



DISTRICT OF SOOKE

BYLAW No. 405

A bylaw to amend Bylaw 270, *Sooke Zoning Bylaw, 2006* for the purpose of creating the Mariner's Village Comprehensive Development Amenity Zone (CD-7) and amend the zoning of properties located on Sooke Road known as Mariner's Village.

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

1. This bylaw is cited as *Zoning Amendment Bylaw (270-57)*.
2. Bylaw No. 270, *Sooke Zoning Bylaw, 2006*, as amended, is amended by deleting the definition of density in Part Three and replacing it with the following:

“**DENSITY** means the maximum number of *dwelling units* per hectare, the maximum number of buildings per lot, the maximum lot coverage, the maximum floor area ratio, the maximum floor area per lot or zone, or a combination thereof.”

3. Bylaw No. 270, *Sooke Zoning Bylaw, 2006*, as amended, is further amended by adding in Part Fourteen immediately following section 14.6 the following section 14.7:

“14.7 Mariner's Village Comprehensive Development Zone – CD-7

This *zone* is intended to provide for a wide range of mixed-use commercial retail, office, residential and marina uses, with a base density regulation generally applicable for the zone, and other densities to apply if the owner satisfies the amenity provisions and affordable housing conditions that will entitle the owner to the higher density.

In addition to the general requirements in Parts 4 and 5, the following regulations shall apply to the area contained within the CD-7 zone.

14.7.1 Permitted Uses

Area 1 – Mixed Use Commercial Residential

- a. Amusement facility – indoor;
- b. Art gallery;
- c. Artisan industry;
- d. *Apartment*;
- e. Assembly use;
- f. Assisted living facility;
- g. Auction rooms and places, excluding external storage;
- h. Bakery;
- i. Bus depot;
- j. Commercial exhibit;
- k. Commercial school;
- l. Community care facility;
- m. Country market;
- n. Civic uses;
- o. Employee housing;
- p. Greenhouse and plant nursery;
- q. Health services;
- r. Home based business;
- s. Hostel;
- t. Hotel and/or motel;
- u. Household equipment repair and services;
- v. Licensed liquor establishment;
- w. Marina and associated facilities;
- x. Mixed Use Commercial with Residential
- y. Office;
- z. Parking lot, parkade and parking facilities;
- aa. Personal services;
- bb. Playground;
- cc. Printers and publishers;
- dd. Private club;
- ee. Restaurant;
- ff. Retail stores;
- gg. Schools;
- hh. Shopping centre;
- ii. Theatres;
- jj. Tourist accommodation
- kk. *Townhouse*
- ll. *Veterinary clinic* in an enclosed building

Area 2 – Multi Family Residential

- a. Apartment
- b. Assisted living facility;
- c. Community care facility;
- d. Employee housing;
- e. Home based business;
- f. Townhouse

Area 3 – Waterfront Commercial

- a. Amusement facility – indoor;
- b. Art gallery;
- c. Artisan industry;
- d. Assembly use;
- e. Auction rooms and places, excluding external storage;
- f. Bakery;
- g. Commercial exhibit;
- h. Commercial school;
- i. Community care facility;
- j. Country market;
- k. Civic uses;
- l. Employee housing;
- m. Greenhouse and plant nursery;
- n. Health services;
- o. Hostel;
- p. Hotel and/or motel;
- q. Household equipment repair and services;
- r. Licensed liquor establishment;
- s. Marina and associated facilities;
- t. Office;
- u. Parking lot, parkade and parking facilities;
- v. Personal services;
- w. Playground;
- x. Printers and publishers;
- y. Private club;
- z. Public Wharf;
- aa. Restaurant;
- bb. Retail stores;
- cc. Schools;
- dd. Theatres;
- ee. Tourist accommodation
- ff. Veterinary clinic in an enclosed building.

