- 6.3. Remedial Action Order, 2721 Derwent Avenue 54
Prepared by Rachel Parker, Corporate Officer

Recommendation:

THAT Council receive the Remedial Action Order, 2721 Derwent Avenue report.

Recommendation:

THAT Council adopt the following resolution:

WHEREAS the Council of the Village of Cumberland has the authority, under Division 12 of Part 3 of the *Community Charter*, to impose remedial action requirements in relation to hazardous conditions and declared nuisances;

AND WHEREAS, Council received the Remedial Action Requirements, 2721 Derwent Avenue Report on May 30, 2022;

AND WHEREAS, the Mayor and Council of the Corporation of the Village of Cumberland, in an open meeting assembled, and pursuant to Division 12 of Part 3 of the *Community Charter*, hereby resolve as follows:

- i. THAT Council considers and declares that the accumulation and untidy storage of the following matters and things located upon the Property are unsightly and a nuisance, and are so dilapidated or unclean as to be offensive to the community, all within the meaning of subsections 74(1) and (2) of the *Community Charter*:

- (a) all vehicles or parts thereof, including all cars, trucks, all-terrain vehicles, recreation vehicles, motorcycles, trailers, and any modified configuration thereof (collectively referred to as “Vehicles”), that:
 - 1) are physically wrecked or disabled;
 - 2) are not capable of operating under their own power or, in the case of trailers, are incapable of being towed in the manner a trailer is normally towed; or
 - 3) do not have attached number plates for the current year pursuant to the regulations of the *Motor Vehicle Act* R.S.B.C., 1996 c. 318, as amended, from time to time;
- (b) all Vehicle parts and tires not currently affixed to a Vehicle;
- (c) all Vehicle storage boxes and Vehicle ramps;
- (d) all gas storage containers, Vehicle fluid storage containers, rusted and partially rusted containers, all batteries, including without limitation, all Vehicle batteries, and all household furnaces;
- (e) all machinery, equipment, mechanical and metal parts, appliances, fixtures, and furniture;
- (f) all building materials and equipment, including, without limitation, all lumber, shingles, roofing materials, plumbing, tubing, nails, ladders, and solar panels;
- (g) all cords, hoses, and cables, including, without limitation, all illegally installed cables attached to the hot tub;
- (h) all fences and accessory structures characterized by holes, breaks, rot, leaning, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, excessive use, or lack of maintenance;
- (i) all landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged; and
- (j) all rubbish, filth, and discarded materials, and other offensive materials, substances, and objects,

even where such items are not considered rubbish (collectively, the “Nuisance Items”);
- ii. THAT Council considers and declares that the following structure situated on the Property is a nuisance, and that it is in and creates an unsafe condition, and that it contravenes the Provincial building regulations and the Village of Cumberland *Building Bylaw*, all within the meaning of subsections 74(1), 73(1)(a), 73(2)(a), and 73(2)(b) of the *Community Charter*:
 - (a) the illegal garage/shop structure located at the northwest corner of the Property, including the attached deck, which said structure was built contrary to Stop Work Orders issued by the

Village and occupied contrary to a Do Not Occupy Order issued by the Village (the “Structure”);

- iii. THAT the following Remedial Action Requirement Order is hereby imposed upon the Owner of the Property, pursuant to sections 72, 73, and 74 of the *Community Charter*:
 - (a) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must remove from the Property all Nuisance Items referred to in paragraph (i) above;
 - (b) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must ensure that the Property is in a neat, cleared, and orderly condition;
 - (c) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must:
 - 1) demolish the Structure;
 - 2) remove all extension cords, wires, and wiring to, from, in, and about the Structure;
 - 3) remove to an appropriate disposal site all debris from the Property arising out of or in connection with the said demolition, including, without limitation, all blocks and concrete; and
 - 4) level the site of the demolition and leave such site in a neat, cleared, and safe condition, (collectively, the “Remedial Action Requirements”);
- vii. THAT, pursuant to Section 78 of the *Community Charter*, **the time limit for giving notice of a request for Council to reconsider this Remedial Action Requirement Order is no later than 4:00 p.m. on the 14th day after receipt of the notice of Remedial Action Requirement Order;**
- viii. THAT, in the event the Remedial Action Requirements set out in paragraph (iii) above are not completed within the deadlines noted:
 - (a) The Village of Cumberland’s staff, its agents, and its contractors are authorized to enter the Property and take all appropriate action in accordance with section 17 of the *Community Charter [Municipal Action at Defaulter’s Expense]* to ensure that the said Property is brought into compliance with this Remedial Action Requirement Order;
 - (b) all costs incurred by the Village of Cumberland to bring the Property into compliance shall be at the expense of the Owner; and
 - (c) all such costs shall be recovered from the Owner as special fees and a debt owed to the Village of Cumberland for work done or services provided to land or improvements, and may be collected in the same manner as property taxes, all in accordance with the *Community Charter*;
- ix. THAT, should the Village of Cumberland’s staff, its agents, and/or its contractors attend and enter the Property for the purposes of paragraph (viii) above, members of the Royal Canadian Mounted Police may accompany them for the purposes of keeping the peace;

- x. THAT **the Owner and the Occupant must provide free and unfettered access to the Property, including, without limitation, unfettered access to and in the Structure referred to in paragraph (ii) above**, to permit the Village of Cumberland’s staff, its agents, and its contractors to fulfill the terms of this Remedial Action Requirement Order, **between the hours of 8 a.m. and 5 p.m. Monday through Friday, excepting statutory holidays**;
- xi. THAT, for clarity, no person, including the Owner and the Occupier, may impede the Village of Cumberland’s staff, its agents, or its contractors in any way from performing the work contemplated by this Remedial Action Requirement Order; and
- xii. THAT Council authorizes the Interim Chief Administrative Officer, or their designate, to provide further directions to implement the intent of Council's ordered Remedial Action Requirements.

7. Bylaws

- 7.1. Good Neighbour Bylaw 86
 Prepared by Rachel Parker, Corporate Officer
Recommendation:
 THAT Council receive the Good Neighbour Bylaw report.
Recommendation:
 THAT Council give first, second, and third reading to Good Neighbour Bylaw No. 1168, 2022.
Recommendation:
 THAT Council direct staff to prepare an update to Council’s Bylaw Enforcement Policy to update pro-active enforcement areas and prioritize enforcement response to complaints.
Recommendation:
 THAT Council direct staff to prepare an amendment to the Municipal Ticket Bylaw to include ticket amounts for contravention to the Good Neighbour Bylaw.

- 7.2. Election Procedures Amendment Bylaw No. 1169, 2022 119
 Prepared by Rachel Parker, Corporate Officer
Recommendation:
 THAT Council receive the Election Procedures Amendment Bylaw No. 1169, 2022 report.
Recommendation:
 THAT Council give first, second and third reading to Election Procedures Amendment Bylaw No. 1169, 2022.

8. New Business

9. Notices, Motions and Announcements

Matters considered here may include notices or motions to hold a meeting of the Committee of the Whole, a Village Hall meeting, a public hearing, and notices of motion introduced by a council member:

- Village Hall June 6, 2022 at 7:00 pm Chinatown Pavilion (weather dependent)
- Heritage Committee June 7 at 5:00 pm
- Advisory Planning Commission June 9 at 4:00 pm
- Regular Council Meeting June 13, 2022

10. Question Period

A member of the public may only inquire about items included on the agenda for that meeting during a question period.

- Please send questions by email to info@cumberland.ca using subject line "Question Period"; Note: please limit to questions only - comments will not be read.

11. Closed Portion

Recommendation:

THAT Council close the meeting to the public pursuant to Section 90 of the Community Charter to consider:

- (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;

12. Adjournment

REGULAR MINUTES

12/2022/R



**The Corporation of the Village of Cumberland
Regular Council Meeting
May 9, 2022 at 5:30 p.m.
Council Chamber, 2675 Dunsmuir Avenue**

Council Present:

Mayor Leslie Baird
Councillor Gwyn Sproule
Councillor Sean Sullivan
Councillor Vickey Brown

Staff Present:

Michelle Mason, Interim Chief Administrative Officer /CFO
Kevin McPhedran, Interim Deputy Chief Administrative Officer
Courtney Simpson, Manager of Development Services
Rachel Parker, Corporate Officer
Karin Albert, Senior Planner

Regrets:

Councillor Jesse Ketler

Mayor Baird called the meeting to order at 5:30 p.m. and acknowledged that the meeting was taking place on the unceded traditional territory of the K'ómoks First Nation.

1. Approval of Agenda

1.1 Agenda for regular Council meeting, May 9, 2022

Motion 22-373

Brown/Sullivan

THAT Council approve the agenda for the May 9, 2022 Regular Council meeting.

Carried Unanimously

2. Minutes

2.1 Adoption of Minutes

Motion 22-374

Sullivan/Brown

THAT Council adopt the following minutes:

Committee of the Whole, April 25, 2022

Regular Council meeting, April 25, 2022

Carried Unanimously

2.2 Receipt of Minutes

Motion 22-375

Brown/Sullivan

THAT Council receive the following minutes for information:

Homelessness and Affordable Housing Committee

Heritage Committee

Advisory Planning Commission

Accessibility and Inclusivity Committee

Economic Development Steering Committee

Carried Unanimously

3. Delegations

- 3.1 Matt Merritt, RPF, Area Manager, Manulife Investment Management – Harvesting Update
Motion 22-376
Sullivan/Brown
THAT Council receive the delegation from Manulife Investment Management regarding a Harvesting update.
Carried Unanimously

4. Unfinished Business

None

5. Reports

- 5.1 Frontage Exemption – 2539 Kentmere Avenue
Motion 22-377
Brown/Sproule
THAT Council receive the “Frontage Exemption – 2539 Kentmere Avenue” report.
Carried Unanimously
- Motion 22-378
Brown/Sullivan
THAT Council exempt Lot B of the proposed lot line adjustment of 2539 Kentmere Avenue, from the 10% minimum frontage requirement pursuant to Local Government Action Section 512, on the property described as Lot 18 District Lot 24 Nelson District Plan EPP79979 (2539 Kentmere Avenue).
Carried Unanimously
- 5.2 Heritage Alteration Permit Amendment and Development Variance Permit – 2732 Dunsmuir Avenue
Motion 22-379
Sproule/Sullivan
THAT Council receive the Heritage Alteration Permit Amendment and Development Variance Permit Application – 2732 Dunsmuir Avenue report.
Carried Unanimously
- Motion 22-380
Sullivan/Sproule
THAT Council approve Heritage Alteration Permit (amendment) 2021-03-HAP for expansion of a patio cover and Development Variance Permit 2021-23-DV to increase lot coverage and reduce parking requirements, at 2732 Dunsmuir Avenue; and
THAT Council direct staff to draft a policy for consideration of development variance permit applications for parking associated with existing businesses and/or heritage buildings in the VCMU-1 zone.
Carried Unanimously

5.3 Vacation Rentals – Bylaw Amendment Options

Motion 22-381

Brown/Sullivan

THAT Council receive the April 29, 2022 report “Vacation Rental Regulations – Bylaw Amendment Options” report.

Carried Unanimously

Motion 22-382

Brown/Sullivan

THAT Council direct staff to draft an amendment bylaw to Zoning Bylaw No. 1027, 2016 to amend the vacation rental regulations to:

- (a) Require a principal resident to live on property with vacation rentals;
- (b) Limit the maximum number of bedrooms rented on a property to three and the maximum number of guests to six;
- (c) Limit the vacation rental use on a single property to one dwelling unit;
- (d) Clarify that a vacation rental can be located within a principal dwelling unit, accessory dwelling unit or a secondary suite on a property;
- (e) Amend the definition of vacation rentals to distinguish between the commercial use of a home as a vacation rental and home-sharing of a principal residence; and

THAT Council direct staff to bring forward a report to

- (a) Explore posting a modestly sized sign with the vacation rental name, operator/caretaker contact information and business license number at the property;
- (b) Explore removing the cash in lieu option for vacation rental parking; and

THAT Council direct staff to draft an amendment to Business License Bylaw No. 896, 2009 that supports the Zoning Bylaw regulations for vacation rentals and:

- (a) Requires display of the business license number on listings and similar advertisements or promotional materials that communicate the availability of a vacation rental.

Carried Unanimously

Motion 22-383

Sullivan/Brown

THAT Council withhold accepting new business licence applications for vacation rentals for properties subject to the Zoning Bylaw amendment in regard to vacation rentals.

Carried Unanimously

5.4 Mayor and Councillor Monthly Reports

Motion 22-384

Sproule/Brown

THAT Council direct Councillor Sproule to present the materials on the 00 coal mines survey marker located in Village Park to the Heritage Committee to consider heritage recognition in its work plan and budget for 2023.

Carried Unanimously

Motion 22-385

Sproule/Brown

THAT the Council Member Monthly reports be received.

Carried Unanimously

6. Bylaws

6.1 2022 Property Tax Rates Bylaw

Motion 22-386

Sullivan/Brown

THAT Council adopt the "2022 Property Tax Rates Bylaw No. 1167, 2022".

Carried Unanimously

7. New Business

None

8. Notices, Motions and Announcements

- Accessibility and Inclusivity Committee May 16 at 3:00 p.m.
- Homelessness and Affordable Housing Committee May 18 at 9:30 a.m.
- Committee of the Whole Meeting May 30 at 2:00 p.m.
- Regular Council Meeting May 30 at 5:30 p.m.

9. Question Period

No questions received

10. Closed Portion

Motion 22-387

Sullivan/Brown

THAT Council close the meeting to the public pursuant at 7:51 p.m. to Section 90 of the *Community Charter* to consider:

- (f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
- (g) litigation or potential litigation affecting the municipality;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Carried Unanimously

11. Adjournment

The meeting was adjourned at 8:23 p.m.

Certified Correct:

Mayor

Corporate Officer



Comox Valley Schools

A Community of Learners

INNOVATIVE • INQUISITIVE • INCLUSIVE

Comox Valley Schools

School District No. 71
Office of the Secretary-Treasurer

607 Cumberland Road
Courtenay, B.C. V9N 7G5
Fax (250) 334 5552
Telephone (250) 334 5500

VIA E-MAIL ONLY: @cumberland.ca

May 26, 2022

The Corporation of the Village of Cumberland
2673 Dunsmuir Ave.
Cumberland, BC V0R 1S0

RE: Cumberland Child Care Delegation to Council, May 30, 2022

Dear Mayor and Council,

In response to your request, we will attend and present at the Village of Cumberland's Council meeting on May 30, 2022.

The intent of the delegation to council is to provide an update on the building plans, the location on the school site, and a summary of the feedback from the community information session held on May 03, 2022, in the Village of Cumberland.

In addition, we would like to discuss cost escalations and opportunities for the Village to assist.

Sincerely,

Brenda Hooker, CPA, CGA
Secretary-Treasurer
The Board of Education of School District No. 71 (Comox Valley)



6 May 2022

Mayor Leslie Baird
The Corporation of the Village of Cumberland
2673 Dunsmuir Avenue
Box 340
Cumberland, BC V0R 1S0

Dear Mayor Baird:

RE: 55+ BC Games Application for 2024, 205 or 2026

Campbell River City Council has directed City staff to explore the possibility of a joint **55+ BC Games** application for the 2024, 2025 or 2026 event, as hosted by the municipalities in the Comox Valley and Campbell River in 2010.

Campbell River City staff are working with the Comox Valley Regional District staff, in the preparation of a joint submission for this event. We request the **Village of Cumberland** endorse this process and commit to support this collaborative application with a donation in-kind, should our bid be successful.

In 2010, both communities provided a well-attended event that provided 26 different activities, shared between the communities. A united bid, supported by our combined venues and continued community assistance, would provide an excellent opportunity to showcase the Comox Valley and Campbell River areas.

We request the following resolution be endorsed at your next regular meeting:

THAT the Village of Cumberland supports the jointly prepared application for the 2024, 2025 or 2026 55+ BC Games to be held in the Comox Valley and City of Campbell River.

AND THAT the Village of Cumberland will commit to providing in-kind support of services and facilities should the bid be successful.

Thank you for your consideration of this application. We will also be requesting support from the Comox Valley Recreation Commission, other Comox Valley municipalities, Strathcona Gardens Commission and the School Districts.

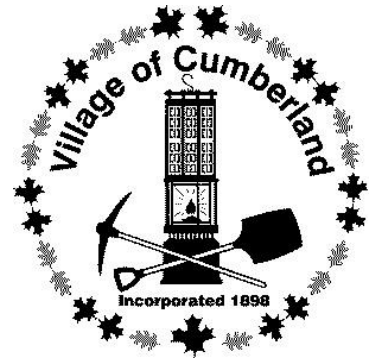
Sincerely,

Drew Hadfield
Director of Operations

City of Campbell River

301 St. Ann's Road, Campbell River, B.C. V9W 4C7
T: 250.286.5783; E: Drew.Hadfield@campbellriver.ca

COUNCIL REPORT



REPORT DATE: 5/13/2022
MEETING DATE: 5/30/2022

File No. 2022-03-DP/2022-04-DV

TO: Mayor and Councillors
FROM: Meleana Searle, Planner
SUBJECT: Development & Development Variance Permit Application – 2727 Allen Avenue

RECOMMENDATION

- i. THAT Council receive the Development & Development Variance Permit Application – 2727 Allen Avenue report.
- ii. THAT Council refer the application for a development permit (2022-03-DP) for a new accessory dwelling unit and development variance permit (2022-04-DV) to increase the maximum permitted GFA of the ADU to the Advisory Planning Commission for comment.



PURPOSE

The Village has received an application for a residential infill development permit to allow the construction of a new accessory dwelling unit (ADU). The applicant is proposing to vary the maximum gross floor area (GFA) of the ADU as a percentage of the GFA of the single-family dwelling from 75%, to 91%. This would result in an ADU of 89.4m² (962.0ft²) which is still within the permitted maximum GFA of 90.0m² (968.0ft²). The purpose of this report is to seek a referral to the Advisory Planning Commission.

BACKGROUND

Proposed Development

The subject property currently has a one-storey dwelling of 98.0m² (1055.0) plus carport. The proposal is to construct a new ADU at the rear of the lot. The ADU is proposed to be 89.4m² (962.0ft²) which is 91% of the single-family dwelling. ADU's are permitted to be up to 75% of the GFA of the principal dwelling to a maximum of 90.0 m² (968.8ft²). The application and supporting documents meet all the Residential Infill Development Permit Guidelines and Zoning Bylaw 1027, 2016 requirements except for the maximum permitted GFA percentage and the use of building materials that reflect the character of the principal dwelling unit. The GFA is being addressed via the concurrent development variance permit application.

Official Community Plan

The subject property is within the R1-A Zone and Development Permit Area No. 6 - Residential Infill. Residential infill development is intended to build density in mature residential areas located within a short walk of the downtown core. The objective of a Residential Infill Development Permit is to guide the integration of new housing into established residential neighbourhoods and to promote quality residential environments that maintain desirable relationships to their surrounding context.

Zoning Bylaw

The subject property is zoned R-1A – Residential Infill which permits single family dwellings as the principal use. One secondary suite and one ADU are permitted as accessory uses if they meet the requirement in Zoning Bylaw No. 1027, 2016. The R1-A Zone permits 40% lot coverage. The proposed ADU and existing single-family dwelling would result in 25% lot coverage and all setbacks would comply.

ANALYSIS

Development Permit

The application and supporting documents meet all the Residential Infill Development Permit Guidelines and Zoning Bylaw 1027, 2016 requirements except for the maximum permitted GFA percentage and the use of building materials that reflect the character of the principal dwelling unit. As the existing single-family dwelling is dilapidated and planned to be demolished, it is not practical to have the ADU reflect the character of the principal dwelling.

Additionally, the building materials proposed for the ADU do not reflect the character of the existing principal dwelling unit as it's proposed to be demolished. The property owner intends to have the new primary dwelling unit complement the aesthetics of the ADU.

The three parking spaces required for the ADU, and single-family dwelling, would be accessed via the existing driveway and would be accommodated on-site behind the single-family dwelling.

Development Variance Permit

Land use justification

Best practices for evaluating development variance permit applications typically look for an acceptable land use justification such as:

- i. the ability to use or develop the property is unreasonably constrained or hindered by having to comply with the bylaw requirement;*
- ii. there is a net benefit to the community or immediate area that would be achieved through the variance approval; or,*
- iii. the proposed variance would allow for more efficient and effective use and development of the subject property.*

The applicant is proposing to vary the maximum gross floor area (GFA) of the ADU as a percentage of the GFA of the single-family dwelling from 75%, to 91%. This would result in an ADU of 89.4m² (962.0ft²) which is still within the permitted maximum GFA of 90.0m² (968.0ft²). The applicant is proposing to build the ADU first and then demolish the existing single-family dwelling and construct a larger single-family dwelling. The GFA of the new single-family dwelling would need to be larger than 120.7m² (1,300ft²) which would then make the ADU compliant with the Zoning

Bylaw. This could easily be accomplished within current setbacks, lot coverage and permitted height.

The applicant is wanting to build the ADU first as it is more economically feasible. The ADU will be less expensive to build than the larger single-family dwelling which requires demolition of the existing dwelling. Once a tenant is in the ADU the property owner will be able to allocate the finances to develop the primary dwelling.

Impacts of the Variance

Where a land use justification for a proposed variance has been demonstrated, the application should then be evaluated based upon the impact(s) (positive or negative) of the variance.

Impact(s) may be classified into the following three general categories:

- i. Aesthetic impact. This includes the impact of the proposed variance on the streetscape, the views from adjacent properties, compatibility with neighbourhood design standards, etc.*
- ii. Functional impact. This includes the impact of the proposed variance on the function of the property for the permitted uses and the potential impact of the variance on the function of adjacent properties, or road right-of-ways.*
- iii. Environmental impact. This includes the impact of the proposed variance on the long-term sustainability of the natural environment or the direct impact on a specific feature of the natural environment.*

The aesthetic impacts of the proposed ADU are minimal on the streetscape due to the structure being sited at the rear of the lot. The south facing deck has been screened from the westerly neighbours and small windows have been designed for the walls that face adjacent properties. On the west side of the ADU, a wall provides screening for the side entrance, outdoor shower and bike wash station. The established coniferous trees located just along the rear-side and rear property lines will provide vegetative screening to the neighbouring properties as well as the Wellington Colliery trail.

Should the property owner decide to not demolish the existing single-family dwelling there is no mechanism for the Village to enforce that a new, larger, primary dwelling be built. This could result in the ADU being larger than the maximum GFA percentage permanently.

PUBLIC NOTIFICATION AND CONSULTATION

As required by the *Village of Cumberland Procedures and Fees Bylaw No. 1073, 2018* the applicant has placed the required sign on-site.

Pursuant to the requirements of the *Local Government Act*, a notice of Council consideration of the Development Permit was mailed on April 27, 2022, to the owners of properties within 75.0metres. At the time of this report no submissions have been received by staff.

Staff recommends that Council does not require a neighbourhood public meeting. Although the *Village of Cumberland Procedures and Fees Bylaw No. 1073, 2018* states that Council may require that the applicant hold a neighbourhood public meeting, because Council has limited discretion when approving development permits, public meetings for development permit applications are generally not recommended.

At the time of this report, staff received feedback from two community members. Both support infill-development but do not support the requested variance for increased maximum GFA.

ALTERNATIVES

1. THAT Council deny the development permit (2022-03-DP) on the property described as Lot 5, District Lot 21, Nelson District, Plan 14377 (2727 Allen Avenue).
2. THAT Council deny the development variance permit (2022-04-DV) on the property described as Lot 5, District Lot 21, Nelson District, Plan 14377 (2727 Allen Avenue).

STRATEGIC OBJECTIVE

- Healthy Community
- Quality Infrastructure Planning and Development
- Comprehensive Community Planning
- Economic Development

FINANCIAL IMPLICATIONS

None.

OPERATIONAL IMPLICATIONS

The review of development permit and development variance permit applications is part of the services provided by the Development Services Department.

CLIMATE CHANGE IMPLICATIONS

The proposed ADU meets the objective of the Village to encourage new development that incorporates energy and water conservation principles as well as designs that work towards reducing greenhouse gas emissions. A 240volt electric vehicle plug-in, siting for solar gain in the winter and solar shade in the summer, solar ready wiring, LED lighting, and secure bike storage will be provided.

The stormwater management plan uses IDF (Intensity-Duration-Frequency) values that have been increased by 15% to account for climate change.

This infill development is an example of compact growth in an existing residential node. Compact growth enables residents and visitors to walk safely and easily, cycle, carpool or travel by bus as well as by automobile.

ATTACHMENTS

1. 2022-03-DP DRAFT
 - a. Schedule A - Site & Landscape Plan
 - b. Schedule B – Architectural Drawings
 - c. Schedule C – Stormwater Management Plan, Feb. 18, 2022
2. 2022-04-DV DRAFT
 - a. Schedule A - Site Plan
3. Public Feedback

CONCURRENCE

Courtney Simpson, Manager of Development Services **CS**

Respectfully submitted,

M. Searle

Meleana Searle
Planner

M. Mason

Michelle Mason
Acting Chief Administrative Officer



Corporation of the
Village of Cumberland

DEVELOPMENT PERMIT

TO: Rhonda Lister

OF: 307 Gartley Road, Courtney, BC V9N 9T2

This Development Permit (2022-03-DP) is issued subject to compliance with all of the bylaws of the Village of Cumberland applicable thereto, except as supplemented by this Permit for the purposes of constructing an accessory dwelling unit.

1. This Development Permit applies to and only to those lands within the Village of Cumberland described below:

Legal Description: Lot 5, District Lot 21, Nelson District, Plan 14377

Folio: 516 00654.000

PID: 004-395-832

Civic Address: 2727 Allen

Avenue

2. The land described herein shall be developed substantially in accordance with the following terms and conditions and provisions of this Permit:

a) Site Design

- i) The siting shall be substantially in conformance with the attached Schedule A.

