



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** November 23, 2023  
**MEETING TYPE & DATE** Electoral Area Services Committee of December 6, 2023  
**FROM:** Development Services Division  
Land Use Services Department  
**SUBJECT:** Application No. 03-H-16RS (13271 Simpson Road/PID: 008-903-603)  
**FILE:** 03-H-16RS

## **PURPOSE/INTRODUCTION**

The purpose of this report is to recommend an updated set of requirements for approval of the OCP and zoning amendment application for 13271 Simpson Road in Electoral Area H.

## **RECOMMENDED RESOLUTION**

That it be recommended to the Board:

1. That 1<sup>st</sup> and 2<sup>nd</sup> readings of “CVRD Bylaw No. 4194 – Electoral Area H – North Oyster/Diamond Official Community Plan Amendment Bylaw (13271 Simpson Road), 2018”, be rescinded.
2. That “CVRD Bylaw No. 4194 – Electoral Area H – North Oyster/Diamond Official Community Plan Amendment Bylaw (13271 Simpson Road), 2018”, be revised as set out in CVRD Bylaw No. 4194 attached as Attachment A to this report dated November 23, 2023.
3. That CVRD Bylaw No. 4194, as revised this day, be referred to the Board for consideration of 1<sup>st</sup> and 2<sup>nd</sup> readings.
4. That 2<sup>nd</sup> reading of “CVRD Bylaw No. 4195 – Electoral Area H – North Oyster/Diamond Zoning Amendment Bylaw (13271 Simpson Road), 2018”, be rescinded.
5. That “CVRD Bylaw No. 4195 – Electoral Area H – North Oyster/Diamond Zoning Amendment Bylaw (13271 Simpson Road), 2018”, be revised as set out in CVRD Bylaw No. 4195 attached as Attachment B to this report dated November 23, 2023.
6. That CVRD Bylaw No. 4195, as revised this day, be referred to the Board for consideration of 2<sup>nd</sup> reading.
7. That the applicants provide to the CVRD the following additional information at its expense for review by staff within 120 calendar days and consideration by the Board prior to a public hearing being scheduled for CVRD Bylaw No. 4194 and CVRD Bylaw No. 4195:
  - a. An updated Environmental Management Plan (EMP) prepared by an appropriate professional, which shall include information on how the EMP addresses the protection of the Cassidy Aquifer, and updated spill response procedures, specifically addressing the scenario of contamination of the groundwater.
  - b. A Stormwater Management Plan (SWMP) prepared by an appropriate professional, which includes a stormwater management system designed to supplement works already constructed and to retain all precipitation on-site. The plan shall specify the design standard (10-year occurrence interval recommended) of the proposed system. The plan shall also include a maintenance and monitoring plan for the proposed system, with a requirement for regular maintenance intervals, and each maintenance event (typically a

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- clearing of the oils from oil-water separators) to be reported to the CVRD within 30 calendar days.
- c. A Conditions and Impact Assessment prepared by a Qualified Environmental Professional (QEP) to assess and determine if any streams (as defined by the Riparian Areas Protection Regulation) or environmentally sensitive areas are on, or adjacent to, the subject property and to determine any corresponding watercourse and/or environmentally sensitive area setbacks.
  - d. A Fire Protection Report prepared by an appropriate professional that addresses the impact of the development on the subject property on fire services, which shall include the installation of firefighting water tank(s) with a minimum total capacity of 66,000 gallons with a fire hydrant or other appropriate connection for fire protection and a system designed for the catchment to be able to handle fire suppression activities.
8. That a revised draft covenant in favour of the CVRD be agreed to in writing by the applicants and the landowners within 180 calendar days that addresses the following, to be registered on the subject property if the CVRD adopts CVRD Bylaw No. 4194 and CVRD Bylaw No. 4195:
- a. The establishment of an area on the subject property at the entrance of the subject property for after-hours scrap metal drop-offs from the public. This area shall be fully enclosed and screened with a 1.8-metre high solid fence.
  - b. Existing groundwater monitoring wells BH15-03 and BH15-01 be tested by the applicant at least every 12 months, with annual reporting to the CVRD.
  - c. The securing of the proposed works and measures in the plans and reports required to be provided by the applicant to the CVRD as set out above, including the installation and maintenance of any works and monitoring, testing and reporting requirements, as applicable.
9. That all costs associated with the preparation and registration of the covenant be borne by the applicant and paid to the CVRD if the CVRD adopts CVRD Bylaw No. 4194 and CVRD Bylaw No. 4195.

## **BACKGROUND**

Attachment C provides an approximate timeline of OCP and Zoning Amendment Application No. 03-H-16RS for 13271 Simpson Road, including previous reports to the EASC, aerial photos and bylaw reading/adoption dates. Links or attachment of previous reports include:

- 2017-06-07 EASC Report – Attachment D
- [2018-03-07 EASC Report](#)
- [2019-08-07 EASC Report](#)
- [2021-07-07 EASC Report](#)
- [2023-05-03 EASC Report](#)

On April 11, 2018, the Board granted 1<sup>st</sup> and 2<sup>nd</sup> readings of the following:

- Official Community Plan Bylaw No. 4194 – to amend Area H OCP Bylaw 1497 by designating this site as a Commercial/Industrial Development Permit Area (Attachment E).
- Zoning Amendment Bylaw No. 4195 – to amend Area H Zoning Bylaw 1020 by rezoning the subject property to the east of the Trans-Canada Highway as I-4 Industrial Recycling Zone, to permit “auto recycling yard” and “metal recycling yard” (Attachment F).

In 2018, the Board directed staff to work with the applicant to develop a covenant to supplement the provision of the above-noted bylaws, specifically to mitigate the visual and environmental effects of the land use that Bylaw Nos. 4194 and 4195 would have the effect of approving. Under Development Applications Procedures Bylaw No. 4483, all legal costs associated with the preparation, finalization and registration of legal documents must be paid by the applicant.

A draft covenant was prepared that required hard surfacing of parts of the site where vehicle storage and dismantling take place, drainage collection, maintenance and monitoring and reporting of test results to the CVRD.

The subsequent EASC report in 2019 addressed the applicant's proposal to have a "land improvement agreement" in lieu of a covenant, which was not accepted by the EASC/Board. Further EASC reports addressed updates and word variations of the proposed covenant. These reports became necessary because the applicant hard-surfaced portions of the site and installed a drainage collection system with oil/water separators in 2020 (without obtaining a required Development Permit) (Attachment G – Site Plan).

In 2021, the Board directed that the application be referred to an in-person public information meeting once the applicants had agreed to the wording of the draft covenant. This written approval occurred early in 2023 and the public information meeting was held in Ladysmith on June 19<sup>th</sup>. The EASC received the minutes of the public information meeting on July 19, 2023.

## **ANALYSIS**

### ***Public Meeting***

The public information meeting minutes indicate that concerns remain about the suitability of the site for the current use, for numerous reasons. The minutes also indicate dissatisfaction with the content of the proposed covenant. The covenant was proposed to address aesthetic and environmental matters that could not be addressed in zoning, and the proposed requirements were arrived at after several previous iterations appeared to be insufficient.

Please note, the minutes were presented to the EASC for information on July 19, 2023. The minutes presented only contained the questions and answers that were provided at the public information meeting, but did not contain the comments that were also received (but not addressed) at the meeting. All of the minutes and comments have been compiled and made available on the PlanYourCowichan application webpage here:

<https://www.planyourcowichan.ca/3-h-16-rs-13271-simpson-rd>

### ***Referral Agency Responses***

Referrals were sent to applicable agencies in 2017 during the initial analysis of the application. In 2023, internal CVRD divisions and external referral agencies expressed interest in having another opportunity to comment on this application, and referrals were redistributed and comments were received from the following:

- CVRD Environmental Services
- CVRD Community Planning
- CVRD Building
- Agricultural Land Commission
- BC Transit
- Ministry of Environment and Climate Change Strategy, Compliance and Environmental Enforcement
- Ministry of Environment and Climate Change Strategy, Aquatic Habitat Branch
- Ministry of Transportation and Infrastructure

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- |                                    |                                |
|------------------------------------|--------------------------------|
| • Island Health                    | • North Oyster Fire Department |
| • Ministry of Agriculture and Food | • Ts'uubaa-asatx Nation        |

Please refer to Attachment H – Referral Response Summary

***Ministry of Environment and Climate Change Strategy – Spill Recovery Response Letter***

In July 2023, the CVRD received correspondence from the Ministry of Environment and Climate Change Strategy regarding the status of spill recovery associated with the monitoring of potential migration of contaminants from the on-site fire incident that occurred in September 2020. The letter states that chemical results were “within the maximum allowable concentrations for health-related parameters”. The Ministry further states they will maintain regulatory oversight, and that Island Health and the CVRD will provide guidance for monitoring the operations of the site, including rezoning and compliance monitoring.

Please refer to Attachment I – Letter from Ministry of Environment and Climate Change Strategy

***Recommendations: Proposed Amendments to the Draft Bylaws and Covenant***

In order for the application to proceed, the following is recommended:

**1. OCP Amendment Bylaw**

1<sup>st</sup> and 2<sup>nd</sup> readings of CVRD Bylaw No. 4194 – Electoral Area H – North Oyster/Diamond Zoning Amendment Bylaw (13271 Simpson Road), 2018 were given in 2018. CVRD Bylaw No. 4194 was drafted to amend the Area H OCP Bylaw No. 1497, which in 2021 was repealed and replaced with “CVRD Bylaw No. 4270 – Cowichan Valley Regional District Official Community Plan for the Electoral Areas Bylaw, 2021”. It is, therefore, recommended that 1<sup>st</sup> and 2<sup>nd</sup> readings of CVRD Bylaw No. 4194 be rescinded and a revised CVRD Bylaw No. 4194 be considered for 1<sup>st</sup> and 2<sup>nd</sup> readings to amend “CVRD Bylaw No. 4270 – Cowichan Valley Regional District Official Community Plan for the Electoral Areas Bylaw, 2021”. The proposed revisions include:

- Amend Schedule C – Development Permit Areas to add the portion of the subject property to the east of the Trans-Canada Highway to DPA 12: Industrial Development; and
- Amend Schedule C - Development Permit Areas, Development Permit Area 12: Industrial Development by deleting paragraph 4 for area H under “Development Permit Area” and replacing it with the following to correct typos and replacing ‘Commercial/Institutional’ with ‘Commercial’ or ‘Industrial’, as shown below:

“In Area H, this DPA applies to the area bordering the Regional District of Nanaimo along the Trans-Canada Highway designated as ‘Commercial’ or ‘Industrial’ and the lands zoned I-2 on Brenton-Page Road (Ladysmith Harbour).”

CVRD Bylaw No. 1497 will require a Public Hearing prior to 3<sup>rd</sup> reading.

CVRD Bylaw No. 4194 has been considered in conjunction with the CVRD Capital Expenditure Program and Solid Waste Management Plan.

**2. Zoning Amendment Bylaw**

1<sup>st</sup> and 2<sup>nd</sup> readings of CVRD Bylaw No. 4195 – Electoral Area H – North Oyster/Diamond Zoning Amendment Bylaw (13271 Simpson Road), 2018 were given in 2018, and will require a Public Hearing prior to 3<sup>rd</sup> reading. This bylaw was to add a new I-4 Industrial Recycling

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Zone to permit “auto recycling yard” and “metal recycling yard”, along with all of the uses currently permitted in the existing I-1 zone.