14.7.2 Minimum Lot Size for Subdivision Purposes: 350m²

**14.7.3 Maximum Height for Principal Buildings and Structures: 35m
or 8 stories**

14.7.4 Maximum Lot Coverage: 80%, except for a triangular lot or proposed lot shown as cross-hatched on the plan forming part of this bylaw as Appendix “B”, located west of Church Road South, which lot shall have a maximum lot coverage of 90%.

14.7.5 Maximum Density: The following base density regulation applies generally for the CD-7 zone:

- a. a maximum of 50 *dwelling units* per hectare for residential uses;
- b. a maximum of 5000 m² of commercial floor area and 2500 m² of office floor area.

14.7.6 Maximum Increased Density: Despite section 14.7.5,

- a. the reference in section 14.7.5 a. to “50 *dwelling units* per hectare” is increased to a higher density of 100 *dwelling units* per hectare; and
- b. the reference in section 14.7.5 b. to “a maximum of 5000 m² of commercial floor area and 2500m² of office floor area” is increased to a higher density of a maximum of 10,000 m² of commercial floor area and 5,000 m² of office floor area,

if the owner at its sole cost first meets all the conditions set out in Appendix “C” of this bylaw relating to the provision of amenities and affordable housing.

14.7.7 Useable Common Open Space: 10% minimum

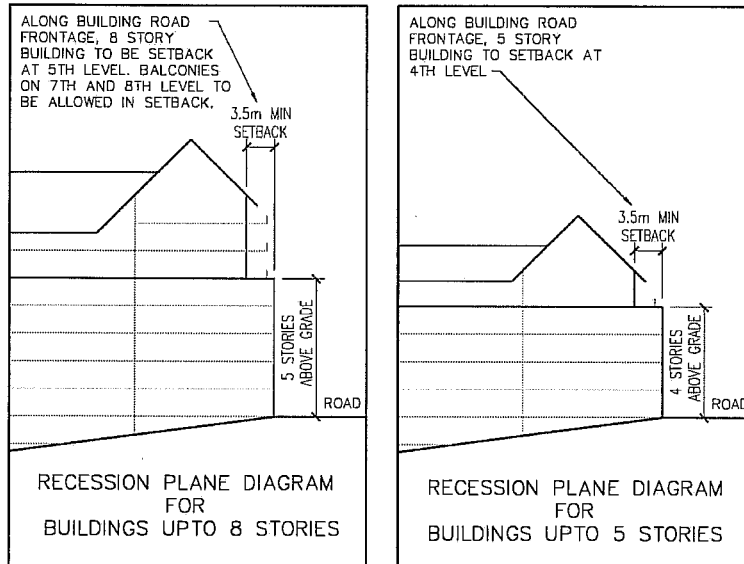
14.7.8 Minimum Building Setbacks from Lot Lines for all Buildings and Structures *:

Use	Front Lot Line	Flanking Lot Line	Side Lot Line	Rear Lot Line	Highway 14 Lot Line	Lane Lot Line
Mixed use, commercial, residential	0 m	0 m	0 m	0 m	0 m** for lots registered in the Land Title Office after adoption of this bylaw, or 15 m from the centreline of Highway 14	0 m