Required prior to Final Inspection of the Building Permit:

b) Landscaping

- i) The landscape plan shall be implemented substantially in conformance with the attached Schedule A.

c) Building Form and Character

- i) ADU shall be constructed substantially in compliance with the attached Schedule B.
- ii) Civic addressing shall be visible from the street frontage on Allen Avenue.

d) Lighting

- i) All site lighting installations shall be fully shielded (full cutoff).

- ii) Security and other lighting should be placed so as not to shine directly into residential properties or to reduce the separation effectiveness of any landscaped buffer.

e) Access, Parking, & Amenity Areas

- i) One of the parking spaces shown on the attached Schedule A shall be for the exclusive use of the ADU resident. The parking space shall be surfaced with a paving treatment (including: pervious paving, cellular paving and concrete unit pavers).
- ii) Access from the parking space to the ADU shall be a hard travel surface and at least 1.2metres wide, however the clearance shall be maintained for 1.5metres for emergency services.

f) Energy Conservation & Reduction of Greenhouse Gas Emissions

- i) A 240 electric vehicle plug-in shall be required.

h) Stormwater

- i) A Stormwater Management Plan prepared by Wedler Engineering dated February 18, 2022 is attached as Schedule C and forms part of this permit.
- ii) A rock-pit per the details in the Stormwater Management Plan is to be constructed.

3. Security

- a) A security which represents 125% of the cost estimate for the approved landscape plan shall be received before the Permit is granted.
- b) When the plan has been completely implemented the Owner shall request an inspection. If found to be compliant, a refund of 75% shall be made.
- c) The remaining 25% will be held back for one year at which time the Owner will request an inspection. If the plantings are to the satisfaction of the Village, the holdback will be returned to the person who paid it. If any of the plants have not survived, they shall be replaced by the Owner per the approved landscape plan, or failing this, the Village may use the holdback to replace the plants. Any amount of the security not used for the purpose it was intended will be returned to person who paid it.

4. Expiry

Subject to the terms of the permit, if the owner of this development permit does not substantially start any construction with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

5. Timing and Sequencing of Development

None.

6. List of Reports or Plans attached as Schedules

- a) Schedule A - Site & Landscape Plan

- b) Schedule B – Architectural Drawings
- c) Schedule C - Stormwater Management Plan

7. Contaminated Sites Regulation

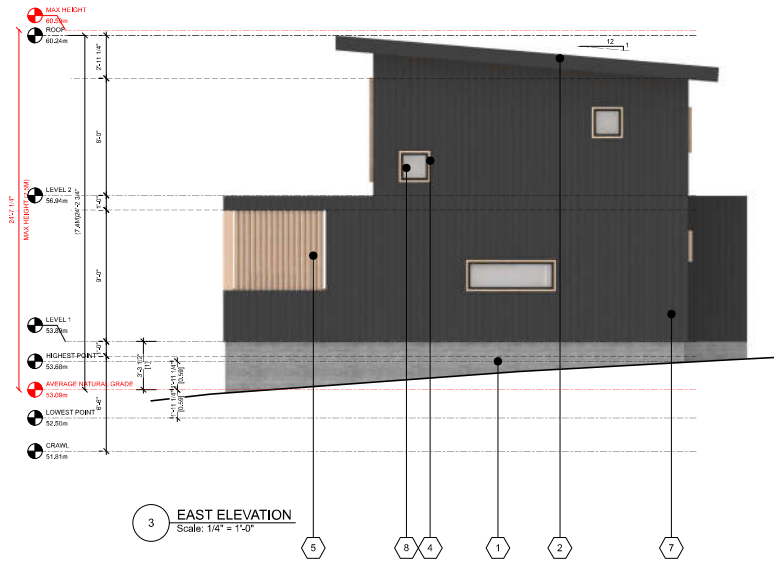
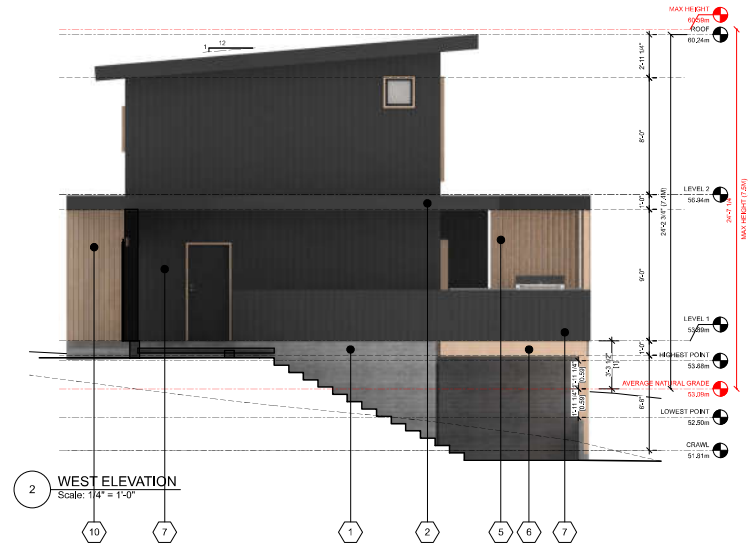
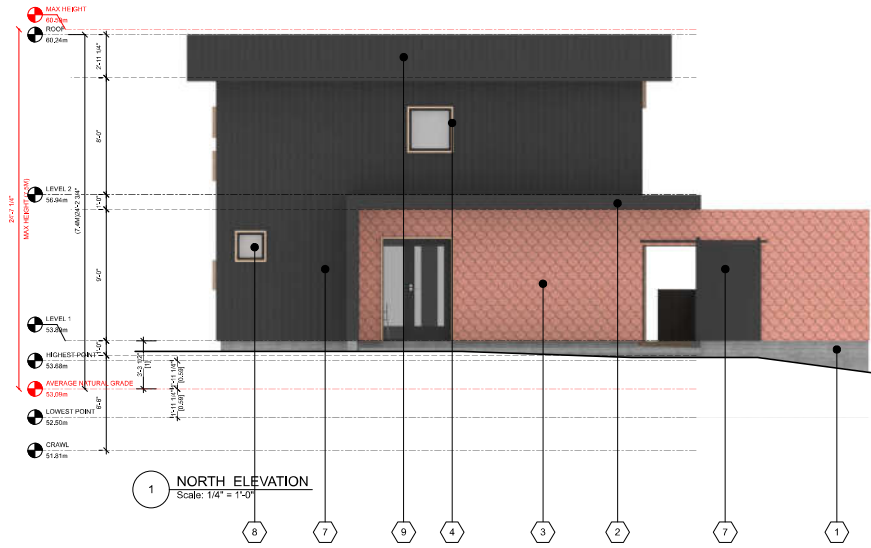
This Permit is issued pursuant to the requirements of the *Environmental Management Act*, whereby the Owner has completed a “Site Declaration” for the subject property.

- 8.** This Permit is **not** a Building Permit.

CERTIFIED as the **DEVELOPMENT PERMIT** granted and issued by resolution of the Council of the Corporation of the Village of Cumberland on May 30, 2022.

Corporate Officer

Schedule B - Architectural Drawings



MATERIAL LEGEND	
1 CONCRETE	6 HEAVY TIMBER
2 HARDIE TBM. BLACK.	7 8" CHANNEL T+G METAL SIDING, BLACK
3 HALF ROUND WOOD SHINGLES, PINK.	8 BLACK VINYL WINDOWS
4 CEDAR TRIM	9 PROLOK 12" OR TORCH ON, BLACK.
5 CEDAR SCREEN	10 CEDAR T+G SOFFIT

Wedler Engineering LLP
211-2459 Cousins Avenue
Courtenay, BC V9N 3N6



WEDLER
ENGINEERING

February 18, 2022

File Ref: V21-0511/A

Facet Custom Builders
Cumberland, BC
Via email: silas@facetbuilders.com

Attention: Silas Straathof, Owner

**Reference: Proposed Development – 2727 Allan Ave, Cumberland, BC
Hydrology and Stormwater Management Report**

As requested by the Village of Cumberland this letter is intended to fulfill the requirement for a stormwater management report to address the proposed development at the subject property.

To maintain flow rates at pre-development levels, some form of stormwater detention and retention will be required. On other Village projects, and in directions provided by the Village, the “Water Balance Model” is referenced as the design guideline to follow. The “Water Balance Model” is an online tool for determining the impacts of certain stormwater management practices on the stormwater performance of a proposed development. From the Water Balance Model Website:

The web-based “Water Balance Model powered by QUALHYMO” integrates the site with the watershed and the stream. This scenario comparison tool underpins Beyond the Guidebook, a provincial initiative to advance implementation of green infrastructure policies and practices throughout British Columbia.

As such, the “Water Balance Model” does not present any best management practices, being simply a tool for assessing the impact of said practices. Therefore, the “Beyond the Guidebook” publication is referenced in the preparation of this letter.

“Beyond the Guidebook 2010: Implementing a New Culture for Urban Watershed Protection and Restoration in British Columbia” does not include individual project site solutions or guidelines. Rather, it details how a greater policy shift can be achieved to greener infrastructure and better stream health in the receiving waters of urban centres. This publication does reference Department of Fisheries and Oceans Guidelines for stream health and environmental protection. Furthermore, it references a 2008 publication “Beyond the Guidebook: The New Business as Usual – Create Liveable Communities and Protect Stream Health – Establish Watershed-Specific Runoff Capture Performance Targets”. This publication, per its title, focuses on watershed level targets, and provides little guidance as to site specific goals, beyond reducing runoff, and limiting post-development flows to pre-development flows.

Finally, the “Beyond the Guidebook” publication references a June 2008 publication “Beyond the Guidebook: The New Business as Usual – Create Liveable Communities and Protect Stream Health – Rainwater Management: An Introduction to the Guidebook for British Columbia”. This publication does list performance targets that are applicable to a site-specific design.

The following measures are recommended in the June 2008 publication:

- Rainfall Capture - keep rain on site by means of 'rainfall capture' measures such as rain gardens and infiltration soakaways.
- Runoff Control - delay overflow runoff by means of detention storage ponds which provide 'runoff control'.
- Flood Mitigation – reduce flooding by providing sufficient hydraulic capacity to 'contain and convey'.

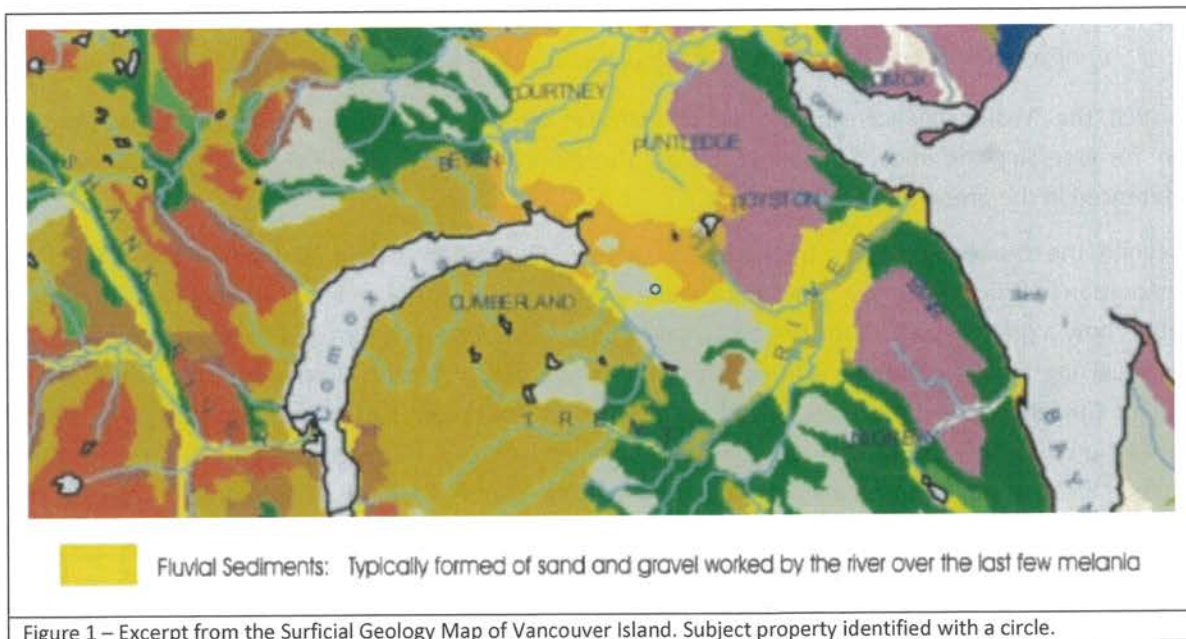
As such, this report will address on-site rainfall capture and some run-off control for the subject property to minimize the impacts from the proposed development.

Climate Change

MOTI Technical Circular 06-15 was reviewed, a literature review was conducted, and the Pacific Climate Impacts Consortium Global Climate Model (GCM) projections reviewed. Based on the results of this work, all IDF values used for stormwater analysis in this report have been increased by 15%. This is considered a conservative approach to addressing climate change impacts.

Pre-Development Site Condition and Hydrology

The parcel area is approximately 0.18 ac (0.07 ha) in size and contains an existing house. Rain falling on the site would be absorbed to the capacity of the in-situ soils, and flow downhill into a wetland in the Cumberland Community Forest. This wetland drains to Comox Lake via Perseverance Creek¹. Figure 1 shows the surficial geology of the area. Surficial geology of the subject property consists of fluvial sediments (sand and gravel) typical of this area.



¹ Per the 2010 "Stormwater Drainage Master Plan", McElhanney Consulting Services Ltd., July 13, 2010

Figure 2 shows the subject parcel relative to the larger sub-catchments of the Village and surrounding area. The total area of the Perseverance Creek catchment is +/- 2180 ha in both Village and CVRD lands. Approximately 1/20 of that area is settled urban and sub-urban lands at the east edge of the Village core and on Comox Lake.

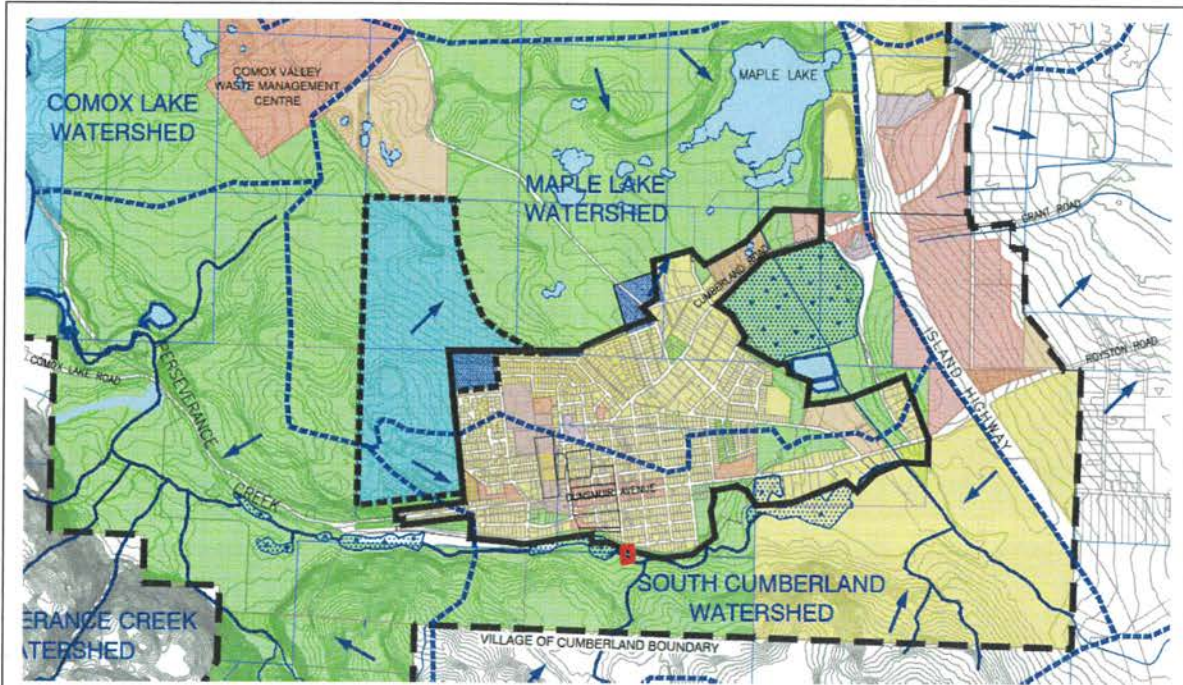


Figure 2 – Excerpt from Stormwater Management Plan – subject parcel outlined in red.

Figure 3 shows the subject parcel in relation to the smaller sub-catchments in the Village.

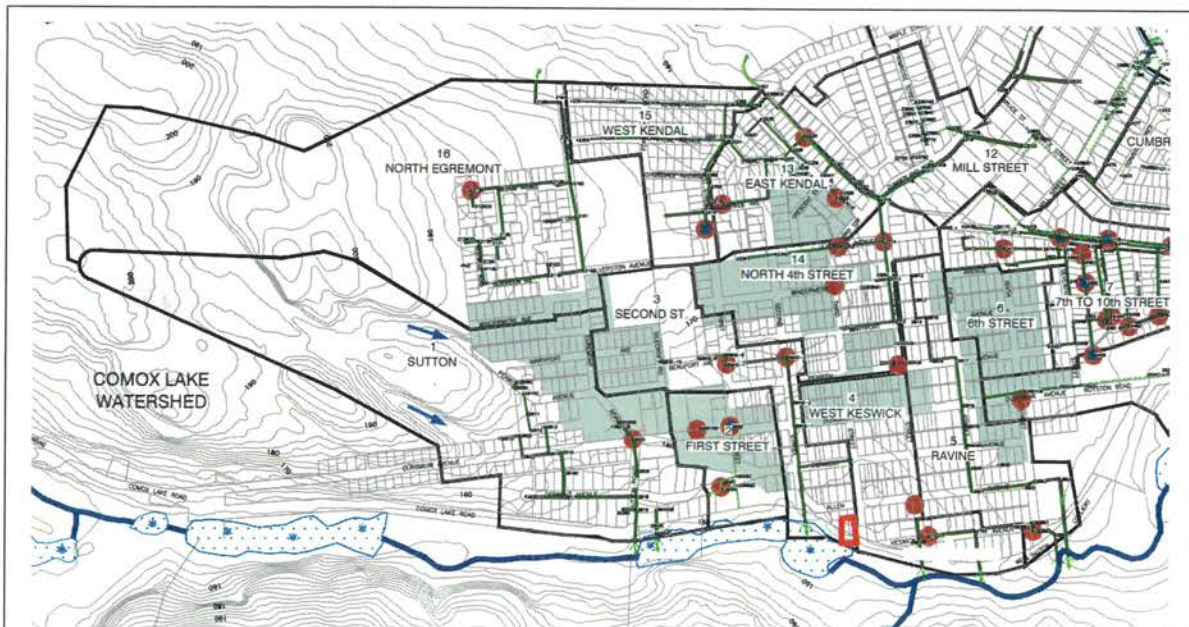


Figure 3 – Excerpt from Stormwater Management Plan – subject parcel outlined in red. The “Comox Lake Watershed” label appears incorrect. The subject property is in the Perseverance Creek watershed.

Historical aerial photos were reviewed to determine when works on the site were completed. Figure 4 presents four historical aerial photos demonstrating the development work overtime.

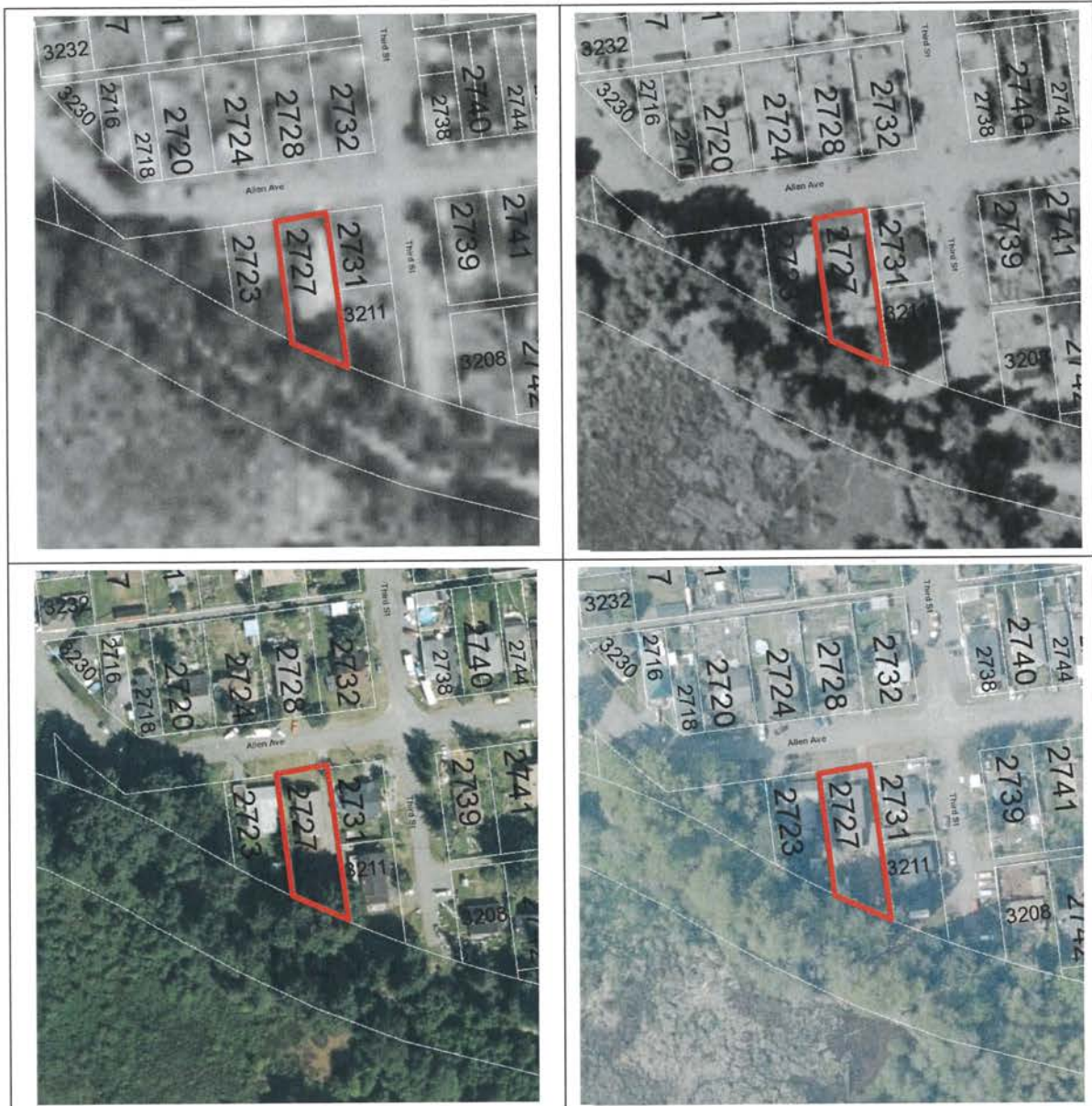


Figure 4 – Historical aerial photos. Top left is 1992, top right is 2002. Bottom left is 2012, and bottom right is 2020. Subject parcel outlined in red.

Considering that the site has been developed in its current state for over 28 years, only the impact of the new development will be analyzed. Downstream receiving waters will have adjusted to the current flow regime from the property.

Figure 5 below shows a sketch of the proposed ADU on the subject parcel. The ADU will add 128.5 m² of impervious area. The additional parking space will add 76.04 m² of impervious area. If 50% of the Mean Average Rainfall (MAR) is retained or detained on site, this will mitigate flows from the ADU for 90% of rainfall events throughout the year. It has been shown that 72% of the 2-year 24-hour event volume is roughly equivalent to 50% of the MAR. This equals 42 mm of rainfall using rainfall data from the Comox Airport. Increasing the amount of rainfall by 15% equals 48.3 mm of rainfall, which is the amount used in the analysis of this report.

