

## COUNCIL POSTING MEMO

**TO:** Dale Lindsay, General Manager/Deputy CAO  
Development Services

**FROM:** Caleb Horn, Planner  
Current Planning Section

**DATE:** 2022-JAN-11

**FILE:** TUP00023

**SUBJECT: 367 SELBY STREET**

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This application is being posted in the Councilors' office for the duration of 2022-JAN-12 to 2022-JAN-26 inclusive.

Statutory Notification to neighbouring properties is scheduled for 2022-JAN-13.

If you have any questions regarding the attached Summary or Attachments, please feel free to contact me.

Yours truly,



Caleb Horn, Planner  
Current Planning Section  
**Community Development**

ATT.

ec: *Mayor & Council*  
*D. Laberge, Manager, Bylaw Services*  
*J. Holm, Director, Development Approvals*  
*D. Fox, Manager, Building Inspections*  
*L. Rowett, Manager, Current Planning*

/ln

**TUP00023**

**367 SELBY STREET**

**Notification Period:**  
**2022-JAN-12 to 2022-JAN-26**

**RE: TEMPORARY USE PERMIT**

**(Owner: STONE AGE MASONRY LTD.)**

# SUMMARY FOR TEMPORARY USE PERMIT APPLICATION

## TEMPORARY USE PERMIT NO. TUP00023 – 367 SELBY STREET

**Applicant:** PIONEER WOOD HEAT SUPPLIES

**Owner:** STONE AGE MASONRY LTD.

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### Subject Property and Site Context:

<i>Zoning</i>	DT2 - Fitzwilliam
<i>Location</i>	The subject property is located on the west side of Selby Street, between Fitzwilliam Street and Franklyn Street.
<i>Total Lot Area</i>	950m <sup>2</sup>
<i>Official Community Plan</i>	Map 1 – Future Land Use – Urban Node
<i>Nanaimo Downtown Plan</i>	Map 1.2 – Downtown Character Area – Fitzwilliam

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### RECOMMENDATION

That the General Manager of Development Services authorize Staff to issue Temporary Use Permit No. TUP00023.

### BACKGROUND

A Temporary Use Permit (TUP) application has been received from Pioneer Wood Heat Supplies to permit a warehouse on a temporary basis at 367 Selby Street. The subject property is in the Fitzwilliam (DT2) zone which does not allow warehouse use under the “City of Nanaimo Zoning Bylaw 2011 No. 4500”.

Sections 492 and 493 of the *Local Government Act* allow municipalities to approve TUPs to allow a use that is not permitted under zoning. A TUP can be issued for up to a three-year term, with the ability to renew the term once. The City of Nanaimo “Officers Appointment and Delegation Bylaw 2006 No.7031” delegates the authority to issue a TUP to the General Manager of Development Services. Section 7.7 of the Official Community Plan (OCP) allows for the issuance of a TUP on lands designated Industrial, Light Industrial, Commercial, or Urban Node, and the subject property is presently designated Urban Node.

Surrounding land uses include a coffee shop and restaurant to the north at 321 Selby Street, mixed commercial and residential uses across Selby Street to the east, the Nanaimo Conservatory of Music to the south at 375 Selby Street, and the E&N railway separating the property from a multi-family residential building and parking lot to the west.

#### *Public Notification*

Public notification for this application will be completed in accordance with Section 494 of the *Local Government Act*, and includes:

- Posting the Notice in Council's office and on the City's website;
- Publishing the Notice in a local newspaper; and
- Mailing and delivering the Notice to the adjacent property owners and occupants.

## **DISCUSSION**

The subject property contains a 400m<sup>2</sup> building that was originally designed and constructed as an automotive repair building in the 1970s. The previous business, Sidney Tire Ltd., operated as a non-conforming use until it closed in 2007. In that same year, Pioneer Wood Heat Supplies acquired and began utilizing the property as a warehouse for its supplies. At that time, the subject property was zoned C-25 under the "City of Nanaimo Zoning Bylaw 1993 No. 4000" which did not allow warehouse use. No business licence application was made for the warehouse use, and the change of use did not qualify for non-conforming use protection under Division 14 of the *Local Government Act*.