Since then, the new Comprehensive Zoning Bylaw project has begun, which will harmonize and modernize 8 of the nine Electoral Area zoning bylaws (excluding the Area D Marine Zoning Bylaw) into one comprehensive bylaw, and the total number of zones will be reduced. Until the new Comprehensive Zoning Bylaw is officially adopted, it will be much simpler to add site-specific uses to existing zones, rather than create new zones, which are anticipated to change in the near future through the zoning harmonization and modernization process.

To move forward, it is recommended that 2<sup>nd</sup> reading of CVRD Bylaw No. 4195 be rescinded and a revised CVRD Bylaw No. 4195 be considered for 2<sup>nd</sup> reading to amend Zoning Bylaw No. 1020 to add site-specific provisions to the existing Light Industrial (I-1) zone that will permit the uses that were initially proposed (auto recycling yard and metal recycling yard) on the subject property with some additional site-specific conditions of use, which include:

- A maximum height of 9 m for all vehicles, metal and materials stored outside;
- Visual screening and landscaping along the Trans-Canada Highway and Simpson Road frontages, including a 1.8 m high solid fence combined with at least one row of evergreen trees;
- Despite the setbacks of the I-1 zone, setbacks for buildings and structures where the adjacent parcel is zoned Agricultural is 15 meters; and
- Where an adjacent parcel is in the Agricultural Land Reserve, screening and landscaping along that parcel boundary shall be provided to mask or separate uses consisting of an 8-meter vegetated buffer on the property.

CVRD Bylaw No. 4195 already contains the following regulation, which is carried forward in the revised bylaw as a site-specific condition of use:

- The surface of the ground where end-of-life vehicles or non-ferrous materials are stored must be paved and serviced by functioning oil-water separators.

CVRD Bylaw No. 4195 also currently proposes a permitted 15-meter maximum height for structures (does not mention buildings) which is higher than the existing height for buildings/structures permitted in the zone of 10 meters (Section 5.8 Height – Default Regulations and Exceptions of CVRD Bylaw No. 1020). The proposed revisions to CVRD Bylaw No. 4195 would reduce the maximum height to 10 meters for both buildings and structures and would apply to all properties in the I-1 zone.

### **3. Additional Application Information & Site Works**

Recent referral responses (Attachment H) identify additional information that could be requested under CVRD Bylaw No. 3540 – Development Approval Information Bylaw, 2011 that may be used to evaluate the impact of the proposal on the community. The following information may be requested:

- An updated Environmental Management Plan to address the protection of, and work to avoid contamination of, the aquifer.
- A Stormwater Management Plan (SWMP), which includes a stormwater management system designed to supplement the paving works that were

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completed on site in 2021 (which was not approved through a required Development Permit), as well as the other development that exists on the site.

*A SWMP is an integral component to any development, and includes provisions to minimize the impact of contaminated runoff flowing into waterbodies and impacting aquifers.*

- A Conditions and Impact Assessment (CIA) prepared a Qualified Environmental Professional (QEP) to assess and determine if any streams (as defined by the Riparian Areas Protection Regulation) or environmentally sensitive areas are on, or adjacent to, the subject property and to determine any corresponding watercourse setbacks.

*The CIA will ensure that any regulatory restrictions are known and informed prior to final consideration of the application.*

- A Fire Protection Report that addresses the impact of the development of fire services, which includes the the installation of firefighting water tank(s) with a minimum total capacity of 66,000 gallons with a fire hydrant or other appropriate connection for fire protection and a system designed for the catchment to be able to handle fire suppression activities (this should be designed in conjunction with the above-noted SWMP).

*These measures are to ensure that an adequate water supply is available, if required for an emergency event.*

#### **4. Covenant**

A covenant was drafted and presented at the [2023-05-03 EASC](#) meeting. In light of the recent referral responses and the comments received at the June 2023 public information meeting, it is recommended that the covenant be revised to include the following:

- Establish an area at the entrance of the subject property (directly on the subject property) for after-hours scrap metal drop-offs from the public. This area should be fully enclosed and screened with a 1.8m high solid fence.

*It has been noted that the public drops off materials on road right-of-way during non-business hours. To solve this issue, the applicant has placed a drop-off bin on the Simpson Road frontage area during non-business hours. This bin should be placed on the subject property itself and removed from the road right-of-way.*

- Existing groundwater monitoring wells BH15-03 and BH15-01 be tested by the applicant at least every 12 months, with annual reporting to the CVRD.

*To ensure routine and ongoing monitoring of the groundwater.*

- Secure the proposed works and measures in the plans and reports requested (under “3. Additional Application Information and Site Works” above) to be provided by the applicant to the CVRD, including the installation and maintenance of any works and monitoring, testing and reporting requirements, as stated in the requested reports.

*It is recommended that the owner and applicant agree to the changes to the proposed covenant within 180 calendar days in order to ensure this application process is not further delayed.*

#### **Summary**

This OCP and zoning amendment application raises the fundamental question as to the suitability of this site for the requested use. Clearly it is a challenging location from a variety of perspectives, including those of the tenant, owing to the shallow unconfined aquifer, the unusual lot shape, the

proximity to the airport and the high visibility of the site. The proposed bylaws and covenant amendments work to address these challenges.

The proposed covenant would not be required by the CVRD if this application is not approved; however, the insights that might be gained through the proposed covenant's monitoring program are themselves not a sufficient rationale to proceed with an approval. One or more Provincial agencies may already have the nominal or actual ability to require or access this information under their own regulatory regimes.

Option 1 involves revisions to the draft covenant, as well as revisions to the OCP amendment and zoning amendment bylaws. This work would require the timely cooperation of the applicant.

Option 2 would be to deny the application and investigate non-conforming uses, buildings and structures on the subject property.

### ***Options***

#### **Option 1:**

As listed above under "Recommended Resolution".

#### **Option 2:**

That it be recommended to the Board that Application No. 03-H-16RS (13271 Simpson Road), be denied.

### **FINANCIAL CONSIDERATIONS**

N/A

### **COMMUNICATION CONSIDERATIONS**

N/A

### **STRATEGIC/BUSINESS PLAN CONSIDERATIONS**

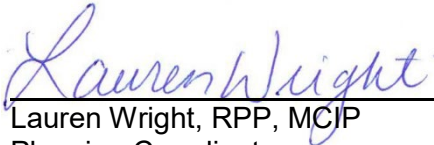
N/A

### **Referred to (upon completion):**


- ☐ Community Services (*Cowichan Community Centre, Cowichan Lake Recreation, South Cowichan Recreation, Arts & Culture, Facilities & Transit*)
- ☐ Corporate Services (*Finance, Human Resources, Information Technology, Legislative Services*)
- ☐ Operations (*Utilities, Parks & Trails, Recycling & Waste Management*)
- ☐ Land Use Services (*Community Planning, Strategic Initiatives, Development Services, Building Inspection & Bylaw Enforcement*)
- ☐ Strategic Services (*Communications & Engagement, Economic Development, Emergency Management, Environmental Services*)

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Prepared by:

  
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Reviewed for form and content and approved for submission to the Committee:

Resolution:

☒ Corporate Officer

Financial Considerations:

☒ Chief Financial Officer

**ATTACHMENTS:**

- Attachment A – Proposed Revised CVRD Bylaw No. 4194
- Attachment B – Proposed Revised CVRD Bylaw No. 4195
- Attachment C – Subject Property Timeline
- Attachment D – 2017-06-07 EASC Report
- Attachment E – CVRD Bylaw No. 4194 – Electoral Area H – North Oyster/Diamond Official  
Community Plan Amendment Bylaw (13271 Simpson Road), 2018
- Attachment F - CVRD Bylaw No. 4195 – Electoral Area H – North Oyster/Diamond Zoning  
Amendment Bylaw (13271 Simpson Road), 2018
- Attachment G – Site Plan
- Attachment H – Referral Response Summary
- Attachment I – Letter from Ministry of Environment





## COWICHAN VALLEY REGIONAL DISTRICT

### BYLAW No. 4194

**A Bylaw ~~for the Purpose of Amending Official Community Plan~~ to amend CVRD Bylaw No. 14974270 – Cowichan Valley Regional District Official Community Plan for the Electoral Areas Bylaw, 2021, Applicable to Electoral Area H – North Oyster/Diamond**

**WHEREAS** the *Local Government Act*, hereafter referred to as the "Act", as amended, empowers the Regional Board to adopt and amend official community plan bylaws;

**AND WHEREAS** the Board of the Cowichan Valley Regional District (CVRD) has adopted an official community plan bylaw for the Regional District's Electoral Areas, that being –H– North Oyster/Diamond, that being Official Community Plan Bylaw No. 1497 CVRD Bylaw No. 4270 – Cowichan Valley Regional District Official Community Plan for the Electoral Areas Bylaw, 2021;

**AND WHEREAS** the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the Act;

**AND WHEREAS** after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Official Community Plan Bylaw No. 14974270;

**NOW THEREFORE** the Board of Directors of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

#### 1. CITATION

This bylaw shall be cited for all purposes as "**CVRD Bylaw No. 4194 – Electoral Area H – Cowichan Valley Regional District Official Community Plan for the Electoral Areas Bylaw North Oyster/Diamond Official Community Plan Amendment Bylaw (13271 Simpson Road), 2018**".

#### 2. AMENDMENTS

Cowichan Valley Regional District CVRD Official Community Plan Bylaw No. 14974270 – Cowichan Valley Regional District Official Community Plan for the Electoral Areas Bylaw, 2021, as amended from time to time, is hereby amended as follows: outlined on the attached Schedule A:

- a. Schedule C – Development Permit Areas, Development Permit Area 12: Industrial Development by deleting paragraph 4 for area H under "Development Permit Area" and replacing it with the following:

"In Area H, this DPA applies to the area bordering the Regional District of Nanaimo along

the Trans-Canada Highway designated as 'Commercial' or 'Industrial' and the lands zoned I-2 on Brenton-Page Road (Ladysmith Harbour)."

- a.b. Schedule UDPA12 Industrial Development Index Regional (Excluding the Gulf Islands) and UDPA12.1 Industrial Development – Area H by extending the 'Industrial Development – ID' development permit area designation to the portion of the property to the east side of the Trans-Canada Highway legally described as: THAT PART OF LOT 9 OYSTER DISTRICT LYING TO THE WEST OF THE WESTERLY BOUNDARY OF LOT 1 PLAN 2169 AND TO THE SOUTH OF THE SOUTHERLY BOUNDARY OF LOT 3 OF SAID PLAN EXCEPT THE SOUTH 10 CHAINS THEREOF AND EXCEPT PLAN 50801 AND VIP76340 (PID: 008-903-603) as indicated in bold and shaded on the figure attached as Schedule A to this bylaw.

### 3. **CAPITAL EXPENDITURE PROGRAM**

This bylaw has been examined in light of the most recent Capital Expenditure Program and Solid Waste Management Plan of the Cowichan Valley Regional District and is consistent therewith.

**4. FORCE AND EFFECT**

This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME this 11<sup>th</sup> day of April, 2018.

READ A SECOND TIME this 11<sup>th</sup> day of April, 2018.

