

DATE OF MEETING May 07, 2018

AUTHORED BY BRIAN ZUREK, PLANNER, COMMUNITY AND CULTURAL PLANNING

SUBJECT **OCP AMENDMENT APPLICATION NO. OCP87 AND ZONING AMENDMENT APPLICATION NO. RA386 – 40 MAKI ROAD**

## **OVERVIEW**

### **Purpose of Report**

To present for Council's consideration an Official Community Plan amendment application to change the land use designation within the Official Community Plan from Neighbourhood to Light Industrial, and the land use designation in the Chase River Neighbourhood Plan from Low-Medium Density Residential to Service Industrial Enterprise Area; and to concurrently rezone the subject property from Single Dwelling Residential-R1 to Highway Industrial-I1 in order to continue developing a self-storage business at 40 Maki Road.

### **Recommendation**

1. That "Official Community Plan Amendment Bylaw 2018 No. 6500.038" (OCP87 – To re-designate 40 Maki Road on the Future Land Use Plan (Map 1) from 'Neighbourhood' to 'Light Industrial'; and to re-designate 40 Maki Road on the Chase River Neighbourhood Plan Land Use schedule A-7.3 from 'Low-Medium Density Residential' to 'Service Industrial Enterprise Area') pass first reading;
2. That "Official Community Plan Amendment Bylaw 2018 No. 6500.038" pass second reading;
3. That "Zoning Amendment Bylaw 2018 No. 4500.119" (RA386-To rezone 40 Maki Road from Single Dwelling Residential-R1 to Highway Industrial-I1) pass first reading; and,
4. That "Zoning Amendment Bylaw 2018 No. 4500.119" pass second reading.

## **BACKGROUND**

The applicant, Mark Kuhn, submitted two applications on behalf of Des Bosa of Deer Lake Properties Inc., regarding the property at 40 Maki Road. The first application proposes to amend the Official Community Plan (OCP) and Chase River Neighbourhood Plan by designating the subject property Light Industrial and Service Industrial Enterprise Area, respectively. The existing OCP and Neighbourhood designations support residential land use. The second application proposes to amend the Zoning Bylaw by changing the zone from Single Dwelling Residential – R1 to Highway Industrial – I1. The property owner operates a self-storage business on the property.

Location	The subject property is east of the intersection of Island Highway South and Tenth Street (Southgate) on the north side of Maki Road.
Existing OCP Designation	Neighbourhood
Proposed OCP Designation	Light Industrial

Existing Chase River Neighbourhood Plan Designation	Low-Medium Density Residential
Proposed Chase River Neighbourhood Designation	Service Industrial Enterprise Area
Existing Zoning	Single Dwelling Residential – R1
Proposed Zoning	Highway Industrial – I1

Existing land uses on Maki Road include commercial, industrial, and residential. Several vacant or underdeveloped properties are also located on Maki Road.

Maki Road terminates approximately 450 metres east of the subject property. The Transportation Master Plan and the Sandstone Master Plan propose connecting Maki Road to the future development in south Nanaimo.

The subject property is located near Nanaimo Estuary. Several wetlands and drainages exist throughout the local area.

## **DISCUSSION**

### **Policy Context**

In 1999, the Chase River Neighbourhood Plan designated the general area near the intersection of the Island Highway South and Tenth Street generally as a Main Street, with Medium-High Density Residential uses to the west, and Commercial and Low-Medium Residential Densities to the east (Attachment E).

Council adopted the OCP in 2008. The OCP's Future Land Use plan (Map 1) included land use designations to reflect those contained in the Chase River Neighbourhood Plan (Attachment D).

The Chase River Neighbourhood Plan surrounded the Main Street with lands designated for commercial uses and medium-high or low-medium residential densities. Additionally, the Neighbourhood Plan designates industrial uses on properties outside commercial or residential areas.

### **Zoning Bylaw and Development Permits**

Prior to 2011, the subject property was zoned Light Industrial (I2). Based on the industrial zoning, the owner received a Development Permit in 2007 to authorize the construction of a self-storage business on the property. The owner began to develop the property in 2007, and to operate the business in 2008. The owner continues to operate the self-storage business today.

In 2011, Council adopted Zoning Bylaw No. 4500, which included zoning updates to bring existing lands into compliance with the OCP and Neighbourhood Plans. Zoning Bylaw No. 4500 changed the zoning on the subject property from Light Industrial (I2) to Single Dwelling Residential – R1 to be consistent with both the OCP and Chase River Neighbourhood Plan.

## **Evaluation of the Amendment Proposals**

In terms of land use, the owner proposes a future land use for the subject property that is contrary to the designations in the OCP and the Neighbourhood Plan.

Council had adopted the Chase River Neighbourhood Plan in 1999, including the future land use designations, after broad public engagement with local residents.

Consideration of the proposed amendments in this application is occurring both without a broader review of future land use designations in the area surrounding the subject property, and in the absence of the robust public consultation comparable to that done for the original Neighbourhood Plan. Staff suggest that the proposed amendments could be considered in the context of a review beyond the scope of the proposed amendment applications.