City Staff were made aware of the warehouse operations over the course of 2019 and 2020 when complaints were made regarding the unsightly nature of the property. After being informed that warehouse use is not a permitted use in the DT2 zone, the property owner applied for a Temporary Use Permit. The owner intends to continue utilizing the property on a temporary basis as they search for an alternate location with appropriate zoning for the warehouse use. The property owner has noted a shortage of industrial lands in the region and Staff recognize the limited availability of appropriately zoned properties. The term of the TUP would allow adequate time for the business to relocate.

As part of the TUP, conditions will be secured as outlined in Attachment A, including: no unsecured outdoor storage, screening of storage bins, and maintenance of indoor storage for fire safety. Bonding will be secured for the duration of the TUP.

The applicant is aware that the TUP would allow the use for a two-year period and may be considered for renewal only once. A rezoning application would be required should the applicant wish to continue the use following the expiration of the TUP terms.

## **ATTACHMENTS**

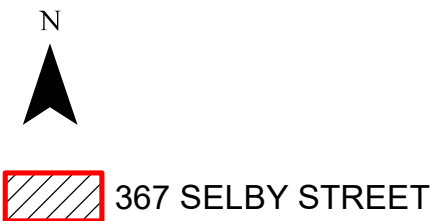
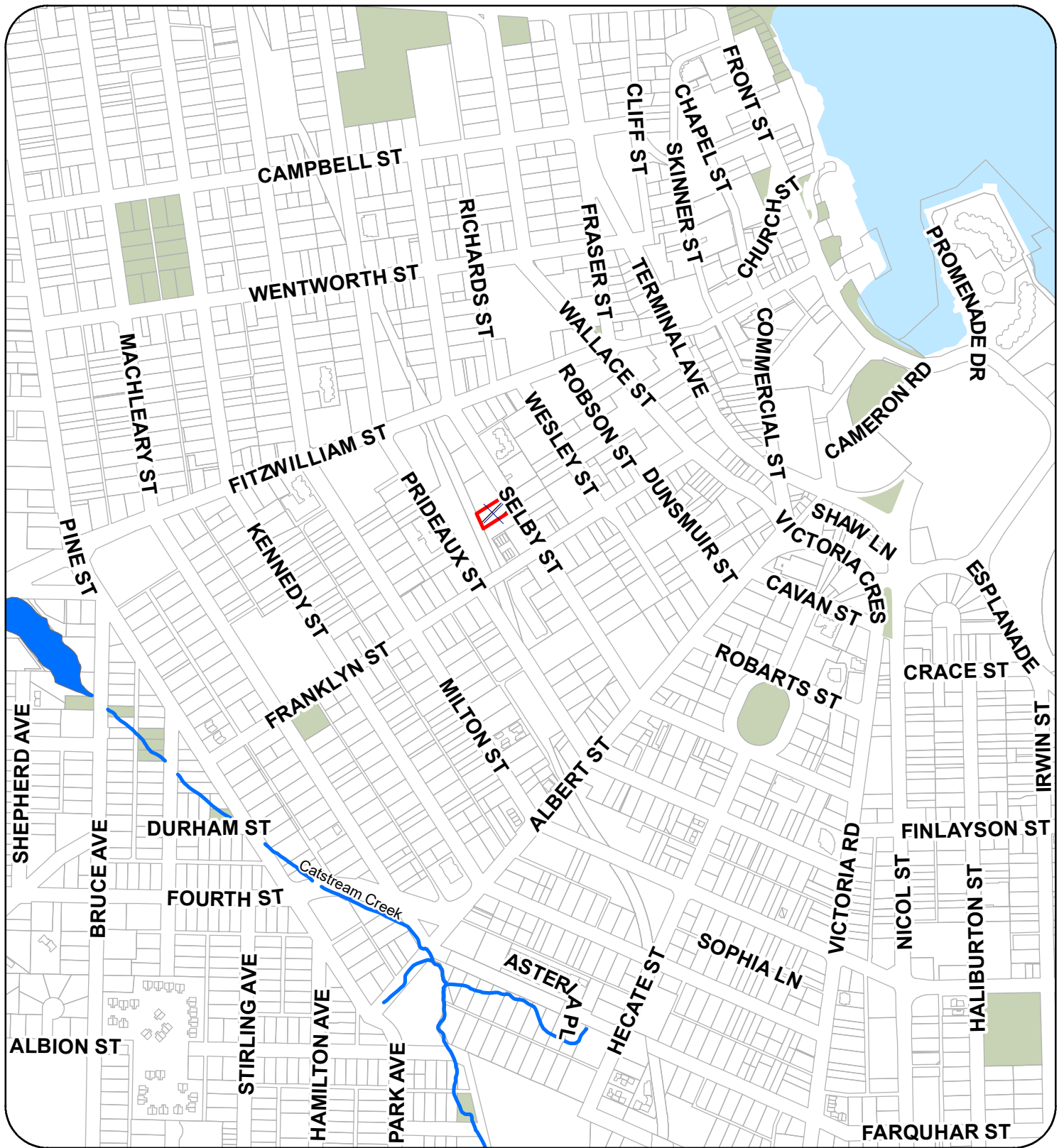
ATTACHMENT A:	Conditions of Permit
ATTACHMENT B:	Context Map
ATTACHMENT C:	Location Plan
ATTACHMENT D:	Site Plan
ATTACHMENT E:	Letter of Rationale
ATTACHMENT F:	Aerial Photo