READ A THIRD TIME this \_\_\_\_\_ day of \_\_\_\_\_, ~~2018~~XXXX.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, ~~2018~~XXXX.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Corporate Secretary

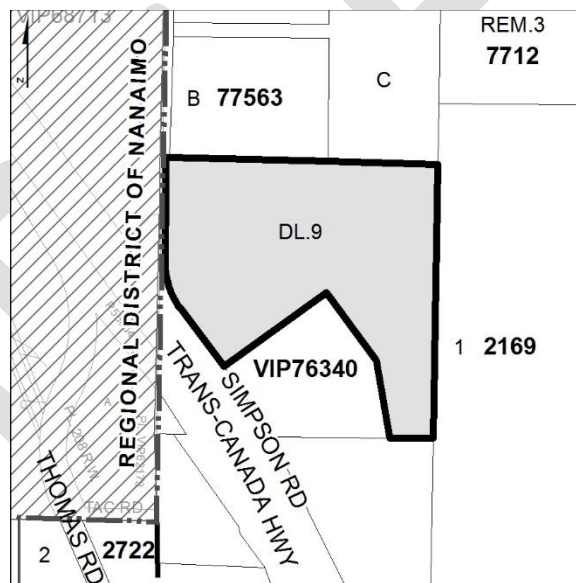


## SCHEDULE "A"

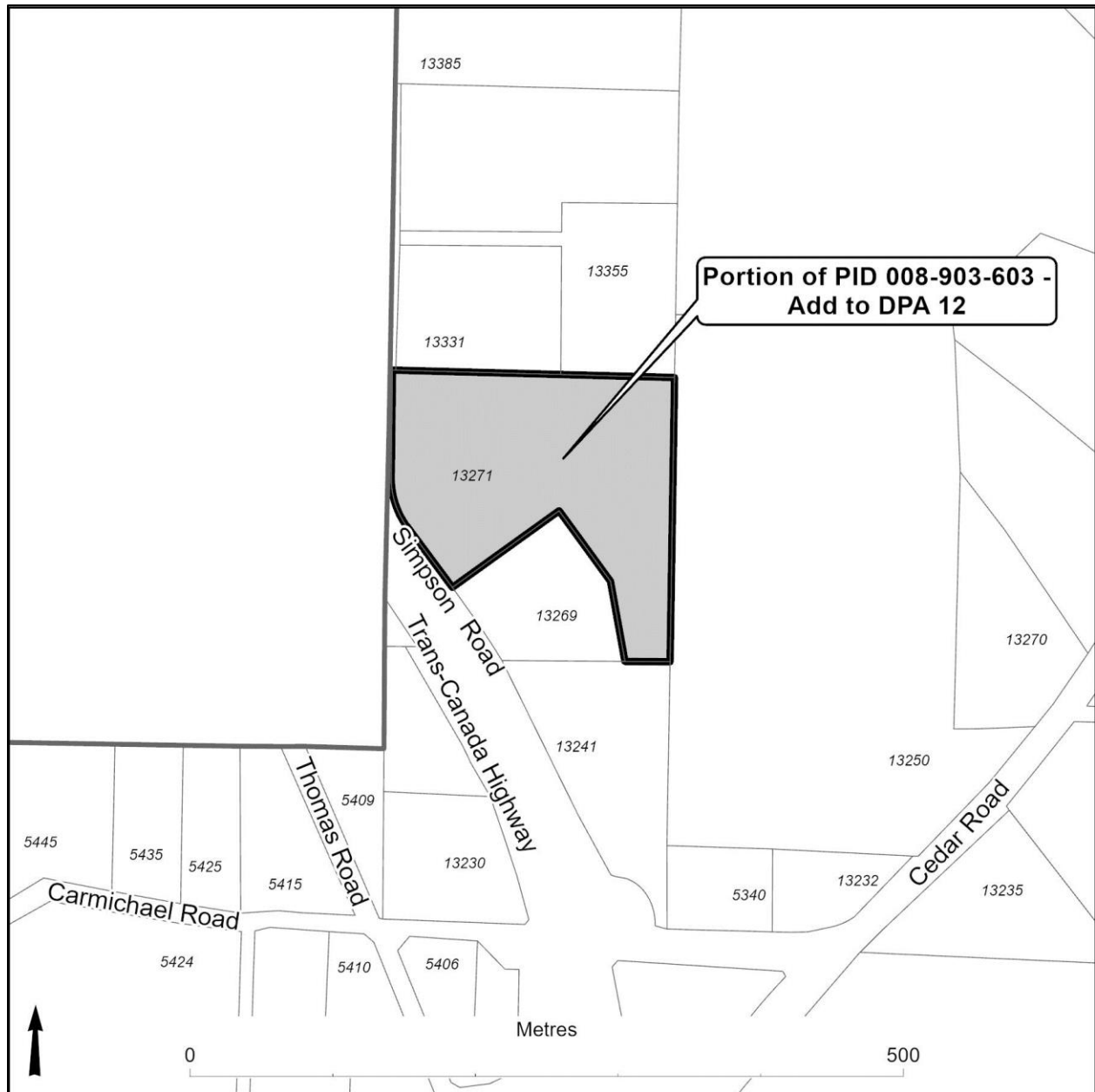
To CVRD Bylaw No. 4194

~~Schedule A to Official Community Plan Bylaw No. 1497, is hereby amended as follows:~~

- ~~1. That Figure 12, "Commercial/Industrial Development Permit Area" be amended to include the portion of That Part of Lot 9, Oyster District, Lying to the West of the Westerly Boundary of Lot 1, Plan 2169 and to the South of the Southerly Boundary of Lot 3 of Said Plan Except The South 10 Chains Thereof and Except Plan 50801 and VIP76340 (PID: 008-903-603)~~



MAP TO BE REPLACED WITH NEW MAP BELOW





## COWICHAN VALLEY REGIONAL DISTRICT

### BYLAW No. 4195

#### A Bylaw for the Purpose of Amending Zoning Bylaw No. 1020 Applicable to Electoral Area H – North Oyster/Diamond

**WHEREAS** the *Local Government Act*, hereafter referred to as the "Act", as amended, empowers the Regional Board to adopt and amend zoning bylaws;

**AND WHEREAS** the Regional District has adopted a zoning bylaw for Electoral Area H, that being "the Cowichan Valley Regional District Electoral "H"—North Oyster/Diamond that being Zoning Bylaw No. 1020, 1986;

**AND WHEREAS** the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the Act;

**AND WHEREAS** after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Zoning Bylaw No. 1020;

**NOW THEREFORE** the Board of Directors of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

#### 1. CITATION

This bylaw shall be cited for all purposes as "CVRD Bylaw No. 4195 – Electoral Area H – North Oyster/Diamond Zoning Amendment Bylaw (13271 Simpson Road), 2018".

#### 2. AMENDMENTS

~~Cowichan Valley Regional District Zoning~~ Bylaw No. 1020, ~~as amended from time to time~~, is hereby amended in the following manneras follows:

a) Part 3.1 is amended by adding the following new definitions s in alphabetical order:

**"Auto recycling yard"** means an area of land where End-of-Life vehicles (ELVs) are wholly or partially disassembled, dismantled, stored or crushed, and fluids and other wastes appropriately removed and stored for disposal offsite, including accessory offices, equipment repair and storage buildings but excludes the sale of automobiles, wrecked automobiles or wrecked auto parts.

**"Metal recycling yard"** means an area of land where metal based products are wholly or partially disassembled, dismantled, stored or crushed, and fluids and other wastes appropriately removed and stored for disposal offsite, including accessory offices, equipment repair and storage buildings but excludes the sale of recycled products.

b) Section 11.1 I-1 Zone-Light Industrial is amended by adding the following after Section 11.1 (a), and relabelling alphabetically subsequent sections in Section 11.1 as appropriate:

(b) Site-Specific Permitted Uses

In addition to the uses permitted in Section 11.1 (a), the following uses shall be permitted subject to the additional conditions of use in this section and Section 11.1 (c) on a site-specific basis for that portion of the property in the I-1 zone:

<u>Use</u>	<u>Civic Address</u>	<u>PID and Legal Description of Permitted Use Location</u>	<u>Conditions of Use</u>
<u>Auto recycling yard</u>	<u>13271 Simpson Road</u>	<u>PID: 008-903-603 THAT PART OF LOT 9 OYSTER DISTRICT LYING TO THE WEST OF THE WESTERLY BOUNDARY OF LOT 1 PLAN 2169 AND TO THE SOUTH OF THE SOUTHERLY BOUNDARY OF LOT 3 OF SAID PLAN EXCEPT THE SOUTH 10 CHAINS THEREOF AND EXCEPT PLAN 50801 AND VIP76340</u>	<u>The height for all vehicles, metal and materials stored outside shall not exceed 9 meters.</u>
<u>Metal recycling yard</u>			<u>The surface of the ground where end-of-life vehicles or non-ferrous materials are stored must be paved and serviced by functioning oil-water separators.</u>  <u>Screening and landscaping along all road frontages shall be provided on the subject property consisting of a 1.8-meter high solid fence and at least one row of evergreen trees.</u>  <u>Despite Section 11.1 (c)2, the setbacks for buildings and structures where the adjacent parcel is zoned Agricultural is 15 meters.</u>  <u>Where an adjacent parcel is in the Agricultural Land Reserve, screening and landscaping along that parcel boundary shall be provided to mask or separate uses consisting of an 8-meter vegetated buffer on the property.</u>

- b) ~~New Section 11.4 I-4 (Industrial Recycling) Zone is established and subsequent sections are re-numbered.~~

#### **~~11.4 I-4 – Industrial Recycling Zone~~**

~~Subject to compliance with the General Requirements in Part Five of this Bylaw, the following provisions apply in this Zone:~~

##### ~~(a) Permitted Uses~~

~~The following uses and no others are permitted in an I-4 Zone:~~

- ~~1. Automotive body repair and painting;~~
- ~~2. Automotive repair shop;~~
- ~~3. Auto recycling yard, including exterior storage;~~
- ~~4. Boat building;~~
- ~~5. Book binding, publishing;~~
- ~~6. Broom and brush manufacturing;~~
- ~~7. Cabinet and furniture manufacturing including a joinery;~~
- ~~8. Candy manufacturing;~~
- ~~9. Canning of fruits and vegetables;~~
- ~~10. Cold storage plant;~~
- ~~11. Contractor's workshop, yard and storage;~~
- ~~12. Dairy products manufacturing;~~
- ~~13. Door and window manufacturing;~~
- ~~14. Electric equipment manufacturing;~~
- ~~15. Feed and seed storage;~~
- ~~16. Food products manufacturing, processing and packaging, excluding meat processing and fish processing;~~
- ~~17. Frozen food locker;~~
- ~~18. Kennel;~~
- ~~19. Laboratory;~~
- ~~20. Laundry, dry cleaning and dyeing establishment;~~
- ~~21. Jewellery, mattress, musical instrument, toy, paper box and cardboard, sign, glass, textile, tool, tent and awning, wax products and window shade manufacturing;~~
- ~~22. Metal recycling yard, including exterior storage;~~
- ~~23. Modular or pre-fabricated home and truss manufacturing;~~
- ~~24. Parking garage;~~
- ~~25. Welding shop;~~
- ~~26. Warehouse, including mini-warehouse, truck and trailer rentals;~~
- ~~27. Recycling, sorting and storage of glass, plastic, aluminium, wood, paper, cardboard.~~
- ~~28. Sale of wholesale and retail building supplies, lumber yard;~~
- ~~29. One single family residential dwelling unit per parcel accessory to a use permitted in Section 11.4(a) 1-28;~~
- ~~30. Separate or secondary suite.~~

##### ~~(b) Conditions of Use~~

~~For any parcel in an I-4 Zone:~~

- ~~1. The parcel coverage shall not exceed 50 percent for all buildings and structures;~~
- ~~2. The maximum permitted height of a structure is 15 metres;~~
- ~~3. The setbacks for the types of parcel lines set out in Column I of this section are set out for all structures in Column II:~~



<b>Column-I</b> Type of Parcel Line	<b>Column-II</b> Buildings and Structures
Front	9.0 metres
Side (Exterior or Interior)	9.0 metres
Rear	9.0 metres

~~4. The surface of the ground where end-of-life vehicles or non-ferrous materials are stored must be paved and serviced by functioning oil-water separators.~~

~~a) That Schedule B (Zoning Map) to Electoral Area H — North Oyster/Diamond Zoning Bylaw No. 1020 is further amended by rezoning the portion of That Part of Lot 9, Oyster District, Lying to the West of the Westerly Boundary of Lot 1, Plan 2169, and To the South of The Southerly Boundary of Lot 3 of Said Plan Except The South 10 Chains Thereof and Except Plan 50801 and VIP76340 (PID: 008-903-603) as shown outlined in a solid black line on Schedule A attached hereto and forming part of this bylaw, numbered Z-4195, from I-1 (Light Industrial) to I-4 (Industrial Recycling).~~

### 3. **FORCE AND EFFECT**

This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME this 11<sup>th</sup> day of April, 2018.

