

**Public Hearing  
Information Package****January 23, 2017 at 7:00 pm**Sooke Council Chamber  
2225 Otter Point Road, Sooke, BC**1781 Minnie Road & 7057 West Coast Road**

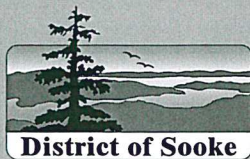
<b>Proposed Bylaw:</b>	<b>Bylaw No. 558, <i>Zoning Amendment Bylaw (600-3)</i></b>
<b>Zoning Amendment:</b>	A bylaw to amend Bylaw No. 600, <i>Sooke Zoning Bylaw</i> , 2013 for the purposes of amending the zoning of property legally described as Lot 2, Section 4, Sooke District, Plan VIP52401, Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880 from Rural Residential (RU4) to Small Lot Residential (R3).

<b>Information Package Contents</b>	<b>Page #</b>
1. Notice of Public Hearing for Bylaw No. 558 published Jan 11 and Jan 18	<b>1</b>
2. Staff Report to Regular Council dated January 9, 2017 as to Bylaw 558	<b>3</b>
3. Bylaw No. 560, <i>Sooke Core Sewer Specified Area Amendment Bylaw</i> (147-18) at fourth Reading	<b>23</b>
4. Council Resolution dated November 14, 2016 as to Bylaw No. 560	<b>25</b>
5. Staff Report to Regular Council dated November 14, 2016 as to Bylaw 560	<b>27</b>
6. Council Resolution dated October 15, 2013 as to discussion of sewer connection	<b>33</b>
7. Land Use and Environment Committee meeting minutes dated September 30, 2013 as to discussion of sewer connection	<b>35</b>
8. Staff Report to Land Use and Environment Committee dated September 30, 2013 as to discussion of creating 800 m2 lots without connection to municipal sewer.	<b>37</b>
9. Bylaw No. 558, <i>Zoning Amendment Bylaw (600-3)</i> at second reading	<b>41</b>
10. Council Minutes and Resolution dated May 27, 2013 as to Bylaw 558 and Bylaw 560	<b>43</b>
11. Staff Report to Regular Council dated May 27, 2013	<b>45</b>

<b>12. Land Use and Environment Committee Recommendations to Council dated May 21, 2013</b>	<b>51</b>
<b>13. Staff Report to Land Use and Environment Committee dated May 21, 2013</b>	<b>53</b>
<b>14. Council Resolution dated January 28, 2013</b>	<b>79</b>
<b>15. Staff Report to Regular Council dated January 28, 2013</b>	<b>81</b>
<b>16. Land Use and Environment Committee Recommendations to Council dated December 17, 2012</b>	<b>83</b>
<b>17. Staff Report to Land Use and Environment Committee dated December 17, 2012</b>	<b>85</b>

*Please note that written and verbal submissions will become part of the public record.*





2205 Otter Point Road, Sooke  
Phone: 250-642-1634 Fax: 250-642-0541  
email: [info@sooke.ca](mailto:info@sooke.ca)  
website: [www.sooke.ca](http://www.sooke.ca)

## NOTICE OF PUBLIC HEARING

The Council of the District of Sooke will hold a Public Hearing pursuant to the provisions of the *Local Government Act* in the Council Chambers at 2225 Otter Point Road, Sooke, BC on **Monday, January 23, 2017** commencing at 7:00 pm.

### Application Information:

**Bylaw:** Bylaw No. 558, *Zoning Amendment Bylaw (600-3)*  
**File No:** PLN00978  
**Civic Address:** 1781 Minnie Road and 7057 West Coast Road (shown outlined in black and hatched on the subject map)  
**Legal Description:** Lot 2, Section 4, Sooke District, Plan VIP52401, Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880  
**Applicant:** **Herb Haldane**, 3118C Otter Point Road, Sooke, B.C. V9Z 0K8

### Proposal:

The purpose of Bylaw No. 558, *Zoning Amendment Bylaw (600-3)* is to rezone 1781 Minnie Road and 7057 West Coast Road from "Rural Residential (RU4)" to "Small Lot Residential (R3)" for subdivision purposes.

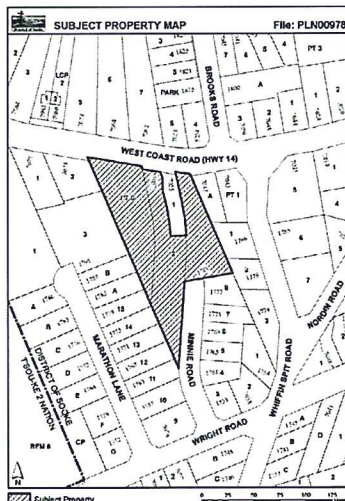
### Further Information:

Copies of the bylaw(s), supporting written reports and any relevant background documentation may be viewed in the "Public Notices" section of the District of Sooke website [www.sooke.ca](http://www.sooke.ca) or inspected at the District Municipal Offices at 2205 Otter Point Road, Sooke, BC, between the hours of 8:30 am and 4:30 pm, Monday to Friday (excluding statutory holidays) beginning January 11, 2017 up to and including January 23, 2017.

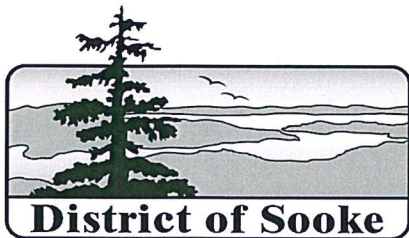
### Public Input:

All persons who believe their interests in property are affected by the proposed bylaw(s) will be afforded an opportunity to be heard at the Public Hearing on the matters contained in the proposed bylaw(s). Should you have any concerns or comments you wish to convey to Council, please submit in writing by fax to 250-642-0541, email [publichearing@sooke.ca](mailto:publichearing@sooke.ca) or in person to the Corporate Officer at the District Municipal Offices no later than **Monday, January 23, 2017 at 12:00 pm**. Please be advised that submissions to Council will become part of the public record and are subject to disclosure under the *Freedom of Information and Protection of Privacy Act (FOIPPA)*

**NOTE: Council cannot receive further information concerning this application after the Public Hearing has concluded.**







File No. PLN00978

## REQUEST FOR DECISION

Regular Council  
Meeting Date: January 9, 2017

To: Teresa Sullivan, Chief Administrative Officer  
From: Development Services Department  
Re: **1781 Minnie Road & 7057 West Coast Road**

### RECOMMENDATION:

**THAT COUNCIL** direct staff to schedule a Public Hearing for Bylaw No. 558 in accordance with the requirements of the *Community Charter* and the *Local Government Act*; and

**THAT COUNCIL** direct that prior to final adoption of Bylaw No. 558, the owner enter into a Development Agreement by way of a section 219 covenant with the District of Sooke and that Council authorize the Mayor and Chief Administrative Officer to execute the section 219 Covenant;

**AND FURTHER THAT COUNCIL** direct that the 5% parkland dedication be in the form of cash-in-lieu at time of subdivision.

### 1. Executive Summary:

The applicant has applied to rezone 1781 Minnie Road and 7057 West Coast Road from Rural Residential (RU4) to Small Lot Residential (R3) with the intent of creating 11-14 lots. The subject properties were included into the Sewer Specified Area (SSA) on November 14, 2016.

The area to be rezoned is approximately 10,650m<sup>2</sup> (1.065 ha/2.6 acres).

### 2. Background:

The zoning amendment Bylaw No. 558 received 1<sup>st</sup> and 2<sup>nd</sup> reading on May 27, 2013. The sewer inclusion Bylaw No. 560 received 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reading on May 27, 2013 and was adopted on November 14, 2016.

The lands surrounding the subject properties are zoned Rural Residential (RU4) with lot sizes varying from 700 m<sup>2</sup> to 4000 m<sup>2</sup>. The subject properties have access to Highway 14





and Minnie Road. Less than 1 km to the east there is a low density and medium density multi-family development (Heron View), as well as twenty three 350 m<sup>2</sup> small family lots along Wright Road.

There is a single family dwelling on 7057 West Coast Road and a single family dwelling on 1781 Minnie Road. The applicant proposes to keep both houses and to design the future subdivision to allow each house to be located on a lot.

The applicant's professional archaeologist has determined that a full archaeological impact assessment is not required and this information has been forwarded to T'Sou-ke Nation and the Archaeology Branch at Ministry of Natural Resource Operations.

### **3. Servicing:**

Ministry of Transportation and Infrastructure (MOTI) requires a group access for lots using West Coast Road and will not consider individual accesses. Prior to subdivision approval, MOTI requires frontage road dedication along West Coast Road to align with neighbouring properties, along with design and construction of frontage improvements.

All costs associated with the sewer main extension installation and associated lift stations are the responsibility of the developer. At time of subdivision, a Works and Services Agreement will include a signed and sealed design and cost estimate by a professional engineer for the agreed cost of the works.

### **4. Environmental**

The applicant has submitted a Riparian Areas Regulation Assessment Report (RAR) prepared by a Qualified Environmental Professional (QEP). Wright Road Creek bisects the property west to east, and there is a drainage ditch that discharges to a mid-point of Wright Road Creek from a culvert on West Coast Road. The minimum Streamside Protection and Enhancement Area (SPEA) setback requirement has been determined by the QEP to be 10 m from the high water mark of Wright Road Creek and a 2 m SPEA around the drainage ditch.

There is a flood plain covenant registered to the property. The covenant requires a 1.5 m flood construction level and a 15 m setback from the natural boundary of Wright Road Creek. Sooke's Floodplain Regulation Bylaw No. 561 requires the same 15 m setback and 1.5 m flood construction level. If a developer wishes to reduce these requirements, there is a procedure to obtain a site specific floodplain exemption and this is outlined in Sooke's Floodplain Regulation Bylaw.

### **5. Analysis:**

#### **A. OFFICIAL COMMUNITY PLAN 2010 (OCP)**

The OCP designates the property as *Community Residential* (CR) and it falls within the *Community Growth Area* (CGA). The goals of this designation are to ensure sustainable single family and multiple family construction, reduction of sprawl, and providing or accessing municipal services in an efficient manner so that there is minimal impact on municipal infrastructure. The following are relevant sections of the OCP that support this rezoning application:

#### **4.7 HOUSING**

##### **4.7.2 Objectives**

- (b) Ensure provision of a range of housing types, tenures and densities, which meet the diverse needs of individuals and families of varying income levels and demographics;

##### **4.7.3**

- (g) Consider allowing developers the flexibility to provide their required affordable housing in different forms thus creating an 'affordable housing mix' in new developments, e.g. secondary suites, condominium rental units, cash, or land in lieu to the District of Sooke towards on/off-site affordable housing;
- (f) Require that a minimum of 10% of the total of any proposed bare land or strata single family residential subdivision are affordable housing lots as defined by the District of Sooke. Affordable housing lots shall be sold at an affordable rate through tools such as covenants and housing agreements.

#### **5.1 COMMUNITY RESIDENTIAL**

##### **5.1.2 Policies**

- (g) Require safe and formalized pedestrian access to services from all residential areas, including connections to amenities and commercial service areas;
- (h) Reduce impact on the natural environment and avoid hazardous land conditions and environmentally sensitive area; and,
- (k) Allow for a variety of housing options within new and existing residential area.

The subject properties are large properties that are undeveloped except for two existing single family dwellings. The area surrounding the subject property consists mostly of low density single family residential lots. Adding more single-family development on these properties would be compatible with surrounding development.

The OCP has specific policies regarding affordable housing. The applicant can contribute 10% of the lots proposed for the site as affordable housing lots, or can provide cash in lieu per affordable housing unit. In lieu of providing tangible affordable housing units, the applicant is asking that affordable housing be considered as part of their amenity contribution which has been detailed in the section 219 covenant.

The subject properties fall within an environmentally sensitive area as identified on Map 5 within the OCP therefore a Development Permit for environmental protection will be required prior to subdivision.

#### **B. ZONING BYLAW 2013**

Under the proposed zone of R3, the minimum lot size permitted is 350m<sup>2</sup>. The applicant has provided a concept plan for 11-14 lots but until the applicant goes through the subdivision process, the number of proposed lots cannot be finalized.

#### **6. Amenity Contribution**

The Sooke Community Amenity Contribution Policy 13.3 is applied to rezoning applications for residential use where an increase over the base density is proposed. The amenities received can be used by the District to address costs associated with growth and/or aid in affordable housing opportunities.

The base density for this property is calculated at 12 dwelling units. Due to the size of the properties and the minimum lot size within the R3 zone, the maximum density could be greater than 12 dwelling units. A duplexable lot (600m<sup>2</sup> lot) is counted as two dwelling units.



As per Policy 13.3, in lieu of providing a tangible amenity, the value of the amenity may be contributed. Outside the Town Centre, the value of an amenity is \$5,000 per dwelling unit. The value of the amenities is determined at time of subdivision when a final subdivision layout has been approved.

The applicant is concerned about contributing amenities on "duplexable lots" because there is no way of knowing if a duplex will be built by a future purchaser. To address this concern, the applicant has an option of entering into a separate covenant as a condition of subdivision to prohibit the construction of a "duplex" and prohibit further subdivision *until the terms and conditions of the amenity covenant are complied with*. This means that if a future purchaser of a lot wants to build a duplex or subdivide the lot further, the amenity contribution would be applicable.

#### 7. Legal Impacts:

Prior to 4<sup>th</sup> reading of this proposed zoning amendment, the applicant will be required to enter into a section 219 covenant for road dedications and upgrades outside of Bylaw 404 as well as amenity contribution provisions.

#### 8. Financial Impacts:

The developer will pay for all costs associated with offsite improvements and development, including sewer main extensions and associated lift stations and is bound by District of Sooke Bylaws and regulations.

#### 9. Implication of Recommendation:

The OCP supports this rezoning proposal for the following reasons:

- This rezoning is within an area designated for growth;
- This rezoning will be compatible with the surrounding neighbourhood.

#### Attached Documents:

1. Application Summary
2. Referral Agency Comments
3. Subject Property Map and aerial photo
4. Zoning Amendment Bylaw No. 558
5. Small Lot Residential Zone information
6. Concept Plan showing RAR setbacks
7. Draft S. 219 covenant

  
Tara Johnson, MCIP, RPP  
Planner II

Approved for Council Agenda	
 Development Services	 Corporate Services
 Financial Services	 Fire Services
 CAO	

### Application Summary

<b>Address</b>	1781 Minnie Road 7057 West Coast Road
<b>Legal</b>	Lot 2, Section 4, Sooke District, Plan VIP52401 Lot 6, Section 4, Sooke District, Plan 1282, Except that Part in Plan 118 RW and Plan 29880
<b>Existing Zoning</b>	Rural Residential (RU4)
<b>Proposed Zoning</b>	Small Lot Residential Zone (R3)
<b>Existing OCP</b>	Community Residential
<b>Proposed OCP</b>	n/a
<b>Parcel Size</b>	1781 Minnie Road – 1.66 acres 7057 West Coast Road – 0.96 acres
<b>DP Area</b>	A DP will be required for environmental under DPA #2 in OCP
<b>Services</b>	<b>Water:</b> CRD Water <b>Sewer:</b> to be hooked into Municipal <b>Drainage:</b> On-site
<b>Adjacent Land Uses</b>	<b>North:</b> Highway 14 <b>South:</b> single family residential <b>East:</b> single family residential <b>West:</b> single family residential

## Summary of Referral Agency Comments [originals are in the file]

IN RESPONSE TO DISTRICT OF SOOKE REFERRAL SENT OCTOBER 3, 2012

EXTERNAL REFERRALS		
Date Rec'd	Agency	Comments
Oct. 5	Shaw Cable	No concerns
Oct. 3	BC Hydro	BC Hydro does not own any equipment on this property. BC Hydro does not require that a Statutory Right-of-Way Agreement (SRW) be registered against the property title at this time.
October 16	Ministry of Transportation and Infrastructure	<p>The Ministry has no objections in principle to the proposed rezoning. At this time the Ministry will not enforce any conditions on the rezoning phase of this proposal. Ministry requirements will be enforced at the time of subdivision.</p> <p>Primary areas of concern to be addressed during the subdivision application will most likely include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• The SPEA areas in the middle of the property constrict available space for interior access roads; forcing access for northern lots directly to Highway 14. The Ministry will require a group access for lots using West Coast Road as access. Individual access to Highway 14 will not be approved. Any proposed access to Highway 14, for any lots, will require an approved permit from the Ministry prior to construction.</li> <li>• Dedication of property lines to match neighbouring properties.</li> <li>• Developer will be responsible to ensure that drainage ditch, and drainage from proposed lot layout/building spaces, does not negatively impact Highway 14. A drainage report will be required and possibly a storm water management plan – based on an agreed preliminary layout.</li> </ul>
	Canada Post	No response
	BC Transit	No response
	Beecher Bay	No response
	CRD Water	No response
	SEAPARC	No response
Jan 16 2013	T'souke Nation	Spoke to Bonnie English who has noted that she is pleased to know that an archaeological overview assessment was completed and that she has received a copy.
Jan 16 2013	Archeological Branch	We will keep the report from the archaeologist on file. The Archaeology Branch has no further concerns.
	RCMP	No response.
Oct 24	School District	No Concerns

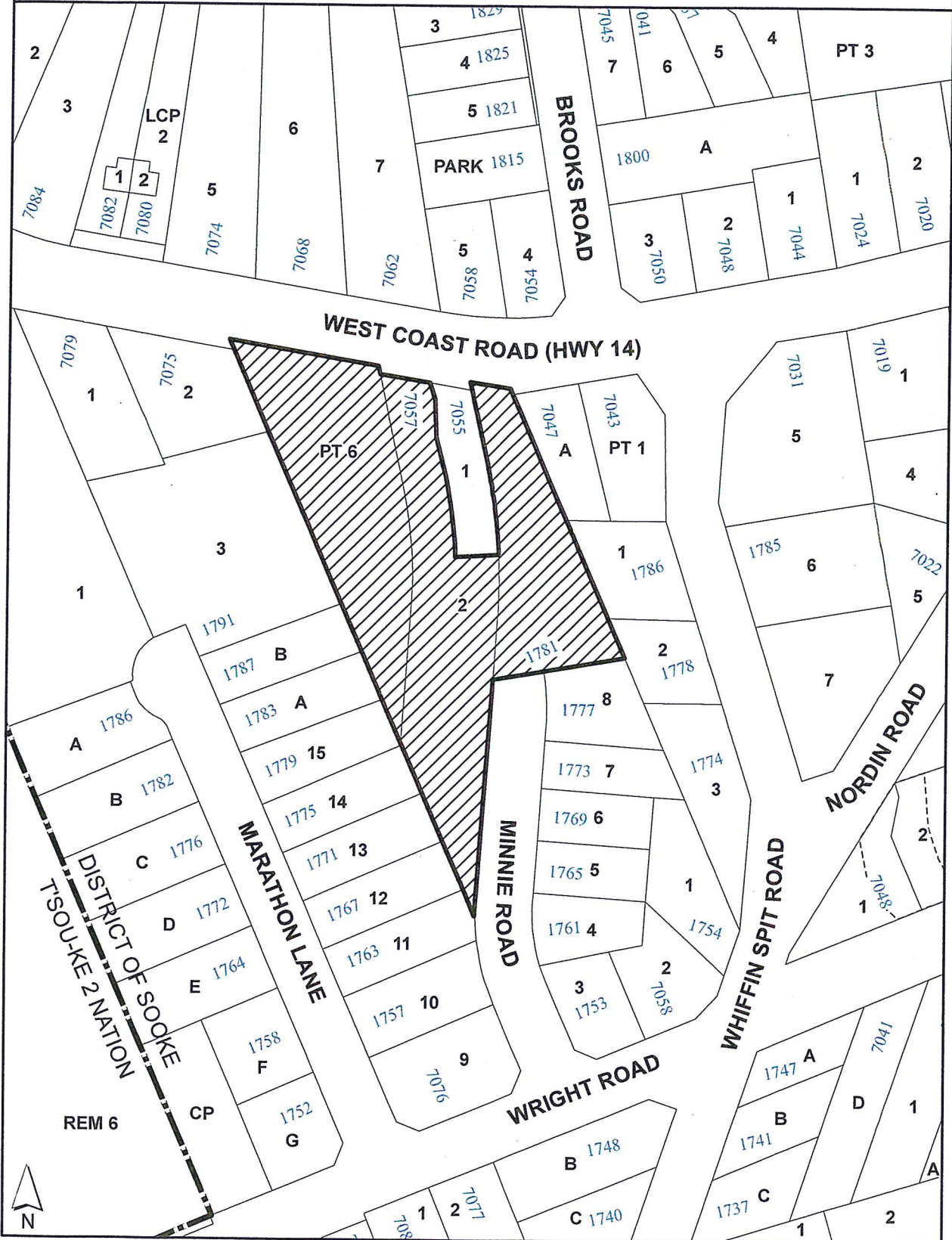


	#62	
October 3	Fortis BC	FortisBC has no objections to the Development. Gas pipelines exist within the Road Allowance(s) fronting the development on West Coast Rd .
Oct 5	Shaw Cable	No concerns
Oct. 16	Telus	Does not conflict with TELUS regulations or policies.
<b>INTERNAL REFERRALS</b>		
	Building	Will review at time of building permit.
	Fire	At time of subdivision, a fire hydrant meeting the minimum Fire Underwriters Survey and CRD Water specifications will be required near the northern end of Minnie Road in order to meet hydrant spacing requirements. A street light should be placed at or adjacent to this hydrant.
	Engineering	Service the new development in accordance with the District of Sooke Subdivision and Development Standards Bylaw 404.  Road dedication required along Highway 14 frontage to line up with 7047, 7055, 7057 and 7075 West Coast Road (Highway 14).  A sewer serviceability study has been completed for this project, to review the capacity of downstream sewers. The costs related to upgrading/installing the downstream system, as detailed in the report, will be borne by the developer.



# SUBJECT PROPERTY MAP

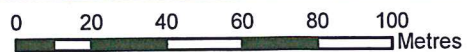
File: PLN00978



Subject Property

0 25 50 75 100 125 Metres









**DISTRICT OF SOOKE  
ZONING AMENDMENT  
BYLAW No. 558**

---

A bylaw to amend Bylaw No. 600, *Sooke Zoning Bylaw, 2013* for the purpose of amending the zoning on 1781 Minnie Road and 7057 West Coast Road from Rural Residential (RU4) to Small Lot Residential (R3).

---

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This bylaw is cited as *Zoning Amendment Bylaw (600-3)*.
2. Bylaw No. 600, *Sooke Zoning Bylaw, 2013* is amended in **Schedule A** by changing the zoning on the property legally described as *Lot 2, Section 4, Sooke District, Plan VIP52401* and *Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880* as shown shaded on Schedule A to this bylaw from Rural Residential (RU4) to Small Lot Residential Zone (R3).

Introduced and read a first time the 27<sup>th</sup> day of May, 2013.

Read a second time the 27<sup>th</sup> day of May, 2013.

Public hearing held the       day of       , 2017.

Read a third time the       day of       , 2017.

Approved by Ministry of Transportation and Infrastructure the       day of       , 2017.

Adopted on the       day of       , 2017.

