

REGULAR AGENDA

14/2021/R



The Corporation of the Village of Cumberland Regular Council Meeting September 7, 2021 at 5:30 p.m.

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

This meeting to be held through electronic facilities as authorized under Order M192 of the Minister of Public Safety and Solicitor General during the declaration of a state of emergency made March 18, 2020 in order to conduct business in accordance to public health advisories related to the COVID-19 pandemic.

The meeting will be live streamed via the [Village of Cumberland YouTube Channel](#).

1. Approval of Agenda

1.1 Agenda for regular Council meeting, September 7, 2021

Recommendation:

THAT Council approve the agenda for the September 7, 2021
Regular Council meeting.

2. Minutes

2.1 Adoption of Minutes

Recommendation:

THAT Council adopt the following meeting minutes:

- Regular Council, August 9, 2021

5

3. Delegations

4. Unfinished Business

5. Correspondence

5.1 Comox Valley Regional District Request for Endorsement in
Principle - Transit Exchange and Transit Priority Concepts

14

Recommendation:

- i. THAT Council receive the correspondence from the Comox Valley Regional District Request for Endorsement in Principle - Transit Exchange and Transit Priority Concepts.
 - ii. THAT Council endorse the transit exchange and priority concepts in principle as set out in the Comox Valley Transit Infrastructure Study of May 2021.
- 5.2 Cumberland Business Association (CBA) Request for Letter of Support for THRIVE Grant (and CVC Enrichment Grant) 15
Recommendation:
 - i. THAT Council receive the correspondence from the Cumberland Business Association.
 - ii. THAT Council provides a letter of support for the Cumberland Business Association's (CBA) application to the THRIVE Beautification Grant, the Comox Valley Community Enrichment Grant and,
 - iii. THAT Council direct staff to bring back further details on the CBA grant application and/or project plans for Council review and/or input.
- 6. Reports 16
- 6.1 Development Variance Permit, 3388 Bolton Street – Referral to APC 16
Prepared by Meleana Searle, Planner
Recommendation:
 - iv. THAT Council receive the report "Development Variance Permit, 3388 Bolton Street".
 - v. THAT Council refer the application (2021-18-DV) for the property legally described as Lot 1, DL 24, Plan EPP95109 (3388 Bolton Street) to the Advisory Planning Commission for a recommendation.
- 6.2 Development Variance Permit, 3392 Bolton Street – Referral to APC 37
Prepared by Meleana Searle, Planner
Recommendation:
 - vi. THAT Council receive the report "Development Variance Permit, 3392 Bolton Street".
 - vii. THAT Council refer the application (2021-09-DV) for the property legally described as Lot 2, DL 24, Plan EPP95109 (3392 Bolton Street) to the Advisory Planning Commission for a recommendation.

- 6.3 Development Variance Permit, 3396 Bolton Street – Referral to APC 59
Prepared by Meleana Searle, Planner
Recommendation:
i. THAT Council receive the report “Development Variance Permit, 3396 Bolton Street”.
ii. THAT Council refer the application (2021-13-DV) for the property legally described as Lot 3, DL 24, Plan EPP95109 (3396 Bolton Street) to the Advisory Planning Commission for a recommendation.
- 6.4 Development Variance Permit, 2719 Maryport Avenue – Referral to APC 84
Prepared by Meleana Searle, Planner
Recommendation:
iii. THAT Council receive “Development Variance Permit, 2719 Maryport Avenue.”
iv. THAT Council refer the application (2021-12-DV) for a Development Variance Permit on the property described as Lot 10, Block 5, DL 21, Plan VIP522 (2719 Maryport Avenue) to the Advisory Planning Commission for comment.
- 6.5 Cumberland Childcare Update Report 90
Prepared by Kaelin Chambers, Economic Development Officer
Recommendation:
i. THAT Council receives the Cumberland Childcare Update Report for information.
- 6.6 Single-Use Item Regulation Bylaw No 1098, 2019 Update Report 93
Prepared by Kaelin Chambers, Economic Development Officer
Recommendation:
v. THAT Council receives the Single-Use Item Regulation Bylaw No 1098, 2019 Update Report.
vi. THAT Council directs staff to provide a report and recommendations on any needed steps required by the province to enact Single-Use Item Regulation Bylaw No 1098, 2019.
- 6.7 Corporate Communications Planning Update 97
Prepared by Kaelin Chambers, Economic Development Officer
Recommendation:

THAT Council receives the Corporate Communications Planning Update Report

- 6.8 2020 Annual Report 99
Prepared by Rachel Parker, Corporate Officer
Recommendation:
THAT Council receive the 2020 Annual Report and receive any submissions and questions from the public.

- 6.9 Electronic Meetings Review 101
Prepared by Rachel Parker
Recommendation:
- i. THAT Council receive the Electronic Meetings Review report.
 - ii. THAT Council direct staff to prepare amendments to the Council Procedure Bylaw to permit electronic meetings
 - Under a Provincial state of emergency that directly affects the Village of Cumberland
 - Under a local (including regional) state of emergency that directly affects the Village of Cumberland
 - During a weather event where the health and safety of council members and public attendance may be at risk; and to receive questions for Question Period by email, and to permit the closed portion of regular meetings to be held before the option portion no earlier than 4 p.m.

- 6.10 Council Member Monthly Reports
- 6.10.1 Mayor Leslie Baird 123
6.10.2 Councillor Jesse Ketler
6.10.3 Councillor Gwyn Sproule
6.10.4 Councillor Vickey Brown 125
6.10.5 Councillor Sean Sullivan
- Recommendation:**
THAT the Council Member Monthly reports be received.

7. Bylaws

- 7.1 2022 Permissive Tax Exemptions 127
Prepared by Michelle Mason, Chief Financial Officer/Deputy CAO
Recommendation:

- i. THAT Council receive the 2022 Permissive Tax Exemptions report.
- ii. THAT Council consider first reading of the “Permissive Tax Exemption 2022 Bylaw No. 1151, 2021”.
- iii. THAT Council direct staff to give notice of the proposed bylaw as required by section 227 of the Community Charter.

8. New Business

9. Notices, Motions and Announcements

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

- Advisory Planning Commission September 16th at 4 p.m.

10. Question Period

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

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

11. Close the Meeting to the Public

Recommendation:

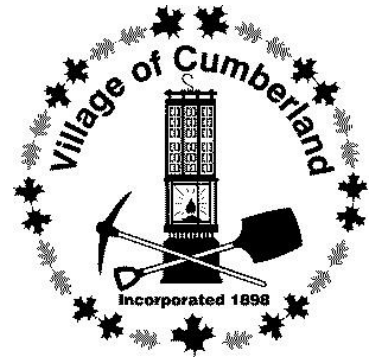
THAT Council close the meeting to the public pursuant to Section 90 of the *Community Charter* to consider:

- (a)personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (c)labour relations or other employee relations;
- (j)information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;

12. Adjournment

REGULAR MINUTES

13/2021/R



**The Corporation of the Village of Cumberland
Regular Council Meeting
August 9, 2021 at 5:30 p.m.**

This meeting held through electronic facilities as authorized under Order M192 of the Minister of Public Safety and Solicitor General during the declaration of a state of emergency made March 18, 2020 in order to conduct business in accordance to public health advisories related to the COVID-19 pandemic. The meeting WAS live streamed via the [Village of Cumberland YouTube Channel](#).

Council Present:

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

Staff Present:

Michelle Mason, Chief Financial Officer/Deputy CAO
Rob Crisfield, Manager of Operations
Courtney Simpson, Manager of Development Services
Rachel Parker, Corporate Officer
Karin Albert, Senior Planner
Meleana Searle, Planner

Mayor Baird called the meeting to order at 5:30 p.m.

1. Approval of Agenda

1.1 Agenda for regular Council meeting, August 9, 2021

Motion 21-243

Sproule/Ketler

THAT Council approve the agenda for the August 9, 2021 Regular Council meeting, with the addition of three late items of public submissions for items 6.6 and 6.4.

Carried Unanimously

2. Minutes

2.1 Adoption of Minutes

Motion 21-244

Sullivan/Ketler

THAT Council adopt the following meeting minutes:

- Regular Council, July 26, 2021
- Committee of the Whole, July 26, 2021

Carried Unanimously

- 2.2 Receipt of Committee Minutes
Motion 21-245

Brown/Sullivan

THAT Council receive the following meeting minutes:

- Accessibility Committee, July 19, 2021

Carried Unanimously

3. Delegations

None

4. Unfinished Business

None

5. Correspondence

- 5.1 Lush Valley Food Action Society, Comox Valley Food Policy Council Requesting the Village of Cumberland's endorsement of a Universal School Food Program
Motion 21-246

Ketler/Brown

THAT Council receive the correspondence from Lush Valley Food Action Society, Comox Valley Food Policy Council requesting the Village of Cumberland's endorsement of a Universal School Food Program.

Carried Unanimously

Motion 21-247

Brown/Sullivan

That Council endorse the efforts of the BC Coalition for Healthy School Food to advocate for a universal, cost-shared healthy school food program through the form provided by the Food Policy Council;

THAT Council work with Cumberland Community School Society and the Food Policy Council to write a letter to the Prime Minister to request that the Government of Canada implement a universal, cost-shared, healthy school food program for all K-12 students in the country;

THAT Council write to the Premier and the Minister of Education requesting that the Province of BC commit to increasing investment in a universal, cost-shared, healthy school food program for all K-12 students in the province; and,

THAT Council continue to support the Cumberland community School Society in their efforts to continue to offer a healthy lunch program at Cumberland Community School.

Carried Unanimously

- 5.2 P. Julian, MP, regarding Bill M-48 Anti-Hate Crimes
Motion 21-248

Brown/Ketler

That Council receive the correspondence from P. Julian, MP, regarding Bill M-48

Anti-Hate Crimes.

Carried Unanimously

Motion 21-249

Ketler/Brown

THAT Council, on behalf of the Village of Cumberland the Mayor and Council endorse MP Peter Julian's private members motion, Motion M-84 Anti-Hate Crimes and Incidents and his private members Bill C 313 Banning Symbols of Hate Act.

Carried Unanimously

- 5.3 K. Wiseman, Wiser Projects, regarding 3339, 3341, 3345 Second Street Affordable Housing Development

Motion 21-250

Ketler/Brown

THAT Council receive the correspondence from K. Wiseman, Wiser Projects, regarding 3339, 3341, 3345 Second Street Affordable Housing Development

Carried Unanimously

Motion 21-251

Ketler/Brown

THAT Council direct staff to prepare a report on the request from K. Wiseman, Wiser Projects, regarding 3339, 3341, 3345 Second Street Affordable Housing Development.

Carried Unanimously

6. Reports

- 6.1 Development Permit, 2694 Penrith Avenue

Motion 21-252

Sproule/Sullivan

THAT Council receive "Development Permit – 2694 Penrith Avenue"

Carried Unanimously

Motion 21-253

Brown/Sullivan

THAT Council approve the development permit (2021-04-DP) for the property described as Lot 3, Block 4, DL 21, Plan VIP522 (2694 Penrith Avenue).

Carried Unanimously

- 6.2 Development Permit, 2601 Dunsmuir Avenue

Motion 21-254

Brown/Sullivan

THAT Council receive "Development Permit – 2601 Dunsmuir Avenue".

Carried Unanimously

Motion 21-255

Sullivan/Brown

THAT Council approve the application (2021-05-DP) for a development permit on property legally described as Lot 40, DL 24, Plan VIP13640 (2601 Dunsmuir Avenue).

Carried Unanimously

- 6.3 Development Permit, 4723 Cumberland Road

Motion 21-256

Ketler/Sullivan

THAT Council receive the report “Development Permit – 4723 Cumberland Road”.

Carried Unanimously

Motion 21-257

Brown/Sproule

THAT Council approve the application (2021-06-DP) for a development permit on the property described as Lot A, DL 24, Plan EPP80219 (4723 Cumberland Road).

Carried Unanimously

- 6.4 Development Variance Permit, 2814 Dunsmuir Avenue – Referral to APC

Motion 21-258

Sproule/Sullivan

THAT Council receive “Development Variance Permit - 2814 Dunsmuir Avenue”.

Carried Unanimously

Motion 21-259

Sullivan/Brown

THAT Council refer the application (2021-08-DV) for a Development Variance Permit on the property described as Lot 1, Block 27, DL 21, Plan VIP522C (2814 Dunsmuir Avenue) to the Advisory Planning Commission.

Carried Unanimously

Mayor Baird left the meeting at 6:08 p.m. due to a conflict of interest as family members own cabins on the property.

- 6.5 Application for OCP Amendment and Rezoning of recreational cabin property at Comox Lake

Motion 21-260

Sproule/Sullivan

THAT Council receive the report “Application for an Official Community Plan Amendment and Rezoning of recreational cabin property at Comox Lake”.

Carried Unanimously

Motion 21-261

Sullivan/Brown

THAT Council direct staff to engage the K'ómoks First Nation and key agencies in early discussions on the application for an OCP amendment and rezoning of recreational cabin property at Comox Lake.

Carried Unanimously

Motion 21-262

Ketler/Sullivan

THAT Council direct staff to draft a watershed protection zone for that the area of Comox Lake that falls within the jurisdiction of the Village of Cumberland and present it for discussion at an upcoming meeting.

Carried Unanimously

Mayor Baird returned to the meeting at 6:26 p.m.

- 6.6 Heritage Alteration Permit and Development Variance Permit Applications
2714 Dunsmuir Avenue

Motion 21-263

Sullivan/Ketler

THAT Council receive the "Heritage Alteration Permit and Development Variance Application – 2714 Dunsmuir Avenue" report.

Carried Unanimously

Motion 21-264

Brown/Sullivan

THAT Council refer the Heritage Alteration and Development Variance applications for 2714 Dunsmuir Avenue to the Heritage Committee, Advisory Planning Commission, Accessibility and Inclusion Committee for comment.

Carried Unanimously

- 6.7 Fan House Covenant Modification Request

Motion 21-265

Brown/Ketler

THAT Council receive the Fan House Covenant Modification Request report.

Carried Unanimously

Motion 21-266

Brown/Ketler

THAT Council deny the modification of Covenant CA4570302 & CA4570304, known as the 'Fan House covenant,' to change the covenant area to that area shown in the McElhanney "Conceptual Design of Penrith Avenue Extension Design Memo" dated June 25, 2021; and,

THAT Council obtain legal advice on how to move forward on the Coal Valley Estates Comprehensive Development Agreement.

Carried Unanimously

- 6.8 Climate Action Revenue Incentive Program
Motion 21-267

Brown/Ketler

THAT Council receive the Climate Action Revenue Incentive Program report.

Carried Unanimously

Motion 21-268

Brown/Sullivan

THAT Council direct staff to bring unspent carbon offset funds of \$7,500 for 2021 and \$2,700 for the following years into the 2022 five year budget process.

Carried Unanimously

Motion 21-269

Ketler/Sullivan

THAT Council write to the Province of BC in support of the District of Squamish's letter regarding the Province of British Columbia's decision to end the BC Climate Action Revenue Incentive Program.

Carried Unanimously

- 6.9 2020 Annual Municipal Report
Motion 21-270

Sproule/Ketler

THAT Council receive the 2020 Annual Municipal Report.

Carried Unanimously

Motion 21-271

Brown/Sullivan

THAT Council give notice of the meeting on September 7, 2021 at which Council will consider the 2020 annual report and submissions and questions from the public.

Carried Unanimously

- 6.10 Wildfire Preparedness, Verbal Report
Motion 21-272

Ketler/Sullivan

THAT Council receive the verbal report on Wildfire Preparedness.

Carried Unanimously

- 6.11 Broadening the Scope of the Accessibility and Inclusion Committee
Motion 21-273

Ketler/Sproule

THAT Council receive the Broadening the scope of the Accessibility and Inclusion Committee.

Carried Unanimously

Motion 21-274

Ketler/Sullivan

THAT Council approve the incorporation of the above tasks into the scope of work of the Accessibility and Inclusion Committee; THAT Council allocate \$2500 in the 2022 budget for a public event to promote social equity and inclusion; THAT Council direct staff to include an amount in the 2022 budget discussions for the development of an accessibility and inclusiveness community strategy; and THAT Council recruit new members to the Accessibility and Inclusion Committee with a specific invitation to youth, BIPOC and 2SLGBTQ2+ residents.

Carried Unanimously

6.12 Council Member Monthly Reports

Motion 21-275

Sproule/Sullivan

THAT the Council Member Monthly reports be received.

Carried Unanimously

7. Bylaws

7.1 Official Community Plan Amendment Bylaw No. 1149, 2021 and Zoning Amendment Bylaw No. 1150, 2021.

Motion 21-276

Ketler/Sullivan

THAT Council adopt "Official Community Plan Amendment Bylaw No. 1149, 2021"; and

THAT Council adopt "Zoning Amendment Bylaw No. 1150, 2021".

Carried Unanimously

8. New Business

None

9. Notices, Motions and Announcements

- Heritage Committee, August 16, 2021 at 5:30 p.m.

10. Question Period

Questions were received on the following matters:

- Heritage Alteration and Variance application for 2714 Dunsmuir Avenue
- Fan House Covenant of Coal Valley Estates development

11. **Close the Meeting to the Public**
There was no closed portion of the meeting.
12. **Adjournment**
Sproule/Brown
That Council adjourn the meeting at 8:36 p.m.
Carried Unanimously

Certified Correct:

Mayor

Corporate Officer

Office of the Chief Administrative Officer

770 Harmston Avenue, Courtenay, BC V9N 0G8
 Tel: 250-334-6000 Fax: 250-334-4358
 Toll free: 1-800-331-6007
 www.comoxvalleyrd.ca



File: 8500-20/CV

August 6, 2021

Sent via email only: cpostings@cumberland.ca

Clayton Postings
 Chief Administrative Officer
 Village of Cumberland
 2673 Dunsmuir Ave., Box 340
 Cumberland, BC V0R 1S0

Dear Clayton:

Re: Request for Endorsement in Principle - Transit Exchange and Transit Priority Concepts

Transit infrastructure is a critical component of the Comox Valley Transit System as it supports transit service levels and enhances the customer experience. This year, BC Transit and the Comox Valley Regional District (CVRD) jointly advanced an infrastructure study, led by Urban System, for five transit exchanges as well as transit priority measures that will support the continued expansion and improvement of the regional transit system and to attract ridership and achieve desired mode shifts. The study was completed in collaboration with staff from member municipalities, Ministry of Transportation and Infrastructure, and PWTransit, and identified the preferred location, conceptual design, and approximate cost of the infrastructure improvements.

Recently CVRD and BC Transit staff made presentations to your council on the transit infrastructure study and recommended transit infrastructure. To further advance these infrastructure projects, BC Transit is seeking Village of Cumberland endorsement in principle of the preferred transit exchange and transit priority concepts within your jurisdiction. This will allow BC Transit to pursue senior government funding on behalf of the Comox Valley Regional Transit System. Currently the provincial and federal governments have increased funding available for transit infrastructure projects, which reduces the local government share of capital costs to 20 per cent. The local government project costs would be funded by CVRD through the transit service. This new funding has created an opportunity for BC Transit and the Comox Valley to invest in significant transit infrastructure projects to support improved transit service and resulting mode shifts and greenhouse gas emissions reductions.

Please let me know how we can secure this endorsement in principle from your local government in order to pursue senior government funding. If successful in securing funding, further work would take place to collaborate with your staff, refine exchange locations, consult with appropriate stakeholders and undertake detailed design, prior to proceeding through the municipal construction approval process.

Sincerely,

 A handwritten signature in black ink, appearing to read 'James Warren', is written over a circular stamp.

James Warren
 Deputy Chief Administrative Officer

Enclosure: Link to Transit Infrastructure Study – www.comoxvalleyrd.ca/transitupdates

cc: Rachel Parker, Corporate Officer, Village of Cumberland
 Mike Zbarsky, Manager of Transit and Facilities



Cumberland Business Association
Box 1148 Cumberland, B.C. V0R1S0
August 31, 2021

The Village of Cumberland
Cumberland, B.C. V0R 1S)

Attention: Village of Cumberland Council, Mayor Leslie Baird, Clayton Postings, Kaelin Chambers

Good Morning:

RE: Letter of Support for THRIVE Grant (and CVC Enrichment Grant)

The Cumberland Business Association (CBA) is applying for the THRIVE Beautification Grant in efforts to contribute to the attraction of Cumberland's downtown. This project must have a focus of enticing and retaining visitors (and locals) to the downtown core as well as provide a cultural and/or artistic context in order to be approved.

The CBA had previously met with Sam Goater, Traffic Engineer, for ideas and plans specifically for Cumberland. We are currently building on those plans in the development of a project plan along with Mr. Goater (Goat Design). This plan is being completed to fall in line with the application requirements.

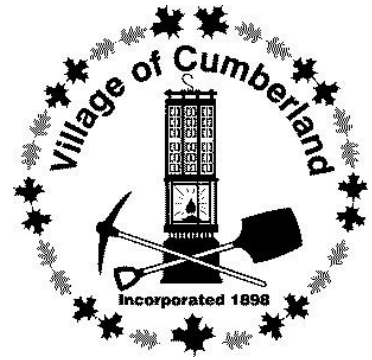
We hope to be able to achieve the THRIVE application deadline date of September 17, 2021. This project must prove to be 'shovel ready' at time of application. As such, we are hoping for the support of the Village of Cumberland in providing our application with a letter of support with assurances of licencing and/or permits that may be required.

CBA is also considering application to the Comox Valley Community Enrichment Grant with a project that will address a need in our downtown (accessibility, safety, etc). The deadline date is September 23, 2021, and we hope to have Council's support and may require a letter of support for this project as well.

CBA will keep Mr. Chambers apprised of our progress and needs as the projects and applications move forward. Thank you for your continued support as we work collaboratively to beautify and shape Cumberland!

Best Regards,
Holly Penner (ED), on behalf of the CBA Board
Cumberland Business Association

COUNCIL REPORT



REPORT DATE: 8/6/2021
MEETING DATE: 9/7/2021

File No. 3220 - 3388 Bolton Street/2021-18-DV

TO: Mayor and Councillors
FROM: Meleana Searle, Planner
SUBJECT: Development Variance Permit, 3388 Bolton Street – Referral to APC

FILE:	2021-18-DV	
PID:	030-981-280	Folio No.: 516 00394.300
LEGAL DESCRIPTION:	Lot 1, DL 24, Plan EPP95109	
CIVIC ADDRESSES:	3388 Bolton Street	
ZONE:	MU-1 – Mixed Use Residential	

4.4 FENCES, SCREENING AND RETAINING WALLS :

Zoning Regulation

i) a retaining wall may be higher than 1.2metres (3.9feet) measured from grade, where the existing grade of the subject lot is lower than the abutting lot.

Requested Variance

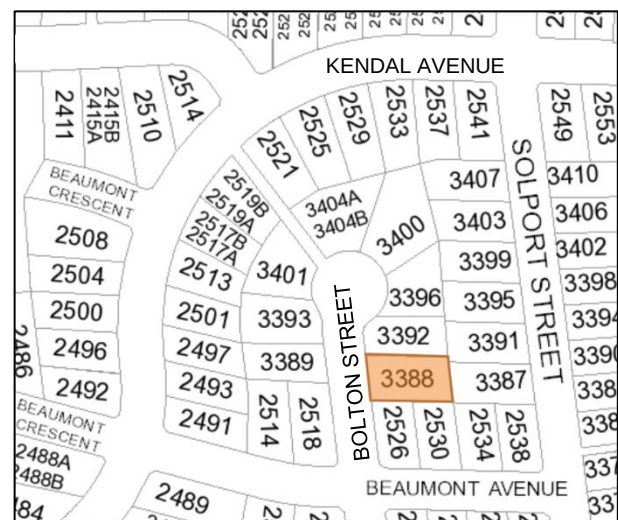
Allow retaining walls with heights of 1.5 metres (5 feet) and 1.9 metres (6.2 feet) on a lot higher than the abutting lot.

RECOMMENDATION

- THAT Council receive the report “Development Variance Permit, 3388 Bolton Street”.
- THAT Council refer the application (2021-18-DV) for the property legally described as Lot 1, DL 24, Plan EPP95109 (3388 Bolton Street) to the Advisory Planning Commission for a recommendation.

PURPOSE

The Village has received an application to vary the maximum height of a retaining wall at the rear property line from 1.2 metres to 1.5 metres and at the side property line from 1.2 metres to 1.9 metres.



Subject Property Map

The purpose of this report is to request a referral to the Advisory Planning Commission. With the information and public input received to date, the recommendation is to approve the variance.

PREVIOUS COUNCIL DIRECTION

None.

BACKGROUND

This application is the result of bylaw enforcement. A building permit is required for retaining walls greater than 1.2 metres (3.9 feet) in height. A building permit application was not submitted for this retaining wall prior to construction. As the existing retaining wall is higher than permitted by the zoning bylaw, a development variance permit must be obtained before a building permit can be issued, or the wall must be reduced in height.

There are two existing retaining walls on the property, one along the north side of the property (adjacent to 3392 Bolton Street) and one along the east side of the property (rear of the property) adjacent to 3387 Solport Street (see Attachment 1 – Site Plan). This retaining wall continues along the rear property line of three adjacent properties (3400, 3396, and 3392 Bolton Street). A development variance permit for the retaining wall at 3400 Bolton Street was received by Council at the June 14, 2021 meeting and reports for development variance permit applications at 3396 and 3392 Bolton Street are presented at the same meeting as the subject report.

Additionally, the Village received development variance permit applications for existing over-height retaining walls on four other properties in Coal Valley Estates: three adjacent properties at 2510 Kendal Avenue, 2415 Beaumont Crescent and 2411 Beaumont Crescent, and a separate property at 2486 Beaumont Crescent.