Considering the proposed land use change in the context of a review of the Chase River Neighbourhood Plan would allow for a more comprehensive review of the proposed policy change and its potential implications for the future development of the surrounding properties.

The OCP does not include the review of the Chase River Neighbourhood Plan as a part of the current implementation section. Council could identify the review of existing neighbourhood plans, including the Chase River Neighbourhood Plan, as a priority and incorporate their review into the implementation plan of an updated OCP.

The owner has chosen to submit the amendment applications prior to a comprehensive review of the Chase River Neighbourhood Plan and provides the rationale to support this approach.

## **Public Amenity**

The owner did not provide a community contribution as part of the application amendment processes. Due to the history of land use designation and zoning changes on the subject property, Staff do not recommend that Council seek a community contribution from the owner as part of the amendment application processes.

## **Neighbourhood Consultation**

Section 7.1 of the OCP requires applicants to consult with area residents as part of the formal OCP and Neighbourhood Plan amendment process. The owner attended the regular meeting of the Chase River Community Association on 2018-MAR-13 to present the amendment applications to area residents.

## **Community Planning and Development Committee**

Section 7.2 of the OCP requires the Community Planning and Development Committee to consider the OCP and Neighbourhood Plan amendment and to invite up to three members of the local neighbourhood association to represent the community at a meeting. Three members of the Chase River Community Association participated in the Community Planning and Development Committee meeting on 2018-MAR-20. Additionally, the applicant presented the Committee with the proposed amendment applications.

Area residents represented by the members of the Chase River Community Association supported the applicant's amendment requests. The Community Planning and Development Committee recommended that Council approve the amendment applications.

### **SUMMARY POINTS**

- The owner proposes to amend the Official Community Plan, the Chase River Neighbourhood Plan, and the Zoning Bylaw to support an existing self-storage business and industrial land use for the property.
- Previously, Council amended the OCP in 2008 and the Zoning Bylaw in 2011 to be consistent with the Chase River Neighbourhood Plan adopted in 1999.
- The existing land use and zoning designations support residential land uses.

### **ATTACHMENTS**

ATTACHMENT A: Location Plan

ATTACHMENT B: Site Plan

ATTACHMENT C: Letters of Rationale

ATTACHMENT D: OCP Future Land Use

ATTACHMENT E: Chase River Neighbourhood Future Land Use

ATTACHMENT F: Aerial Photo

"Official Community Plan Amendment Bylaw 2018 No. 6500.038"

"Zoning Amendment Bylaw 2018 No. 4500.119"

#### **Submitted by:**

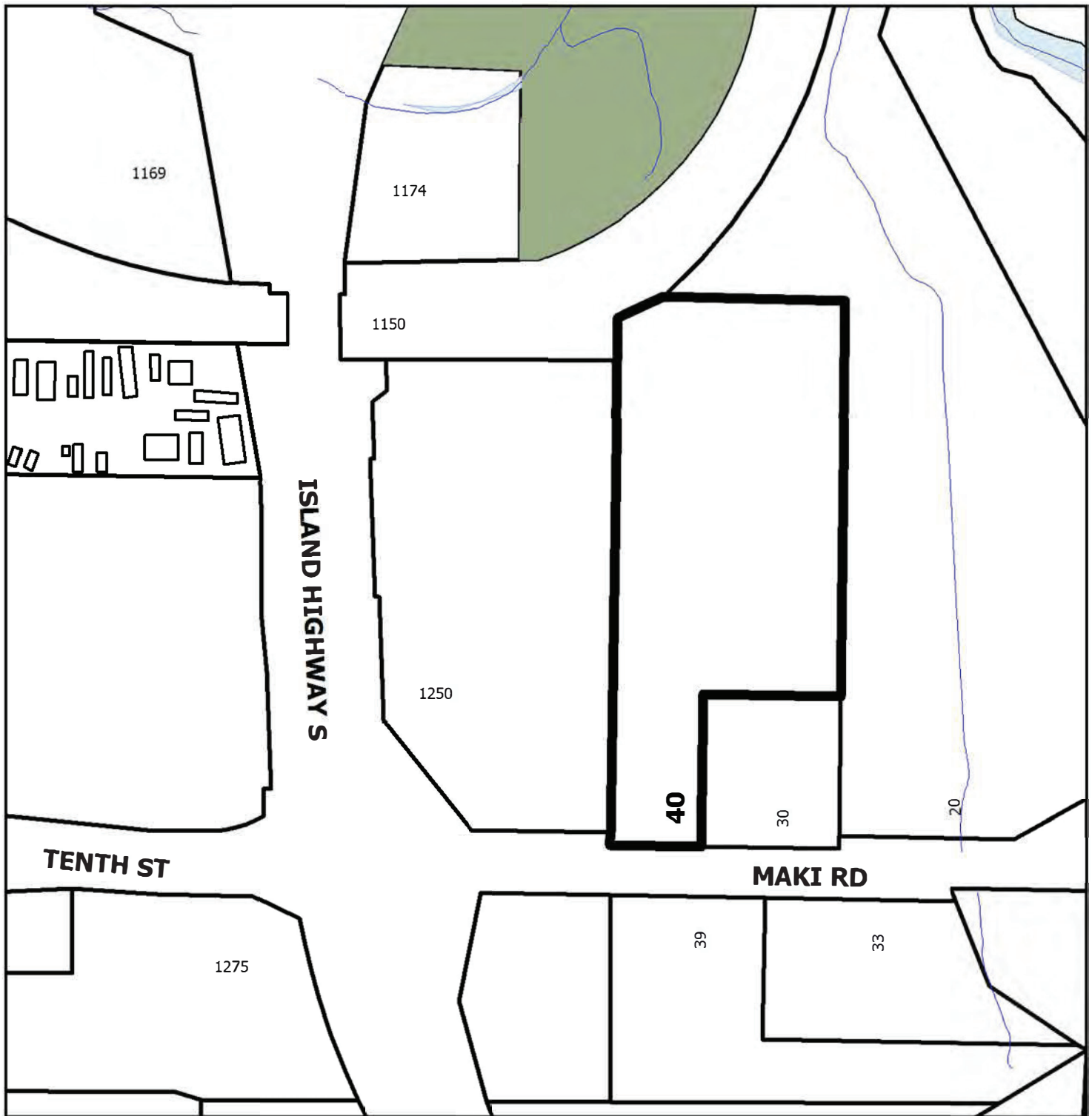
Bruce Anderson  
Manager, Community and Cultural Planning