---

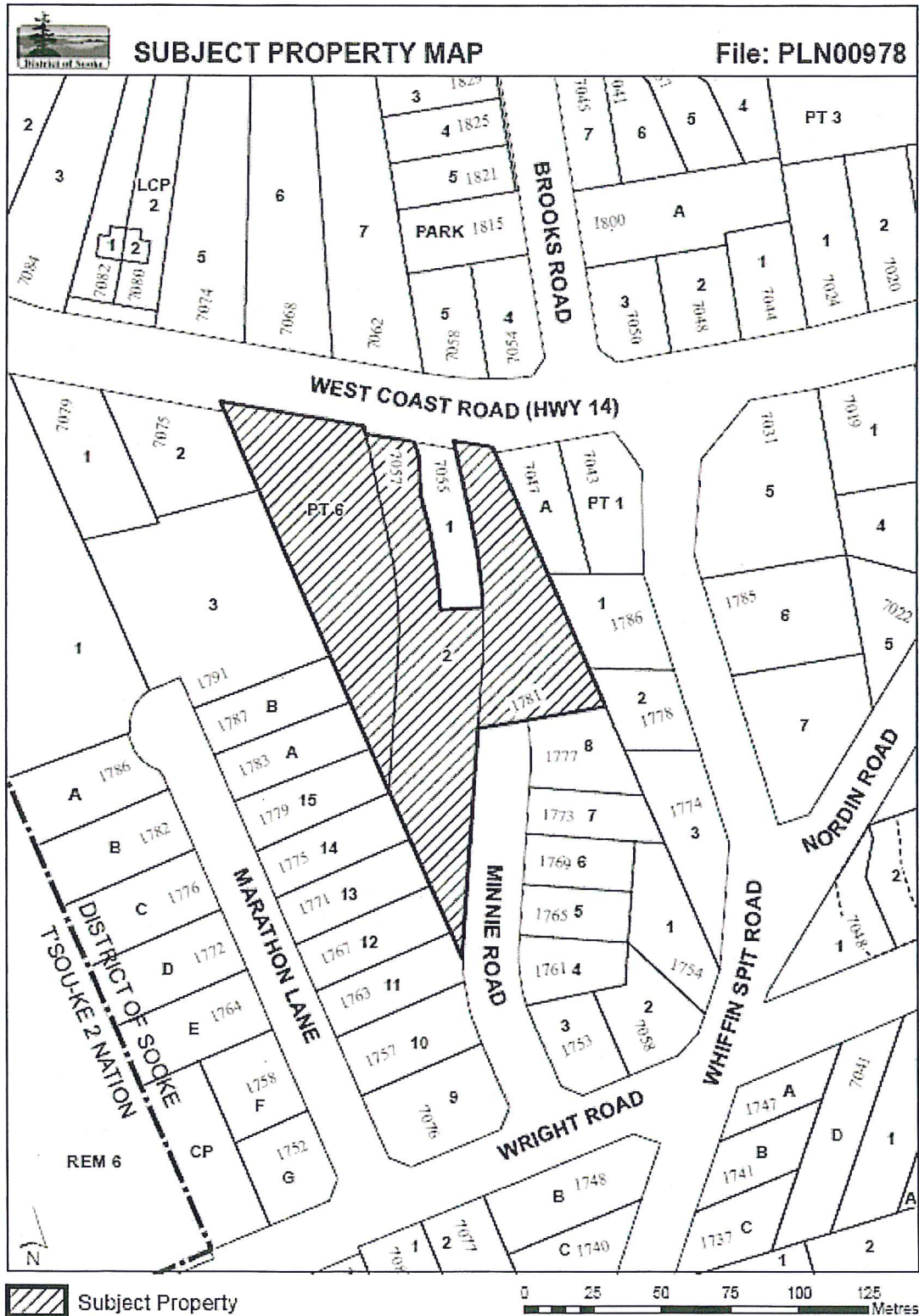
Maja Tait  
Mayor

---

Gabryel Josphe  
Corporate Officer

FOR INFORMATION ONLY: Section 219 Covenant registered the       day of       , 20       in the Victoria Land Titles office under number       .

**SCHEDULE A**



## Small Lot Residential

**R3**

**203.1 Purpose:** This zone is intended to provide a range of lot sizes to residential parcels of land that designated as Community Residential within the Sewer Specified Area.

**203.2 Permitted Uses:**

**Principal Uses:**

- a) Horticulture
- b) Single family dwelling or one duplex per lot\*

\*See conditions of use.

**Accessory Uses:**

- c) Bed and breakfast\*
- d) Boarding and lodging
- e) Home-based business
- f) One secondary suite or one small suite on a lot with a single family dwelling
- g) Vacation accommodation unit

**203.3 Minimum Lot Size for Subdivision Purposes\*:** 350 m<sup>2</sup>

**203.4 Minimum Width for Subdivision Purposes:** 11 m

**203.5 Maximum Height:**

- a) Principal Buildings: 10.5 m
- b) Accessory Buildings: 4 m

**203.6 Maximum Lot Coverage:** 45%

**203.7 Minimum Setbacks:**

Use	Front Lot Line	Flanking Lot Line	Side Lot Line	Rear Lot Line	Lane Lot Line
Principal Building or Structure	4.5 m – house portion 6 m – garage/ carport portion	2 m	1.2 m	3.5 m	1 m
Accessory Building or Structure – 1 storey	7.5 m	2 m	1.2 m	1.2 m	0 m

*Schedule 203 – Small Lot Residential (R3)*

**203.8 Conditions of Use:**

- a) Bed and breakfast permitted on lots 600 m<sup>2</sup> or larger;
- b) Duplex permitted on lots 600 m<sup>2</sup> or larger;
- c) No panhandle lots permitted;
- d) Notwithstanding the permitted uses on R3 zoned properties, on the property identified as PID 000-133-817 (as Parcel A (DD 143706I), Section 24, Sooke District, Except Plans 5572, 11961, 27456, 40462, VIP52601, VIP59223, VIP79955, VIP79956 and Part in Red on 610RW, an amenity area for assembly use is permitted as an accessory use. *(added by Bylaw No. 584 adopted February 11, 2014)*



PROPOSED DEVELOPMENT PLAN OF LOT 6, PLAN 1282, EXCEPT PART IN  
PLAN 118 RW AND PLAN 29880, AND LT 2, PLAN VIP52401.  
BOTH OF SECTION 4, SOOKE DISTRICT.

SCALE=1:500 All distances are in metres  
0 10 20 30 40 50

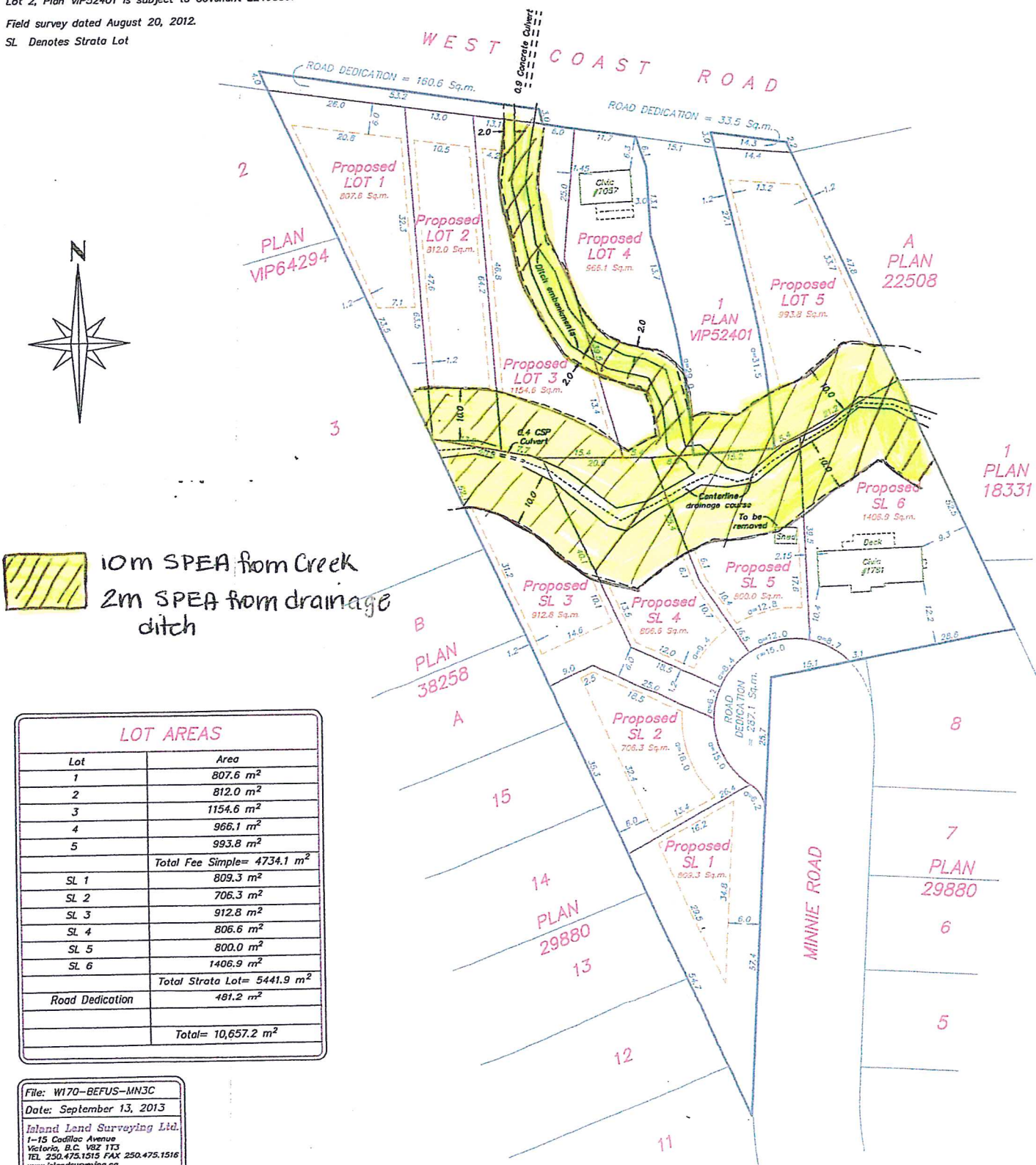
NOTE: Lot dimensions, areas, and offsets to boundaries shown may vary upon completion of a comprehensive legal survey.

Lot 6, Plan 1282 is subject to Restrictive Covenant 55014G.  
Lot 2, Plan VIP52401 is subject to Covenant EE46885.

Field survey dated August 20, 2012.

SL Denotes Strata Lot

# DRAFT CONCEPT PLAN.





**TERMS OF INSTRUMENT – PART 2**

**SECTION 219 COVENANT**

THIS AGREEMENT, dated for reference \_\_\_\_\_, 201\_\_ is made

BETWEEN:

**Beverly Wade Befus and Sherri Lynn Befus**  
1781 Minnie Road  
Sooke, BC V9Z 0S5

(the "Owner")

AND:

**DISTRICT OF SOOKE**, a municipality incorporated under the  
Local Government Act, R.S.B.C. 1996, c.323 and having its office  
at 2205 Otter Point Road, Sooke, BC V9Z 1J2

(the "Municipality")

GIVEN THAT:

- A. The Owner is the registered Owner in fee simple of the land in Sooke, British Columbia, legally described as:
- Lot 2, Section 4, Sooke District, Plan VIP52401 (PID 017-349-966) and,
- Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in plan 118 RW and Plan 29880 (PID 005-887-895)
- (the "Land");
- B. The Owner proposes to develop the Land for a residential use;
- C. The Owner has requested the Municipality to adopt Bylaw No. 558, *Zoning Amendment Bylaw (600-3)* (the "Rezoning Bylaw") rezoning the Land to permit the development proposed by the Owner, and
- D. The Council of the Municipality has determined that the adoption of the Rezoning Bylaw would, but for the covenants contained in this Agreement, not be in the public interest; and the Owner therefore wishes to grant pursuant to s.219 of the *Land Title Act*, and the Municipality wishes to accept, the covenants over the Land that are set out in this Agreement;

THIS AGREEMENT is evidence that in consideration of payment of \$1.00 by each of the Municipality to the Owner (the receipt of which is acknowledged by the Owner), the Owner grants to the Municipality in accordance with s.219 of the Land Title Act the following covenants:

1. The Owner covenants and agrees with the Municipality that:
  - (a) The Land must not be redeveloped beyond its current use;
  - (b) The Land must not be subdivided;
  - (c) Development of the Land, including by construction or placement of any building or structure on the Land is prohibited with exception of a show home;
  - (d) No building permit may be applied for, and the Municipality is not obliged to issue any building permit, in respect of the Land with exception of a show home; and
  - (e) No occupancy permit may be applied for, and the Municipality is not obliged to issue any occupancy permit, in respect of the Land,unless the use, subdivision, development, building or occupancy is in accordance with the Schedule of Restrictions attached as Schedule A.
2. Any opinion, decision, act or expression of satisfaction of the Municipality provided for in this Agreement is to be taken or made by the Municipality's Director of Development Services or his or her delegate authorized as such in writing, in each case acting reasonably.
3. The Owner may, after the Rezoning Bylaw is adopted, request a discharge of any particular covenant granted in this Agreement in respect of any parcel into which the Land may be subdivided, and the Municipality shall execute and deliver a discharge in respect of any such covenant that has been, in the Municipality's opinion, fully satisfied by the Owner.
4. The Owner releases, and must indemnify and save harmless, the Municipality, its elected and appointed officials and employees, from and against all liability, actions, causes of action, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the Owner, or anyone else, arising from the granting or existence of this Agreement, from the performance by the Owner of this Agreement, or any default of the Owner under or in respect of this Agreement.
5. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
6. The rights given to the Municipality by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Municipality to anyone, or



obliges the Municipality to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.

7. Where the Municipality is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the Municipality is under no public law duty of fairness or natural justice in that regard and agrees that the Municipality may do any of those things in the same manner as if it were a private party and not a public body.
8. This Agreement does not:
  - (a) affect or limit the discretion, rights or powers of the Municipality under any enactment (as defined in the Interpretation Act, on the reference date of this Agreement) or at common law, including in relation to the use of the Land,
  - (b) affect or limit any enactment related to the use of the Land, or
  - (c) relieve the Owner from complying with any enactment, including in relation to the use of the Land.
9. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s.219 of the Land Title Act in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered Owner of the Land.
10. The Owner agrees to do everything reasonably necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.
11. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
12. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
13. This Agreement is the entire agreement between the parties regarding its subject.
14. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
15. The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instrument.

16. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Office Form C that is attached hereto and forms part of this Agreement.



## **SCHEDULE "A"**

### **SCHEDULE OF RESTRICTIONS**

#### **1.0 AMENITIES**

- 1.1 The Developer covenants and agrees to provide, to the satisfaction of the District's Director of Development Services, and at its sole cost the Amenities, prior to approval of subdivision of the Lands in accordance with section 1.0 of this Schedule "A".
- 1.2 The amenities to be provided are one or more of the following: parks and trail development, waterfront walkway, affordable housing, open space (in addition to statutory park dedications), day care facilities (not for profit), public art, park equipment, Agricultural Land Reserve acquisitions, community gardens, parking structures, performing arts facility, green infrastructure, beautification projects, affordable housing and preservation of heritage structures, having in the aggregate a market value not exceeding \$5,000 for each additional dwelling unit in excess of the 12 dwelling unit Base Density on the land, in the locations and in accordance with standards approved in writing by the District's Director of Development Services.
- 1.3 Despite section 1.2 of this Schedule, in lieu of provision of these amenities, the Developer may at the Subdivision stage pay the District \$5,000 for each additional dwelling unit in excess of the 12 dwelling unit Base Density on the land, and the District must use the amount paid only for provision of the amenities to be collected at time of subdivision.
- 1.4 The amenity contribution shall be based on the maximum residential density.

#### **2.0 SERVICING**

- 2.1 The Developer covenants that it shall not subdivide the Lands and that it shall not construct any buildings, improvements or structures on the Lands except for the Amenities, improvements and enhancements required under the sections 1.0 and 2.0, and except for structures such as roads, pipes, mains, pumps, and all related facilities and equipment as may be necessary to provide water, sanitary sewer, stormwater/rainwater management and fire suppression services to the Lands, in accordance with all required permits and approvals, until the conditions outlined in this section are fulfilled.
  - 2.2 The Developer shall at its sole cost design, install, plant and construct the following works, services and other things:
    - a. Prior to subdivision approval, frontage road dedication required along Highway 14 to align with neighboring properties 7057, 7055, and 7075 West Coast Road.
    - b. Prior to subdivision approval, Highway 14 frontage is to be designed and constructed as per Ministry of Transportation and Infrastructure requirements.
- 3.0 Prior to approval of a subdivision in respect of the Lands authorizing the construction and installation or other provision of the Servicing required under section 2.0, and the Subdivision and Development Standards Bylaw, the Developer must provide to the District security in the form of an irrevocable letter of credit, or in a form satisfactory to the District, and in the amount of one hundred ten (110%) percent of the estimated cost of constructing and installing and otherwise providing the Servicing required under both the Subdivision and Development Standards Bylaw

and section 2.0, as estimated by a Professional Engineer and accepted by the Director of Development Services acting reasonably, which security will be released to the Developer upon completion of the works and services and upon final acceptance by the District's Director of Development Services.

- 4.0 The Owner may request a discharge of any particular covenant granted in this Agreement, for which, either sufficient security was posted by the Owner and accepted by the Municipality, or the work has been completed and accepted by the Municipality, therefore deemed to be fully satisfied by the Owner, and the Municipality shall execute and deliver a discharge in respect of any such covenant.

**END OF DOCUMENT**





## DISTRICT OF SOOKE

### BYLAW No. 560

---

A bylaw to amend *Sooke Core Sewer Specified Area Bylaw, 2003* to enlarge the community sewer system service area to include parcels located at 1781 Minnie Road and 7057 West Coast Road.

---

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This Bylaw is cited as *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)*.
2. Bylaw No. 147, *Sooke Core Sewer Specified Area Bylaw, 2003* is amended in Schedule A by adding to the Sooke Core Sewer Specified Area the parcel shown outlined in black and hatched on Schedule A to this bylaw and legally described as:
  - (PID 005-887-895) *Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880* (also known as 1781 Minnie Road); and
  - (PID 017-349-966) *Lot 2, Section 4, Sooke District, Plan VIP52401* (also known as 7057 West Coast Road).

Petition certified sufficient and valid the 4<sup>th</sup> day of December, 2012.

Introduced and read a first time the 27<sup>th</sup> day of May, 2013.

Read a second time the 27<sup>th</sup> day of May, 2013.

Read a third time the 27<sup>th</sup> day of May, 2013.

Adopted on the 14<sup>th</sup> day of November, 2016.

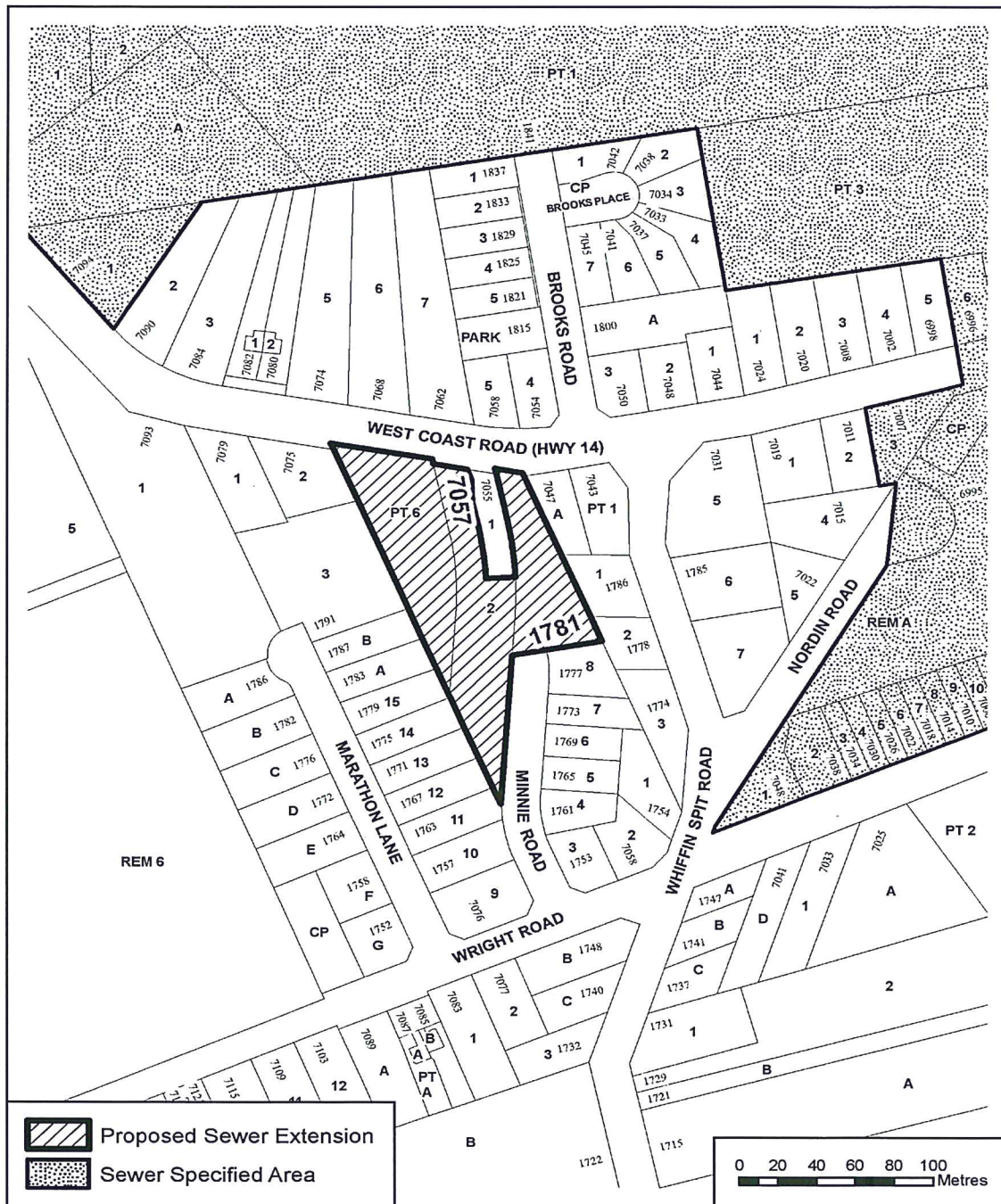
---

Maja Tait  
Mayor

---

Gabryel Joseph  
Corporate Officer

## SCHEDULE A





## REPORTS FOR INFORMATION

### RI-1 **Sooke Core Specified Area Proposed Boundary Adjustment for 7181 Minnie Rd & 7057 West Coast Road**

Development Services staff presented information to Council, and answered questions, regarding these properties.

**MOVED** B. Parkinson – K. Pearson

THAT 7181 Minnie Road and 7057 West Coast Road be included in the *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)* subject to the servicing Bylaw.

**WITHDRAWN**

With the unanimous consent of Council, Councillor Parkinson withdrew her motion.

**MOVED** B. Parkinson – K. Pearson

THAT Council adopt Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)*.

**CARRIED**

**In favour:**

Mayor Tait, Councillor Logins, Councillor Parkinson, Councillor Pearson, Councillor Reay

**Absent:** Councillor B. Berger, Councillor R. Kasper

**MOVED** K. Pearson – K. Reay

THAT staff provide a report to Council on the impacts of future areas being adopted into the Sewer Specified Area.

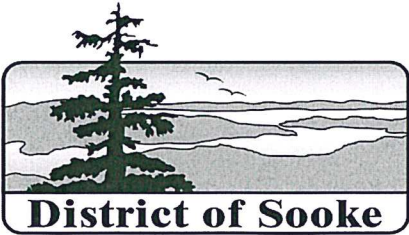
**CARRIED**

**In favour:**

Mayor Tait, Councillor Logins, Councillor Parkinson, Councillor Pearson, Councillor Reay

**Absent:** Councillor B. Berger, Councillor R. Kasper





File No. 5340-11

**REQUEST FOR DECISION**  
Regular Council  
Meeting Date: November 14, 2016

To: Teresa Sullivan, Chief Administrative Officer  
From: Development Services Department  
Re: **Sooke Core Sewer Specified Area Proposed Boundary Adjustment  
for 1781 Minnie Road and 7057 West Coast Road**

<b>RECOMMENDATION:</b>	None
------------------------	------

**For Council Discussion**

**Executive Summary:**

The District of Sooke has received a Petition for Local Area Service and enlargement of the Sooke Core Sewer Specified Area (SSA) from the owner of 1781 Minnie Road and 7057 West Coast Road in conjunction with an application to amend the zoning on these properties.

On May 27<sup>th</sup>, 2013 Council considered the application for inclusion of the property. During Council deliberations, they discussed the appropriateness of considering the inclusion of properties not immediately adjacent to the existing SSA and including individual properties rather than considering the inclusion of a larger area, such as Whiffin Spit.

Council granted first, second and third reading to Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw* (147-18) on May 27<sup>th</sup>, 2013. The minutes from this meeting are attached to this report.

The rezoning application to Small Lot Residential (R3) was also given first and second reading on May 27<sup>th</sup>, 2013. A Public Hearing has not been held as the applications were placed on hold by the owner.