Zoning Bylaw No. 1027, 2016 includes the following regulation for retaining wall height:

4.4 Fences, Screening and Retaining Walls

g) Landscape walls on all Residential lots, except those required as a condition of subdivision approval or development permit, must not exceed a height of 1.2metres (3.9feet) measured from finished grade on the lower side, except that:

i) a retaining wall may be higher than 1.2metres (3.9feet) measured from grade, where the existing grade of the subject lot is lower than the abutting lot. The combined height of a fence on a top of a retaining wall at the lot line must not exceed 2.0metres (6.5feet), measured from the grade of the abutting higher lot.

The existing retaining wall at the rear property line is 1.5 metres (5 feet) in height, and the retaining wall at the side property line is 1.9 metres in height. The applicant seeks to vary the height of the rear retaining wall (east property line) to a maximum height of 1.5 metres (5 feet) and the height of the north property line retaining wall to a maximum of 1.9 metres (6.2 feet). Because the subject property has a higher grade than the abutting lots, the maximum height is 1.2 metres (3.9 feet). The applicant provided a geotechnical report that outlines recommendations for construction (see Attachment 3 – Geotechnical Report). If this variance is approved, a fence on top of the retaining wall would be permitted to a maximum height of 6.5 metres from the grade of the subject property.

There are a number of alternative approaches to addressing a sloped yard including designing a different home with a lower basement level or using a series of tiered retaining walls. Zoning

Bylaw No. 1027, 2016 allows for landscape walls, no higher than 1.2 metres (3.9 feet), to be spaced at a minimum of 1:1 (sections must be at least as far apart as they are high) height to horizontal separation ratio for reinforced walls. Unreinforced walls must have a height to horizontal separation ratio a minimum of 1:2 (sections must be at least twice as far apart as they are high).

Discussion

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

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

For the proposed variance, the geotechnical report states that the higher retaining walls allows for a more effective use of the property as it allows for a low-slope useable yard. It is understood from speaking with builders and residents, that the grade of the Bolton Street lots presented challenges for building, and neighbours on Solport Street have complained of soil and run off from the site entering their back yards.

During earlier construction of the homes at a lower elevation on Solport Street there was some excavation into the slope to create level back yards. This may have exacerbated an issue of soil and water run off and created more challenging building sites at the top of the slope on Bolton Street. The subdivision grading plan for Phase 9 shows a 3 metre grade change from the front yard at Bolton Street to the back yard (see Attachment 4 – Coal Valley Estates Phase 9 Grading Plan). If retaining walls had been built on the Solport Street lots to retain soil from the Bolton Street lots, there would have been no need for a variance; there is no maximum height of a retaining wall when it is built on the lower lot. However, final grading for the Phase 9 subdivision had not yet been completed at the time of construction of the Solport homes, so that building retaining walls at that time may not have been practical.

In summary, there is an understandable land use justification for the retaining wall.

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

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

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

For the proposed variance, a positive impact on drainage is expected and this will be confirmed through the building permit application. There is no aesthetic impact from public spaces for the wall at the rear property line, potentially an aesthetic impact on the side wall from public spaces, and potentially an aesthetic impact for neighbours who share a property line with the retaining walls. A 1.5 or 1.9 metre high retaining wall with a fence on top would have a maximum combined height of 3.5 metres or 3.9 metres. The maximum fence height at the rear and side lot lines is 2.0 metres.

Input from neighbours is important to understanding the aesthetic impact, and review by the APC will assist in further evaluation.

Public Consultation

Pursuant to the requirements of the *Village of Cumberland Development Procedures and Fees Bylaw No. 1073, 2018*:

1. The applicant has placed the required sign on site.
2. Village staff prepared a notice of Council consideration of a Development Variance Permit which was mailed to owners and occupants of properties within 75.0 metres on August 6, 2021, meeting the Bylaw minimum of 10 days before Council considers the application.

At the time of this report, staff have received feedback from residents in response to the mail-out or on-site sign (Attachment 5 – Public Feedback).

REFERRALS

Further to section 5.1(d) of the *Advisory Planning Commission Bylaw No. 999, 2014*, Council may refer this application to the APC for comment.

At the June 14, 2021 meeting when receiving the report for 3400 Bolton Street, Council requested that all eight development variance permit applications are referred to the Advisory Planning Commission together. Due to limited staff resources and a high volume of applications, the reports for the Beaumont Crescent and Kendal Avenue applications have not yet been prepared. It is recommended that the four Bolton Street applications are referred to the Advisory Planning Commission without delay to provide certainty for property owners.

ALTERNATIVES

1. THAT Council not refer the application to the Advisory Planning Commission and direct staff to prepare and issue the development variance permit.
2. THAT Council not refer the application to the Advisory Planning Commission and deny the development variance permit.

STRATEGIC OBJECTIVE

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

FINANCIAL IMPLICATIONS

None.

OPERATIONAL IMPLICATIONS

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

ATTACHMENTS

1. Site Plan
2. Images of Retaining Walls
3. Geotechnical Report
4. Coal Valley Estates Phase 9 Grading Plan
5. Public Feedback

CONCURRENCE

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

Respectfully submitted,

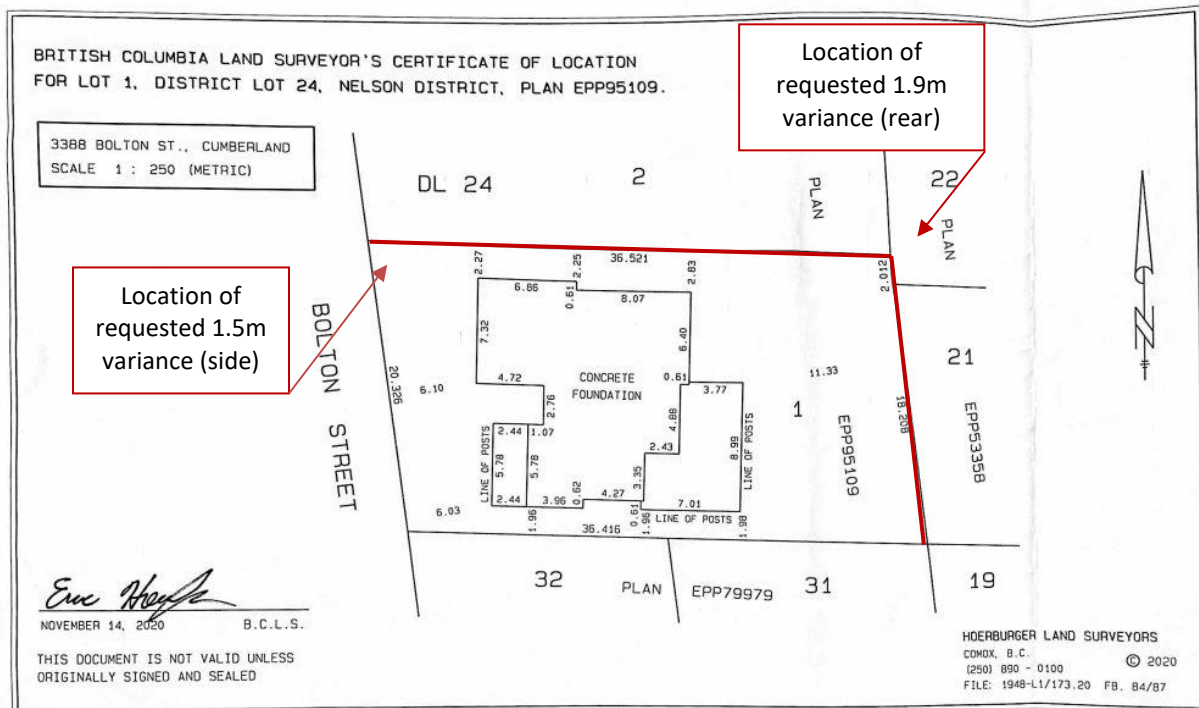


Meleana Searle
Planner

C. Postings

Clayton Postings
Chief Administrative Officer

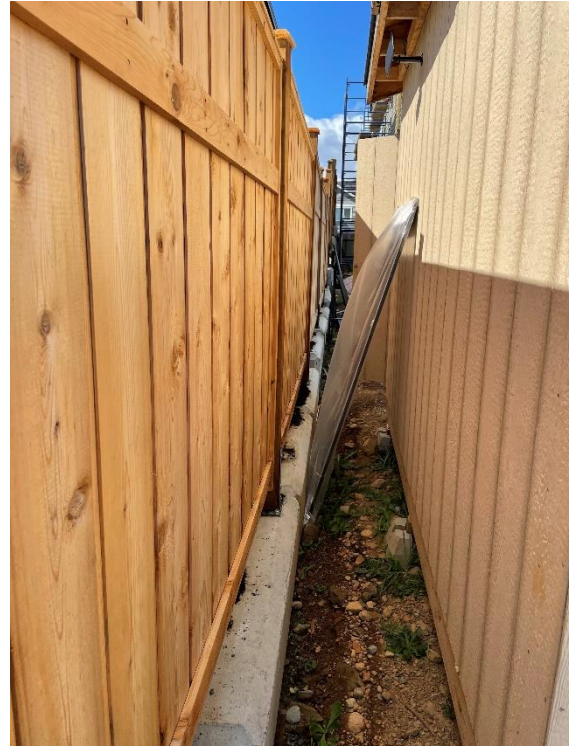
Attachment 1 – Site Plan



Attachment 2 – Images of Retaining Walls



Rear retaining wall with 3388 Bolton on the right



Side retaining wall subject property (3388 Bolton) has grey house

Ken Woods P.Eng.

2351 Barbara Road, Courtenay, B.C. V9J 1L9
250-897-8584 kenwoodspeng@gmail.com

May 11, 2021

Project: **Concrete Block Retaining Wall**
Lot Address: **3388 Bolton Street, Cumberland, B.C.**

Legal: Lot 1, District Lot 24, Nelson District, Plan EPP95109
PID: 030-981-280
Roll: 00394.300

Attn: Joel Morley
 Coastal Pacific Insulation
 3388 Bolton Street
 Cumberland, B.C., VOR 1S0
Phone: 250-207-6789

Description of Property:

The property at 33887 Bolton Street is a developed lot with a newly constructed residence.

The property has a downslope from Bolton Street to the back property line. The downslope continues to the east giving 3388 Bolton Street a higher elevation than properties adjoining the rear property line.

A gravity wall using interlocking concrete blocks is constructed inside the rear property line to retain fill within the property to create a low slope, useable back yard. The interlocking block wall continues along the north side property line between 3388 and 3392 Bolton Street. The block wall terminates at the front corner of the concrete foundations between 3388 and 3392 Bolton Street.

Final grading of the property is designed to match the final height of the interlocking block walls.

Block Wall – Back and Side Property Line:

The interlocking concrete block retaining wall on the back property line is approximately 1.5 meters tall (2 blocks high) and extends from the southeast corner to the northeast corner. This block wall is adjacent to 2 properties with common rear property boundaries. From the northeast corner the block wall turns 90 degrees westward inside the property line. This area has shallow backfill requiring ½ block in height. The depth of earth retained along the north side of the house increases to approximately 1.9 meters requiring 2 ½ blocks in height. The 1.9 meter tall block wall at the front of the foundation turns 90 degrees to retain the front yards between 3388 and 3396 Bolton Street.

Follow construction recommendations while constructing the interlocking concrete block wall.

The elevation rise requires staggered interlocking blocks up to 2 1/2 courses high. All aspects of wall construction are important, including compacted base preparation, drainage, geogrid installation if required, batter, staggered interlock, free draining structural fill, reinforced soil zone, and compaction. (see drawing)

Construction - Interlocking Concrete Block Retaining Wall:

Ground Preparation:

A static gravity wall must lean into the slope to prevent horizontal movement due to rotation. A compacted base, drainage from behind the wall, and a stable backfill will help prevent horizontal movement due to translation.

A concrete block retaining wall will be constructed on the back property line, to create a low slope flat yard, and retain compacted soils and structural fill within the lot. The block wall structure must be entirely inside the property lines of 3388 Bolton Street.

The interlocking concrete blocks used are the prefabricated interlocking blocks of 60" long x 30" x 30" dimensions.

Prior to placing of the concrete blocks, the ground will be prepared by removal of remaining organic material down to suitable original ground, where a base of compacted crushed stone is recommended as a leveling base. The crushed stone will allow seepage of ground water throughout the length of the block wall as no storm drain system is available for collection of the ground water flows.

The compacted crushed stone will be the leveling base for block wall construction. The crushed stone will be well graded structural gravel and compacted with a suitable compactor. The base for the blocks must be in a straight line, level, returns at approximately 90 degrees, and will have a batter allowing the concrete blocks to lean into the slope, or offset as the block design allows, creating a stable gravity wall (see drawing).

Stacking of Interlocking Blocks:

Place the first (bottom) row of blocks with the batter leaning into the slope. Or, where the block design allows a suitable offset place the 1st row level on the prepared base. Keep the blocks closely abutted, in a straight line, at a consistent batter. Precise placement of the first course of blocks will make placement of the subsequent courses easier and more efficient. Prepare with the next course of blocks in mind.

Start the first row with a full block turned 90 degrees into the property, this allows an interlock of the second course of blocks.

The placement of the blocks should not encroach on the adjoining property.

The second and subsequent rows of blocks will be staggered to allow the overlap of the interlocking feature of the blocks. Using the staggered overlapping interlock, will increase the stability of the block wall. Use the offset to create a positive batter into the backfill. The top row is recommended to use blocks with a flat top.

Where the Block wall has 3 or more courses of blocks in height, a biaxial Geogrid material of suitable width is to be used between the 1st row and 2nd row, the 2nd row and 3rd row of blocks. Biaxial Geogrid will transfer tensile forces over a larger area to improve stability against horizontal movement.

Blocks placed at 90 degrees should follow the above recommendation for ground preparation, batter, Geogrid, backfill, and drainage.

Backfill:

Avoid backfill with a clay and silt content.

Place a free draining rock, or drain rock, at the bottom of the first course of blocks. Drainpipe is of no use in this situation as no storm water drain is available. Leveling base of crushed stone, drain rock behind the 1st row, and free draining fill behind the block wall is designed for even dispersal of ground water along the length of the block wall.

Directly behind the block wall backfill with a structural fill which is free draining. Where the geogrid, if required, extends into the excavated area use reinforced soils, or structural fill where required, compacted over the geogrid (see drawing). Compact the fill material for stability and to avoid settling of the fill creating a depression at the surface. Final grade is with soils for lawn or landscaping with a down slope to the top of the blocks.

Drainage:

Preventing water build-up behind the concrete block wall will reduce horizontal hydraulic pressure against the wall.

In this case drainage pipe is of no use as there is no storm drain available to disperse collected ground water. Place drain rock at the base of the block wall to aid dispersal of ground water along the length of the block wall. As stated, materials are chosen to aid the even dispersal of ground water along the length of the block wall.

To prevent water retention, do not backfill the block wall with fill which has a clay and silt content. Use a stable free draining structural fill directly behind the block wall. The permeable structural fill will aid in the flow of water vertically and reduce hydraulic pressures behind the block wall. The remainder of the fill into the property can be a reinforced soil or structural fill compacted over the Geogrid if used. Structural fill should be used where required, then compacted in a manner suitable for the circumstance.

Rainwater collected by the roof drain system of the house is directed to the storm sewer at the front of the house. Perimeter drains collect ground water at the base of the house foundation and that ground water directed into the storm sewer. The house perimeter drain next to the block wall will help collect ground water behind the 1.9 meter tall wall.

Bolton Street has curb and gutter and a storm water system to direct rainwater and snow melt flows on Bolton Street away from the property.

There is no septic system adding additional ground water to this lot.

Erosion control:

The ground above the block wall will be lawn and landscaping.

Landscaping and appropriate drainage on the adjoining properties is expected in a residential setting, although that is the neighbour's responsibility.

Driveways and Parking:

No top loading of the block wall from driveways or parked vehicles.

Services and Utilities:

Services and utilities for the house are located at the front of the house and are not disturbed by the block retaining wall.

Site Plan:

See attached drawings.

Safety:

A safety barrier or fence should be installed above the 1.9 meter drop between 3388 and 3392 Bolton Street.

Conclusion:

The concrete block retaining wall constructed on the property identified as 3388 Bolton Street, Lot 1, is satisfactory for the intended use if the recommendations presented herein are followed.

Geotechnical Assurance and Quality Assurance:

The 2018 B.C. Building Code requires Geotechnical Assurance by an engineer to provide review of geotechnical components, and to provide and take responsibility of field reviews during the construction of gravity retaining walls.

Limitations:

- a) The recommendations and scope of this report are based upon the data provided by visual inspections of the site that did not include subsurface investigations.
- b) The recommendations provided are provided based upon the conditions presented during the visual inspection and are consistent with general engineering practices.
- c) No other warranty, expressed or implied, is made.
- d) Due to geological variation and randomness of soil formations, no guarantee of soil conditions is made or implied, away from the areas inspected during the site visit. Conditions of subgrades and soils are known only at sites inspected and when exposed. If other conditions or soils become known during further construction or unanticipated conditions become evident, the recommendations may be altered or modified in writing by the undersigned engineer.

Acknowledgements

This report has been completed by Ken Woods, P. Eng., a Professional Engineer in good standing with Engineers and Geoscientists of B.C. I acknowledge that this report may be requested by the building inspector at the Village of Cumberland prior to the issuance of building permits. Building officials and approving officers may rely on this report for the application of building permits. The report has been prepared for, and at the expense of, the client and have not acted on behalf of the Village of Cumberland in any way.

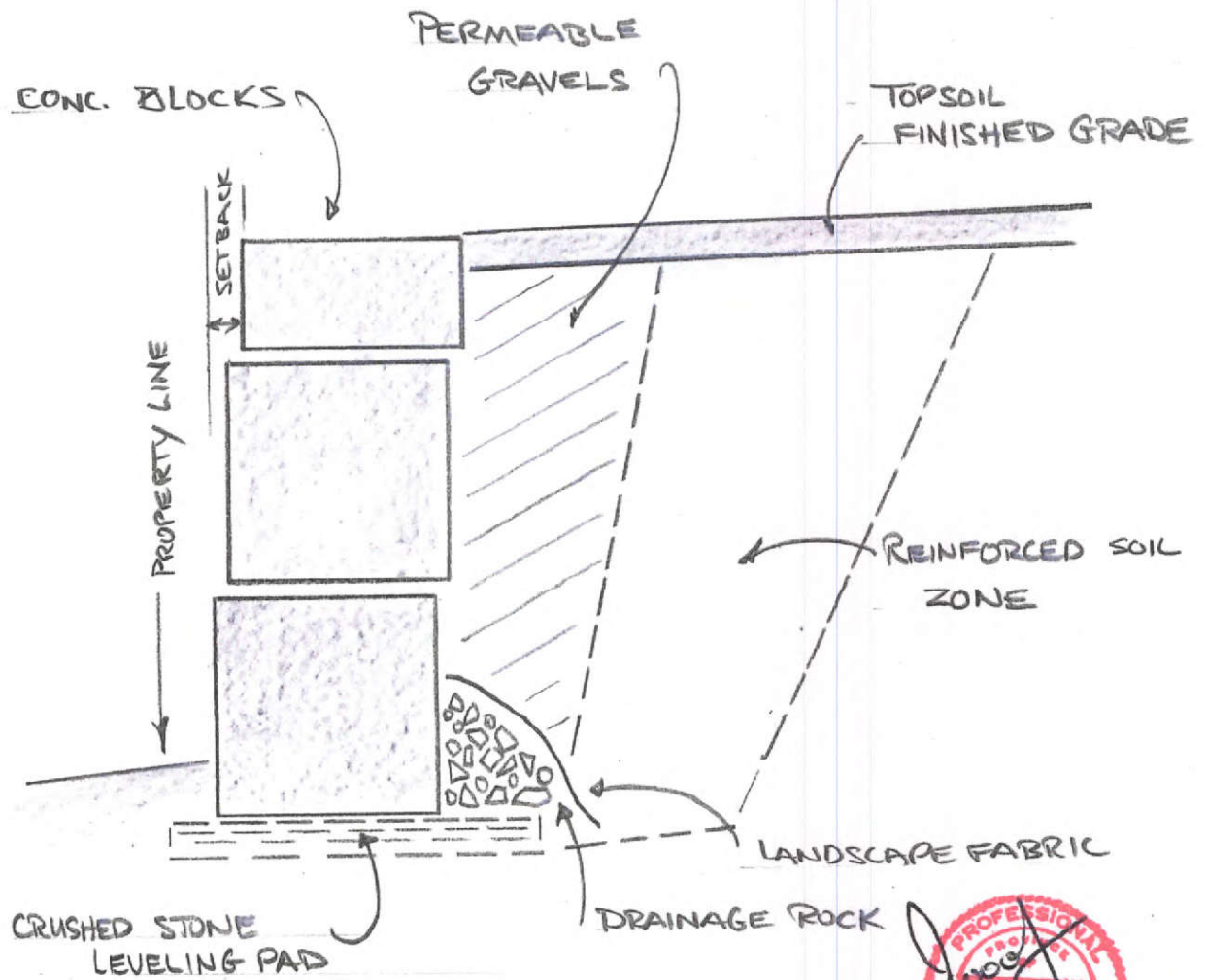
Yours truly

Ken Woods, P. Eng.



Interlocking Concrete Block Retaining Wall:

3388 Bolton Street



PROFESSIONAL
ENGINEER
R. W. WOODS
COLUMBIA
SOUTH CAROLINA
11/21





SECONDARY PROFESSIONAL LIABILITY GROUP INSURANCE PLAN

CERTIFICATE OF INSURANCE

INSURED'S NAMES: MEMBERS of the following PARTICIPATING ASSOCIATIONS; Association of Professional Engineers and Geoscientists of Alberta (APEGA); Engineers and Geoscientists of British Columbia; Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS); Engineers Geoscientists Manitoba; Engineers and Geoscientists New Brunswick; Engineers Nova Scotia; Northwest Territories and Nunavut Association of Professional Engineers and Geoscientists (NAPEG); Engineers PEI; Engineers Yukon; Professional Engineers and Geoscientists Newfoundland and Labrador (PEGNL); Professional Geoscientists Ontario (PGO); Association of Professional Geoscientists of Nova Scotia (APGNS); Ordre des géologues du Québec (OGQ)

The insurance contract will only cover claims reported to the INSURER during the policy period and for any circumstance, dispute or controversy, which were unknown before subscription to the present Group Insurance Plan. This certificate is issued for information purposes only and the holder should refer to the master policy. We suggest that you carefully read the master policy in its entirety to familiarize yourself with your rights and obligations and the details of coverage. Please note the master policy has a certain number of limitations and exclusions restricting coverage.

1.	INSURANCE COMPANY	XL SPECIALTY INSURANCE COMPANY 100 King Street West, Suite 3020, Toronto (Ontario) M5X 1C9
2.	BROKER	HUB INTERNATIONAL ONTARIO LIMITED 675 Cochrane Drive, Suite 200, East Tower, Markham (Ontario) L3R 0B8
3.	POLICY NUMBER	DPX 9462093
4.	POLICY PERIOD	March 31, 2021 to March 31, 2022
5.	LIMITS OF INSURANCE	Each claim \$250,000 Project Limit \$500,000 Policy Aggregate \$20,000,000 Deductible NIL

This is to certify that the Insurance contract DPX 9462093 has been issued to the above Associations. Should there be any conflict between this document and the insurance contract DPX 9462093 (or any renewal or replacement), only the provisions of the English version of contract DPX 9462093 will prevail except in the Province of Quebec where the French version of contract DPX 9462093 will prevail. Endorsements issued or to be issued are deemed to be part of the policy.

AUTHORIZED REPRESENTATIVE/
XL SPECIALTY INSURANCE COMPANY

Meleana Searle

From: Planning
Sent: August 13, 2021 10:50 AM
To: Meleana Searle
Subject: FW: Comment - Variance Applications

From: [REDACTED]
Sent: August 11, 2021 4:08 PM
To: Planning <Planning@cumberland.ca>
Subject: Comment - Variance Applications

Hi Meleana,

I've received a couple of variance applications in the mail for Bolton Street. No real issues with them, but a general comment. When considering/approving these variances is there any check done on how they're constructed and what's behind the wall to manage water? As a nearby property we see how much water flows off these properties downhill and onto our property. With walls in place it seems it might all be sent to 1-2 locations which would be a lot of water! In speaking with the owners of 3400 Bolton they mentioned their wall has been engineered to account for this - have the others?

I'm also assuming similar variances are required for the houses being completed on Lindale? That is a huge section of concrete blocks.

Thank you,

[REDACTED]

August 30th, 2021

Village of Cumberland
2673 Dunsmuir Ave.
Box 340
Cumberland, BC
V0R 1S0

Dear Mayor and Council,

RE: June 28, 2021 Council Meeting, Variance Application for [REDACTED] Bolton St.

Thank you for your review of the variance application for [REDACTED] Bolton St at the Council Meeting on June 28, 2021. During the proceedings of this meeting, pertinent information regarding the variance application was not shared with the Council. There had been extensive communication with the planners about this variance application, however, the circumstances of the meeting did not allow for this information to be shared.

Our variance application is in regards to a retaining wall (two-blocks in height) with an existing fence (combined height of 3.07m) at the back of our property. This wall was constructed by Knickle and Grant Fine Homes Ltd., the builder of the house we purchased. This retaining wall was necessary to address a number of issues that we will outline below. Furthermore, we purchased the house after construction of this wall, under the assurance of our builder that it had been fully engineered and viewed on several occasions by village staff when inspections on the house were performed.

The following information (below) was not brought forward on the June 28, 2021 council meeting, and we feel this information is pertinent to our application.