#### **Concurrence by:**

Dale Lindsay  
Director, Community Development



# ATTACHMENT A

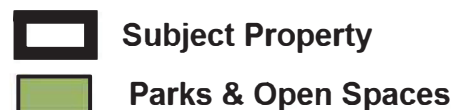


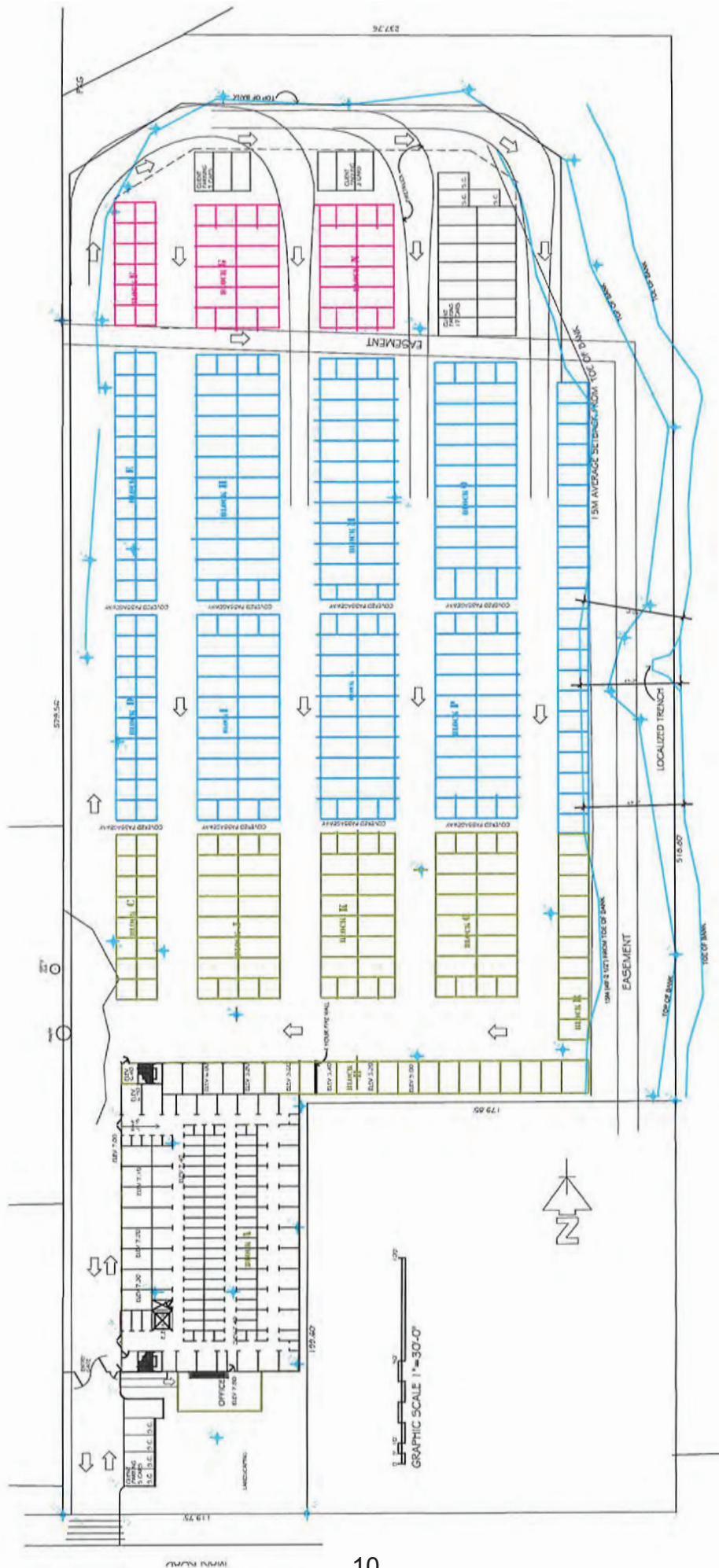
REZONING APPLICATION NO. RA000386  
OFFICIAL COMMUNITY PLAN NO. OCP00087

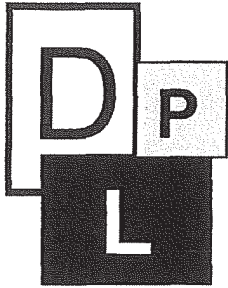
## LOCATION PLAN



Civic : 40 Maki Road  
Lot 1, Block 1, Section 2, Nanaimo District, Plan 630,  
Except parts in Plan 1099R and 35898, see manufactured home  
assessed on 16197.001







## Deer Lake Properties Inc.

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October 27, 2017

Mr. Brian Zurek  
City of Nanaimo  
411 Dunsmuir Street  
Nanaimo, BC V9R 5J6

Subject: 40 Maki Road, Lot 1, Block 1, Plan VIP 630, Section 2, Nanaimo Land District, Except Plan 1099R 35898, PID 000-630-535

Request to amend the following plans:

- 1.0 Official Community Plan (OCP) from Neighbourhood to Light Industrial
- 2.0 Chase River Neighbourhood Plan – Schedule A: Chase River Town Centre Land Use from Low-Medium Density Residential to Industrial
- 3.0 Chase River Neighbourhood Plan – Schedule B: Future Land Use from Town Centre to Industrial

### **Background:**

On January, 2006 Deer Lake Properties applied to the City of Nanaimo for a Development Permit for our 40 Maki Road Property. At time of application for the proposed Development, this property was zoned I-2 (Light Industrial).

During our Development Permit process we were not notified of any potential future change to the current zoning and as such we proceeded with the comfort level that the existing I-2 zoning would satisfy our development objective for the long term.

We were issued a Phased Comprehensive Development Permit approval in 2007 for the entire parcel of land. To date we have completed three (3) phases of this development, and plan to complete the final phase in 2018.

In May of 2017, we were required to update our appraisal for the purpose of a financing renewal. Our appraisal consultant informed us that the zoning for 40 Maki Road had been changed from I-2 (Light Industrial) to R1 (Single Dwelling Residential). This rezoning change was done because the I-2 zoning designation for our property did not conform with the Chase River Neighbourhood Plan.

At first we all thought these changes were a simple mistake. Through consultation with the City of Nanaimo Planning Department we learned that in 2011, with the adoption of Zoning Bylaw 2011 No. 4500, 40 Maki Road was rezoned to Single Dwelling Residential (R1) to align with the higher-level planning designations of the OCP and Chase River Neighbourhood Plan.

As we were not aware of the 2011 zoning changes, this has put us in a very difficult position. Our property now has legal non-conforming status which could negatively impact the future long-term viability of our business and our ability to secure future lending and insurance commitments.