The owner has reopened the files and before proceeding further on the rezoning application, the applicant on behalf of the owner would like Council to consider including the properties into the SSA.

### Background:

The owner would like to create an eleven (11) lot subdivision. The owner has applied to rezone the properties to Small Lot Residential (R3). A sewer serviceability review was prepared by Stantec on July 17, 2012.

Figure 1 shows the location of the proposed inclusion in relation to the existing Sewer Specified Area (in green) and it shows the location of the sewer lines (in red).

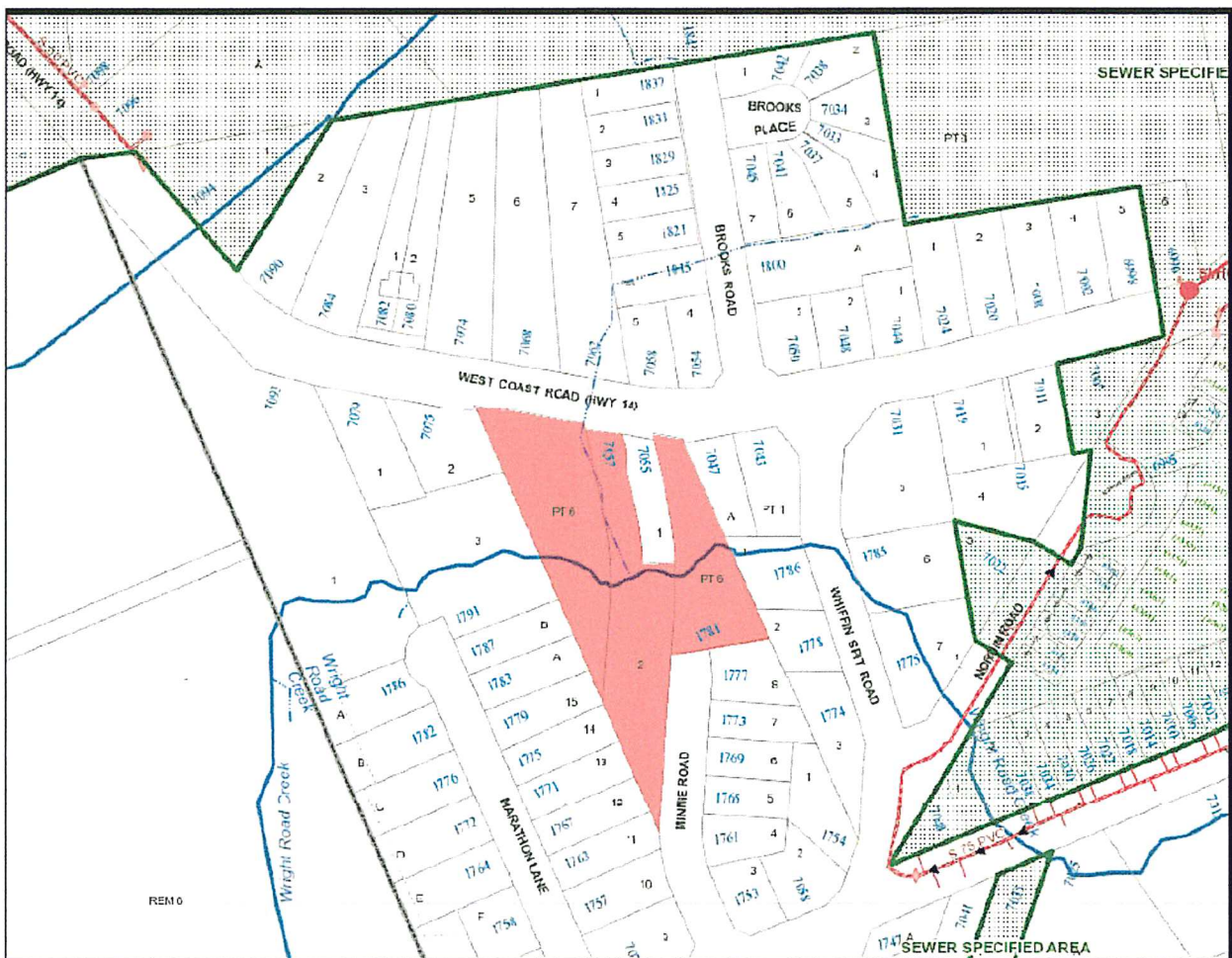


Figure 1: Existing Sewer Specified Area with Proposed Inclusion

### Analysis:

The properties are located within the Community Growth Area (CGA) as identified by the Official Community Plan (OCP). Page 21 of the OCP states that the long term goal



within the CGA is to provide water and sewer services to all properties. Policy 11.5, *Sooke Core Area Local Service Area Boundary Policy*, permits Council to consider applications from individual property owners for inclusion into the SSA.

Should Council proceed with the bylaw process, the requirements of Policy 11.5, as well as Bylaw No. 281, *Sooke Core Sewer Specified Area Mandatory Connection Bylaw, 2006*, and Bylaw No. 150, *Sooke Core Sewer Specified Area Cost Recovery Bylaw, 2003*, will also be addressed.

The property has been included in the District's sewer model with our engineering provider reporting that there is capacity in existing infrastructure to accommodate the flows from the proposed connection.

**Financial Impacts:**

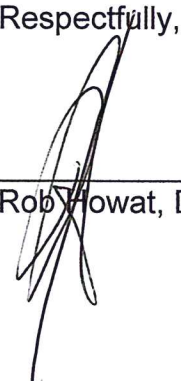
Should Council adopt a bylaw to include these properties into the Sewer Specified Area, a Capital Expansion Charge of \$2,800 per unit will be collected at the time of connection to the system as per the requirements of Bylaw No. 281. The properties will be added to the Sooke Core Sewer Specified Area Assessment Roll as per the requirements of Bylaw No. 150, and applicable Parcel Tax and Sewer Generation Charges will subsequently be collected.

**Attached Documents:**

1. 1781 Minnie Road and 7057 West Coast Road - Petition for Local Service Area
2. Letter from Applicant
3. May 27, 2013 Council meeting minutes
4. Property Location Map
5. Bylaw No. 560

Approved for Council Agenda	
 Development Services	 Corporate Services
 Financial Services	 Fire Services
 CAO	

Respectfully,

  
Rob Howat, Director of Development Services

DEC 04 2012

Received

**PETITION FOR LOCAL AREA SERVICE  
and  
enlargement of the Sooke Core Sewer Specified Area (local service area)  
under the provisions of the Community Charter**

To the Corporate Officer,

By signing this petition, I propose that the Council of the District of Sooke provide my property (described below) with the community sewer system local area service by enlarging the Sooke Core Sewer Specified Area established by Bylaw No. 147, Sooke Core Sewer Specified Area Bylaw, 2003, as amended.

Property Civic Address: 1781 Minnie Rd. Sooke, B.C. V9Z 0S5

Property Legal Description: 7057 West Coast Rd. Sooke, BC  
Lot 6, Section 4, Plan VIP 1282 Except 1189 & 129880  
Lot 2, Section 4, Plan VIP 52401

Service and Boundaries of Local Service Area

The community sewer system service means a sewage collection system, treatment facility, disinfection system, extended marine outfall disposal system, and associated infrastructure and works for the collection, treatment and disposal of sewage and serves the Sooke Core Sewer Specified Area described and established by Bylaw No. 147.

*Estimate of Cost of Service and Borrowing*

As set out in Bylaw No. 147, the estimated net capital cost of the service is \$8,800,000. Under Bylaw No. 148, Sooke Core Sewer Specified Area Borrowing Bylaw, 2003, the Council is authorized to borrow \$8,800,000 for a maximum term of 20 years, and the entire cost of this borrowing is borne by the owners of property in the Sooke Core Sewer Specified Area.

*Cost Recovery for Sewer System Service*

The method of cost recovery of the construction and operation of the community sewer system is by way of parcel tax and sewer generation charge established by Bylaw No. 150, Sooke Core Sewer Specified Area Cost Recovery Bylaw, 2003, as amended.

**\*\* All registered owners on the property title must sign this petition (copy of title to be provided)**

Property Owner Name (please print):

Bev Befus

Signature

Bev Befus

Date

Dec. 3/12

Property Owner Name (please print):

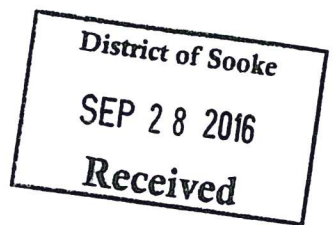
Sherri Befus

Signature

Sherri Befus

Date

Dec. 3/12



# Haldane Homes

0744112 BC Ltd.

3118C Otter Point Road Sooke, BC V9Z 0K8  
250-880-0510 cell 250-642-7611 fax

To The District of Sooke Planning Department,

This application is to develop 11 lots and become part of the sewer specified area.

We would like the development to hook into the low pressure line at Wright Road and Whiffin Spit Road.

The alternate plan is to use the gravity system at West Coast Road.

Should the sewer system be installed on Whiffin Spit Road and include the entire area we would have our system designed to gravity feed into the new one.

This application is looking for support from council before we retain an engineering design.

Yours truly,

Herb Haldane





**RA-7 Land Use and Environment Committee recommendations from September 30, 2013 meeting:**

- **1781 Minnie Road and 7057 West Coast Road**

Councillor Reay left the meeting at 9:54 pm declaring a potential conflict of interest as she may have had a friendship with the applicant.

**MOVED** and seconded to proceed with the inclusion of 1781 Minnie Road and 7057 West Coast Road into the Sewer Specified Area

**DEFEATED**

**MOVED** and seconded to proceed with the creation of 800m<sup>2</sup> lots with a secondary strata treatment system, without inclusion to the SSA and without connection to the municipal sanitary sewer system.

**DEFEATED**

Councillor Reay returned to the meeting at 10:28 pm.



## Rezoning Application – 1781 Minnie Road and 7057 West Coast Road

Gerard LeBlanc provided a PowerPoint presentation and summary of the staff report for the Committee.

### Committee discussion:

- Concerns of requiring the applicant to put in septic fields in this area
- Ensuring decisions that are in line with long term sewer expansion plans
- Ensuring continuity of existing septic fields in the Whiffen Spit area
- Concerns as to the costs associated with a pump station and infrastructure to provide sewer; costs will be substantial to the developer and the price of the lots will not be affordable
- 800 m<sup>2</sup> lot proposal is the most practicable for this development and it is a compromise between the other proposals
- Consideration to the fact that the applicant has spent a lot of time and money to get to this point
- Ensure that the applicant is able to move forward

Mark Johnson, representing the applicant advised that this proposal for 800 m<sup>2</sup> lots is an attempt to find a compromise. The applicant is looking for direction from Council so that they are able to move forward with their application. Mr. Johnson advised that there are already existing septic fields on the property that can be used in order to save costs and that all other requirements for the riparian areas would stay in place.

### The Committee further discussed:

- There will be opportunity for public input at the time the application is forwarded to Council
- Concerns that installing drain fields is being counter intuitive
- Concerns as to the legal implications of enacting a bylaw that is contrary to the District 's OCP and the Regional Context Statement
- Consideration to changing the zoning bylaw to reflect the land use in this area
- Consideration to amendment to zoning bylaw and the OCP to make them consistent prior to moving forward with the proposal
- Clarification as to what route the applicant would like to take

Mark Johnson advised their previous proposal is still before Council and that they would like Council to consider both options and provide the applicant with some direction. As applicants, they need to take into consideration the costs for each of the proposals and would like to develop the lots using the most cost effective option. Once they have Council direction, they will be able to explore what the costs will be.

### Public Input:

Gail Hall, Sooke resident addressed the Committee as to the appropriate process for inclusion into the sewer system advising that people should be given the opportunity to vote whether they would like to be included in the system. Ms. Hall further advised that 800 m<sup>2</sup> lots are not acceptable under all District Plans and that the District could be at risk for losing funds from the Liquid Waste Management Plan. Ms. Hall expressed concerns as to moving this proposal forward.

**MOVED** and seconded to receive the Rezoning Application for 1781 Minnie Road and 7057 West Coast Road report for discussion and for information;

**AND TO** forward the report to Council for consideration of the development proposal.

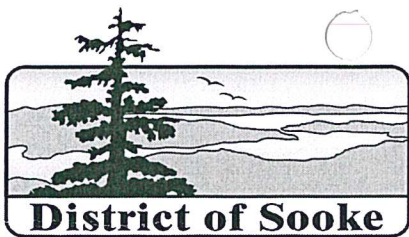
**CARRIED**

**Councillor Tait opposed the motion**

10







**DIRECTION REQUEST**  
Land Use and Environment Committee  
Meeting Date: September 30, 2013

To: Gord Howie, Chief Administrative Officer

From: Tara Johnson, Planner II

Re: **1781 Minnie Road and 7057 West Coast Road – Rezoning Application**

**RECOMMENDATION:**

**THAT THE LAND USE AND ENVIRONMENT COMMITTEE** receive this report for discussion.

**1. Executive Summary:**

The applicant has brought forward a second option to developing the lands located at 1781 Minnie Road and 7057 West Coast Road and would like the Land Use and Environment Committee (LUEC) to provide direction.

The applicant is exploring the option of creating 800 m<sup>2</sup> lots without inclusion into the Sewer Specified Area (SSA) and without connection to the municipal sanitary sewer system. The purpose of this report is to explain why staff is unable to support this new option.

**2. Application History:**

This application was presented to LUEC on December 17, 2012 and to Council on January 28, 2013 where the Applicant proposed to rezone 1781 Minnie Road and 7057 West Coast Road from Rural Residential (RU4) to Small Lot Residential (R3) and to include the properties into the SSA.

At the January 28<sup>th</sup> meeting, Council referred the application back to the applicant to work with staff to provide further information regarding a neighborhood solution to the sanitary sewer installation for the proposed development.

The revised sanitary sewer plans were brought forward to the May 21, 2013 LUEC and involved the development of a gravity sanitary sewer system going to a central pump station. The pump station would then pump up to and along West Coast Road to where a connection would be made to the main leading to the treatment plant. This proposal eliminated the need for individual sewer pumps for each home. The pump station that the developer would install could be de-commissioned in the future if the Municipality constructs a sewer pump station further down Whiffin Spit Road to service a larger area. The new system that the developer proposed would have no cost to the Municipality and the new sewer plan would give adjacent property owners a possible opportunity to have their properties serviced should they be included in the SSA.

The LUEC, at the May 21, 2013 meeting, recommended that Council give 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> reading to Bylaw No. 560, the bylaw which would include these properties into the SSA. On May 27<sup>th</sup>, 2013, Council gave 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reading to Bylaw No. 560 (Councillor Haldane and Councillor Kasper opposed the motions).



On September 16<sup>th</sup>, 2013 the applicant came forward to staff, asking if staff would support a proposal to allow subdivision of 800 m<sup>2</sup> lots without connection to the municipal sanitary sewer system.

### **3. Analysis:**

In addition to other legislation and regulations, land development in the District of Sooke is guided primarily by three main bylaws, Bylaw No. 400, *Sooke Official Community Plan, 2010* (OCP), Bylaw No. 600, *Sooke Zoning Bylaw, 2013* (Zoning Bylaw), as well as Bylaw No. 65, *Subdivision and Development Standards Bylaw, 2003*.

Subdivision creating lots of less than 2500m<sup>2</sup> in size outside the SSA is not supported by the OCP and Sooke's Regional Context Statement (RCS) in the OCP or by the Zoning Bylaw. In addition, Sooke's Liquid Waste Management Plan, 2010 (LWMP) also does not support lots smaller than 2500m<sup>2</sup> without connection to the municipal sanitary sewer system.

The smallest lot size for subdivision purposes currently available to properties not serviced by the municipal sanitary sewer system is the Neighbourhood Rural Residential zone (RU5). The RU5 zone allows for the potential creation of 2500 m<sup>2</sup> lots on lands located within the Gateway Residential and Community Residential designations in the OCP. This zone is only obtainable if septic treatment for each lot is determined and installed in accordance with the requirements of the appropriate approval authority and a site specific analysis of the subject property's soils is completed prior to a lot being rezoned to RU5. Subdivision approval is contingent on the developer meeting the septic treatment and disposal requirements of Bylaw 65 and the Vancouver Island Health Authority or Ministry of Environment depending on the size of the project.

In the early stages of preparing its Liquid Waste Management Plan for Sanitary Service, the District agreed to a minimum lot size of 1 hectare in areas not serviced by sewer. Before completing the LWMP, the District advised the Ministry of Environment that during the Stage 3 Review of the Sanitary Sewer LWMP it was determined if treatment systems could meet sewerage regulations than a smaller lot size would be acceptable. The District advised the Ministry that it would include a minimum lot size of 2500 m<sup>2</sup> in the OCP for properties in the Gateway Residential designation, and now the Community Residential designation, that are not serviced by sewer providing the soils are suitable and that a suitable septic system was designed by a qualified professional. This agreement forms part of our current LWMP.

The now completed LWMP notes the risk to the District of allowing development reliant on privately owned sewage treatment facilities as they are prone to failure. As part of the LWMP, the District agreed to set out protocols for the review and evaluation of developer proposals for wastewater treatment strategies outside of the SSA and to develop a program to monitor and encourage maintenance of private, on-site septic systems. The LWMP requires the District to adopt a bylaw banning the discharge of wastewater effluent from any treatment plants into the Sooke Harbour or Sooke Basin. Changes cannot be made to further reduce minimum lot sizes for areas outside of the SSA unless the recommendations from LWMP are fully implemented, at which point consideration could then be given to amending the OCP and the Regional Context Statement.

In addition, Whiffin Spit is a high priority area for municipal sewer. If property owners are provided with the opportunity to subdivide their properties to create lots less than 2500 m<sup>2</sup> in size by installing new on-site sewage disposal systems, then there will be no incentive for them to connect to the municipal sewer system when it is provided to this area.



The applicant asked whether rezoning to a Comprehensive Development zone (CD) would be an option. Staff explained that this was not an option because OCP Policy 5.9.3(b) states that "CD developments proposed in areas without sewer shall be required to connect to the municipal sewer system". Even if the applicant requested to rezone to a CD zone, rezoning to allow 800 m<sup>2</sup> lots to be subdivided without municipal sewer would be in contravention of the OCP and Sooke's Regional Context Statement in the OCP.


Under the current bylaws, if the property were to be included into the SSA and connected to the municipal sewer system, then 800 m<sup>2</sup> lots in the Community Growth Area can be supported by the Sooke's Regional Context Statement in the OCP, the Zoning Bylaw and the LWMP.

#### 4. Legal Impacts:

Council can not enact a bylaw contrary to its OCP and contrary to its Regional Context Statement. If it does so, then that bylaw will be open to legal challenge and other parties including the CRD can challenge it.

#### Attached Documents:

1. Letter from Applicant
2. Revised Concept Plan

  
Tara Johnson, MCIP, RPP  
Planner II

Approved for Council Agenda	
 Engineering	 Planning
 Corp. Services	 Finance
 CAO	

District of Sooke

Sept.18<sup>th</sup> 2013

Land Use and Environment Committee

Attn. Tara Johnson – Planner

Re: Rezoning 1781 Minnie Rd. and 7057 West Coast Rd.

We understand that Council is having difficulty reaching a consensus in regard to our application to rezone the property at 1781 Minnie Rd. and 7057 West Coast Rd. We have had discussions with a number of Council Members to determine what amendments would be required to find common ground and the following is our requested amendment to the application presently before Council;

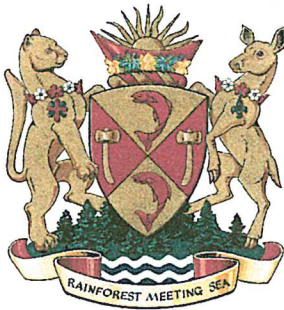
1. That the property be rezoned to permit minimum lot sizes of 800 sq/m.
2. That panhandle lots be permitted.
3. That minimum lot width be 12m.

Attached is a draft plan showing how the property could potentially be subdivided. Our intention would be to provide sewage disposal on site through a single treatment plant managed by a strata or as a combination of fee simple and strata lots.

We would request that the amended proposal be considered at your next Land Use and Environment Committee meeting as the other work covering the riparian area and archeological study has been completed. If you require further information please contact me as soon as possible.

Mark Johnston

M.H. Johnston & Associates Inc.



## DISTRICT OF SOOKE

### BYLAW No. 558

---

A bylaw to amend Bylaw No. 600, *Sooke Zoning Bylaw, 2013* for the purpose of amending the zoning on 1781 Minnie Road and 7057 West Coast Road from Rural Residential (RU4) to Small Lot Residential (R3).

---

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This bylaw is cited as *Zoning Amendment Bylaw (600-3)*.
2. Bylaw No. 600, *Sooke Zoning Bylaw, 2013* is amended in **Schedule A** by changing the zoning on the property legally described as *Lot 2, Section 4, Sooke District, Plan VIP52401* and *Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880* as shown shaded on Schedule A to this bylaw from Rural Residential (RU4) to Small Lot Residential Zone (R3).

Introduced and read a first time the 27<sup>th</sup> day of May, 2013.

Read a second time the 27<sup>th</sup> day of May, 2013.

Public hearing held the       day of       , 2013.

Read a third time the       day of       , 2013.

Approved by Ministry of Transportation and Infrastructure the       day of       , 2013.

Adopted on the       day of       , 2013.

---

Wendal Milne  
Mayor

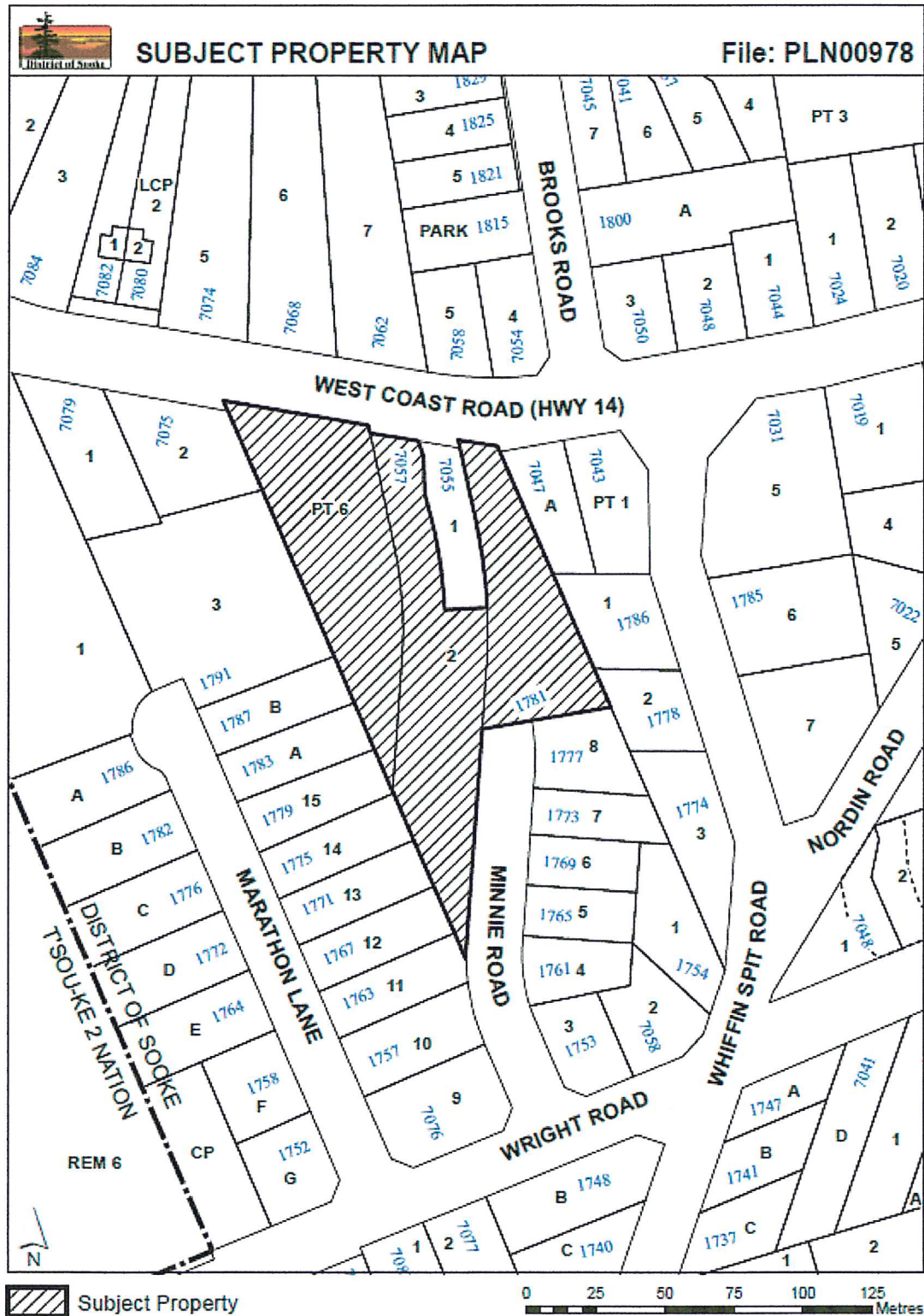
---

Bonnie Sprinkling  
Corporate Officer

FOR INFORMATION ONLY: Section 219 Covenant registered the       day of       , 20       in the Victoria Land Titles office under number       .