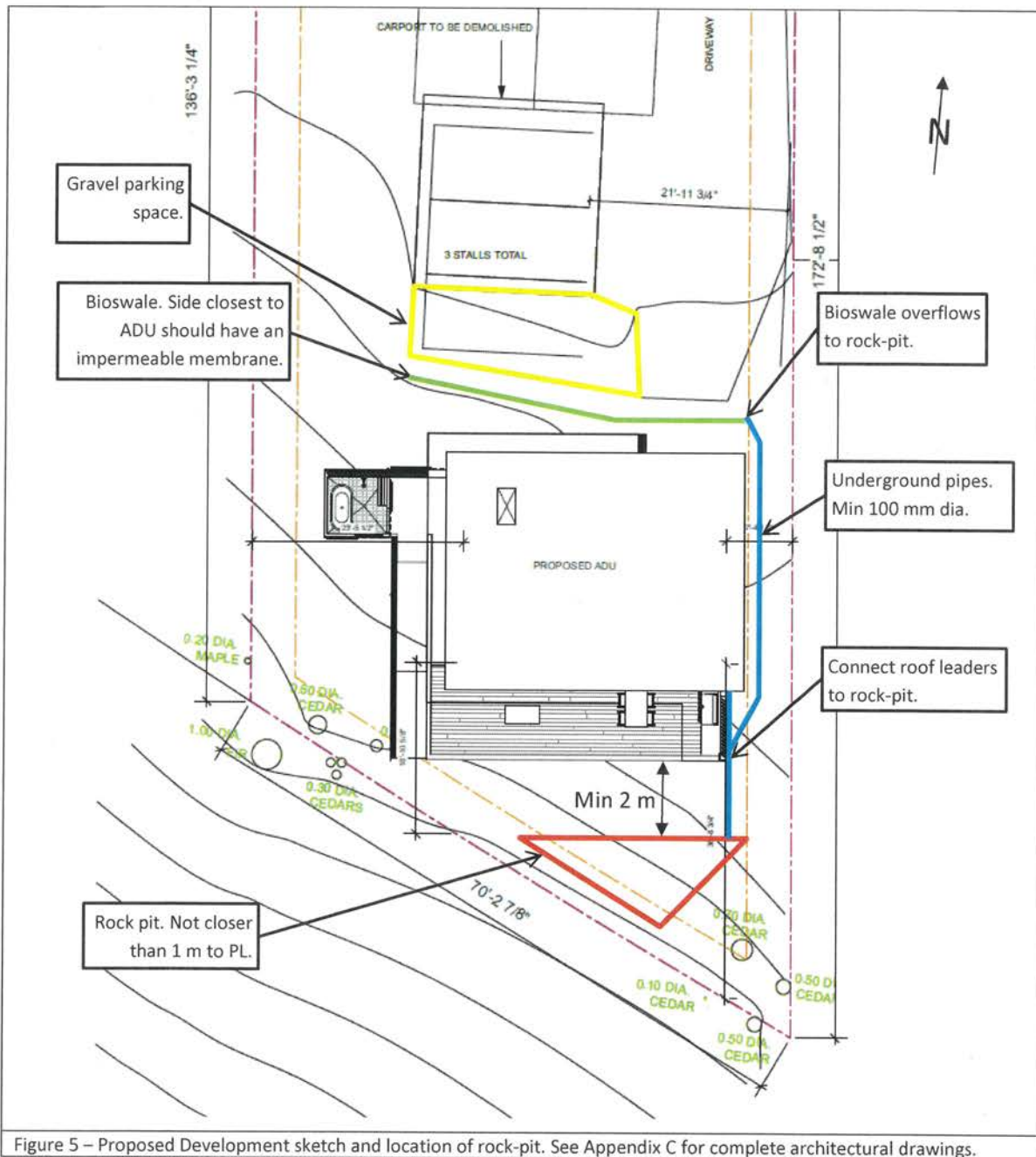


Figure 5 – Proposed Development sketch and location of rock-pit. See Appendix C for complete architectural drawings.

Proposed Runoff Mitigation Strategies

The following strategies are recommended for mitigating the increase in runoff from this site after the proposed carriage house is completed:

- All rainwater leaders from the proposed structure be drained to an in-ground soak-away or “rock-pit”.
- Landscaping be pervious in nature, and the gravel driveway be retained.

The development proposed on the property is creating an auxiliary dwelling unit (ADU) and adding an additional parking spot using a gravel surface.

The new ADU will require 2.08 m³ of rainfall be attenuated. By applying a conservative infiltration rate of 20 mm/hr and assuming a rock void ratio of 0.3, 2.08 m³ of storage can be accomplished with a rock-pit with a triangular base that is 1 m deep, 3.00 m wide and 5.30 m long along the legs of the triangle. The rock-pit is limited to 1 m deep to maximize infiltration potential. See Appendix B for details of a rock-pit.

The additional gravel parking spot will require 0.80 m³ of rainfall be attenuated. Using the same infiltration rate, and rock void ratio above, 0.80 m³ of storage can be accomplished with a bioswale 4.10 m long and 0.75 m wide. See Appendix A for details of the bioswale.

See Appendix B for details for the rock-pit. Final location and details should be determined in the field; with the following requirements maintained:

- 5.0 m horizontal separation to any house/ADU foundation, with a minimum of 1.5 m of undisturbed native soil retained between the rock-pit and the foundation. This separation will provide sufficient limitation to rock-pit influence on the perimeter drain.
- The above horizontal separation can be reduced to 2.0 m south of the proposed building, so long as it is downslope of the building foundations, and a perimeter drain is installed with the foundations that drain to a separate location from the rock-pit.
- 0.3 m vertical separation between the floor slab and the lawn basin rim / overflow. This will not result in increased risk of surcharging if the storm service is connected per the BC Plumbing Code.
- Outside the dripline of any trees.

All onsite facilities should be designed with a suitable overflow and site grading that will convey excess flows safely offsite without causing property damage or other unwanted effects.

Proposed erosion and sediment control measures for during construction

The following measures are recommended for the construction stage of the proposed carriage house:

- Construct permanent or temporary fencing around sensitive features and their buffers.
- Retain as much natural vegetation as possible. Minimise the size of the cleared area required for construction.
- Prevent any disturbance within the root zone (drip line) of established trees.
- Retain the natural soils and put them back onsite during landscaping.
- Reduce soil compaction by avoiding machinery use except where necessary.

- Cut-off potentially sediment laden surface water with interception ditches or compost filled geotextile tubes.
- Build and maintain a sedimentation pond that captures all run-off from cleared areas.
- Cover any areas that will be left unplanted with straw to reduce soil stripping.
- Stage construction and stripping to avoid having large areas of the site excavated.

The staging will depend on day-to-day activities on site, and overall erosion and sediment control is the responsibility of the Contractor.

Conclusion

The construction of a rock-pit per the details in this report will attenuate 90% of rain events from the proposed development. As such, all impacts on water quality and quantity because of the proposed development on the subject property can be easily mitigated.

Should any revisions be made to the proposed development plans (such as ADU roof size, additional gravel or hard surface areas proposed on the lot, etc) this report will need to be revised accordingly to ensure the rock-pit is sized appropriately.

Yours truly,
Wedler Engineering LLP

Per:

Prepared by:



Nick Gardner, EIT
Civil Design Engineer

#211 – 2459 Cousins Avenue
Courtenay BC V9N 3N6
ngardner@wedler.com
p. 250-334-3263

Reviewed by:

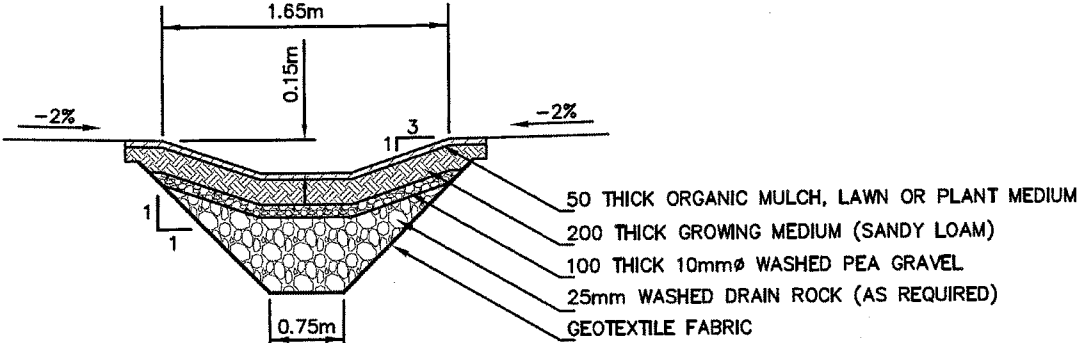


2022-02-18

Permit to Practice number: 1000196
Andrew Gower, FEC, P.Eng., PE
Partner* - Courtenay Branch Manager

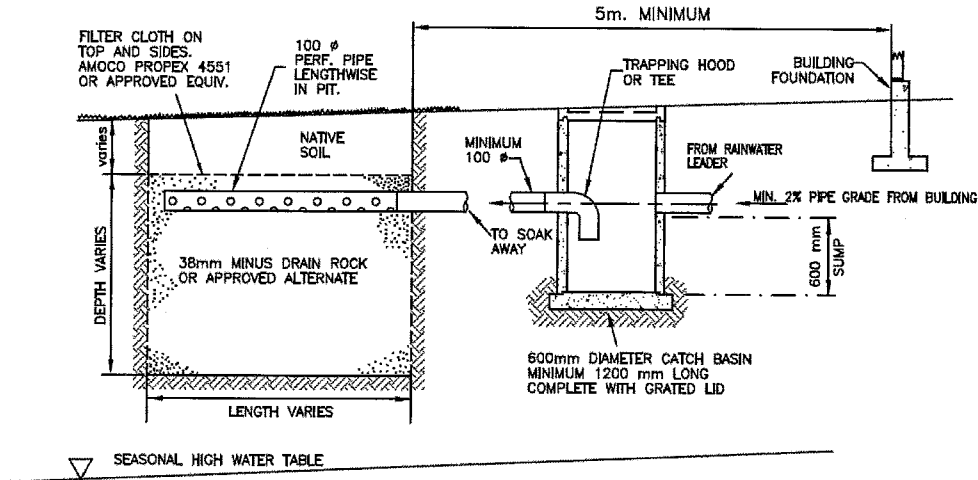
*Wedler Engineering LLP is a partnership of corporations.

APPENDIX A
Bioswale Detail



TYPICAL BIO-SWALE
CROSS-SECTION DETAIL
N.T.S.

APPENDIX B
Rock-Pit Detail



TYPICAL ROCK PIT DETAIL
 (ALL DIMENSIONS ARE IN MILLIMETRES)

NOTES:

1. ONLY CLEAN WATER FREE OF ANY SILT, CLAY OR OTHER CONTAMINANTS IS TO ENTER THE SOAK-AWAY PIT.
2. VOID RATIO OF DRAIN ROCK ASSUMED TO BE 33%. FINAL FACILITY SIZING TO BE ADJUSTED IF ALTERNATIVE MATERIAL IS USED.
3. IF MINIMUM 5m SEPARATION FROM ANY BUILDING FOUNDATION CAN NOT BE ACHIEVED AS SHOWN ABOVE, GEOTECHNICAL ENGINEER MUST REVIEW AND APPROVE.
4. ROCK PIT IS NOT TO BE LOCATED WHERE IT WILL BE SUBJECTED TO VEHICULAR LOADS. IN ORDER TO BE LOCATED UNDER TRAFFICKED OR PARKING AREAS, A GEOTECHNICAL ENGINEER MUST REVIEW AND APPROVE.
5. IF PERIMETER DRAIN FOUNDATION IS LOCATED ABOVE THE LAWN BASIN RIM ELEVATION, PERIMETER DRAINS CAN BE CONNECTED TO ROCK PIT.
6. ROCK PIT TO BE LOCATED IN THE UNSATURATED SOIL ZONE, ABOVE THE SEASONAL HIGH GROUND WATER TABLE.
7. ENGINEER TO INSPECT EXCAVATION WITH FILTER CLOTH INSTALLED & BACKFILL MATERIAL ON SITE PRIOR TO INFILLING.

DISCLAIMER

WEDLER ENGINEERING LTD. DOES NOT GUARANTEE OR ASSUME ANY LIABILITY FOR FLOODED BASEMENTS OR CRAWL SPACES.

APPENDIX C
Architectural Drawings



VILLAGE OF CUMBERLAND
ALLEN ADU
 2727 ALLEN AVE, CUMBERLAND

ISSUE FOR DEVELOPMENT PERMIT + DEVELOPMENT VARIANCE PERMIT

SURVEY
 HERBARD/ELAND SURVEYORS
 4. 15-0000000-0000
 5. 15-0000000-0000
 6. 15-0000000-0000

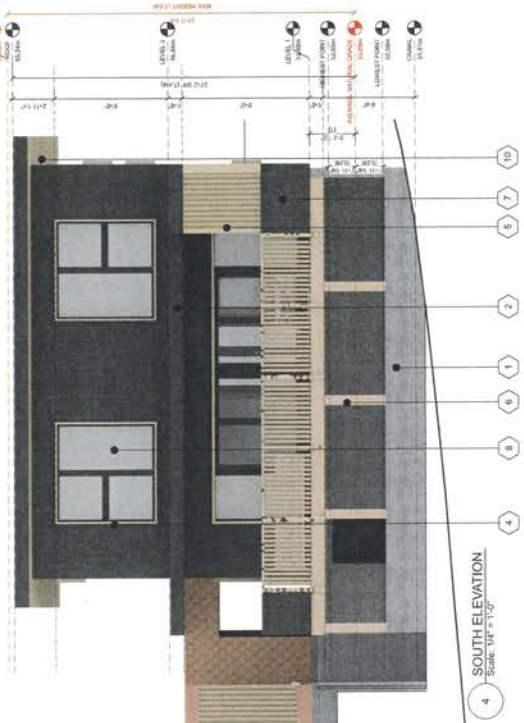
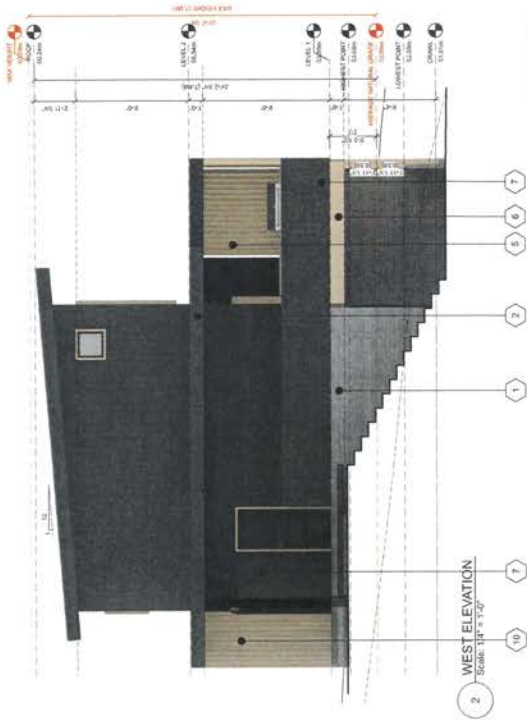
ARCHITECT
 FRAY ARCHITECTURE
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 6. 15-0000000-0000

CIVIL ENGINEER
 WEDLER ENGINEERING LLP
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GEOTECH ENGINEER
 LEVINSKY ENGINEERING ASSOCIATES LTD.
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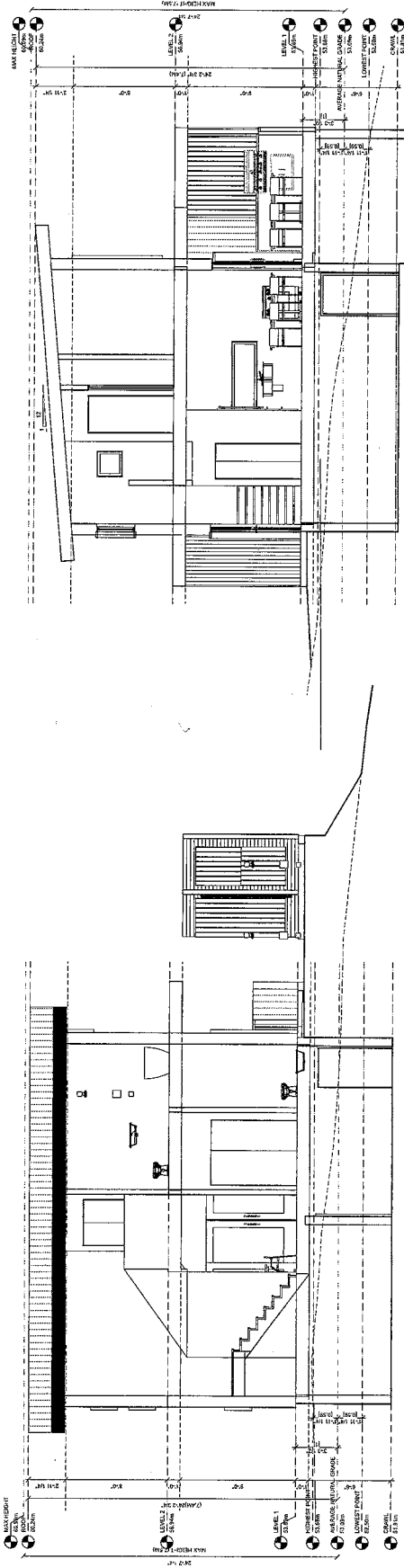
DATE 05/05/2024
SCALE 1:100
STATUS 1:100 FLOOR PLANS
REVISIONS 1:100 SECTIONS
LEVELS 1:100 LANDSCAPE PLAN





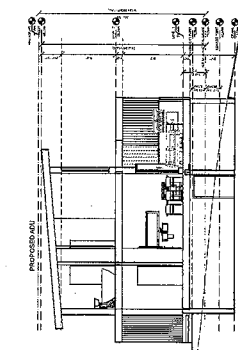
- MATERIAL LEGEND**
- 1. CLADDING
 - 2. HARDWARE
 - 3. HALF ROUND WOOD BRIMBLESS PINK
 - 4. CEDAR SCREEN
 - 5. CEDAR SCREEN
 - 6. CEDAR SCREEN
 - 7. 8\"/>





2 SECTION
 SCALE: 1/4" = 1'-0"

1 SECTION
 SCALE: 1/4" = 1'-0"



3 SITE SECTION
 SCALE: 1/8" = 1'-0"



Corporation of the Village of Cumberland

DEVELOPMENT VARIANCE PERMIT

TO: Rhonda Lister

OF: 307 Gartley Road, Courtney, BC V9N 9T2

This Development Variance Permit (2022-04-DV) is issued subject to compliance with all of the bylaws of the Village of Cumberland applicable thereto, except as specifically varied or supplemented by this Permit for the purposes of constructing an accessory dwelling unit.

1. This Development Variance Permit applies to and only to those lands within the Village of Cumberland described below, and any and all buildings, structures and other development thereon:

Legal Description: Lot 5, District Lot 21, Nelson District, Plan 14377

Folio: 516 00654.000 **PID:** 004-395-832

Civic Address: 2727 Allen Avenue

2. The land described herein shall be developed strictly in accordance with the following terms and conditions and provisions of this Permit: The Zoning Bylaw No.1076, 2016 is varied as follows:

Section 4.2, a) iii) The accessory dwelling unit Gross Floor Area percentage is varied to a maximum of 91% (89.4m²) of the GFA of the single family dwelling.

3. **Security**

None.

4. **Expiry**

Subject to the terms of the Permit, if the Applicant of this Development Variance Permit does not substantially start any construction with respect to which the Permit was issued within 2 years after the date it is issued, the Permit lapses.

5. **Timing and Sequencing of Development**

None.

6. **List of Reports or Plans attached as Schedules**

1. Schedule A – Site Plan

7. **Contaminated Sites Regulation** (choose one of the following as applicable)

This Permit is issued pursuant to the requirements of the *Environmental Management Act*, whereby the Applicant has completed a “Site Declaration” for the subject property.

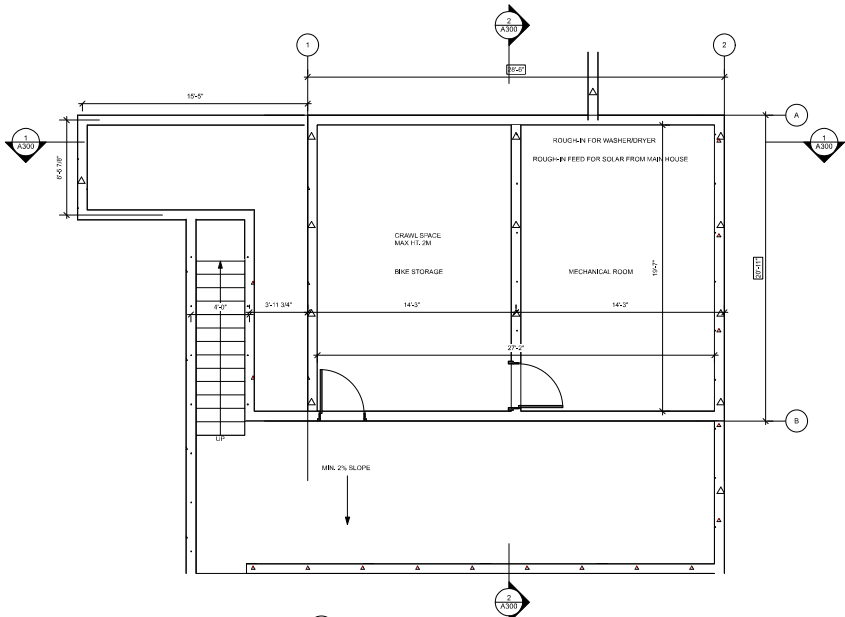
8. This Permit is **not** a Building Permit.

CERTIFIED as the DEVELOPMENT VARIANCE PERMIT approved and issued by resolution of the Council of the Corporation of the Village of Cumberland on May 30, 2022.

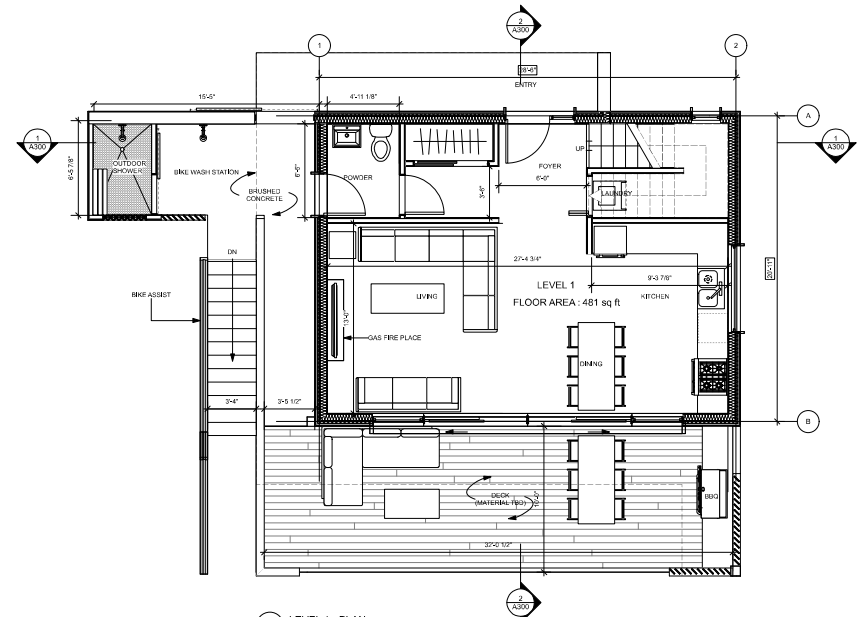
Corporate Officer

DRAFT

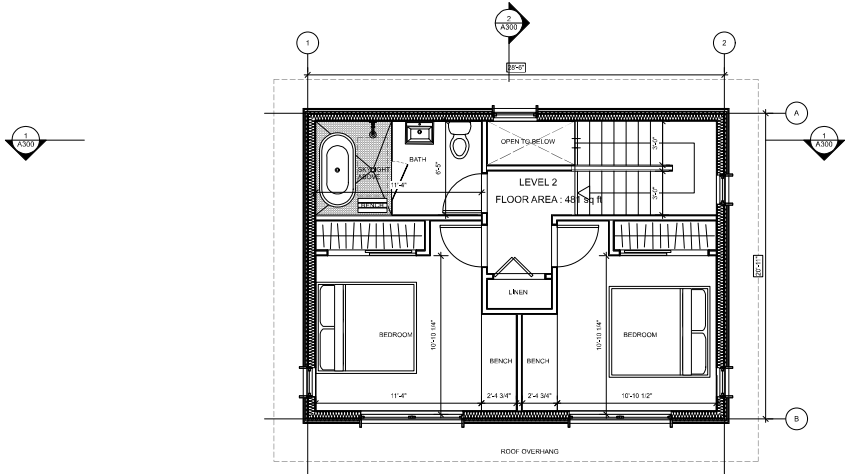
Schedule A – Floor Plan of Secondary Suite



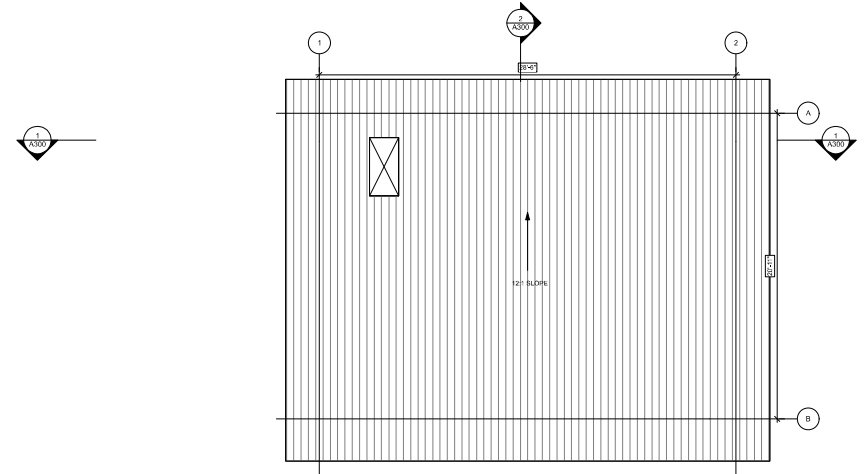
1 CRAWL - PLAN
Scale: 1/4" = 1'-0"



2 LEVEL 1 - PLAN
Scale: 1/4" = 1'-0"



3 LEVEL 2 - PLAN
Scale: 1/4" = 1'-0"



4 ROOF - PLAN
Scale: 1/4" = 1'-0"

Attachment 3 - Public Feedback

Meleana Searle

From: [REDACTED]
Sent: May 5, 2022 5:13 PM
To: Planning
Subject: Planning permission for 2727 Allen Avenue

To Meleana S

Thank you for informing me of the new proposed ADU build at 2727 Allen Avenue in Cumberland, BC. I live directly beside the lot where the new build is being considered, [REDACTED] Allen Avenue.