Legal non-conforming status allows us to continue operating our self-storage business at 40 Maki Road until the use is discontinued for a continuous period of six (6) months. If our facility sustains damage from a major fire or earthquake we may not be able to rebuild our facility with the present legal non-conforming status in place. This status is also of major concern to our lending institution and our insurance provider. They have both stated that they may not be able to support us in the future if we do not have the zoning for the property reinstated to industrial. To facilitate this zoning change, the OCP designation for our property must be changed from Low-Medium Density Residential to Industrial and Schedules A and B of the Chase River Neighbourhood Plan must also be changed to an Industrial designation. Without the continued support of our lending institution and our insurance provider the future economic viability of our business is in jeopardy.

#### **Reasons for OCP and Rezoning amendments:**

##### **Community business centre**

We strongly feel the rezoning of our property to R1 should never have taken place, specifically because of its location and the immediate surrounding industries and businesses. I2 was the proper zoning for this site. Adjacent to our property we have Rona and across the intersection we have the Chase River Shopping Centre. The businesses around the Maki Road, 10<sup>th</sup> Street and Island Highway intersection make up an important business and services centre for the communities of Harewood, Chase River and Cedar. This entire area should have an industrial usage designation within the OCP and Chase River Neighbourhood Plan.

##### **Proximity to major intersection**

Proximity to the major Maki Road and Island Highway traffic light controlled intersection, gives Supreme Self Storage easy and safe access for both North and South bound traffic without disturbance to any neighbours.

##### **Storage demand**

We have recently completed the 3<sup>rd</sup> phase of our development, and in only two (2) months all forty-five (45) of the new lockers have been rented. This is proof that there is a demand for our business and we are providing a much needed storage amenity to the surrounding community.



### **Protection of Marsh Lands**

Supreme Self Storage has minimal impact on the wetlands located behind our property. The back sides of our buildings do not have locker access making for a non accessible barrier to the wetlands. The lack of high sanitary or water requirements of our business results in minimal environmental impact to the wetlands. Presently, rain water is collected and controlled through an onsite filtration drainage field, along with a site oil interceptor. Any future residential development on our site would have a much greater environmental impact on the marsh and surrounding wetlands.