## SCHEDULE A



**B-1 Bylaw No. 560, Sooke Core Sewer Specified Area Amendment Bylaw (147-18) and Bylaw No. 558, Zoning Bylaw Amendment Bylaw (600-3) – 1781 Minnie Road and 7057 West Coast Road**

Councillor Reay declared a perception of conflict of interest with this agenda item and left the meeting at 7:43 p.m.

Mark Johnson, representative for the applicant advised that they have no objection to paying cash in lieu for park and also have no objection to working with their biologist to establish a trail through the SPEA if they can do it as it will be a benefit to the community.

Mayor Milne requested that Council move ahead to Agenda Item B-2 prior to consideration of Bylaw No. 558 and Bylaw No. 560 in order to provide staff time to clarify information as to contiguous sewers in the Official Community Plan.

Councillor Reay returned to the meeting at 8:39 p.m. in order to vote on Bylaw No. 569, *Zoning Amendment Bylaw (600-1)*.

**MOVED** and seconded that Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)* be introduced and read a first time.  
**CARRIED**

**Councillor Haldane and Councillor Kasper opposed the motion**

**MOVED** and seconded that Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)* be read a second time.  
**CARRIED**

**Councillor Haldane and Councillor Kasper opposed the motion**

**MOVED** and seconded that Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)* be read a third time.  
**CARRIED**

**Councillor Haldane and Councillor Kasper opposed the motion**

**MOVED** and seconded that Bylaw No. 558, *Zoning Amendment Bylaw (600-3)* be introduced and read a first time.  
**CARRIED**

**Councillor Haldane and Councillor Kasper opposed the motion**

**MOVED** and seconded that Bylaw No. 558, *Zoning Amendment Bylaw (600-3)* be read a second time.  
**CARRIED**

**Councillor Haldane and Councillor Kasper opposed the motion**

**MOVED** and seconded to direct staff to schedule a Public Hearing for Bylaw No. 558 in accordance with the requirements of the *Community Charter* and the *Local Government Act*.  
**CARRIED**

**Councillor Haldane and Councillor Kasper opposed the motion**

**MOVED and seconded** that the adoption of Bylaw No. 558 be immediately prior to the adoption of Bylaw No. 560.

**CARRIED**

**Councillor Haldane and Councillor Kasper opposed the motion**

**MOVED and seconded** that prior to final adoption of Bylaw No. 558, the owner must enter into a Development Agreement by way of a section 219 covenant with the District of Sooke and that Council authorize the Mayor and the Chief Administrative Officer to execute the Development Agreement.

**CARRIED**

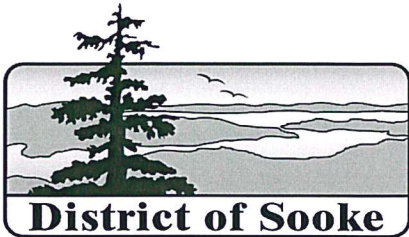
**Councillor Haldane and Councillor Kasper opposed the motion**

**MOVED and seconded** to postpone a decision on the Affordable Housing Contribution and Parkland Dedication requirements for 1781 Minnie Road and 7057 West Coast Road to following the Public Hearing.

**CARRIED UNANIMOUSLY**

Councillor Reay returned to the meeting at 8:53 p.m.





File No. PLN00978

**DIRECTION REQUEST  
REGULAR COUNCIL**  
Meeting Date: May 27, 2013

To: Gord Howie, Chief Administrative Officer  
From: Gerard LeBlanc, Municipal Planner  
Re: **Affordable Housing Contribution and Parkland Dedication  
Requirements – 1781 Minnie Road & 7057 West Coast Road**

**RECOMMENDATION:**

**THAT COUNCIL** require completion of the following requirements for the 1781 Minnie Road and 7057 legally described as Lot 2, Section 4, Sooke District, Plan VIP52401 and Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880 West Coast Road development prior to adoption of Bylaw No. 558,:

1. provision of a \$5,000.00 affordable housing contribution from the applicant;
2. registration of a section 219 habitat protection covenant on title for the Streamside Protection and Enhancement Area (SPEA) identified in the Riparian Areas Assessment Report #2535 dated September 25, 2012 located on the entire property;
3. registration of a section 219 drainage covenant and a statutory right-of-way for maintenance purposes on title for the 2-metre portion of the SPEA located between Sooke Road (Highway 14) and Wright Road Creek identified in the Riparian Areas Assessment Report #2535 dated September 25, 2012; and,
4. provision of cash-in-lieu of parkland dedication equivalent to 5% of the market value of the land from the applicant at subdivision stage;

**AND THAT COUNCIL** authorize the Mayor and Chief Administrative Officer to sign the section 219 covenants and statutory rights of way.

**1. Executive Summary & Background:**

At its May 21, 2013 meeting, the Land Use and Environment Committee (LUEC) directed staff to discuss with the applicant for the Minnie/West Coast Road development the options for parkland dedication, including trails within the SPEA and the affordable housing requirements, and provide options to Council for consideration.

Staff has had the opportunity to discuss these matters with the applicant's agent who has indicated all are in agreement with the recommendations to Council. This report discusses the provision of affordable housing and the provision of parkland related to the application.

## 2. Discussion

### Affordable Housing Contribution

When this application was filed it was proposed that a Phased Development Agreement would be put in place to obtain amenities based on the *Community Amenity Contribution Policy* (Policy) in effect at the time of application and the District's *Official Community Plan* (OCP). Based on the Policy the base density for the site was determined to be 12 units per hectare and the applicant had agreed to contribute amenities based on this 12-unit base density.

The subdivision proposal is for 13 lots; one lot has been 'lost' as a result of locating the proposed sewage treatment pump on one of the lots. There are two (2) lots that will be created with residences already existing on them; five (5) lots will permit single family residences and 6 will be large enough to accommodate duplexes for a total of seventeen (17) units. The existing units are not included in the calculation. Based on a 17-unit maximum density and a 12-unit base density, the amenity contribution at \$5,000 per unit would total \$25,000 under the Policy. The owner could choose at time of subdivision to either contribute with cash, or by providing a tangible amenity worth \$25,000, or a combination of both. To satisfy the affordable housing requirement policy from the OCP, 20% of this amenity contribution, \$5,000, is to be allocated to the Affordable Housing Reserve Fund (20% of \$25,000 = \$5,000). The applicant has verbally agreed to contributing this amount.

It is noted that the applicant's agent has indicated that suites located in the single family dwellings to be constructed would constitute the affordable housing units. The District cannot consider provision of suites as satisfying the affordable housing component for this application as suites are permitted in the proposed Small Lot Residential (RU3) Zone. They therefore cannot be an affordable housing contribution from the developer and would be a permitted addition to a single family dwelling unless the applicant entered into a housing agreement with the District to maintain them as affordable housing units. This approach would undoubtedly encumber those units for the length of the agreement and would likely prove unattractive to potential owners.

**RECOMMENDATION:** Staff recommend that Council require an affordable housing contribution of \$5,000 from the applicant based on the former *Community Amenity Acquisition Policy* in effect at the time that the application was made to the District.

### Parkland Dedication

The *Local Government Act* (LGA) through S. 941 requires that an applicant provide 5% of the land being developed for parkland or alternatively, provide a 5% cash-in-lieu of parkland dedication at subdivision. In Sooke the practice has been that when the cash-in-lieu option is selected, the value of the contribution is based on the assessed value of the land at subdivision. The *Local Government Act* and *Subdivision Parkland Valuation Regulation* provide further guidance on how these calculations can be determined. When the 5% parkland dedication is taken, the District selects the area of land desired for park purposes.



The discussion at LUEC regarding the provision of parks with this application focused on whether taking the Streamside Protection and Enhancement Area (SPEA) as the park dedication and whether a trail could be located within the SPEA. The Riparian Area Assessment Report (RAR) prepared for this application notes that a 2-metre SPEA is required on the ditched portion of the watercourse from Sooke Road (Highway 14) to Wright Road Creek and that a 10-metre SPEA is required on the main stem of Wright Road Creek. Both SPEA's are established for habitat protection and the measures, i.e., the activities permitted, applicable to the SPEA do not include or permit a trail. Thus, the District does not have the opportunity to locate a trail within the SPEA.

It should be noted that both the 2- and 10-metre SPEAs could be taken as a portion of the required parkland dedication. The balance of the parkland dedication either could be taken as a dedication of land or as a cash-in-lieu of parkland dedication or a further combination of land and cash. The proposed subdivision does not have an area shown as parkland dedication therefore having the District opt for a cash-in-lieu of parkland is logical.

The District, to date, has not taken an area identified as a SPEA as parkland. In some cases the District has taken the SPEA and retained it in its natural or altered natural state but not taken it as park; the Spiritwood development is one example of this. In another example (Nott Brook) a SPEA has been established which permits a trail to be located adjacent to the SPEA; the trail is separated from the SPEA by a split-rail fence. This latter example illustrates how the provision of a community amenity can co-exist with an area dedicated for habitat protection and in this case managed by the members of the strata corporation to be created when the development is complete.

Wright Road Creek rises above this proposed development and flows beyond the limits of this property. Although it is likely that if development occurs on adjacent lots through which the Creek flows that a SPEA of similar width as the one here would be required, there is no certainty that any measures established would require similar or more stringent measures. Thus, the District, by taking this SPEA as parkland, could find itself as owners of a natural area requiring maintenance in accordance with the SPEA measures with the potential of increased expenditures on maintenance in the future as a result of future development. Further, there is a requirement for the ditched watercourse, with a 2-metre SPEA, draining into Wright Road Creek to be managed as drainage from Sooke Road. The 2-metre SPEA would not be a substantive park acquisition and would have to be covenanted for drainage maintenance purposes regardless. This would be inefficient and impractical in terms of the District's interests and represents a 'utility' rather than parkland function.

The District has not taken any SPEA as parkland dedication in the past. Staff recommend that the area within the SPEA be retained by the various new landowners who would be responsible for maintenance of the SPEA. An alternative could also include the lands within the SPEA would be limited common property under a Bare Land Strata subdivision. They would need to be transferred to an administrative body, such as the strata corporation that would manage the proposed sewage works, for management. A S. 219 *Land Title Act* (LTA) covenant would be registered over both



the 2- and 10-metre sections of the SPEA for habitat protection to achieve this. A second S. 219 covenant would be registered on the 2-metre portion of the SPEA extending from Sooke Road to Wright Road Creek, retaining it for drainage purposes, also to be maintained by the future strata corporation. At the same time, a statutory right-of-way would be provided in favour of the District for access and drainage management purposes.

**RECOMMENDATION:** Staff recommend that a cash-in-lieu of parkland dedication be required prior to subdivision approval and that the required SPEA be retained for the purposes identified in the RAR Assessment measures (habitat protection and drainage) and that they be managed by the new landowners or the proposed strata corporation that would manage the sewage works associated with the subdivision if the rezoning application before Council is successful. The measures established in the RAR Assessment do not provide the District with any beneficial paybacks and in fact create a duty, if not a liability, for drainage management.

#### **4. Legal Impacts:**

The District's OCP calls for the provision of affordable housing units within a development or for the provision of a cash-in-lieu of affordable housing. The dedication of suites in the single family dwellings of the proposed subdivision would not be suitable without a housing agreement and, as to date the District does not have an administrative body to manage affordable housing units. This approach is not a viable alternative at this time. Suites are permitted as an accessory use, in the proposed zone and do not in themselves constitute affordable housing. Thus a contribution to the District's *Affordable Housing Amenity Fund* is an appropriate approach to take with this application.

Section 941 of the LGA makes a parkland or cash-in-lieu of parkland a statutory requirement at subdivision stage. It is not a requirement that can be waived although Council has the ability to divide the dedication into land and cash-in-lieu of land, as deemed appropriate to community interests. With this application, the requirement of a cash-in-lieu of parkland dedication is an appropriate approach for the District to take. The cash-in-lieu of parkland dedication would be deposited in the District's *Parkland Acquisition Reserve Fund*.

Taking the SPEA, required for drainage and habitat protection, presents no discernible additional benefit to the District and could be a potential liability in the future.

#### **5. Strategic Relevance:**

The applicant would be in compliance with the OCP policies related to affordable housing and parkland acquisition through Council adoption of the staff recommendation. The community's best interests would also benefit through the contributions to the respective reserve funds as additional sums would be available to provide for affordable housing and additional parkland in the future.

**6. Financial Impacts:**

Requiring the applicant to make contributions to the District would augment the respective reserve funds established for parkland acquisition and affordable housing purposes and would provide sums for future expenditures as determined by Council.

**Attached Documents:**

1. Land Use and Environment Committee May 21, 2013 recommendation and minutes.

Respectfully,

\_\_\_\_\_  
Gerard V. LeBlanc, MCIP, RPP  
Municipal Planner

Approved for Council Agenda	
_____ Engineering	_____ Corp. Services
_____ Finance	_____ CAO



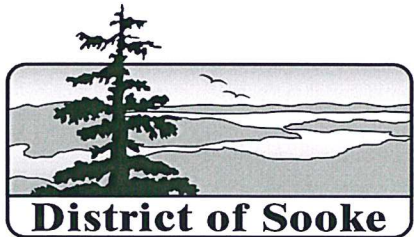


**Rezoning and Sewer Inclusion Application – 1781 Minnie Road & 7057 West Coast Road**

**MOVED** and seconded to recommend that Council introduce and give first, second and third reading to Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)*; **AND FURTHER THAT COUNCIL** introduce and give first and second reading to Bylaw No. 558, *Zoning Amendment Bylaw (600-3)*; **AND FURTHER THAT COUNCIL** direct staff to schedule a Public Hearing for Bylaw No. 558 in accordance with the requirements of the *Community Charter* and the *Local Government Act*; and **AND FURTHER THAT COUNCIL** direct that the adoption of Bylaw No. 558 be immediately prior to the adoption of Bylaw No. 560; **AND FURTHER THAT COUNCIL** direct that prior to final adoption of Bylaw No. 558, the owner must enter into a Development Agreement by way of a section 219 covenant with the District of Sooke and that Council authorize the Mayor and the Chief Administrative Officer to execute the Development Agreement;  
**CARRIED UNANIMOUSLY**

**MOVED** and seconded to direct staff to discuss with the applicant for the Minnie/West Coast Road development the options for parkland dedication, including trails within the SPEA, and the affordable housing requirements and provide options to Council for consideration.  
**CARRIED UNANIMOUSLY**





**DIRECTION REQUEST**  
Land Use and Environment Committee  
Meeting Date: May 21, 2013

To: Gord Howie, Chief Administrative Officer  
From: Tara Johnson, Planner II  
Re: 1781 Minnie Road & 7057 West Coast Road

**SUGGESTED ACTION:**

**THAT THE LAND USE AND ENVIRONMENT COMMITTEE RECOMMEND THE FOLLOWING:**

**THAT COUNCIL** introduce and give first, second and third reading to Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)*;

**AND FURTHER THAT COUNCIL** introduce and give first and second reading to Bylaw No. 558, *Zoning Amendment Bylaw (600-3)*;

**AND FURTHER THAT COUNCIL** direct staff to schedule a Public Hearing for Bylaw No. 558 in accordance with the requirements of the *Community Charter* and the *Local Government Act*; and

**AND FURTHER THAT COUNCIL** direct that the adoption of Bylaw No. 558 be immediately prior to the adoption of Bylaw No. 560;

**AND FURTHER THAT COUNCIL** direct that prior to final adoption of Bylaw No. 558, the owner must enter into a Development Agreement by way of a section 219 covenant with the District of Sooke and that Council authorize the Mayor and the Chief Administrative Officer to execute the Development Agreement;

**AND FURTHER THAT COUNCIL** determine if parkland dedication should be in the form of parkland or cash-in-lieu;

**AND FURTHER THAT THE COMMITTEE** discuss the applicability of affordable housing policies 4.7.3(g) and 4.7.4(j) within Bylaw No. 400, *Sooke Official Community Plan 2010* and provide direction for staff for this application.

**1. Executive Summary:**

The Applicant proposes to rezone 1781 Minnie Road and 7057 West Coast Road from Rural Residential (RU4) to Small Lot Residential (R3). The properties are designated Community Residential (CR) within Bylaw No. 400, *Official Community Plan Bylaw, 2010 (OCP)*.

The Applicant has also applied to include the properties into the Sewer Specified Area (SSA).

This application was presented to the Land Use and Environment Committee (LUEC) on December 17, 2012 and to Council on January 28, 2013. At the Jan 28 meeting, Council



referred the application back to staff to provide further information regarding a solution to the sewer installation for the proposed development.

## **2. Background:**

The lands surrounding the subject properties are zoned Rural Residential (RU4) with lot sizes varying from 700 m<sup>2</sup> to 4000 m<sup>2</sup>. The subject properties have access to Highway 14 and Minnie Road. Less than 1 km away there is a low density and medium density multi family development underway (Heron View), as well as twenty three 350 m<sup>2</sup> small family lots along Wright Road.

The total area of the subject properties is 1.065 hectares (2.6 acres). The property located at 1781 Minnie Road was originally created in 1911. In 1991, a subdivision was completed to create 7057 West Coast Road and 7055 West Coast Road. As a result, 1781 Minnie Road was divided in half and may appear as two properties physically, but legally is one property. The property located at 7055 West Coast Road is not owned by the applicant and is not subject to the rezoning application.

There are single family dwellings located at 7057 West Coast Road and 1781 Minnie Road. The applicant proposes to keep both houses and to design the future subdivision to allow each house to be located on a fee simple lot.

### **Sewer**

The applicant has submitted a sanitary serviceability review that has been reviewed by EPCOR and the Municipal Engineer. The service review outlines the best method of servicing the property and determines the costs related to upgrading and or installing sewer systems. Prior to adoption of Bylaw No. 558, the applicant will be required to bond or construct the sewer systems as per the sanitary serviceability review.

As explained and quoted from the attached letter from Mark Johnston dated April 22, 2013, the revised sewer plans involve the development of a gravity sewer system in the proposed subdivision going to a central pump station which would pump up to and along West Coast Road to where a connection would be made to the main going to the treatment plant. This therefore eliminates the need for individual sewer pumps for each home. The pump station that the developer installs would be de-commissioned at the time the Municipality constructs a sewer pump station further down Whiffin Spit Road to service a larger area. The new system that the developer proposes would have no cost to the Municipality and the new sewer plan gives adjacent properties a possible opportunity to have their properties serviced.

The proposed sewer plan for this development is attached.

### **Servicing & Access**

Considering the proposed density of this rezoning, the applicant is to design and construct Minnie Road upgrades complete with asphalt overlay and cul-de-sac. Highway 14 frontage is to be designed and constructed as per the cross section in the Memorandum of Understanding with the Ministry of Transportation and Infrastructure (MOTI) R12SS-A.

MOTI will require a group access for lots using West Coast Road and will not consider approving individual accesses to Highway 14. MOTI and District Engineering Department require the dedication of property lines to match neighbouring properties.

The developer will be responsible to ensure that drainage ditch, and drainage from proposed lot layout/building spaces, does not negatively impact Highway 14. To ensure this, the developer will be required to submit a drainage report and a storm water management plan.



### ***Riparian Areas Regulation: Assessment Report***

The applicant has submitted a Riparian Areas Regulation: Assessment Report (RAR) prepared by a Qualified Environmental Professional (QEP). Wright Road Creek bisects the property west to east, and there is a drainage ditch that discharges to a mid-point of Wright Road Creek within the subject property from a culvert on West Coast Road. The minimum Streamside Protection and Enhancement Area (SPEA) setback requirement has been determined by the QEP to be 10 m from the high water mark of Wright Road Creek.

### ***Floodplain Covenant and Sooke Floodplain Regulation Bylaw No. 561***

In 1991, when 7057 and 7055 West Coast Road were created through subdivision a flood plain covenant was registered to the property in the name of a provincial Ministry and the Capital Regional District (CRD). CRD responsibilities for the covenant were assigned at incorporation to the District of Sooke. The covenant states that if a portion of a property is below the 1.5 m floodplain elevation that any habitable structure or portion locating within it would have to be built in conformity with the covenant. There is also a 15 m setback from the natural boundary of the creek applicable through the covenant.

The applicant is in process of securing a qualified professional to prepare a geotechnical report prior to subdivision, and have Wright Road Creek surveyed by a Professional Surveyor to determine the natural boundary of the creek prior to subdivision. Under section 910(5)(b) and 910(6)(b) of the *Local Government Act*, provisions for exemptions from Flood Construction Levels can be made providing certain conditions are met including a report from a qualified professional stating the land is safe for the intended use and registration of a related covenant. If an exemption to the floodplain regulation is deemed appropriate, the 1991 floodplain covenant could be removed once the new covenant is registered.

### ***Archaeological Impact Assessment***

The applicant's professional archaeologist has determined that a full archaeological impact assessment is not required. The conclusion from the applicant's professional archaeologist has been forward to T'Sou-ke Nation and the Archaeology Branch at Ministry of Natural Resource Operations.

## **3. Analysis:**

### ***Bylaw No. 400, Sooke Official Community Plan 2010 (OCP)***

The OCP designates the property as *Community Residential* (CR) and it falls within the *Community Growth Area* (CGA). The goals of this designation are to ensure sustainable single family and multiple family construction, reduction of sprawl, and providing or accessing municipal services in an efficient manner so that there is minimal impact on municipal infrastructure. The following are relevant sections of the OCP that support this rezoning application:

## **4.3 ENERGY AND CLIMATE CHANGE**

### **4.3.3 (f) Create contiguous development (avoiding gaps of undeveloped properties);**

The subject properties are large properties that are undeveloped except for two existing single family dwellings. Although the area surrounding the subject property consists mostly of low density single family residential lots, the adjacent properties are at a higher density than the subject properties. Creating a denser single-family development on these properties would be compatible with surrounding development.

#### **4.7 HOUSING**

- 4.7.3 (g) Consider allowing developers the flexibility to provide their required affordable housing in different forms thus creating an 'affordable housing mix' in new developments, e.g. secondary suites, condominium rental units, cash, or land in lieu to the District of Sooke towards on/off-site affordable housing;
- 4.7.4 (j) Require 10% (rounded up) of the total number of any single family residential proposed subdivision (lots) and spec-built subdivisions as affordable residential lots and/or affordable single family homes respectively as defined by the District of Sooke.

The applicant has not satisfied the affordable housing policies within the OCP. Council can ask for a cash contribution to the District Affordable Housing Reserve Fund, or ask for the provision of affordable housing to be dedicated on the property.

#### **5.1 COMMUNITY RESIDENTIAL**

- 5.1.2 (f) Primarily concentrate new residential development in existing areas or neighbourhoods prior to expanding into new areas;
- (g) Require safe and formalized pedestrian access to services from all residential areas, including connections to amenities and commercial service areas;
- (h) Reduce impact on the natural environment and avoid hazardous land conditions and environmentally sensitive area
- (k) Allow for a variety of housing options within new and existing residential areas

#### **Bylaw No. 600, Sooke Zoning Bylaw 2013 (Zoning Bylaw)**

Under the proposed zone of R3, the minimum lot size permitted is 350m<sup>2</sup>. The applicant has not applied for subdivision so the number of lots to be proposed is not known.