# **ATTACHMENT A CONDITIONS OF PERMIT**

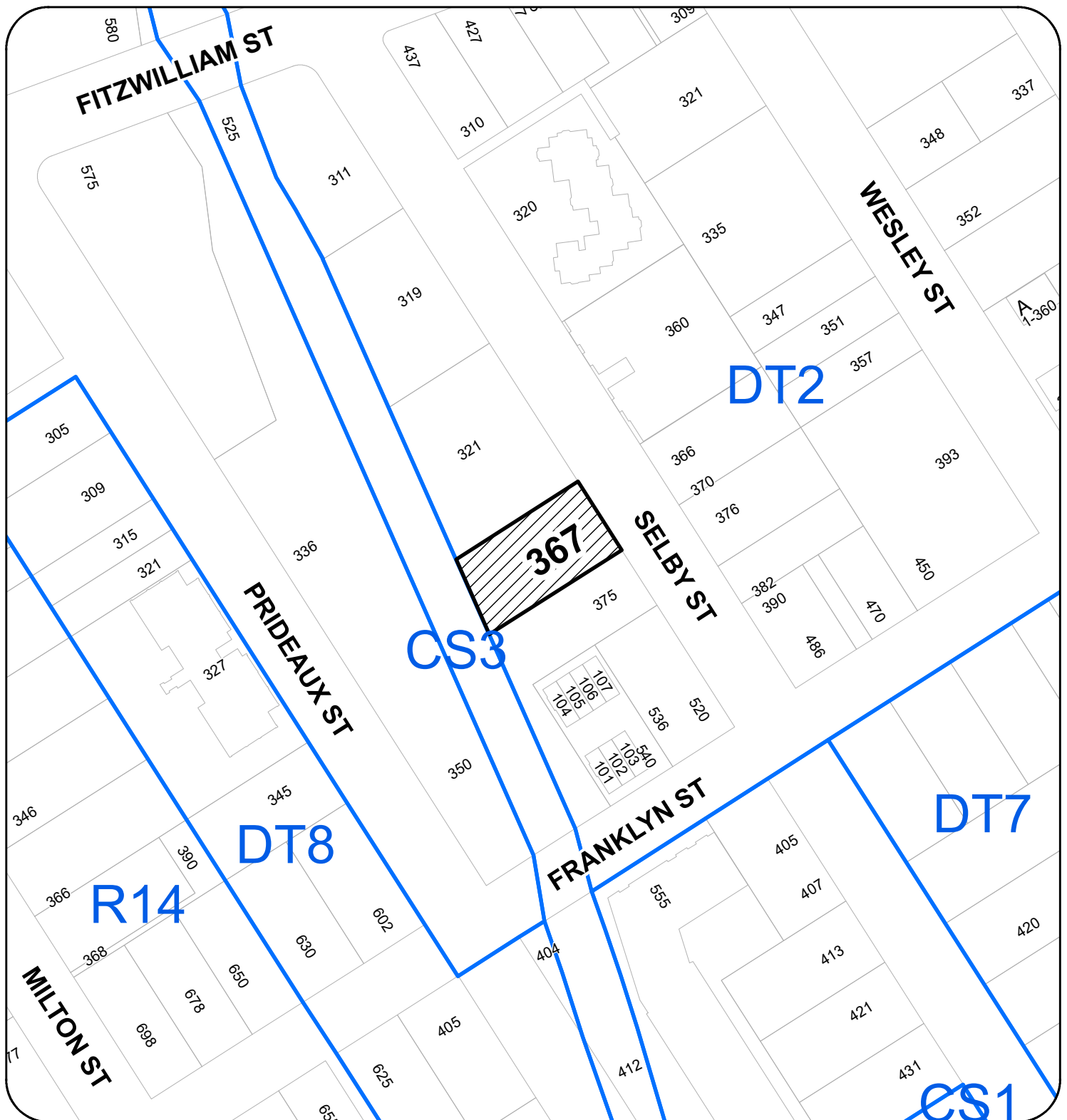
## **CONDITIONS OF PERMIT**

1. The subject property shall be used in accordance with the Site Plan prepared by Pioneer Wood Heat Supplies (Chris Bowen) dated 2021-APR-21, as shown on Attachment D.
2. The Temporary Use Permit allows the following use only: warehouse.
3. The subject property shall be maintained under the following terms for the duration of the Temporary Use Permit:
  - a) Storage of wooden pallets shall not be permitted outdoors;
  - b) Unsecured outdoor storage of waste or other materials shall not be permitted;
  - c) All outdoor bins shall be screened from the street by fencing and will be locked and secured when not in use; and
  - d) Indoor storage is to be maintained in compliance with the BC Fire Code for the storage of combustible waste materials.
4. The hours of operation shall be limited to Monday to Friday, 8:00 a.m. to 7:00 p.m.
5. The Temporary Use Permit is valid for a period of two years and may be considered for renewal once for another two-year period.
6. Upon the expiry of the Temporary Use Permit, unless otherwise permitted by zoning, the use shall immediately cease and all associated items and debris shall be removed from the subject property within 30 days of permit expiry.
7. Bonding with a value of \$5,000 shall be secured for the duration of the Temporary Use Permit period, to be released upon completion of the conditions to the satisfaction of the Director of Development Approvals.