### **Best use**

We are now aware that the primary reason for the rezoning of our property to Single Dwelling Residential (R1), was that the I-2 zoning simply did not align with the Neighbourhood designation adopted in the 1999 Chase River Neighbourhood Plan and the 2008 Official Community Plan (OCP). Given our unique situation in that we had a Phased Comprehensive Development Permit in place in 2011, and that our site was and is still under construction, we should have been seen as the best use for this property now and in the future.

Apart from the fact that our site did not align with the Chase River Neighbourhood Plan and the Official Community Plan, the reality on the ground should have taken precedence and been given much closer scrutiny. Had this taken place with a reasonable open mind, there is no question that this property would have retained its I-2 zoning designation. We have included two (2) aerial photos which show the dramatic change on the ground from January 2006, to the present situation showing a completed Rona outlet at the corner of Maki and the Highway, with Supreme Self Storage appropriately located to the East.

Unfortunately as I stated earlier, we simply were not aware of the rezoning process, otherwise we would have brought up our objection and arguments in a more timely manner. Given the large investment and commitment to our existing Storage Facility, there is minimal to no chance that any form of low density residential development would ever be viable on this property. It is not an appropriate location for a residential development, situated between the environmentally sensitive wetlands and Rona. Supreme Self Storage is very close to a major intersection complete with road widening up to our facility, it has very good street appeal, and given the fact that we have an on-site manager's residence, it is safe and kept clean at all times. Supreme Self Storage has absolutely no negative impact on traffic or neighbors, and if we were to look for a new location, I doubt we would find one that is better suited than 40 Maki Road.

Looking at the intersection of the Island Highway and Maki Road from the air, and all immediate properties to the East, West and South, it clearly shows a natural fit for a commercial and light industrial center, with the wetlands providing a natural boundary from the residential lands to the South West.

We are committed to the rezoning and OCP amendment process and hopefully once this process is completed, 40 Maki Road will have a new zoning designation of I-1 (Highway industrial) and the following plans will be amended:

1.0 Official Community Plan (OCP) from Neighbourhood to Light Industrial

2.0 Chase River Neighbourhood Plan – Schedule A: Chase River Town Centre Land Use from Low-Medium Density Residential to Industrial

3.0 Chase River Neighbourhood Plan – Schedule B: Future Land Use from Town Centre to Industrial

We truly believe is in the best interest of not only us as business owners, but also the City as a beneficiary of property taxes from a correctly zoned light industrial amenity, and the community at large to whom we provide a much needed service.