#### **4. Legal Impacts:**

The subject properties fall within an environmentally sensitive area as identified on Map 5 within the OCP; a Development Permit for environmental protection will be required prior to subdivision. The developer will be required to submit an erosion and sediment control plan, a drainage plan and follow the recommendations within the RAR.

#### **5. Strategic Relevance:**

The 2013-2014 Corporate Strategic Plan describes Council's:

##### *Vision*

*Council maintains a fair tax and service delivery policy to municipal taxpayers while encouraging sustainable, SMART growth.*

##### **Strategic Priority #1: Fiscal responsibility**

The District will strive towards long-term financial sustainability. It will prepare for the future by ensuring adequate contributions are made towards required long-term capital infrastructure needs, while living within our means.

#### **6. Financial Impacts:**

The developer will pay for all costs associated with site improvements and development and is bound by District of Sooke Bylaws and regulations.



**7. Implication of Recommendation:**

The OCP supports this rezoning proposal for the following reasons:

- This rezoning is within an area designated for growth;
- This rezoning will be compatible with surrounding neighbourhoods.

**Attached Documents:**

1. Application Summary
2. Referral Agency Comments
3. Letter from Mark Johnston dated April 22 2013 with Proposed Sewer Plan for the development
4. R12SS-A
5. Subject property map
6. Service Review for Sewer
7. Bylaw No. 558
8. Bylaw No. 560 with Certified Petition
9. S. 219 covenant for Development Agreement

Approved for Council Agenda

\_\_\_\_\_  
Engineering

\_\_\_\_\_  
Planning

\_\_\_\_\_  
Corp. Services

\_\_\_\_\_  
Finance

\_\_\_\_\_  
CAO

\_\_\_\_\_  
Tara Johnson, MCIP, RPP  
Planner II

### Application Summary

<b>Address</b>	1781 Minnie Road 7057 West Coast Road
<b>Legal</b>	Lot 2, Section 4, Sooke District, Plan VIP52401 Lot 6, Section 4, Sooke District, Plan 1282, Except that Part in Plan 118 RW and Plan 29880
<b>Existing Zoning</b>	Rural Residential (RU4)
<b>Proposed Zoning</b>	Small Lot Residential Zone (R3)
<b>Existing OCP</b>	Community Residential
<b>Proposed OCP</b>	n/a
<b>Parcel Size</b>	1781 Minnie Road - 7057 West Coast Road -
<b>DP Area</b>	A DP will be required for environmental under DPA #2 in OCP
<b>Services</b>	<b>Water:</b> CRD Water <b>Sewer:</b> to be hooked into Municipal <b>Drainage:</b> On-site
<b>Adjacent Land Uses</b>	<b>North:</b> Highway 14 <b>South:</b> single family residential <b>East:</b> single family residential <b>West:</b> single family residential

### Present Zoning and Proposed Zoning

	<b>RU4</b>	<b>R3</b>
Minimum Lot Size for Subdivision	1 ha	350 m <sup>2</sup>
Maximum Height of Principle Building	12 m	10.5 m
Maximum height accessory building	9 m	4 m
Maximum Lot Coverage	30%	45%
Minimum Frontage	30 m	11 m

**SUMMARY OF COMMENTS RECEIVED  
IN RESPONSE TO DISTRICT OF SOOKE REFERRAL SENT OCTOBER 3, 2012**

<b>EXTERNAL REFERRALS</b>		
<b>Date Rec'd</b>	<b>Agency</b>	<b>Comments</b>
July 17  <i>Applicant had this study completed before submitting rezoning application</i>	EPCOR	Service Review completed by Stantec. Property has frontages onto both Minnie Road and West Coast Road. As the property lies outside of the SSA, there is no infrastructure in place at the property frontage (s) to accommodate a connection to the municipal sanitary sewer system. The best method of servicing the property would be to install a new 50mm diameter Low Pressure Line from 1781 Minnie Road to tie into the existing 50mm LP line at 7096 West Coast Road. Please see attached review for further details.
Oct. 5	Shaw Cable	No concerns
Oct. 3	BC Hydro	BC Hydro does not own any equipment on this property. Therefore, BC Hydro does not require that a Statutory Right-of-Way Agreement (SRW) be registered against the property title at this time.
October 16	Ministry of Transportation and Infrastructure	<p>The Ministry has no objections in principle to the proposed rezoning. At this time the Ministry will not enforce any conditions on the rezoning phase of this proposal. Ministry requirements will be enforced at the time of subdivision.</p> <p>Primary areas of concern to be addressed during the subdivision application will most likely include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• The SPEA areas in the middle of the property constrict available space for interior access roads; forcing access for northern lots directly to Highway 14. The Ministry will require a group access for lots using West Coast Road as access. Individual access to Highway 14 will not be approved. Any proposed access to Highway 14, for any lots, will require an approved permit from the Ministry prior to construction.</li> <li>• Dedication of property lines to match neighbouring properties.</li> <li>• Developer will be responsible to ensure that drainage ditch, and drainage from proposed lot layout/building spaces, does not negatively impact Highway 14. A drainage report will be required and possibly a storm water management plan – based on an agreed preliminary layout.</li> </ul>
	Canada Post	No response
	BC Transit	No response
	Beecher Bay	No response
	CRD Water	No response
	SEAPARC	No response



Jan 16 2013	T'souke Nation	Spoke to Bonnie English who has noted that she is pleased to know that an archaeological overview assessment was completed and that she has received a copy.
Jan 16 2013	Archeological Branch	We will keep the report from the archaeologist on file. The Archaeology Branch has no further concerns.
	RCMP	No response.
Oct 24	School District #62	No Concerns
October 3	Fortis BC	FortisBC has no objections to the Development. Gas pipelines exist within the Road Allowance(s) fronting the development on West Coast Rd .
Oct 5	Shaw Cable	No concerns
Oct. 16	Telus	Does not conflict with TELUS regulations or policies.
<b>INTERNAL REFERRALS</b>		
	Building	Will review at time of building permit.
	Fire	At time of subdivision, a fire hydrant meeting the minimum Fire Underwriters Survey and CRD Water specifications will be required near the northern end of Minnie Road in order to meet hydrant spacing requirements. A street light should be placed at or adjacent to this hydrant.
	Engineering	<p><b>Note: All text that has been bolded has been requested to be included within the Development Agreement</b></p> <p>1.0 General</p> <p>a. Service the new development in accordance with the District of Sooke Subdivision and Development Standards Bylaw 65.</p> <p>b. Road dedication required along Highway 14 frontage to line up with 7047, 7055, 7057 and 7075 West Coast Road (Highway 14).</p> <p>c. Road dedication required for cul-de-sac on Minnie Road.</p> <p>d. Environmental impacts must be mitigated as per the Ministry of Environment's <i>Develop With Care; Environmental Guidelines for Urban and Rural Land Development in British Columbia, 2012</i>. Any breach of an environmental nature must be reported to the Municipal Engineer immediately.</p> <p>e. An Erosion and Sediment Control Plan, prepared by a qualified professional, is required prior to commencement of any construction on site. The plan is to satisfactorily address the control of soils and sediment during the construction period and until constructed earthwork stabilizes.</p> <p>2.0 Surface Improvements</p> <p>2.1 The applicant is to design and construct Minnie Road upgrades, as per District of Sooke section drawing</p>

		<p>number SDD-R06.</p> <p><b>2.2 Considering the proposed density of this rezoning, the applicant is to design and construct Minnie Road upgrades complete with asphalt overlay and cul-de-sac.</b></p> <p><b>2.3 Highway 14 frontage is to be designed and constructed as per the cross section in the Memorandum of Understanding with the Ministry of Transportation and Infrastructure R12SS-A.</b></p> <p><b>2.4 All driveways within public property are to be hard surfaced to the property line.</b></p> <p>3.0 Sanitary Sewer</p> <p>3.1 A sewer serviceability study has been completed for this project, to review the capacity of downstream sewers. The costs related to upgrading/installing the downstream system, as detailed in the report, will be borne by the developer.</p> <p>3.2 As noted in the referral request, the properties are not located within the sewer specified area and the applicant has been informed that they are required to apply to the District to be included in the SSA as per Policy 11.5.</p> <p>4.0 Landscaping / Parks / Environmental</p> <p><b>4.1 Recommendations of the Riparian Areas Assessment completed for this site must be adhered to.</b></p> <p><b>4.2 The SPEA setback area adjacent to the watercourse is to be permanently fenced; complete with "Environmentally Protected Area" signs.</b></p> <p>4.3 Street trees shall be planted as per Bylaw 65 requirements. Provision of a Tree Planting Plan must be approved by the District of Sooke Parks and Environmental Services Coordinator prior to planting. The tree planting plan must include:</p> <ul style="list-style-type: none"> <li>a) tree species list with botanical and common names;</li> <li>b) size, quantity of trees and spacing of trees (minimum DGH of 5cm for Minnie Road frontage and minimum DBH of 8 cm for Highway 14 frontage);</li> <li>c) location of trees, utilities and sight-lines;</li> <li>d) protection buffer for existing trees; and</li> <li>e) staking and guying techniques.</li> </ul> <p>Trees are to be spaced a minimum of 15 metres apart on</p>
--	--	--

		<p>each side of the highway. The developer will be required to enter into a Works and Services Agreement and provide security in the amount of 10% of the estimated cost of works and services associated with street trees to be held for one year after the works and services related to the street trees in the development have been approved by the District of Sooke to be used for the replacement of trees.</p> <p>4.4 Park dedication or cash in lieu option to be decided through the rezoning process with resolution from Council.</p> <p><b>Please note that the above items are for the applicant's information. It is the intent that only the highlighted sections are to be included in Development Agreement document.</b></p>
--	--	---



District of Sooke

APR 25 2013

Received

M.H. JOHNSTON & ASSOCIATES INC.



Management & Project Development Consulting

District of Sooke

April 22<sup>nd</sup> 2013

2205 Otter Pt. Road

Sooke BC.

V9Z 1J2

ATTN: Gerard LeBlanc – Municipal Planner

RE: 1781 Minnie Rd. / 7057 West Coast Rd. – Application – Sewer Specified Area  
Amendment/Rezoning/Phased Development Agreement

Council at its meeting on January 28<sup>th</sup> 2013 dealt with the above described application and referred it back to staff to provide further information regarding a solution to the sewer installation for the proposed development.

We understand Council's concern regarding the need to have sewer pumps in each home in the new subdivision and have worked with our engineer, and reviewed with your staff an alternate proposal. Our new plan involves the development of a gravity sewer system in the subdivision going to a central pump station which would pump up to and along West Coast Rd. to where a connection would be made to the main going to the treatment plant. This plan eliminates the need for individual sewer pumps in each home.

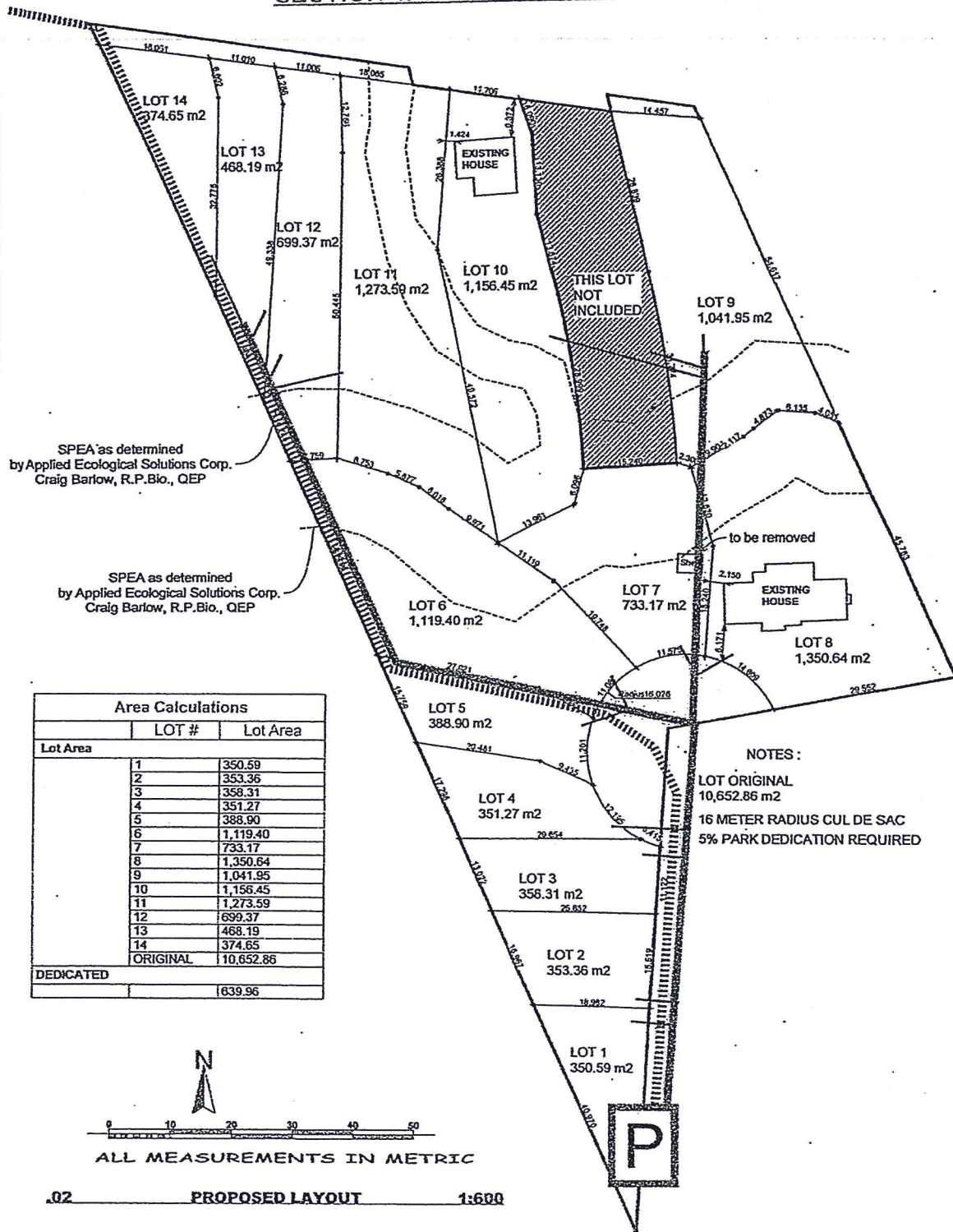
We have been advised that the Municipality has plans to eventually construct a sewer pump station further down Whiffin Spit Rd. to service a larger area. Our plan would allow the pump station we install to be de-commissioned at that time and simply have the gravity system extended as part of the new municipal system for the Whiffin Spit area and beyond.

The system we propose would be developed at no cost to the Municipality and would meet your engineering requirements. Our plan also gives adjacent properties a possible opportunity to have their properties serviced, and this could be a no municipal cost first step to a gravity sewer system in the area that would tie into your proposed system for the area in the future.

I have attached a plan showing the proposed system and have reviewed this plan with your Engineering and Planning staff. We are hoping to get on your Land Use and Environment Committee Agenda as soon as possible to have our proposal discussed. Please advise when the next Committee meeting is scheduled.

Mark H Johnston

**PROPOSED SUBDIVISION - REZONING  
OF LOT 6, PLAN 1282, EXCEPT  
PART IN PLAN 118 RW AND PLAN 29880.  
AND LOT 2, PLAN VIP52401, BOTH  
SECTION 4. SOOKE DISTRICT.**

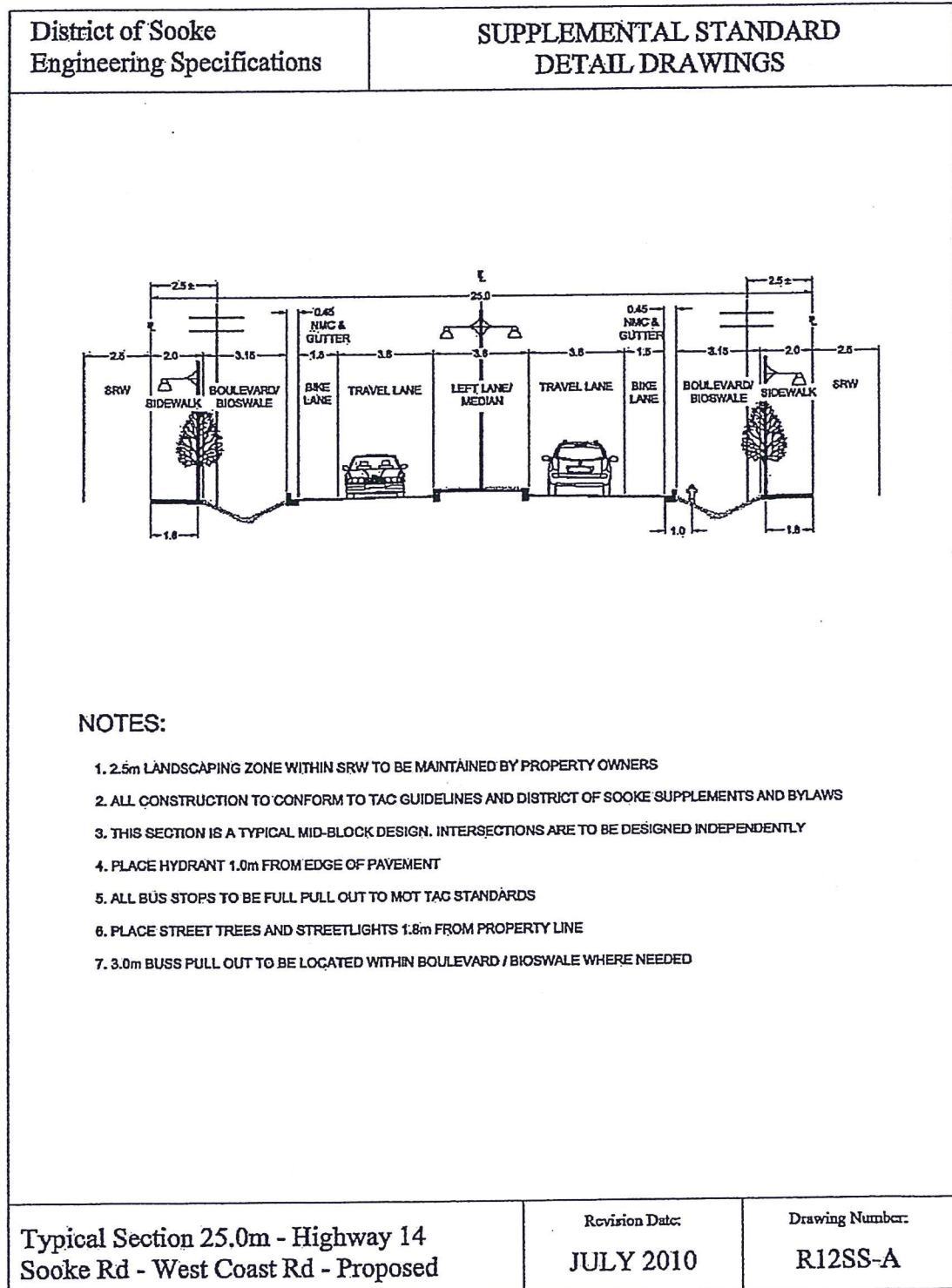




November 9, 2012  
3 of 3

## MEMORANDUM

Re: 7057 West Coast Road and 1781 Minnie Road  
Proposed Rezoning – Engineering Referral

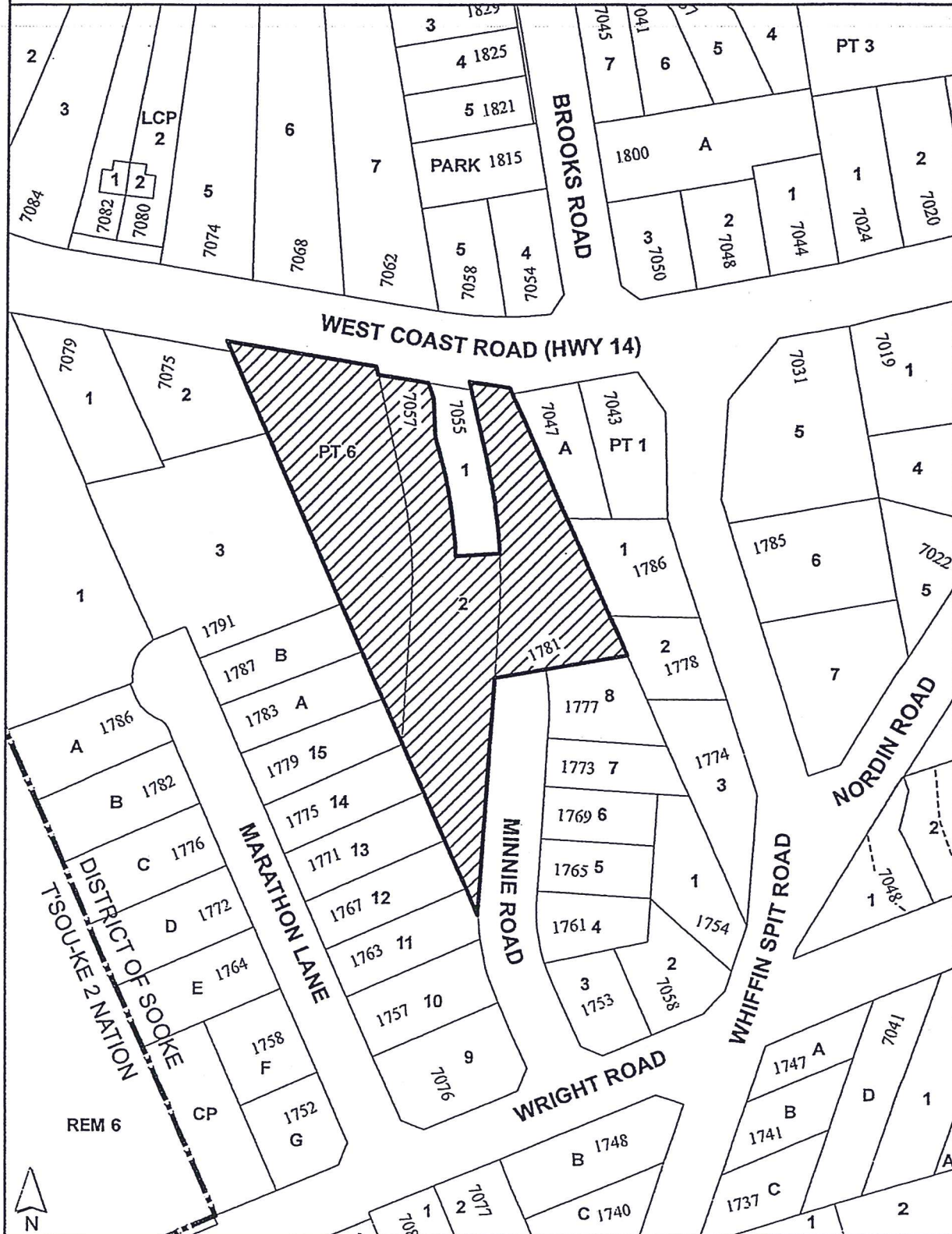






# SUBJECT PROPERTY MAP

File: PLN00978



Subject Property

0 25 50 75 100 125 Metres



Stantec Consulting Ltd.  
400 - 655 Tyee Road  
Victoria BC V9A 6X5  
Tel: (250) 388-9161  
Fax: (250) 382-0514

---

**Stantec**

July 17<sup>th</sup>, 2012  
File: 112610205

District of Sooke  
2205 Otter Point Road  
Sooke British Columbia  
V0S 1N0  
Canada

**Attention:** Elisabeth Nelson, P.Eng, Director Of Development Services

Dear Elisabeth:

**Reference:** Sooke Sewer Model: Service Review for 1781 Minnie Road: Revision 1

On June 29<sup>th</sup>, 2012, Stantec received an application for a serviceability review to make a connection to the District of Sooke Sanitary Sewer System at 1781 Minnie Road. 1781 Minnie Road is located outside of the current Sewer Specified Area (SSA), close to the intersection of Whiffin Spit Road and West Coast Road. The property has frontages onto both Minnie Road and West Coast Road.