# ATTACHMENT B CONTEXT MAP



# ATTACHMENT C LOCATION PLAN

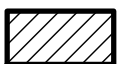


**TEMPORARY USE PERMIT NO. TUP00023**

## LOCATION PLAN

Civic: 367 SELBY STREET

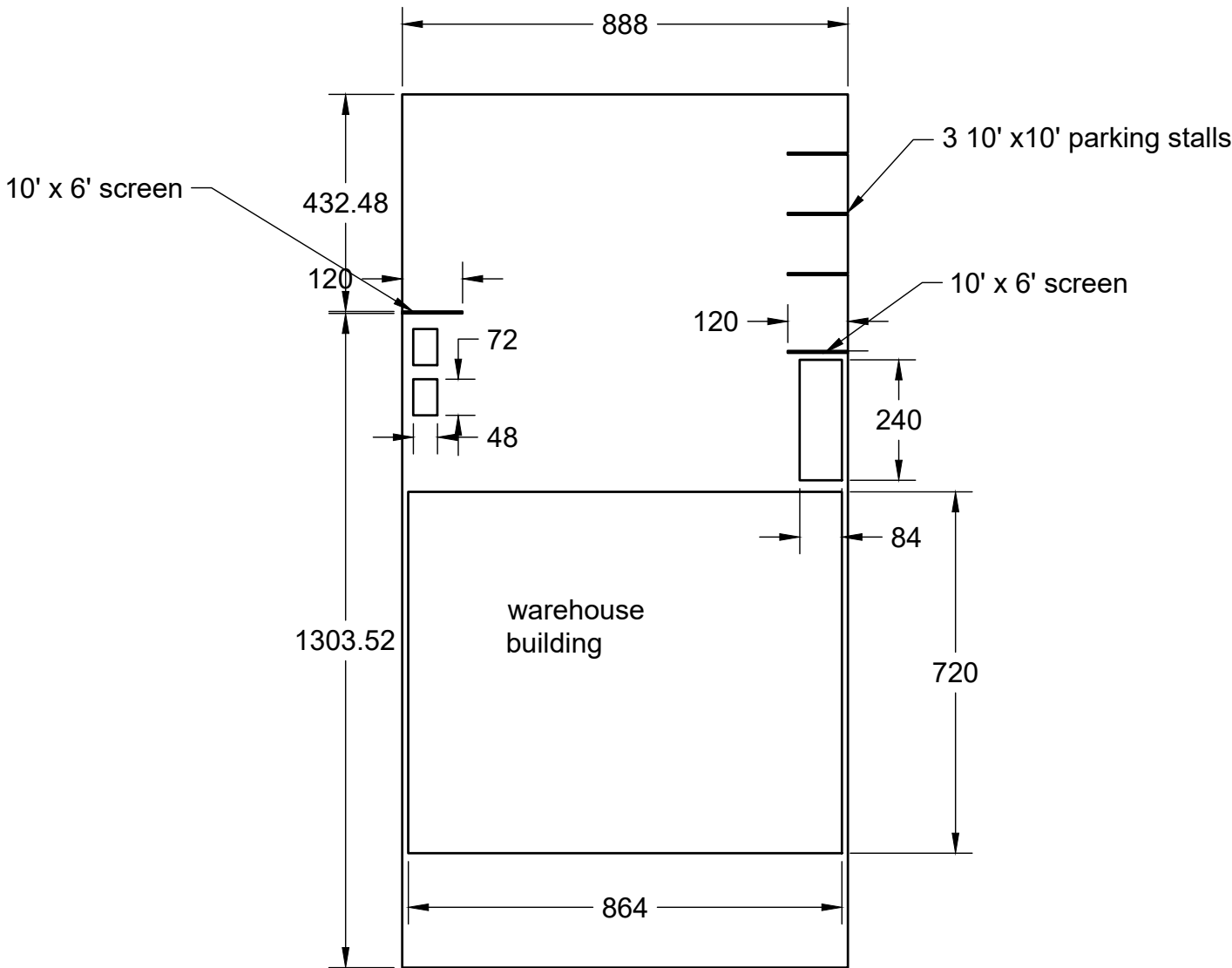
Legal Description: LOT 3, SECTION 1, NANAIMO DISTRICT  
PLAN 27926, EXCEPT PART IN PLAN 28924