READ A SECOND TIME this 11<sup>th</sup> day of April, 2018.

READ A THIRD TIME this \_\_\_\_\_ day of \_\_\_\_\_, ~~2018XXXX.~~

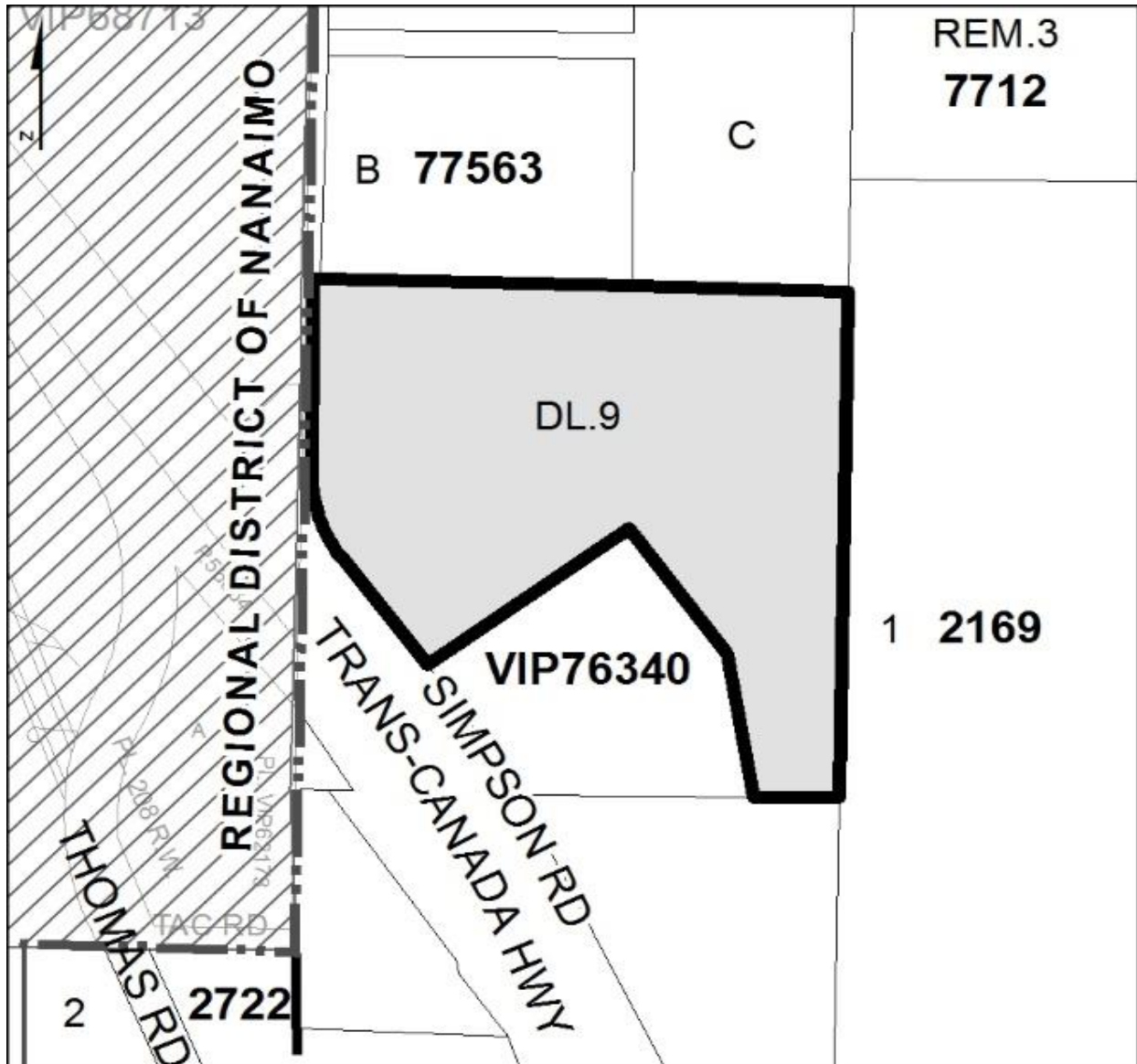
ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, ~~2018XXXX.~~

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Corporate Secretary

PLAN NO. Z-4195

~~SCHEDULE "A"~~ TO ZONING AMENDMENT BYLAW NO. 4195  
~~OF THE COWICHAN VALLEY REGIONAL DISTRICT~~



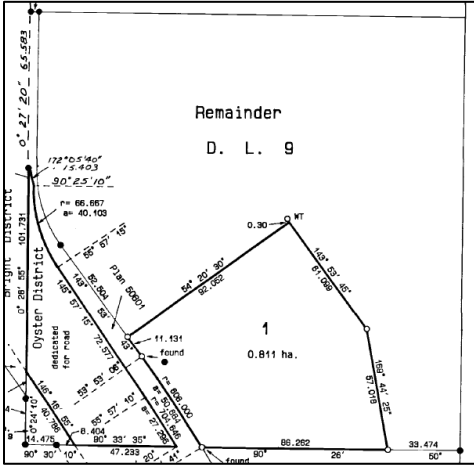

~~THE AREA OUTLINED IN A SOLID BLACK LINE IS REZONED FROM~~

~~I-1 (Light Industrial)~~ I-1 (Light Industrial) ~~TO~~

~~I-4 (Industrial Recycling)~~ I-4 (Industrial Recycling) ~~APPLICABLE~~

~~TO ELECTORAL AREA~~ H

Timeline – 13271 Simpson Road

Year/Source	History
1973	<p>The first Electoral Area H Zoning Bylaw No. 110, 1973 was adopted.</p> <p>Bylaw No. 110 was in effect from 1973 until 1987. Under this Bylaw, the subject property was zoned Industrial 2 Zone (M2), which permitted “junk yards and salvage yards”, which was defined as follows:</p> <p><i>“...an area of land used for the temporary or permanent storage of two or more unserviceable, damaged, or derelict vehicles, machinery, equipment, or materials whether for assembly for eventual disposition or for the salvage and sale of useable parts; other than the temporary storage of damaged or unserviceable vehicles, machinery and equipment for repair and re-use where such use is permitted by this By-law.”</i></p>
1987	<p>The current Electoral Area H Zoning Bylaw No. 1020, 1986 was adopted and is still in effect today.</p> <p>The subject property is currently zoned Light Industrial (I-1), which does not permit auto or metal recycling.</p>
2003	<p>A 0.811 ha (2 acre) parcel was subdivided from the south-west portion of the original parent parcel.</p> <p>The subdivided parcel is the current location of Cold Star Freight Systems, Inc.</p> 
July 2005 (Google Earth Pro)	

June 2006  
(Google Earth Pro)



June 2010  
(Google Earth Pro)





November 2012  
(Google Earth Pro)

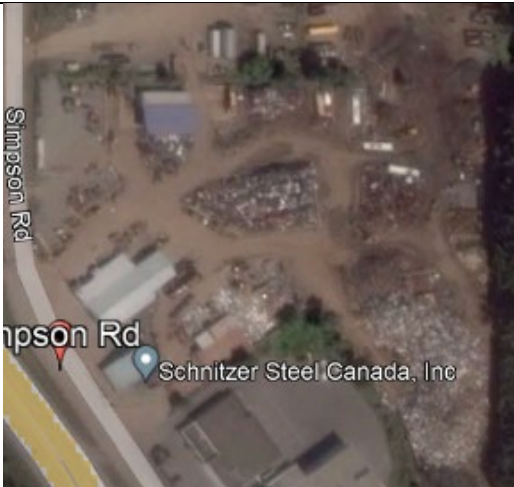




2014  
(CVRD Cadastral)





June 2015 (Google Earth Pro)		
August 2016 (Google Earth Pro)		
October 6, 2016	<p>03-H-16-RS was received. The rezoning request was to permit the following (excerpt taken from the original application submission):</p> <ol style="list-style-type: none"> <li>1. Any use permitted in the I-1 Zone; and</li> <li>2. Recycling, sorting and internal and/or external storage of any substance or material including but not limited to: glass, plastic, aluminum, wood, paper, cardboard, ferrous and non-ferrous metals, batteries, fluids, hazardous wastes (generated from the processing of End-of-Life Vehicles-ELVs including but not limited to: hydraulic &amp; brake oils, anti-freeze, mercury switches, refrigerant gasses, gasoline, diesel, and tires), appliances, motor vehicles, motor vehicle parts, electrical equipment and other ancillary uses associated with metal recycling.</li> </ol>	
June 7, 2017	<p>First report to EASC regarding the application. Report recommended that staff work with the applicant to refine and secure proposed environmental and site improvements emphasizing surface and groundwater protection and aesthetics and that draft amendment bylaws be prepared.</p>	
March 7, 2018	<p>Report to EASC to present draft zoning and OCP amendment bylaws to permit auto and metal recycling on the subject property, in addition to the uses already permitted in the I-1 zone.</p> <p>The Board granted two readings of the amendment bylaws on April 11, 2018, and also directed that a covenant be prepared to secure proposed amenities and environmental protection measures.</p> <p>Following the Board direction, the applicant explored the feasibility of the covenant with the landowner, who ultimately rejected the idea of a covenant.</p>	

May 2018 (Google Earth Pro)			
December 2018	<p>The applicant submitted a Development Permit application (DP18H05) to permit the replacement a truck weigh scale on the subject property.</p> <p>This DP application is still under review, pending the decision of this OCP and zoning amendment application.</p>		
2019 (CVRD Cadastral)			
August 7, 2019	<p>Report to EASC to present a request from the applicant to substitute a “land improvement agreement” in lieu of a covenant.</p> <p>The EASC did not support a change from the March 7, 2018 direction, and the request was denied.</p>		
2022 (CVRD Cadastral)			
July 7, 2021	<p>At some point after the August 2019 EASC meeting, the applicant proceeded to pave the areas on the subject property that were to be a component of the proposed covenant.</p>		

	<p>A report to EASC was presented to reaffirm that a covenant would still be required in order to confirm that the defined areas of the lands is to be used in compliance with the works, and compel compliance with the maintenance plan that was prepared with respect to drainage and runoff control works. The applicant again requested that the requirement of a covenant be withdrawn.</p> <p>The Board directed that:</p> <ol style="list-style-type: none"> <li>1. That upon public health guidance authorizing indoor gatherings of more than 100 people, a Public Information Meeting be held subject to the applicants agreeing in writing to the registration of a revised covenant for Application No. 03-H16RS (PID: 008-903-603) in which defined areas of the lands are to be used in compliance with the works; and compel compliance with the maintenance plan that has been prepared for the drainage and runoff control works that have been installed and are important for groundwater protection, including regular groundwater monitoring and reporting and that analysis of results be made freely available to members of the public through every available local and provincial government avenue;</li> <li>2. That the residents of Electoral Area H be notified of the Public Information Meeting via Canada Post and notices in the Ladysmith Chronicle, Take 5 and Nanaimo News Bulletin; and</li> <li>3. That CVRD staff provide the Electoral Area Services Committee with a report summarizing the questions and comments recorded at the public information meeting.</li> </ol>
May 3, 2023	The draft covenant was revised and presented to the EASC. The Board referred the application back to staff.
June 19, 2023	A public information meeting was held at Aggie Hall in Ladysmith. The CVRD and the applicant were present to answer questions from the public.
July 19, 2023	Public Information Meeting minutes, including additional CVRD staff responses and public comments, were received by the EASC and made available on <a href="https://www.planyourcowichan.ca">PlanYourCowichan.ca</a> . Additional comments that were received (but not addressed) at the public information meeting were made available <a href="https://www.planyourcowichan.ca">PlanYourCowichan.ca</a> in October 2023.