As the property lies outside the SSA, there is no infrastructure in place at the property frontage(s) to accommodate a connection to the municipal sanitary sewer system. The original conceptual design report, prepared by Stantec in 2007, indicated that the property could be serviced by a gravity connection on Minnie Road which would then travel to a future proposed lift station (named Whiffin Spit West in the 2007 report). However, as no pump station exists at this time in this location, the closest infrastructure to 1781 Minnie Road is a 50mm Low Pressure line on West Coast Road, which currently terminates at the frontage of 7096 West Coast Road, approximately 270m to the west of 1781 Minnie Road's frontage onto West Coast Road.

The best method of servicing the property at this time would be to install a new 50mm diameter Low Pressure Line from 1781 Minnie Road to tie into the existing 50mm LP line at 7096 West Coast Road. The sewage would then flow within the pressurized main approximately 200m to the west, at which point it would be siphoned along the access road to the Waste Water Treatment Plant (WWTP) headworks building. The capacity of the existing 50mm diameter line from 7096 West Coast Road to the collector manhole prior to the siphon to the WWTP has been reviewed, and has the capacity to accept the additional flow from the 12 Single Family Equivalent (SFE) lots at 1781 Minnie Road. All properties at 1781 Minnie Road, once subdivided, will need individual sewage pumps to allow connection to the system.

It should also be noted that the siphon arrangement which runs from the final collector manhole on West Coast Road to the headworks of the WWTP is also potentially reaching the capacity of the current piping arrangement. There are two pipes installed in this section, a 200mm diameter and a 300mm diameter, and may be used one at a time (with the other being capped) or both in tandem, depending on the flow rates through the manhole. This manhole should be monitored regularly to decide which piping arrangement to adopt.

**Stantec**

July 17, 2012

Elisabeth Nelson, P.Eng, Director Of Development Services

Page 2 of 2

**Reference: Sooke Sewer Model: Service Review for 1781 Minnie Road: Revision 1**

If you have any questions regarding the information in this memo, please feel free to contact the undersigned.

Sincerely,

**STANTEC CONSULTING LTD.**



Al Ghanam

Associate

Tel: (250) 389-2347

Fax: (250) 382-0514

alan.ghanam@stantec.com

Attachment:

c.

ss v:\1126\active\112610251\report\modelling\_requests\et\_ss\_20120709\_service\_review\_1781\_minnie.doc





# Legend

- Address Point
- Parcels
  - Property Boundary
  - Foreshore
  - Rights of Way
  - Municipal Boundary
  - Sewer Manhole
  - Sewer Lift Station
  - Sewer Valve
  - swrLateralLine
  - swrGravityMain
  - Gravity Main
  - Gravity Main - In Progress
  - Gravity Main - Proposed
  - swrPressurizedMain
  - Park Land
  - Road Names
  - Sewer Specified Area
- Watercourses
  - Intermittent
  - River/Stream
  - Natural Boundary



Scale 1:3516  
18 May 2012, 13:36

Disclaimer: This unofficial document of the District of Sooke contains information that is consolidated for convenience purposes only and is not to be relied upon in making financial or other commitments. The District of Sooke does not warrant the accuracy of information on this map nor will it accept responsibility for errors or omissions. Not intended for navigation.



## DISTRICT OF SOOKE

### BYLAW No. 558

---

A bylaw to amend Bylaw No. 600, *Sooke Zoning Bylaw, 2013* for the purpose of amending the zoning on 1781 Minnie Road and 7057 West Coast Road from Rural Residential (RU4) to Small Lot Residential (R3).

---

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This bylaw is cited as *Zoning Amendment Bylaw (600-3)*.
2. Bylaw No. 600, *Sooke Zoning Bylaw, 2013* is amended in **Schedule A** by changing the zoning on the property legally described as *Lot 2, Section 4, Sooke District, Plan VIP52401* and *Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880* as shown shaded on Schedule A to this bylaw from Rural Residential (RU4) to Small Lot Residential Zone (R3).

Introduced and read a first time the       day of       , 2013.

Read a second time the       day of       , 2013.

Public hearing held the       day of       , 2013.

Read a third time the       day of       , 2013.

Approved by Ministry of Transportation and Infrastructure the       day of       , 2013.

Adopted on the       day of       , 2013.

---

Wendal Milne  
Mayor

---

Bonnie Sprinkling  
Corporate Officer

FOR INFORMATION ONLY: Section 219 Covenant registered the       day of       , 20       in the Victoria Land Titles office under number       .









## DISTRICT OF SOOKE

### BYLAW No. 560

---

A bylaw to amend *Sooke Core Sewer Specified Area Bylaw, 2003* to enlarge the community sewer system service area to include parcels located at 1781 Minnie Road and 7057 West Coast Road.

---

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This Bylaw is cited as *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)*.
2. Bylaw No. 147, *Sooke Core Sewer Specified Area Bylaw, 2003* is amended in Schedule A by adding to the Sooke Core Sewer Specified Area the parcel shown outlined in black and hatched on Schedule A to this bylaw and legally described as:
  - (PID 005-887-895) *Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880* (also known as 1781 Minnie Road); and
  - (PID 017-349-966) *Lot 2, Section 4, Sooke District, Plan VIP52401* (also known as 7057 West Coast Road).

Petition certified sufficient and valid the 4<sup>th</sup> day of December, 2012.

Introduced and read a first time the      day of      , 20      .

Read a second time the      day of      , 20      .

Read a third time the      day of      , 20      .

Adopted on the      day of      , 20      .

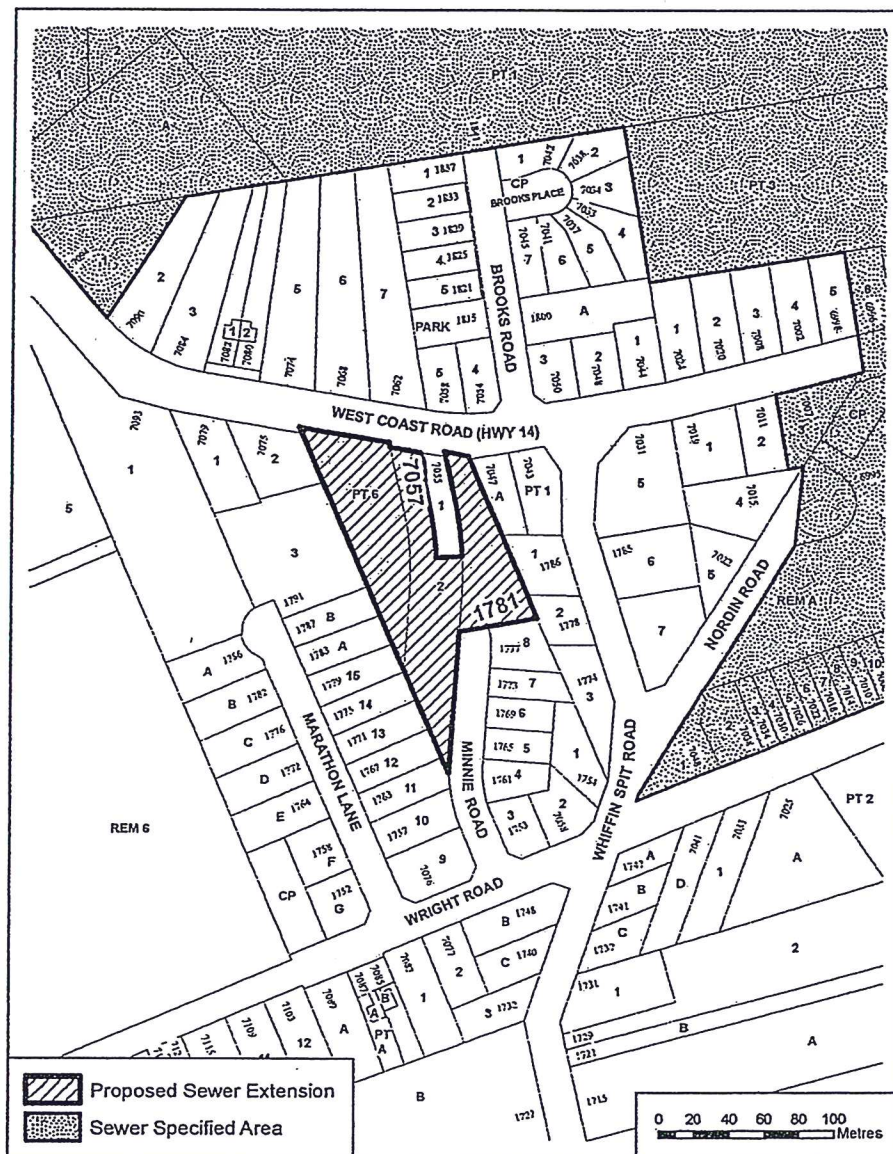
---

Mayor Milne  
Mayor

---

Bonnie Sprinkling  
Corporate Officer

## SCHEDULE A



**TERMS OF INSTRUMENT – PART 2**

**SECTION 219 COVENANT**

THIS AGREEMENT, dated for reference \_\_\_\_\_, 201\_\_ is made

BETWEEN:

**Beverly Wade Befus and Sherri Lynn Befus**  
1781 Minnie Road  
Sooke, BC V9Z 0S5

(the "Owner")

AND:

**DISTRICT OF SOOKE**, a municipality incorporated under the  
Local Government Act, R.S.B.C. 1996, c.323 and having its office  
at 2205 Otter Point Road, Sooke, BC V9Z 1J2

(the "Municipality")

GIVEN THAT:

- A. The Owner is the registered Owner in fee simple of the land in Sooke, British Columbia, legally described as:
- Lot 2, Section 4, Sooke District, Plan VIP52401 (PID 017-349-966)
- Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in plan 118 RW and Plan 29880 (PID 005-887-895)
- (the "Land");
- B. The Owner proposes to develop the Land for a residential use;
- C. The Owner has requested the Municipality to adopt Bylaw No. 558, *Zoning Amendment Bylaw (600-3)* (the "Rezoning Bylaw") rezoning the Land to permit the development proposed by the Owner, and
- D. The Council of the Municipality has determined that the adoption of the Rezoning Bylaw would, but for the covenants contained in this Agreement, not be in the public interest; and the Owner therefore wishes to grant pursuant to s.219 of the *Land Title Act*, and the Municipality wishes to accept, the covenants over the Land that are set out in this Agreement;



THIS AGREEMENT is evidence that in consideration of payment of \$1.00 by each of the Municipality to the Owner (the receipt of which is acknowledged by the Owner), the Owner grants to the Municipality in accordance with s.219 of the Land Title Act the following covenants:

1. The Owner covenants and agrees with the Municipality that:
  - (a) The Land must not be redeveloped beyond its current use;
  - (b) The Land must not be subdivided;
  - (c) Development of the Land, including by construction or placement of any building or structure on the Land is prohibited with exception of a show home;
  - (d) No building permit may be applied for, and the Municipality is not obliged to issue any building permit, in respect of the Land with exception of a show home; and
  - (e) No occupancy permit may be applied for, and the Municipality is not obliged to issue any occupancy permit, in respect of the Land,unless the use, subdivision, development, building or occupancy is in accordance with the Schedule of Restrictions attached as Schedule A.
2. Any opinion, decision, act or expression of satisfaction of the Municipality provided for in this Agreement is to be taken or made by the Municipality's Municipal Engineer or his or her delegate authorized as such in writing, in each case acting reasonably.
3. The Owner may, after the Rezoning Bylaw is adopted, request a discharge of any particular covenant granted in this Agreement in respect of any parcel into which the Land may be subdivided, and the Municipality shall execute and deliver a discharge in respect of any such covenant that has been, in the Municipality's opinion, fully satisfied by the Owner.
4. The Owner releases, and must indemnify and save harmless, the Municipality, its elected and appointed officials and employees, from and against all liability, actions, causes of action, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the Owner, or anyone else, arising from the granting or existence of this Agreement, from the performance by the Owner of this Agreement, or any default of the Owner under or in respect of this Agreement.
5. The parties agree that this Agreement creates only contractual obligations and obligations arising out of the nature of this document as a covenant under seal. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of, or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract and under the law pertaining to covenants under seal.
6. The rights given to the Municipality by this Agreement are permissive only and nothing in this Agreement imposes any legal duty of any kind on the Municipality to anyone, or

obliges the Municipality to enforce this Agreement, to perform any act or to incur any expense in respect of this Agreement.

7. Where the Municipality is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the Municipality is under no public law duty of fairness or natural justice in that regard and agrees that the Municipality may do any of those things in the same manner as if it were a private party and not a public body.
8. This Agreement does not:
  - (a) affect or limit the discretion, rights or powers of the Municipality under any enactment (as defined in the Interpretation Act, on the reference date of this Agreement) or at common law, including in relation to the use of the Land,
  - (b) affect or limit any enactment related to the use of the Land, or
  - (c) relieve the Owner from complying with any enactment, including in relation to the use of the Land.
9. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under s.219 of the Land Title Act in respect of the Land and this Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated. The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered Owner of the Land.
10. The Owner agrees to do everything reasonably necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.
11. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
12. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
13. This Agreement is the entire agreement between the parties regarding its subject.
14. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.
15. The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instrument.

16. By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Office Form C that is attached hereto and forms part of this Agreement.



## **SCHEDULE "A"**

### **SCHEDULE OF RESTRICTIONS**

#### **SERVICING**

1. The Developer covenants that it shall not subdivide the Lands and that it shall not construct any buildings, improvements or structures on the Lands except for structures such as roads, pipes, mains, pumps, and all related facilities and equipment as may be necessary to provide water, sanitary sewer, stormwater management and fire suppression services to the Lands, in accordance with all required permits and approvals, until the conditions outlined in sections 1 and 2 are fulfilled.
2. The Developer shall at its sole cost design, install, plant and construct the following works, services and other things:
  - a. The applicant is to design and construct Minnie Road upgrades complete with asphalt overlay and cul-de-sac.
  - b. Highway 14 frontage is to be designed and constructed as per the cross section in the Memorandum of Understanding with the Ministry of Transportation and Infrastructure R12SS-A.
  - c. All driveways within public property are to be hard surfaced to the property line.
  - d. Recommendations of the Riparian Areas Assessment completed for this site must be adhered to.
  - e. The SPEA setback area adjacent to the watercourse is to be permanently fenced; complete with "Environmentally Protected Area" signs.
3. Prior to the issuance of subdivision in respect of the Lands authorizing the construction and installation or other provision of the Servicing required under sections 1 and 2, and the Subdivision and Development Standards Bylaw (as amended), the Developer must provide to the District security in the form of an irrevocable letter of credit, or in a form satisfactory to the District, and in the amount of one hundred ten (110%) percent of the estimated cost of constructing and installing and otherwise providing the Servicing required under both the Subdivision and Development Standards Bylaw (as amended) and sections 1 and 2, as estimated by a Professional Engineer and accepted by the Municipal Engineer acting reasonably, which security will be released to the Developer upon completion of the works and services and upon final acceptance by the District's Municipal Engineer.

**END OF DOCUMENT**

- B-5 Bylaw No. 558, Zoning Amendment Bylaw (600-1) – 1781 Minnie Road & 7057 West Coast Road**  
**Bylaw No. 559, 1781 Minnie Road & 7057 West Coast Road Phased Development Agreement Authorization Bylaw, 2013**  
**Bylaw No. 560, Sooke Core Sewer Specified Area Amendment Bylaw (147-18)**

Councillor Reay declared a conflict of interest with this agenda item and left the meeting and 7:10 p.m.

Jared Steingard, Westbrook Consulting Ltd. representing the applicant provided a power point presentation for the Rezoning Application and Phased Development at 1781 Minnie Road and 7057 West Coast Road.

Councillor Reay returned to the meeting at 7:35 p.m.

**MOVED** and seconded to refer the application back to staff to provide further information regarding a solution to the sewer installation for the proposed development.  
**CARRIED UNANIMOUSLY**







File No. PLN00978

## REQUEST FOR DECISION

Regular Council

Meeting Date: January 28, 2013

To: Dave Gawley, Acting Chief Administrative Officer  
From: Tara Johnson, Planner II  
Re: 1781 Minnie Road & 7057 West Coast Road

### RECOMMENDATION:

**THAT COUNCIL** introduce and give first and second reading to Bylaw No. 558, *Zoning Amendment Bylaw (600-1)*;

**AND** introduce and give first and second reading to Bylaw No. 559, *1781 Minnie Road & 7057 West Coast Road Phased Development Agreement Authorization Bylaw, 2013*;

**AND** direct staff to schedule a Public Hearing for Bylaw No. 558 and Bylaw No. 559 in accordance with the requirements of the *Community Charter* and the *Local Government Act*

**AND THAT** the adoption of Bylaw No. 558 and Bylaw No. 559 shall be concurrent with the adoption of Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)*

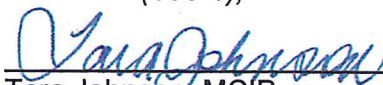
### 1. Executive Summary:

At the time this application was presented to the Land Use and Environment Committee (LUEC) on December 21, 2012, the applicant still had to determine whether an Archaeological Impact Assessment (AIA) would be required for the subject property. Staff had asked LUEC to recommend that Council consider first and second reading only after a professional archaeologist assessed whether an AIA would be required.

Staff now has results from the applicant's professional archaeologist who has determined that a full archaeological impact assessment would not be required. Staff is now recommending that Council consider giving first and second reading to the proposed bylaws. The statement from the applicant's professional archaeologist has been forward to T'Souke Nation and the Archaeology Branch at Ministry of Natural Resource Operations.

### Attached Documents:

1. Referral Comments from T'Souke Nation and the Archaeological Branch
2. Archaeological Overview
3. Bylaw No. 559, *1781 Minnie Road & 7057 West Coast Road Phased Development Agreement Authorization Bylaw, 2013*;
4. Bylaw No. 558, *Zoning Amendment Bylaw (600-1)*;

  
Tara Johnson, MCIP  
Planner II

Approved for Council Agenda

Engineering

Planning

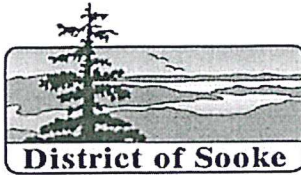
Corp. Services

Finance

CAO

EXTERNAL REFERRALS		
Date Rec'd	Agency	Comments
Nov 1 2012	T'souke Nation	T'Sou-ke would like to see archaeology work done as part of the project.
Jan 16 2013	T'souke Nation	Spoke to Bonnie English who has noted that she is pleased to know that an archaeological overview assessment was completed and that she has received a copy.
Nov 2 2012	Archeological Branch	<p>Based on the size of the development area and the identified area of potential (which is high potential as opposed to moderate or low), the Archaeology Branch recommends that a professional archaeologist be engaged to inspect the properties – to assess whether an AIA is warranted.</p> <p>Having someone out on the ground to look over the landscape is recommended as we can only tell so much from our mapping application (one of the reasons we have the potential information – it suggests that there is some likelihood of unrecorded archaeological materials).</p>
Jan 16 2013	Archeological Branch	We will keep the report on file. The Archaeology Branch has no further concerns.





2205 Otter Point Road, Sooke, British Columbia, Canada V9Z 1J2

Phone: (250) 642-1634  
email: info@sooke.ca

Fax: (250) 642-0541  
website: www.sooke.ca

## LAND USE AND ENVIRONMENT COMMITTEE RECOMMENDATION TO COUNCIL

Meeting of December 17, 2012

---

***ADMINISTRATIVE CHANGE – As Bylaw No. 500, Sooke Zoning Bylaw, 2011 would be repealed with the adoption of Bylaw No. 600, Sooke Zoning Bylaw, 2013 the zoning amendment bylaw for 1781 Minnie Road and 7057 West Coast Road should be cited as Bylaw No. 558, Zoning Amendment Bylaw (600-1).***

### **Recommendation to Council:**

#### **1781 Minnie Road & 7057 West Coast Road**

**THAT** Council introduce and give first and second reading to Bylaw No. 558, *Zoning Amendment Bylaw (500-16)* after a professional archaeologist has assessed whether an Archaeological Impact Assessment is required;

**AND THAT COUNCIL** introduce and give first and second reading to Bylaw No. 559, *1781 Minnie Road & 7057 West Coast Road Phased Development Agreement Authorization Bylaw, 2012* after a professional archaeologist has assessed whether an Archaeological Impact Assessment is required;

**AND THAT COUNCIL** introduce and give first, second and third reading to Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)* after a professional archaeologist has assessed whether an Archaeological Impact Assessment is required;  
**AND THAT COUNCIL** direct staff to schedule a Public Hearing for Bylaw No. 558 and Bylaw No. 559 in accordance with the requirements of the *Community Charter* and *Local Government Act* after first and second reading is given;

**AND FURTHER THAT** the adoption of Bylaw No. 558 and Bylaw No. 559 shall be concurrent with the adoption of Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)*.

### **PLEASE NOTE:**

**STAFF REPORTS AND BACKGROUND INFORMATION FOR THE ABOVE RECOMMENDATIONS ARE AVAILABLE IN THE AGENDA PACKAGE OF DECEMBER 17, 2012. THE LAND USE AND ENVIRONMENT COMMITTEE AGENDA PACKAGES ARE AVAILABLE ON THE DISTRICT OF SOOKE WEBSITE OR AT THE MUNICIPAL OFFICE.**







File No. PLN00978

**DIRECTION REQUEST**  
Land Use and Environment Committee  
Meeting Date: December 17, 2012

To: Dave Gawley, Acting Chief Administrative Officer  
From: Tara Johnson, Planner II  
Re: **1781 Minnie Road & 7057 West Coast Road**

**SUGGESTED ACTION:**

**THAT THE LAND USE AND ENVIRONMENT COMMITTEE RECOMMEND THAT COUNCIL**

1. introduce and give first and second reading to Bylaw No. 558, *Zoning Amendment Bylaw (500-16)* after a professional archaeologist has assessed whether an Archaeological Impact Assessment is required; and
2. introduce and give first and second reading to Bylaw No. 559, *1781 Minnie Road & 7057 West Coast Road Phased Development Agreement Authorization Bylaw, 2012* after a professional archaeologist has assessed whether an Archaeological Impact Assessment is required; and
3. introduce and give first, second and third reading to Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)* after a professional archaeologist has assessed whether an Archaeological Impact Assessment is required; and
4. direct staff to schedule a Public Hearing for Bylaw No. 558 and Bylaw No. 559 in accordance with the requirements of the *Community Charter* and the *Local Government Act* after first and second reading is given.

**AND THAT** the adoption of Bylaw No. 558 and Bylaw No. 559 shall be concurrent with the adoption of Bylaw No. 560, *Sooke Core Sewer Specified Area Amendment Bylaw (147-18)*.

**1. Executive Summary:**

The Applicant proposes to rezone 1781 Minnie Road and 7057 West Coast Road from Rural Residential (RU4) to Small Lot Residential (R3). The properties are designated Community Residential (CR) within Bylaw No. 400, *Official Community Plan Bylaw, 2010 (OCP)*.

The Applicant has also applied to include the properties into the Sewer Specified Area (SSA) and has agreed to enter into a Phased Development Agreement (PDA) to enable the District of Sooke to secure amenity contributions and servicing requirements for the project.

**2. Background:**

The lands surrounding the subject properties are zoned Rural Residential (RU4) with lot sizes varying from 700 m<sup>2</sup> to 4000 m<sup>2</sup>. The subject properties have access to Highway 14 and Minnie Road. Less than 1 km away there is a low density and medium density multi family

development underway (Heron View), as well as twenty three 350 m<sup>2</sup> small family lots along Wright Road.

The total area of the subject properties is 1.065 hectares (2.6 acres). The property located at 1781 Minnie Road was originally created in 1911. In 1991, a subdivision was completed to create 7057 West Coast Road and 7055 West Coast Road. As a result, 1781 Minnie Road was divided in half and may appear as two properties physically, but legally is one property. The property located at 7055 West Coast Road is not owned by the applicant and is not subject to the rezoning application.

There are single family dwellings located at 7057 West Coast Road and 1781 Minnie Road. The applicant proposes to keep both houses and to design the future subdivision to allow each house to be located on a fee simple lot.

#### ***Sanitary Serviceability Review***

The applicant has submitted a sanitary serviceability review that has been reviewed by EPCOR and the Municipal Engineer. The service review outlines the best method of servicing the property and determines the costs related to upgrading and or installing sewer systems. Prior to adoption of Bylaw No. 558 and Bylaw No. 559, the applicant will be required to bond or construct the sewer systems as per the sanitary serviceability review.