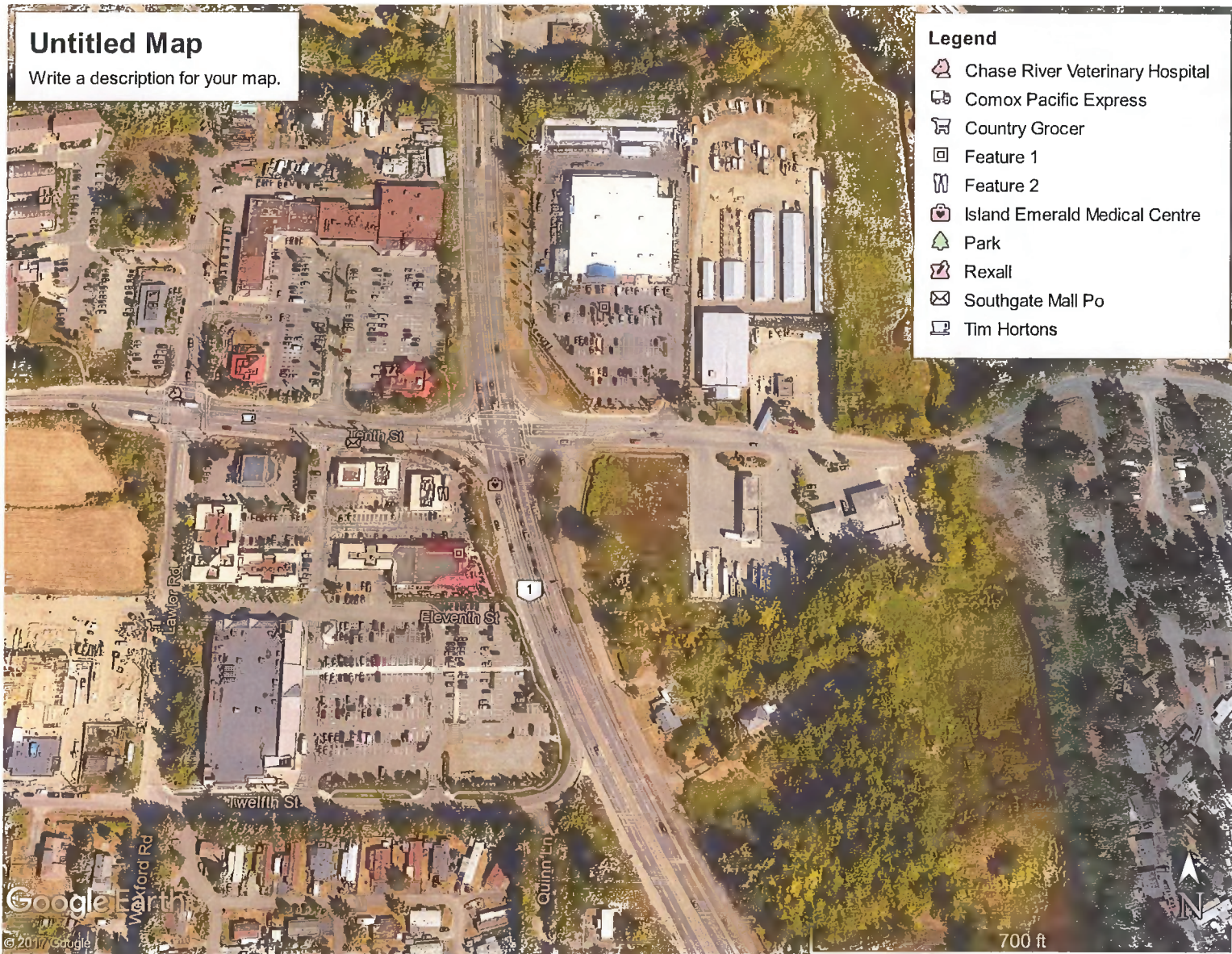
Sincerely,

A handwritten signature in blue ink, appearing to read 'Des Bosa', with a long horizontal line extending from the end of the signature.

Des Bosa

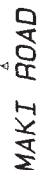
Deer Lake Properties







All distances are in metres.  
Elevation datum, in metres, is Geodetic.



*Certified Correct* *[Signature]* B.C.L.S.

This document is not valid unless  
originally signed and sealed.

File: NM-02-08

Date: November 7, 2005.





## Deer Lake Properties Inc.

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October 27, 2017

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City of Nanaimo  
411 Dunsmuir Street  
Nanaimo, BC V9R 5J6

Subject: 40 Maki Road, Lot 1, Block 1, Plan VIP 630, Section 2, Nanaimo Land District, Except Plan 1099R 35898, PID 000-630-535

Request and reasons for amending Zoning Bylaw No. 4500 from Single Dwelling Residential (R1) to Highway Industrial (I1).

### **Background:**

In January, 2006 Deer Lake Properties applied to the City of Nanaimo for a Development Permit for our 40 Maki Road property. At the time of application for the proposed Development, the existing zoning was I-2 (Light Industrial) which was intended to provide for clean industrial uses with a high standard of design and maintenance. A letter dated January 30, 2006 from our Architect Adam Policzer outlines the care that was taken at the time in order to satisfy City of Nanaimo guidelines. We were satisfied that the existing zoning was the appropriate application, and based on supply and demand we concluded that Self Storage was the best use for the property, which was a permitted use under the I-2 Zoning. During our Development Permit process we were not notified of any potential future change to the current zoning, and as such we proceeded with the comfort level that the existing I-2 Zoning would satisfy our development objective for the long term. We were issued a Phased Comprehensive Development Permit approval in 2007 for the entire parcel of land. To date we have completed three (3) separate phases of the development, and in the spring of 2018 we will be submitting a building permit application to the City for the completion of the remaining seven (7) buildings.

In May of 2017, we were required to update our appraisal for the purpose of a financing renewal. Our appraisal consultant informed us that the zoning for 40 Maki Road had been changed from I-2 to R1.

At first we all thought it was a simple mistake. Through consultation with the City of Nanaimo Planning Department we learned that in 2011, with the adoption of Zoning Bylaw 2011 No. 4500, 40 Maki Road was rezoned to Single Dwelling Residential (R1), to align with the higher-level planning designations of the OCP and Chase River Neighbourhood Plan.



In our consultation meetings with the City of Nanaimo Planning Department we also learned that during the time of the rezoning process, there was information made available to the public through media and public hearings, but affected property owners were never directly sent any information by the City of Nanaimo to inform them of the rezoning process, or its effect on their properties.

As we were not aware of the 2011 zoning changes, this has put us in a very difficult position. Our property now has legal non-conforming status which could negatively impact the future long-term viability of our business and our ability to secure future lending and insurance commitments.

Legal non-conforming status allows us to continue operating our self-storage business at 40 Maki Road until the use is discontinued for a continuous period of six (6) months. If our facility sustains damage from a major fire or earthquake we may not be able to rebuild our facility with the present legal non-conforming status in place. This status is also of major concern to our lending institution and our insurance provider. They have both stated that they may not be able to support us in the future if we do not have the zoning for the property reinstated to industrial. Without the continued support of our lending institution and our insurance provider the future economic viability of our business is in jeopardy.