Subject Property

ATTACHMENT D  
SITE PLAN

SELBY STREET



PROJECT

Combustion Chamber

TITLE

Ware house Layout

APPROVED

SIZE

CODE

DWG NO

REV

CHECKED

A

DRAWN

Chris Bowen

2021-04-21

SCALE .003

WEIGHT

SHEET 1/1



# ATTACHMENT E LETTER OF RATIONALE

1 of 3

*"We won't be undersold"*

Gas Fireplaces - Gas Grills -  
Wood Stoves - Fireplace  
Inserts - Spas & More



419 North Terminal  
Nanaimo, B.C. V9S 4J8  
Phone: 250.753.2353  
Fax: 250.753.3613

general@pioneerfireplace.com

To Whom It May Concern,

I am writing to you on behalf of Pioneer wood heat supplies. We are asking the city planning office to consider our application for a temporary use permit. We recently discovered that our warehouse facility at 367 Selby Street was not zoned for use as a retail warehouse/ distribution facility, which is what we currently use the facility for and have done so for the past 13 years. In this letter I hope to provide a sound rationale for the continued use of the facility as a retail warehouse/ distribution centre. We would ask that the timeframe allowed by the Temporary use permit as mandated in the city of Nanaimo official community plan 2008 (OCP) be extended to us. Within the OCP it is stated that a 3 year grace period, with the potential for an additional 3 year extension, is offered to organizations who will either relocate or cease to operate within a maximum of six years. If our temporary use permit application is accepted by the city it would allow ample time for us to consider all of our options in regards to relocation, and provide the best opportunity to affect such a relocation with as little disruption to our business operations as possible. We believe that we can do this if given an appropriate amount of time. We also consider this essential to the continuance of our normal business operations.

I will briefly describe both the history of Pioneer wood heat supplies as well as the current operations of the company. This should help to illustrate the key role our warehouse plays in the function of our business. Pioneer wood heat supplies was founded in 1978 in Nanaimo by local entrepreneur Tim Struch. We have maintained a store front in the same location in Nanaimo for the duration of that time period. Over the course of the four plus decades our store has operated in Nanaimo, we have established an excellent reputation for high quality products and service. This reputation has allowed our business to expand beyond the boundaries of Nanaimo into surrounding regions and municipalities. In the late nineties Pioneer opened a second location in Parksville. This was due to the increased demand for our services in the Parksville/ Qualicum area. More recently we have expanded into Campbell River, opening our third store in the fall of 2017. Our current operation employs 34 people directly and indirectly.

Initially Pioneer was able to utilize a rented garage for the warehousing requirements of the original location in Nanaimo. This was sufficient for many years as we held very limited inventory. When the store in Parksville was opened it became quickly apparent that the existing warehouse conditions wouldn't be sufficient for the two stores. We subsequently relocated the Parksville store to a location within the same industrial park that included a modest space for storage. As the stores grew in sales volume it became apparent that a larger warehouse would be required. This led to the purchase of the facility on Selby Street which would be used as a central distribution warehouse for both of our stores. With the addition of the store in Campbell River the importance and necessity of this warehouse has been amplified. Due to the fact that none of our store fronts have warehousing capacity that is sufficient to maintain the needs of each individual location, our warehouse on Selby Street has been critical for the distribution of our vast array of products to each individual location. In addition a centrally located facility such as this allows for accurate inventory controls which are essential to our business. Without

RECEIVED  
TUP23  
2020-JAN-13  
Current Planning

an effective warehouse/ distribution facility such as we currently operate, Pioneer wood heat supplies would, quite simply, be unable to function.

Over the course of the last six months to a year, we have discussed internally the need for a larger building to facilitate our current operations as well as any future growth. These conversations occurred long before the zoning issue with the city had arose. cursory investigations into the availability of adequate warehousing facilities has demonstrated to us the serious lack of available light industrial space within the Nanaimo city limits. We have looked at a number of facilities that were either for lease or for purchase and found that each of them were, for one reason or another, completely inadequate for our needs. Because of the lack of success we initially experienced in this regard we have begun to consider other options, such as building a facility on our own. Regardless of what we ultimately decide to do to improve our warehousing/ distribution situation, we will require a significant amount of time to explore and actuate an effective strategy. This is why we are applying for a temporary use permit.