#### ***Riparian Areas Regulation: Assessment Report***

The applicant has submitted a Riparian Areas Regulation: Assessment Report (RAR) prepared by a Qualified Environmental Professional (QEP). Wright Road Creek bisects the property west to east, and there is a drainage ditch that discharges to a mid-point of Wright Road Creek within the subject property from a culvert on West Coast Road. The minimum Streamside Protection and Enhancement Area (SPEA) setback requirement has been determined by the QEP to be 10 m from the high water mark of Wright Road Creek.

In 1991, when 7057 and 7055 West Coast Road were created through subdivision a flood plain covenant was registered to the property in the name of a provincial Ministry and the Capital Regional District (CRD). CRD responsibilities for the covenant were assigned at incorporation to the District of Sooke. The covenant states that if a portion of a property is below the 1.5 m floodplain elevation that any habitable structure or portion locating within it would have to be built in conformity with the covenant. There is also a 15 m setback from the natural boundary of the creek applicable through the covenant. Bylaw No. 500, *Zoning Bylaw, 2011* (Zoning Bylaw) requires a 3 m elevation above the natural boundary of Wright Road Creek and since the Zoning Bylaw is the higher elevation, it would supersede the 1.5 m elevation requirement within the covenant.

The applicant is in process of securing a qualified professional to prepare a geotechnical report prior to subdivision, and have Wright Road Creek surveyed by a Professional Surveyor to determine the natural boundary of the creek prior to subdivision. Under section 910(5)(b) and 910(6)(b) of the *Local Government Act*, provisions for exemptions from Flood Construction Levels can be made providing certain conditions are met including a report from a qualified professional stating the land is safe for the intended use and registration of a related covenant.

#### ***Archaeological Impact Assessment***

The owner/applicant has contacted a professional archaeologist to inspect the subject properties and assess whether an Archaeological Impact Assessment (AIA) is required. The conclusion of whether an AIA is required will be presented at a meeting for first and second reading.



### 3. Analysis:

#### **Bylaw No. 400, Sooke Official Community Plan 2010 (OCP)**

The OCP designates the property as *Community Residential* (CR) and it falls within the *Community Growth Area* (CGA). The goals of this designation are to ensure sustainable single family and multiple family construction, reduction of sprawl, and providing or accessing municipal services in an efficient manner so that there is minimal impact on municipal infrastructure. The following are relevant sections of the OCP that support this rezoning application:

#### **4.3 ENERGY AND CLIMATE CHANGE**

##### **4.3.3 (f) Create contiguous development (avoiding gaps of undeveloped properties);**

The subject properties are large properties that are undeveloped except for two existing single family dwellings. Although the area surrounding the subject property consists mostly of low density single family residential lots, the adjacent properties are at a higher density than the subject properties. Creating a denser single-family development on these properties would be compatible with surrounding development.

#### **4.7 HOUSING**

- 4.7.3 (g) Consider allowing developers the flexibility to provide their required affordable housing in different forms thus creating an 'affordable housing mix' in new developments, e.g. secondary suites, condominium rental units, cash, or land in lieu to the District of Sooke towards on/off-site affordable housing;
- 4.7.4 (j) Require 10% (rounded up) of the total number of any single family residential proposed subdivision (lots) and spec-built subdivisions as affordable residential lots and/or affordable single family homes respectively as defined by the District of Sooke.

The PDA proposes in Schedule C that if the developer chooses to pay cash in lieu for the amenity contribution, then 20% of the monies would be contributed to the District Affordable Housing Reserve Fund. This would satisfy the affordable housing policies within the OCP.

#### **4.9 INFRASTRUCTURE**

- 4.9.3 (e) Require all new development to install underground services where feasible;
- (j) Require all new and re-development to implement on-site rainwater management and surface treatment of rainwater, wherever possible
- (l) Protect aquatic ecosystems (lakes, wetlands, rivers, streams), as part of the surface drainage system

Prior to subdivision, the owner will be required to submit a storm water management plan as per District of Sooke Subdivision and Development Standards Bylaw 65. A Geotechnical Report and the RAR will help ensure the protection of the aquatic systems.

#### **4.10 ENVIRONMENT AND 4.13 TRANSPORTATION**

- 4.10.3 (p) Reduce 'edge effect' on park and natural areas by obtaining larger and contiguous open space areas instead of several smaller ones at the time of development
- (t) The District of Sooke shall review at time of subdivision whether or not parkland dedication shall be in the form of parkland or cash-in-lieu, with respect to the Parks and Trails Master Plan.
- 4.13.4 (k) Install sidewalks and pedestrian bicycle lanes along Highway 14, especially in areas where residential dwellings and commercial services exist

- (n) Install sidewalks and/or trails on a minimum of one side of all roads except in rural areas

The Parks and Trails Master Plan, endorsed by Council in March 2009, is used as a guide to help Sooke develop a system of parks and trails. West Coast Road has been identified for a Wide Shoulder type of trail with a width of 1.5 m and asphalt surfacing.

The Transportation Master Plan, endorsed by Council in March 2009, reviews all roads, sidewalks and cycle lanes within Sooke. West Coast Road has been identified for a wide shoulder with no sidewalk.

In addition to these Plans, there is also a Memorandum of Understanding (MOU) between Ministry of Transportation and Infrastructure (MOTI) and District of Sooke approved by Council in February 2011. Highway 14 - Sooke Road – West Coast Road has been identified for a Typical Section R12SS-A. Both Sections show a sidewalk to be located on both sides of Highway 14.

The engineering department has recommended that Highway 14 frontage of the subject property be designed and constructed as per the R12SS-A cross section in the MOU with MOTI.

Council could discuss at this time whether parkland dedication should be in the form of parkland or cash-in-lieu but this decision can be made at time of subdivision as per OCP policy 4.10(t).

## **5.1 COMMUNITY RESIDENTIAL**

- 5.1.2 (f) Primarily concentrate new residential development in existing areas or neighbourhoods prior to expanding into new areas;
- (g) Require safe and formalized pedestrian access to services from all residential areas, including connections to amenities and commercial service areas;
- (h) Reduce impact on the natural environment and avoid hazardous land conditions and environmentally sensitive area
- (k) Allow for a variety of housing options within new and existing residential areas

### **Bylaw No. 500, Sooke Zoning Bylaw 2011 (Zoning Bylaw)**

Under the proposed zone of R3, the minimum lot size permitted is 350m<sup>2</sup>. The applicant has not applied for subdivision so the number of lots to be proposed is not known.

## **4. Legal Impacts:**

The subject properties fall within an environmentally sensitive area as identified on Map 5 within the OCP and a Development Permit for environmental protection will be required prior to subdivision. The developer will be required to submit an erosion and sediment control plan, a drainage plan and follow the recommendations within the RAR.

Under the Sooke Community Amenity Contribution Policy, 2009, the base density for the properties is calculated at 12 dwelling units. Due to the size of the property and the minimum lot size within the R3 zone, there is potential that the maximum density could be greater than 12 dwelling units. A duplex is counted as two dwelling units. A single family dwelling with a suite is counted as one dwelling unit. The amenity contribution will not be known until such time that the owner applies for subdivision.



**5. Financial Impacts:**

The developer will pay for all costs associated with site improvements and development and is bound by District of Sooke Bylaws and regulations and the PDA for the property.

**6. Implication of Recommendation:**

The OCP supports this rezoning proposal for the following reasons:

- This rezoning is within an area designated for growth;
- This rezoning will be compatible with surrounding neighbourhoods.

**Attached Documents:**

1. Application Summary
2. Referral Agency Comments
3. R12SS-A
4. Subject property map
5. Service Review for Sewer
6. Bylaw No. 558
7. Bylaw No. 559
8. Bylaw No. 560 with Certified Petition

\_\_\_\_\_  
Tara Johnson, MCIP  
Planner II

Approved for Council Agenda

\_\_\_\_\_  
Engineering

\_\_\_\_\_  
Planning

\_\_\_\_\_  
Corp. Services

\_\_\_\_\_  
Finance

\_\_\_\_\_  
CAO



### Application Summary

<b>Address</b>	1781 Minnie Road 7057 West Coast Road
<b>Legal</b>	Lot 2, Section 4, Sooke District, Plan VIP52401 Lot 6, Section 4, Sooke District, Plan 1282, Except that Part in Plan 118 RW and Plan 29880
<b>Existing Zoning</b>	Rural Residential (RU4)
<b>Proposed Zoning</b>	Small Lot Residential Zone (R3)
<b>Existing OCP</b>	Community Residential
<b>Proposed OCP</b>	n/a
<b>Parcel Size</b>	1781 Minnie Road - 7057 West Coast Road -
<b>DP Area</b>	A DP will be required for environmental under DPA #2 in OCP
<b>Services</b>	<b>Water:</b> CRD Water <b>Sewer:</b> to be hooked into Municipal <b>Drainage:</b> On-site
<b>Adjacent Land Uses</b>	<b>North:</b> Highway 14 <b>South:</b> single family residential <b>East:</b> single family residential <b>West:</b> single family residential

### Present Zoning and Proposed Zoning

	<b>RU4</b>	<b>R3</b>
Minimum Lot Size for Subdivision	1 ha	350 m <sup>2</sup>
Maximum Height of Principle Building	12 m	10.5 m
Maximum height accessory building	9 m	4 m
Maximum Lot Coverage	30%	45%
Minimum Frontage	30 m	11 m

**SUMMARY OF COMMENTS RECEIVED  
IN RESPONSE TO DISTRICT OF SOOKE REFERRAL SENT OCTOBER 3, 2012**

<b>EXTERNAL REFERRALS</b>		
<b>Date Rec'd</b>	<b>Agency</b>	<b>Comments</b>
July 17  <i>Applicant had this study completed before submitting rezoning application</i>	EPCOR	Service Review completed by Stantec. Property has frontages onto both Minnie Road and West Coast Road. As the property lies outside of the SSA, there is no infrastructure in place at the property frontage (s) to accommodate a connection to the municipal sanitary sewer system. The best method of servicing the property would be to install a new 50mm diameter Low Pressure Line from 1781 Minnie Road to tie into the existing 50mm LP line at 7096 West Coast Road. Please see attached review for further details.
Oct. 5	Shaw Cable	No concerns
Oct. 3	BC Hydro	BC Hydro does not own any equipment on this property. Therefore, BC Hydro does not require that a Statutory Right-of-Way Agreement (SRW) be registered against the property title at this time.
October 16	Ministry of Transportation and Infrastructure	<p>The Ministry has no objections in principle to the proposed rezoning. At this time the Ministry will not enforce any conditions on the rezoning phase of this proposal. Ministry requirements will be enforced at the time of subdivision.</p> <p>Primary areas of concern to be addressed during the subdivision application will most likely include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• The SPEA areas in the middle of the property constrict available space for interior access roads; forcing access for northern lots directly to Highway 14. The Ministry will require a group access for lots using West Coast Road as access. Individual access to Highway 14 will not be approved. Any proposed access to Highway 14, for any lots, will require an approved permit from the Ministry prior to construction.</li> <li>• Dedication of property lines to match neighbouring properties.</li> <li>• Developer will be responsible to ensure that drainage ditch, and drainage from proposed lot layout/building spaces, does not negatively impact Highway 14. A drainage report will be required and possibly a storm water management plan – based on an agreed preliminary layout.</li> </ul>
	Canada Post	No response
	BC Transit	No response
	Beecher Bay	No response
	CRD Water	No response
	SEAPARC	No response



Nov 1	T'souke Nation	T'Sou-ke would like to see archaeology work done as part of the project.
Nov 2	Archeological Branch	Based on the size of the development area and the identified area of potential (which is high potential as opposed to moderate or low), the Archaeology Branch recommends that a professional archaeologist be engaged to inspect the properties – to assess whether an AIA is warranted.  Having someone out on the ground to look over the landscape is recommended as we can only tell so much from our mapping application (one of the reasons we have the potential information – it suggests that there is some likelihood of unrecorded archaeological materials).
	RCMP	No response.
Oct 24	School District #62	No Concerns
October 3	Fortis BC	FortisBC has no objections to the Development. Gas pipelines exist within the Road Allowance(s) fronting the development on West Coast Rd .
Oct 5	Shaw Cable	No concerns
Oct. 16	Telus	Does not conflict with TELUS regulations or policies.
<b>INTERNAL REFERRALS</b>		
	Building	Will review at time of building permit.
	Fire	At time of subdivision, a fire hydrant meeting the minimum Fire Underwriters Survey and CRD Water specifications will be required near the northern end of Minne Road in order to meet hydrant spacing requirements. A street light should be placed at or adjacent to this hydrant.
	Engineering	<b>Note: All text that has been bolded has been requested to be included within the Phased Development Agreement</b>  1.0 General a. Service the new development in accordance with the District of Sooke Subdivision and Development Standards Bylaw 65. b. Road dedication required along Highway 14 frontage to line up with 7047, 7055, 7057 and 7075 West Coast Road (Highway 14). c. Road dedication required for cul-de-sac on Minnie Road. d. Environmental impacts must be mitigated as per the Ministry of Environment's <i>Develop With Care; Environmental Guidelines for Urban and Rural Land Development in British Columbia, 2012</i> . Any breach of an environmental nature must be reported to the Municipal Engineer immediately. e. An Erosion and Sediment Control Plan, prepared by a qualified professional, is required prior to



		<p>commencement of any construction on site. The plan is to satisfactorily address the control of soils and sediment during the construction period and until constructed earthwork stabilizes.</p> <p>2.0 Surface Improvements</p> <p>2.1 The applicant is to design and construct Minnie Road upgrades, as per District of Sooke section drawing number SDD-R06.</p> <p>2.2 <b>Considering the proposed density of this rezoning, the applicant is to design and construct Minnie Road upgrades complete with asphalt overlay and cul-de-sac.</b></p> <p>2.3 <b>Highway 14 frontage is to be designed and constructed as per the cross section in the Memorandum of Understanding with the Ministry of Transportation and Infrastructure R12SS-A.</b></p> <p>2.4 <b>All driveways within public property are to be hard surfaced to the property line.</b></p> <p>3.0 Sanitary Sewer</p> <p>3.1 A sewer serviceability study has been completed for this project, to review the capacity of downstream sewers. The costs related to upgrading/installing the downstream system, as detailed in the report, will be borne by the developer.</p> <p>3.2 As noted in the referral request, the properties are not located within the sewer specified area and the applicant has been informed that they are required to apply to the District to be included in the SSA as per Policy 11.5.</p> <p>4.0 Landscaping / Parks / Environmental</p> <p>4.1 <b>Recommendations of the Riparian Areas Assessment completed for this site must be adhered to.</b></p> <p>4.2 <b>The SPEA setback area adjacent to the watercourse is to be permanently fenced; complete with "Environmentally Protected Area" signs.</b></p> <p>4.3 Street trees shall be planted as per Bylaw 65 requirements. Provision of a Tree Planting Plan must be approved by the District of Sooke Parks and Environmental Services Coordinator prior to planting. The tree planting plan must include:</p> <ul style="list-style-type: none"> <li>a) tree species list with botanical and common names;</li> <li>b) size, quantity of trees and spacing of trees (minimum DGH of 5cm for Minnie Road frontage and minimum DBH of 8 cm for Highway 14</li> </ul>
--	--	--

		<p>frontage);</p> <p>c) location of trees, utilities and sight-lines;</p> <p>d) protection buffer for existing trees; and</p> <p>e) staking and guying techniques.</p> <p>Trees are to be spaced a minimum of 15 metres apart on each side of the highway. The developer will be required to enter into a Works and Services Agreement and provide security in the amount of 10% of the estimated cost of works and services associated with street trees to be held for one year after the works and services related to the street trees in the development have been approved by the District of Sooke to be used for the replacement of trees.</p> <p>4.4 Park dedication or cash in lieu option to be decided through the rezoning process with resolution from Council.</p> <p><b>Please note that the above items are for the applicant's information. It is the intent that only the highlighted sections are to be included in the PDA document.</b></p>
--	--	---



**Stantec**

**Stantec Consulting Ltd.**  
400 - 655 Tyee Road  
Victoria BC V9A 6X5  
Tel: (250) 388-9161  
Fax: (250) 382-0514

July 17<sup>th</sup>, 2012  
File: 112610205

District of Sooke  
2205 Otter Point Road  
Sooke British Columbia  
V0S 1N0  
Canada

**Attention: Elisabeth Nelson, P.Eng, Director Of Development Services**

Dear Elisabeth:

**Reference: Sooke Sewer Model: Service Review for 1781 Minnie Road: Revision 1**

On June 29<sup>th</sup>, 2012, Stantec received an application for a serviceability review to make a connection to the District of Sooke Sanitary Sewer System at 1781 Minnie Road. 1781 Minnie Road is located outside of the current Sewer Specified Area (SSA), close to the intersection of Whiffin Spit Road and West Coast Road. The property has frontages onto both Minnie Road and West Coast Road.

As the property lies outside the SSA, there is no infrastructure in place at the property frontage(s) to accommodate a connection to the municipal sanitary sewer system. The original conceptual design report, prepared by Stantec in 2007, indicated that the property could be serviced by a gravity connection on Minnie Road which would then travel to a future proposed lift station (named Whiffin Spit West in the 2007 report). However, as no pump station exists at this time in this location, the closest infrastructure to 1781 Minnie Road is a 50mm Low Pressure line on West Coast Road, which currently terminates at the frontage of 7096 West Coast Road, approximately 270m to the west of 1781 Minnie Road's frontage onto West Coast Road.

The best method of servicing the property at this time would be to install a new 50mm diameter Low Pressure Line from 1781 Minnie Road to tie into the existing 50mm LP line at 7096 West Coast Road. The sewage would then flow within the pressurized main approximately 200m to the west, at which point it would be siphoned along the access road to the Waste Water Treatment Plant (WWTP) headworks building. The capacity of the existing 50mm diameter line from 7096 West Coast Road to the collector manhole prior to the siphon to the WWTP has been reviewed, and has the capacity to accept the additional flow from the 12 Single Family Equivalent (SFE) lots at 1781 Minnie Road. All properties at 1781 Minnie Road, once subdivided, will need individual sewage pumps to allow connection to the system.

It should also be noted that the siphon arrangement which runs from the final collector manhole on West Coast Road to the headworks of the WWTP is also potentially reaching the capacity of the current piping arrangement. There are two pipes installed in this section, a 200mm diameter and a 300mm diameter, and may be used one at a time (with the other being capped) or both in tandem, depending on the flow rates through the manhole. This manhole should be monitored regularly to decide which piping arrangement to adopt.



July 17, 2012  
Elisabeth Nelson, P.Eng, Director Of Development Services  
Page 2 of 2

**Reference: Sooke Sewer Model: Service Review for 1781 Minnie Road: Revision 1**

If you have any questions regarding the information in this memo, please feel free to contact the undersigned.

Sincerely,

**STANTEC CONSULTING LTD.**



Al Ghanam  
Associate  
Tel: (250) 389-2347  
Fax: (250) 382-0514  
alan.ghanam@stantec.com

**Attachment:**

c.

ss v:\1126\active\112610251\report\modelling\_requests\let\_ss\_20120709\_service\_review\_1781\_minnie.doc



## DISTRICT OF SOOKE

### BYLAW No. 558

---

A bylaw to amend Bylaw No. 500, *Sooke Zoning Bylaw, 2011* for the purpose of amending the zoning on 1781 Minnie Road and 7057 West Coast Road from Rural Residential (RU4) to Small Lot Residential (R3).

---

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This bylaw is cited as *Zoning Amendment Bylaw (600-1)*.
2. Bylaw No. 600, *Sooke Zoning Bylaw, 2013* is amended in **Schedule A** by changing the zoning on the property legally described as *Lot 2, Section 4, Sooke District, Plan VIP52401* and *Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880* as shown shaded on Schedule A to this bylaw from Rural Residential (RU4) to Small Lot Residential Zone (R3).

Introduced and read a first time the      day of      , 2013.

Read a second time the      day of      , 2013.

Public hearing held the      day of      , 20   .

Read a third time the      day of      , 20   .

Approved by Ministry of Transportation and Infrastructure the      day of      , 20   .

Adopted on the      day of      , 20   .

---

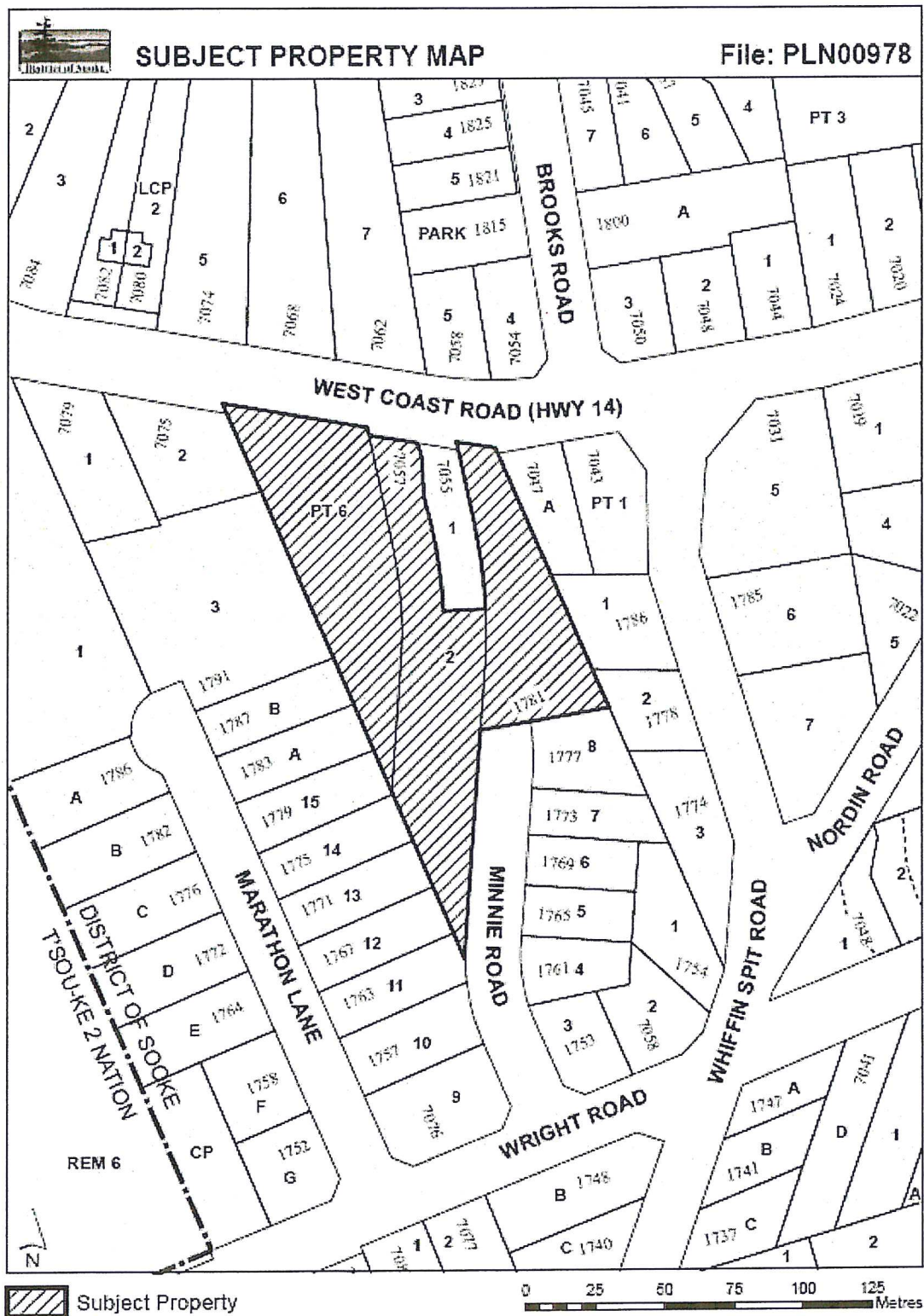
Wendal Milne  
Mayor

---

Chief Administrative Officer

FOR INFORMATION ONLY: Section 219 Covenant registered the      day of      , 20   in the Victoria Land Titles office under number      .

## SCHEDULE A







## DISTRICT OF SOOKE

### BYLAW No. 559

---

A bylaw to authorize a Phased Development Agreement for development at 1781 Minnie Road and 7057 West Coast Road.