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** May 29, 2017

**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of June 7, 2017

**FROM:** Development Services Division  
Land Use Services Department

**SUBJECT:** Rezoning Application No. 03-H-16RS (13271 Simpson Road)

**FILE:** 03-H-16RS

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## PURPOSE/INTRODUCTION

The purpose of this report is to present an application to expand the list of permitted uses of the I-1 (Light Industrial) zone on the subject property.

## RECOMMENDED RESOLUTION

1. That staff work with the applicant to refine and secure proposed environmental and site improvements emphasizing surface and ground water protection and aesthetics;
2. That Amendment Bylaws be drafted for Application No. 03-H-16RS (13271 Simpson Road), and referred to the Electoral Area Services Committee for consideration.

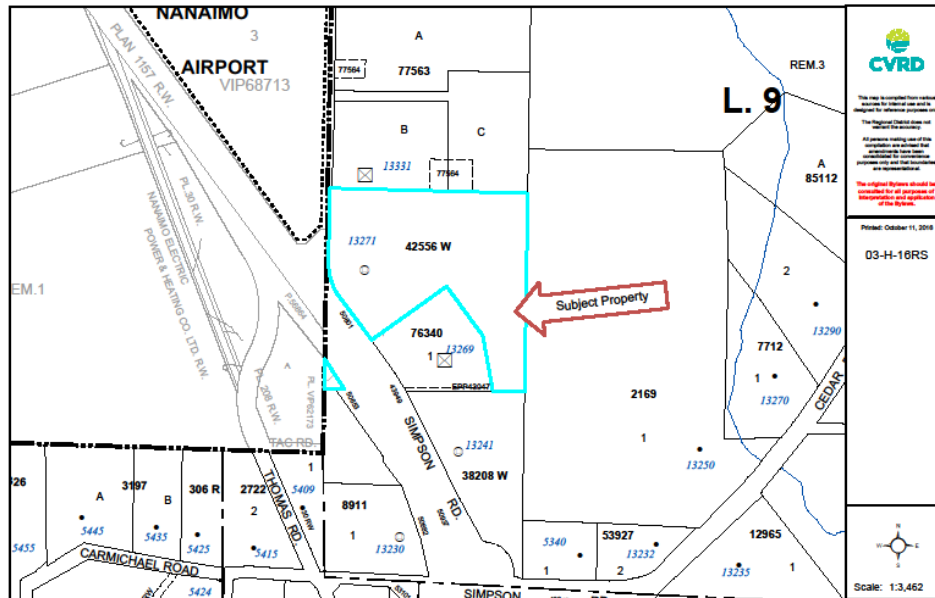
## BACKGROUND

<u>Location:</u>	13271 Simpson Road
<u>Legal description:</u>	That part of Lot 9, Oyster District, lying to the west of the westerly boundary of Lot 1, Plan 2169 and to the south of the southerly boundary of Lot 3, of said Plan, except the south 10 Chains thereof and except Plan 50801 and VIP76340 (PID: 008-903-603)
<u>Agent:</u>	Nures Kara, with Schnitzer Steel Canada Ltd.
<u>Owner:</u>	Cassidy Sales & Service Ltd.
<u>Size of Land Parcel:</u>	Approximately 2.7 ha (6.6 acres)
<u>Use of Property:</u>	Recycling and transfer of autos, auto parts, and other materials
<u>Use of Surrounding Properties:</u>	North: C-3 (Service Commercial) South: I-3 (Ultra Light Industrial) East: A-1 (Primary Agricultural/ALR) West: Trans-Canada Highway
<u>Road Access:</u>	Simpson Road (Trans-Canada Frontage Road)
<u>Water:</u>	Well for non-potable water, water delivery service for drinking water
<u>Sewage Disposal:</u>	Septic system for office and scale building, portable washrooms for employees
<u>Environmentally Sensitive Areas:</u>	None
<u>Fire Protection:</u>	North Oyster Volunteer Fire Department
<u>Wildfire Hazard Rating:</u>	Moderate
<u>Existing Plan Designation:</u>	Industrial

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## LOCATION MAP



This application proposes to amend the I-1 Zone that is currently applied to the subject property to a new I-1A (Light Industrial A) zone that would permit all the current I-1 (Light Industrial) uses as well as permit the recycling, sorting and storage of metals, motor vehicles and motor vehicle parts, batteries, hazardous wastes (which come from the end-of-life vehicles received on site), appliances, and electrical equipment. The proposed zone would also permit exterior storage of said material.

The subject property is an industrially zoned parcel which operates a metal recycling facility. The facility accepts vehicles, appliances, tires and other materials and prepares them for recycling and transfer to other facilities. Fluids are removed from vehicles and appliances, and materials are sorted, stored on site, and later transferred by barge to other facilities for further processing. The facility on the subject property employs 15 personnel, and operates generally within the hours of 6:00 a.m. and 6:00 p.m. Monday through Friday, and 7:00 a.m. and 4:30 p.m. on Saturday. These hours may vary slightly depending on operational needs.

The intent of the zoning amendment application is to accommodate the facility's existing metal recycling facility, which is not currently permitted in the I-1 Zone, but which likely has an element of legal non-conforming status considering auto wrecking has been occurring on the property prior to incorporation of the CVRD. The determination of legal non-conforming status, and the extent of which, has yet to be determined by the courts.

Adjacent lands to the north and south are zoned for industrial or commercial uses, and the property to the east is within the Agricultural Land Reserve (ALR).

The Advisory Planning Commission made the following recommendation after conducting a site

visit and has also prepared a background memo for consideration, both of which are included in Attachment J – Advisory Planning Commission Comments and Recommendation:

*“That the Area “H” Advisory Planning Commission recommends the CVRD staff and board to investigate the option of creating a new Light Industrial zone that would permit the applicant to legally continue the current operation on the parcel and apply for a Waste Stream Management Permit but **ONLY and we emphasize ONLY** on the following conditions:*

- 1. Any new zone created must not in any way remove or weaken the protection for the general environment and the ground water that is provided by the existing zones. It is unreasonable to cover the entire parcel with a roof so that translates into complete coverage of the ground with non-permeable, properly engineered concrete with run-off collectors and separators etc.. The protection for the aquifer should be “state of the art”. This condition is non-negotiable.*
- 2. Should the parcel or operation be sold or the current lease terminated, the parcel zone should revert back to the existing zone.*
- 3. An unrestricted list that clearly identifies materials that are specifically excluded from being on the parcel must be a condition of this new zone.*
- 4. Consideration be made to mitigate some of the unsightliness of the operation, perhaps with some sort of hedge.*
- 5. Consideration should be made regarding appropriate and clearly defined hours of operation.*
- 6. Consideration should be made to limit the height of the scrap piles.”*

This application has been referred to the following external agencies for comment (Referral responses are included as Attachment K – Referral Agency Response:

- Island Health
- Ministry of Transportation and Infrastructure
- North Oyster Volunteer Fire Department
- Regional District of Nanaimo
- Agricultural Land Commission
- CVRD Parks & Trails Division
- Public Safety Division
- Economic Development Division
- Engineering Services Department (Recycling and Waste Management)
- Engineering Services Department (Environmental Services).

#### **OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS**

The I-1 Zone states the following as a permitted use (Item 26):

*“Recycling, sorting and storage of glass, plastic, aluminum, wood, paper, cardboard, but excluding external storage of any material, and excluding the recycling, sorting and storage of heavy metals, batteries, appliances, wrecked motor vehicles or automotive parts.”*

The applicant indicates that aspects of the recycling facility have been in operation on the property since the 1960s, perhaps resulting in some degree of legal non-conforming status being applied to the land use. Legal non-conforming status can be established in cases where the use is not permitted by current bylaws, but the use either predates the CVRD and CVRD Zoning Bylaws or was legally permitted at the time it was established, and a subsequent change in bylaws no longer permitted the use.

Non-conforming uses are regulated by the provincial *Local Government Act*, and cannot be expanded beyond the scale and extent of the use occurring at the time the bylaws prohibiting the use became enacted. Proving the extent of non-conforming status generally requires a court decision and can be challenging depending on the historical evidence available, as well as other legal factors.

**Policy Context:**

The subject property is designated Industrial within the North Oyster/Diamond Official Community Plan (OCP), and is located on land underlain by the Cassidy Aquifer.

The Cassidy Aquifer is classified as an environmentally sensitive area within the OCP (please see Attachment E), and there are numerous objectives and policies within the plan intended to protect the Cassidy aquifer from contamination.

Relevant objectives and policies from the OCP are noted below:

***Natural Environmental Objectives***

- *Protect natural freshwater systems and important groundwater recharge areas including Woodley Range, Cassidy and Bush Creek Aquifers and Long Lake, Priest Lake, and Michael Lake.*
- *Limit or prohibit development within hazardous or environmentally sensitive areas so as to protect area residents from personal injury or loss of property and to safeguard the natural environment.*

With respect to environmentally sensitive areas defined in the OCP, Policy 3.2.2 states:

*Prior to the rezoning of lands which are located in environmentally sensitive areas or which may affect environmentally sensitive areas, the Board shall give due consideration to the following:*

- a) Soil stability;*
- b) Natural vegetation or groundcover;*
- c) Wildlife and fish habitat;*
- d) Quality and quantity of surface drainage and groundwater;*
- e) Adjacent land uses.*

**Policy 13.1.5**

*All watercourses and known groundwater aquifers shall be protected from activities which would reduce their suitability as sources of domestic water supply or for fish, shellfish and wildlife habitat.*

***Industrial Area Objectives***

- *Discourage intensive industrial development that would erode the present rural residential, agricultural and recreational character of the plan area.*
- *Recognize existing light industrial land uses and encourage small scale light industrial activities in locations which do not impact on the rural character of the community or natural environment, in particular groundwater resources.*

The following outlines Industrial policies of the plan:

**Policy 10.1.3**

*All industrial development must have regard for the implications respecting the Hazardous and Environmentally Sensitive Area, Freshwater Management and Natural Resource Management policies of this plan.*

The industrial policies provide direction for where further light industrial activities should occur, and that no additional areas be designated for heavy industrial use.