I have lived in my house for the last 13 years and moved here to enjoy the green space and forest. I have also been very grateful for the fact that the immediate neighbourhood has retained its historical presence with little change in the general structure of the houses. I understand the need for change and the need to develop property to accommodate a growing village/town but my concern is that the ADU to be built at 2727 Allen Avenue will not take into account the following:

- Not following the 75% ADU footprint of the current dwelling; a larger dwelling is going against planning regulations that have been set up to stop people exploiting out of greed as opposed to need
- Not keeping with the historical nature and beauty of the village, which has such a rich and vibrant past
- Increasing risk of noise disturbance and road congestion when two habitable buildings are built onto the property

Further concern is that the current house on the property will likely be demolished with a replacement being much larger than the one on site now. The development plan for the ADU should be in keeping with the house than is currently on the property, not future planning.

I hope you consider my concerns and objections when making a decision on the planning permission for the ADU being proposed for 2727 Allen Avenue.

Thank you for your time

[REDACTED]

Sent from [Mail](#) for Windows

Meleana Searle

From: [REDACTED]
Sent: May 3, 2022 5:29 PM
To: Planning
Subject: 2022-03-DP/ 2022-04-DV

Dear Meleana

I am writing to you in regards to the proposed ADU development and variance for 2727 Allen ave. I own and live in the home at [REDACTED] Allen Ave and while I am supportive of community development and housing opportunities, I am not in support of the applicants proposal to increase the GFA to 91%. From my perspective increasing the GFA to 91% will be creating an obvious disproportion to adjacent/ neighbouring properties. It will influence sight lines to the forrest for our family and negatively influence exposure and privacy to immediate neighbours.

A larger footprint likely indicates higher density living, and thus the potential for increased vehicle traffic/ parking and noise on this quiet ish street where children can still safely play basketball and street hockey etc. (it seems that there are few of these streets left).

It is my belief that 75% of the original residence footprint is adequate sizing when considering residential infill especially given that the main house, if restored, has substantial housing space to offer. Unfortunately, the main house has been vacant and left open to the elements for the last several years.

Thank you for your time and consideration, Sincerely, [REDACTED] Home owner and occupier [REDACTED] Allen ave

Sent from my iPhone

Meleana Searle

From: [REDACTED]
Sent: May 14, 2022 10:03 AM
To: Planning
Subject: 2022-03-DP/2022-04-DV

I live at [REDACTED] 3rd Street, since 1996, and strongly oppose this variance application for the following reasons

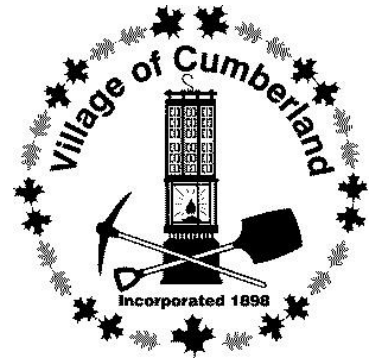
1. I believe current owner unethically acquired ownership of property.
2. Proposal is \$ making scheme in single family dwelling neighborhood. Goes against community character.
3. Neighborhood is quiet, proposal would allow up to 4 separate families living on 1 property which would increase noise level.
4. Proposed plan directly blocks my view of forest and mountains.
5. Proposed plan has kitchen window facing directly into my home, which would rob me of my privacy.
6. I was previously denied a variance permit (not even invited to town meeting, with excuse of wrong email) and had to cut portion of my deck off because it exceeded 41 percent of my property allowance, I feel it would be unfair and possibly preferential if a developer (who unethically acquired property) were approved for 90 percent when a family oriented property owner was denied over 41 on the property right next to it.

These are the most important reasons but I may come up with a few more,,,,,

Please reply to email to acknowledge receipt,,,,,

Gratefully yours,
[REDACTED]

COUNCIL REPORT



REPORT DATE: May 20, 2022
MEETING DATE: May 30, 2022

TO: Mayor and Councillors
FROM: Kaelin Chambers, Economic Development Officer
SUBJECT: Cumberland Childcare Project Update

RECOMMENDATION

1. THAT Council receive the Cumberland Childcare Project Update report.
2. THAT Council approve the intent of the draft Memorandum of Understanding with School District 71 for the Cumberland Childcare Project; and THAT Council direct staff to finalize and execute the MOU with SD71.

PURPOSE

The purpose of this report is to provide Council with updated information on the Cumberland Childcare Project and present a memorandum of understanding (MOU) to formalize and guide the Village's role in the SD71-led project.

PREVIOUS COUNCIL DIRECTION

Date	Resolution
2021-11-08	<p>THAT Council request School District 71 to be the administrator of the Childcare New Spaces funding agreement and work in partnership with the Village on delivery of childcare service in the Village</p> <p>THAT Council direct staff to request the Ministry of Children and Family Development to transfer the Childcare New Spaces Funding Agreement to School District 71; and</p> <p>THAT Council direct staff to develop for Council's consideration a Joint Use Agreement with SD71 to ensure the Village's ongoing input into the design and operations of the new Cumberland childcare space.</p> <p><i>The above resolutions were passed during an in-camera meeting as part of childcare service negotiations with SD 71, and the transfer of the agreement and subsequent responsibilities for facility construction and operations of a childcare service. The motions have not been previously presented publicly; however, as SD71 presented the project in its current form at a public meeting in early May, these motions are now being brought forward in a public report.</i></p>
2020-09-28	<p>THAT Council direct staff to submit an application to the Childcare BC New Spaces Fund for up to \$3,000,000 for the creation of new childcare spaces; and THAT Council direct staff to work with School District 71 in exploring the</p>

	establishment of a partnership agreement for a childcare facility to be added to SD71 property; and THAT staff engage the Boys & Girls Clubs of Central Vancouver Island as subject area experts in support of the Village’s funding application.
2019-11-12	THAT Council direct staff to work with School District 71 to identify opportunities to partner in establishing a childcare facility on SD71 grounds; to report back regarding possible Village policies which would include incentives for developers to include childcare spaces within new commercial and/or residential developments; to engage with local developers towards options relating to securing a Village owned/leased space designated for childcare needs; to identify possible appropriate Village owned facility and/or locations to develop and/or utilize as designated childcare space, identify staff and financial resources needed to develop the site, and present to Council for a consideration for an application to the Child Care BC New Spaces Fund.
2019-11-12	THAT Council wait until the completion of the Cumberland Child Care Community inventory and Space Creation Plan before considering any partnership to create new childcare spaces, and direct staff to consult with Childcare BC New Space Fund staff to clarify funding requirements.

BACKGROUND

On September 28, 2020, Council directed staff to continue to work on developing options for childcare space creation, including partnering with School District 71 to identify a project and/or opportunity to develop and maintain a community childcare facility on Cumberland Community School grounds.

In May 2021, the Village was awarded \$2,950,000 to utilize towards 85 new childcare spaces to be constructed on the grounds of the Cumberland Community School.

In June 2021, staff provided Council with an update report that identified the steps required to complete the project including site development, facility design and construction. Further efforts and resources required for the selection of a licensed operator, as well as the administration and management of the facility was discussed.

In fall 2021, following further planning and review of the project with SD71, Village staff recommended that SD71 be engaged to oversee the development and operations of the Project. In doing so, staff recognized challenges in internal capacity to meet the demands of the Project, and that the school districts knowledge and experience in developing childcare facilities would provide the best opportunity for project success. In making the recommendation for SD71 to oversee the Project, council directed staff to transfer the funding agreement and enter into an agreement with SD71 to ensure the Village’s ongoing participation and interest in the Project.

The Childcare Centre is now in the design stage working towards a building permit application.

Cumberland Childcare Project MOU

The purpose of the draft Cumberland Childcare MOU (see attached) is to provide guidance to both parties in meeting their mutual goals of supporting the health of Cumberland families and children by increasing the number of available childcare spaces in the community. In doing do it serves to

provide clarity on roles, responsibilities, and commitments of each party in the design and operations of the new childcare facility. Specifically, the MOU will ensure the Village’s ongoing participation in:

- Providing review and input into project design
- Collaborating with SD71 in the selection of a qualified licensed childcare operator
- Facilitating community interest, support and/or participation in the Project, specifically in identifying opportunities for potential community investment and/or contributions to the Project

The MOU also ensures the Village continues to effectively support the partnership with SD71 in engaging the community. Please note that at the time of staff report submission, the MOU was under review by SD71. Subsequently, staff is seeking Council’s endorsement of the MOU as attached and will only bring it back to Council should significant amendments be proposed following further discussions with SD71.

ALTERNATIVES

1. Council may direct staff to not enter in the MOU, and thereby hand over the project in its entirety to SD71.

It is the recommendation of staff that the Village remain engaged with the project to ensure community interests are reflected in the facility and its operations, as well as to honour the ongoing partnership between the Village and SD71 in creating childcare spaces in the community.

STRATEGIC OBJECTIVE

- Quality Infrastructure Planning and Development
- Comprehensive Community Planning
- Healthy Community- Child Care Space Creation
- Economic Development

FINANCIAL IMPLICATIONS

As part of this agreement, the Village has committed to transferring the funding generated via the interest gained from the Village’s previous Childcare Space Creation grant.

Although this is the only financial commitment/obligation included within the MOU, the Village will also provide its support in considering and/or identifying other funding opportunities for the project.

OPERATIONAL IMPLICATIONS

The transferring of the funding agreement to SD71 will result in minimal operational impacts for the Village as staff have remained engaged with SD 71 on items of Village responsibility per the draft MOU. The school district, as the owner of the facility, will be responsible for its long-term operations and maintenance.

ATTACHMENTS

1. DRAFT Cumberland Childcare Project MOU

CONCURRENCE

Kevin McPhedran, Interim Deputy CAO

Courtney Simpson, Manager of Development Services

Rachel Parker, Corporate Officer

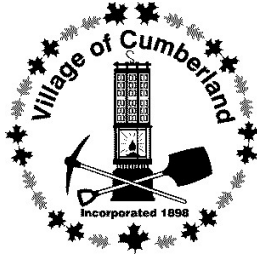
Respectfully submitted,

K. Chambers

Kaelin Chambers
Economic Development Officer

M. Mason

Michelle Mason
Interim Chief Administrative Officer



Corporation of the Village of Cumberland

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MEMORANDUM OF UNDERSTANDING

BETWEEN: The Corporation of the Village of Cumberland
(the “Village”)

AND: School District 71
 (“SD71”)

DATE: _____, 2022

WHEREAS:

- A. The Village of Cumberland initiated the Project and successfully obtained Project funding via the BC Childcare New Spaces Program
- B. The Village of Cumberland then assigned the funding – and with it all project responsibilities - to School District 71
- C. School District 71 now has sole responsibility to execute on the Project

NOW THEREFORE the parties agree, in recognition of the project history, the Village and SD 71 would like to work in partnership on the Project under the roles and responsibilities as described in this MOU.

1. BACKGROUND

- 1.1 This Memorandum of Understanding serves to provide clarity on terms, roles, responsibilities, and commitments of each party.
- 1.2 Entering into this strategic alliance, and subsequently seeking to collaborate on the design and operations of the new childcare facility will serve to meet a mutual goal of both organizations: to support the health of Cumberland families and children by increasing the number of available childcare spaces in the community.

2. SD71 ROLES AND RESPONSIBILITIES

- 2.1 With respect to the development of a new childcare facility on the grounds of the Cumberland Community School, SD71 agrees to:
 - 2.1.1 manage the design, construction, and operations of the childcare facility
 - 2.1.2 take the lead on the design of the new childcare facility, including facilitating community engagement sessions with respect to project design.

- 2.1.3 liaise with the Village on project design, including providing updates and discussion with Village staff and Council.
- 2.1.4 Collaborate with the Village on a selection process to identify a qualified licensed childcare operator(s) for the Project.

3. VILLAGE ROLES AND RESPONSIBILITIES

- 3.1 With respect to the development of a new childcare facility on the grounds of the Cumberland Community School, the Village agrees to:
 - 3.1.1 Support SD71 in community engagement with respect to design, construction, and operations of the childcare facility.
 - 3.1.2 Liaise with the SD71 on project design, including providing community related information and/or updates with SD71 staff and board as required.
 - 3.1.3 Collaborate with SD71 on a selection process to identify a qualified licensed childcare operator(s) for the Project, including facilitating discussions with existing Cumberland childcare operators with an interest in the facility
 - 3.1.4 Facilitating community interest, support and/or participation in the Project, specifically in identifying opportunities for potential community investment and/or contributions to the Project.
 - 3.1.6 Coordinate the planned Village works for sidewalk and pedestrian safety improvements along Egremont St in concert with the construction of the Childcare Project.

4. FINANCIAL OBLIGATIONS

- 4.1 As the recipient of the Childcare Space Creation funding, SD71 is responsible for all grant requirements.
 - 4.1.1 The Village shall transfer all funding generated via the interest gained from the Village's previous Childcare Space Creation grant to the Project
 - 4.1.2 The Village will consider seeking other funding opportunities in support of the Project.

5. NOTICES

- 5.1 Any notice, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing addressed to the other party at the address as follows:

TO THE VILLAGE: Kaelin Chambers
 Economic Development Officer
 Village of Cumberland
 Box 340, Cumberland, BC
 V0R 1S0

KChambers@Cumberland.ca

TO SD71: Ian Heselgrave, Director of Operations
School District 71
607 Cumberland Road
Courtenay, BC
V9N 7G5
ian.heselgrave@sd71.bc.ca

The Parties hereby agree to work together to reach mutual goals subject to the above terms.

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

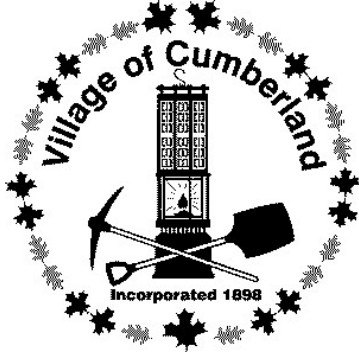
Per.....
Michelle Mason
Interim Chief Administrative Officer

Per.....
Mayor Leslie Baird

SCHOOL DISTRICT 71

Per.....
Ian Heselgrave
Director of Operations

COUNCIL REPORT



REPORT DATE: May 20, 2022
MEETING DATE: May 30, 2022

File No. 4010-20

TO: Mayor and Councillors
FROM: Rachel Parker, Corporate Officer
SUBJECT: Remedial Action Order, 2721 Derwent Avenue

RECOMMENDATION

1. THAT Council receive the Remedial Action Order, 2721 Derwent Avenue report.
2. THAT Council adopt the following resolution:

WHEREAS the Council of the Village of Cumberland has the authority, under Division 12 of Part 3 of the *Community Charter*, to impose remedial action requirements in relation to hazardous conditions and declared nuisances;

AND WHEREAS, Council received the Remedial Action Requirements, 2721 Derwent Avenue Report on May 30, 2022;

AND WHEREAS, the Mayor and Council of the Corporation of the Village of Cumberland, in an open meeting assembled, and pursuant to Division 12 of Part 3 of the *Community Charter*, hereby resolve as follows:

- i. THAT Council considers and declares that the accumulation and untidy storage of the following matters and things located upon the Property are unsightly and a nuisance, and are so dilapidated or unclean as to be offensive to the community, all within the meaning of subsections 74(1) and (2) of the *Community Charter*:
 - (a) all vehicles or parts thereof, including all cars, trucks, all-terrain vehicles, recreation vehicles, motorcycles, trailers, and any modified configuration thereof (collectively referred to as "Vehicles"), that:
 - 1) are physically wrecked or disabled;
 - 2) are not capable of operating under their own power or, in the case of trailers, are incapable of being towed in the manner a trailer is normally towed; or

- 3) do not have attached number plates for the current year pursuant to the regulations of the *Motor Vehicle Act* R.S.B.C., 1996 c. 318, as amended, from time to time;
- (b) all Vehicle parts and tires not currently affixed to a Vehicle;
- (c) all Vehicle storage boxes and Vehicle ramps;
- (d) all gas storage containers, Vehicle fluid storage containers, rusted and partially rusted containers, all batteries, including without limitation, all Vehicle batteries, and all household furnaces;
- (e) all machinery, equipment, mechanical and metal parts, appliances, fixtures, and furniture;
- (f) all building materials and equipment, including, without limitation, all lumber, shingles, roofing materials, plumbing, tubing, nails, ladders, and solar panels;
- (g) all cords, hoses, and cables, including, without limitation, all illegally installed cables attached to the hot tub;
- (h) all fences and accessory structures characterized by holes, breaks, rot, leaning, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, excessive use, or lack of maintenance;
- (i) all landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged; and
- (j) all rubbish, filth, and discarded materials, and other offensive materials, substances, and objects,

even where such items are not considered rubbish (collectively, the “Nuisance Items”);

- ii. THAT Council considers and declares that the following structure situated on the Property is a nuisance, and that it is in and creates an unsafe condition, and that it contravenes the Provincial building regulations and the Village of Cumberland *Building Bylaw*, all within the meaning of subsections 74(1), 73(1)(a), 73(2)(a), and 73(2)(b) of the *Community Charter*:
 - (a) the illegal garage/shop structure located at the northwest corner of the Property, including the attached deck, which said structure was built contrary to Stop Work Orders issued by the Village and occupied contrary to a Do Not Occupy Order issued by the Village (the “Structure”);
- iii. THAT the following Remedial Action Requirement Order is hereby imposed upon the Owner of the Property, pursuant to sections 72, 73, and 74 of the *Community Charter*:

- (a) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must remove from the Property all Nuisance Items referred to in paragraph (i) above;
- (b) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must ensure that the Property is in a neat, cleared, and orderly condition;
- (c) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must:
 - 1) demolish the Structure;
 - 2) remove all extension cords, wires, and wiring to, from, in, and about the Structure;
 - 3) remove to an appropriate disposal site all debris from the Property arising out of or in connection with the said demolition, including, without limitation, all blocks and concrete; and
 - 4) level the site of the demolition and leave such site in a neat, cleared, and safe condition,
 (collectively, the "Remedial Action Requirements");

vii. THAT, pursuant to Section 78 of the *Community Charter*, **the time limit for giving notice of a request for Council to reconsider this Remedial Action Requirement Order is no later than 4:00 p.m. on the 14th day after receipt of the notice of Remedial Action Requirement Order**;

viii. THAT, in the event the Remedial Action Requirements set out in paragraph (iii) above are not completed within the deadlines noted:

- (a) The Village of Cumberland's staff, its agents, and its contractors are authorized to enter the Property and take all appropriate action in accordance with section 17 of the *Community Charter [Municipal Action at Defaulter's Expense]* to ensure that the said Property is brought into compliance with this Remedial Action Requirement Order;
- (b) all costs incurred by the Village of Cumberland to bring the Property into compliance shall be at the expense of the Owner; and
- (c) all such costs shall be recovered from the Owner as special fees and a debt owed to the Village of Cumberland for work done or services provided to land or improvements, and may be collected in the same manner as property taxes, all in accordance with the *Community Charter*;

ix. THAT, should the Village of Cumberland's staff, its agents, and/or its contractors attend and enter the Property for the purposes of paragraph (viii) above, members of the Royal Canadian Mounted Police may accompany them for the purposes of keeping the peace;

- x. THAT **the Owner and the Occupant must provide free and unfettered access to the Property, including, without limitation, unfettered access to and in the Structure referred to in paragraph (ii) above**, to permit the Village of Cumberland’s staff, its agents, and its contractors to fulfill the terms of this Remedial Action Requirement Order, **between the hours of 8 a.m. and 5 p.m. Monday through Friday, excepting statutory holidays;**
- xi. THAT, for clarity, no person, including the Owner and the Occupier, may impede the Village of Cumberland’s staff, its agents, or its contractors in any way from performing the work contemplated by this Remedial Action Requirement Order; and
- xii. THAT Council authorizes the Interim Chief Administrative Officer, or their designate, to provide further directions to implement the intent of Council's ordered Remedial Action Requirements.

PURPOSE

The purpose of this report is to present an inspection report on the property located at 2721 Derwent Avenue and recommend that Council declare the property and its contents a nuisance and declare the unlawfully constructed accessory building a nuisance and a hazard, and issue a Remedial Action Requirement Order to the owner and occupiers of the property.

PREVIOUS COUNCIL DIRECTION

Date	Resolution
Jan 11 2021	Nuisance and hazard declared and Remedial Action Order issued for 2721 Derwent Avenue

BACKGROUND

The Village of Cumberland has received complaints regarding 2721 Derwent property since May 2018 regarding noise, unsightly property, unlicensed vehicles, and construction without a permit. Since July 2019, the Village has received more than 33 written complaints and many phone complaints to the Bylaw Enforcement Officer, the Manager of Protective Services, and the Chief Administrative Officer.

Since July 2019, the Village’s bylaw enforcement staff sent a number of letters to the owner and letters to the occupier, requesting to meet to attempt to resolve the issues at the property. The Village has not received any response from the owner. The occupier responded in writing, but was unwilling to meet with Village staff. A number of MTI tickets have also been issued, both to the owner and the occupier of the residence.

In 2020, construction was begun without a permit on a garage/shop located at the northwest corner of the property. The occupier has submitted an incomplete building permit application for this structure on August 7, 2020. The permit application remains incomplete as of the date of this report.

A Stop Work Order was posted on the structure on June 18, 2020, while the structure had four walls built without complete sheathing, no doors affixed to it and no roof installed. The order was illegally removed thereafter, and the structure was illegally completed. On November 10, 2020 a second Stop Work Order was affixed to the structure.

A Do Not Occupy Order was posted on the structure on December 1, 2020. Despite these orders, the Village continues to receive complaints regarding the use and occupancy of this structure.

A property inspection was conducted on November 24, 2020, to ascertain whether the property was in compliance with Village bylaws. As a result of that inspection report, which detailed unsafe conditions on the property, contraventions of the BC Building Code and the Village's *Building Bylaw*, and various nuisances found on the property, Council declared a nuisance and a hazardous condition, and imposed a Remedial Action Requirement Order on January 11, 2021 (the "2021 RAR Order").

The 2021 RAR Order was issued to the owner and occupiers; however, the remedial action requirements were not completed within the stipulated time. The Village encountered difficulties regarding service of the 2021 RAR Order and subsequent inspection and work notices, access to the property for the purposes of obtaining estimates of the required work and preparing a work plan, enforcement of the 2021 RAR Order, and the engagement of a qualified contractor. As such, the Village was unable to bring the property into compliance.

The Village continues to receive complaints from individuals affected by the nuisance and the hazardous conditions on the property. As well, staff have continued to monitor the property and issue bylaw contravention tickets. The owner and occupiers continue to permit nuisances on the property, and the accessory building constructed without the required permits remains occupied.

Staff conducted a second inspection on May 16, 2022, and an inspection report is attached to this report. Based on that inspection, staff recommend that Council again consider declaring a nuisance and a hazardous condition on the property, and imposing a Remedial Action Requirement Order to the owner and occupiers. The Remedial Action Requirement Order would declare the a nuisance and a hazard, and require the owner to remove the matters constituting the nuisance and to demolish the illegal garage/shop structure that was constructed and continues to be occupied without the requisite permits.

Staff have provided written notice to the owner and occupiers that Council is hearing this matter at its meeting on May 30, 2022 and have been provided with copies of the inspection report and proposed Remedial Action Requirement Order.

If Council proceeds to issue the Remedial Action Requirement Order, the Village must serve a notice of the Order on the owner and the occupiers, and must deliver a notice of the Order to all chargeholders on title.

The owner and the occupiers are entitled to request that Council reconsider the Remedial Action Requirement Order, by providing a written request within 14 days of receiving the notice. If the Village receives such a request, the person would be provided with an

opportunity to make representations to Council, after which Council may confirm, amend, or cancel the Remedial Action Requirement Order.

If the owner or occupiers do not request reconsideration, and the owner fails to comply with the Order within the time set out, the Village may fulfill the requirements at the expense of the owner and recover the costs incurred from that person as a special fee and debt, which may be collected in the same manner and with the same remedies as property taxes.

ALTERNATIVES

1. Council may issue a revised Remedial Action Requirement Order. For example, Council may extend the time for compliance under section (iii). If Council wishes to consider other revisions to the recommended Order, it may be necessary for staff to seek legal advice regarding revisions or procedures.
2. Council may not proceed with any action at this time or defer consideration to another time.

STRATEGIC OBJECTIVE

- Healthy Community
- Quality Infrastructure Planning and Development
- Comprehensive Community Planning
- Economic Development

FINANCIAL IMPLICATIONS

Compared with other enforcement options – such as a court injunction - Remedial Action Requirement Orders are a less costly bylaw enforcement tool, as they provide for recovery of costs to bring about compliance. Legal advice has been obtained to ensure that the process is completed correctly under the *Community Charter*.

OPERATIONAL IMPLICATIONS

As set out in Council's Bylaw Enforcement Policy, staff has spent considerable time attempting to seek voluntary compliance for this property, both with the owner and with the current occupier, without success, before proceeding to enforcement action through MTI ticketing, and orders issued in relation construction without building permits. The option of utilizing the Comox Valley Community Justice Centre has not been a viable option in this file.

Council's policy directs staff to bring forward any recommendations for prosecution under the Offence Act, court action through civil proceedings, and remedial action to Council for consideration.