1. Drainage

There is a documented history of water drainage issues for the adjoining properties on Solport St (3407 and 3403 Solport Street). Prior to construction of the retaining wall, the backyards of these properties were frequently flooded – washing away gardens and flooding their lawns. Careful attention was paid to improving drainage during the planning phases on our lot. A geotechnical survey and engineering review were completed. Construction of a retaining wall allowed for layers of drainage rock to be installed, eliminating all flooding and drainage issues for these adjoining properties.

2. Matching grade

The adjoining property on Kendal Ave (2533 Kendal Ave), at the north end of our lot, had constructed a two-block retaining wall (5ft) along the back of their property to retain the original grade of their lot. We have attached labeled photographs, from September 2019, taken when we were viewing the lot for prospective purchase. These photographs clearly show the two-block retaining wall along the north end of our property. The retaining wall constructed on our property allowed us to match the original grade along the shared property line with Kendal Ave (2533 Kendal Ave).

The adjoining properties on Solport St (3407 and 3403 Solport St). and Kendal Ave (2533 Kendal Ave) dropped the grade at the rear of their lots during construction to allow for a level backyard. The property on Kendal Ave (2533 Kendal Ave) built a 5ft wall to retain the original grade; however, the properties on Solport St (3407 and 3403 Solport St) did not retain the grade after leveling out the backyard. The attached photographs demonstrate the resulting steep grade along the property line with the Solport St. houses (3407 and 3403 Solport St). Retaining walls were built to retain the natural grade *between* the houses on Solport St., however, nothing was done to retain the original grade at the back of the lots after they were leveled out. Our retaining wall retains the original grade that was lowered to allow for level backyards on Solport St, and matches the retaining wall from the adjoining Kendal Ave. property (2533 Kendal Ave), and provides the added benefit of remediating the drainage issues.

3. Depth of services / Natural grade

The depth of services for [REDACTED] Bolton St. were not appropriate for the original grade of the lot. Initially, there was an 18ft drop from the street to the north-east corner of the lot. The house was built at the lowest possible level to accommodate this natural grade and maintain appropriate storm water drainage. To further work with the steep grade, the house has been built with a walk-out basement, and an additional retaining wall was built in the middle of our lot to further mitigate the grade creating a stepped down backyard.

During the initial phases of our variance application, the Village Planners made several suggestions on how the natural grade could have been managed.

- a. Walk-out design of the house – this was done
- b. Tiered retaining wall at the back of the property (2.5ft on the property line, with an additional 2.5ft step-up set back from the property line) – While this would have met the bylaws, it would have provided the same sightlines for neighbours as our current wall, but left a 4ft “alleyway” along the property line, that would have limited our opportunity to provide appropriate drainage for the adjoining properties, and would have created an unsightly and unusable space for all.

4. Engineering/Geotechnical approval

The retaining wall was reviewed by an Engineer and inspected during the construction of the wall and drainage system. Geotechnical consultation was performed to ensure the proposed drainage plan would mitigate drainage issues for the adjoining properties.

5. Feedback from neighbours

We have discussed the retaining wall and fence with both of our neighbours on Solport St.(3407 and 3403 Solport St), who are quite pleased with the result. The construction of the retaining wall remediated the major drainage issues for their properties, and one neighbour planned to remove their fence to allow for a slightly larger back yard. We understand there was some negative feedback regarding our variance application, but it was not from the properties directly impacted by the retaining wall. Our concern is that negative feedback regarding retaining walls is being misdirected towards our application, rather than the adjacent lots beside us (whose applications are also pending), since we were the first to submit a variance application.

During the June 28, 2021 council meeting, it was brought up that there are builders and homeowners not adhering to Village bylaws, then requesting approval at a later date. We feel this is an unfair assessment of our situation. When we purchased the property at [REDACTED] Bolton St, we were under the assumption that the Engineering/Geotechnical Survey for the wall was

sufficient for its construction. We reviewed the property file at the Village prior to purchase and were assured there were no outstanding concerns and all required permits were in order. The builder, Knickle and Grant Fine Homes Ltd, was also under the impression that the retaining wall was sufficiently within the Village bylaws, as there had been several home and property inspections by Village employees during construction, and it was never mentioned. Once we were made aware that our retaining wall was not within the Village bylaws, we submitted a variance application at our earliest convenience.

We kindly ask you to consider approving the variance application for our retaining wall, as it matches the grade of the property on Kendal Ave (2533 Kendal Ave), mitigates drainage problems for Solport St. properties (3407 and 3403 Solport St) and retains grade from the lowered Solport St. properties (which should have been done by their builder). We also request that our variance application be considered separately from other applications for retaining walls on Bolton St., as our wall serves purpose beyond facilitating ease of construction.

At this time, we would invite any member of Staff, Mayor, or Council to come and review our property and retaining wall for themselves (with COVID-19 safety protocols in place).

We acknowledge that the Village, and Planning and Development departments are in a transition. We applaud them for the introduction of the new policies requiring final grade and retaining walls as part of the home building permit process. Meleana and Courtney have been wonderful to work with, we had just hoped these points would have been raised during the introduction of this application to council at the June 28, 2021 council meeting.

Sincerely,

[REDACTED]

[REDACTED] Bolton Street
Cumberland, BC
V0R1S0

Photo 1: [REDACTED] Bolton Street ([REDACTED] Bolton)

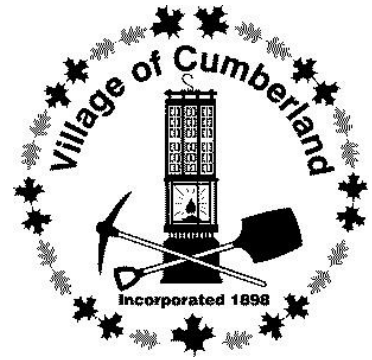
Picture 1 - September 2019



Photo 2- Corner of [REDACTED] Bolton Street ([REDACTED] Bolton)



COUNCIL REPORT



REPORT DATE: 7/28/2021

MEETING DATE: 9/7/2021

File No. 3220 - 3392 Bolton Street/2021-09-DV

TO: Mayor and Councillors

FROM: Meleana Searle, Planner

SUBJECT: Development Variance Permit, 3392 Bolton Street – Referral to APC

FILE:	2021-09-DV	
PID:	030-981-298	Folio No.: 516 00394.301
LEGAL DESCRIPTION:	Lot 2, DL 24, Plan EPP95109	
CIVIC ADDRESSES:	3392 Bolton Street	
ZONE:	MU-1 – Mixed Use Residential	

4.4 FENCES, SCREENING AND RETAINING WALLS :

Zoning Regulation

i) a retaining wall may be higher than 1.2metres (3.9feet) measured from grade, where the existing grade of the subject lot is lower than the abutting lot.

Requested Variance

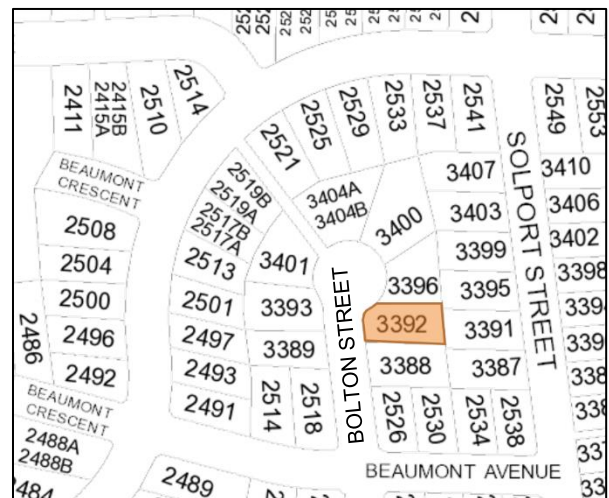
Allow a retaining wall with a height of 1.5 metres (5 ft,) on a lot higher than the abutting lot.

RECOMMENDATION

- i. THAT Council receive the report "Development Variance Permit, 3392 Bolton Street".
- ii. THAT Council refer the application (2021-09-DV) for the property legally described as Lot 2, DL 24, Plan EPP95109 (3392 Bolton Street) to the Advisory Planning Commission for a recommendation.

PURPOSE

The Village has received an application to vary the maximum height of a retaining wall at the rear property line from 1.2 metres to 1.5 metres. The purpose of this



report is to request a referral to the Advisory Planning Commission. With the information and public input received to date, the recommendation is to approve the variance.

PREVIOUS COUNCIL DIRECTION

None.

BACKGROUND

This application is the result of bylaw enforcement. A building permit is required for retaining walls greater than 1.2 metres (3.9 feet) in height. A building permit application was not submitted for this retaining wall. As the existing retaining wall is higher than permitted by the zoning bylaw, a development variance permit must be obtained before a building permit can be issued, or the wall must be reduced in height.

There is an existing retaining wall at the rear property line (see Attachment 1 – Site Plan and Attachment 2 – Images of Retaining Wall and Fence). This retaining wall continues along the rear property line of three adjacent properties (3400, 3396 and 3388 Bolton Street). A development variance permit for the retaining wall at 3400 Bolton Street was received by Council at the June 14, 2021 meeting and reports for development variance permit applications at 3396 and 3388 Bolton Street are presented at the same meeting as the subject report.

Additionally, the Village received development variance permit applications for existing over-height retaining walls on four other properties in Coal Valley Estates: three adjacent properties at 2510 Kendal Avenue, 2415 Beaumont Crescent and 2411 Beaumont Crescent, and a separate property at 2486 Beaumont Crescent.

Zoning Bylaw No. 1027, 2016 includes the following regulation for retaining wall height:

4.4 Fences, Screening and Retaining Walls

- g) Landscape walls on all Residential lots, except those required as a condition of subdivision approval or development permit, must not exceed a height of 1.2metres (3.9feet) measured from finished grade on the lower side, except that:*
 - i) a retaining wall may be higher than 1.2metres (3.9feet) measured from grade, where the existing grade of the subject lot is lower than the abutting lot. The combined height of a fence on a top of a retaining wall at the lot line must not exceed 2.0metres (6.5feet), measured from the grade of the abutting higher lot.*

The existing 1.5 metre (5 foot) retaining wall was erected along the eastern edge of the subject property to reduce the slope to create a lower-slope back yard. There is one lower lot adjacent to the wall on Solport Street. Because the subject property has a higher grade than the abutting lots, the maximum height of a retaining wall is 1.2 metres (3.9 feet).

The applicant seeks to vary the height of the retaining wall to a maximum height of 1.5 metres (5 feet). The applicant provided a geotechnical report that outlines recommendations for construction (see Attachment 3 – Geotechnical Report). If this variance is approved by Council, a fence would be permitted to be built on top of the wall, as long as it does not exceed 2.0 metres (6.5) feet from the grade of the subject property.

There are a number of alternative approaches to addressing a sloped yard including designing a different home with a lower basement level, or using a series of tiered retaining walls. Zoning

Bylaw No. 1027, 2016 allows for landscape walls, no higher than 1.2 metres (3.9 feet), to be spaced at a minimum of 1:1 (sections must be at least as far apart as they are high) height to horizontal separation ratio for reinforced walls. Unreinforced walls must have a height to horizontal separation ratio a minimum of 1:2 (sections must be at least twice as far apart as they are high).

Discussion

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

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

For the proposed variance, the geotechnical report states that the higher retaining wall allows for a more effective use of the property as it allows for a level yard. It is understood from speaking with builders and residents, that the grade of the Bolton Street lots presented challenges for building, and neighbours on Solport Street have complained of soil and run off from the site entering their back yards.

During earlier construction of the homes at a lower elevation on Solport Street there was some excavation into the slope to create level back yards. This may have exacerbated an issue of soil and water run off and created more challenging building sites at the top of the slope on Bolton Street. The subdivision grading plan for Phase 9 shows a 3 metre grade change from the front yard at Bolton Street to the back yard (see Attachment 4 – Coal Valley Estates Phase 9 Grading Plan).

If retaining walls had been built on the Solport Street lots to retain soil from the Bolton Street lots, there would have been no need for a variance; there is no maximum height of a retaining wall when it is built on the lower lot. However, final grading for the Phase 9 subdivision had not yet been completed at the time of construction of the Solport homes, so that building retaining walls at that time may not have been practical. In summary, there is an understandable land use justification for the retaining wall.

Where a land use justification for a proposed variance has been demonstrated, the application should then be evaluated based upon the impact(s) (positive or negative) of the variance. Impact(s) may be classified into the following three general categories:

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

For the proposed variance, a positive impact on drainage is expected and this will be confirmed through the building permit application. There is no aesthetic impact from public spaces, but there is potentially an aesthetic impact for the neighbour who shares a property line with the retaining wall. A 1.5 metre high retaining wall with a fence on top would have a maximum combined height of 3.5 metres. The maximum fence height at the rear of the adjacent Solport lot is 2.0 metres.

Input from neighbours is important to understanding the aesthetic impact, and review by the APC will assist in further evaluation.

Public Consultation

Pursuant to the requirements of the *Village of Cumberland Development Procedures and Fees Bylaw No. 1073, 2018*:

1. The applicant has placed the required sign on site.
2. Village staff prepared a notice of Council consideration of a Development Variance Permit which was mailed to owners and occupants of properties within 75.0 metres on August 5, 2021, meeting the Bylaw minimum of 10 days before Council considers the application.

At the time of this report, staff has received feedback from one resident in response to the mail-out (Attachment 5 – Public Feedback).

REFERRALS

Further to section 5.1(d) of the *Advisory Planning Commission Bylaw No. 999, 2014*, Council may refer this application to the APC for their comments.

At the June 14, 2021 meeting when receiving the report for 3400 Bolton Street, Council requested that all eight development variance permit applications are referred to the Advisory Planning Commission together. Due to limited staff resources and a high volume of applications, the reports for the Beaumont Crescent and Kendal Avenue applications have not yet been prepared. It is recommended that the four Bolton Street applications are referred to the Advisory Planning Commission without delay to provide certainty for property owners.

ALTERNATIVES

1. THAT Council not refer the application to the Advisory Planning Commission and direct staff to prepare and issue the development variance permit.
2. THAT Council not refer the application to the Advisory Planning Commission and deny the development variance permit.

STRATEGIC OBJECTIVE

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

FINANCIAL IMPLICATIONS

None.

OPERATIONAL IMPLICATIONS

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

ATTACHMENTS

1. Site Plan
2. Images of Retaining Wall
3. Geotechnical Report
4. Coal Valley Estates Phase 9 Grading Plan
5. Public Feedback

CONCURRENCE

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

Respectfully submitted,

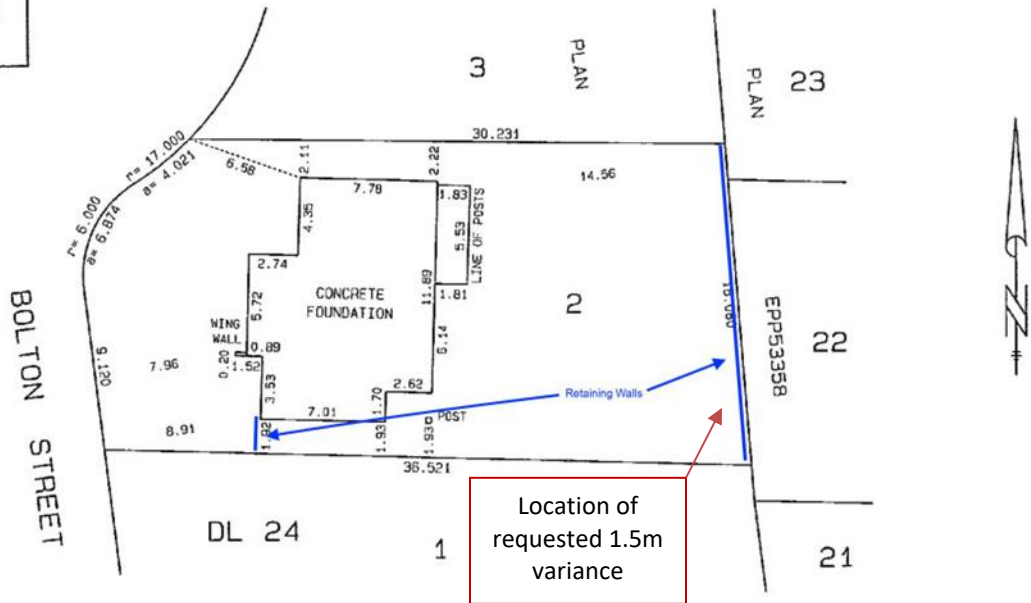


Meleana Searle
Planner

C. Postings
Clayton Postings
Chief Administrative Officer

Attachment 1 – Site Plan

3392 BOLTON ST., CUMBERLAND



Attachment 2 – Images of retaining wall





May 18, 2021

Project: Concrete Block Retaining Wall
Lot Address: 3392 Bolton Street, Cumberland, B.C.

Legal: Lot 2, District Lot 24, Nelson District, Plan EPP95109
PID: 030-981-298
Roll: 00394.301

Attn: Sean Watters
2240 Strathcona Crescent
Comox, B.C., V9M 1K7
Phone: 514-827-8801

Description of Property:

The property at 3392 Bolton Street is a developed lot with a newly constructed residence.

The property has a downslope from Bolton Street to the back property line. The downslope continues to the east giving 3392 Bolton Street a higher elevation than properties adjoining the rear property line.

A gravity wall using interlocking concrete blocks is constructed inside, and along, the rear property line to retain fill within the property to create a low slope, useable back yard. An additional interlocking wall on the south west front corner of the concrete foundation retains the soil of the front yard.

The block wall terminates at the front corner of the concrete foundations between 3388 and 3392 Bolton Street.

Final grading of the property is designed to match the final height of the interlocking block walls.

Block Wall – Back Property Line:

The interlocking concrete block retaining wall on the back property line is approximately 1.5 meters tall (2 blocks high) and extends from the southeast corner to the northeast corner. This block wall is adjacent to 2 properties with common rear property boundaries. The block wall should start with the first block turned 90 degrees to allow an interlock on the next course of blocks.

Block Wall – South West Front of House:

The interlocking concrete block wall at the south west front corner of the house foundation retains approximately 1.9 meters of soil in the front yard. The 1.9 meters depth of soil requires 2 and ½ retaining blocks in height. The 1.9 meter tall block wall at the front of the foundation extends to the

house next door to retain the front yards between 3392 and 3388 Bolton Street. This block wall is supported by an adjoining block wall at 90 degrees. The adjoining block wall is outside the 3392 Bolton property line, belongs to, and is constructed by the 3388 Bolton construction contractor.

Follow construction recommendations while constructing the interlocking concrete block wall.

The elevation rise requires staggered interlocking blocks up to 2 1/2 courses high. All aspects of wall construction are important, including compacted base preparation, drainage, geogrid installation if required, batter, staggered interlock, free draining structural fill, reinforced soil zone, and compaction. (see drawing)

Construction - Interlocking Concrete Block Retaining Wall:

Ground Preparation:

A static gravity wall must lean into the slope to prevent horizontal movement due to rotation. A compacted base, drainage from behind the wall, and a stable backfill will help prevent horizontal movement due to translation.

A concrete block retaining wall will be constructed on the back property line, to create a low slope flat yard, and retain compacted soils and structural fill within the lot. The block wall structure must be entirely inside the property lines of 3392 Bolton Street.

The interlocking concrete blocks used are the prefabricated interlocking blocks of 60" long x 30" x 30" dimensions.

Prior to placing of the concrete blocks, the ground will be prepared by removal of remaining organic material down to suitable original ground, where a base of compacted crushed stone is recommended as a leveling base. The crushed stone will allow seepage of ground water throughout the length of the block wall as no storm drain system is available for collection of the ground water flows.

The compacted crushed stone will be the leveling base for block wall construction. The crushed stone will be well graded structural gravel and compacted with a suitable compactor. The base for the blocks must be in a straight line, level, returns at approximately 90 degrees, and will have a batter allowing the concrete blocks to lean into the slope, or offset as the block design allows, creating a stable gravity wall (see drawing).

Stacking of Interlocking Blocks:

Place the first (bottom) row of blocks with the batter leaning into the slope. Or, where the block design allows a suitable offset place the 1st row level on the prepared base. Keep the blocks closely abutted, in a straight line, at a consistent batter. Precise placement of the first course of blocks will make placement of the subsequent courses easier and more efficient. Prepare with the next course of blocks in mind.

Start the first row with a full block turned 90 degrees into the property, this allows an interlock of the second course of blocks.

The placement of the blocks should not encroach on the adjoining property.

The second and subsequent rows of blocks will be staggered to allow the overlap of the interlocking feature of the blocks. Using the staggered overlapping interlock, will increase the stability of the block wall. Use the offset to create a positive batter into the backfill. The top row is recommended to use blocks with a flat top.

Where the Block wall has 3 or more courses of blocks in height, a biaxial Geogrid material of suitable width is to be used between the 1st row and 2nd row, the 2nd row and 3rd row of blocks. Secure Geogrid over the interlocking feature on top of the blocks. Biaxial Geogrid will transfer tensile forces over a larger area to improve stability against horizontal movement.

Blocks placed at 90 degrees should follow the above recommendation for ground preparation, batter, Geogrid, backfill, and drainage.

Backfill:

Avoid backfill with a clay and silt content.

Place a free draining rock, or drain rock, at the bottom of the first course of blocks. Drainpipe is of no use in this situation as no storm water drain is available. Leveling base of crushed stone, drain rock behind the 1st row, and free draining fill behind the block wall is designed for even dispersal of ground water along the length of the block wall.

Directly behind the block wall backfill with a structural fill which is free draining. Where the geogrid, if required, extends into the excavated area use reinforced soils, or structural fill where required, compacted over the geogrid (see drawing). Compact the fill material for stability and to avoid settling of the fill creating a depression at the surface. Final grade is with soils for lawn or landscaping with a down slope to the top of the blocks.

Drainage:

Preventing water build-up behind the concrete block wall will reduce horizontal hydraulic pressure against the wall.

In this case drainage pipe is of no use as there is no storm drain available to disperse collected ground water. Place drain rock at the base of the block wall to aid dispersal of ground water along the length of the block wall. As stated, materials are chosen to aid the even dispersal of ground water along the length of the block wall.

To prevent water retention, do not backfill the block wall with fill which has a clay and silt content. Use a stable free draining structural fill directly behind the block wall. The permeable structural fill will aid in the flow of water vertically and reduce hydraulic pressures behind the block wall. The remainder of the fill into the property can be a reinforced soil or structural fill compacted over the Geogrid if used. Structural fill should be used where required, then compacted in a manner suitable for the circumstance.

Rainwater collected by the roof drain system of the house is directed to the storm sewer at the front of the house. Perimeter drains collect ground water at the base of the house foundation and that ground water directed into the storm sewer. The house perimeter drain next to the block wall at the south west front of the house will help collect ground water behind the 1.9 meter tall wall.

Bolton Street has curb and gutter and a storm water system to direct rainwater and snow melt flows on Bolton Street away from the property.

There is no septic system adding additional ground water to this lot.

Erosion control:

The ground above the block wall will be lawn and landscaping.

Landscaping and appropriate drainage on the adjoining properties is expected in a residential setting, although that is the neighbour's responsibility.

Driveways and Parking:

No top loading of the block wall from driveways or parked vehicles.

Services and Utilities:

Services and utilities for the house are located at the north west front of the house and are not disturbed by the block retaining wall.

Site Plan:

See attached drawings.

Safety:

A safety barrier or fence should be installed above the 1.9 meter drop between 3392 and 3388 Bolton Street.

Conclusion:

The concrete block retaining wall constructed on the property identified as 3392 Bolton Street, Lot 2, is satisfactory for the intended use if the recommendations presented herein are followed.

Geotechnical Assurance and Quality Assurance:

The 2018 B.C. Building Code requires Geotechnical Assurance by an engineer to provide review of geotechnical components, and to provide and take responsibility of field reviews during the construction of gravity retaining walls.

Limitations:

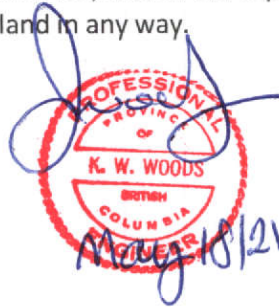
- a) The recommendations and scope of this report are based upon the data provided by visual inspections of the site that did not include subsurface investigations.
- b) The recommendations provided are provided based upon the conditions presented during the visual inspection and are consistent with general engineering practices.
- c) No other warranty, expressed or implied, is made.
- d) Due to geological variation and randomness of soil formations, no guarantee of soil conditions is made or implied, away from the areas inspected during the site visit. Conditions of subgrades and soils are known only at sites inspected and when exposed. If other conditions or soils become known during further construction or unanticipated conditions become evident, the recommendations may be altered or modified in writing by the undersigned engineer.

Acknowledgements

This report has been completed by Ken Woods, P. Eng., a Professional Engineer in good standing with Engineers and Geoscientists of B.C. I acknowledge that this report may be requested by the building inspector at the Village of Cumberland prior to the issuance of building permits. Building officials and approving officers may rely on this report for the application of building permits. The report has been prepared for, and at the expense of, the client and have not acted on behalf of the Village of Cumberland in any way.