***Development Permit Area***

The property is within the Cassidy Aquifer Development Permit Area, and prior to any new development, a Development Permit would be required subject to the guidelines of the Development Permit Area.

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**CVRD Waste Stream Management Licencing Bylaw:**

Municipal solid waste and/or recycling facilities within the CVRD are required to obtain a licence in accordance with Bylaw No. 2570, "Waste Stream Management Licencing Bylaw". The Bylaw specifies requirements for facilities to ensure that waste and recycling facilities do not negatively impact communities or the environment.

Prior to obtaining a waste stream facility licence, the property must be zoned for the intended land use. The applicants have applied for a waste stream facility licence, which would regulate how the facility is operating and ensure that the facility complies with current regulations. However, a licence cannot be issued while the use is not compliant with the zoning.

Attachment H summarizes the operational plans that have been developed in support of the proponent's application for a Waste Stream Management Licence:

- Operating Plan, 2015;
- Contingency Plan, 2015;
- Environmental Management Plan, 2015

**Contaminated Site Regulation – Environmental Management Act:**

As a result of the metal recycling and auto wrecking use on the property, a site profile was required. Pursuant to the Contaminate Site Regulation, a preliminary site investigation is required by the Province. In this case, the Ministry of Environment has advised that the CVRD may proceed with the zoning amendment application, and the requirement for a preliminary site investigation can be deferred as the applicants are not proposing any changes to the ground/movement of soil/construction of buildings in the current zoning amendment application.

Attachment H highlights two studies that have been completed for the site, as well as measures the applicants have taken to mitigate impact of the metal recycling and auto-wrecking activities to the environment. The above-referenced studies are:

- Stage 1 Preliminary Site Investigation, prepared by Johnston Gray Environmental which revealed no surface or subsurface impacts to soil and groundwater
- Groundwater Quality Review, prepared by Envirochem Services Inc.

**PLANNING ANALYSIS**

The motivation for this application is, at a minimum, two-fold:

1) *Resolve the ambiguous status of the property in terms of Zoning Bylaw compliance.*

Under the current possibly legal non-conforming status, the applicants are not permitted to expand the metal recycling use from that which occurred at the time the CVRD incorporated. They are also not permitted to construct any buildings, additions or alterations that support the metal recycling/auto wrecking as a result of the unconfirmed legal non-conforming use status. If it was determined through the courts to be legal non-conforming, the Board of Variance has the ability to approve applications for alterations/additions/expansion to legal non-conforming uses. However, the Board of Variance does not have the ability to authorize new structures. The applicants have plans to construct a new scale and a new building, but these and other improvements are not possible while the status of the metal recycling facility is unclear.

2) *Apply for a CVRD Waste Stream Management Licence*

Auto wrecking is regulated by the *Provincial Vehicle Dismantling and Recycling Industry Environmental Planning Regulation*. This regulation is not specific to the site and is based on the model of professional reliance, well as compliance verification and enforcement which may be undertaken by the Ministry from time to time. All operators have to register under the regulation but are not required to submit technical documents to be registered. An

Environmental Management Plan and reporting is required every two years for these types of operations.

Given the policies of the plan, and the environmentally sensitive location, there would be no justification for approval of the application if it was a newly proposed use.

However, the site has been operating in some capacity for auto wrecking and metal recycling prior to incorporation of the CVRD, and has been designated and zoned Industrial for many years. It would not appear that the use will cease, and staff have considered whether it is most appropriate to amend the zoning for the existing use with the intention to apply regulations: both the CVRD Waste Stream Management Licencing Bylaw and new conditions of use that could be specified in the amendment bylaw.

Alternatively, the site could remain with its uncertain legal status in anticipation that one day the use will cease from the site in favour of new, more appropriate uses. Adjacent land uses are:

- North - C-3 (Service Commercial Zone)
- South – I-3 (Ultra Light Industrial Zone)
- East – A-1 (Primary Agricultural Zone)
- West – Trans Canada Highway

In addition to the environmental measures summarized in Attachment H, the applicants have proposed the following:

- 1) Increase the frequency of groundwater monitoring to quarterly. If the results continue to be positive over time, reduce the monitoring to semi-annually then annually. Currently, groundwater monitoring occurs every two years.
- 2) Pave more of the site over time such that any hydrocarbons or runoff from the activities be contained onsite and directed to oil water separators. A common theme with the APC and other referral agencies is to require paving of the entire site where business operations are conducted.

If the Committee is inclined to recommend approval, further analysis and careful consideration of zoning regulations, and perhaps amendments to the Cassidy Aquifer Development Permit area, that offer mechanisms to protect groundwater on the site should be considered. These would apply to the land in perpetuity and not be reliant on the operator if there was ever a change in tenants. Currently, the owner of the property is Cassidy Sales and Service, with Schnitzer leasing the site.

Staff is seeking direction from the Committee prior to undertaking further work on developing amendment bylaws. If the Committee finds there is merit to the application, staff will work with the applicant to further refine and secure their commitments, and identify conditions of use for the zone.

Option 1 is recommended.

## **OPTIONS**

Option 1:

That it be recommended to the Board:

1. That staff work with the applicant to refine and secure proposed environmental and site improvements emphasizing surface and groundwater protection and aesthetics;
2. That Amendment Bylaws be drafted for Application No. 03-H-16RS (13271 Simpson Road), and referred to the Electoral Area Services Committee for consideration.

Option 2:

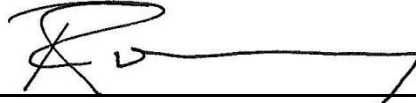
That it be recommended to the Board that Application No. 03-H-16RS (13271 Simpson Road) be denied, and a partial refund of fees be given in accordance with CVRD Fees and Procedures Bylaw No. 3275.

Prepared by:

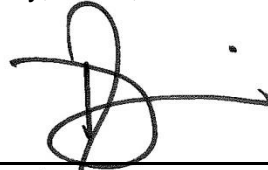


Rachelle Rondeau, MCIP, RPP  
Planner II

Reviewed by:



Rob Conway, MCIP, RPP  
Manager



Ross Blackwell, MCIP, RPP, A. Ag.  
General Manager

**ATTACHMENTS:**

- Attachment A – Official Community Plan Map
- Attachment B - Zoning Map
- Attachment C – Orthophoto Map
- Attachment D – Agricultural Land Reserve Map
- Attachment E - OCP Designated Environmentally Sensitive Areas
- Attachment F - Site Map
- Attachment G – Application Proposal
- Attachment H - Environmental Summary Letter
- Attachment I - I-1 Light Industrial Zone, Bylaw No. 1020
- Attachment J – Advisory Planning Commission Comments and Recommendation
- Attachment K - Referral Agency Responses



## COWICHAN VALLEY REGIONAL DISTRICT

### BYLAW No. 4194

#### A Bylaw for the Purpose of Amending Official Community Plan Bylaw No. 1497, Applicable to Electoral Area H – North Oyster/Diamond

**WHEREAS** the *Local Government Act*, hereafter referred to as the "Act", as amended, empowers the Regional Board to adopt and amend official community plan bylaws;

**AND WHEREAS** the Regional District has adopted an official community plan bylaw for Electoral Area H – North Oyster/Diamond, that being Official Community Plan Bylaw No. 1497;

**AND WHEREAS** the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

**AND WHEREAS** after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Community Plan Bylaw No. 1497;

**NOW THEREFORE** the Board of Directors of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

#### 1. CITATION

This bylaw shall be cited for all purposes as "**CVRD Bylaw No. 4194 – Electoral Area H – North Oyster/Diamond Official Community Plan Amendment Bylaw (13271 Simpson Road), 2018**".

#### 2. AMENDMENTS

Cowichan Valley Regional District Official Community Plan Bylaw No. 1497, as amended from time to time, is hereby amended as outlined on the attached Schedule A.

#### 3. CAPITAL EXPENDITURE PROGRAM

This bylaw has been examined in light of the most recent Capital Expenditure Program and Solid Waste Management Plan of the Cowichan Valley Regional District and is consistent therewith.

**4. FORCE AND EFFECT**

This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME this 11<sup>th</sup> day of April, 2018.

READ A SECOND TIME this 11<sup>th</sup> day of April, 2018.

READ A THIRD TIME this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Corporate Secretary



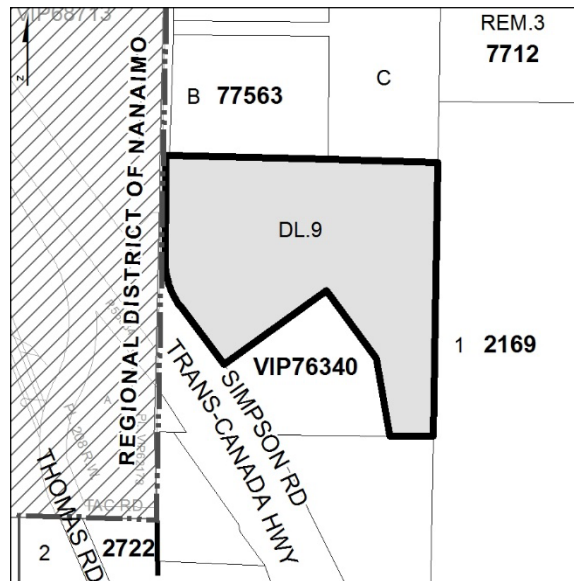


## SCHEDULE "A"

### To CVRD Bylaw No. 4194

Schedule A to Official Community Plan Bylaw No. 1497, is hereby amended as follows:

1. That Figure 12, "Commercial/Industrial Development Permit Area" be amended to include the portion of That Part of Lot 9, Oyster District, Lying to the West of the Westerly Boundary of Lot 1, Plan 2169 and to the South of the Southerly Boundary of Lot 3 of Said Plan Except The South 10 Chains Thereof and Except Plan 50801 and VIP76340 (PID: 008-903-603)





## COWICHAN VALLEY REGIONAL DISTRICT

### BYLAW No. 4195

#### A Bylaw for the Purpose of Amending Zoning Bylaw No. 1020 Applicable to Electoral Area H – North Oyster/Diamond

**WHEREAS** the *Local Government Act*, hereafter referred to as the "Act", as amended, empowers the Regional Board to adopt and amend zoning bylaws;

**AND WHEREAS** the Regional District has adopted a zoning bylaw for Electoral Area H – North Oyster/Diamond that being Zoning Bylaw No. 1020;

**AND WHEREAS** the Regional Board voted on and received the required majority vote of those present and eligible to vote at the meeting at which the vote is taken, as required by the *Act*;

**AND WHEREAS** after the close of the public hearing and with due regard to the reports received, the Regional Board considers it advisable to amend Zoning Bylaw No. 1020;

**NOW THEREFORE** the Board of Directors of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows:

#### 1. CITATION

This bylaw shall be cited for all purposes as "**CVRD Bylaw No. 4195 – Electoral Area H – North Oyster/Diamond Zoning Amendment Bylaw (13271 Simpson Road), 2018**".

#### 2. AMENDMENTS

Cowichan Valley Regional District Zoning Bylaw No. 1020, as amended from time to time, is hereby amended in the following manner:

a) Part 3.1 is amended by adding the following new definition:

**"Auto recycling yard"** means an area of land where End-of-Life vehicles (ELVs) are wholly or partially disassembled, dismantled, stored or crushed, and fluids and other wastes appropriately removed and stored for disposal offsite, including accessory offices, equipment repair and storage buildings but excludes the sale of automobiles, wrecked automobiles or wrecked auto parts.