CLIMATE CHANGE IMPLICATIONS

None

ATTACHMENTS

1. Inspection Report, dated May 20, 2022
2. Remedial Action Requirement Order for 2721 Derwent Avenue

CONCURRENCE

Mike Williamson, Manager of Protective Services *MW*

Kevin McPhedran, Interim Deputy Chief Administrative Officer *KM*

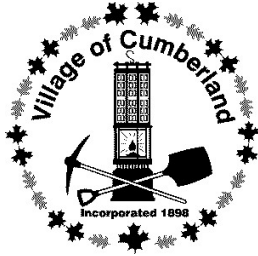
Respectfully submitted,

R. Parker

Rachel Parker
Corporate Officer

M. Mason

Michelle Mason
Interim Chief Administrative Officer



Corporation of the Village of Cumberland

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cumberland.ca

INSPECTION REPORT

REPORT DATE: May 20, 2022
 INSPECTION DATE: May 16, 2022, 1319hrs.
 TO: Kevin McPhedran, Interim Deputy Chief Administrative Officer
 FROM: James Abrams, Bylaw Enforcement Officer
 SUBJECT: 2721 Derwent Inspection

FILE:			
OWNER:	Darren W. Robertson		
PID:	008-975-884	Folio No.:	516 00101.000
TENANT(S)	Travis Sehn, Taylor Watson		
LEGAL DESCRIPTION:	Lot 10, Block 8, District Lot 21, Nelson District, Plan 522		
CIVIC ADDRESSES:	2721 DERWENT AVENUE		

PURPOSE OF INSPECTION:

The Purpose of this inspection was to update information from a previous inspection in regards to compliance with Village of Cumberland bylaw violations (both previously found and current) and a Remedial Action Order previously issued in accordance with sections 72, 73, and 74 of the *Community Charter* (Appendix A).

Building Bylaw Infractions

1. Construction without Permit
2. No Occupancy Permit
3. Obstruct Building Official
4. Work Against Order
5. Occupy Against Order

A large garage was noted at the Northwest corner of 2721 Derwent Avenue which was constructed without permits and completed against Stop Work Orders (Images 1, 2). The structure had two new additions since the last RAR report to council. One is a large steel beam structure for lifting engines which was first noted about October 2021 against orders (Images 3, 4). The second was a new covered deck attached to the back of the garage which was newly noted in this inspection for first time (Images 5, 6).

Despite being personally served legal notice of entry and inspection, the garage was locked and upon arrival of tenant WATSON, officer was still not granted access to the garage, WATSON stating she did not know the door code. It is reasonable to believe that it was still occupied as electrical cords could be seen coming out of the garage (Image 7). Furthermore, at no time in the past since the structure was enclosed has the garage ever been witness as empty despite multiple requests for the garage to be emptied.

Furthermore, there is a hot tub that was to be removed for the last RAR. It was found to not only still be there but has been dug into the ground. Upon last call to Technical Safety BC, No electrical Permits have been pulled for any of the electrical work for the Garage and or the hot tub. Contact has yet to be made with Technical Safety BC for this inspection (Images 8, 9).



Image 1

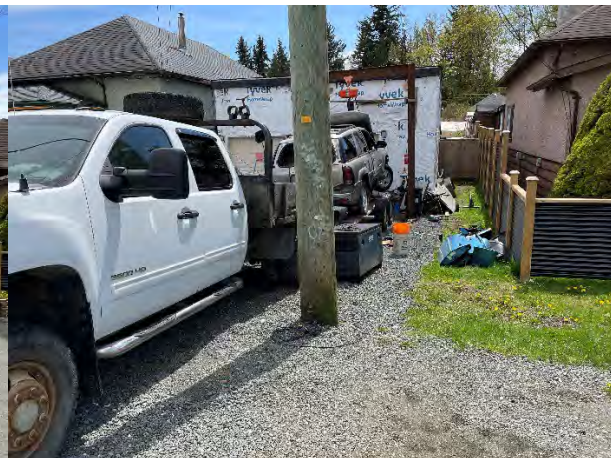


Image 2

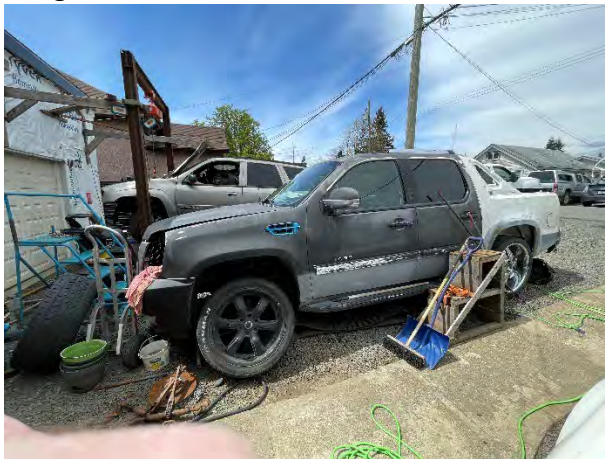


Image 3



Image 4



Image 5



Image 6



Image 7



Image 8



Image 9

NUISANCE BYLAW INFRACTIONS

- 1. Accumulation of Rubbish, Water, Noxious Matter***
- 2. Unsightly Premises***

Throughout the 2721 Derwent Avenue property multiple places of various stored vehicle fluids (Images 10, 11, 12, 13, 14, 15, 16), multiple caches of what appeared to be used tires (Images 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27) among other random items such as unused building materials (Images 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41) and unsecured gas cylinders (Images 42, 43, 44, 45) were located. There were also many vehicles in various states of assembly and vehicle parts in multiple locations which were also found to be in various conditions (Images 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61).



Image 10



Image 11



Image 12



Image 13



Image 14



Image 15



Image 16



Image 17



Image 18



Image 19



Image 20



Image 21



Image 22

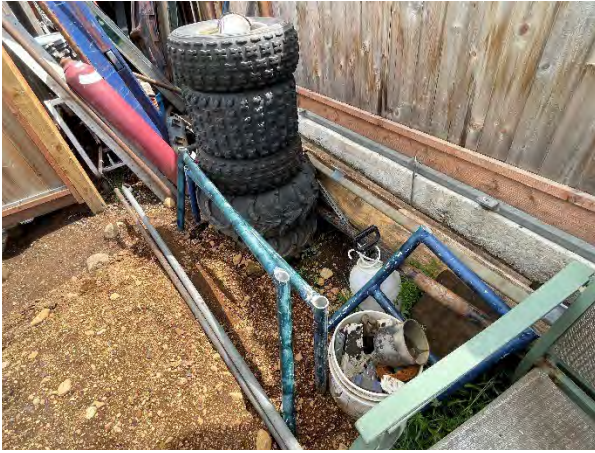


Image 23



Image 24



Image 25



Image 26



Image 27



Image 28



Image 29



Image 30

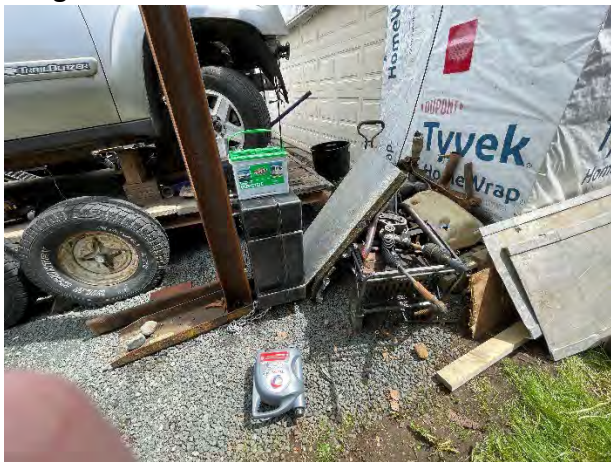


Image 31



Image 32



Image 33



Image 34



Image 35



Image 36



Image 37



Image 38



Image 39

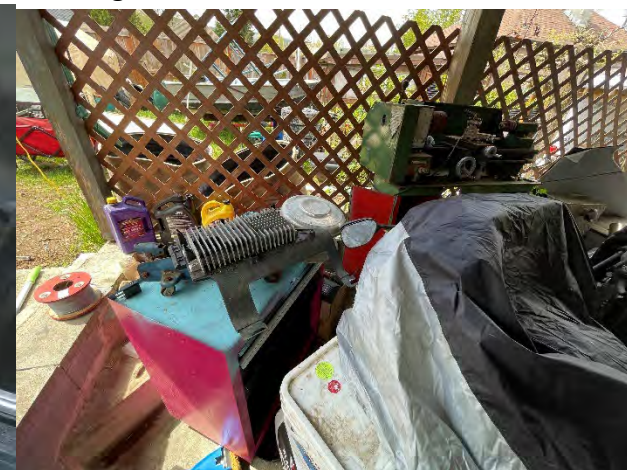


Image 40



Image 41



Image 42



Image 43



Image 44



Image 45



Image 46



Image 47



Image 48

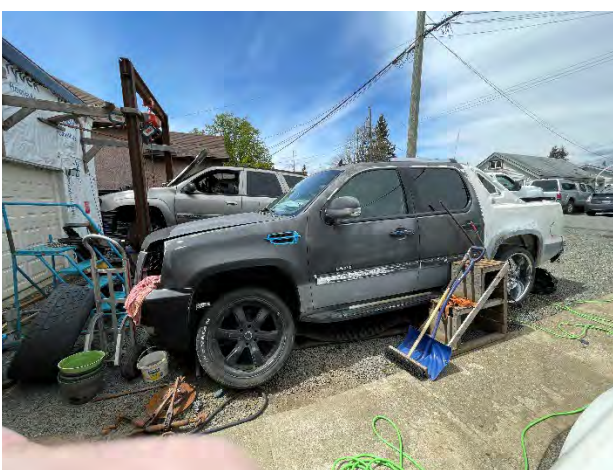


Image 49



Image 50



Image 51



Image 52



Image 53



Image 54

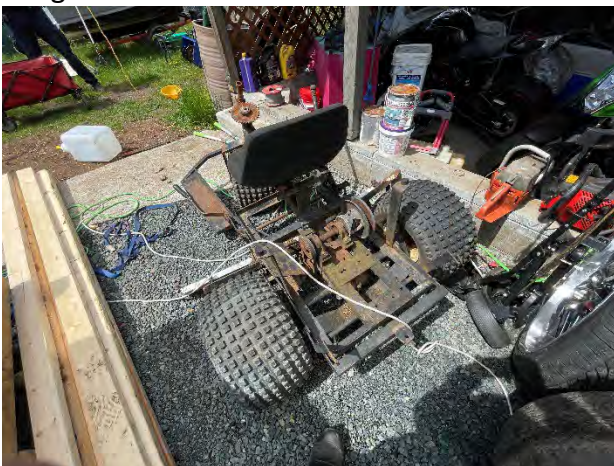


Image 55

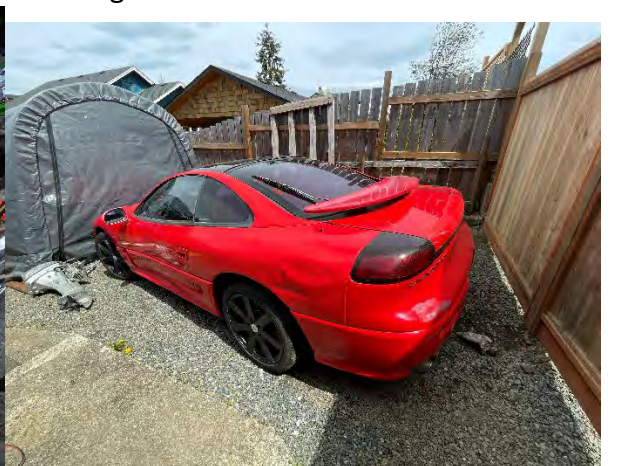


Image 56



Image 57



Image 58



Image 59



Image 60



Image 61

Streets and Traffic Bylaw Infractions

1. *Refuse to Comply*
2. *Leave Chattel on Highway*
3. *Unlawful Parking*
4. *Park Unlicensed Vehicle*
5. *Park for Unlawful Purpose*

Despite instruction in past to remove from the adjacent highway all vehicles that do not have attached number plates for the current year, and to not conduct vehicle repair works on the highway; upon inspection on May 16, 2022, there was one grey car without plates (Image 62) and one wood box utility trailer without plates (Image 63) parked on the portion of highway commonly referred to as the boulevard. However, it is not uncommon to find the whole boulevard in front of 2721 Derwent Avenue filled with vehicles which are often being repaired.



Image 62

Zoning Bylaw Infractions

1. *Carrying out prohibited use*

Upon May 16, 2022 inspection, the property at 2721 Derwent avenue was found to meet the definition of a junk yard in the Village's Zoning Bylaw No. 1027, 2016: "Junkyard: means the use of land, buildings or other structures where old articles, waste or discarded material including but not limited to rubber tires, metal, plastics, plastic containers, glass, papers, sacks, wire, ropes, rags, machinery, cans, any other scrap or salvage including two or more derelict vehicles, are stored or kept externally, whether or not for commercial purposes or as part of a trade or calling, and includes automobile wrecking yards" (Images 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94).



Image 63



Image 64



Image 65

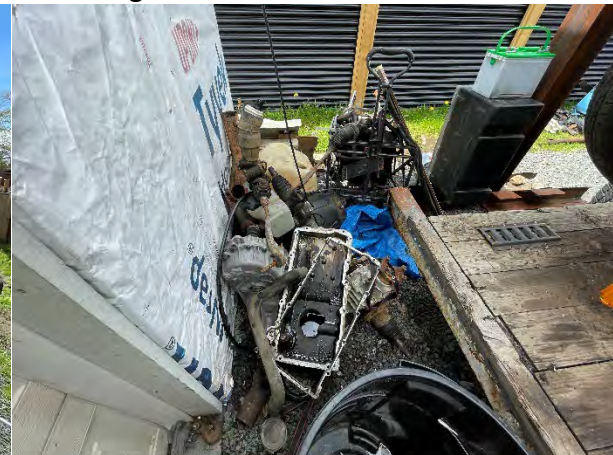


Image 66



Image 67

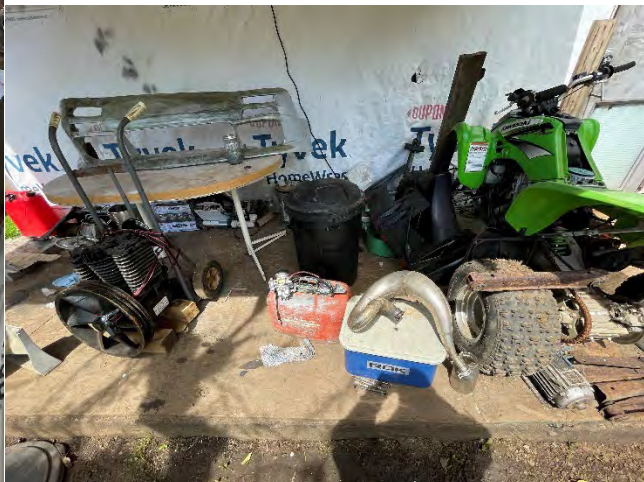


Image 68



Image 69



Image 70



Image 71



Image 72



Image 73



Image 74



Image 75



Image 76



Image 77



Image 78



Image 79

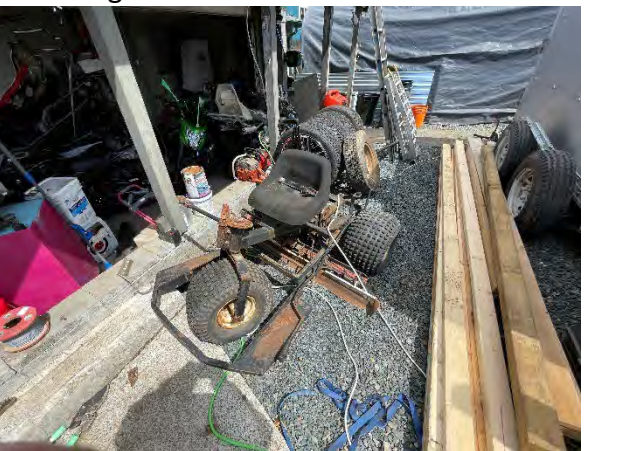


Image 80



Image 81



Image 82



Image 83



Image 84



Image 85



Image 86

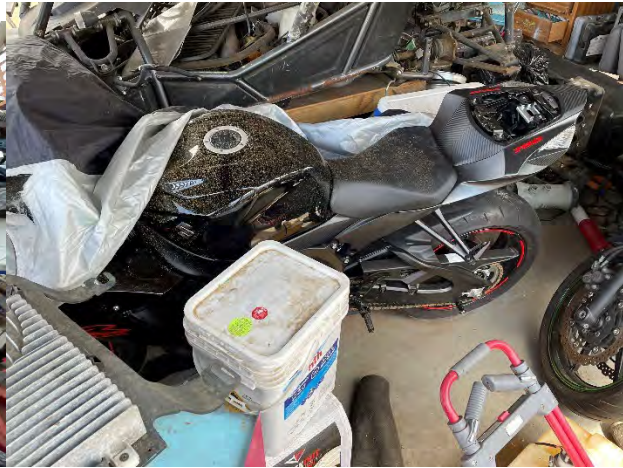


Image 87



Image 88



Image 89

Image 90



Image 91

Image 92

Respectfully submitted,
J. Abrams

James Abrams, Bylaw Enforcement Officer

Appendix A

Council may impose remedial action requirements

- 72** (1) A council may impose remedial action requirements in relation to
- (a) matters or things referred to in section 73 [*hazardous conditions*],
 - (b) matters or things referred to in section 74 [*declared nuisances*], or
 - (c) circumstances referred to in section 75 [*harm to drainage or dike*].
- (2) In the case of matters or things referred to in section 73 or 74, a remedial action requirement
- (a) may be imposed on one or more of
 - (i) the owner or lessee of the matter or thing, and
 - (ii) the owner or occupier of the land on which it is located, and
 - (b) may require the person to
 - (i) remove or demolish the matter or thing,
 - (ii) fill it in, cover it over or alter it,
 - (iii) bring it up to a standard specified by bylaw, or
 - (iv) otherwise deal with it in accordance with the directions of council or a person authorized by council.
- (3) In the case of circumstances referred to in section 75, a remedial action requirement
- (a) may be imposed on the person referred to in that section, and
 - (b) may require the person to undertake restoration work in accordance with the directions of council or a person authorized by council.

Hazardous conditions

- 73** (1) Subject to subsection (2), a council may impose a remedial action requirement in relation to any of the following:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
 - (b) a natural or artificial opening in the ground, or a similar matter or thing;
 - (c) a tree;
 - (d) wires, cables, or similar matters or things, that are on, in, over, under or along a highway;

(e) matters or things that are attached to a structure, erection or other matter or thing referred to in paragraph (a) that is on, in, over, under or along a highway.

(2) A council may only impose the remedial action requirement if

(a) the council considers that the matter or thing is in or creates an unsafe condition, or

(b) the matter or thing contravenes the Provincial building regulations or a bylaw under section 8 (3) (1) [*spheres of authority — buildings and other structures*] or Division 8 [*Building Regulation*] of this Part.

Declared nuisances

74 (1) A council may declare that any of the following is a nuisance and may impose a remedial action requirement in relation to the declared nuisance:

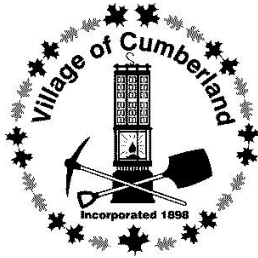
(a) a building or other structure, an erection of any kind, or a similar matter or thing;

(b) a natural or artificial opening in the ground, or a similar matter or thing;

(c) a drain, ditch, watercourse, pond, surface water, or a similar matter or thing;

(d) a matter or thing that is in or about any matter or thing referred to in paragraphs (a) to (c).

(2) Subsection (1) also applies in relation to a thing that council considers is so dilapidated or unclean as to be offensive to the community.



Corporation of the Village of Cumberland

2673 Dunsmuir Avenue
P.O. Box 340
Cumberland, BC V0R 1S0
Telephone: 250-336-2291
Fax: 250-336-2321
cumberland.ca

NOTICE OF REMEDIAL ACTION REQUIREMENTS ORDER

Pursuant to Division 12 of Part 3 of the *Community Charter*, SBC 2003, c. 26

IN THE MATTER OF THE PROPERTY DESCRIBED AS:

**Lot 10, Block 8, District Lot 21, Nelson District, Plan 522
having a civic address of:
2721 Derwent Avenue, Cumberland (the "Property")**

TO: Darren ROBERTSON, registered owner of the Property (the "Owner")

AND TO: Travis SEHN and Taylor WATSON, occupiers of the Property (collectively, the "Occupier")

WHEREAS the Council of the Village of Cumberland has the authority, under Division 12 of Part 3 of the *Community Charter*, to impose remedial action requirements in relation to hazardous conditions and declared nuisances;

AND WHEREAS, on May 30, 2022, Council received and considered the Remedial Action Requirements, 2721 Derwent Avenue Report,

The Mayor and Council of the Corporation of the Village of Cumberland, in an open meeting assembled, and pursuant to Division 12 of Part 3 of the *Community Charter*, resolved on May 30, 2022 as follows:

- i. THAT Council considers and declares that the accumulation and untidy storage of the following matters and things located upon the Property are unsightly and a nuisance, and are so dilapidated or unclean as to be offensive to the community, all within the meaning of subsections 74(1) and (2) of the *Community Charter*:
 - (a) all vehicles or parts thereof, including all cars, trucks, all-terrain vehicles, recreation vehicles, motorcycles, trailers, and any modified configuration thereof (collectively referred to as "Vehicles"), that:
 - 1) are physically wrecked or disabled;
 - 2) are not capable of operating under their own power or, in the case of trailers, are incapable of being towed in the manner a trailer is normally towed; or

The Corporation of the Village of Cumberland
Remedial Action Requirements Order

- 3) do not have attached number plates for the current year pursuant to the regulations of the *Motor Vehicle Act* R.S.B.C., 1996 c. 318, as amended, from time to time;
- (b) all Vehicle parts and tires not currently affixed to a Vehicle;
- (c) all Vehicle storage boxes and Vehicle ramps;
- (d) all gas storage containers, Vehicle fluid storage containers, rusted and partially rusted containers, all batteries, including without limitation, all Vehicle batteries, and all household furnaces;
- (e) all machinery, equipment, mechanical and metal parts, appliances, fixtures, and furniture;
- (f) all building materials and equipment, including, without limitation, all lumber, shingles, roofing materials, plumbing, tubing, nails, ladders, and solar panels;
- (g) all cords, hoses, and cables, including, without limitation, all illegally installed cables attached to the hot tub;
- (h) all fences and accessory structures characterized by holes, breaks, rot, leaning, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, excessive use, or lack of maintenance;
- (i) all landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged; and
- (j) all rubbish, filth, and discarded materials, and other offensive materials, substances, and objects,

even where such items are not considered rubbish (collectively, the “Nuisance Items”);

- ii. THAT Council considers and declares that the following structure situated on the Property is a nuisance, and that it is in and creates an unsafe condition, and that it contravenes the Provincial building regulations and the Village of Cumberland *Building Bylaw*, all within the meaning of subsections 74(1), 73(1)(a), 73(2)(a), and 73(2)(b) of the *Community Charter*:
 - (a) the illegal garage/shop structure located at the northwest corner of the Property, including the attached deck, which said structure was built contrary to Stop Work Orders issued by the Village and occupied contrary to a Do Not Occupy Order issued by the Village (the “Structure”);
- iii. THAT the following Remedial Action Requirement Order is hereby imposed upon the Owner of the Property, pursuant to sections 72, 73, and 74 of the *Community Charter*:

The Corporation of the Village of Cumberland
Remedial Action Requirements Order

- (a) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must remove from the Property all Nuisance Items referred to in paragraph (i) above;
- (b) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must ensure that the Property is in a neat, cleared, and orderly condition;
- (c) within Thirty (30) days of receiving notice of this Remedial Action Requirement Order, the Owner must:
 - 1) demolish the Structure;
 - 2) remove all extension cords, wires, and wiring to, from, in, and about the Structure;
 - 3) remove to an appropriate disposal site all debris from the Property arising out of or in connection with the said demolition, including, without limitation, all blocks and concrete; and
 - 4) level the site of the demolition and leave such site in a neat, cleared, and safe condition,

(collectively, the "Remedial Action Requirements");

vii. THAT, pursuant to Section 78 of the *Community Charter*, **the time limit for giving notice of a request for Council to reconsider this Remedial Action Requirement Order is no later than 4:00 p.m. on the 14th day after receipt of the notice of Remedial Action Requirement Order;**

viii. THAT, in the event the Remedial Action Requirements set out in paragraph (iii) above are not completed within the deadlines noted:

- (a) The Village of Cumberland's staff, its agents, and its contractors are authorized to enter the Property and take all appropriate action in accordance with section 17 of the *Community Charter [Municipal Action at Defaulter's Expense]* to ensure that the said Property is brought into compliance with this Remedial Action Requirement Order;
- (b) all costs incurred by the Village of Cumberland to bring the Property into compliance shall be at the expense of the Owner; and
- (c) all such costs shall be recovered from the Owner as special fees and a debt owed to the Village of Cumberland for work done or services provided to land or improvements, and may be collected in the same manner as property taxes, all in accordance with the *Community Charter*;

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Remedial Action Requirements Order

- ix. THAT, should the Village of Cumberland's staff, its agents, and/or its contractors attend and enter the Property for the purposes of paragraph (viii) above, members of the Royal Canadian Mounted Police may accompany them for the purposes of keeping the peace;
- x. THAT **the Owner and the Occupant must provide free and unfettered access to the Property, including, without limitation, unfettered access to and in the Structure referred to in paragraph (ii) above**, to permit the Village of Cumberland's staff, its agents, and its contractors to fulfill the terms of this Remedial Action Requirement Order, **between the hours of 8 a.m. and 5 p.m. Monday through Friday, excepting statutory holidays**;
- xi. THAT, for clarity, no person, including the Owner and the Occupier, may impede the Village of Cumberland's staff, its agents, or its contractors in any way from performing the work contemplated by this Remedial Action Requirement Order; and
- xii. THAT Council authorizes the Interim Chief Administrative Officer, or their designate, to provide further directions to implement the intent of Council's ordered Remedial Action Requirements.

A copy of the Remedial Action Requirements, 2721 Derwent Avenue Council Report and the May 20, 2022 Inspection Report are enclosed herein.