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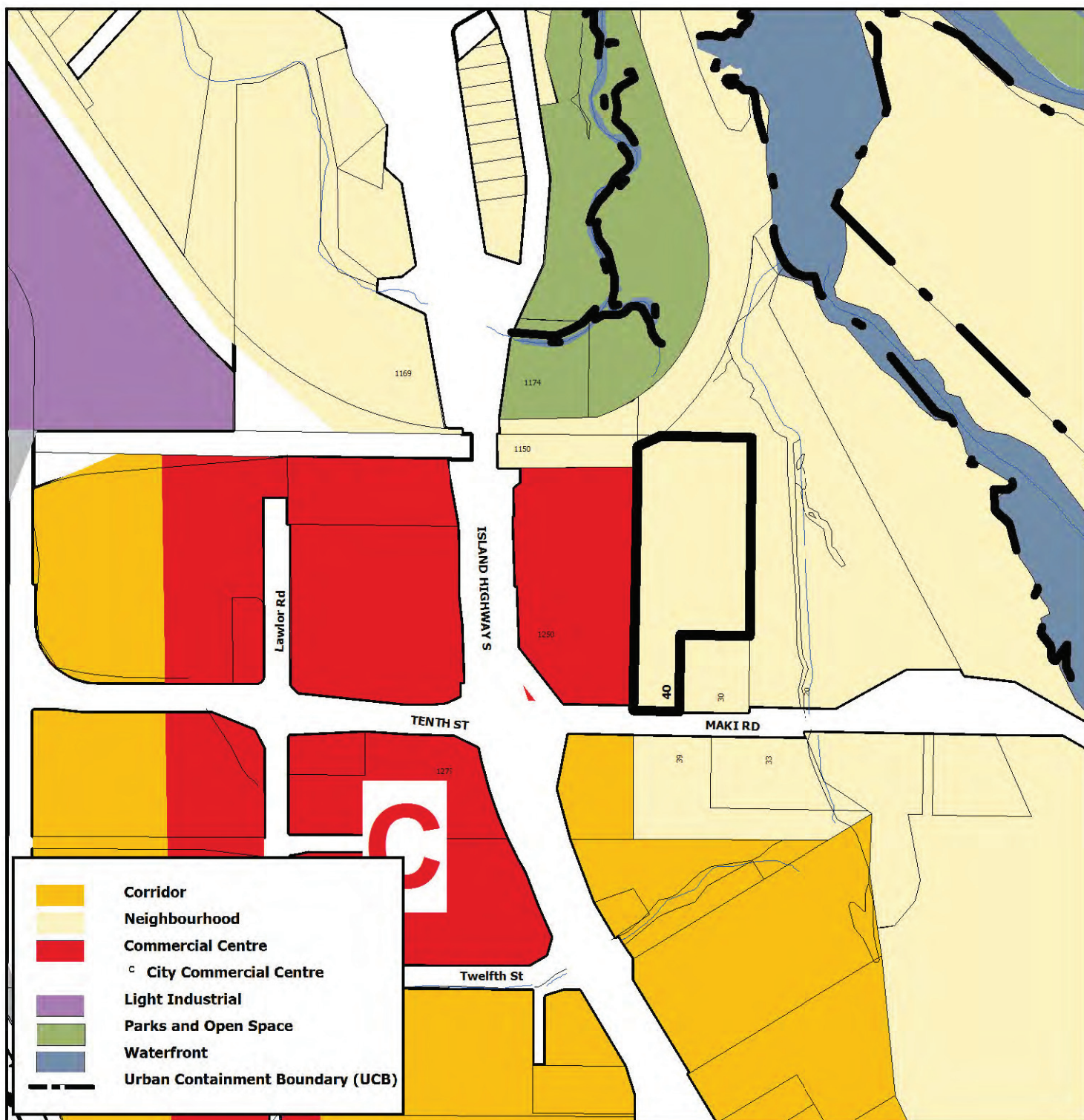