**"Metal recycling yard"** means an area of land where metal based products are wholly or partially disassembled, dismantled, stored or crushed, and fluids and other wastes appropriately removed and stored for disposal offsite, including accessory offices, equipment repair and storage buildings but excludes the sale of recycled products.

- b) New Section 11.4 I-4 (Industrial Recycling) Zone is established and subsequent sections are re-numbered.

#### **11.4 I-4 – Industrial Recycling Zone**

Subject to compliance with the General Requirements in Part Five of this Bylaw, the following provisions apply in this Zone:

##### **(a) Permitted Uses**

The following uses and no others are permitted in an I-4 Zone:

1. Automotive body repair and painting;
2. Automotive repair shop;
3. Auto recycling yard, including exterior storage;
4. Boat building;
5. Book binding, publishing;
6. Broom and brush manufacturing;
7. Cabinet and furniture manufacturing including a joinery;
8. Candy manufacturing;
9. Canning of fruits and vegetables;
10. Cold storage plant;
11. Contractor's workshop, yard and storage;
12. Dairy products manufacturing;
13. Door and window manufacturing;
14. Electric equipment manufacturing;
15. Feed and seed storage;
16. Food products manufacturing, processing and packaging, excluding meat processing and fish processing;
17. Frozen food locker;
18. Kennel;
19. Laboratory;
20. Laundry, dry cleaning and dyeing establishment;
21. Jewellery, mattress, musical instrument, toy, paper box and cardboard, sign, glass, textile, tool, tent and awning, wax products and window shade manufacturing;
22. Metal recycling yard, including exterior storage;
23. Modular or pre-fabricated home and truss manufacturing;
24. Parking garage;
25. Welding shop;
26. Warehouse, including mini-warehouse, truck and trailer rentals;
27. Recycling, sorting and storage of glass, plastic, aluminium, wood, paper, cardboard.
28. Sale of wholesale and retail building supplies, lumber yard;
29. One single family residential dwelling unit per parcel accessory to a use permitted in Section 11.4(a) 1-28;
30. Separate or secondary suite.

##### **(b) Conditions of Use**

For any parcel in an I-4 Zone:

1. The parcel coverage shall not exceed 50 percent for all buildings and structures;
2. The maximum permitted height of a structure is 15 metres;
3. The setbacks for the types of parcel lines set out in Column I of this section are set out for all structures in Column II:

<b>Column I</b> Type of Parcel Line	<b>Column II</b> Buildings and Structures
Front	9.0 metres
Side (Exterior or Interior)	9.0 metres
Rear	9.0 metres

4. The surface of the ground where end-of-life vehicles or non-ferrous materials are stored must be paved and serviced by functioning oil-water separators.

- a) That Schedule B (Zoning Map) to Electoral Area H – North Oyster/Diamond Zoning Bylaw No. 1020 is further amended by rezoning the portion of That Part of Lot 9, Oyster District, Lying to the West of the Westerly Boundary of Lot 1, Plan 2169, and To the South of The Southerly Boundary of Lot 3 of Said Plan Except The South 10 Chains Thereof and Except Plan 50801 and VIP76340 (PID: 008-903-603) as shown outlined in a solid black line on Schedule A attached hereto and forming part of this bylaw, numbered Z-4195, from I-1 (Light Industrial) to I-4 (Industrial Recycling).

### 3. **FORCE AND EFFECT**

This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME this      11<sup>th</sup>      day of      April      ,      2018.

READ A SECOND TIME this      11<sup>th</sup>      day of      April      ,      2018.

READ A THIRD TIME this      \_\_\_\_\_      day of      \_\_\_\_\_      ,      2018.

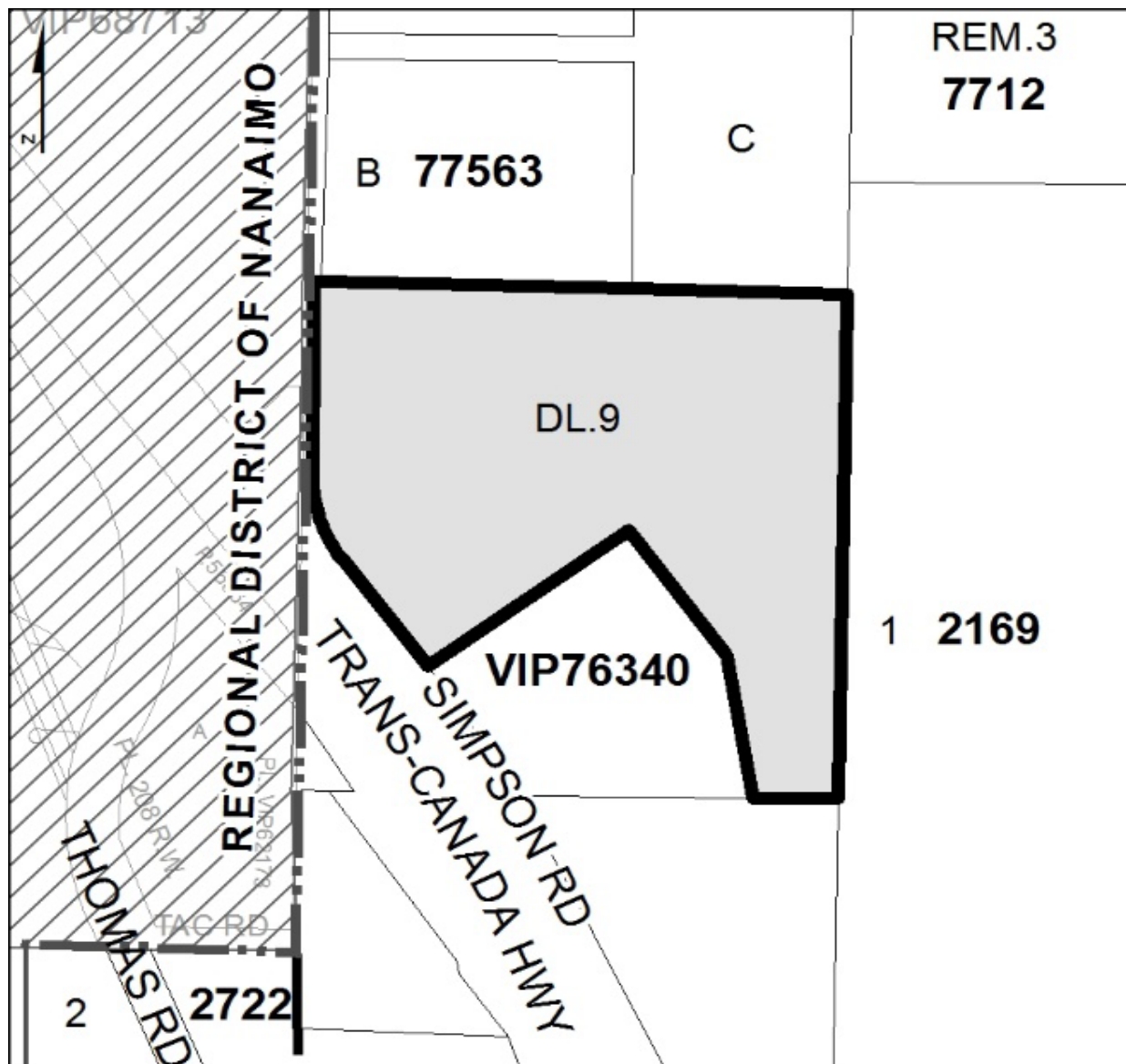
ADOPTED this      \_\_\_\_\_      day of      \_\_\_\_\_      ,      2018.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Corporate Secretary

PLAN NO. Z-4195

SCHEDULE "A" TO ZONING AMENDMENT BYLAW NO. 4195  
 OF THE COWICHAN VALLEY REGIONAL DISTRICT

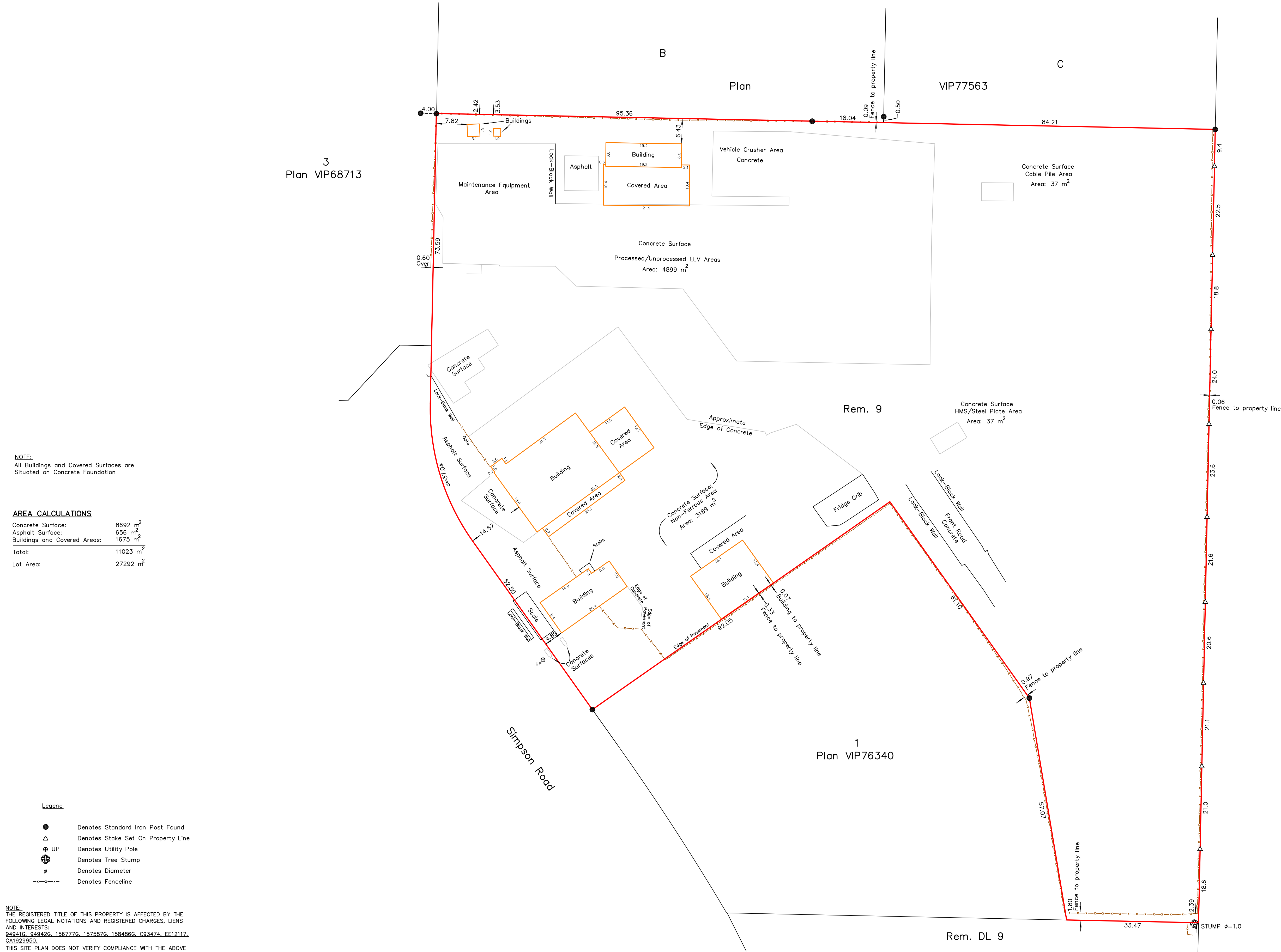


THE AREA OUTLINED IN A SOLID BLACK LINE IS REZONED FROM

I-1 (Light Industrial) TO

I-4 (Industrial Recycling) APPLICABLE

TO ELECTORAL AREA H



NOTE:  
All Buildings and Covered Surfaces are  
Situated on Concrete Foundation

AREA CALCULATIONS

Concrete Surface:	8692 m <sup>2</sup>
Asphalt Surface:	656 m <sup>2</sup>
Buildings and Covered Areas:	1675 m <sup>2</sup>
Total:	11023 m <sup>2</sup>
Lot Area:	27292 m <sup>2</sup>