You may request a reconsideration by Council in accordance with section 78 of the *Community Charter* [person affected may request reconsideration] within fourteen (14) days of receiving this Notice, by providing your request in writing to the Corporate Officer for the Village of Cumberland as follows:

Via Post:

Village of Cumberland
PO Box 340,
Cumberland, BC V0R 1S0
Attention: Corporate Officer

-OR-

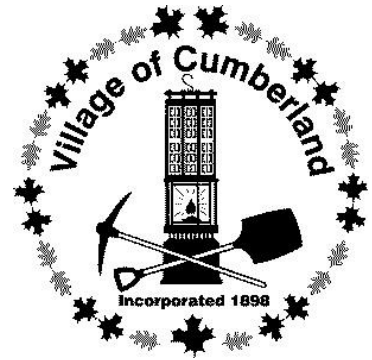
Via Hand Delivery:

Village of Cumberland
2673 Dunsmuir Avenue,
Cumberland, BC V0R 1S0
Attention: Corporate Officer

DATED at the Village of Cumberland this ____ day of _____, 2022.

Corporate Officer
The Corporation of the Village of Cumberland

COUNCIL REPORT



REPORT DATE: May 15, 2022
MEETING DATE: May 30, 2022

File No. 3900

TO: Mayor and Councillors
FROM: Rachel Parker, Corporate Officer
SUBJECT: Good Neighbour Bylaw

RECOMMENDATION

- i. THAT Council receive the Good Neighbour Bylaw report.
- ii. THAT Council give first, second, and third reading to Good Neighbour Bylaw No. 2268, 2022.
- iii. THAT Council direct staff to prepare an update to Council's Bylaw Enforcement Policy to update pro-active enforcement areas and prioritize enforcement response to complaints.
- iv. THAT Council direct staff to prepare an amendment to the Municipal Ticket Bylaw to include ticket amounts for contravention to the Good Neighbour Bylaw.

PURPOSE

The purpose of this report is to present a proposed Good Neighbour Bylaw No. 2268, 2022 for Council's review and consideration of first three readings.

BACKGROUND

The BC *Community Charter* authorizes municipal councils to regulate, prohibit and impose requirements by bylaw for the protection and enhancement of the well-being of its community in relation to nuisances, disturbances and other objectionable situations. The Charter also authorizes councils to impose fees by bylaw relating to the exercise of authority to regulate, prohibit and impose requirements.

The Village enacted a Prevention of Public Nuisances Bylaw in 2007, which regulates nuisances, including unsightly premises and other matters, and some interference with public property. In recent years municipalities in BC have been moving towards so-called good neighbour bylaws to address nuisance property, conduct and activity. The proposed Good Neighbour Bylaw presented here has been drafted with legal review and is intended to update the 2007 bylaw to current legal standards, as well as incorporate effective tools necessary for the Village to support compliance and enforce the bylaw. These tools include the recovery of costs from the nuisance property owner rather than those costs being funded by property tax revenues.

The Good Neighbour Bylaw would repeal the 2007 bylaw upon adoption. A few of the provisions included in the 2007 Prevention of Public Nuisances Bylaw, such as the requirement for fencing of

animals and house numbering, will be considered for incorporation into other Village bylaws as those bylaws are updated.

In summary, the Good Neighbour Bylaw would

- Prohibit nuisances, including unsightly property,
- Charge service fees for excessive Village staff and RCMP nuisance service calls to a property
- Give staff the authority to issue compliance orders
- Authorize the Village to charge abatement service fees if conditions of a compliance order are not met
- Authorize other methods of punitive enforcement, including ticketing and Offence Act prosecutions

Definition of Nuisance and Application of the Bylaw

The proposed Good Neighbour Bylaw is intended to give the Village broad powers to address nuisances in the community. In the bylaw, the term “nuisance” is defined as any conduct, activity, or condition that unreasonably interferes with a person’s use and enjoyment of a public place or property that person owns or occupies, or which annoys or gives trouble, or is offensive irritating or a pest to anyone within the Village. This is in addition to the common law meaning of nuisance, which is defined by the courts and evolves over time. Nuisance includes unsightly property, and again the definition of what is “unsightly” is broadly defined.

The powers of the bylaw are deliberately broad to enable the Village to enforce the bylaw effectively when necessary. However, it is essential for the Village to enforce the bylaw in a reasonable manner and to ensure that what is considered a nuisance reflects community standards. Reasonable enforcement is achieved through Council direction to staff in its Bylaw Enforcement Policy.

Council’s Bylaw Enforcement Policy generally provides for complaint-based, rather than pro-active, bylaw enforcement to ensure that regulatory bylaws are responsive to community standards and expectations. The policy also directs staff to attempt voluntary compliance with Village bylaws before enforcement action is taken. The policy is also intended to prevent the Village from responding to bylaw complaints that may be vexatious or that may be a result of civil disputes.

To further ensure reasonable enforcement of the Good Neighbour Bylaw, it is proposed that the policy be updated to clearly provide staff direction to respond to nuisance complaints only where the nuisance is significantly impacting adjacent residents, where there may be more than one bylaw contravention taking place, and where the Village received complaints from more than one individual directly impacted by the nuisance. Reasonable enforcement would further be ensured through instructions to bylaw enforcement staff through written procedures.

Enforcement Tools

The Good Neighbour Bylaw offers a number of effective methods to deter nuisance situations, to encourage voluntary compliance, and to enforce the bylaw.

1. Excessive Nuisance Service Calls and Fees

Where the RCMP and Village staff have responded on-site in relation to nuisances more than once in a 24 hour period, or more than three times in a 12 month period, this tool will allow the Village staff to impose service fees to the property owner for any further service

calls within a twelve month period. The Village must set up systems to track responses, issue notices, and to issue demands for payment.

2. Compliance Orders and Abatement Fees

The bylaw also authorizes staff to issue compliance orders as an enforcement tool where a property owner or occupier refuses to comply with initial bylaw enforcement. Compliance orders may be used for any nuisance, including unsightly property, and must include a specified and reasonable time for compliance. If the conditions of a compliance order are not met, the bylaw authorizes the Village to take action to bring about compliance and impose abatement fees on the property owner or occupier for work done or services provided to land or improvements.

There are some limitations on the use of compliance orders. For bylaw enforcement involving demotion of structures or removal of costly items, the recommended method to obtain compliance is a remedial action order issued by Council rather than a compliance order. As well, abatement fees should not generally be used for interference to public property, e.g. snow clearing on public sidewalks.

3. The Bylaw also provides for the use of Village's ticket bylaw through tickets issued by the Bylaw Enforcement Officer as well as under the Offence Act, for which penalty would be imposed by the Provincial Court on summary conviction upon application by the Village.

Recovery of Excessive Nuisance Call Fees and Abatement Fees

If either excessive nuisance call fees or abatement fees remain unpaid after the Village issues demand for payment, the Province allows for a municipality to recover the amounts in default in the same manner as property taxes, and if unpaid at the end of the year, are deemed to be taxes in arrear similar to how the Village currently collects outstanding utility fees, and would then accumulate interest.

If the fees and interest remain unpaid at the end of year following, the amount is deemed delinquent and the property would be subject to tax sale under the authority and requirements under the *Local Government Act*, which includes sufficient notice by service or by registered mail to the owner and any owner of a charge on the property.

Fees imposed by the bylaw are 2022 rates and it will be necessary to update the fee schedules regularly.

Appeal to Council

Where these kinds of powers are delegated to staff, it is necessary that a person be given an opportunity to appeal to the Council, which the bylaw provides. Notice, order and payment demand forms will be developed by staff to include notice of the opportunity for an appeal. Any hearing of an appeal must be done under the principles of procedural fairness to give the opportunity to be heard and for the Council to hear the appeal without bias.

ALTERNATIVES

1. Council may direct any changes to the bylaw before first reading or amend the bylaw at anytime before third reading. Council may consider minor changes immediately, for example, adjustments to height of weeds in the definition of "unsightly property", or the

number of motor vehicles permitted to be parked per dwelling unit in s. 4.2(j). More significant changes to the bylaw should be reviewed by staff and Village's legal consultants and brought back to Council at a future meeting. Council is asked to keep in mind the principle of reasonable enforcement and that it is intended that the bylaw be enforced upon complaints received for a number of violations to the bylaw. If the regulation is reduced, it could impact the Village's ability to effectively enforce the bylaw for a nuisance property.

2. Not proceed with any action at this time.

STRATEGIC OBJECTIVE

- Healthy Community
- Quality Infrastructure Planning and Development
- Comprehensive Community Planning
- Economic Development

FINANCIAL IMPLICATIONS

While there will be costs incurred to proceed with any abatement to a property, the purpose of the bylaw is to proceed with recovery of those costs from the property owner. This Village does not currently have this option in place other than through a remedial action order.

OPERATIONAL IMPLICATIONS

It is expected that this bylaw will reduce the operational time for bylaw enforcement for significant nuisance and unsightly properties with the tools provided to encourage compliance. The bylaw is not intended to lead to increased bylaw enforcement workload but intended to improve the tools for existing bylaw enforcement on a complaint basis. With a revision to Council's Bylaw Enforcement Policy to guide staff, operational workload should only be impacted if there were to be an increase in frequency of complaints received on significant nuisances that have negative impacts on adjacent properties.

The bylaw will require regular amendments to update the fee schedule to reflect current service costs, and an amendment to the Village's ticketing bylaw to include the ticketing fines for the bylaw.

CLIMATE CHANGE IMPLICATIONS

None

ATTACHMENTS

1. Good Neighbour Bylaw No. 1168, 2022
2. Prevention of Public Nuisances Bylaw No. 870, 2007

CONCURRENCE

Kevin McPhedran, Interim Deputy Chief Administrative Officer KM

Mike Williamson, Manager of Protective Services

Respectfully submitted,

R. Parker

Rachel Parker
Corporate Officer

M. Mason

Michelle Mason
Interim Chief Administrative Officer

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

BYLAW NO. 1168, 2022

GOOD NEIGHBOUR BYLAW

A bylaw to regulate, prohibit, and impose requirements in relation to nuisances, the abatement of nuisance, excessive nuisance service calls, and property maintenance, and to provide for recovery of the costs of excessive nuisance service calls and nuisance abatement where undertaken by the Village.

The Council of the Corporation of the Village of Cumberland, in open meeting assembled, enacts as follows:

1. DIVISION 1 – CITATION

1.1 This Bylaw may be cited as the “Good Neighbour Bylaw No. 1168, 2022”.

2. DIVISION 2 – INTERPRETATION AND DEFINITIONS

2.1 Words or phrases defined in British Columbia’s *Interpretation Act*, *Community Charter*, or *Local Government Act*, or any successor legislation shall have the same meaning when used in this Bylaw or its Schedules unless otherwise defined in this Bylaw. Unless otherwise stated, and notwithstanding the case used (upper case or lower case), when words or phrases that are defined in Division Two of this Bylaw are used in the body or Schedules of this Bylaw, they have the meaning ascribed to them as set out in Division Two of this Bylaw.

2.2 The headings contained in this Bylaw are for convenience only and are not to be construed as defining or in any way limiting the scope or the intent of the provisions of this Bylaw.

2.3 Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated, or replaced from time to time, and any bylaw or COUNCIL policy referred to herein is a reference to a bylaw or policy of the VILLAGE of Cumberland, as amended, revised, consolidated, or replaced from time to time.

2.4 If any provision of this Bylaw is held to be invalid by a court of competent jurisdiction, the provision may be severed from the Bylaw and such invalidity shall not affect the validity of the remaining portions of this Bylaw.

2.5 In this Bylaw and its Schedules, unless the context requires otherwise:

“ABATEMENT FEES” are those fees imposed in accordance with Division 6 of this Bylaw, consisting of all costs and expenses incurred by the VILLAGE to

achieve compliance with this Bylaw, including, without limitation: administrative costs, the costs to attend the PROPERTY by VILLAGE employees, representatives, agents, and contractors, the cost of equipment, removal, cleanup, and disposal, and the cost of repairs to damaged VILLAGE equipment, vehicles, and PROPERTY, all of which are calculated in accordance with the amounts prescribed in Schedule “A” of this Bylaw;

“ACCUMULATION” means a collection, either built-up, gathered, scattered, amassed, or piled, as the case may be, and “ACCUMULATE” shall have a corresponding meaning;

“BUILDING MATERIALS” means items used in the construction of structures or in landscaping, including, but not limited to lumber, gypsum board, windows, doors, roofing materials, scaffolding, equipment, tools, bricks, building blocks, fill, sand, and soil;

“BOULEVARD” means that portion of a highway between the curb line or the lateral line of a roadway and the adjoining PROPERTY or roadway, and includes curbs and ditches;

“BYLAW ENFORCEMENT OFFICER” means every PERSON employed or appointed by the VILLAGE, whether officially titled as such or not, to enforce the VILLAGE’s bylaws, and also includes members of the Royal Canadian Mounted Police.

“COMPLIANCE ORDER” is an order issued under Section 6.1 of this Bylaw requiring that a PROPERTY be brought into compliance with the provisions of this Bylaw;

“COUNCIL” means the Municipal COUNCIL of the VILLAGE of Cumberland;

“DERELICT VEHICLE” means any vehicle or part thereof, propelled other than by muscle power including a car, truck, airplane, all-terrain vehicle, recreation vehicle, motorcycle or any modified configuration thereof which:

- a) is physically wrecked or disabled;
- b) in the case of a motor vehicle is not capable of operating under its own power or, in the case of a trailer, incapable of being towed in the manner a trailer is normally towed; or
- c) does not have attached number plates for the current year pursuant to the regulations of the *Motor Vehicle Act* R.S.B.C., 1996 c. 318, as amended, from time to time.

“EXCESSIVE NUISANCE SERVICE CALL FEES” means the fees imposed in accordance with Division 5 of this Bylaw;

“GRAFFITI” includes one or more letters, symbols, writing, pictures or marks, however made, posted, scratched, etched, painted, or drawn on any structure or thing, but does not include any of the following:

- a) a sign, public notice, or traffic control device authorized by the Manager of Operations of the Village;
- b) a sign authorized by the *Zoning Bylaw, No. 1027, 2016* or by the *Streets and Traffic Bylaw No. 951, 2017*;
- c) a public notice authorized by a VILLAGE bylaw or by provincial or federal legislation; or
- d) a letter, symbol or mark on a building or structure for which the owner or tenant of the building or structure has given prior, written authorization, such as a mural;

“MOTOR VEHICLE” means a device in, upon, or by which a PERSON or thing is or may be transported or drawn upon a highway, but does not include a motorized wheelchair, a device designed to be moved solely by human power, or a vehicle operated exclusively upon stationary rails or tracks;

“NOXIOUS WEED” means any weed designated by regulation to be a noxious weed pursuant to the *British Columbia Weed Control Act R.S.B.C. 1996, Chapter 487*;

“NUISANCE”, in addition to its common law meaning, includes any conduct, activity, or condition that unreasonably interferes with a PERSON’s use and enjoyment of a PUBLIC PLACE or of PROPERTY he or she owns or occupies, or which annoys or gives trouble, or is offensive, irritating, or a pest to anyone within the VILLAGE;

“NUISANCE SERVICE CALL” means any VILLAGE or R.C.M.P. response to any NUISANCE that occurred, or was maintained, or permitted in, on, or near a PROPERTY, including any abatement thereof;

“PERSON” includes a natural PERSON, a company, corporation, partnership, firm, association, and society, and the personnel or legal representatives of a PERSON to whom the context can apply according to law;

“PROPERTY” means all real property, including, but not limited to, front yards, side yards, backyards, driveways, walkways, together with any and all structures or fences located thereon;

“PUBLIC PLACE” includes every street, road, alley, laneway, cycle path, land, BOULEVARD, sidewalk, bridge, viaduct, and any other way open to public use, and any park, building, conveyance, or passageway to which the public has, or is permitted to have access or is invited;

“RUBBISH” means decaying or non-decaying solid and semi-solid wastes, including but not limited to both combustible and non-combustible wastes, such as the following:

- a) paper, trash, refuse, cardboard, waste material, cans, glass, bedding, mattresses, crates, rags, barrels, boxes, and lumber that is not neatly piled;
- b) scrap iron, tin, and other metals;
- c) scrap paving material and construction and demolition waste;
- d) DERELICT VEHICLES;
- e) discarded or dilapidated tires, MOTOR VEHICLE parts, machinery, equipment, and mechanical or metal parts;
- f) discarded or dilapidated appliances, fixtures and furniture;
- g) ashes from fireplaces and on-site incinerators; and
- h) yard clippings, cuttings, and refuse consisting of brush, vegetation, weeds, dead or cut trees, branches, stumps, trees that may harbour insect or rodent infestations or may become a fire hazard, and soil mixed with any of the above;

“UNSIGHTLY”, in addition to its common dictionary meaning and regardless of the condition of other properties in the neighbourhood, includes PROPERTY having any one or more of the following characteristics, except where said characteristic(s) are not visible to a PERSON standing on or in a PUBLIC PLACE, or on or in nearby private PROPERTY:

- a) the placement, storage, or ACCUMULATION of RUBBISH, filth, or any other discarded materials or debris;
- b) the untidy storage or ACCUMULATION of MOTOR VEHICLE parts, tires, machinery, equipment, mechanical or metal parts, appliances, fixtures, or furniture, even where such items do not meet the definition of RUBBISH;
- c) the untidy placement, storage, or ACCUMULATION of BUILDING MATERIALS on a site where lawful construction is not taking place;
- d) landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged;
- e) weeds or similar ground cover that exceed fifteen (15) centimeters in height;

- f) fences or retaining walls characterized by holes, breaks, leaning, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, excessive use, or lack of maintenance;
- g) a lowering in quality of the condition or appearance of a structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, excessive use, or lack of maintenance; or
- h) any other similar conditions of disrepair, dilapidation, deterioration, or untidiness, and

“VILLAGE”, means the Corporation of the VILLAGE of Cumberland.

3. DIVISION THREE - GENERAL PROHIBITION AGAINST NUISANCES AND INTERFERENCE WITH PUBLIC PROPERTY

- 3.1 No owner or occupier of PROPERTY shall cause, permit, suffer, or allow any act to be done on that PROPERTY which constitutes a NUISANCE.
- 3.2 Without limiting the foregoing, no owner or occupier of PROPERTY shall cause, permit, suffer, or allow any act which unreasonably interferes with another PERSON’s use and enjoyment of private PROPERTY or their use and enjoyment of a PUBLIC PLACE.
- 3.3 Except as permitted or required by the Village in writing, no PERSON shall cause, permit, suffer, or allow any vegetation, structure, or other object to encroach upon any Village PROPERTY, including any street, sidewalk, or right-of-way, in a manner that obstructs, impedes, or interferes with pedestrian or vehicle movement or sightlines, or in a manner that interferes with the Village’s ability to use, maintain, or repair said PROPERTY.
- 3.4 Every owner or occupier of PROPERTY shall remove snow, ice, and rubbish from any roof or other part of any structure therein adjacent to any portion of any highway if the snow, ice, or rubbish constitutes a hazard to PERSONS or PROPERTY.

4. DIVISION FOUR – COMMUNITY IMPROVEMENT AND UNSIGHTLY PROPERTY

- 4.1 An owner or occupier of PROPERTY must not cause, permit, suffer, or allow the PROPERTY to become or remain UNSIGHTLY.
- 4.2 Without limiting the generality of the foregoing, an owner or occupier of PROPERTY must not cause, permit, suffer, or allow, on the PROPERTY:
 - a) unsanitary conditions, or an ACCUMULATION of RUBBISH, or other offensive materials, substances, or objects;

- b) water to collect or ACCUMULATE in a pond, swimming pool, hot tub, or as surface water, such that it becomes sufficiently stagnant to permit the breeding of mosquitoes, other insects, mould, algae or other similar organisms;
 - c) an ACCUMULATION of NOXIOUS WEEDS;
 - d) an ACCUMULATION of uncontrolled growth, dead trees, dead bushes, or uncontained compost material;
 - e) trees that harbour insect or rodent infestations;
 - f) an infestation of caterpillars, termites, or other noxious or destructive insects or rodents;
 - g) RUBBISH to overflow from or ACCUMULATE around any container;
 - h) GRAFFITI to remain on MOTOR VEHICLES, structures, walls, fences, or elsewhere that is visible to a PERSON standing on or in a PUBLIC PLACE, or on or in nearby private PROPERTY;
 - i) the ACCUMULATION of BUILDING MATERIALS for more than thirty (30) days in a calendar year, unless they are in a closed building or structure such that they are not visible to a PERSON standing on or in a PUBLIC PLACE, or on or in nearby private PROPERTY;
 - j) the parking, storage, or ACCUMULATION of more than two (2) MOTOR VEHICLES, boats, other recreational vehicles, or trailers, combined, per dwelling unit; or
 - k) the parking or storage of a DERELICT VEHICLE, boat, other recreational vehicle, trailer or other accessory on a landscaped portion of PROPERTY.
- 4.3 Every owner or occupier of PROPERTY must remove or cause to be removed from the PROPERTY any and all of the things or conditions mentioned in Sections 4.1 and 4.2, of this Bylaw, as well as any and all other UNSIGHTLY, offensive, unsanitary, or noxious things or conditions of any kind, on a regular basis or when directed to do so by a BYLAW ENFORCEMENT OFFICER.

5. DIVISION FIVE - EXCESSIVE NUISANCE SERVICE CALL FEES

Imposition of EXCESSIVE NUISANCE SERVICE CALL FEES

- 5.1 Where a member of the RCMP, a BYLAW ENFORCEMENT OFFICER, or any other VILLAGE employee or contractor is required to respond to a PROPERTY for:

- a) more than one NUISANCE SERVICE CALL within a twenty-four (24) hour period; or
- b) more than three NUISANCE SERVICE CALLs within a twelve (12) month period,

there shall be imposed on the owner of the PROPERTY and the owner shall be liable to pay “EXCESSIVE NUISANCE SERVICE CALL FEES” for each additional NUISANCE SERVICE CALL responded to at the same PROPERTY within the twelve (12) month period following the date of the notice referred to in Section 5.3.

- 5.2 All such EXCESSIVE NUISANCE SERVICE CALL FEES shall be calculated in accordance with the amounts prescribed in Schedule “A” of this Bylaw.

Notice Prior to First EXCESSIVE NUISANCE SERVICE CALL FEE Being Imposed

- 5.3 Prior to imposing the first EXCESSIVE NUISANCE SERVICE CALL FEE in any twelve month period, written notice shall first be served on the owner of the PROPERTY in accordance with Section 9.1 of this Bylaw, and such notice shall:

- a) describe in reasonable detail the nature of the NUISANCE conduct, activity, or condition that occurred was maintained, or permitted in, on, or near the PROPERTY; and
- b) advise the owner that EXCESSIVE NUISANCE SERVICE CALL FEES will be imposed for each additional NUISANCE SERVICE CALL to the same PROPERTY in accordance with Section 5.1; and
- c) advise the owner that the imposition of such fees is in addition to the VILLAGE’s right to seek other legal remedies or actions for abatement of the NUISANCE.

Recovery of EXCESSIVE NUISANCE SERVICE CALL FEES

- 5.4 EXCESSIVE NUISANCE SERVICE CALL FEES must be paid by the owner on receipt of a demand for payment that is served by the VILLAGE in accordance with Section 9.1 of this Bylaw.

- 5.5 If any EXCESSIVE NUISANCE SERVICE CALL FEES remain unpaid thirty (30) days after receipt of the demand for payment referenced in Section 5.4, then the VILLAGE may either:

- a) recover the EXCESSIVE NUISANCE SERVICE CALL FEES from the owner or occupier of the PROPERTY, in any court of competent jurisdiction, as a debt due to the VILLAGE; or

- b) direct that EXCESSIVE NUISANCE SERVICE CALL FEES be recovered as special fees imposed for work done or services provided to the PROPERTY, and that they be collected in the same manner and with the same remedies as PROPERTY taxes, and if the EXCESSIVE NUISANCE SERVICE CALL FEES are due and payable by December 31st and unpaid on that date, the EXCESSIVE NUISANCE SERVICE CALL FEES are deemed to be taxes in arrears.
- 5.6 Despite Section 5.1, where legal title to a PROPERTY is transferred, NUISANCE SERVICE CALLS occurring before the date the new owner obtains legal title to the PROPERTY shall not apply to a determination under Section 5.1 whether EXCESSIVE NUISANCE SERVICE CALL FEES are payable. The new owner shall, in any event, be liable for all unpaid EXCESSIVE NUISANCE SERVICE CALL FEES imposed against the PROPERTY in respect of past NUISANCE SERVICE CALLS.

6. DIVISION SIX - COMPLIANCE ORDERS AND ABATEMENT FEES

COMPLIANCE ORDERS

- 6.1 If the owner or occupier of a PROPERTY fails to comply with a requirement of this Bylaw, then a BYLAW ENFORCEMENT OFFICER, in addition to other enforcement steps under this Bylaw, may issue a “COMPLIANCE ORDER” requiring that the owner or the occupier bring the PROPERTY into compliance with the provisions of this Bylaw within such time as the BYLAW ENFORCEMENT OFFICER considers reasonable and appropriate in the circumstances.
- 6.2 A COMPLIANCE ORDER must state:
- a) the civic address of the subject PROPERTY;
 - b) the legal description of the subject PROPERTY;
 - c) the particulars of the non-compliance to be remedied and the specified time by which that non-compliance must be remedied; and
 - d) that if the owner or occupier of the PROPERTY fails to comply with the terms of the COMPLIANCE ORDER within the time specified, the VILLAGE, by its employees, representatives, agents, or contractors, at all reasonable times and in a reasonable manner, may enter the PROPERTY and bring about such compliance at the cost of the defaulting owner or occupier;
 - e) that the cost of such work shall be imposed and invoiced as ABATEMENT FEES and may be added to the PROPERTY taxes; and
 - f) that the owner or occupier or both may also be subjected to prosecution for an offence under this Bylaw.