* Refer to section 5.22 of Bylaw No. 270

** A permit may be required from Ministry of Transportation and Infrastructure

14.7.9 Recession Plane



14.7.10 Special Restrictions

- a. **Country Market** use means a market comprising a group of vendors that offers predominantly locally produced or grown goods for sale that may include fruits, vegetables, herbs, flowers, baked products, home prepared and original arts and crafts, including on site preparation of foods or the operation of a food stand, dairy products, meat, fish, poultry or poultry products, and excludes the sale of live animals, used or second hand material, antiques or commercial products for resale.
- b. The portions of buildings identified as "*Mixed Use, Commercial and Residential*" along the Sooke Road frontage in "Zoning Area 1" on the plan forming part of this bylaw as Appendix "B" may be used for commercial uses but not residential uses on the ground floor; ancillary residential lobbies, staircores and elevator lobbies on the main floor; and residential, commercial or office uses on floors located above the ground floor.
- c. Without limiting section 14.7.10 b, Townhouse use in "Zoning Area 1" on the plan forming part of this bylaw as Appendix "B" is not permitted along the ground floor level of Sooke Road frontage.
- d. **Useable Common Open Space** means outdoor common space, provided on a lot for use and maintained by the residents of that lot and excludes yards, storage areas, off-street parking, driveways, or areas designated for use by an individual owner, such as Limited Common Property or individual patio/backyard/front yard areas.

- e. In respect of Auction Rooms and Places, storage of chattels shall be contained entirely within an enclosed building on a parcel and shall not be visible from an adjacent lot or highway.
 - f. Lot coverage calculation does not include any fully landscaped rooftops maintained as fully landscaped rooftops.”
3. Bylaw No. 270 *Sooke Zoning Bylaw, 2006* is further amended in Schedule A by changing the zoning on property legally described as:
- o *Lot B, Section 72, Sooke District, Plan 2155, Except Part in Plan 3440 and Except Parcel No. 1 (DD149276I) of Said Lot;*
 - o *Parcel 1 (DD 149276I) of Lot B, Section 72, Sooke District, Plan 2155, Except Part Outlined in Red on Plan 1243R;*
 - o *Parcel 1 (DD 149276I) of Lot B, Section 72, Sooke District, Plan 2155, Shown Outlined in Red on Plan 1243R;*
 - o *Lot 1, Section 72, Sooke District, Plan 9020;*
 - o *Lot 1, Section 72, Sooke District, Plan 3440 Except That Part in Plan 9020*

and as shown shaded on Appendix “A” to this bylaw from Village Residential 1 Zone (R-1), Village Commercial Zone (C-2), Marina – (W-3) and Commercial Recreation Zone (CR-1) to Mariner’s Village Comprehensive Development Zone (CD-7).

4. Appendices “A”, “B”, and “C” are attached to and form part of the Mariner’s Village Comprehensive Development Amenity Zone (CD-7).
5. If any portion of this Mariner’s Village Comprehensive Development Amenity Zone (CD-7) bylaw is set aside by a Court of competent jurisdiction, the portion is severed and the valid remainder shall remain in force and effect.