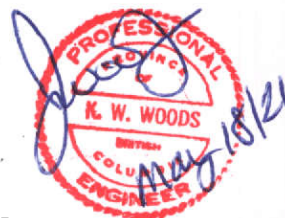
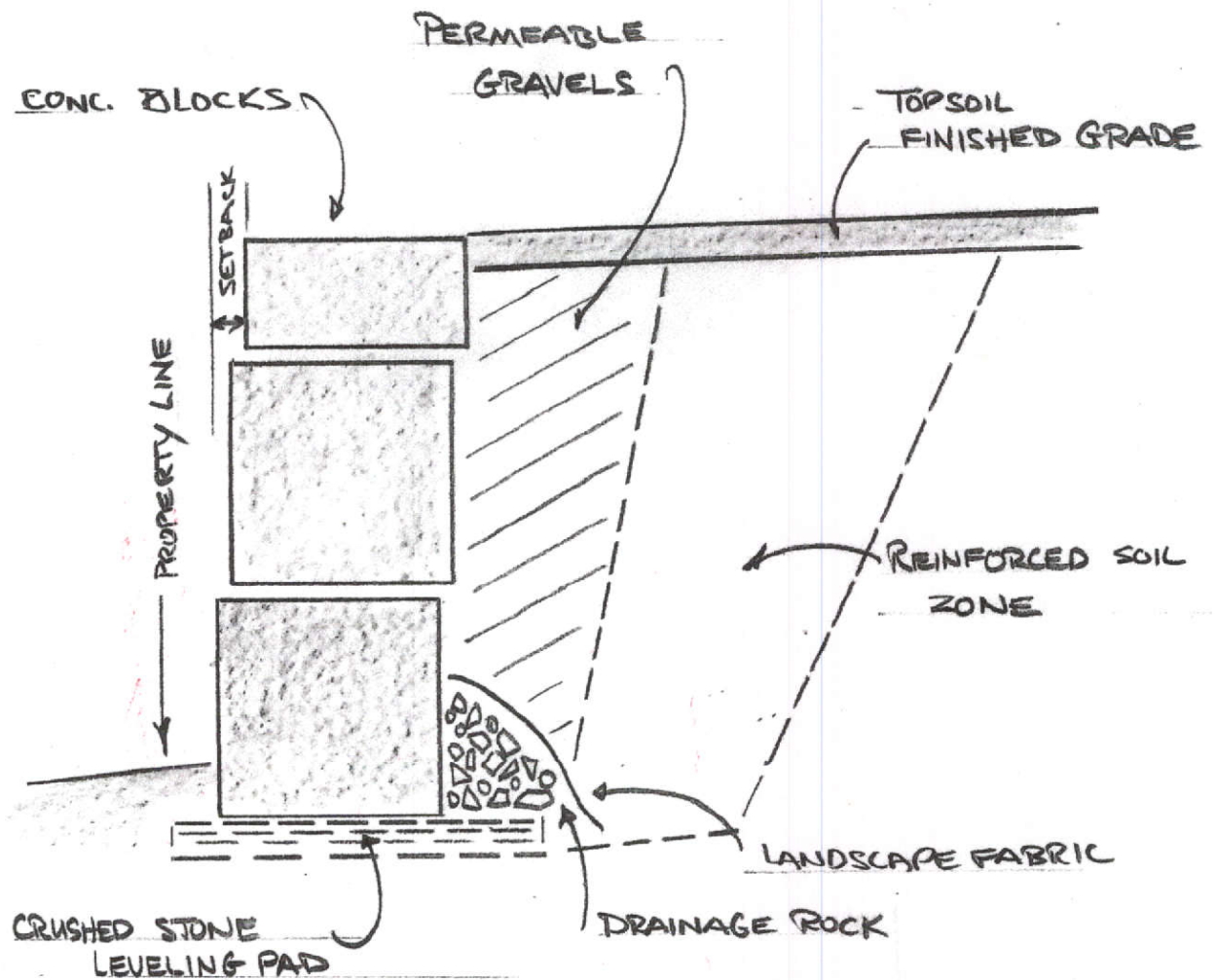
Yours truly

Ken Woods, P. Eng.



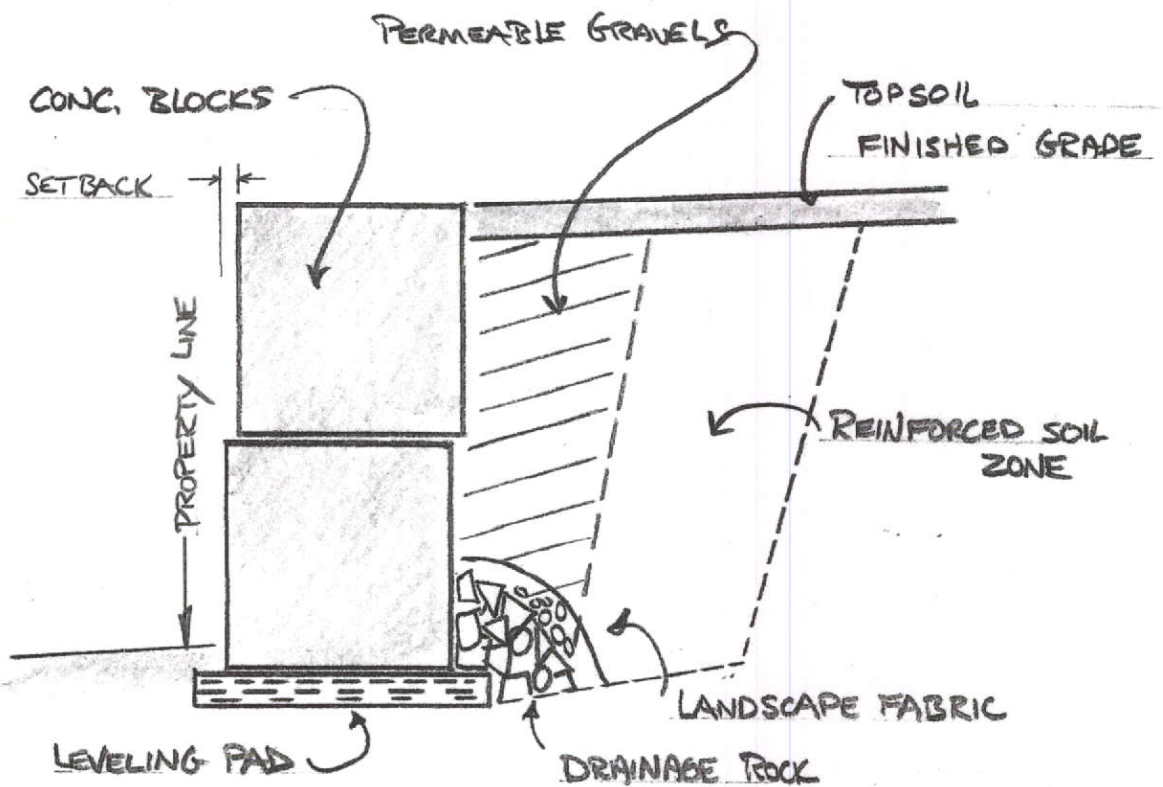
Interlocking Concrete Block Retaining Wall:

3392 Bolton Street

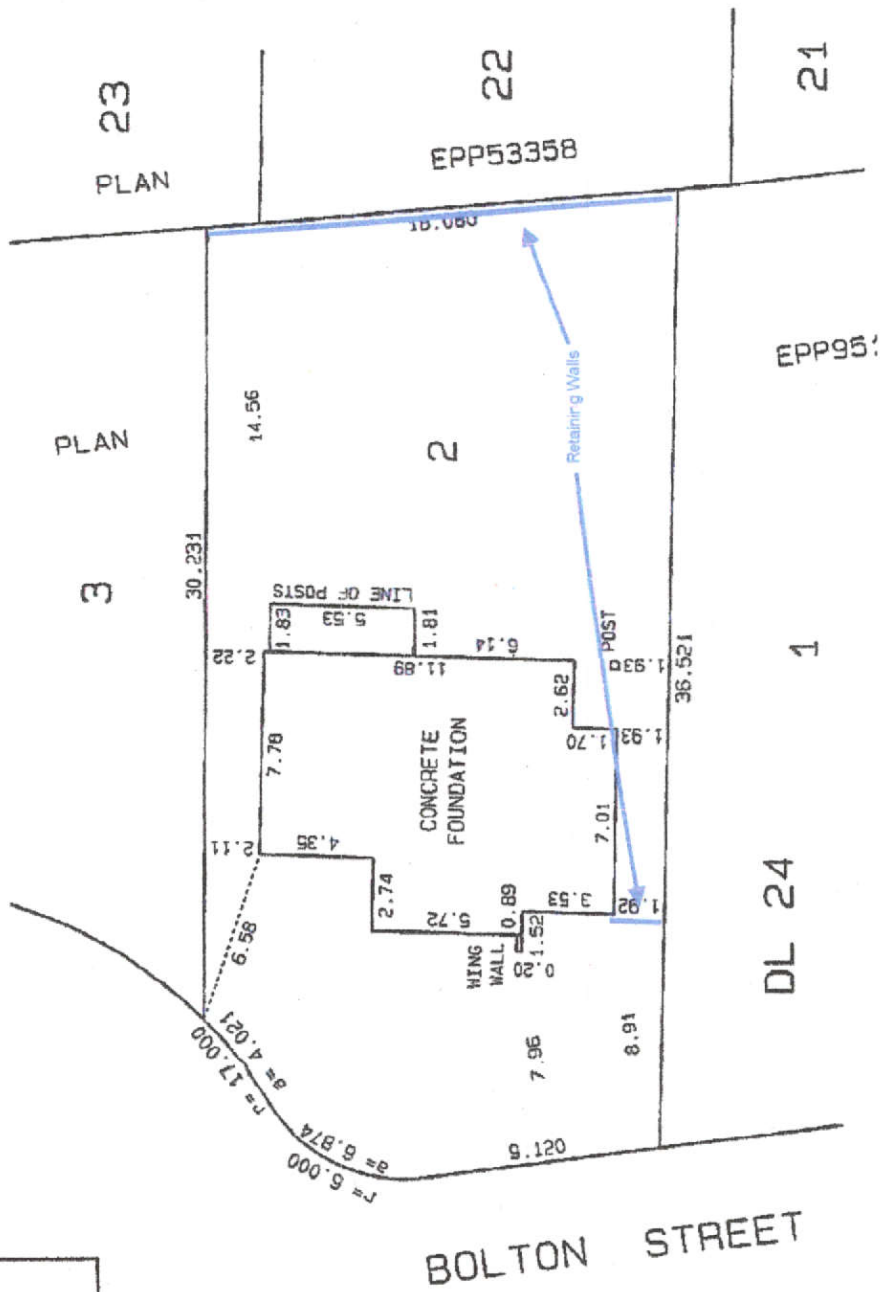


Interlocking Concrete Block Retaining Wall:

3392 Bolton Street



3392 BOLTON ST., CUMBERLAND





Meleana Searle

From: Planning
Sent: August 13, 2021 10:50 AM
To: Meleana Searle
Subject: FW: Comment - Variance Applications

From: [REDACTED]
Sent: August 11, 2021 4:08 PM
To: Planning <Planning@cumberland.ca>
Subject: Comment - Variance Applications

Hi Meleana,

I've received a couple of variance applications in the mail for Bolton Street. No real issues with them, but a general comment. When considering/approving these variances is there any check done on how they're constructed and what's behind the wall to manage water? As a nearby property we see how much water flows off these properties downhill and onto our property. With walls in place it seems it might all be sent to 1-2 locations which would be a lot of water! In speaking with the owners of 3400 Bolton they mentioned their wall has been engineered to account for this - have the others?

I'm also assuming similar variances are required for the houses being completed on Lindale? That is a huge section of concrete blocks.

Thank you,

[REDACTED]

August 30th, 2021

Village of Cumberland
2673 Dunsmuir Ave.
Box 340
Cumberland, BC
V0R 1S0

Dear Mayor and Council,

RE: June 28, 2021 Council Meeting, Variance Application for [REDACTED] Bolton St.

Thank you for your review of the variance application for [REDACTED] Bolton St at the Council Meeting on June 28, 2021. During the proceedings of this meeting, pertinent information regarding the variance application was not shared with the Council. There had been extensive communication with the planners about this variance application, however, the circumstances of the meeting did not allow for this information to be shared.

Our variance application is in regards to a retaining wall (two-blocks in height) with an existing fence (combined height of 3.07m) at the back of our property. This wall was constructed by Knickle and Grant Fine Homes Ltd., the builder of the house we purchased. This retaining wall was necessary to address a number of issues that we will outline below. Furthermore, we purchased the house after construction of this wall, under the assurance of our builder that it had been fully engineered and viewed on several occasions by village staff when inspections on the house were performed.

The following information (below) was not brought forward on the June 28, 2021 council meeting, and we feel this information is pertinent to our application.

1. Drainage

There is a documented history of water drainage issues for the adjoining properties on Solport St (3407 and 3403 Solport Street). Prior to construction of the retaining wall, the backyards of these properties were frequently flooded – washing away gardens and flooding their lawns. Careful attention was paid to improving drainage during the planning phases on our lot. A geotechnical survey and engineering review were completed. Construction of a retaining wall allowed for layers of drainage rock to be installed, eliminating all flooding and drainage issues for these adjoining properties.

2. Matching grade

The adjoining property on Kendal Ave (2533 Kendal Ave), at the north end of our lot, had constructed a two-block retaining wall (5ft) along the back of their property to retain the original grade of their lot. We have attached labeled photographs, from September 2019, taken when we were viewing the lot for prospective purchase. These photographs clearly show the two-block retaining wall along the north end of our property. The retaining wall constructed on our property allowed us to match the original grade along the shared property line with Kendal Ave (2533 Kendal Ave).

The adjoining properties on Solport St (3407 and 3403 Solport St). and Kendal Ave (2533 Kendal Ave) dropped the grade at the rear of their lots during construction to allow for a level backyard. The property on Kendal Ave (2533 Kendal Ave) built a 5ft wall to retain the original grade; however, the properties on Solport St (3407 and 3403 Solport St) did not retain the grade after leveling out the backyard. The attached photographs demonstrate the resulting steep grade along the property line with the Solport St. houses (3407 and 3403 Solport St). Retaining walls were built to retain the natural grade *between* the houses on Solport St., however, nothing was done to retain the original grade at the back of the lots after they were leveled out. Our retaining wall retains the original grade that was lowered to allow for level backyards on Solport St, and matches the retaining wall from the adjoining Kendal Ave. property (2533 Kendal Ave), and provides the added benefit of remediating the drainage issues.

3. Depth of services / Natural grade

The depth of services for [REDACTED] Bolton St. were not appropriate for the original grade of the lot. Initially, there was an 18ft drop from the street to the north-east corner of the lot. The house was built at the lowest possible level to accommodate this natural grade and maintain appropriate storm water drainage. To further work with the steep grade, the house has been built with a walk-out basement, and an additional retaining wall was built in the middle of our lot to further mitigate the grade creating a stepped down backyard.

During the initial phases of our variance application, the Village Planners made several suggestions on how the natural grade could have been managed.

- a. Walk-out design of the house – this was done
- b. Tiered retaining wall at the back of the property (2.5ft on the property line, with an additional 2.5ft step-up set back from the property line) – While this would have met the bylaws, it would have provided the same sightlines for neighbours as our current wall, but left a 4ft “alleyway” along the property line, that would have limited our opportunity to provide appropriate drainage for the adjoining properties, and would have created an unsightly and unusable space for all.

4. Engineering/Geotechnical approval

The retaining wall was reviewed by an Engineer and inspected during the construction of the wall and drainage system. Geotechnical consultation was performed to ensure the proposed drainage plan would mitigate drainage issues for the adjoining properties.

5. Feedback from neighbours

We have discussed the retaining wall and fence with both of our neighbours on Solport St.(3407 and 3403 Solport St), who are quite pleased with the result. The construction of the retaining wall remediated the major drainage issues for their properties, and one neighbour planned to remove their fence to allow for a slightly larger back yard. We understand there was some negative feedback regarding our variance application, but it was not from the properties directly impacted by the retaining wall. Our concern is that negative feedback regarding retaining walls is being misdirected towards our application, rather than the adjacent lots beside us (whose applications are also pending), since we were the first to submit a variance application.

During the June 28, 2021 council meeting, it was brought up that there are builders and homeowners not adhering to Village bylaws, then requesting approval at a later date. We feel this is an unfair assessment of our situation. When we purchased the property at [REDACTED] Bolton St, we were under the assumption that the Engineering/Geotechnical Survey for the wall was

sufficient for its construction. We reviewed the property file at the Village prior to purchase and were assured there were no outstanding concerns and all required permits were in order. The builder, Knickle and Grant Fine Homes Ltd, was also under the impression that the retaining wall was sufficiently within the Village bylaws, as there had been several home and property inspections by Village employees during construction, and it was never mentioned. Once we were made aware that our retaining wall was not within the Village bylaws, we submitted a variance application at our earliest convenience.

We kindly ask you to consider approving the variance application for our retaining wall, as it matches the grade of the property on Kendal Ave (2533 Kendal Ave), mitigates drainage problems for Solport St. properties (3407 and 3403 Solport St) and retains grade from the lowered Solport St. properties (which should have been done by their builder). We also request that our variance application be considered separately from other applications for retaining walls on Bolton St., as our wall serves purpose beyond facilitating ease of construction.

At this time, we would invite any member of Staff, Mayor, or Council to come and review our property and retaining wall for themselves (with COVID-19 safety protocols in place).

We acknowledge that the Village, and Planning and Development departments are in a transition. We applaud them for the introduction of the new policies requiring final grade and retaining walls as part of the home building permit process. Meleana and Courtney have been wonderful to work with, we had just hoped these points would have been raised during the introduction of this application to council at the June 28, 2021 council meeting.

Sincerely,

[REDACTED]

[REDACTED] Bolton Street
Cumberland, BC
V0R1S0

Photo 1: [REDACTED] Bolton Street ([REDACTED] Bolton)

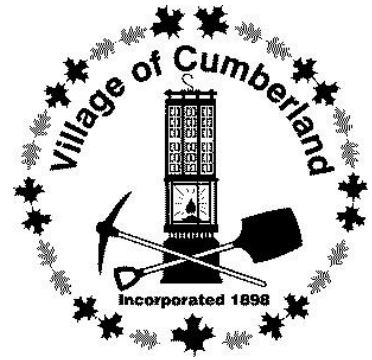
Picture 1 - September 2019



Photo 2- Corner of [REDACTED] Bolton Street ([REDACTED] Bolton)



COUNCIL REPORT



REPORT DATE: 7/28/2021

MEETING DATE: 9/7/2021

File No. 3220 - 3396 Bolton Street

TO: Mayor and Councillors

FROM: Meleana Searle, Planner

SUBJECT: Development Variance Permit, 3396 Bolton Street – Referral to APC

FILE:	2021-13-DV	
PID:	030-981-301	Folio No.: 516 00394.302
LEGAL DESCRIPTION:	Lot 3, DL 24, Plan EPP95109	
CIVIC ADDRESSES:	3396 Bolton Street	
ZONE:	MU-1 – Mixed Use Residential	

Zoning Regulation

i) a retaining wall may be higher than 1.2metres (3.9feet) measured from grade, where the existing grade of the subject lot is lower than the abutting lot.

Requested Variance

Allow retaining walls with a heights of 3.0 metres (10 ft) and 1.5 metres (5ft), on a lot higher than the abutting lot.

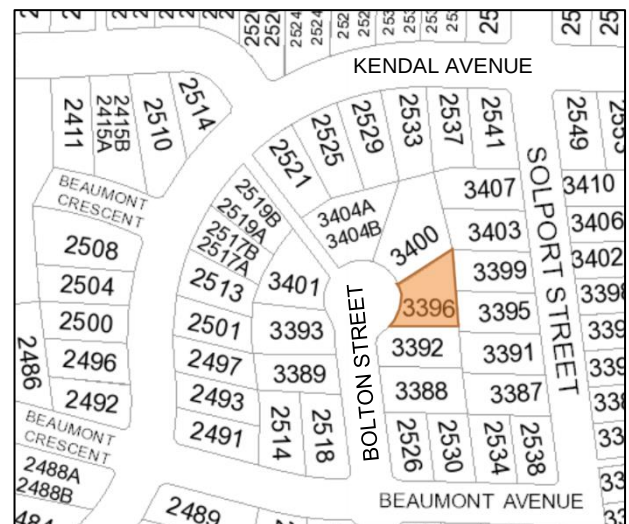
4.4 FENCES, SCREENING AND RETAINING WALLS :

RECOMMENDATION

- i. THAT Council receive the report “Development Variance Permit, 3396 Bolton Street”.
- ii. THAT Council refer the application (2021-13-DV) for the property legally described as Lot 3, DL 24, Plan EPP95109 (3396 Bolton Street) to the Advisory Planning Commission for a recommendation.

PURPOSE

The Village has received an application to vary the maximum height of a retaining wall at the rear property line from 1.2 metres to between 1.5 metres and 3.0 metres, and a portion of the north



Subject Property Map

property line from 1.2 metres to 1.5 metres. The purpose of this report is to request a referral to the Advisory Planning Commission. With the information and public input received to date, the recommendation is to approve the variance.

PREVIOUS COUNCIL DIRECTION

None.

BACKGROUND

This application is the result of bylaw enforcement. A building permit is required for retaining walls greater than 1.2 metres (3.9 feet) in height. A building permit application was not submitted for this retaining wall prior to construction. As the existing retaining wall is higher than permitted by the zoning bylaw, a development variance permit must be obtained before a building permit can be issued, or the wall must be reduced in height.

There is an existing retaining wall at the rear property line (see Attachment 1 – Site Plan and Attachment 2 – Images of Retaining Wall and Fence). This retaining wall continues along the rear property line of three adjacent properties (3400, 3392 and 3388 Bolton Street). A development variance permit for the retaining wall at 3400 Bolton Street was received by Council at the June 14, 2021 meeting and reports for development variance permit applications at 3392 and 3388 Bolton Street are presented at the same meeting as the subject report.

Additionally, the Village received development variance permit applications for existing over-height retaining walls on four other properties in Coal Valley Estates: three adjacent properties at 2510 Kendal Avenue, 2415 Beaumont Crescent and 2411 Beaumont Crescent, and a separate property at 2486 Beaumont Crescent.

Zoning Bylaw No. 1027, 2016 includes the following regulation for retaining wall height:

4.4 Fences, Screening and Retaining Walls

- g) Landscape walls on all Residential lots, except those required as a condition of subdivision approval or development permit, must not exceed a height of 1.2metres (3.9feet) measured from finished grade on the lower side, except that:*
 - i) a retaining wall may be higher than 1.2metres (3.9feet) measured from grade, where the existing grade of the subject lot is lower than the abutting lot. The combined height of a fence on a top of a retaining wall at the lot line must not exceed 2.0metres (6.5feet), measured from the grade of the abutting higher lot.*

The existing retaining wall is 2.3 metre (7.5 foot) in height for approximately half the length of the rear property line and 0.75 metres in height for the other half. The owner would like to increase the height of the 2.3 metre portion to 3.0 metres and the 0.75 metre portion to 1.5 metres to achieve a more level grade of the back yard. There are two lower lots adjacent to the wall, both on Solport Street. Because the subject property has a higher grade than the abutting lots, the maximum height of a retaining wall is 1.2 metres (3.9 feet). The owner would also like to install a 1.5 metre retaining wall along the north east property.

The applicant seeks to vary the height of the retaining walls to a maximum height of 3.0 metres and 1.5 metres. The applicant provided a geotechnical report that outlines recommendations for construction (see Attachment 3 – Geotechnical Report). If this variance is approved, a fence on top

of the retaining wall would be permitted to a maximum height of 6.5 metres from the grade of the subject property.

There are a number of alternative approaches to addressing a sloped yard including designing a different home with a lower basement level, or using a series of tiered retaining walls. Zoning Bylaw No. 1027, 2016 allows for landscape walls, no higher than 1.2 metres (3.9 feet), to be spaced at a minimum of 1:1 (sections must be at least as far apart as they are high) height to horizontal separation ratio for reinforced walls. Unreinforced walls must have a height to horizontal separation ratio a minimum of 1:2 (sections must be at least twice as far apart as they are high).

Discussion

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

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

For the proposed variance, the applicant states that the grade of the lot presented challenges for building, and neighbours on Solport Street complained of soil and run off from the site entering their back yards (see Attachment 4 – Letter from owner dated July 29, 2021). During earlier construction of the homes at a lower elevation on Solport Street there was some excavation into the slope to create level back yards. This may have exacerbated an issue of soil and water run off and created more challenging building sites at the top of the slope on Bolton Street. The subdivision grading plan for Phase 9 shows a 3 metre grade change from the front yard at Bolton Street to the back yard (see Attachment 4 – Coal Valley Estates Phase 9 Grading Plan).

If retaining walls had been built on the Solport Street lots to retain soil from the Bolton Street lots, there would have been no need for a variance; there is no maximum height of a retaining wall when it is built on the lower lot. However, final grading for the Phase 9 subdivision had not yet been completed at the time of construction of the Soloport homes, so that building retaining walls at that time may not have been practical.

In summary, there is an understandable land use justification for the retaining wall.

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

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

- i. Aesthetic impact. This includes the impact of the proposed variance on the streetscape, the views from adjacent properties, compatibility with neighbourhood design standards, etc.
- ii. Functional impact. This includes the impact of the proposed variance on the function of the property for the permitted uses and the potential impact of the variance on the function of adjacent properties, or road right-of-ways.

- iii. Environmental impact. This includes the impact of the proposed variance on the long term sustainability of the natural environment or the direct impact on a specific feature of the natural environment.

For the proposed variance, a positive impact on drainage is expected and this will be confirmed through the building permit application. There is no aesthetic impact from public spaces, but there is potentially an aesthetic impact for neighbours who share a property line with the retaining wall. A 1.5 and 3.0 metre high retaining wall with a fence on top would have a maximum combined height of 3.5 and 5.0 metres. The maximum fence height at the rear of the Solport lots is 2.0 metres.

Input from neighbours is important to understanding the aesthetic impact, and review by the APC will assist in further evaluation.