- 6.3 A COMPLIANCE ORDER must be served on the owner or the occupier, as the case may be, in accordance with Section 9.1 of this Bylaw.

ABATEMENT FEES

- 6.4 If the obligations imposed by a COMPLIANCE ORDER are not performed within the time period set out therein, the VILLAGE, by its employees, representatives, agents, or contractors may, at all reasonable times and in a reasonable manner, enter the PROPERTY and bring about such compliance at the cost of one or more of the following:
- a) the occupier of the PROPERTY from which the non-compliance of this Bylaw arises; and/or
 - b) the owner of the PROPERTY from which the non-compliance of this Bylaw arises,
- all of which said costs shall be imposed on the owner and/or occupier and invoiced to the owner and/or occupier as “ABATEMENT FEES”.
- 6.5 All such ABATEMENT FEES shall be calculated in accordance with the amounts prescribed in Schedule “A” of this Bylaw.

Cost Recovery

- 6.6 ABATEMENT FEES must be paid by the owner or occupier on receipt of a demand for payment that is served by the VILLAGE in accordance with Section 9.1 of this Bylaw. If an owner or occupier defaults in paying the ABATEMENT FEES to the VILLAGE within thirty (30) days after receipt of the demand for payment, the VILLAGE may:
- a) recover the ABATEMENT FEES from the owner or occupier of the PROPERTY, in any court of competent jurisdiction, as a debt due to the VILLAGE; or
 - b) recover the ABATEMENT FEES as special fees imposed for work done or services provided to the PROPERTY, and direct that they be collected in the same manner and with the same remedies as PROPERTY taxes, and if the ABATEMENT FEES are due and payable by December 31st and unpaid on that date, the ABATEMENT FEES are deemed to be taxes in arrears.

7. DIVISION SEVEN – APPEALS

- 7.1 A PERSON may appeal to COUNCIL:
- a) a demand for payment of EXCESSIVE NUISANCE SERVICE CALL FEES;
 - b) the issuance or terms of a COMPLIANCE ORDER; or

c) a demand for payment of ABATEMENT FEES,

by submitting a written appeal to the VILLAGE's Corporate Officer in accordance with Section 7.2 of this Bylaw.

7.2 All appeals referred to in Section 7.1 must:

a) be submitted in writing to the Corporate Officer within:

(i) ten (10) days of the demand for payment of ABATEMENT FEES or the demand for payment of EXCESSIVE NUISANCE SERVICE CALL FEES being served in accordance with Section 9.1 of this Bylaw; or

(ii) ten (10) days of the COMPLIANCE ORDER being served in accordance with Section 9.1 of this Bylaw,

as the case may be; and

b) include a description of the grounds upon which the appeal is made, a description of any evidence that will be relied upon, and any submissions or arguments that will be presented to COUNCIL in support of the appeal.

7.3 Upon receipt of a compliant written appeal, the Corporate Officer shall schedule the time, date, and place for COUNCIL to hear the matter.

7.4 Upon considering the issuance or terms of a COMPLIANCE ORDER, or a demand for payment of ABATEMENT FEES, or a demand for payment of EXCESSIVE NUISANCE SERVICE CALL FEES issued under this Bylaw, COUNCIL may confirm, amend, or rescind the order or demand, as it may deem appropriate in the circumstances. COUNCIL's decision shall be final.

8. DIVISION EIGHT - ENFORCEMENT AND INSPECTIONS

8.1 The provisions of this Bylaw may be enforced by any BYLAW ENFORCEMENT OFFICER.

8.2 Any officer or employee of the VILLAGE or other PERSON authorized by COUNCIL, in accordance with Section 16 of the *Community Charter*, may enter into or upon any PROPERTY subject to this Bylaw in order to inspect and determine whether all regulations, prohibitions, and requirements are being met.

8.3 No PERSON shall interfere with, or attempt to obstruct any officer or employee of the VILLAGE, or any other PERSON authorized by COUNCIL, who is conducting an inspection or enforcement action in relation to this Bylaw.

8.4 No PERSON shall provide false or misleading information to a BYLAW ENFORCEMENT OFFICER.

9. DIVISION NINE - SERVICE OF NOTICES, DEMANDS AND OTHER ITEMS

9.1 Service of all notices, COMPLIANCE ORDERS, and demands for payment required by or under this Bylaw shall be deemed sufficient:

- a) in the case of the owner who is an individual: (i) on the day on which it is served personally; or (ii) on the fifth business day after being mailed by regular post to the address shown on the current year's property assessment roll for the PROPERTY about which the notice is issued;
- b) in the case of the owner who is a corporation: (i) on the day on which it is served personally on a director, officer, or manager of the corporation; (ii) on the day on which it is left at the registered office of the corporation; or (iii) on the fifth business day after being mailed by regular post to the registered office of the corporation;
- c) in the case of the occupier who is an individual: (i) on the day on which it served personally; (ii) on the day on which it is posted on the PROPERTY; or (iii) on the fifth business day after being mailed by regular post to the mailing address of the PROPERTY; and
- d) in the case of the occupier who is a corporation: (i) on the day on which it is served personally on a director, officer, or manager of the corporation; (ii) on the day on which it is left at the registered office of the corporation; (iii) on the day on which it is posted on the PROPERTY; or (iv) on the fifth business day after being mailed by regular post to the registered office of the corporation.

10. DIVISION TEN - OFFENCE AND PENALTIES

10.1 Every PERSON who violates any provision of this Bylaw, or who permits any act or thing to be done in contravention of this Bylaw, or who fails to do any act or thing required by this Bylaw, shall be guilty of an offence against this Bylaw, the *Municipal Ticket Information Bylaw No. 1053, 2017*, and the *Offence Act*, and shall be subject to the following enforcement provisions:

- a) the issuing and enforcement of a ticket under the *Municipal Ticket Information Bylaw No. 1053, 2017*;
- b) to a fine of not less than the amount identified in Schedule "B" attached hereto, in addition to any other penalty imposed under this Bylaw;

- c) to the penalties imposed by the *Offence Act*; or
 - d) any combination of the above,
- at the discretion of the VILLAGE.

10.2 Except as prescribed in Schedule “B” of this Bylaw or in the *Municipal Ticket Information Bylaw No. 1053, 2017*, the minimum penalty for a contravention of this Bylaw is a fine of:

- a) \$2,000 for a first offence; and
- b) \$5,000 for a second or subsequent offence.

10.3 The maximum fine that may be imposed for a contravention of this Bylaw is \$10,000.

10.4 Each day that an offence against this Bylaw continues shall be deemed a separate and distinct offence.

10.5 Any penalty imposed pursuant to this Bylaw shall be in addition to and not in substitution for any other penalty or remedy imposed pursuant to this Bylaw, along with any other applicable statute, law, or legislation.

11. DIVISION ELEVEN - GENERAL

11.1 Neither failure to enforce this Bylaw, nor any error, omission, or other neglect in relation to the enforcement of this Bylaw, shall be interpreted as giving rise to a cause of action in favour of any PERSON.

11.2 “Village of Cumberland Prevention of Public Nuisances Bylaw No. 870, 2007” and all amendments thereto, are hereby repealed.

READ A FIRST TIME THIS	DAY OF	2022.
READ A SECOND TIME THIS	DAY OF	2022.
READ A THIRD TIME THIS	DAY OF	2022.
ADOPTED THIS	DAY OF	2022.

Mayor

Corporate Officer

SCHEDULE "A"
ABATEMENT FEES AND EXCESSIVE NUISANCE SERVICE CALL FEES

- A1. For the purposes of calculating ABATEMENT FEES and EXCESSIVE NUISANCE SERVICE CALL FEES, the following rates will be charged for every hour or portion thereof of attendance and/or use, including travel time, of any VILLAGE personnel, contract personnel, Police personnel, and other approved PERSONS, and any vehicles or equipment for work done or services provided to land or improvements:

PERSONNEL DESCRIPTION	REGULAR HOURLY RATE
-----------------------	---------------------

VILLAGE Staff – Bylaw and Development Services

BYLAW ENFORCEMENT OFFICER	\$ 49.92
Building Official	\$ 75.50
Planner	\$ 56.27
Senior Planner	\$ 62.74
Manager of Development Services	\$ 84.46
Manager of Operations	\$ 90.41
Engineering Technician	\$ 56.27

VILLAGE Staff - Operations

Truck Driver / Labourer	\$ 49.53
Equipment Operator	\$ 51.07
Utility Operator	\$ 51.77
Operator / Mechanic	\$ 53.55
Chargehand	\$ 56.13
Foreman	\$ 62.39
Summer Student	\$ 28.71
Gardener	\$ 44.21
Labourer	\$ 43.37

VILLAGE Staff - Fire Rescue

Fire Chief	\$ 80.00
Deputy Fire Chief	\$ 60.00

RCMP / Police inclusive of vehicle

Inspector	\$ 104.00
Staff Sergeant	\$ 91.00
Sergeant	\$ 86.00
Corporal	\$ 81.00
Constable	\$ 76.00

VEHICLE / EQUIPMENT DESCRIPTION	REGULAR HOURLY RATE
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VILLAGE - General and Public Works

Service Car, Van or Truck	\$ 23.00
Dump Truck	\$ 72.00
Cat Backhoe	\$ 60.00
John Deere Backhoe	\$ 70.00
Elgin Sweeper	\$ 110.00
Vactor	\$ 105.00
Grader	\$ 100.00

VILLAGE - Fire Rescue

Engine	\$537
Tender/tanker	\$333
Mini pump/ bush truck	\$189
Fireboat	\$495
Hazmat "B" trailer, tow vehicle	\$440
Rescue vehicle	\$300
Other small vehicles	\$180
Fire Retardant Foam	\$200 per 10 litres

A2. Contract Work

For the purposes of calculating ABATEMENT FEES and EXCESSIVE NUISANCE SERVICE CALL FEES, all work carried out by a contractor on behalf of the VILLAGE will be charged as the actual cost of the contract rate and other vehicle and equipment costs, plus 10%.

A3. Taxes

All ABATEMENT FEES and EXCESSIVE NUISANCE SERVICE CALL FEES are subject to applicable taxes.

**SCHEDULE “B”
 FINES**

Column 1 Offence	Column 2 Section	Column 3 Penalty	Column 4 Early Pay Fine
NUISANCE	3.1	\$1000	\$500
Interference with use and enjoyment	3.2	\$1000	\$500
Encroachment on Village Property	3.3	\$1000	\$500
Failure to remove snow, ice, or rubbish	3.4	\$1000	\$500
UNSIGHTLY PROPERTY	4.1	\$1000	\$500
Unsanitary or offensive conditions	4.2(a)	\$1000	\$500
Standing water	4.2(b)	\$1000	\$500
ACCUMULATION of NOXIOUS WEEDs	4.2(c)	\$1000	\$500
ACCUMULATION of uncontrolled growth etc.	4.2(d)	\$1000	\$500
Trees that harbour infestation / infestation	4.2(e), (f)	\$1000	\$500
Permit RUBBISH to ACCUMULATE around Container	4.2(g)	\$1000	\$500
GRAFFITI	4.2(h)	\$1000	\$500
ACCUMULATION of BUILDING MATERIALS	4.2(i)	\$1000	\$500
More than two MOTOR VEHICLES	4.2(j)	\$1000	\$500
Parking DERELICT VEHICLES on landscaped portion of PROPERTY	4.2(k))	\$1000	\$500
Failure to remove or comply	4.3	\$1000	\$500
Interference with VILLAGE representative	8.3	\$1000	\$500
Providing false or misleading information	8.4	\$1000	\$500

VILLAGE OF CUMBERLAND

BYLAW NO. 870

A bylaw relating to nuisances and to the care, maintenance and regulation of property within the Village of Cumberland

WHEREAS pursuant to Sections 8 and 64 of the *Community Charter*, a municipality may pass bylaws regulating nuisances, disturbances and other objectionable situations;

NOW THEREFORE the Council of the Corporation of the Village of Cumberland, in open meeting assembled, enacts as follows:

1. DEFINITIONS

In this bylaw, unless the context otherwise requires:

<i>AUTHORIZED PERSON</i>	includes the following: (a) a member of the Royal Canadian Mounted-Police; (b) a Bylaw Enforcement Officer; (c) the Building Inspector and his/her duly authorized representatives; (d) any other peace officer;
<i>BOULEVARD</i>	means the area between the curb lines, the lateral lines or the shoulder of a roadway and the adjacent property line;
<i>BYLAW ENFORCEMENT OFFICER</i>	means the person designated or appointed by the Council to enforce bylaws within the Village;
<i>GRAFFITI</i>	means drawing, printing or writing scratched, sprayed, painted or scribbled on a wall or other surface, but does not include a sign for which approval has been obtained from the Village or that meets zoning bylaw requirements;
<i>INTERSECTION</i>	means the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the two highways which join one another at or approximately at right angles, or the area within which vehicles travelling on different highways joining at any other angle may come in conflict, and, for the purpose of this definition "highway" does not include a lane or way less than 5.0 metres (16.4 feet) in width separating the rear property lines of parcels of land fronting on highways running more or less parallel to and on each side of the lane or way;
<i>NOXIOUS WEEDS</i>	means weeds designated as noxious pursuant to the <i>Weed Control Act</i> ;

<i>REAL PROPERTY</i>	means land, with or without improvements so affixed to the land as to make them in fact and law a part of it;
<i>SIDEWALK</i>	means the area between the curb lines or lateral lines of a roadway and the adjacent property lines improved for use of pedestrians;
<i>UNSIGHTLY</i>	includes dirt, gravel, bark mulch or refuse and all discarded, broken or useless items and without restricting the generality of the foregoing, includes old paper or wood products no longer in use or motor vehicles that do not have a current licence or parts thereof, and: <ul style="list-style-type: none">(a) The storage of building materials on a site where the owner or occupier of the property is not in possession of a valid building permit.(b) The storage, cleaning, repairing or servicing of motor vehicles, hauling or construction equipment except where the same is carried out entirely within a building.(c) An accumulation on residential property of any goods or merchandise which is offered or intended to be offered for sale.
<i>VILLAGE</i>	means the Village of Cumberland.

2. GRAFFITI, RUBBISH AND LITTER CONTROL

- (a) No owner or occupier of real property shall cause or permit stagnant water, rubbish, or any noxious, offensive, or unwholesome matter or substance to collect, or accumulate on or around his or her real property.
- (b) No owner or occupier of real property shall deposit or throw bottles, broken glass, or other rubbish, in or on any highway or public place, or any real property within the Village.
- (c) No person shall place graffiti on walls, fences or elsewhere on or adjacent to private property or a public place within the Village.

3. UNSIGHTLY PREMISES

- (a) No owner or occupier of real property shall allow such property to become or to remain unsightly by the accumulation thereon of any filth, discarded materials, rubbish or graffiti of any kind.
- (b) Every owner or occupier of real property shall:

- (i) keep such property clear of noxious weeds, and other untended growth;
- (ii) prevent infestation by noxious or destructive insects, vermin or rodents, and take all necessary steps to eliminate the insects, vermin or rodents in order to prevent their reappearance; and
- (iii) remove from such property any unsightly accumulation of filth, discarded materials, rubbish and graffiti.

4. NOXIOUS WEEDS

Pursuant to the *Weed Control Act*, the Bylaw Enforcement Officer shall be the Weed Control Officer within the Village and shall be authorized to enforce the provisions of the *Weed Control Act* on behalf of the Council.

5. ROOF SNOW REMOVAL

Every owner or occupier of real property shall remove snow, ice, and rubbish from any roof or other part of any structure therein adjacent to any portion of any highway if the snow, ice or rubbish constitutes a hazard to persons or property.

6. FENCES

- (a) Where an owner or occupier of real property adjacent to a highway has erected a fence adjacent to that highway, the owner or occupier shall not allow that fence to fall into a state of disrepair.
- (b) An owner or occupier of real property whose fence erected adjacent to a highway has fallen into a state of disrepair shall repair it forthwith upon a receipt of notice given pursuant to this bylaw.
- (c) In every property where the keeping of livestock is permitted, every owner or occupier of real property abutting upon any highway shall, upon receipt of notice given pursuant to this bylaw, erect fences along the boundary of that property abutting on the highway for the purpose of preventing his/her livestock from straying upon such highway.

7. BOULEVARDS/SIDEWALKS

- (a) No person shall wilfully damage:
 - (i) any boulevard, trees, shrubs, plants, bushes or hedge adjacent to any Highway or on any public right of way;
 - (ii) anything erected or maintained adjacent to a highway for the purpose of lighting the highway or public right of way;
 - (iii) any fence erected or maintained adjacent to any highway or public right of way.
- (b) Every owner or occupier of real property shall maintain boulevards to the following

standards:

- (i) keep free of noxious weeds;
 - (ii) keep grass trimmed; and
 - (iii) keep shrubs and trees from overhanging pedestrian walkways so as not to interfere with pedestrian or vehicular traffic.
- (c) Every owner or occupier of real property within the Village shall keep any sidewalk adjoining such real property in a proper state of cleanliness, and shall not place rubbish from the sidewalk onto any highway in the Village.
- (d) Every owner or occupier of real property within the Village abutting on any paved sidewalk shall remove and keep clear at all times all snow, ice and dirt from the paved sidewalk which abuts or fronts upon such building or land.

8. VISION CLEARANCE

No owner or occupier of real property located at any intersection shall place or permit to be or grow any tree, shrub, plant, fence, or other structure with a horizontal dimension exceeding 0.46 metres (1.5 feet) within the triangular area formed by two intersecting lot lines and the line joining the points on such lot lines 2.4 metres (7.9 feet) from the point of intersection, between an elevation such that an eye 1.0 to 2.4 metres (3.3 feet to 7.9 feet) above the surface elevation of one road, cannot see an object 1.0 to 2.4 metres (3.3 feet to 7.9 feet) above the surface of the other road.

9. STREET SIGNS

No person shall remove, deface or damage any street name sign or any other sign or marker erected upon any highway by, or at the direction of, the Village.

10. HAZARDOUS TREES AND SHRUBS

- (a) If, in the opinion of Council, any trees, hedges, bushes, shrubs or plants growing or standing on any real property are:
- (i) a hazard to the safety of persons;
 - (ii) likely to damage public property; or
 - (iii) seriously inconveniencing the public;

Council may order such trees, hedges, bushes, shrubs or plants to be trimmed, removed or cut down at the expense of the owners or occupiers of the real property on which they grow or stand.

11. HOUSE NUMBERING

All owners and occupiers of buildings shall display in a conspicuous place on the property on which the building is located, the street number assigned by the Village to such building so that the same is readable from the highway.

12. DEMOLITION SITES

On any property where the demolition of any building or structure has taken place:

- (a) all debris and material whether to be discarded or retained shall be removed forthwith; and
- (b) any basement or other excavation shall be filled in or covered over to lot grade level forthwith.

13. RIGHT OF ENTRY

An authorized person may at all reasonable times, enter upon any property in the Village in order to ascertain whether the regulations contained within this bylaw are being complied with.

14. NOTICES

Any notice to be given in regards to this bylaw may be given by an authorized person and shall be sufficiently delivered if personally served upon a person apparently aged 16 years or more and apparently occupying the real property affected by such notice, or if sent to the owner of the real property and the holders of registered encumbrances by registered mail to the most recent address appearing upon the last revised assessment roll. All notices hereunder shall be in the form of a letter or shall be in such other forms as the Council may from time to time approve by resolution.

15. ENFORCEMENT

- (a) If any person fails to comply with the terms of any notice served pursuant to this bylaw, the Village by its employees or other persons authorized to act on its behalf may enter the property and carry out such work as is required in order to bring the property into compliance with this bylaw at the expense of the person given such notice.
- (b) If the person given notice in accordance with the bylaw does not pay the costs of any action taken by Village employees or authorized persons on or before December 31 in the year in which the costs were incurred, the costs shall be added to and form part of the taxes payable on the real property as taxes in arrears.

16. PENALTIES

A person found guilty of an offence under this bylaw, is punishable in accordance with the *Offence Act*.

17. EFFECT

- (a) This bylaw shall come into full force and effect upon its final passage and adoption.
- (b) If any portion of this Bylaw is held invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Bylaw.

18. REPEAL

- (a) The "Village of Cumberland Minimum Maintenance and Occupancy Standards Bylaw No. 419, 1976", and amendments thereto, is hereby repealed.
- (b) The "Village of Cumberland Unsightly Premises Bylaw No. 639, 1993", and amendments thereto, is hereby repealed.

19. CITATION

This bylaw may be cited for all purposes as the "Village of Cumberland Prevention of Public Nuisances Bylaw No. 870, 2007".

READ A FIRST TIME THIS 10th DAY OF SEPTEMBER, 2007.

READ A SECOND TIME THIS 10th DAY OF SEPTEMBER, 2007.

READ A THIRD TIME THIS 10th DAY OF SEPTEMBER, 2007.

ADOPTED THIS 24th DAY OF SEPTEMBER, 2007.



MAYOR



CORPORATE ADMINISTRATOR

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 870 of the Village of Cumberland cited as the "Corporation of the Village of Cumberland Prevention of Public Nuisances Bylaw No. 870, 2007", as adopted by the Village Council on the 24th day of September, 2007.


CORPORATE ADMINISTRATOR

Appendix A - ADMINISTRATIVE PROCEDURES

1. Written complaint is completed (Appendix B). Alternatively, the Bylaw Enforcement Officer may initiate proceedings in his or her own discretion if in his or her opinion there is non-compliance with any provisions of this Bylaw.
2. Staff compiles property information, including title search and current property owners and all encumbrances.
3. Staff, at a reasonable time and in a reasonable manner, shall enter onto the property to carry out an inspection, including taking photos and documenting details of the contravention.
4. A Notice of Inspection (Appendix C) is delivered or mailed to the owner/occupier of the property, setting out sufficient details of the condition of the property and the contravention(s) of the bylaw and the work that is required in order to bring the property into compliance with the bylaw, and stating that the required work be completed within thirty (30) days from the date thereof.
5. If the person given Notice does not take the required action within the time period referred to in the Notice, staff prepares a Bylaw Enforcement Officer's Report (Appendix D) and draft Resolution (Appendix E).
6. A Notice of Hearing (Appendix F) is delivered or mailed to the owner/occupier, advising of the hearing and the opportunity to attend and be heard at the Council meeting.
7. At the Council meeting, following the presentation of the Bylaw Enforcement Officer's Report, the owner/occupier of the property or their authorized agent is given the opportunity to respond to the report. The Council, after considering the evidence presented and information presented by or on behalf of the owner/occupier of the property, may either endorse the recommendations contained in the Report, by way of Resolution (Appendix E), or defeat the recommendation.
8. A certified copy of the Council Resolution is delivered or mailed to the owner/occupier and to the holder of any encumbrances registered against the property.
9. At the expiry of the timeline set out in the Resolution, staff conducts an inspection of the property, and may take photos and document details of the condition of property and any remaining contraventions. If the required work has not been completed in order to bring the property into compliance with the Bylaw, staff or other persons authorized by the Village to perform work on its behalf, may enter the property and proceed to have such work completed at the expense of the person given Notice, in accordance with the Enforcement Procedures set out in Appendix G.

Appendix B – COMPLAINT FORM



The Corporation of the
Village of Cumberland

*Complaint
Form*

Name:	Phone:
Complainant:	Telephone:
Address:	

**Anonymity will be maintained between the complainant and the alleged violator
except where necessary in a Court of Law.**

Details of Complaint:

Please provide as much of the following information as you can.

Property Owners Name:	Telephone:
Property Address:	

This section to be completed by staff

Complaint Taken By:	Time:	
Civic Address:		
Legal Description:		
Folio:	PID:	Lot Size:
Zoner:	File No. Assigned:	

Appendix C – NOTICE OF INSPECTION



**The Corporation of the
Village of Cumberland**

2673 Dunsmuir Avenue
P.O. Box 340
Cumberland, B.C. V0R 1S0
Telephone: 250-336-2291
Fax: 250-336-2321

Date:

To: (owner/occupier)
(address)

Dear Sir/Madam:

Re: NOTICE OF INSPECTION
(Civic Address:) _____
(Legal Description:) _____

As a result of a complaint received in this office, an inspection was conducted by staff of the Village of Cumberland at the property described above. The inspection revealed the following contravention(s) of the "Village of Cumberland Prevention of Public Nuisances Bylaw No. 870, 2007":

Section(s):	Details of Contravention:
_____	_____
_____	_____

Therefore this notice is hereby served upon you requiring that you immediately take the following action(s) and complete the following work in relation to the above-described property in order to bring the property into compliance with the bylaw:

by (date) _____.

In the event that you fail to comply with this notice within the specified time, a report will be prepared for Council. Please be advised that Council may require that such required action and work be completed by the Village employees or agents at your expense.

I trust that you will co-operate with the Village of Cumberland in this regard and see that this matter is resolved to the satisfaction of all concerned.

Yours truly,

Bylaw Enforcement Officer

Appendix D – BYLAW ENFORCEMENT OFFICER’S REPORT

ITEM



**The Corporation of the
Village of Cumberland**

2673 Dunsmuir Avenue
P.O. Box 340
Cumberland, B.C. V0R 1S0
Telephone: 250-336-2291
Fax: 250-336-2321

Council Meeting: (replace with date of meeting
REPORT

TO: COUNCIL
FROM: (replace with name and title of author—person who will speak to report)
DATE: (replace with date report written)
RE: (replace with title which clearly reflects topic)

CIVIC ADDRESS:

**LEGAL
DESCRIPTION:**

**REGISTERED
PROPERTY
OWNERS**

This department has received complaints regarding the failure to maintain the real property described above. A letter was forwarded to the (owners/occupiers) of the property on _____, 20____ requiring that the following action be taken to bring the property into compliance with the Bylaw:

Photographs showing the property are attached to this report.