Introduced and read a first time the 11th day of May, 2009

Read a second time the 11th day of May, 2009

Amended the 1st day of June, 2009

Amended a second time the 15th day of June, 2009

Public hearing held the day of 2009

Read a third time the day of 2009

Approved by the Ministry of Transportation this day of 2009

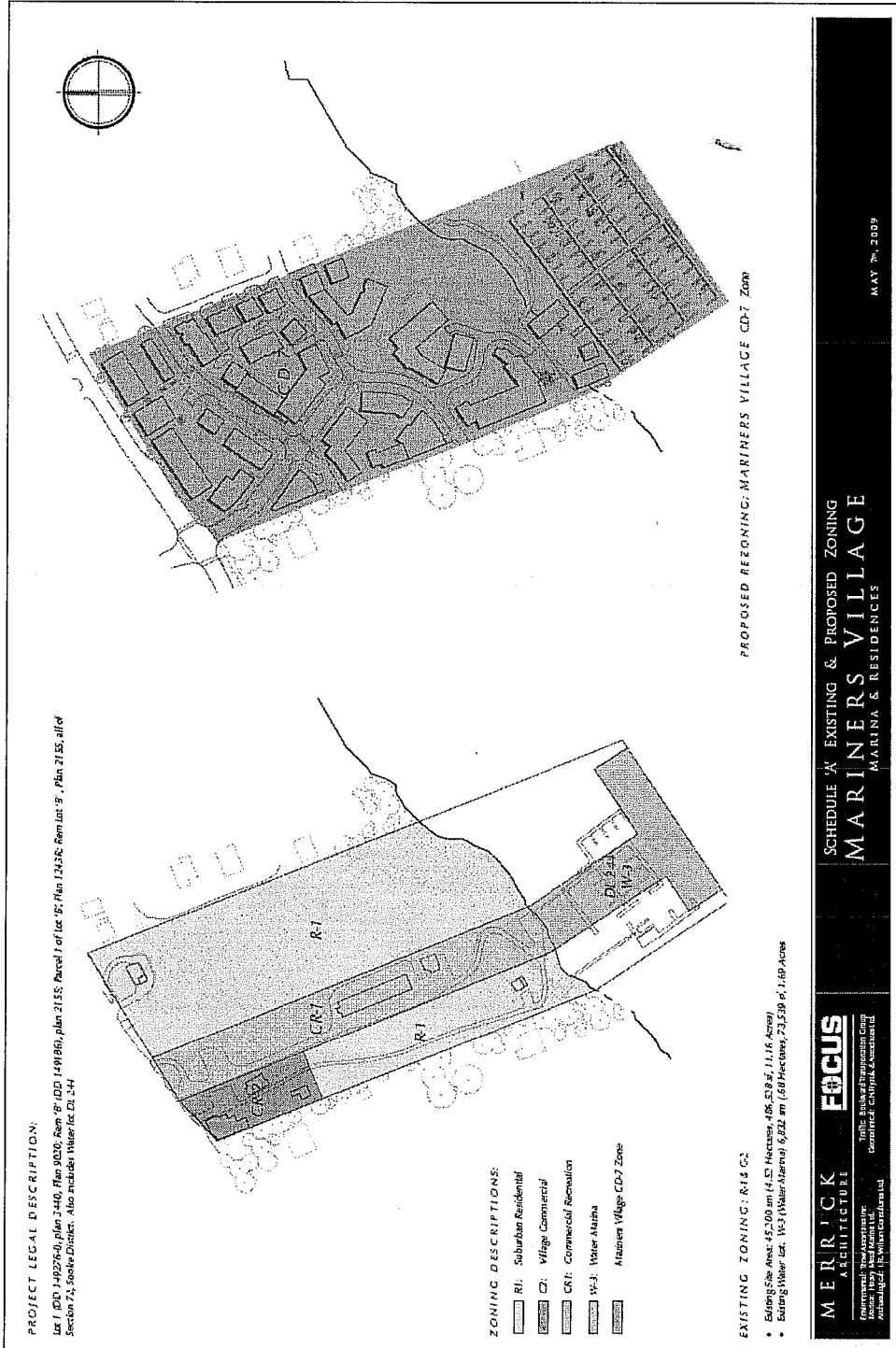
Adopted on the day of 2009

Janet Evans
Mayor

Evan Parliament
Chief Administrative Officer

FOR INFORMATION ONLY: Section 219 Covenant registered the day of , 2009 in the
Victoria Land Titles office under number .

APPENDIX "A"



APPENDIX “C”

AMENITIES AND AFFORDABLE HOUSING

Definitions

C.1 The following definitions apply to this Appendix “C”:

“**Affordable Housing**” means:

- (a) in the case of rental housing, that which is available for rent at or below the average rent for “Victoria”, as determined annually by the Canada Mortgage and Housing Corporation’s “Rental Market Report”, and
- (b) in the case of owner-occupied housing, that which is available for purchase at or below an amount calculated as 30% of the amount which is the median income level for all two or more person households from the most recent national census by Statistics Canada, updated annually using the British Columbia Consumer Price Index,

if the rent or price, as applicable, is controlled by an affordable housing agreement under section 905 of the *Local Government Act*;

“**Amenities**” means the dedication of public amenity lands and other amenities required under this Appendix “C”;

“**Lands**” means all the land within the Mariner’s Village Comprehensive Development Zone (CD-7) of this bylaw;

“**Public Open Space Amenity Areas**” means those portions of the Lands comprising, the Existing Garry Oak Tree Area, Multi-Use Public Trail, Nature Trail and the Public Boardwalk, all as shown hatched on Appendix “B” to this bylaw.