---

The Council of the District of Sooke, in open meeting assembled, having given notice and held a public hearing, enacts under section 905.1 of the *Local Government Act* as follows:

1. This Bylaw is cited as *1781 Minnie Road & 7057 West Coast Road Phased Development Agreement Authorization Bylaw, 2013*.
2. The Mayor and the Chief Administrative Officer may execute and deliver an Agreement with Beverly Wade Befus and Sherri Lynn Befus in the form attached as Schedule "A" to this Bylaw.

Introduced and read a first time the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Read a second time the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Public hearing held on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Read a third time the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Adopted the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Wendal Milne  
Mayor

\_\_\_\_\_  
Bonnie Sprinkling  
Corporate Officer

FOR INFORMATION ONLY: Section 219 Covenant registered the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in the Victoria Land Titles office under number \_\_\_\_\_.

## **SCHEDULE A**

### **PHASED DEVELOPMENT AGREEMENT**

This Agreement dated for reference the    day of            , 20    .

BETWEEN:

**DISTRICT OF SOOKE**  
2205 Otter Point Road  
Sooke, BC V9Z 1J2

(the "District")

AND:

**Beverly Wade Befus and Sherri Lynn Befus**  
1781 Minnie Road  
Sooke BC V9Z 0S5

(the "Developer")

**GIVEN THAT:**

- A. The Developer is the owner of lands known as 1781 Minnie Road and 7057 West Coast Road and legally described as:

Lot 2, Section 4, Sooke District, Plan VIP52401 (PID 017-349-966)

Lot 6, Section 4, Sooke District, Plan 1282, Except That Part in Plan 118 RW and Plan 29880 (PID 005-887-895)

(the "Lands")

- B. The Developer has applied to the District for an amendment to the District of Sooke Bylaw No. 600, *Sooke Zoning Bylaw, 2013*, as amended, by way of Bylaw No. 558, *Zoning Amendment Bylaw (600-1)* (the "Zoning Amendment Bylaw") to permit the development on the Lands as generally depicted in Schedule A;
- C. The Developer has undertaken to provide certain amenities, works and services in conjunction with the development of the Lands and the parties wish to ensure that the provisions of the Zoning Amendment Bylaw continue to apply to the Lands for the period more particularly set out in this Agreement, that the Lands are developed in the phases and in the sequence specified, and that the Amenities are provided in conjunction with the development of the Lands and in the sequence specified in this Agreement;

- D. The Council of the District has, by bylaw, authorized the making of this Agreement;
- E. The parties have agreed to register in the Victoria Lands Title Office a covenant under section 219 of the *Land Title Act* and section 905.1(4)(d) of the *Local Government Act* to secure compliance with and enforcement of the Developer's obligations under this Agreement.

**NOW THEREFORE** in consideration of the mutual promises set out in this Agreement, the Developer and the District agree under section 905.1 of the *Local Government Act* as follows:

## **1.0 DEFINITIONS AND INTERPRETATION**

### **1.1 In this Agreement**

**"Amenities"** means the improvements provided for under Section 9.0;

**"Development"** means the development of the Lands as generally depicted on the Site Plan attached as Schedule A.

**"Development Phase"** means a phase of the development, including all services and Amenities contemplated or required in connection with that Phase, as depicted on the Phasing Plan.

**"Force Majeure"** means any act reasonably beyond the control of the party seeking to invoke the benefit of Force Majeure under this Agreement including but without restricting the generality thereof, severe weather conditions, lightning, earthquakes, fires, floods and storms, strikes, lockouts and industrial disturbances, any acts, rules, regulations, order or directives of any government or agency thereof, civil disturbances, explosions, transportation embargoes, or failure or delays in transportation, breakdown or mechanical or operational failure of any technical facilities, excessive electrical power fluctuations, excessive water pressure fluctuations, the order of any Court, or any other causes either herein enumerated or otherwise not reasonably within the control of such party; provided that financial incapacity, insolvency and general economic conditions shall not in any event constitute or be deemed to constitute an event of Force Majeure.

**"Lands"** means the parcels of land legally described in paragraph A of the preamble.

**"Phase 1"** means that Phase of the Development numbered as Phase 1 on the Phasing Plan.

**"Phase 2"** means that Phase of the Development numbered as Phase 2 on the Phasing Plan.

**"Phasing Plan"** means the plan attached as Schedule B depicting the Development Phases;



**"Specified Zoning Bylaw Provisions"** means all those provisions of the Zoning Amendment Bylaw that are applicable to the Lands and that are adopted under section 903 of the *Local Government Act*.

- 1.2 The headings and captions are for convenience only and do not form a part of this Agreement and will not be used to interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions.
- 1.3 The word "including" when following any general term or statement is not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar terms or matters but rather as permitting it to refer to other items or matters that could reasonably fall within its scope.
- 1.4 A reference to currency means Canadian currency.
- 1.5 A reference to a statute includes every regulation made pursuant thereto, all amendments to the statute or to any such regulation in force from time to time, and any statute or regulation that supplements or supersedes such statute or any such regulation.
- 1.6 This Agreement shall be governed by and construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- 1.7 A reference to time or date is to the local time or date in Sooke, British Columbia.
- 1.8 A word importing the masculine gender includes the feminine or neuter, and a word importing the singular includes the plural and vice versa.
- 1.9 A reference to approval, authorization, consent, designation, waiver or notice means written approval, authorization, consent, designation, waiver or notice.
- 1.10 A reference to a section means a section of this Agreement, unless a specific reference is provided to a statute.

## **2.0 SCHEDULES**

- 2.1 The following Schedules are attached to and form part of this Agreement:  
Schedule A - Subject Property  
Schedule B - Phasing Plan  
Schedule C - Amenities

## **3.0 APPLICATION OF AGREEMENT**

- 3.1 This Agreement applies to the Lands and to no other Lands.

## **4.0 CONDITIONS PRECEDENT**

- 4.1 Except for the Developer's and the District's obligations under section 8.0, 9.0 and 10.0, the obligations of the parties under this Agreement are subject to the Council of the District, in its sole and unfettered discretion, adopting both the zoning amendment bylaw and the bylaw to authorize the making of this Agreement.

## **5.0 SPECIFIED ZONING BYLAW PROVISIONS**

- 5.1 For the term of this Agreement, any amendment or repeal of the Specified Zoning Bylaw provisions shall not apply to the Lands, subject to:

- (a) the express limits set out at section 905.1 of the *Local Government Act*;
- (b) the termination of this Agreement under section 7.0; and
- (c) changes that the Developer agrees in writing shall apply.

## **6.0 TERM OF AGREEMENT**

- 6.1 The term of this Agreement is ten (10) years from the date it is fully executed by the parties.

## **7.0 TERMINATION**

- 7.1 The parties may terminate this Agreement at any time by written agreement.

- 7.2 If the Developer does not comply with any of the provisions of sections 8.0 through 10.0 of this Agreement, the District may at its option terminate this Agreement before the expiry of the Term by providing notice in writing to the Developer, provided that:

- (a) in the case of a failure on the Developer's part to pay a sum of money or to provide security for an obligation, the District has, at least thirty (30) days prior to giving such notice, advised the Developer in writing of the alleged failure to pay or to provide the security (the "**Default Notice**") and the Developer has not corrected the failure to the reasonable satisfaction of the District within that thirty (30) day period;
- (b) in the case of any other failure on the Developer's part to comply with the provisions of sections 8.0 through 10.0 of this Agreement, the District has, at least sixty (60) days prior to giving such notice, provided the Developer with a Default Notice in respect of such failure, and the Developer has not corrected the failure or deficiency in performance to the reasonable satisfaction of the District, within that sixty (60) day period; or
- (c) if a failure or deficiency [but for certainty, not including a failure to pay a sum of money or provide security as referred to in section 7.2(a) requires longer than sixty (60) days to remedy, the Developer has failed to substantially commence remedying such failure or deficiency within sixty (60) days after receipt of the Default Notice to the reasonable satisfaction of the District and



further has failed to diligently pursue remedying the failure or deficiency thereafter.

## **8.0 DEVELOPMENT AND DEVELOPMENT PHASING**

- 8.1 The Developer covenants that it shall not develop the Lands, disturb the surface of the Lands, cut or damage vegetation on the Lands or subdivide the Lands except in accordance with the terms of this Agreement.
- 8.2 The Developer covenants to develop and construct the Development in the Phases shown in the Phasing Plan, such that all Development Phases are substantially completed on or before the expiry of the Term.
- 8.3 For the purpose of this Agreement, "substantially completed" or "substantial completion" means that all requisite occupancy permits for all construction that is to occur within a Development Phase have been issued by the authority having jurisdiction, and that with respect to that Development Phase, the Developer has completed and fulfilled all of the Developer's obligations under this Agreement with respect to subdivision, servicing of that Development Phase, the transfer or dedication of Lands to the District, the provision of Amenities, enhancement of the surface of the Lands and landscaping of the Lands, all to the satisfaction of the District.

## **9.0 AMENITIES**

- 9.1 Prior to subdivision, the Developer covenants and agrees to provide, to the satisfaction of the District's Municipal Engineer and Municipal Planner, the Amenities, in accordance with section 9.2 of this Agreement.
- 9.2 The Developer covenants and agrees to provide at its sole cost the community amenities set out in Schedule C.

## **10.0 SERVICING**

- 10.1 The Developer covenants that it shall not subdivide the Lands and that it shall not construct any buildings with the exception of a Show Home, improvements or structures on the Lands except for the Amenities, improvements and enhancements required under sections 9.0 and 10.0, and except for structures such as roads, pipes, mains, pumps, and all related facilities and equipment as may be necessary to provide water, sanitary sewer, stormwater management and fire suppression services to the Lands, in accordance with all required permits and approvals, until the conditions outlined in this section 10.0 are fulfilled.
- 10.2 The Developer shall at its sole cost design, install, plant and construct the following works, services and other things:



- a. The applicant is to design and construct Minnie Road upgrades complete with asphalt overlay and cul-de-sac.
- b. Highway 14 frontage is to be designed and constructed as per the cross section in the Memorandum of Understanding with the Ministry of Transportation and Infrastructure R12SS-A.
- c. All driveways within public property are to be hard surfaced to the property line.
- d. Recommendations of the Riparian Areas Assessment completed for this site must be adhered to.
- e. The SPEA setback area adjacent to the watercourse is to be permanently fenced; complete with "Environmentally Protected Area" signs.

## **11.0 SECTION 219 COVENANT**

- 11.1 Concurrent with the making of this Agreement the parties will register in the Victoria Land Title Office a covenant under section 219 of the *Land Title Act* and section 905.1(4)(d) of the *Local Government Act* to secure compliance with and enforcement of the Developer's obligations under this Agreement.

## **12.0 INDEMNITY AND RELEASE**

- 12.1 The Developer shall indemnify and keep indemnified the District from any and all claims, causes of action, suits, demands, fines, penalties, costs, deprivation, expenses or legal fees whatsoever, whether based in law or equity, whether known or unknown, which anyone has or may have against the District or which the District incurs as a result of any loss, damage or injury, including economic loss or deprivation, arising out of or connected with this Agreement, including the restrictions and requirements of this Agreement, or any breach by the Developer of any covenant in this Agreement.
- 12.2 The Developer hereby releases, saves harmless and forever discharges the District of and from any claims, causes of action, suits, demands, fines, penalties, costs, deprivation, expenses or legal fees whatsoever which the Developer can or may have against the District, whether based in law or equity, whether known or unknown, for any loss, damage or injury, including economic loss or deprivation, that the Developer may sustain or suffer arising out of or connected with this Agreement, including the restrictions and requirements of this Agreement, the provisions of the Amenities and the development of the Lands as contemplated under this Agreement, or any breach by the Developer of any covenant in this Agreement.
- 12.3 The indemnity and release provisions of sections 12.1 and 12.2 shall survive the expiry or termination of this Agreement.

## **13.0 NO RECOVERY OF AMENITIES**

- 13.1 The Developer covenants and agrees that expiry of the Agreement and any termination in accordance with section 7.0 or otherwise, does not entitle the Developer to recover any portion of the Amenities provided prior to termination, or to

seek restitution in relation thereto or in relation to any other obligation of the Developer as performed prior to such termination (and the Developer specifically agrees that the Specified Zoning Bylaw Provisions of this Agreement for the period prior to expiry or termination provides sufficient consideration for the Amenities) and the release and indemnity provisions under sections 12.1 to 12.2 apply in this regard.

- 13.2 The Developer covenants and agrees it will not commence or advance a legal proceeding of any kind to seek to quash, set aside, hold invalid this Agreement, or the Zoning Amendment Bylaw, or to recover any portion of the Amenities provided under this Agreement, or seek restitution in relation to any of the Amenities provided under this Agreement, and if the Developer does any of the foregoing, the District may provide this Agreement to the Court as a full and complete answer.

#### **14.0 ASSIGNMENT OF AGREEMENT**

- 14.1 Except as provided in section 14.2, the Developer may assign this Agreement only with the prior written consent of the District under section 905.2(5)(c) of the *Local Government Act*, if the assignee enters into this Agreement with the District and without limitation assumes all outstanding obligations of the Developer under this Agreement. To the extent that it may lawfully do so under the provisions of the *Local Government Act*, the District agrees that its consent to an assignment will not be withheld unreasonably.
- 14.2 The District's consent will not be required for any assignment of this Agreement to an affiliate (as defined in the *Business Corporations Act* (British Columbia)) of the Developer.

#### **15.0 AMENDMENT OF AGREEMENT**

- 15.1 The parties may in writing agree to minor amendments to this Agreement, and for that purpose a "minor amendment" is a change or amendment to
- a. any of Schedules A and Schedule B of this Agreement;
  - b. the name(s) of the Developer of this Agreement.

#### **16.0 DISPUTE RESOLUTION**

- 16.1 If a dispute arises between the parties in connection with this Agreement, the parties agree to use the following procedure as a condition precedent to any party pursuing other available remedies:
- (a) either party may notify the other by written notice ("**Notice of Dispute**") of the existence of a dispute and a desire to resolve the dispute by mediation;
  - (b) a meeting will be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute;



- (c) if, within forty-eight (48) hours after such meeting or such further period as is agreeable to the parties (the "**Negotiation Period**"), the parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to mediation and to bear equally the costs of mediation;
- d) the parties will jointly appoint a mutually acceptable mediator (who must be an expert in the subject matter of the dispute), within forty-eight (48) hours of the conclusion of the Negotiation Period;
- (e) the parties agree to participate in good faith in the mediation and negotiations related thereto for a period of thirty (30) days following appointment of the mediator or for such longer period as the parties may agree. If the parties are not successful in resolving the dispute through mediation or if the mediation has not commenced within fourteen (14) days following the appointment of the mediator or if the parties cannot agree upon the mediator appointment, then the parties agree that the dispute will be settled by a single arbitrator in accordance with the *Commercial Arbitration Act*, R.S.B.C. 1996, Chapter 55, as amended. The decision of the arbitrator will be final and binding and will not be subject to appeal on a question of fact, law, or mixed fact and law; and
- (f) the costs of mediation or arbitration will be awarded by the mediator or arbitrator in his or her absolute discretion.

16.2 In no event shall the foregoing be construed as impeding or affecting the District's authority to enforce its zoning and other regulatory bylaws.

## **17.0 NOTICE**

17.1 Any notice permitted or required by this Agreement to be given to either party must be delivered in writing to that party at the address set out above, or to any other address provided by the party to the other under this section.

## **18.0 POWERS PRESERVED**

18.1 Except as expressly set out in this Agreement, nothing in this Agreement shall prejudice or affect the rights and powers of the District in the exercise of its powers, duties or functions under the *Community Charter* or the *Local Government Act* or any of its bylaws, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered to the Developer, subject only to section 905.1 of the *Local Government Act*.

## **19.0 DISTRICT'S REPRESENTATIVE**

19.1 Any opinion, decision, act or expression of satisfaction or acceptance of the District provided for in this Agreement may be taken or made by the Chief Administrative Officer or his or her designate, unless expressly provided to be taken or made by another official of the District.



## **20.0 PERMITS**

- 20.1 The Developer acknowledges that the District may, despite any public law limitations on the withholding of building permits and occupancy permits, withhold building permits and occupancy permits for the purpose of ensuring compliance with and administering the terms of this Agreement.

## **21.0 CONFLICT**

- 21.1 In the event of a conflict between the terms of this Agreement and the provisions of the District Official Community Plan or Zoning Bylaw applicable to the Lands, the Official Community Plan or Zoning Bylaw will prevail, except insofar as section 905.1(5) of the *Local Government Act* applies to a bylaw adopted after the date of execution of this Agreement by the District.

## **22.0 TIME**

- 22.1 Time is to be the essence of this Agreement.

## **23.0 BINDING EFFECT**

- 23.1 This Agreement will ensure to the benefit of and be binding on the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees.

## **24.0 WAIVER**

- 24.1 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

## **25.0 LANGUAGE**

- 25.1 Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

## **26.0 CUMULATIVE REMEDIES**

- 26.1 No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

## **27.0 LAW APPLICABLE**

- 27.1 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

## **28.0 RELATIONSHIP OF PARTIES**

- 28.1 No provision of this Agreement shall be construed to create a partnership or joint venture relationship, an employer-employee relationship, a Landlord-tenant, or a principal-agent relationship.

## **29.0 AMENDMENT**

- 29.1 This Agreement may not be modified or amended except by the written agreement of the parties.

## **30.0 INTEGRATION**

- 30.1 This Agreement contains the entire agreement and understanding of the parties with respect to the matters contemplated by this Agreement and supersedes all prior and contemporaneous agreements between them with respect to such matters.

## **31.0 SURVIVAL**

- 31.1 All representations and warranties set forth in this Agreement and all provisions of this Agreement, the full performance of which is not required prior to a termination of this Agreement, shall survive any such termination and be fully enforceable thereafter.

## **32.0 NOTICE OF VIOLATIONS**

- 32.1 Each party shall promptly notify the other party of any matter which is likely to continue or give rise to a violation of its obligations under this Agreement.

## **33.0 ENTIRE AGREEMENT**

- 33.1 The whole agreement between the parties is set forth in this document and no representations, warranties or conditions, express or implied, have been made other than those expressed.

## **34.0 SEVERABILITY**

- 34.1 Each article of this Agreement shall be severable. If any provision of this Agreement is held to be illegal or invalid by a Court of competent jurisdiction, the provision may be severed and the illegality or invalidity shall not affect the validity of the remainder of this Agreement.

## **35.0 COUNTERPART**

- 35.1 This Agreement may be executed in counterpart with the same effect as if both parties had signed the same document. Each counterpart shall be deemed to be an

original. All counterparts shall be construed together and shall constitute one and the same Agreement.

**IN WITNESS WHEREOF** the parties hereto have set their hands and seals as of the day and year first above written.

DISTRICT OF SOOKE by its authorized  
signatories: )

\_\_\_\_\_  
Mayor )

\_\_\_\_\_  
Chief Administrative Officer )

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

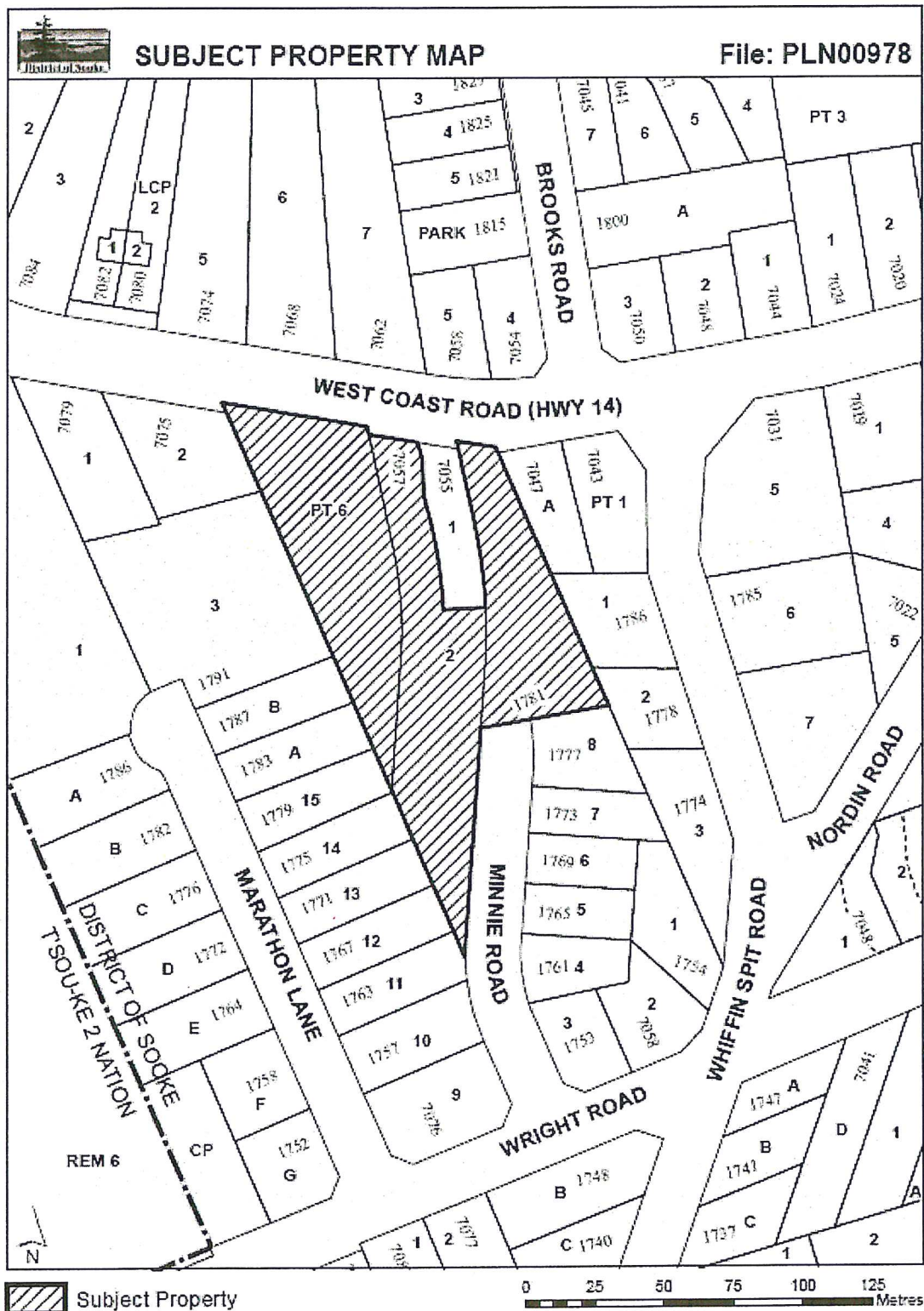
The Developer:

)  
)  
) \_\_\_\_\_  
Beverly Wade Befus

)  
) \_\_\_\_\_  
Sherrie Lynn Befus



## SCHEDULE A – Subject Property Map



## SCHEDULE B – PHASING PLAN

PHASE 1 – Development Permit, Building Permit, Subdivision and Servicing (not in any order)

PHASE 2 – Building Permit and Development (not in any order)

## SCHEDULE C – AMENITIES

1. The amenities to be provided are:

- a. The amenities to be provided are one or more of the following: parks and trail development, waterfront walkway, affordable housing, open space (in addition to statutory park dedications), day care facilities (not for profit), public art, park equipment, ALR acquisitions, community gardens, parking structures, performing arts facility, green infrastructure, beautification projects, and preservation of heritage structures, having in the aggregate a market value not exceeding \$5,000 for each additional dwelling unit in excess of the 12 dwelling unit Base Density on the land, in the locations and in accordance with standards approved in writing by the District's Municipal Planner and Municipal Engineer.
- b. Despite section 1(a) of this Schedule, The Developer may at the Subdivision stage pay the District \$5000 for each additional dwelling unit in excess of the 12 dwelling unit Base Density on the land, on the condition that the 20% of these monies is contributed to the District Affordable Housing Reserve Fund and the remainder of the amount paid the District must use only for provision of the amenities to be collected at time of subdivision.

2. The amenity contribution shall be based on the maximum residential density. Affordable housing units and units obtained through density bonus provisions are exempt from the maximum residential density calculations.