Given the outlook that the city planning department has outlined in the official community plan 2008, I have endeavored to conceive of how our warehouse facility fits into that vision as it currently exists and how it could be modestly improved in order to fit in better with the overriding vision for the community. I have reviewed the policies for the downtown centre urban node in the hopes of finding some aspect in which our building and the use of this building may conform to those policy directives. Unfortunately the descriptions within this policy statement are vague and non-specific. That is unless we could possibly qualify as a greenspace, a government agency or some form of tourist attraction. As we qualify as none of those I feel that relying on our existing strengths and positive impact to the broader community as our best approach to addressing this issue.

As I mentioned earlier in this correspondence, Pioneer wood heat supplies has operated our warehouse/ distribution facility at 367 Selby Street for the past 13 years. There was no intention on our part to violate city bylaws, we simply misunderstood what was strictly allowed in terms of usage at that location. At the time the building was purchased the existing bylaw C25 listed an expansive set of potential uses both commercial and residential. We at Pioneer assumed that open commercial use would include warehousing. I would also note that free standing retail warehouses are allowed in other urban nodes within the city, it seems odd that this would be excluded from the downtown urban node considering that this area is to be the primary urban node in Nanaimo. As the civic heart of Nanaimo it is meant to be a "welcoming place for residents to work, live and visit."

Over the course of the last 13 years there have been no complaints or issues raised by community members due to the professionalism or conduct of Pioneers business activities. We enjoy a good relationship with surrounding business' and residents. As an example of this we recently opened access to our parking lot for a function at the Selby street mission which is located across the street from our warehouse. All complaints that we have received have emanated from the fire department responding to issues that are strictly related to the homelessness and drug abuse problems that have become a blight on the surrounding neighbourhood. These complaints have occurred primarily over the course of the last two years as the homeless problem has escalated. Our employees deal with the consequence of these problems on a daily basis. As a result of these illegal activities we have engaged with the RCMP to come up with ways in which we can secure our property more effectively. We have

also been advised to engage the police more frequently when dealing with these issues. This has led to a noticeable reduction in criminal activity at our warehouse location.

Despite the seemingly unjust manner in which our warehouse zoning infraction has come to the attention of the authorities, we at Pioneer recognize that if we are to receive a temporary use permit for our warehouse we will have to make certain upgrades to the facility. There are several measures that we could take immediately in order to improve the aesthetics and security of the building.

- 1) Install secure hard top dumpsters for our garbage and recycling.
- 2) Provide screening material for all dumpsters including our large metal recycling bin. (This bin is used to recycle old inefficient heating appliances in accordance with the city of Nanaimo woodstove exchange program). This may consist of chain link fencing with vertical screening installed.
- 3) Apply new paint to the front of the building in order to increase the appeal of the structure. Design can be discussed.
- 4) Organize regular disposal of shipping pallets and other such material that may attract people to our property.

These are few initial suggestions we can offer to bring the building a little closer to what the city requires for this particular area. To summarize, Pioneer wood heat supplies has been a good corporate citizen in the city of Nanaimo for the past 42 years. We have operated our warehouse facility with the utmost of professionalism and good faith for the past 13 years. In recent years with the increase of criminal activity in the area due to drug abuse and rampant homelessness our warehouse has become a target of petty crime and vandalism. As a result authorities such as the fire department and bylaw enforcement have decided that we are the problem and that we should leave the area. The discovery that the zoning in this particular area did not allow for warehouse use was a big surprise to us, it must have been equally as big a surprise for bylaw enforcement as we have had several meetings with them over the last couple of years with no mention of bylaw contravention. Despite all of this, we at Pioneer agree that we have to relocate our warehouse/distribution. We are willing to make, and accept the necessity of making cosmetic and security improvements to our facility. Our hope is that we will be able to accommodate the wishes of the city planners. All we require is an appropriate length of time to relocate in an organized and orderly fashion. With this in mind we hope that you positively consider our application for a temporary use permit.