Public Consultation

Pursuant to the requirements of the *Village of Cumberland Development Procedures and Fees Bylaw No. 1073, 2018*:

1. The applicant has placed the required sign on site.
2. Village staff prepared a notice of Council consideration of a Development Variance Permit which was mailed to owners and occupants of properties within 75.0 metres on July 28, 2021, meeting the Bylaw minimum of 10 days before Council considers the application.

At the time of this report, staff have received some feedback from residents in response to the mail-out or on-site sign (Attachment 6 – Public Feedback).

REFERRALS

Further to section 5.1(d) of the *Advisory Planning Commission Bylaw No. 999, 2014*, Council may refer this application to the APC for comment.

At the June 14, 2021 meeting when receiving the report for 3400 Bolton Street, Council requested that all eight development variance permit applications are referred to the Advisory Planning Commission together. Due to limited staff resources and a high volume of applications, the reports for the Beaumont Crescent and Kendal Avenue applications have not yet been prepared. It is recommended that the four Bolton Street applications are referred to the Advisory Planning Commission without delay to provide certainty for property owners.

ALTERNATIVES

1. THAT Council not refer the application to the Advisory Planning Commission and direct staff to prepare and issue the development variance permit.
2. THAT Council not refer the application to the Advisory Planning Commission and deny the development variance permit.

STRATEGIC OBJECTIVE

- ☐ Healthy Community
- ☐ Quality Infrastructure Planning and Development
- ☒ Comprehensive Community Planning

☐ Economic Development

FINANCIAL IMPLICATIONS

None.

OPERATIONAL IMPLICATIONS

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

ATTACHMENTS

1. Site Plan
2. Images of Retaining Wall
3. Geotechnical Report
4. Letter from owner dated July 29, 2021
5. Coal Valley Estates Phase 9 Grading Plan
6. Public Feedback

CONCURRENCE

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

Respectfully submitted,

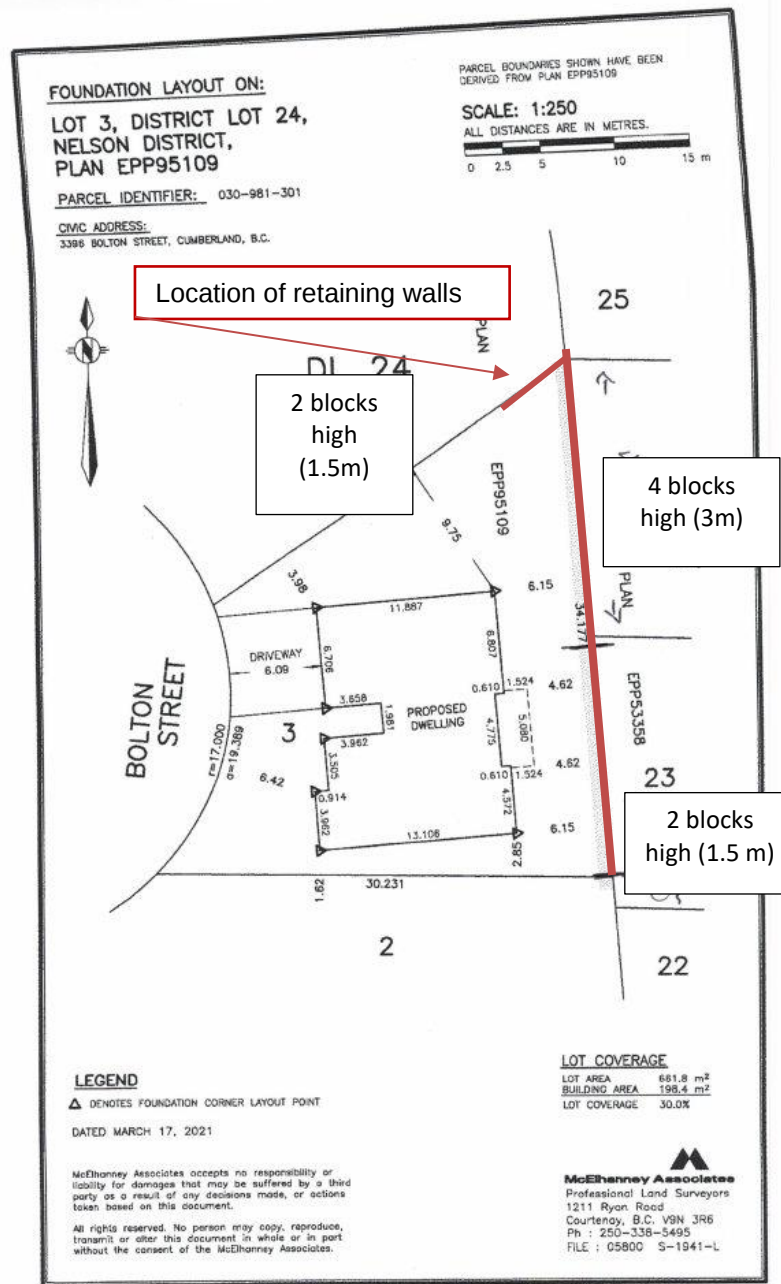


Meleana Searle
Planner

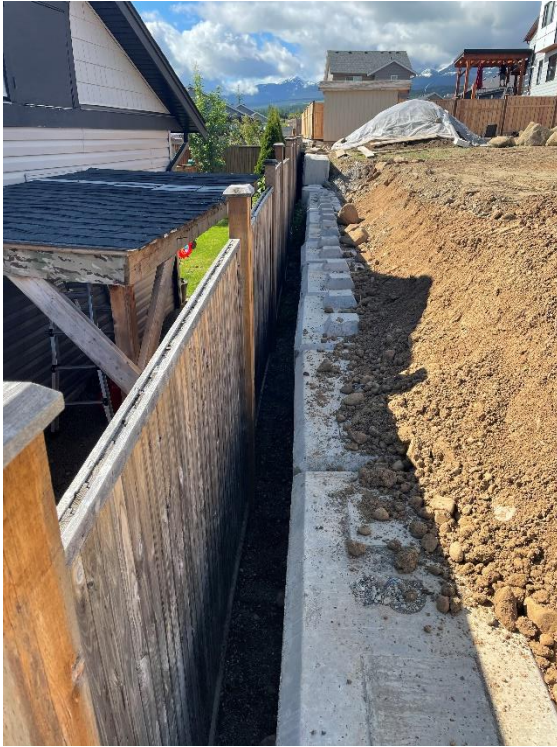
C. Postings

Clayton Postings
Chief Administrative Officer

Attachment 1 – Site Plan



Attachment 2 – Images of retaining walls







Ken Woods P.Eng.

2351 Barbara Road, Courtenay, B.C. V9J 1L9
250-897-8584 kenwoodspeng@gmail.com

January 7, 2021

Project: Concrete Block Retaining Wall
Lot Address: 3396 Bolton Street, (Lot 3) Cumberland, B.C.

Legal: Lot 3, District Lot 24, Nelson District, Plan EPP95109
PID: 030-981-301
Roll: 00394.302

Attn: Rick Terrace, R.T. Contracting
Phone: 250-897-6545

Description of Property:

The property at 3396 Bolton Street has new house construction under progress. The rear property is sloped to the rear property line at 4 to 6% slope. A gravity wall using interlocking concrete blocks at the rear property line will be used to create a low slope usable back yard. The concrete blocks will be 2 1/2 or 3 blocks high to create a low slope yard. The height will be determined when the final grading is done.

Interlocking Concrete Block Retaining Wall:

Ground Preparation:

A static gravity wall must lean into the slope to prevent horizontal movement due to rotation. A compacted base and drainage from behind the wall will help prevent horizontal movement due to translation.

A concrete block retaining wall will be constructed at the rear property line to create a low slope usable back yard. The block wall structure must be entirely inside the property line of 3396 Bolton Street.

The interlocking concrete blocks used are the prefabricated interlocking blocks of 60" long x 30" x 30" dimensions.

Prior to placing of the concrete blocks, the ground will be prepared by removal of remaining organic material and creating a base of compacted structural fill. The structural fill will be well graded compactable gravels and compacted with a 1000 pound compactor. The base for the blocks must be in a straight line, returns at approximately 90 degrees, and will have a batter allowing the concrete blocks to lean into the slope creating a stable gravity wall (see drawing).

Stacking of Interlocking Blocks:

Place the first (bottom) row of blocks with the batter leaning into the slope. Keep the blocks closely abutted, in a straight line, at a consistent batter.

Concrete Block Retaining Wall, 3396 Bolton Street, Cumberland, B.C.

The second and third rows of blocks will be staggered to allow the overlap of the interlocking feature of the blocks. Using the staggered overlapping interlock, will increase the stability of the block wall. The top row is recommended to use blocks with a flat top.

Geotech cloth is to be used between the 2nd row and 3rd row of blocks to improve stability.

Avoid backfill with a clay and silt content. Backfill with a stable material which is free draining.

The placement of the blocks should not encroach on the adjoining property.

Drainage:

There is no storm drain connection, or other pipe connection, available to remove water from the rear yard of 3396 Bolton Street. The water flow away from the block wall will rely on infiltration, runoff, and evaporation.

Preventing water build-up behind the concrete block wall will reduce hydraulic pressure against the wall. To prevent water build-up do not backfill the block wall with fill which has a clay and silt content. Use a stable free draining backfill. This permeable gravel will aid in the flow of water vertically and reduce hydraulic pressure behind the block wall.

A small retention pond is currently being used to retain water on the low side of the back yard. During our wet season, natural dispersal of large rain events may not be enough to control the amount of rainwater falling/collecting above the block retaining wall. Serious consideration should be given to installing a curtain drain and sump pump to remove excess water during winter weather events.

Rainwater collected by the roof drain system of the house is directed to the storm sewer at the front of the house.

There is no septic system adding additional ground water to this lot.

Erosion control:

The ground above the block wall will be lawn and landscaping.

The adjoining property at the bottom of the block wall is relatively flat, with landscape vegetation and lawn.

The described curtain drain, sump, and pump may be required to control downhill flow of rain runoff towards the retaining wall.

House Location:

The elevation of the basement floor will determine the final landscaping and height of the concrete block wall.

Driveways and Parking:

No top loading of the block wall from driveways or parked vehicles.

Services and Utilities:

Services and utilities for the house are located at the front of the house and are not disturbed by the block retaining wall.

Site Plan:

See attached drawings.

Concrete Block Retaining Wall, 3396 Bolton Street, Cumberland, B.C.

Conclusion:

The concrete block retaining wall to be constructed on the property identified as 3396 Bolton Street, Lot 3, will be safe and suitable for the intended use if the recommendations presented herein are followed.

Geotechnical Assurance and Quality Assurance:

The 2018 B.C. Building Code requires Geotechnical Assurance by an engineer to provide review of geotechnical components, and to provide and take responsibility of field reviews during the construction of gravity retaining walls.

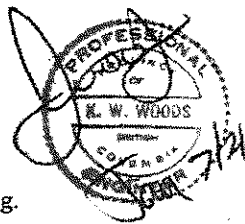
Limitations:

- a) The recommendations and scope of this report are based upon the data provided by visual inspections of the site that did not include subsurface investigations.
- b) The recommendations provided are provided based upon the conditions presented during the visual inspection and are consistent with general engineering practices.
- c) No other warranty, expressed or implied, is made.
- d) Due to geological variation and randomness of soil formations, no guarantee of soil conditions is made or implied, away from the areas inspected during the site visit. Conditions of subgrades and soils are known only at sites inspected and when exposed. If other conditions or soils become known during further construction or unanticipated conditions become evident, the recommendations may be altered or modified in writing by the undersigned engineer.

Acknowledgements

This report has been completed by Ken Woods, P. Eng., a Geotechnical Engineer in good standing with Engineers and Geoscientists of B.C. I acknowledge that this report may be requested by the building inspector at the Village of Cumberland prior to the issuance of building permits. Building officials and approving officers may rely on this report for the application of building permits. The report has been prepared for, and at the expense of, the client and have not acted on behalf of the Village of Cumberland in any way.

Yours truly

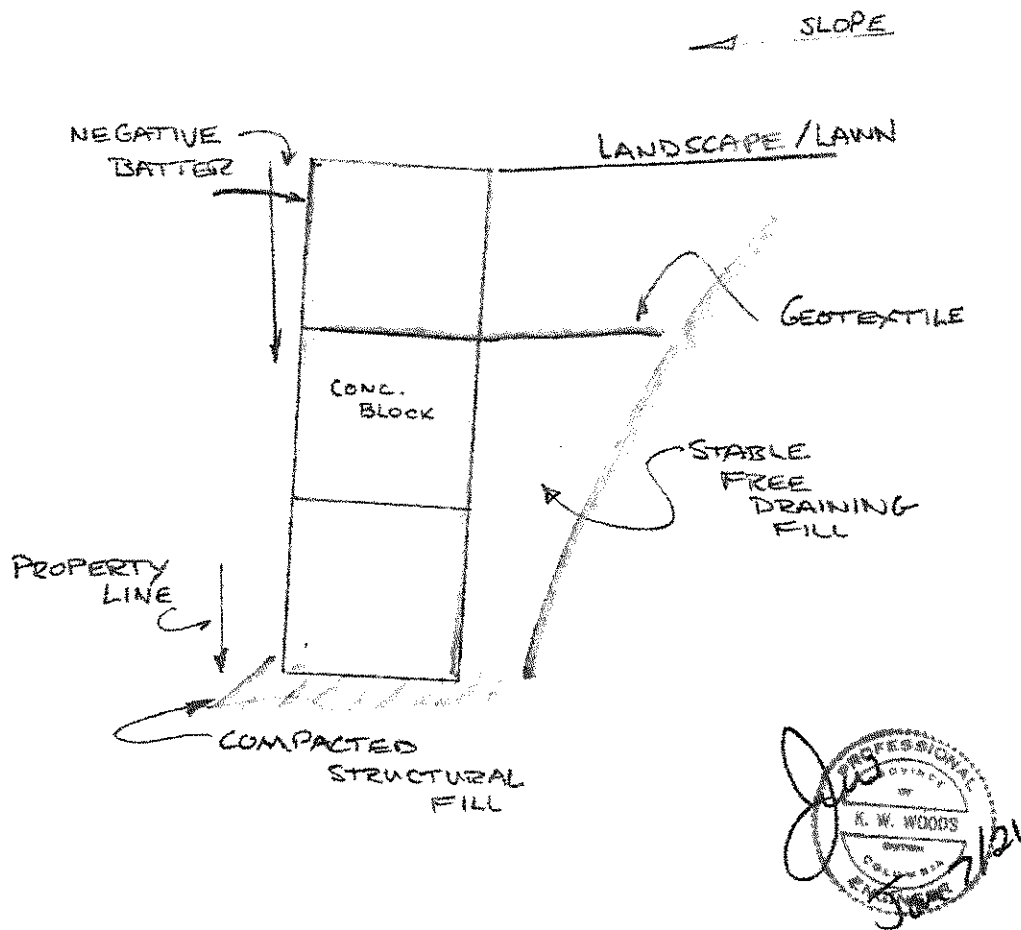


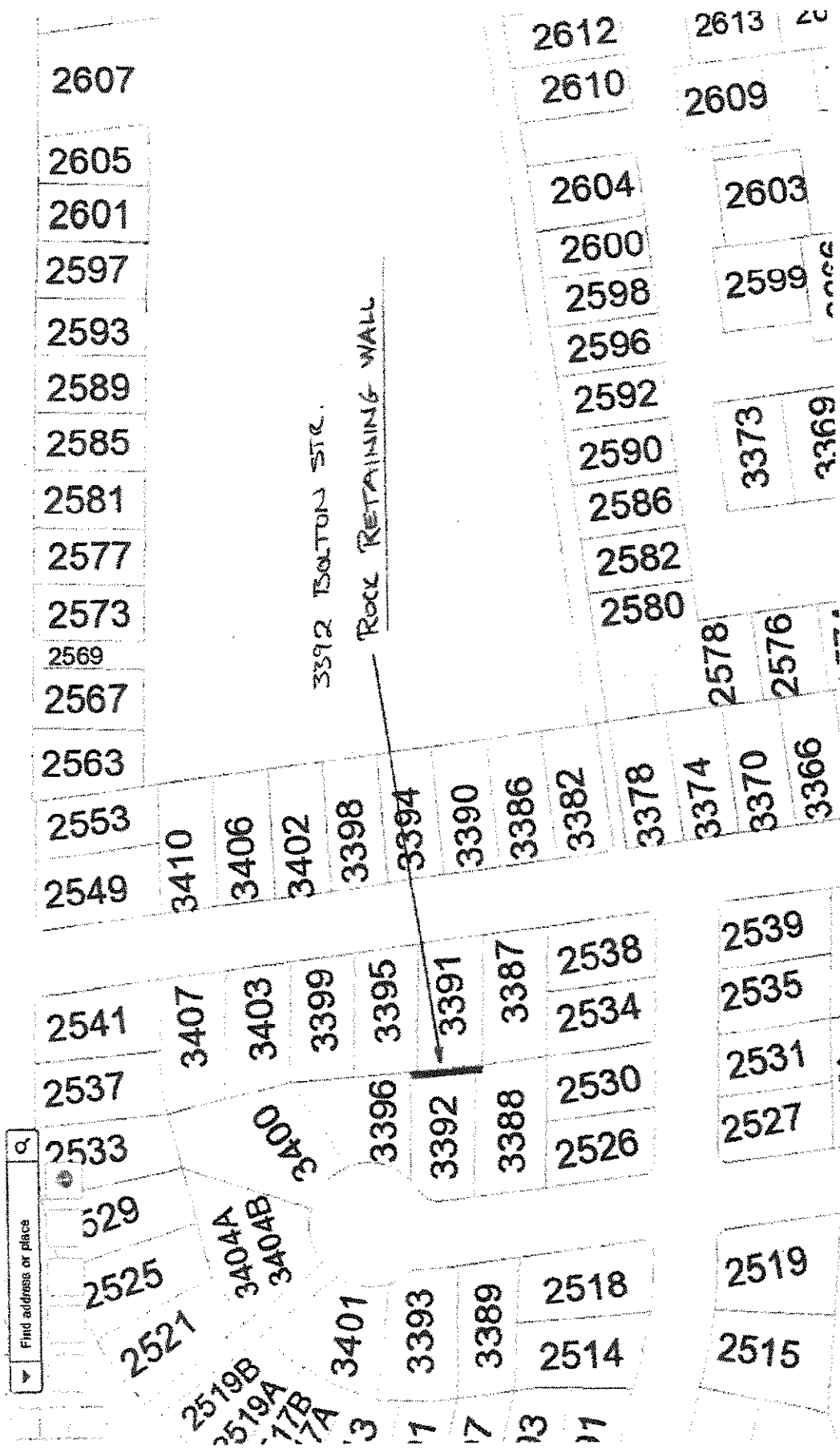
Ken Woods, P. Eng.

Concrete Block Retaining Wall, 3396 Bolton Street, Cumberland, B.C.

Concrete Block Retaining Wall

3396 Bolton Street







SECONDARY PROFESSIONAL LIABILITY GROUP INSURANCE PLAN

CERTIFICATE OF INSURANCE

INSURED'S NAMES: MEMBERS of the following PARTICIPATING ASSOCIATIONS; Association of Professional Engineers and Geoscientists of Alberta (APEGA); Engineers and Geoscientists of British Columbia; Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS); Engineers Geoscientists Manitoba; Engineers and Geoscientists New Brunswick; Engineers Nova Scotia; Northwest Territories and Nunavut Association of Professional Engineers and Geoscientists (NAPEG); Engineers PEI; Engineers Yukon; Professional Engineers and Geoscientists Newfoundland and Labrador (PEGNL); Association of Professional Geoscientists of Ontario (APGO); Association of Professional Geoscientists of Nova Scotia (APGNS); Ordre des géologues du Québec (OGQ)

The insurance contract will only cover claims reported to the INSURER during the policy period and for any circumstance, dispute or controversy, which were unknown before subscription to the present Group Insurance Plan. This certificate is issued for information purposes only and the holder should refer to the master policy. We suggest that you carefully read the master policy in its entirety to familiarize yourself with your rights and obligations and the details of coverage. Please note the master policy has a certain number of limitations and exclusions restricting coverage.

1.	INSURANCE COMPANY	XL SPECIALTY INSURANCE COMPANY 100 King Street West, Suite 3020, Toronto (Ontario) M5X 1C9
2.	BROKER	HUB INTERNATIONAL ONTARIO LIMITED 675 Cochrane Drive, Suite 200, East Tower, Markham (Ontario) L3R 0B8
3.	POLICY NUMBER	DPX 9450703
4.	POLICY PERIOD	March 31, 2020 to March 31, 2021
5.	LIMITS OF INSURANCE	Each claim \$250,000 Project Limit \$500,000 Policy Aggregate \$20,000,000 Deductible NIL

This is to certify that the insurance contract DPX 9450703 has been issued to the above Associations. Should there be any conflict between this document and the insurance contract DPX 9450703 (or any renewal or replacement), only the provisions of the English version of contract DPX 9450703 will prevail except in the Province of Quebec where the French version of contract DPX 9450703 will prevail. Endorsements issued or to be issued are deemed to be part of the policy.

AUTHORIZED REPRESENTATIVE/
XL SPECIALTY INSURANCE COMPANY

Lot 3 3396 Bolton

RECEIVED
JUL 29 2021

RE: Retaining Wall Reasoning

There seems to be lack of grading between lots within this Phase of Development and the previous phases. Phase 9 on Bolton significantly higher than Phase 5 grades.

When we purchased this site, the rains came, the soil was not retained in any manner. This site was significantly higher the house on Solport built in Phase 5. The soil and run off from this site was coming to rest in the back yard of Solport making the owners unhappy.

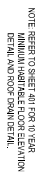
We engaged Ken Woods P.Eng. to engineer a retaining wall to retain the soil and control run off. We have installed the walls to his specifications as required by the report.

We used the engineered blocks as a material to create this wall as permanent solution to this issue.

Respectfully

Rick Tarras

596396 BC LTD.



McElhenny

COAL VALLEY ESTATES LTD.
#2, 45963 AIRPORT ROAD, CHILLIWACK, BC, V2P 1A3
COAL VALLEY ESTATES PHASE 1
LOT GRADING PLAN

NEML, D.L., 274, NELSON DR, 1, FLEMING, BC
CUMBERLAND, BC

400

2211-46871-12

Attachment 5: Public Submissions

Meleana Searle

From: Planning
Sent: August 6, 2021 4:20 PM
To: Meleana Searle
Subject: FW: 3396 Bolton

From: [REDACTED]
Sent: August 6, 2021 1:59 PM
To: Planning <Planning@cumberland.ca>
Cc: [REDACTED]
Subject: 3396 Bolton

Hello Meleana,

My husband and I have one of the properties within 75m of 3396 Bolton. We have been watching this development closely and have a few concerns regarding the retaining wall.

(1) **Drainage.** The property was backfilled with 20+ loads of dirt without any engineering and proper drainage put in place (we have photos). We are directly behind this property and are exceptionally lower. Any significant rainfall will impact our property and cause flooding/standing water unless an engineered drainage plan is developed, similar to what was done for 3400 Bolton.

Has the builder submitted an engineering design for drainage? If so, how does the village confirm that it adheres to code and has been built accordingly? What is being done to ensure there are no negative affects on the surrounding properties.

We would also like to understand how high the ground will be levelled in relation to the top of the retaining wall? Currently, the dirt is much higher than the top block. Is that acceptable? It seems to me that will also cause drainage issues.

(2) **Height of the retaining wall / fence.** If the 7.5 feet retaining wall is approved, it is likely the owners will want to build a fence. Anticipating the max allowable height of 6 feet, we will effectively be facing a 13.5 foot wall, with the base of their yard 7.5 feet above ours. Without a fence, there will be zero privacy and a huge safety issue (1 foot gap between the retaining wall and our fence, 7.5 drop to the ground). This places us in an impossible situation. We value the privacy fences provided but weren't expecting that we'd be looking out at a 13.5 foot wall.

Will they have to request a permit for this fence, especially considering the height difference? What options do us as homeowners have? Who is liable for the gap between the retaining and the fence?

In retrospect, the entire build should have been addressed prior to the commencement of any construction. The house itself towers over the two yards in the back simply due to it's proximity to the surrounding properties. Are there not any restrictions on height and proximity for buildings, especially in a mountainous area? We recognize the challenges and accept that we live in an area with varying landscapes but also aren't thrilled about the prospect of having limited privacy and potential flooding issues, which will impact the value of own home.

May I ask that our names not be included should any of this be discussed?

Looking forward to the discussions at Monday's meeting.

[REDACTED]
[REDACTED]

Meleana Searle

From: Meleana Searle
Sent: August 27, 2021 10:14 AM
To: Meleana Searle
Subject: RE: Thank you - 3396 Bolton retaining wall

From: [REDACTED]
Sent: August 5, 2021 3:16 PM
To: Planning <Planning@cumberland.ca>
Subject: Thank you - 3396 Bolton retaining wall

Thank you Melena for taking the time to speak with me today about the variance application for the retaining wall on Bolton. We are the property on [REDACTED] which will share the wall.

It's reassuring that our family's safety and our property are in good hands. It's unfortunate that the wall has made it this far without any proper permitting or engineering sign-off. I do agree that at this current stage, the wall seems to be a row of blocks too short, as soil and rocks are sliding into our back fence. Once landscaping goes in, it will be even higher, so the extra height is fine with us. We just want to make sure it has the proper drainage, is anchored correctly and has an appropriate up-hill lean to support the weight without collapsing outward into our backyard where our toddler plays.

Thank you again for all your help and if you have any questions, wish to look at the wall from our yard, or any other questions or ways we can help, please let us know. Again, we are fine with a wall and a fence on top of that, but we just want it done right and safe for everyone.

Have a great weekend!