Sincerely,

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Des Bosa

Deer Lake Properties



OFFICIAL COMMUNITY PLAN NO. OCP00087  
 REZONING APPLICATION NO. RA000386

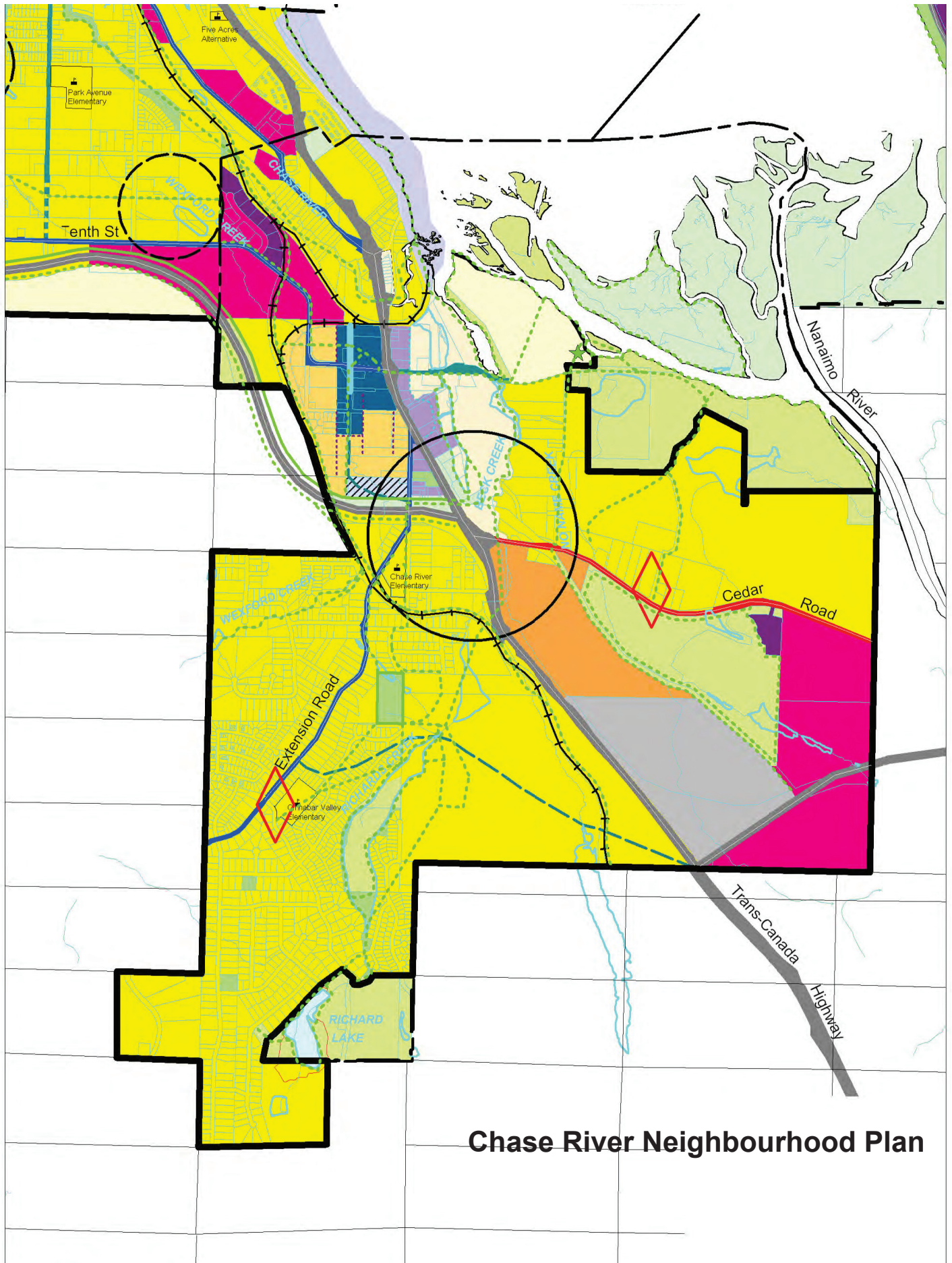
## LOCATION PLAN



Civic : 40 Maki Road  
 Lot 1, Block 1, Section 2, Nanaimo District, Plan 630,  
 Except parts in Plan 1099R and 35898, see manufactured home  
 assessed on 16197.001

 Subject Property





Chase River Neighbourhood Plan

## LEGEND

### Chase River Neighbourhood Plan

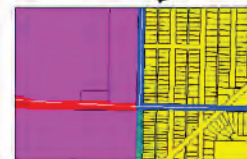
#### Future Land Use

-  Mainstreet (Commercial/Residential)
  -  Medium-High Density Residential
  -  Low-Medium Density Residential
  -  Commercial
  -  Utility/Service
  -  City Land Reserve
  -  Neighbourhood Village\*
  -  Neighbourhoods
  -  Suburban Neighbourhoods
  -  City Parks
  -  Other Parks and Open Space
  -  Future Park Sites\*\*
  -  Rural Resource Lands
  -  Local Service Centre
  -  Main Street
  -  Highway Commercial
  -  Industrial Enterprise Area
  -  Service Industrial Enterprise Area
  -  Research, Education, & Development
  -  Waterfront Designation
- 
-  — Parkway Intersections  
(part of DPA 22)
  -  Urban Containment Boundary
  -  City Boundary
  -  School
  -  Proposed School\*\*
  -  Proposed Elementary School\*\*
  -  Proposed Secondary School\*\*

\* Precise location and boundary of Neighbourhood Villages to be defined in future Neighbourhood Plans.  
 \*\* Locations are approximate.  
 \*\*\* Possible location for negotiated trailway (see Sections 1.3.2 and 4.3.2).  
 \*\*\*\* Shown as white line on top of other colours.

#### Mobility

-  Existing Trailways
-  Proposed Trailway Connectors\*\*\*
-  Other Trailways
-  Provincial Highway
-  Urban Arterial
-  Major Collector
-  Minor Collector
-  Future Urban Arterial
-  Future Major Collector
-  Future Minor Collector
-  Railway
-  On Road Bicycle Routes\*\*\*\*



#### Schedule A-7.3 Amendments

Bylaw	Date
6000.024	1999-OCT-04
6000.027	2000-MAY-15
6000.035	2002-APR-08
6000.038	2002-MAY-27
6000.039	2002-SEP-16
6000.041	2003-APR-14
6000.042	2003-APR-14
6000.060	2005-APR-04
6000.076	2007-OCT-29

Amendments have been consolidated for convenience only.  
 The original bylaws should be consulted for all purposes of interpretation and application of the Bylaw.



# ATTACHMENT F

Aerial Photo



REZONING APPLICATION NO. RA000386  
OFFICIAL COMMUNITY PLAN NO. OCP00087