Thank You

Chris Bowen

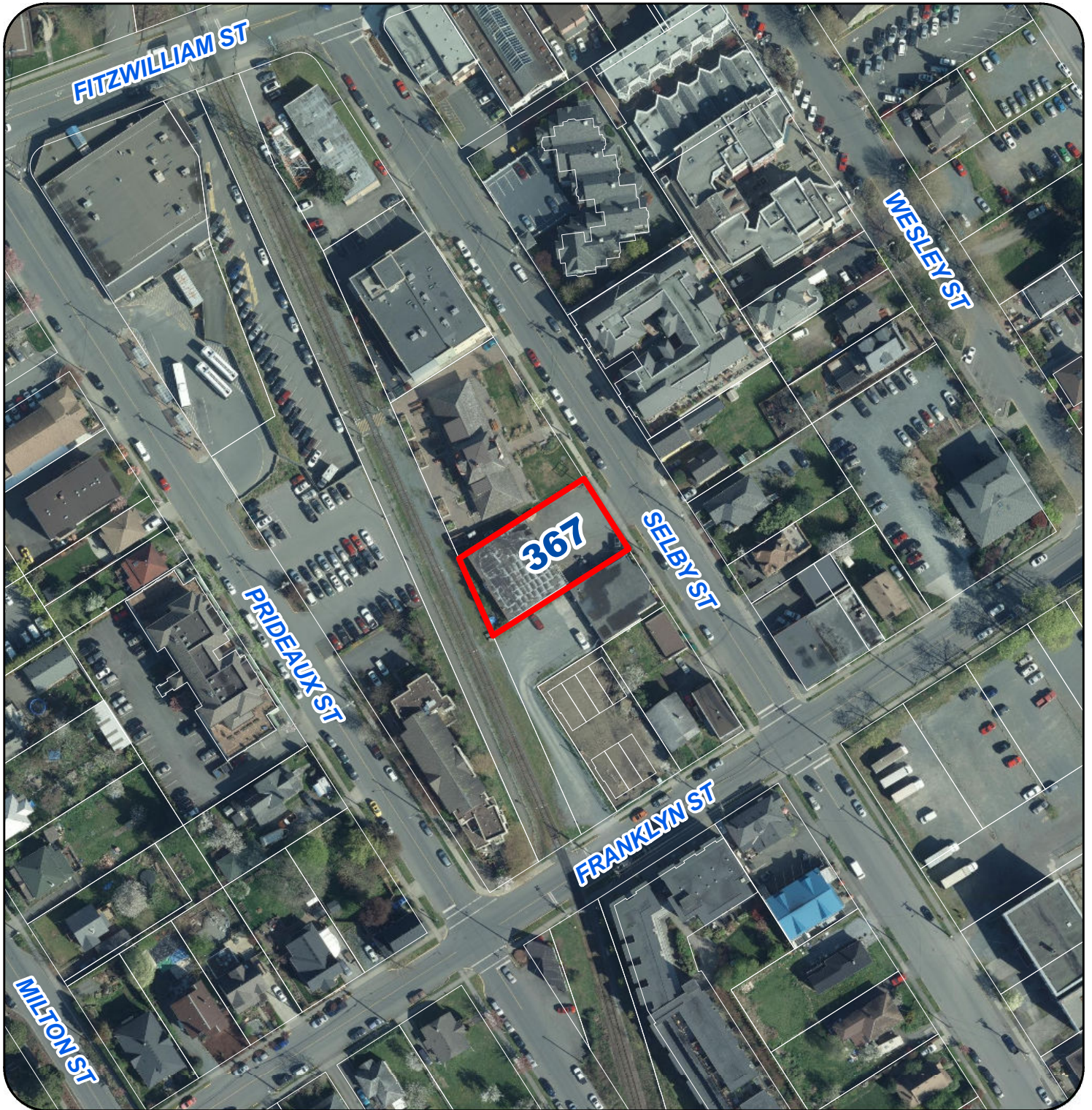
General Manager

(250) 753-2353

chrisb@pioneerfireplace.com



ATTACHMENT F  
AERIAL PHOTO



TEMPORARY USE PERMIT NO. TUP00023



 Subject Property