Conditions Relating to Amenities and Affordable Housing

- C.2 Transfer to the District of Sooke the fee simple title to the Public Open Space Amenity Areas, free and clear of any financial charges or encumbrances.
- C.3 Provision of enhancement and improvement amenities in the Public Open Space Amenity Areas in accordance with the following conditions:

- (a) construction and installation of a “Public Boardwalk” of approximately 5,265 square feet and wharf area of approximately 15,660 square feet accessible to the public for *marina retail* and *marina services*, in the form and style of the existing District of Sooke Marine Boardwalk, along the foreshore, generally as shown hatched on the plan forming part of this bylaw as Appendix “B” (Valued at \$721,000.00);
- (b) a three (3) metre wide public “Nature Trail” in accordance with the District of Sooke Parks & Trails Master Plan standards from the “Existing Garry Oak Tree Area” through the Public Open Space Amenity Areas to connect with the eastern end of the “Public Boardwalk:” generally in the location shown hatched on the plan forming part of this bylaw as Appendix “B” (Valued at \$6,000.00);
- (c) a three (3) metre wide “Multi-use Public Trail” in accordance with the District of Sooke Parks and Trails Master Plan standards from the “Nature Trail” described in section C.3(b) to the wharf generally in the location shown hatched on the plan forming part of this bylaw as Appendix “B” (Valued at \$25,500.00);
- (d) protection and retention of the “Existing Garry Oak Tree Area” at the end of Church Road South and location shown hatched on the plan forming part of this bylaw as Appendix “B”, the construction and installation of a public seating area around the Garry Oak tree, and the design and installation of a planted buffer around the Garry Oak tree for the purpose of providing protection and separation of the Garry Oak tree from other uses (Valued at \$30,000.00);
- (e) payment to the District of Sooke of \$35,000 to be used only for the purpose of installing banners and flower baskets on the ornamental light fixtures on the Lands;
- (f) public washrooms having a fair market value of \$50,000 or more constructed adjacent to the “Public Boardwalk” referred to in section C-3(a) or constructed in a commercial building adjacent to the “Public Boardwalk”;
- (g) provision and installation of publicly displayed outdoor art, which art will, subject to the approval of the District of Sooke, be selected by the owner of the Lands, and sited, displayed and maintained on the Lands in public view (Valued at \$20,000.00);

- (h) a contribution of \$425,000 to the District of Sooke for the purposes of providing affordable housing, provided that in lieu of this payment, the owner may in its sole discretion elect to provide premises comprising at least 6,000 ft² of community amenity medical clinic office space for medical doctors, discounted at the rate of \$8.00 per square foot triple net for a minimum of ten years from the date of issuance of an occupancy permit for the community amenity medical clinic office space for medical doctors;
 - (i) a contribution in the amount of \$137,500 to the District of Sooke for the purposes of the District of Sooke's Affordable Housing program; and,
 - (j) a Statutory Right of Way granted at the Owner's sole cost to the District of Sooke over the five (5) metre wide area of land along the entire length of the western boundary of the Lands (except where traversed by a public highway) as shown solid hatched on the plan forming part of this bylaw as Appendix "B", for public open space, drainage, a swale and works and services.
- C.4 The Owner shall at its sole cost prepare all plans, transfer forms and other documents necessary to give effect to the transfers required to be made under section C.2. Those transfers shall be effected by the Owner, at the District of Sooke's sole option, by:
- (a) the registration of one or more reference plans pursuant to section 99(1)(h) of the *Land Title Act*, creating each of the Public Open Space Amenity Areas as separate legal parcels, together with the filing of the necessary Form A Transfers in favour of the District of Sooke; or
 - (b) a subdivision of the land under Part 7 of the *Land Title Act*, creating each of the Public Open Space Amenity Areas as separate legal parcels, together with the filing of the necessary Form A Transfers in favour of the District of Sooke.
- C.5 The Owner shall satisfy all legal requirements and conditions necessary to effect the transfers required under section C.2 and C.4, and shall obtain all necessary approvals required for any subdivision of the Lands necessary to effect those transfers.