[REDACTED]

Meleana Searle

From: Planning
Sent: August 13, 2021 10:50 AM
To: Meleana Searle
Subject: FW: Comment - Variance Applications

From: [REDACTED]
Sent: August 11, 2021 4:08 PM
To: Planning <Planning@cumberland.ca>
Subject: Comment - Variance Applications

Hi Meleana,

I've received a couple of variance applications in the mail for Bolton Street. No real issues with them, but a general comment. When considering/approving these variances is there any check done on how they're constructed and what's behind the wall to manage water? As a nearby property we see how much water flows off these properties downhill and onto our property. With walls in place it seems it might all be sent to 1-2 locations which would be a lot of water! In speaking with the owners of 3400 Bolton they mentioned their wall has been engineered to account for this - have the others?

I'm also assuming similar variances are required for the houses being completed on Lindale? That is a huge section of concrete blocks.

Thank you,

[REDACTED]

August 30th, 2021

Village of Cumberland
2673 Dunsmuir Ave.
Box 340
Cumberland, BC
V0R 1S0

Dear Mayor and Council,

RE: June 28, 2021 Council Meeting, Variance Application for [REDACTED] Bolton St.

Thank you for your review of the variance application for [REDACTED] Bolton St at the Council Meeting on June 28, 2021. During the proceedings of this meeting, pertinent information regarding the variance application was not shared with the Council. There had been extensive communication with the planners about this variance application, however, the circumstances of the meeting did not allow for this information to be shared.

Our variance application is in regards to a retaining wall (two-blocks in height) with an existing fence (combined height of 3.07m) at the back of our property. This wall was constructed by Knickle and Grant Fine Homes Ltd., the builder of the house we purchased. This retaining wall was necessary to address a number of issues that we will outline below. Furthermore, we purchased the house after construction of this wall, under the assurance of our builder that it had been fully engineered and viewed on several occasions by village staff when inspections on the house were performed.

The following information (below) was not brought forward on the June 28, 2021 council meeting, and we feel this information is pertinent to our application.

1. Drainage

There is a documented history of water drainage issues for the adjoining properties on Solport St (3407 and 3403 Solport Street). Prior to construction of the retaining wall, the backyards of these properties were frequently flooded – washing away gardens and flooding their lawns. Careful attention was paid to improving drainage during the planning phases on our lot. A geotechnical survey and engineering review were completed. Construction of a retaining wall allowed for layers of drainage rock to be installed, eliminating all flooding and drainage issues for these adjoining properties.

2. Matching grade

The adjoining property on Kendal Ave (2533 Kendal Ave), at the north end of our lot, had constructed a two-block retaining wall (5ft) along the back of their property to retain the original grade of their lot. We have attached labeled photographs, from September 2019, taken when we were viewing the lot for prospective purchase. These photographs clearly show the two-block retaining wall along the north end of our property. The retaining wall constructed on our property allowed us to match the original grade along the shared property line with Kendal Ave (2533 Kendal Ave).

The adjoining properties on Solport St (3407 and 3403 Solport St). and Kendal Ave (2533 Kendal Ave) dropped the grade at the rear of their lots during construction to allow for a level backyard. The property on Kendal Ave (2533 Kendal Ave) built a 5ft wall to retain the original grade; however, the properties on Solport St (3407 and 3403 Solport St) did not retain the grade after leveling out the backyard. The attached photographs demonstrate the resulting steep grade along the property line with the Solport St. houses (3407 and 3403 Solport St). Retaining walls were built to retain the natural grade *between* the houses on Solport St., however, nothing was done to retain the original grade at the back of the lots after they were leveled out. Our retaining wall retains the original grade that was lowered to allow for level backyards on Solport St, and matches the retaining wall from the adjoining Kendal Ave. property (2533 Kendal Ave), and provides the added benefit of remediating the drainage issues.

3. Depth of services / Natural grade

The depth of services for [REDACTED] Bolton St. were not appropriate for the original grade of the lot. Initially, there was an 18ft drop from the street to the north-east corner of the lot. The house was built at the lowest possible level to accommodate this natural grade and maintain appropriate storm water drainage. To further work with the steep grade, the house has been built with a walk-out basement, and an additional retaining wall was built in the middle of our lot to further mitigate the grade creating a stepped down backyard.

During the initial phases of our variance application, the Village Planners made several suggestions on how the natural grade could have been managed.

- a. Walk-out design of the house – this was done
- b. Tiered retaining wall at the back of the property (2.5ft on the property line, with an additional 2.5ft step-up set back from the property line) – While this would have met the bylaws, it would have provided the same sightlines for neighbours as our current wall, but left a 4ft “alleyway” along the property line, that would have limited our opportunity to provide appropriate drainage for the adjoining properties, and would have created an unsightly and unusable space for all.

4. Engineering/Geotechnical approval

The retaining wall was reviewed by an Engineer and inspected during the construction of the wall and drainage system. Geotechnical consultation was performed to ensure the proposed drainage plan would mitigate drainage issues for the adjoining properties.

5. Feedback from neighbours

We have discussed the retaining wall and fence with both of our neighbours on Solport St.(3407 and 3403 Solport St), who are quite pleased with the result. The construction of the retaining wall remediated the major drainage issues for their properties, and one neighbour planned to remove their fence to allow for a slightly larger back yard. We understand there was some negative feedback regarding our variance application, but it was not from the properties directly impacted by the retaining wall. Our concern is that negative feedback regarding retaining walls is being misdirected towards our application, rather than the adjacent lots beside us (whose applications are also pending), since we were the first to submit a variance application.

During the June 28, 2021 council meeting, it was brought up that there are builders and homeowners not adhering to Village bylaws, then requesting approval at a later date. We feel this is an unfair assessment of our situation. When we purchased the property at [REDACTED] Bolton St, we were under the assumption that the Engineering/Geotechnical Survey for the wall was

sufficient for its construction. We reviewed the property file at the Village prior to purchase and were assured there were no outstanding concerns and all required permits were in order. The builder, Knickle and Grant Fine Homes Ltd, was also under the impression that the retaining wall was sufficiently within the Village bylaws, as there had been several home and property inspections by Village employees during construction, and it was never mentioned. Once we were made aware that our retaining wall was not within the Village bylaws, we submitted a variance application at our earliest convenience.

We kindly ask you to consider approving the variance application for our retaining wall, as it matches the grade of the property on Kendal Ave (2533 Kendal Ave), mitigates drainage problems for Solport St. properties (3407 and 3403 Solport St) and retains grade from the lowered Solport St. properties (which should have been done by their builder). We also request that our variance application be considered separately from other applications for retaining walls on Bolton St., as our wall serves purpose beyond facilitating ease of construction.

At this time, we would invite any member of Staff, Mayor, or Council to come and review our property and retaining wall for themselves (with COVID-19 safety protocols in place).

We acknowledge that the Village, and Planning and Development departments are in a transition. We applaud them for the introduction of the new policies requiring final grade and retaining walls as part of the home building permit process. Meleana and Courtney have been wonderful to work with, we had just hoped these points would have been raised during the introduction of this application to council at the June 28, 2021 council meeting.

Sincerely,

[REDACTED]

[REDACTED] Bolton Street
Cumberland, BC
V0R1S0

Photo 1: [REDACTED] Bolton Street ([REDACTED] Bolton)

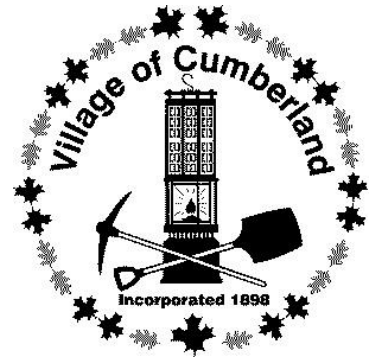
Picture 1 - September 2019



Photo 2- Corner of [REDACTED] Bolton Street ([REDACTED] Bolton)



COUNCIL REPORT



REPORT DATE: 8/11/2021

MEETING DATE: 9/7/2021

TO: Mayor and Councillors

FROM: Meleana Searle, Planner

SUBJECT: Development Variance Permit, 2719 Maryport Avenue – Referral to APC

FILE No.:	2021-12-DV	
PID:	000-734-730	Folio No.: 516 00055.000
LEGAL DESCRIPTION:	Lot 10, Block 5, DL 21, Plan VIP522	
CIVIC ADDRESSES:	2719 Maryport Avenue	
OCP DESIGNATION:	DPA 6 - Residential Infill	
ZONE:	R1-A Infill Residential Zone	
	Zoning Regulation	Requested Variance
FRONT SETBACK	3.0m (9.8ft)	2.0m (6.6ft)
SIDE SETBACK :	1.5m (4.9ft)	1.09m (3.6ft)
PROJECTION INTO REQUIRED SETBACK:	0.6m (2.0ft)	0.82m (2.7ft)

RECOMMENDATION

- i. THAT Council receive “Development Variance Permit, 2719 Maryport Avenue.”
- ii. THAT Council refer the application (2021-12-DV) for a Development Variance Permit on the property described as Lot 10, Block 5, DL 21, Plan VIP522 (2719 Maryport Avenue) to the Advisory Planning Commission for comment.

PURPOSE

The Village has received an application for a development variance permit to vary the front setback, side setback and projection into required setback of an existing principal dwelling to allow for the building to be raised by 0.6 metres (2 feet). These variances would allow the applicant to make a full-height basement to accommodate a secondary suite. The dwelling was built prior to the current setback regulations, and a setback variance is required for the dwelling to be lifted. The purpose of this report is to seek a referral to the Advisory Planning Commission.

COUNCIL DIRECTION

None.

BACKGROUND

The existing principal dwelling on the property was built in approximately 1901, prior to current setback regulations. The dwelling is set back 2.0 metres from the front property line where a 3.0 metre is now required and it is set back 1.09 metres from the east side property line where 1.5 metres is now required. Additionally, there is masonry for a chimney that projects 0.82 metres into the east side setback. As per Zoning Bylaw No. 1027, 2016, architectural or functional structures such as a chimney may project into a setback no more than 0.6 metres.

Currently the dwelling is two storeys with a 1.8 (6 ft) metre basement. The applicant wishes to raise the dwelling to create a 2.4 metre (8ft) basement to be accommodate a secondary suite. Pursuant to the *Local Government Act*, where a structure does not conform to current setbacks but was built before the setback regulations were adopted, it can be maintained, extended or altered as long as the non-conformity is not exaggerated. By raising the dwelling the applicant would be adding to the surface area of the exterior walls within the setback area, so this particular alteration is not allowed by the dwelling's non-conforming status and a development variance permit is required.

The height of the dwelling from average natural grade to the roof peak is currently 9.15 metres. The R-1A Zone permits a height maximum of 10 metres. The applicant proposes to increase the height to the maximum permitted.

The lot coverage would not be affected by the proposed variance. The addition of a secondary suite to the principal dwelling will require an additional on-site parking space which would be addressed at time of building permit.

Discussion

Land use justification

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

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

For the proposed variance, the development of a secondary suite is hindered by the historic setbacks that do not conform to the current Zoning Bylaw. Secondary suites are encouraged in the R1A zone as a way to add residential density in close proximity to the Village Core.

Impacts of the Variance

Where a land use justification for a proposed variance has been demonstrated, the application should then be evaluated based upon the impact(s) (positive or negative) of the variance. Impact(s) may be classified into the following three general categories:

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

This dwelling and the adjacent dwelling at 2721 Maryport appear to have originally been copies of each other and remain similar in appearance today. The dwelling at 2721 Maryport received a setback variance and was raised in 2020 to accommodate a full height basement. Raising the subject dwelling as proposed will result in a height an appearance consistent with the neighbouring property. The function of the dwelling will be improved as it will be able to accommodate a secondary suite in the basement. Negative impacts on privacy or access for the adjacent property are expected to be minimal.

Referrals

Council may refer the application to the Advisory Planning Commission for a recommendation.

Citizen/Public Consultation

Pursuant to the requirements of the Village of Cumberland Development Procedures and Fees Bylaw No. 1073, 2018:

1. The applicant has placed the required sign on site.
2. Village staff prepared a notice of Council consideration of a Development Variance Permit which was mailed to owners and occupants of properties within 75.0 metres on August 12, 2021, meeting the Bylaw minimum of 10 days before Council considers the application.

At the time of this report, staff has received feedback from one resident in response to the mail-out or on-site sign (Attachment 2 – Public Feedback).

ALTERNATIVES

1. THAT Council approve the application (2021-12-DV) for a Development Variance Permit on the property described as Lot 10, Block 5, DL 21, Plan VIP522 (2719 Maryport Avenue) and advise staff to prepare the permit.
2. THAT Council deny the application (2021-12-DV) for a Development Variance Permit on the property described as Lot 10, Block 5, DL 21, Plan VIP522 (2719 Maryport Avenue).

STRATEGIC OBJECTIVE

- ☐ Healthy Community
- ☐ Quality Infrastructure Planning and Development

- ☐ Comprehensive Community Planning
- ☐ Economic Development

FINANCIAL IMPLICATIONS

None.

OPERATIONAL IMPLICATIONS

The review of development permit applications is part of the services provided by the Planning Department.

ATTACHMENTS

1. Site plan
2. Public Feedback

CONCURRENCE

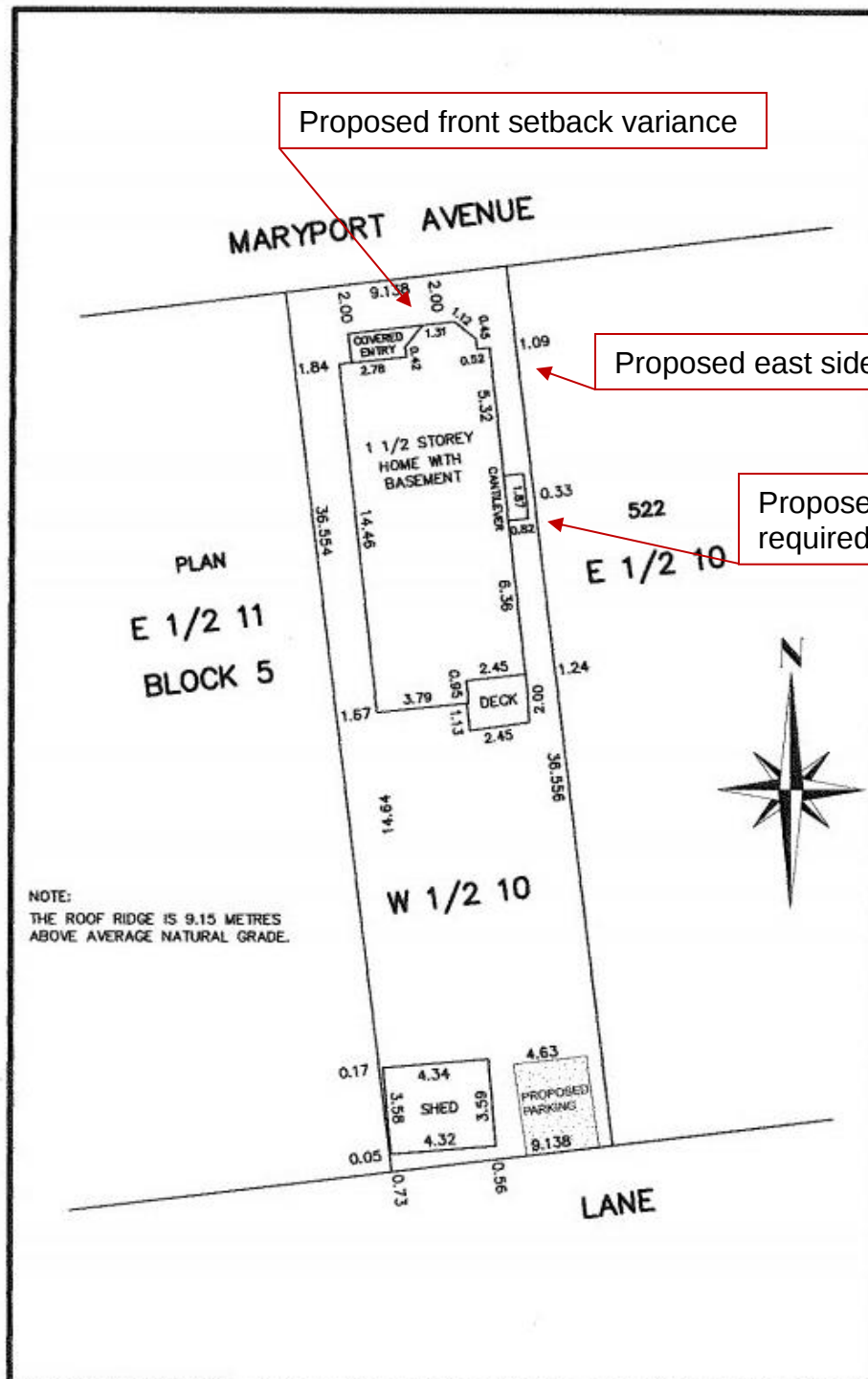
Courtney Simpson, Manager of Development Services **CS**

Respectfully submitted,

Meleana Searle
Planner

Clayton Postings
Chief Administrative Officer

Attachment 1 – Site plan



SITE PLAN
2719 MARYPORT AVENUE

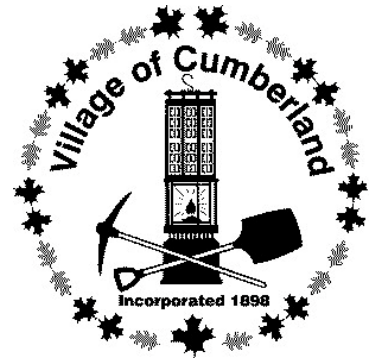
JUNE 4TH 2021

Meleana Searle

From: [REDACTED]
Sent: August 20, 2021 7:46 AM
To: Planning
Subject: Re development permit for 2719 maryport

HELLO ,I am a direct neighbor of this property and absolutely say NO to this variance,the lot is very small and the houses just keep getting bigger and bigger and now the people on the other side of me are wanting to do the some thing,then they put heat pumps on the outside of the houses,the houses are bigger and closer to my house and we now get to hear the continuous whine and rumble of the heat pumps 24 hours a day,does the cumberland village EVER say no to anything ,I'm so disappointed by the lack of foresight and disregard for the neighbors,this is the 2nd house in one year doing the same thing beside me and now the house on my right is planning to do the same thing,demolish the house,and put in a 3 story monolith.

COUNCIL REPORT



REPORT DATE: August 30, 2021
MEETING DATE: September 7, 2021

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

RECOMMENDATION

THAT Council receives the Cumberland Childcare Update Report for information.

PURPOSE

The purpose of this report is to provide Council with updated information on the Village's recent funding award for the development of a new childcare facility in the Village of Cumberland, as well as the project planning steps in place to move the project forward.

PREVIOUS COUNCIL DIRECTION

Date	Resolution
2019-11-12	Motion 19-507 - THAT Council wait until the completion of the Cumberland Child Care Community inventory and Space Creation Plan before considering any partnership to create new childcare spaces, and direct staff to consult with Childcare BC New Space Fund staff to clarify funding requirements.
2019-11-12	Motion 20-256 - THAT Council direct staff to work with School District 71 to identify opportunities to partner in establishing a childcare facility on SD71 grounds; to report back regarding possible Village policies which would include incentives for developers to include childcare spaces within new commercial and/or residential developments; to engage with local developers towards options relating to securing a Village owned/leased space designated for childcare needs; to identify possible appropriate Village owned facility and/or locations to develop and/or utilize as designated childcare space, identify staff and financial resources needed to develop the site, and present to Council for a consideration for an application to the Child Care BC New Spaces Fund.
2020-09-28	Motion 20-284 - THAT Council direct staff to submit an application to the Childcare BC New Spaces Fund for up to \$3,000,000 for the creation of new childcare spaces; and THAT Council direct staff to work with School District 71 in exploring the establishment of a partnership agreement for a childcare facility to be added to SD71 property; and THAT staff engage the Boys & Girls

	Clubs of Central Vancouver Island as subject area experts in support of the Village's funding application.
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BACKGROUND

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

In November 2020 staff applied to the BC Childcare New Spaces fund for \$2,950,000 to utilize towards 85 new childcare spaces to be constructed on the grounds of the Cumberland Community School. In May 2021, the Village was formerly notified that the application was successful for the full funding amount.

In June 2021, staff provided Council with an update report that identified the need to complete some preliminary planning, notably with respect to site development, design and construction. To support these works, additional capacity, notably in the form of project managers/leads also need to be considered. A means of community outreach and engagement, including with local childcare operators/services will be an important step to the planning process as well.

To meet these needs and move the project forward, staff have identified and/or completed the following steps to implement this work, including:

- **Village of Cumberland and SD71 Agreement** – A formal partnership agreement between the Village and SD71 is needed both to effectively manage the project, and to provide a long-term means for a Village facility to occupy SD71 lands.

In July 2021, the Village retained Ian Kalina to occupy the role of Project Lead on behalf of the Village. As a former and long-term director for the Boys and Girls Club of Vancouver Island, Ian has extensive experience in the creation and operation of childcare spaces across the island.

On behalf of the Village, Ian will guide/support all the licensing and operation requirements of the Project, including the formation of a partnership agreement between the Village and SD71. Ian will also lead the process for identifying a licensed childcare operator for the facility, including facilitating community engagement/outreach.

- **Project Design/Construction** – Significant design/planning work needs to be completed prior to initiating any development process. To meet these needs, Village staff have worked closely with SD71 to identify an appropriate project architect. SD71's recent experience in constructing childcare and educational facilities in the Comox Valley has aided in the Village's understanding the associated needs and/or risks for this type of project.

Village staff have begun the process of engaging qualified project architects with experience in designing licensed childcare and educational facilities. Staff anticipate having the Project Architect position filled by the end of September 2021.

Project Management– The Village will require additional capacity to support the overall management of the project. Staff have held discussions with SD71 in an effort to better

identify Project Management risks/needs of this type of project, and the available capacities within both organizations to support this role.

Further construction management capacity may also be required; however, this will be better informed following further partnership and project planning discussions with SD71

With these initial planning pieces in place, staff will be best set up to move this Project forward successfully. Likewise, staff will provide Council with regular updates on the project and seek their input and guidance when required.

The current (preliminary) Project Schedule identifies this planning stage occurring from June-December 2021. Construction is to begin in early 2022 and the facility to be operational by early 2023.

ALTERNATIVES

None

STRATEGIC OBJECTIVE

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

FINANCIAL IMPLICATIONS

None

OPERATIONAL IMPLICATIONS

The funding award provides 100% of project costs, however, developing and bringing a single project of this size to construction would require a significant amount of staff time and can only be undertaken if priorities are reviewed and other projects put on hold. Staff will present to Council impacts on other projects as further project planning take place.

ATTACHMENTS

None

CONCURRENCE

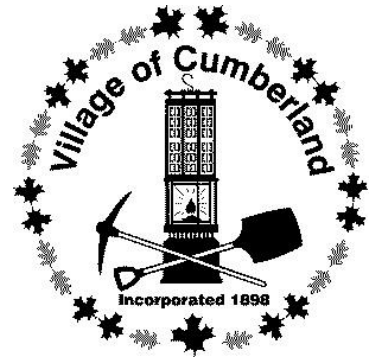
Respectfully submitted,

K. Chambers

Kaelin Chambers
Economic Development Officer

Clayton Postings
Chief Administrative Officer

COUNCIL REPORT



REPORT DATE: August 30, 2021
MEETING DATE: September 7, 2021

TO: Mayor and Council
FROM: Kaelin Chambers, Economic Development Officer
SUBJECT: Single-Use Item Regulation Bylaw No 1098, 2019 Update Report

RECOMMENDATION

- i. THAT Council receives the Single-Use Item Regulation Bylaw No 1098, 2019 Update Report
- ii. THAT Council directs staff to provide a report and recommendations on any needed steps required by the province to enact Single-Use Item Regulation Bylaw No 1098, 2019

PURPOSE

To provide Council with information related to the review and update of the Village's regulation of single use items (Bylaw 1098, 2019).

PREVIOUS COUNCIL DIRECTION

18-580	THAT Council direct staff to prepare a Single-Use Item Regulation Bylaw to regulate the use of single-use plastics THAT will be implemented no earlier than July 1, 2019 and considers a minimum period of six months between implementation and bylaw enforcement.
18-581	THAT the Single-Use Item Regulation Bylaw identifies a phased approach to removing the use of all single use plastics, starting with single use plastic grocery bags and straws.
19-393	THAT Council authorizes the Village of Cumberland joining the collective submission from the Districts of Squamish and Tofino in response to the Ministry of Environment and Climate Change Strategy's (MOECCS) proposed amendments to the Recycling Regulation of the Environmental Management Act.

BACKGROUND

On July 1st, 2019, Council adopted the "Single-Use Item Regulation Bylaw". The purpose for the Bylaw is to regulate the provision of single use plastics by local businesses in order to reduce plastic litter and waste.

The Village's Single-Use Item Regulation Bylaw (No. 1098, 2019) was based on regulations established in the City of Victoria and the Village of Tofino. At that time, Victoria's bylaw was successfully defended as a legitimate regulation of business under a municipality's fundamental powers in the *Community Charter*.

On July 11, 2019 the BC Court of Appeal struck down a City of Victoria bylaw that regulated the provision by businesses of bags used for purchased goods (*Canadian Plastic Bag Association v. City of Victoria*, 2019 BCCA 254). On appeal, the basic issues were the "pith and substance" of the bylaw (i.e., the bylaw's "true character" or "dominant characteristic"), and the extent to which the Charter did not require approval from the province. Subsequently, the Court of Appeal concluded that Ministerial approval for the Bylaw was required under the *Community Charter* and, since that approval had not been sought or granted, the Bylaw was quashed.

In September 2019, Council directed staff to work with other impacted communities to facilitate a collective response towards an effective and efficient resolution that allows communities (and regional districts) to regulate and reduce single-use items in our respective communities.