I request therefore that the Council proceed with notice to the owner or occupier giving him or her thirty (30) days to take the required action or the work will be done by the Village of Cumberland or by its authorized agents at the expense of the owner/occupier.

Respectfully submitted by:	Approved by:
Bylaw Enforcement Officer	Anja Nurvo Chief Administrative Officer

Appendix E – RESOLUTION

(moved)

(seconded)

THAT, pursuant to the provisions of the “Village of Cumberland Prevention of Public Nuisances Bylaw No. 870, 2007” and amendments thereto, the Council of the Corporation of the Village of Cumberland **RESOLVES** as follows:

THAT the owners/occupiers of the respective premises set forth below be notified to take such remedial measures as are specified below in order to comply with the provisions of Bylaw No. 870, 2007:

Legal Description:

Owner:

Civic Address:

Details of Non-Compliance:

Remedial Measures Required:

AND BE IT FURTHER RESOLVED that the Bylaw Enforcement Officer of the Corporation of the Village of Cumberland **BE AND IS HEREBY AUTHORIZED**, in default of such remedial measures being undertaken by the owners or occupiers within thirty (30) days of receipt of notice to do so, to carry out or have such work carried out and the expense charged to the owner or occupier. If unpaid by December 31st in the year in which the work is done, all expenses shall be added to and form part of the taxes payable on that real property as taxes in arrears.

I hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Council of the Corporation of the Village of Cumberland on the _____ day of _____ 20 ____ .

Dated at Cumberland B.C. this _____ day of _____ 20 ____ .

Corporate Administrator

Appendix F – NOTICE OF HEARING



**The Corporation of the
Village of Cumberland**

2673 Dunsmuir Avenue
P.O. Box 340
Cumberland, B.C. V0R 1S0
Telephone: 250-336-2291
Fax: 250-336-2321

Date:

TO: (name and address of owner/occupant)

AND TO: (copy to mortgagee)

Re: NOTICE OF HEARING

Civic Address: _____

Legal Description: _____

TAKE NOTICE that the Council of the Corporation of the Village of Cumberland, pursuant to Section 8 of the *Community Charter*, and "Village of Cumberland Prevention of Public Nuisances Bylaw 870, 2007," will, at the hour of _____ in the (morning or afternoon) on _____, the _____ day of _____, 20____ in the Council Chambers at the Village of Cumberland municipal office located at 2673 Dunsmuir Avenue, in Cumberland, British Columbia, hear representations by the Bylaw Enforcement Officer as to whether, with respect to the lands more particularly described above, the owner/occupier shall be required to take action to comply with the said Bylaw, in particular to:

_____.

AND FURTHER TAKE NOTICE that should the Council require the owner/occupier to take such action and the owner/occupier fails to comply, the Council may direct its employees, contractors or other authorized agents to enter the property and effect the action at the expense of the person defaulting. All charges for doing so, if unpaid on December 31st in the year in which the Village of Cumberland effects the removal, shall be added to and form part of the taxes payable in respect of the real property as taxes in arrears.

AND FURTHER TAKE NOTICE that should you wish to make representation to the Council regarding the lands and premises listed above, you or your authorized agent should appear at that time, date and place to make your presentation to the Council.

THIS NOTICE is given by the Corporation of the Village of Cumberland this _____ day of _____, 20____.

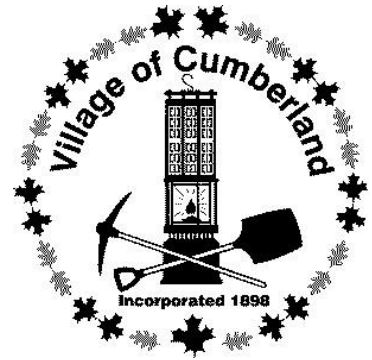
Corporate Administrator

Appendix G – ENFORCEMENT PROCEDURES

If the property owner/occupier fails to comply with the Resolution of the Council of the Village of Cumberland, the following steps should be followed by Staff:

1. Call for bids for completion of the remedial work, if applicable, including tipping fees, with a minimum of three bids if possible.
2. Select successful bidder and provide with contract specifications, including the following instructions:
 - (a) The successful bidder must utilize the Comox Strathcona Regional District's (CSR D) landfill for disposal of any material;
 - (b) Successful bidder shall not sell any or all of the items;
 - (c) An exception to b) above is an unlicensed vehicle, which the Village may sell.
 - (d) In the case of c) above, the Village may recoup expenses and then must remit the remainder of the sale proceeds to the previous owner of the item.
3. Successful bidder confirms date of attendance at the property and property owner/occupier advised of the date.
4. The CSR D is advised of the date of the clean up by the contractor, the contractor's name, and approximate amount and type of materials that will be delivered to the landfill.
5. Tipping receipts and landfill invoice submitted to the Village of Cumberland to the attention of the Bylaw Enforcement Officer.
6. Contractor's invoice submitted to the Village of Cumberland to the attention of the Bylaw Enforcement Officer.
7. Bylaw Enforcement Officer reviews contractor's and CSR D's invoices and submits invoices for payment, with appropriate documentation to enable the owner/occupier to be invoiced accordingly.
8. Staff prepare and provide invoice to owner/occupier.
9. If the account remains unpaid by December 31st of that year, all expenses shall be added to the taxes payable for the property as taxes in arrears.

COUNCIL REPORT



File No. 4200

REPORT DATE: May 18, 2022

MEETING DATE: May 30, 2022

TO: Mayor and Councillors

FROM: Rachel Parker, Corporate Officer

SUBJECT: Election Procedures Amendment Bylaw No. 1169, 2022

RECOMMENDATION

- i. THAT Council receive the Election Procedures Amendment Bylaw No. 1169, 2022 report.
- ii. THAT Council give first, second and third reading to Election Procedures Amendment Bylaw No. 1169, 2022.

PURPOSE

The purpose of this report is present an amendment to the Election Procedures Bylaw to permit mail ballot voting and to change the day for the second advance voting day.

PREVIOUS COUNCIL DIRECTION

Mar 28 2022	THAT Council direct staff to bring forward amendments to the Election Procedures Bylaw, 2014 to allow mail ballot voting and eliminate the special voting opportunity, and to move the second advance voting day to the Wednesday prior to election day.
-------------	--

BACKGROUND

Local general elections are taking place in B.C. on Saturday, October 15, 2022.

At its March 28, 2022 meeting Council directed staff to proceed with amendments to the 2014 Election Procedures Bylaw, in particular to bring in mail ballot voting as an option for elections in Cumberland, as well as to move the second advance voting day closer to the Saturday general voting day.

Any amendments to the Village's election procedures bylaw must be adopted before July 4, 2022 to be enacted before the general election in October 2022.

For advance voting opportunities, the *Local Government Act*, establishes one opportunity on the tenth day before general voting on a Wednesday. Upon adoption, the bylaw presented would change the Village's second advance voting opportunity from the Saturday seven days before general voting day to the Wednesday, four days before general voting, which would give individuals a better chance of being able to vote that miss the first advance voting opportunity.

Bylaw 1169 also eliminates the special voting opportunity at Cumberland Lodge long term care facility. Village staff will contact Lodge staff to offer mail ballot voting to eligible residents.

And lastly, Bylaw 1169 would establish mail ballot voting procedures. The *Local Government Act* sets out certain procedures that must be followed, including the requirement for the chief election officer to give public notice of mail ballot voting, records to be kept to enable the challenge of an elector, the contents of a mail ballot package, and the deadline for the return of mail ballots to the chief election officer.

The procedures set out in the proposed bylaw are additional to the requirements in the Act and include a period where electors must apply to vote by mail ballot voting, which would be from September 15 to October 7, 2022 for this election. The deadline for applications would allow staff time to prepare and distribute mail ballots. Mail ballots will be able to be returned by dropping off at the Village Office, by mail or courier, or at the voting place before the close of voting.

The bylaw also sets out procedures for challenge of an elector, processing of returned mail ballot packages, and counting of the mail ballots themselves at the voting place on general voting day.

ALTERNATIVES

1. Council may determine that it wishes to retain the special voting opportunity rather than use mail ballot voting and not amend its Election Procedures Bylaw.

STRATEGIC OBJECTIVE

- Healthy Community
- Quality Infrastructure Planning and Development
- Comprehensive Community Planning
- Economic Development

FINANCIAL IMPLICATIONS

Council has included a budget of \$21,310 to conduct the general local election in 2022, as well as \$2,500 for any addition costs related to mail ballot voting. Election costs include contract election officials, automated voting machine rental and programming, printing of ballots, and advertising.

OPERATIONAL IMPLICATIONS

The administration of the election takes up considerable staff time. Operational implication to implement mail ballot voting will be addressed through the additional budget provided.

CLIMATE CHANGE IMPLICATIONS

None

ATTACHMENTS

1. Election Procedures Amendment Bylaw No, 1169, 2022
2. Election Procedures Amendment Bylaw No. 1001, 2014

CONCURRENCE

None

Respectfully submitted,

R. Parker

Rachel Parker
Corporate Officer

M. Mason

Michelle Mason
Interim Chief Administrative Officer

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

BYLAW NO. 1169

A Bylaw to amend Election Procedures Bylaw No. 1001, 2014.

The Council of the Corporation of the Village of Cumberland, in open meeting assembled, enacts as follows:

1. This Bylaw shall be cited as “Election Procedures Amendment Bylaw No. 1169, 2022”.
2. “Election Procedures Bylaw No. 1001, 2014 is amended as follows:
 - (a) in section 4 by striking out “7th” and substituting “fourth”;
 - (b) by repealing sections 6 to 9, inclusive;
 - (c) by repealing section 34 to 37 and the following substituted:

Mail Ballot Voting

34. Voting by mail ballot and elector registration in relation to mail ballot voting is permitted.
35.
 - (1) A person wishing to vote by mail ballot must apply by submitting to the Village the application form prescribed by the Chief Election Officer during the period beginning on 8:30 a.m. on the thirtieth day before general voting day and ending at 4:30 p.m. on the eighth day before general voting.
 - (2) A register of mail ballots will be made available for inspection upon request.
 - (3) Before an elector is entitled to view the register, the elector must sign a statement that the elector will inspect the list only for the purposes of the election.
 - (4) A person who qualifies under section 126 of the *Local Government Act* may challenge the right of a person to vote by mail ballot on the grounds set out in section 126 of the *Local Government Act* up until 4:30 p.m. two days before general voting day.
 - (5) If, upon receiving an application for a mail ballot, the Chief Election Officer determines that another person has applied for or has already

been issued a mail ballot in the elector's name, the Chief Election Officer shall comply with section 127 of the *Local Government Act*.

36. To vote by a mail ballot, the elector must complete the elector registration, mark the ballot, and mail or have delivered the mail ballot package to the Chief Election Officer before the close of voting day in accordance with the instructions contained in the mail ballot package.
37.
 - (1) Until 4:30 p.m. two days before general voting day, the Chief Election Officer shall, upon receipt of a mail ballot package and its contents,
 - (a) record the date of receipt in the Register of Mail Ballots,
 - (b) open the return envelope,
 - (c) examine the certification envelope,
 - (d) confirm the identity of the elector as an applicant on the Register of Mail Ballots,
 - (e) determine the fulfilment of the requirements in section 70 of the Local Government and the completeness of any application to register, and
 - (f) determine the completeness of the certification envelope.
 - (2) If the Chief Election Officer is satisfied that the elector has met the requirements set out on the certification envelope, the Chief Election Officer shall,
 - (a) mark the certification envelope as "accepted" and
 - (b) place the accepted certification envelope with the other certification envelopes.
 - (3) If the Chief Election Officer is not satisfied as to the identify to the elector; or determines that the elector has not completed the application to register properly.
 - (a) the Chief Election shall mark the certification envelope as "rejected",
 - (b) indicate the reason for the rejection for the rejection, and
 - (c) set aside the rejected certification envelope unopened.
 - (4) The Chief Election Officer shall retain in their custody all opened and unopened certification envelopes.
 - (5) If the Chief Election Officer receives a mail ballot package after 4:30 p.m. two days before general voting day but before the close of general voting, the Chief Election Officer shall,

- (a) handle those return envelopes in accordance with this section at the time that the Chief Election Officer receives the return envelopes;
 - (b) retain all accepted certification envelopes until the close of general voting day;
 - (c) process the accepted certification envelopes in accordance with this section.
- (6) On general voting day, the Chief Election Officer in the presence of at least one other person, including any candidate representatives, shall
- (a) deal with any challenges to the electors involving the accepted certification envelopes,
 - (b) open the certification envelopes,
 - (c) remove the secrecy envelopes containing the ballots, and
 - (d) open the secrecy envelope and run the ballot through the automated voting machine.
- (7) Any mail ballots returned by the voting machine when being counted must be reinserted into the voting machine using the ballot return override procedure to ensure that any acceptable marks are counted.
- (8) If the Chief Election Officer receives a return envelope with its contents after the close of general voting day, the Chief Election Officer shall
- (a) mark the return envelope as “rejected”,
 - (b) indicate the reason why the return envelope was rejected on the return envelope,
 - (c) record the date of receipt in the Register of Mail Ballots, and
 - (d) place the unopened return envelope with the other rejected return envelopes.

Severability

3. If any section or subsection of this Bylaw is found to be invalid by a court of competent jurisdiction, the section or subsection may be severed from the Bylaw without affecting the validity of the remainder of the Bylaw.

READ A FIRST TIME THIS	DAY OF	2022.
READ A SECOND TIME THIS	DAY OF	2022.
READ A THIRD TIME THIS	DAY OF	2022.
ADOPTED THIS	DAY OF	2022.

Mayor

Corporate Officer

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

BYLAW NO. 1001

A bylaw to establish various procedures and to provide for the use of an automatic voting system for local government elections and other voting.

The Council of the Corporation of the Village of Cumberland, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the "Election Procedures Bylaw No. 1001, 2014".

Definitions

2. In this bylaw,

"automated voting system" means an automated system that records and counts votes and processes and stores election results. The system is housed in two hardware components, the vote tabulator and the ballot box and a number of portable ballot boxes into which voted ballots are deposited, where a vote tabulator is not functioning or being used and where the ballots will be counted after the close of voting on general voting day.

"ballot" means a ballot card which may be a composite ballot for two or more elections to be voted for, and/or bylaws or other matters on which the assent of the electors is sought, including all choices available to the electors and containing spaces in which the electors mark their votes.

"ballot account" means an account of ballots prepared in accordance with Section 131 of the Local Government Act.

"ballot box" means the container for ballots that have been marked by electors.

"legible mark" means a mark which fills in the oval provided on the ballot opposite a candidate's name or opposite a question with either a "yes" or "no" oval, that the vote tabulator is able to read and count.

"memory card" means a cartridge unit that plugs into the vote tabulator that contains:

- a) the names of the candidates or questions being voted on;
- b) the alternative "yes" and "no" for each bylaw or other matter on which the assent of the electors is being sought;

and a mechanism to recover and retain information on the number of acceptable marks made for each.

“**portable ballot box**” means a ballot box which is used at a voting place where a vote tabulator is not being used at the time of voting.

“**results tape**” means the printed record generated from a vote tabulator at the close of voting on general voting day which shows:

- a) the number of ballots received;
- b) the number of ballots accepted;
- c) the number of ballots rejected;
- d) the number of votes for each candidate; and
- e) if applicable, the number of votes for and against each bylaw or other matter on which the assent of the electors is sought.

“**secrecy sleeve**” means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.

“**vote tabulator**” means the part of an automated voting system into which the ballots are inserted, scanned, and the number of votes for each candidate and for each referendum question are recorded.

“**voting book**” means the book for recording the names of electors.

PART 1 VOTER REGISTRATION

3. For the purposes of all local elections and other voting under the *Local Government Act*, a person may register as an elector only at the time of voting.

PART 2 VOTING OPPORTUNITIES

Advance Voting Opportunities

4. In addition to the required advance voting opportunity, an advance voting opportunity is established on the 7th day before general voting day.

Special Voting Opportunities

6. Where a residential care facility is operating in the Village of Cumberland at 2696 Windermere Avenue, a special voting opportunity is established on the 3rd day before general voting day at that location.
7. The chief election officer is authorized to establish the voting hours when the special voting opportunity is to be conducted.

8. No more than two candidate representatives may be present at the special voting opportunity with those candidate representatives chosen by agreement of the candidates for that election or failing such agreement by the chief election officer.
9. The special voting opportunity is restricted to residents and patients of the residential care facility at 2696 Windermere Avenue.

PART 3 USE OF VOTING MACHINES

10. The chief election officer may conduct any local government election or other voting using an automated voting system.
11. If an automated voting system is used, the chief election officer must conduct a test of the automated voting system before each local government election or other voting and must be satisfied that it is in good working order.
12. As soon as the test of the automated voting system is completed, the chief election officer must secure the memory cards and ensure that they will remain secured until the election or other voting.

Form of Ballot

13. The chief election officer may provide for use of composite ballots on which an elector's votes on two or more elections or other voting may be indicated.
14. If a ballot is in the form of a composite ballot, each portion of the ballot that deals with a single election is to be considered a separate ballot.
15. Each ballot shall contain a space for a "legible mark" opposite each candidate's name, or opposite "yes" or "no" when the vote is on a bylaw or other matter on which the assent of the electors is sought.

Demonstration of Voting Procedures

16. The chief election officer or the presiding election official for each voting place, as applicable, must ensure that election officials demonstrate voting procedures, issue ballots and accept marked ballots at the vote tabulator and ballot box.
17. Each elector is entitled to a demonstration of voting procedures from an election official assigned to perform such demonstrations.

Voting Procedures

18. Upon completion of the voting demonstration, if any, the elector shall proceed as instructed, to the election official responsible for issuing ballots, who, upon fulfillment of the requirements of the *Local Government Act*, shall then provide a ballot to the elector, a secrecy sleeve if requested by the elector, and any further instructions the elector requests.
19. Immediately after receiving the ballot, the elector must
 - (a) proceed to a voting compartment to vote, or
 - (b) if the elector is unable to mark a ballot because of a physical disability or difficulties in reading or writing or is unable to enter the voting place because of physical disability or impaired mobility, the elector may vote in accordance with the procedures outlined in the *Local Government Act*.
20. The elector must vote by making a legible mark on each ballot beside
 - (a) the chosen candidate or candidates, where there is more than one vacancy, and
 - (b) beside the “yes” or “no” when the vote is in relation to a bylaw or other matter on which the assent of the electors is sought.
21. An elector may
 - (a) mark only up to the same number of spaces on the ballot as the number of vacancies in office, and
 - (b) not mark more than one space on a ballot in relation to a bylaw or other matter on which the assent of the electors is sought.
22. Once the elector has finished marking the ballot, the elector must either
 - (a) place the ballot into the secrecy sleeve, if one has been requested, or
 - (b) otherwise conceal the markings on the ballot and proceed to the vote tabulator.
23. Under the supervision of the election official in attendance, the elector must insert the ballot directly from the secrecy sleeve, if applicable, into the vote tabulator without the acceptable marks on the ballot being exposed.
24. If an elector has
 - a) unintentionally spoiled a ballot or made a mistake before it is deposited in a ballot box, or
 - b) if the vote tabulator will not accept the ballot,the presiding election official must issue a new ballot to the elector and mark the returned ballot “spoiled”.
25. Spoiled ballots must be retained and kept separately from all other ballots and must not be counted in the election results.

26. (1) If a ballot is rejected by the vote tabulator, the election official at the ballot box must advise the elector that he or she may request another ballot.
26. (2) If the elector refuses the opportunity to request another ballot, the election official will instruct the vote tabulator to accept the rejected ballot.
27. Any ballot counted by the vote tabulator is valid and will be counted in the election results, subject to any determination made by the chief election officer on a recount.
28. Once the ballot has been inserted into the ballot box, the elector must immediately leave the voting place.
29. If the vote tabulator stops functioning, the election official at the ballot box must insert all ballots delivered by the electors while the vote tabulator is not working into the portable ballot box for inserting once a vote tabulator is available or counting at a later time.

Advance Voting Opportunities and Procedures

30. Where an automated voting system is used for general voting day, an automated voting system will be used to conduct advance voting opportunities.
31. The voting procedures at the advance vote will follow, as closely as possible, the voting procedures set out in this bylaw.
32. At the close of the advance voting opportunity, the presiding election official must ensure
 - (a) that any portable ballot boxes are sealed;
 - (b) that no additional ballots are inserted in the vote tabulator;
 - (c) that the ballot boxes used are sealed to prevent insertion of additional ballots;
 - (d) that the results tapes for the advance voting opportunity are not generated;
 - (e) that the automated voting system, including the sealed memory cards and ballot boxes, and any portable ballot boxes are delivered to the chief election officer for securing until general voting day.
33. The chief election officer must ensure
 - (a) that the ballot boxes and any portable ballot boxes used for the advance voting opportunity remain sealed until 8:00 p.m. on general voting day;
 - (b) that the memory cards used for advance voting remain secure until 8:00 p.m. on general voting day; and
 - (c) that the results tapes for the advance voting opportunity are not generated until 8:00 p.m. on general voting day.

Special Voting Opportunity and Procedures

34. Where an automated voting system is used for general voting day, portable ballot boxes will be used by the presiding election official in which the ballots containing the votes at the special opportunity voting places will be placed.
35. The presiding election official appointed to attend at the special voting opportunity location shall conduct the voting in accordance with the following:
 - (a) attending at that location within the facility as determined to be reasonable after consultation with the facility staff;
 - (b) explain and demonstrate the voting procedures;
 - (c) have the elector sign the voting book;
 - (d) provide a ballot to the elector, along with a secrecy sleeve, if one has been requested or accepted, and any further instructions the elector requests;
 - (e) allow the elector to mark the ballot in private and place it into the secrecy sleeve, if applicable; and
 - (f) ensure that the ballot moves directly from the secrecy sleeve, if one has been requested, or otherwise conceal the markings on the ballot and deposit into the portable ballot box.
36. At the close of the special voting opportunities, the presiding election official must seal the portable ballot box and return it to the chief election officer.
37. The chief election officer must ensure that the portable ballot box used for the special voting opportunity remain sealed until a time on general voting day, determined by the chief election officer, when all ballots will be removed and inserted into the vote tabulator.

Post-vote Procedures

38. Immediately after the voting place is closed, the presiding election official must
 - (a) direct that all unopened portable ballot boxes be opened,
 - (b) ensure that any ballots in the portable ballot boxes are inserted into the vote tabulating unit,
 - (c) secure the vote tabulator so that no more ballots can be inserted,
 - (d) generate two copies of the results tape from the vote tabulator,
 - (e) complete the ballot account, attaching one copy of the results tape,
 - (f) seal all voted ballots in the ballot box,
 - (g) count the unused ballots, spoiled and rejected ballots and place them, packaged separately and sealed, in the ballot box along with the voting book, a copy of the results tape, a copy of the ballot account and all statements and voters lists,
 - (h) seal and initial the ballot box and deliver it to the election office, and

- (i) deliver the vote tabulator, one copy of the results tape and the ballot account to the chief election officer as soon as possible.

39. The results tapes from the vote tabulators used at the advance voting opportunities and at any special voting opportunities will be generated by the chief election officer or designate after 8:00 p.m. on the general voting day.

Recount Procedure

40. If a recount is required and an automated voting system has been used to conduct the vote, the procedure for a recount is as follows:
- (a) the memory card of all vote tabulators will be cleared;
 - (b) vote tabulators will be designated for each voting place;
 - (c) all ballots will be removed from the sealed ballot boxes; and
 - (d) all ballots, except spoiled or rejected ballots, will be reinserted in the appropriate vote tabulators under the supervision of the chief election officer.

Scrutineers

41. If an election or other voting is conducted with an automated voting system, two scrutineers for each candidate are permitted to be present for each ballot box in use at a voting place while voting proceedings are being conducted on general voting day and advance voting opportunities and if a recount is required.

PART 3 RESOLUTION OF TIE VOTES AFTER JUDICIAL RECOUNT

42. If at the completion of a judicial recount the results of the election cannot be declared because there is an equality of valid votes for 2 or more candidates, the results will be determined by lot in accordance with the *Local Government Act*.

PART 4 ACCESS TO DOCUMENTS

43. Public access to nomination documents will be provided by posting the documents on the Village website as soon as practicable after the time of delivery to the chief election officer until 30 days after the declaration of official election results.

44. Public access to campaign disclosure statements, signed declarations, and supplementary reports required under sections 90 and 90.1 of the *Local Government Act* will be provided by posting the documents on the Village website as soon as practicable after the time of filing with the designated local government officer until 3 years after general voting day for the election to which they relate.

PART 7 SEVERABILITY AND REPEAL

45. If any section, subsection, paragraph or clause of this bylaw is found to be invalid by a Court of competent jurisdiction, it may be severed from the remainder of this bylaw.
46. The following bylaws are repealed:
- (a) "Corporation of the Village of Cumberland 2011 Local Government Election Bylaw No. 945, 2011";
 - (b) "Corporation of the Village of Cumberland Voting Day Registration Bylaw No. 946, 2011".

READ A FIRST TIME THIS	11TH	DAY OF	FEBRUARY	2014.
READ A SECOND TIME THIS	11TH	DAY OF	FEBRUARY	2014.
READ A THIRD TIME THIS	11TH	DAY OF	FEBRUARY	2014.
ADOPTED THIS	24TH	DAY OF	FEBRUARY	2014.

Mayor

Corporate Officer