- C.6 If a valuation is inserted in a provision of this Appendix "C", the Owner in its sole discretion may meet the condition relating to the amenity, or the affordable housing, as applicable, by electing, instead of directly providing the amenity or affordable housing, to deliver to the District of Sooke a letter of credit having as a face amount the value stipulated in the applicable condition of this Appendix "C" in respect of which condition the letter of credit was delivered. Every such letter of credit shall satisfy the following conditions:
- a. the owner must provide the District of Sooke with an irrevocable letter of credit in the form set out at the end of this Appendix "C" as a security for meeting the condition under this Appendix "C";
 - b. every letter of credit required to be provided under this Appendix "C" must be drawn in favour of the District of Sooke and must be a clean, unconditional and irrevocable letter of credit made by a Canadian Chartered Bank and capable of presentation at a branch of the bank situated within the District of Sooke;
 - c. if the owner fails or omits to renew or replace any letter of credit within 14 days prior to its expiry, the District of Sooke may draw on the current letter of credit and hold the moneys in lieu thereof;
 - d. subject to paragraph e., the security provided under this Appendix "C" must be returned to the owner within 30 days of the District of Sooke's Director of Planning and Director of Engineering having delivered a report to Council that the condition in respect of which the letter of credit security was provided has been met by the owner;
 - e. if the owner has not met the applicable amenity or affordable housing condition, the security is forfeited to the District of Sooke;
 - f. for certainty, the security is forfeited to the District of Sooke under paragraph e. on the date the District of Sooke delivers to the Owner a written notice that the District of Sooke has elected to draw on the letter of credit security;
 - g. the District of Sooke may use the security to meet the applicable condition under this Appendix "C" in respect of which the security was delivered to the District of Sooke.

**LETTER OF CREDIT FORMAT
TO BE ON BANK LETTERHEAD**

___ DAY OF _____, 20

District of Sooke
Address
Postal code

Dear Sir/Madam:

IRREVOCABLE COMMERCIAL LETTER OF CREDIT NO.

We hereby authorize you to draw on (NAME OF BANK), (ADDRESS OF BANK), Province of British Columbia, for account of (NAME OF OWNER), up to an aggregate amount of _____.

1. Drawings are to be made in writing to (NAME OF BANK).
2. Partial drawings may be made.
3. The Bank will not inquire as to whether or not the District of Sooke has a right to make a demand on this Letter of Credit.
4. This Letter of Credit is irrevocable up to the expiry date.

DRAFTS MUST BE DRAWN AND NEGOTIATED NOT LATER THAN _____.
The drafts under this Credit are to be endorsed hereon and shall state on their face that they are drawn under (NAME OF BANK), (ADDRESS OF BANK), Sooke, B.C. Letter of Credit No.

Yours truly,
Manager
On Behalf of (NAME OF BANK)

RH

B-3 Bylaw No. 405, Zoning Amendment Bylaw (270-57)

MOVED and seconded that Council amend Bylaw No. 405, *Zoning Amendment Bylaw (270-57)* to integrate amenity contributions with the zoning regulations for the Mariners Village Comprehensive Development Amenity Zone;

AND THAT COUNCIL hold a public hearing on proposed Bylaw No. 405 on June 29TH, 2009, and to direct the Corporate Officer to publish and deliver the statutory hearing notices with the two required newspaper notices appearing in the Sooke News Mirror on June 17th and 24th, 2009.

CARRIED UNANIMOUSLY