Following a year of discussion between the province and impacted communities, it was announced on July 26, 2021, the Province had amended the Community Charter to allow and/or enable local governments in B.C. to act on plastics by authorizing municipalities to implement bylaws that ban certain single-use items.

As the Village had already adopted the Single-Use Item Regulation Bylaw (No. 1098, 2019) prior to the provincial government's update of the Community Charter, a further review/update of the bylaw must be taken to ensure it is compliant. As per section 135 of the Community Charter (Subsection 4) approval must be obtained after the bylaw has been given third reading and before it is adopted. If a bylaw required Minister's approval at the time it was adopted but did not receive approval, it is likely that it has not been validly adopted.

With Council's direction, staff will review the current Single-Use Item Regulation Bylaw and provide council with a further report and recommendations on any steps required to bring this bylaw into good standing.

Single Use Item Bylaws are also being considered by the Comox Valley Regional district as well as our neighbour communities of Courtenay and Comox. Staff have committed to working with all other local governments in support of a consistent approach to managing single use plastics throughout the region.

FINANCIAL IMPLICATIONS

None

OPERATIONAL IMPLICATIONS

None

STRATEGIC OBJECTIVE

This report relates to Council's 2018 Strategic Priority 2 (Comprehensive Community Planning), to move towards environmental sustainability through a broad range of means including waste reduction and protection of natural resources.

ATTACHMENTS

1. Ministry of Environment and Climate Change Strategy Communication - Municipalities Empowered to Ban Single-Use Plastics

CONCURRENCE

Rachel Parker, Corporate Officer

OPTIONS

1. Any other direction deemed appropriate by Council.

Respectfully submitted,

K. Chambers

Kaelin Chambers
Economic Development Officer

Subject: FW: Municipalities empowered to ban single-use plastics

From: Gottfried, Avery ENV:EX <Avery.Gottfried@gov.bc.ca>

Sent: July 27, 2021 4:15 PM

Subject: Municipalities empowered to ban single-use plastics

Hello,

The [CleanBC Plastics Action Plan](#) includes multiple connected actions on plastic waste, and recognizes that all levels of government will continue to have a role to play in addressing plastic waste. Today, I am pleased to share that as of July 26, 2021, under s. 8(3)(j) of the *Community Charter*, the Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation (the Regulation) has been amended, to include a [new part \(Part 3\)](#) that enables local governments in B.C. to take action on plastics by authorizing municipalities to implement bylaws that ban certain single-use items. A link to [today's news release is here](#).

[Over the past year](#), Honourable Minister George Heyman, Minister of Environment and Climate Change Strategy has approved nine municipal single-use plastic ban bylaws submitted for Ministerial approval by the municipalities of Victoria, Saanich, Richmond, Tofino, Ucluelet, Surrey, Nanaimo, Esquimalt and Rossland. Now any interested municipality can implement bylaws to ban certain single-use items following the requirements set out in the amended Regulation, without the need to submit for Ministerial approval.

The Ministry will be holding a webinar for local governments in September to provide additional information and an opportunity to respond to questions, the details of which will be circulated in the coming weeks.

The Regulation provides a municipality with the option to regulate all, or some of the following single-use items:

- Bans on plastic checkout bags in conjunction with fees on single-use paper bags
- Bans on polystyrene foam service ware
- Bans on most plastic drinking straws, with by-request exemptions for accessible straws
- Bans or by-request restrictions on plastic utensils including stir sticks

These single-use items have been identified by Indigenous communities, local governments, businesses and citizens as items to target for action as they are commonly found to be mis-managed and found in the environment and have suitable alternatives available.

If you have questions, please contact Avery Gottfried, Senior Policy Specialist, Clean Communities, Environmental Standards Branch at Avery.Gottfried@gov.bc.ca

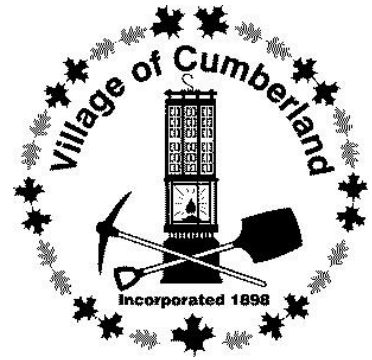
Thank you for your leadership and continued support in tackling plastic waste and pollution.

Regards,
Avery



Avery Gottfried, ME, P.Eng (he/they)
Senior Policy Specialist
Clean Communities | Environmental Standards Branch
Ministry of Environment and Climate Change Strategy
☎ 778 698-9403 | Avery.Gottfried@gov.bc.ca

COUNCIL REPORT



REPORT DATE: 8/31/2021

MEETING DATE: 9/7/2021

File No.

TO: Mayor and Councillors
FROM: Kaelin Chambers, Economic Development Officer
SUBJECT: Corporate Communications Planning Update

RECOMMENDATION

- i. THAT Council receives the Corporate Communications Planning Update Report

PURPOSE

The purpose of this report is to provide Council with an update on information and activities related to the Village's corporate communications planning.

PREVIOUS COUNCIL DIRECTION

Date	Resolution
May 10, 2021	M 21-161 - THAT Council allocates \$25,000 in Restart Funding towards the development of a corporate communication plan and activities

BACKGROUND

In May 2021, Council allocated Restart funding and directed staff to undertake the development of a corporate communication plan. The goal of this initiative was to review the Village's current communication processes/practices and make recommendations on how the Village can improve internal and external communications.

In June staff engaged Zinc Communication Strategies to support and guide the corporate communication initiative. To-date, the Zinc team has undertaken a review of Village communication tools and practices and has initiated a internal and public engagement process.

A staff survey was also completed which sought insight and information about how the Village is currently communicating internally among staff and with the outside community. Further interviews were conducted with senior staff, and future internal activities are planned to engage Council as well as communication info sessions for staff.

On Monday, August 30 a public survey was launched via the Village website and announcements for participation were made through local media. The public survey is open until September 17 and can be accessed online or hard copies can be picked-up/submitted via the Village office.

A further survey is also being shared with the Village's community partners/organizations to ensure their input and experience in communicating with the Village. This process is taking place in parallel to the public outreach.

Following the completion of the internal and external engagement, Zinc will provide the Village with a summary report, including recommendations on achievable and incremental improvements the Village can take in providing better communications both internally and externally. The final report is schedule to be complete in October 2021.

ALTERNATIVES

1. Not proceed with any action at this time.

STRATEGIC OBJECTIVE

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

FINANCIAL IMPLICATIONS

None identified at this point. If the report does identify and recommend additional resources, Council will be provided this information allowing for Council to provide direction.

OPERATIONAL IMPLICATIONS

No impacts at this time. The final report and recommendations will be reviewed based on any impacts to Village operations. The objective continues to be to increase communication opportunities, while identifies actions that can streamline the process and building internal capacity.

ATTACHMENTS

None

CONCURRENCE

None

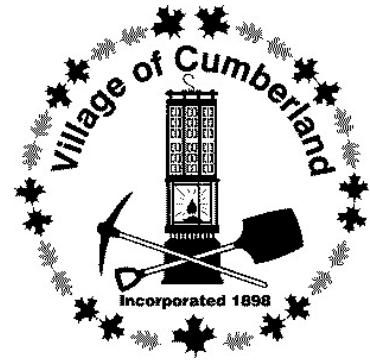
Respectfully submitted,

K. Chambers

Kaelin Chambers
Economic Development Officer

Clayton Postings
Chief Administrative Officer

COUNCIL REPORT



REPORT DATE: August 24, 2020
MEETING DATE: September 7, 2021

File No. 0640-20

TO: Mayor and Council
FROM: Rachel Parker, Deputy Corporate Officer
SUBJECT: 2020 Annual Report

RECOMMENDATION

THAT Council receive the 2020 Annual Report and receive any submissions and questions from the public.

PURPOSE

The purpose of this report is to present the 2020 Annual Report at Council's annual meeting and for Council to consider submissions and questions from the public.

BACKGROUND

The *Community Charter* requires that all municipalities in BC prepare an annual report. After the report is made public and statutory notice is published, Council is required to consider submissions and questions from the public at a public meeting. The report was presented to Council at the August 9, 2021 Council meeting.

Council directed staff to publish notice of the meeting at which Council will receive submissions and questions from the public. Through this notice, the public was invited to submit written questions on the report, and none have been received as of the date of this report. Any written submissions received after the date of this report will be provided to Council as a late item to the agenda. Questions may also be received during Question Period.

FINANCIAL IMPLICATIONS

None

STRATEGIC OBJECTIVE

None

ATTACHMENTS

None

OPTIONS

1. Any other action deemed appropriate by Council.

CONCURRENCE

None

Respectfully submitted,

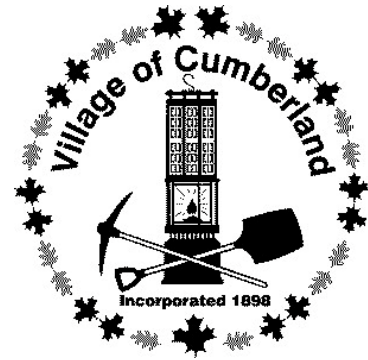
R. Parker

Rachel Parker
Corporate Officer

C. Postings

Clayton Postings
Chief Administrative Officer

COUNCIL REPORT



REPORT DATE: August 26, 2021
MEETING DATE: September 7, 2021

File No. 0530-09

TO: Mayor and Councillors
FROM: Rachel Parker, Corporate Officer
SUBJECT: Electronic Meetings Review

RECOMMENDATION

THAT Council receive the Electronic Meetings Review report.

THAT Council direct staff to prepare amendments to the Council Procedure Bylaw to permit electronic meetings

- Under a Provincial state of emergency that directly affects the Village of Cumberland
- Under a local (including regional) state of emergency that directly affects the Village of Cumberland
- During a weather event where the health and safety of council members and public attendance may be at risk; and
- To receive questions for Question Period by email, and to permit the closed portion of regular meetings to be held before the open portion no earlier than 4 p.m.

PURPOSE

The purpose of this report is to present options on electronic meetings to Council and to give Council the opportunity to give feedback and direction to staff.

PREVIOUS COUNCIL DIRECTION

Date	Resolution
April 6, 2020	Procedure Bylaw amended to allow Mayor to call a COTW, cancel a meeting, and other minor updates
March 26, 2018	Council Procedure Bylaw amended to permit one member to participate by electronic means

BACKGROUND

Since the declaration of a Provincial state of emergency in March 2020, Council has held its meetings entirely by video conferencing live streamed on YouTube. The Provincial state of emergency is expiring on September 28, 2021. An amendment to the *Community Charter* will

be in effect immediately following to allow local governments to set out by bylaw the circumstances where Council and committee meeting may be conducted electronically. While Council considers amendment to its Procedure Bylaw, Council may continue to hold electronic meetings until December 31, 2021 under the Electronic Attendance at Statutory Meetings (COVID-19) Order.

The COVID-19 pandemic enabled local governments across the province to use electronic technology to conduct regular meetings, which have proven to be more accessible and transparent in some communities. The Village has been able to use Provincial COVID Re-start funds to install a camera and technology in the Council Chamber to live stream meetings held in person. In December 2020, Council adopted an Open Meeting Video Recording Policy to guide which meetings would be recorded and live streamed (attached).

Currently, under the existing *Community Charter* provision, Council's Procedure Bylaw permits one member who is otherwise unable to attend a meeting, to attend a Council meeting electronically. The chair of the meeting cannot attend electronically. Staff are recommending that these provisions remain in place to allow one member who under unusual circumstances, such as illness or travel interruptions, may otherwise be unable to attend.

The new electronic framework would allow meetings to wholly be held electronically and not in-person. The Province's guidance on adapting to the new electronic framework indicates that electronic meetings may be a useful tool for councils in certain circumstances, however they should not be a substitute for all in-person meetings and that councils must set out in which circumstances and for which bodies electronic meetings may be held, such as in emergency circumstances or to increase accessibility.

Options could include to permit electronic meetings:

- Under a Provincial state of emergency that directly affects the Village of Cumberland
- Under a local (including regional) state of emergency that directly affects the Village of Cumberland
- During a weather event where the health and safety of council members and public attendance may be at risk
- Any other circumstances directed by Council

Village meetings are not typically challenged by transportation issues, such as long distance or ferry travel, as may be experienced by some rural boards, however road conditions during snowfall events may be a consideration.

In determining whether one of the above circumstances should apply, Council may wish to give some discretionary authority to the Mayor and/or the Corporate Officer to determine when a meeting should not electronically and not in-person.

In the Council Procedure Bylaw, Council may also permit delegations to appear by electronic means. The Chief Administrative Officer may permit staff to present reports and attend meetings electronically.

Special Council, Committee of the Whole, and Advisory Committee Meetings

Unless otherwise directed, staff will assume that Special Council meetings and Committee of the Whole meetings would follow the same rules as Council meetings.

Village Hall Meetings

While Committee of the Whole meetings typically follow the format of Council meetings, Village Hall meetings are Council's opportunity to hear from the community. Staff did receive requests during the COVID-19 Pandemic for participation electronically at Village Hall meetings. Staff is seeking Council direction on whether:

- Village Hall meetings should continue in their traditional in-person format, where possible
- Village Hall meetings could incorporate both in-person and electronic participation (the current audio system require some upgrades to accommodate this), with electronic participants be shown on the screen to those attending in-person
- One of the four Village Hall meetings held each year be held wholly as an electronic meeting.

If Council supports electronic participation at Village Hall, the Village should set out procedures to address matters such as the number of individuals who may participate, if any, and how individuals should be recognized to speak.

Question Period

Staff are recommending that with in-person meetings to be live streamed, that questions for Question Period continue to be received by email. Staff are recommending some parameters be put in place for Questions Period that could include that question submitted by email must be received after the staff presentation and Council debate on the matter. This will encourage the public to have the benefit of listening to the staff presentation and Council debate before submitting a question. Council may also consider a maximum number of questions per person.

Public Hearings

Public hearings held outside of Council meetings are not subject to rules in Council Procedure Bylaw, and local government may hold public hearings with electronic participation. If Council wishes to proceed, staff will prepare procedures for public hearings. If in the future Council holds public hearings during a council meeting, that authority and procedures would have to be including in the Council Procedure Bylaw.

Other Recommended Updates to Procedure Bylaw

Staff are recommending a number of other amendments to be brought forward:

- Allow closed portion of a regular meeting to be held as early as 4 p.m. (s 5, 14)
- Housekeeping: Delete "Consent Calendar" provisions in s. 19.
- Late Items: Public submissions will not be considered on an agenda as a late item unless submitted no later than 2 p.m. on the day of the meeting (s. 15).

Public Notice

In order to amend its bylaw, Council must give notice in publication in a newspaper.

STRATEGIC OBJECTIVES

- ☐ Quality Infrastructure Planning and Development
- ☐ Comprehensive Community Planning
- ☒ Healthy Community
- ☐ Climate Change

FINANCIAL IMPLICATIONS

There may be additional technical support required to implement electronic framework in the Council chamber.

OPERATIONAL IMPLICATIONS

Electronic meetings and live streaming to required additional staff resources.

ATTACHMENTS

1. Council Procedure Bylaw No. 964, 2012.

CONCURRENCE

None

Respectfully submitted,

R. Parker

Rachel Parker
Corporate Officer

C. Postings

Clayton Postings
Chief Administrative Officer

THE CORPORATION OF THE VILLAGE OF CUMBERLAND
BYLAW NO. 964
COUNCIL PROCEDURE BYLAW

Contents

	<u>Page</u>
PART 1 – INTRODUCTION.....	1
Definitions	1
Application of rules of procedure	2
PART 2 – COUNCIL MEETINGS	2
Inaugural meeting.....	2
Time and location of meetings	2
Notice of Council meetings.....	3
Notice of Special meetings and Special In Camera meetings.....	3
PART 3 - DESIGNATION OF PRESIDING MEMBER	4
PART 4 – COUNCIL PROCEEDINGS	4
Attendance of public at meetings.....	4
Minutes of meetings	5
Calling meeting to order	5
Adjourning meeting where no quorum.....	6
Agenda	6
Order of proceedings and business	7
Late items.....	7
Resolutions.....	7
Delegations	7
Consent Calendar	8
Question period	8
Voting at meetings.....	8
Conduct and debate.....	9
Reconsideration	9
Adjournment.....	10
PART 5 – BYLAWS.....	11
Copies of proposed bylaws	11
Form of bylaws.....	11
Bylaws to be considered separately or jointly	11
Reading and adopting bylaws	11
Bylaws must be signed.....	12

PART 6 - COMMITTEE OF THE WHOLE	12
Committee of the Whole meetings	12
Notice for COTW meetings	12
Minutes of COTW meetings.....	13
Calling a meeting to order	12
Order of proceedings and business	13
 PART 7 – COMMITTEES AND COMMISSIONS	 14
Duties of standing committees	14
Duties of select committees	14
Schedule of meetings.....	14
Notice of meetings.....	14
Attendance at meetings.....	15
Minutes of meetings.....	15
Quorum	15
Conduct and debate.....	15
Voting at meetings.....	15
 PART 8 – GENERAL	 16

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

BYLAW NO. 964

A bylaw to establish the general procedures to be followed by Council and Council Committees in conducting their business.

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

PART 1 – INTRODUCTION

1. This Bylaw may be cited as “The Corporation of the Village of Cumberland Council Procedure Bylaw No. 964, 2012”.

Definitions

2. In this Bylaw,
 - “CAO” means a person designed by Council as chief administrative officer for the Village;
 - “Commission” means a municipal commission established under s.143 of the *Community Charter*;
 - “Committee” means a standing, select or other committee of Council, but does not include the Committee of the Whole;
 - “Corporate Officer” means a person designated by Council as corporate officer for the Village;
 - “COTW” means the Committee of the Whole Council;
 - “Council” means the Council of the Village of Cumberland;
 - “Mayor” means the Mayor of the Village;
 - “Municipal Office” means the offices of the Corporation of the Village of Cumberland located at 2673 and 2675 Dunsmuir Avenue, Cumberland, BC;

[Bylaw 976]
 - “Municipal Web Site” means the information resource found at an internet address provided by the Village;
 - “Presiding Member” means the Mayor or member of Council that has been designated as the member responsible for acting in the place of the Mayor under section 8;
 - “Public Notice Posting Places” means the notice board at the Municipal Office and the Municipal Web Site;
 - “Village” means the Corporation of the Village of Cumberland.

Application of rules of procedure

3. (1) The provisions of this Bylaw govern the proceedings of Council, COTW, Commissions and all standing and select committees of Council, including public meetings and public hearings, as applicable.
- (2) In cases not provided for under this Bylaw, the current edition of Robert's Rules of Order Newly Revised apply to the proceedings of Council, COTW and Council committees to the extent that those Rules are:
 - (a) applicable in the circumstances, and
 - (b) not inconsistent with provisions of this Bylaw or the *Community Charter*.
- (3) The rules of order set out in this Bylaw are intended to assist the Presiding Member to conduct Council business in an efficient and orderly manner, and may be relaxed or waived at the discretion of the Presiding Member, when deemed appropriate.

PART 2 – COUNCIL MEETINGS

Inaugural meeting

4. (1) Following a general local election, the first Council meeting must be held on the first Monday in November in the year of the election.

[Bylaw 1078]
- (2) If a quorum of council members elected at the general local election has not taken office by the date of the meeting referred to in subsection (1), the first Council meeting must be called by the Corporate Officer and held as soon as reasonably possible after a quorum has taken office.

Time and location of meetings

5. (1) All Council meetings must take place within the Municipal Office except when Council resolves to hold meetings elsewhere.
- (2) Regular Council meetings must:
 - (a) be held a minimum of once per month on designated Mondays in accordance with section 6(1);
 - (b) begin at 5:30 p.m.;
 - (c) be adjourned at 9:00 p.m. on the day scheduled for the meeting unless Council resolves to proceed beyond that time in accordance with s. 22; and

- (d) when such meeting falls on a statutory holiday, be held on the next day the Municipal Office is open which is not a statutory holiday.
- (3) Despite subsection (2), Regular Council meetings may:
 - (a) be cancelled by the Mayor, provided that two consecutive meetings are not cancelled; or [Bylaw 1132]
 - (b) be postponed to a different day, time and place by the Mayor, provided the Corporate Officer is given at least 2 days written notice.

Notice of Council meetings

- 6.
 - (1) In accordance with section 127 of the *Community Charter*, Council must prepare annually on or before December 18th, a schedule of the dates, times and places of regular Council meetings and must make the schedule available to the public by posting it at the Public Notice Posting Places.
 - (2) In accordance with section 127 of the *Community Charter*, Council must give notice annually on or before December 31st of the availability of the schedule of regular Council meetings in accordance with section 94 of the *Community Charter*.
 - (3) Where revisions are necessary to the annual schedule of regular Council meetings, the Corporate Officer must, as soon as possible, post a notice at the Public Notice Posting Places which indicates any revisions to the date, time and place or cancellation of a regular Council meeting.

Notice of Special meetings and Special *In Camera* meetings

- 7.
 - (1) Except where notice of a Special Meeting or a Special *In Camera* Meeting is waived by unanimous vote of all council members under section 127(4) of the *Community Charter*, a notice of the date, time, and place of a Special Council meeting or Special *In Camera* Council meeting must be given at least 24 hours before the time of meeting, by:
 - (a) emailing a copy to each member of council if an email address has been provided,
 - (b) posting a copy of the notice at the Public Notice Posting Places, and
 - (c) leaving one copy of the notice for each Council member in the Council member's mailbox at the Municipal Office.
 - (2) The notice under subsection (1) must describe in general terms the purpose of the meeting and be signed by the Mayor or the Corporate Officer.

Participation in Meetings Electronically

- 7.1 (1) A member of council, other than the member presiding, who is unable to attend a council meeting may participate in the meeting by means of electronic or other communication facilities.
- (2) Not more than one member may participate by means of electronic or other communication facilities at a meeting.
- (3) If the member of council participating at a meeting by means of electronic or other communication facilities is the presiding member, that presiding member is considered unable to act under section 8(1) of this bylaw.

PART 3 - DESIGNATION OF PRESIDING MEMBER

8. (1) Annually in November, Council must from amongst its members:
- (a) designate a Councillor, or
 - (b) designate Councillors on a rotating basis,
- to serve as the member responsible for acting in the place of the Mayor when the Mayor is absent or otherwise unable to act or when the office of the Mayor is vacant.
- [Bylaw 1078]
- (2) Each Councillor designated under subsection (1) must fulfill the responsibilities of the Mayor in his or her absence.
- (3) If both the Mayor and the member designated under subsection (1) are absent from the Council meeting, the Council members present must choose a Councillor to preside at the Council meeting.
- (4) The member designated under subsection (1) or chosen under subsection (3) has the same powers and duties as the Mayor in relation to the applicable matter.

PART 4 – COUNCIL PROCEEDINGS

Attendance of public at meetings

9. (1) Except where the provisions of section 90 of the *Community Charter* apply, all Council meetings must be open to the public and no person shall be excluded except for improper conduct.
- (2) Before closing a Council meeting or part of a Council meeting to the public, Council must pass a resolution in a public meeting in accordance with section 92 of the *Community Charter*.

- (3) This section applies to all meetings of the bodies referred to in section 93 of the *Community Charter*, including without limitation:
 - (a) COTW,
 - (b) standing and select committees,
 - (c) parcel tax review panel,
 - (d) board of variance,
 - (e) advisory bodies such as advisory planning commission,
 - (f) Commissions such as parks and recreation commission.
- (4) Despite subsection (1), if the Presiding Member considers that any person at the meeting is acting improperly, the Presiding Member may order that the person is expelled from the meeting. Examples of improper conduct include, but are not limited to, speaking out of turn, interrupting others who are speaking, using foul, disrespectful or inappropriate language or gestures, being disruptive, failing to be called to order when requested to do so by the Presiding Member, or otherwise unreasonably interfering with the ability of Council to conduct its business.
- (5) If a person who is ordered expelled from the meeting does not leave the meeting, a peace officer may enforce the order under subsection (4) as if it were a court order.

Minutes of meetings

- 10. (1) Minutes of the proceedings of Council must be:
 - (a) legibly and accurately recorded,
 - (b) certified as correct by the Corporate Officer, and
 - (c) signed by the Mayor or the Presiding Member at the meeting or at the next meeting at which the minutes are adopted.
- (2) Subject to subsection (3), and in accordance with section 97(1)(b) of the *Community Charter*, minutes of the proceedings of Council must be maintained and open for public inspection at the Municipal Office during its regular office hours.
- (3) Subsection (2) does not apply to minutes of a Council meeting or that part of a Council meeting from which persons were excluded under section 90 of the *Community Charter*.

Calling meeting to order

11. (1) As soon after the time specified for a Council meeting as there is a quorum present, the Mayor, if present, must take the Chair and call the Council meeting to order; however, where the Mayor is absent, the Presiding Member must take the Chair and call such meeting to order.
- (2) If a quorum of Council is present but the Mayor or the Presiding Member do not attend within 15 minutes of the scheduled time for a Council meeting:
 - (a) the Corporate Officer must call to order the members present, and
 - (b) the members present must choose a member to preside at the meeting.

Adjourning meeting where no quorum

12. If there is no quorum of Council present within 15 minutes of the scheduled time for a Council meeting, the Corporate Officer must:
 - (a) record the names of the members present, and those absent, and
 - (b) adjourn the meeting until the next scheduled meeting.

Agenda

13. (1) Prior to each Council meeting, the Corporate Officer must prepare an agenda setting out all the items for consideration at that meeting, noting in short form a summary for each item on the agenda.
- (2) The deadline for Staff and Council reports to the Corporate Officer for inclusion on the Council meeting agenda is 4:30 p.m. on the Tuesday prior to the meeting. Reports and correspondence from committees and/or the Public will be submitted to the CO or CAO, and the CAO or Mayor will determine appropriateness and timing of the item for agenda inclusion.
- (3) The Corporate Officer may refuse to include any item from the public that in his or her opinion is offensive or makes derogatory comments about a member of staff, Council or a municipal officer. Such items may, where deemed appropriate by the Corporate Officer, be included in the agenda for the *in camera* portion of the Council meeting.
- (4) The Corporate Officer must make the agenda available to the members of Council and the public by 4:00 p.m. on the Thursday prior to the meeting.
- (5) Council must not consider any matters not listed on the agenda unless a new matter for consideration is properly introduced as a late item pursuant to section 15.

Order of proceedings and business

14. (1) The agenda for all regular Council meetings contains the following matters in the order in which they are listed below, as applicable:
- (a) Approval of Agenda;
 - (b) Adoption of Minutes;
 - (c) Delegations;
 - (d) Unfinished Business;
 - (e) Correspondence;
 - (f) Reports (including Committees, COTW, Staff and Councillors);
 - (g) Bylaws;
 - (h) [deleted Bylaw 1132]
 - (i) New Business;
 - (j) Notices, Motions and Announcements;
 - (k) Question Period;
 - (l) Closed Portion;
 - (l.1) Release of Closed Portion Resolutions; [Bylaw 1132]
 - (m) Adjournment.
- (2) Particular business at a Council meeting must in all cases be taken up in the order in which it is listed on the agenda unless otherwise resolved by Council.

Late items

15. (1) An item of business not included on the agenda must not be considered at a Council meeting for inclusion as a late item unless introduction of the late item:
- (a) is deemed by the Mayor or Corporate Officer to be time sensitive; and
 - (b) is approved by Council at the time allocated on the agenda for such matters.
- (2) If the Council makes a resolution under subsection (1), information pertaining to late items must be distributed to the members.

Resolutions

16. A resolution may be introduced at a Council meeting only if notice of it has been included in the agenda, or Council resolves to waive this requirement.

Notices, Motions and Announcements

17. Matters considered under Notices, Motions and Announcements may include
- (a) notices or motions to hold a meeting of the COTW, a Village Hall meeting, and a public hearing, as required, and
 - (b) a notice of motion introduced by a council member.

Delegations

18. (1) The Council may allow an individual or a delegation to address Council at the meeting on the subject of an agenda item provided written application has been received by the Corporate Officer by 4:30 p.m. on the Tuesday prior to the meeting. Each address must be limited to 15 minutes unless a longer period is agreed to by Council.
- (2) Where written application has not been received by the Corporate Officer as prescribed in subsection (1), an individual or delegation may address the meeting if approved by the unanimous vote of the members present.
- (3) Council must not permit a delegation to address a meeting of the Council regarding a bylaw in respect of which a public hearing has been held, where the public hearing is required under an enactment as a pre-requisite to the adoption of the bylaw.
- (4) The Corporate Officer may schedule delegations to another Council, committee or advisory body meeting as deemed appropriate according to the subject matter of the delegation.
- (5) The Corporate Officer may refuse to place a delegation on the agenda if the issue is not considered to fall within the jurisdiction of Council. If the delegation wishes to appeal the Corporate Officer's decision, the information must be distributed under separate cover to Council for their consideration.

Consent Calendar

19. (1) A consent calendar shall be comprised of routine and non-controversial matters to be received for information by Council by a single motion.
- (2) There shall be no discussion on the items included in a consent calendar unless a member so requests and that matter may be considered
- (a) separately under another heading of the regular agenda, or
 - (b) immediately after the receipt of the consent calendar.

Question period

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

Voting at meetings

21. (1) The following procedures apply to voting at Council meetings:
- (a) when debate on a matter is closed the Presiding Member must put the matter to a vote of Council members;
 - (b) when the Council is ready to vote, the Presiding Member must put the matter to a vote by stating:

"Those in favour raise your hands" and then "Those opposed raise your hands".
 - (c) when the Presiding Member is putting the matter to a vote under paragraphs (a) and (b) a member must not:
 - (i) cross or leave the room,
 - (ii) make a noise or other disturbance, or
 - (iii) interrupt the voting procedure under paragraph (b) unless the interrupting member is raising a point of order;
 - (d) after the Presiding Member finally puts the question to a vote under paragraph (b), a member must not speak to the question or make a motion concerning it;
 - (e) the Presiding Member's decision about whether a question has been finally put is conclusive;
 - (f) whenever a vote of Council on a matter is taken, each member present shall signify their vote by raising their hand; and
 - (g) the Presiding Member must declare the result of the voting by stating that the question is decided in either the affirmative or the negative.
- (2) How each member of Council votes on a particular matter will be recorded in the minutes.

Conduct and debate

22. (1) Members speaking at a Council meeting:

- (a) must use respectful language,
 - (b) must not use offensive gestures or signs,
 - (c) must speak only in connection with the matter being debated,
 - (d) may speak about a vote of Council only for the purpose of making a motion that the vote be rescinded, and
 - (e) must adhere to the rules of procedure established under this Bylaw and to the decisions of the Presiding Member and Council in connection with the rules and points of order.
- (2) If a member does not adhere to subsection (1), the Presiding Member may order the member to leave the member's seat, and
 - (a) if the member refuses to leave, the Presiding Member may cause the member to be removed by a peace officer from the member's seat, and
 - (b) if the member apologizes to the Council, Council may, by resolution, allow the member to retake the member's seat.

Reconsideration

23. (1) In addition to the authority of the Mayor pursuant to section 131 of the *Community Charter* to require the Council to reconsider and vote again on any matter, a Council member may, subject to subsection (4), at the next Council meeting:
- (a) move to reconsider a matter on which a vote, other than to postpone indefinitely, has been taken, and
 - (b) move to reconsider an adopted bylaw after an interval of at least 24 hours following its adoption.
- (2) A Council member who voted affirmatively for a resolution adopted by Council may at any time move to rescind that resolution.
- (3) Council must not discuss the main matter referred to in subsection (1) unless a motion to reconsider that matter is adopted in the affirmative.
- (4) Council may only reconsider a matter that has not:
- (a) had the approval or assent of the electors and been adopted,
 - (b) been reconsidered under subsection (1) or section 131 of the *Community Charter*,
 - (c) been acted on by an officer, employee or agent of the Village.

Adjournment

24. The Council may continue a Council meeting after 9:00 p.m. by resolution.

PART 5 – BYLAWS

Copies of proposed bylaws

25. A proposed bylaw may be considered at a Council meeting only if a copy of it has been delivered to each Council member at least 24 hours before the Council meeting, or all Council members unanimously agree to waive this requirement.

Form of bylaws

26. A bylaw introduced at a Council meeting must:
- (a) be printed;
 - (b) have a distinguishing name;
 - (c) have a distinguishing number;
 - (d) contain an introductory statement of purpose;
 - (e) be divided into sections.

Bylaws to be considered separately or jointly

27. Council must consider a proposed bylaw at a Council meeting either:
- (a) separately when directed by the Presiding Member or requested by another Council member, or
 - (b) jointly with other proposed bylaws in the sequence determined by the Presiding Member.

Reading and adopting bylaws

29. (1) The Presiding Member of a Council meeting may:
- (a) have the Corporate Officer read a synopsis of each proposed bylaw or group of proposed bylaws, and then
 - (b) request a motion that the proposed bylaw or group of bylaws be read.
- (2) The readings of the bylaw may be given by stating its title and object.
- (3) A proposed bylaw may be debated and amended at any time during the first three readings unless prohibited by the *Community Charter*.
- (4) Subject to section 882 of the *Local Government Act*, each reading of a proposed bylaw must receive the affirmative vote of a majority of the Council members present.

- (5) In accordance with section 135 of the *Community Charter*, Council may give two or three readings to a proposed bylaw at the same Council meeting.
- (6) Despite section 135(3) of the *Community Charter*, and in accordance with section 890(9) of the *Local Government Act*, Council may adopt a proposed official community plan or zoning bylaw at the same meeting at which the plan or bylaw passed third reading.

Bylaws must be signed

- 30. After a bylaw is adopted, and signed by the Corporate Officer and the Presiding Member of the Council meeting at which it was adopted, the Corporate Officer must have it placed in the Village's records for safekeeping and endorse upon it:
 - (a) the Village's corporate seal,
 - (b) the dates of its readings and adoption; and
 - (c) the date of Ministerial approval or approval of the electorate if applicable.

PART 6 - COMMITTEE OF THE WHOLE

Committee of the Whole meetings

- 31. (1) Meetings of Committee of the Whole shall be established in the annual schedule of regular meetings, determined by Council resolution, or called by the Mayor. [Bylaw 1132]
- (2) At any time during a regular Council meeting, Council may by resolution go into COTW.
- (3) A meeting, other than a standing or select committee meeting, to which all members of Council are invited to consider, but not to decide on, matters of the Village's business is a meeting of COTW.

Notice for COTW meetings

- 32. (1) The Corporate Officer must make an agenda for a COTW available to the members of Council and the public at least 72 hours before the meeting. [Bylaw 1132]
- (2) Subsection (1) does not apply to a COTW meeting that is called, in accordance with this bylaw, during a Council meeting for which public notice has been given under this bylaw.

Minutes of COTW meetings

33. (1) Minutes of the proceedings of COTW must be:
- (a) legibly and accurately recorded,
 - (b) certified by the Corporate Officer,
 - (c) signed by the member presiding at the meeting, and
 - (d) maintained and open for public inspection at the Municipal Office during its regular office hours.

Calling a meeting to order

34. (1) As soon after the time specified for a COTW meeting as there is a quorum present, the Mayor, if present, must take the Chair and call the Council meeting to order; however, where the Mayor is absent, the Presiding Member must take the Chair and call such meeting to order.
- (3) If a quorum of the COTW is present but the Mayor or the Presiding Member do not attend within 15 minutes of the scheduled time for a Council meeting:
- (e) the Corporate Officer must call to order the members present, and
 - (f) the members present must choose a member to preside at the meeting.

Order of proceedings and business

35. (1) The agenda for all regular COTW meetings shall contain the following matters in the order in which they are listed below:
- (a) Approval of agenda;
 - (b) Approval of minutes;
 - (c) Delegations and Question Period;
 - (e) Committees – Minutes, Reports and Recommendations;
 - (f) Reports – Staff, Councillors
 - (g) Correspondence
 - (h) New Business
 - (j) COTW Recommendations to Council
 - (i) Question Period
 - (k) Adjournment.

PART 7 – COMMITTEES AND COMMISSIONS

Duties of standing committees

36. (1) Standing committees must be appointed by the Mayor in accordance with the Community Charter, Section 414; and must consider, inquire into, report and make recommendations to Council about all of the following:
- (a) matters that are related to the general subject indicated by the name of the committee;
 - (b) matters that are assigned by Council;
 - (c) matters that are assigned by the Mayor;
- (2) Standing committees must report and make recommendations to Council at all of the following times:
- (a) in accordance with the schedule of the committee's meetings;
 - (b) on matters that are assigned by Council or the Mayor,
 - (i) as required by Council or the Mayor, or
 - (ii) at the next Council meeting if the Council or Mayor does not specify a time.

Duties of select committees

37. (1) Select committees must be appointed by Council in accordance with the Community Charter, Section 142; and must consider, inquire into, report and make recommendations to Council about the matters referred to the committee by the Council.
- (2) Select committees must report and make recommendations to Council at the next Council meeting unless Council specifies a different date and time.

Schedule of meetings

38. (1) At its first meeting after its establishment a standing committee, select committee or commission must establish a regular schedule of meetings.
- (2) The chair may call a meeting of the committee or commission in addition to the scheduled meetings or may cancel a meeting.

Notice of meetings

39. (1) Subject to subsection (2), after the committee or commission has established the regular schedule of meetings, including the times, dates and places of the meetings, notice of the schedule must be given by:

- (a) posting a copy of the schedule at the Public Notice Posting Places; and
 - (b) providing a copy of the schedule to each member of the committee or commission.
- (2) Where revisions are necessary to the annual schedule of meetings, the Corporate Officer must, as soon as possible, post a notice at the Public Notice posting places which indicates any revisions to the date, time and place or cancellation of a meeting.
- (3) The chair must cause a notice of the day, time and place of a meeting called under section 38(2) to be given to all members at least 12 hours before the time of the meeting.

Attendance at meetings

40. Council members who are not members of a committee or commission may attend the meetings of the committee or commission.

Minutes of meetings

41. Minutes of the proceedings of a committee and commission must be:
- (a) legibly and accurately recorded,
 - (b) certified by the Corporate Officer,
 - (c) signed by the chair or member presiding at the meeting, and
 - (d) maintained and open for public inspection at the Municipal Office during its regular office hours.

Quorum

42. The quorum for a committee or commission is a majority of all of its members.

Conduct and debate

43. (1) The rules of the Council procedure must be observed during committee and commission meetings, so far as is possible and unless as otherwise provided in this Bylaw.
- (2) Council members attending a meeting of a committee or commission, of which they are not a member, may participate in the discussion only with the permission of a majority of the committee members present.

Voting at meetings

44. Council members attending a meeting of a committee or commission of which they are not a member must not vote on a question.

PART 8 – GENERAL

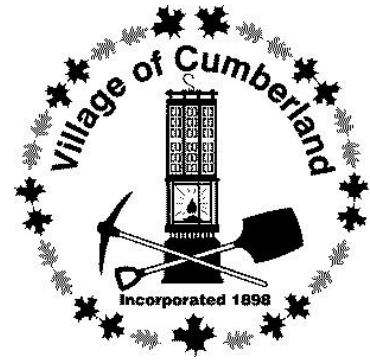
45. If any section, subsection or clause of this bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.
46. This bylaw may not be amended or repealed and substituted unless Council first gives notice in accordance with section 94 of the *Community Charter*.
47. “The Corporation of the Village of Cumberland Council Procedure Bylaw No. 859, 2007” as amended is repealed.

READ A FIRST TIME THIS	11TH	DAY OF JUNE	2012.
READ A SECOND TIME THIS	11TH	DAY OF JUNE	2012.
READ A THIRD TIME THIS	11TH	DAY OF JUNE	2012.
ADOPTED THIS	25TH	DAY OF JUNE	2012.

Mayor

Corporate Officer

COUNCIL MEMBER REPORT

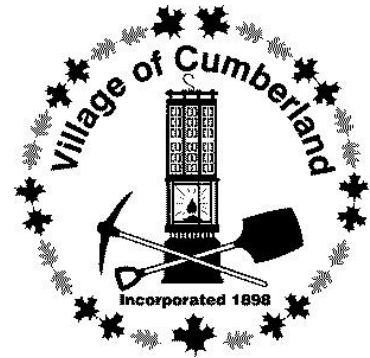


DATE: August 30, 2021
 TO: Mayor and Councillors
 FROM: Councillor Ketler
 SUBJECT: August 2021 Monthly Report

Date	Events	Comments
Date	Event	Comments
Aug 3	New Zamboni Unveiling	CVRD Sports & Aquatic Centre unveiled their new electric Zamboni
Aug 4	CVRD Chair/Vice Chair/CAO agenda meeting	Set agenda for following week's CVRD Board meeting
Aug 9	Regular Council Meeting	https://cumberland.ca/meeting-info/
Aug 10	CVRD Board	Motions: Multiple service establishment bylaws were adopted for Union Bay (Fire, Street Lighting, Water) Letter re: Universal School Food Program THAT the Comox Valley Regional District Board endorse the Coalition for Healthy School Food proposal for a universal, federally and provincially cost-shared, healthy school food program. THAT the Comox Valley Regional District Board write to the Prime Minister of Canada and the Premier of BC to request the implementation of a universal, federally and provincially cost-shared, healthy school food program for all Kindergarten to Grade 12 students in the country THAT staff be directed to provide a cursory review of resources that would be required to investigate the connection between income and food insecurity and possible options for action. THAT the correspondence to be sent to the Prime Minister of Canada and the Premier of BC to request the implementation of a universal, federally and provincially cost-shared, healthy school food program for all Kindergarten to

		Grade 12 students in the country be copied to the leaders of the federal political parties.
Aug 11	CVRD Chair/Vice Chair/CAO agenda meeting	Staff updates
Aug 12	Forest Policy Meeting follow-up	Further comments on the Forest and Range Act review and well as previous Private Managed Forest Lands Act review with Ministry of FLNRORD
Aug 16	CV Substance Use Strategy Committee	Review of Stage 1 – Substance Use Strategy Report
Aug 18	Interview for LGMA Exchange Magazine	Re: Green New Deal for Comox Valley
Aug 18	CVRD Chair/Vice Chair/CAO agenda meeting	Set agenda for following weeks CVRD Board meeting
Aug 19	Ground-breaking ceremony for Habitat for Humanity	New project on Piercy Ave in Courtenay
Aug 19	Climate Caucus	Current emergencies within BC regions (fire, drought)
Aug 24	CV Recreation Commission	Financial Assistance for Recreation Services Program -One year pilot program for a universal recreation pass -This program would focus on increased access to services for youth aged 18 and under. -Residents would apply once and youth would receive a LEAP pass for each municipality. -Youth would also be eligible for any additional benefits from PLAY, TRIP or RAC programs depending on where they reside.
Aug 24	CVRD Board	Delegations: Comox Valley Airport Commission
Aug 25	CVRD Chair/Vice Chair/CAO agenda meeting	Set agenda for following week's CVRD Board meeting
Aug 26	KFN Chief and Council meeting	Monthly CVRD update of action items
Aug 27	ICET Board	Financial Statements, MFA Investment, update Financial Policy, Annual Report and Legislative Review

COUNCIL MEMBER MONTHLY REPORT



DATE: August 30, 2021
 TO: Mayor and Councillors
 FROM: Councillor Brown
 SUBJECT: August 2021 Monthly Report

August 4

- Comox Valley Food Policy Council – Food Supply/Municipal Policy Committee
- Info Session on Cumberland Hotel Site Proposal

August 9

- Regular Council Meeting
- More info here: <https://cumberland.ca/meetings/12-2021-r/>

Agenda Highlights:

Development Permit, 2694 Penrith Avenue
 Development Permit, 2601 Dunsmuir Avenue
 Development Permit, 4723 Cumberland Road
 Development Variance Permit, 2814 Dunsmuir Avenue
 Application for OCP Amendment and Rezoning of recreational cabin property at Comox Lake
 Heritage Alteration Permit and Development Variance Permit Applications – 2714 Dunsmuir Avenue
 Fan House Covenant Modification Request
 Climate Action Revenue Incentive Program
 2020 Annual Municipal Report
 Wildfire Preparedness, Verbal Report
 Broadening the Scope of the Accessibility and Inclusion Committee
 Council Member Monthly Reports

August 10

- Comox Valley Substance Use Committee Working Group Meeting
 Reviewing report on Phase One

August 16th

- Comox Valley Substance Use Committee Meeting
 Presenting Phase One report for review by committee

- Heritage Committee Meeting
More info here: <https://cumberland.ca/meetings/heritage-committee/>

Agenda Highlights:

Referral of Cumberland Hotel Site Development Application

August 18th

- CBA Meeting

August 19th

- Climate Caucus – Climate Emergency Meeting
Met with fellow Municipal leaders to discuss water shortages, heat waves, fires and the impact on our communities
- Community Justice Centre Board Meeting
New Website Review
Complaints Policy Adoption
Board visioning session planning
Potential Pilot project

August 24

- Meeting with Community Health Network Executive Director re Substance Use Strategy

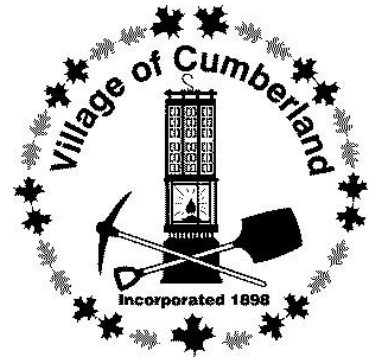
August 26th

- Tips and Tricks for Working with FireSmart BC – Tools and Resources Webinar
Webinar on preparing communities for fire season.
- Comox Valley Food Policy Council Meeting
Agriculture Area Plan timeline
Healthy School Food Committee Invite
Priorities for the coming year
Food Policy and Climate Change (Water concerns)
Budget Consultation Input

August 31th

- CBA AGM Planning Meeting
AGM planned for Oct 26, 6-9:00 likely via zoom
Board recruitment happening now

COUNCIL REPORT



REPORT DATE: August 20, 2021
MEETING DATE: September 7, 2021

File No. 1970-03

TO: Mayor and Councillors
FROM: Michelle Mason, Chief Financial Officer/Deputy CAO
SUBJECT: 2022 Permissive Tax Exemptions

RECOMMENDATION

- i. THAT Council receive the 2022 Permissive Tax Exemptions report.
- ii. THAT Council consider first reading of the “Permissive Tax Exemption 2022 Bylaw No. 1151, 2021”.
- iii. THAT Council direct staff to give notice of the proposed bylaw as required by section 227 of the Community Charter.

PURPOSE

The purpose of this report is to introduce the “Permissive Tax Exemption 2022 Bylaw No. 1151, 2021” for consideration of first reading and to seek staff direction to give notice of the proposed bylaw as required by section 227 of the Community Charter.

PREVIOUS COUNCIL DIRECTION

N/A

BACKGROUND

The policy for granting permissive tax exemptions was discussed and adopted with the 2021-2025 Financial Plan Bylaw No. 1138, 2020 (can be found on the Village website at: <https://cumberland.ca/budget-bylaw/>). Council’s policy is to only grant exemptions for

- lands surrounding land and buildings subject to statutory exemption, and
- municipal properties occupied by a community group or partner agency where the group or agency has been granted a reduced or zero lease rate but may, under Section 229 of the Charter, be subject to property tax.

The permissive tax exemptions are permitted under Clauses 224 (2) (a) and (f) of the Community Charter. Bylaw 1151 was prepared based on the above noted policy and must be adopted prior to October 31, 2021 for the 2022 tax year. Section 227 of the Community Charter requires Council to give public notice of a proposed permissive tax exemption bylaw.

ALTERNATIVES

1. Council can direct staff to make amendments before accepting the “Permissive Tax Exemption 2022 Bylaw No. 1151, 2021”, however, it’s important to note that it may affect the regulatory deadlines for advertising and bylaw submission.

STRATEGIC OBJECTIVE

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

FINANCIAL IMPLICATIONS

The policy, as outlined in the 2021-2025 Financial Plan, results in exemptions for two places of worship and one municipal property. The Cultural Centre is no longer being occupied by the Cumberland Old Age Pensioners Organization and is now being entirely used in Village operations. Therefore, this building is 100% tax exempt as a municipal property per the Community Charter and will not require a permissive tax exemption. The estimated total property taxes foregone for 2022 are \$4,600 and the following table outlines the details that will be advertised to the public:

Property	Description of Exemption	Estimated Property Taxes if Not Exempt		
		2022	2023	2024
BC Conference Property Development Council United Church Of Canada	All land surrounding the church	\$600	\$600	\$700
Cumberland Community Church	All land surrounding the church	\$600	\$600	\$600
Cumberland and District Historical Society	Occupiers of Municipal Property – apportionment of land and building	\$3,400	\$3,600	\$3,800

OPERATIONAL IMPLICATIONS

Each year during the financial planning process, staff updates the permissive tax exemption policy as directed by Council. Financial staff time is spent each year in August, September and October on the following permissive tax exemption tasks:

- Estimate taxes foregone based on the approved financial plan tax revenue estimates
- Prepare a permissive tax exemption bylaw
- Report to Council introducing the bylaw for Council consideration
- Advertise the permissive exemptions with consideration dates to the public
- Update the listing of municipal occupier property information for BC Assessment Authority (BCA)
- Once the bylaw is adopted by Council, the entire package is sent to BCA by October 31st each year

Finally, the actual permissively exempted property taxes must be reported to the public through the Village's Annual Report.

ATTACHMENTS

1. The Permissive Tax Exemption 2022 Bylaw No. 1151, 2021

CONCURRENCE

N/A

Respectfully submitted,

M. Mason

Michelle Mason
Chief Financial Officer/Deputy CAO

C. Postings

Clayton Postings
Chief Administrative Officer

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

BYLAW NO. 1151

A bylaw to exempt from taxation certain lands and improvements for the 2022 taxation year.

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

- 1 This Bylaw may be cited as "Permissive Tax Exemption 2022 Bylaw No. 1151, 2021".
- 2 The following land or improvements, or both, are exempted from taxation for the 2022 taxation year as follows:
 - (a) the following land or improvements, or both, held by a charitable, philanthropic or other not for profit corporation and meeting the provisions under section 224(2)(a) of the *Community Charter*:
 - (i) that portion of Lot 3, Block H, Plan 522E, District Lot 21, Nelson Land District, PID 008-932-212, occupied by the Cumberland and District Historical Society; and
 - (b) the following land and improvements used for the purposes of a church hall or the area of land surrounding a church as permitted under section 224(2)(f) of the *Community Charter*:
 - (i) that portion of Lot 1, Block 4, Plan 522, District Lot 21, Nelson Land District, PID 008-970-513, held BC Conference Property Development Council United Church Of Canada; and
 - (ii) that portion of Lot B, Plan 43397, District Lot 21 Nelson Land District, PID 003-382-281, held by the Cumberland Community Church.

- 3 This Bylaw shall come into full force and effect and is binding on all persons during the 2022 taxation year.

READ A FIRST TIME THIS	DAY OF	2021.
READ A SECOND TIME THIS	DAY OF	2021.
READ A THIRD TIME THIS	DAY OF	2021.
ADOPTED THIS	DAY OF	2021.

Mayor

Corporate Officer