Legend

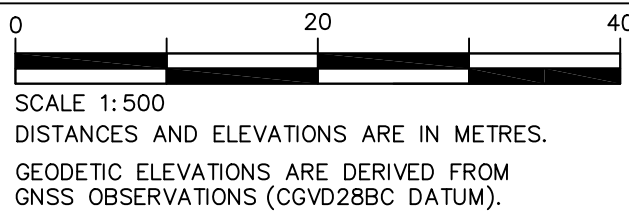
- Denotes Standard Iron Post Found
- △ Denotes Stake Set On Property Line
- ⊕ UP Denotes Utility Pole
- ⊗ Denotes Tree Stump
- ∅ Denotes Diameter
- x-x-x- Denotes Fenceline

NOTE:  
THE REGISTERED TITLE OF THIS PROPERTY IS AFFECTED BY THE  
FOLLOWING LEGAL NOTATIONS AND REGISTERED CHARGES, LIENS  
AND INTERESTS:  
249416, 949426, 156777G, 157587G, 158486G, C93474, EE12117,  
CA1928950.  
THIS SITE PLAN DOES NOT VERIFY COMPLIANCE WITH THE ABOVE  
NOTED DOCUMENTS.

THIS SITE PLAN SHOWS THE RELATIVE LOCATION OF THE EXISTING AND PROPOSED  
STRUCTURES/IMPROVEMENTS WITH RESPECT TO THE BOUNDARIES OF THE  
DESCRIBED PARCEL ONLY.  
THIS SITE PLAN SHALL NOT BE USED TO DEFINE PROPERTY LINES OR PROPERTY  
CORNERS.  
THE SIGNATORY ACCEPTS NO RESPONSIBILITY FOR AND HEREBY DISCLAIM ALL  
OBLIGATIONS AND LIABILITIES FOR DAMAGES ARISING OUT OF OR IN CONNECTION  
WITH ANY DIRECT OR INDIRECT USE OR RELIANCE UPON THE SITE PLAN BEYOND  
ITS INTENDED USE.

SITE PLAN SHOWING:  
THAT PART OF LOT 9 OYSTER DISTRICT LYING TO THE WEST OF THE WESTERLY BOUNDARY OF LOT 3 PLAN 2169 AND  
TO THE SOUTH OF THE SOUTHERLY BOUNDARY OF LOT 3 OF SAID PLAN EXCEPT THE SOUTH 10 CHAINS THEREOF AND EXCEPT PLAN 50801 AND VIP76340.

Client: SCHNITZER STEEL CANADA LTD.	Civic Address: 13271 SIMPSON ROAD
File: 23-026	Scale: 1:500
Drawn by: DRW	Property Zoning: I-1



Certified correct this 20th day of March, 2023.

\_\_\_\_\_, B.C.L.S.  
(This document is not valid unless originally signed and sealed.)

**Turner & Associates**  
land surveying  
250.753.9778  
435 Terminal Avenue North  
Nanaimo, BC V9S 4J8  
www.turnersurveys.ca

**Referral Response Summary****Application No. 03-H-16-RS (PID: 008-903-603)**

<b>Organization:</b> CVRD Environmental Services Division <b>Name/Title:</b> Keith Lawrence, A/Manager	<b>Date of Response:</b> August 2, 2023 <b>Level of Support:</b> Support with Conditions
<b>Comments:</b> <p>It is expected that the 7 recommendations described in Island Health's Preliminary Rezoning Referral letter dated July 18, 2023 would be followed.</p> <p>With regards to the recommendation #1 in the letter, we further recommend that an additional monitoring well be established on site through a statutory right of way agreement. Once established, groundwater monitoring should take place at the new location in addition to monitoring at wells BH15-03 and BH15-01. Data from these 3 wells should be made accessible to the public.</p> <p>With regards to recommendation #6 in the letter, we further recommend that dust monitoring equipment be installed which allows for publicly accessible reporting of data.</p>	
<b>Organization:</b> CVRD Strategic Initiatives Division <b>Name/Title:</b> Alison Garnett, Planning Coordinator	<b>Date of Response:</b> July 26, 2023 <b>Level of Support:</b> Support
<b>OCP Bylaw 4270 Land Use Designation</b> <p>The subject property is hooked across the Trans-Canada Highway. The large portion east of the highway is designated Industrial in OCP Bylaw 4270 and in Local Area Plan Schedule B.</p> <p>The small portion west of the TCH is designated Residential in OCP Bylaw 4270 and Suburban Residential in the Local Area Plan Schedule B.</p> <p><b>OCP Bylaw 4270 Schedule A policies relevant to this application:</b></p> <p><i>Manage Growth Holistically</i>          3.2.1.2. Policies          6. Encourages appropriately located commercial, institutional and light and heavy industrial development.</p> <p><i>Improve and Expand the Range of Housing and Type of Construction</i>          3.2.1.4 Policies          4. Encourages buffering of commercial and industrial uses from adjacent rural and residential uses and the preservation of access and views from adjacent rural and residential uses.</p> <p><i>Realize the Region's Economic Potential</i>          3.2.5.2          3. Supports a diversity of commercial and light industrial uses that provide living wage employment and contribute to the local economy.          5. Supports employment land needs that are consistent with transportation, settlement nodes and growth projections.          7. Encourages the viability of a broad range of industrial sectors.          16. Expects heavy and resource-based industries to minimize impacts on surrounding land use, while ensuring and contributing to the quality of life and residents and the natural environment.</p> <p>4.5 Industrial Designation</p>	



The OCP supports industrial development that fosters co-operation among various lands as important contributors to the sustainability of the community, including industries where waste products are recycled and resource use is constrained. There is a mutually reinforcing relationship between the development of employment and quality of life. Employment growth has the potential to contribute to social objectives such as employment creation, poverty reduction and greater access to health care and education. A strong, diverse local economy requires that the OCP provide a policy framework that encourages industry and at the same time ensures that new industrial development contributes to an improved quality of life for residents and responds to the highest and best use of lands and resources.

#### 4.5.1 Objectives

5. Ensure industrial uses are located where there are minimal negative impacts of increased noise, traffic or servicing costs or loss of environmental quality to the surrounding neighbourhood or the municipality

#### 4.5.2 Policies

The CVRD Board:

1. Encourages a diverse economy by providing for a wide range of industrial businesses within appropriate industrial areas.
2. Supports clean technology industries.

#### OCP Bylaw 4270 Development Permit Area

The subject property is located within the Aquifer Protection DPA and is located over the Aquifer Maps. Confirming the subject property is not located within the Industrial DPA, but recommend that it be included.

#### Draft OCP Bylaw 4373

Subject property is designated Industrial. The portion of the property hooked across the TCH is designated residential.

#### Final Comments

The application does not propose changes to the OCP land use designations.

No objections to the rezoning application.

Support including Industrial designated portion of subject property in the Industrial DPA.

Subject property is located on sensitive aquifer(s) and is located in the Aquifer Protection DPA.

**Date of Response:** July 25, 2023

**Organization:** CVRD Building Inspections  
Division

**Name/Title:** Sonny Bryski, Chief Building Official **Level of Support:** No comment

**Comments:** No comment

**Date of Response:** October 20, 2023

**Organization:** Agricultural Land Commission  
(ALC)

**Name/Title:** Nicole Mac, Regional Planner **Level of Support:**

**Comments:**

The ALC recognizes that the Property is not within the Agricultural Land Reserve (ALR); however, the eastern boundary of the Property is directly adjacent to ALR lands.

Part 3 of the Ministry of Agriculture's [Guide to Edge Planning](#) (2015) describes urban-side edge planning tools to promote urban/rural compatibility. With the continuing auto/metal recycling use adjacent to the ALR, there may be potential impacts to agriculture, such as encroachment, trespass, litter, theft, etc.



For this reason, ALC staff recommend considering the setback and buffer requirements outlined in the [Guide to Edge Planning](#), including up to a 15 m building setback from the ALR boundary, and an associated 8 m vegetated buffer to reduce the potential for urban/agricultural conflicts.

**Date of Response:** July 18, 2023

**Organization:** Ts'uubaa-asatx Nation

**Name/Title:** Monty Horton, Lands Administration Consultant

**Level of Support:** No comment

**Comments:**

Ts'uubaa-asatx Nation is in receipt of the referral for: CVRD Rezoning Application 03-H-16-RS - Schnitzer Steel

This application is located within the Ts'uubaa-asatx Nation statement of intent area; it is the interest of the Ts'uubaa-asatx Nation to respectfully maintain our rights and access to the lands and resources throughout our territory.

Ts'uubaa-asatx Nation does not have any comments to provide at this time regarding this application proceeding. Please note that this "no comment" response is specifically intended for this application and is without prejudice to all future consultation with our Nation regarding not only the renewal of this application but any other application or decision within the Ts'uubaa-asatx Nation traditional territory.

Furthermore, we may choose in the future to address the issues of Aboriginal rights and/or title infringement and compensation through the treaty process, the courts or other dispute resolution processes. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.

**Date of Response:** July 28, 2023

**Organization:** BC Transit

**Name/Title:** Aaron Thompson, Transit Planner

**Level of Support:** No Comment

**Comments:**

Although this property is not served by transit, the proposed uses would not generate significant transit ridership. Therefore, BC Transit has no comments on this application at this time.

**Date of Response:** July 25, 2023

**Organization:** Ministry of Transportation and Infrastructure

**Name/Title:** Derek Atchison

**Level of Support:** Support with Conditions

**Comments:**

The Ministry of Transportation and Infrastructure (MoTI) has received and reviewed your referral dated July 25, 2023 for the rezoning of subject property. The proposal falls within Section 52 of the Transportation Act and will require formal Ministry approval and signature.

The Ministry has no objections to the proposed rezoning.

Thank you for the opportunity to comment. If you or the proponent has any questions, please let me know.

**Date of Response:** July 18, 2023

**Organization:** Island Health

**Name/Title:** Stacey Sowa

**Level of Support:**

**Comments:**

Island Health is providing preliminary comments on a rezoning application submitted for the above mentioned property. This office understands that a subsequent rezoning application referral will be distributed by the Cowichan Valley Regional District (CVRD) for review and comment in the Fall of 2023.

Island Health – Environmental Public Health (EPH) has completed a review of the information made available at this link: [3-H-16 RS| 13271 Simpson Rd \(Schnitzer Steel\) | Plan Your CVRD \(planyourcowichan.ca\)](#) for the proposed amendments to Electoral Area H Zoning Bylaw, to establish a new I4 – Industrial Recycling Zone at the aforementioned property. The property is currently zoned as I1 – Light Industrial and the existing use is non-conforming to the current zoning designation.

Based on the information, this office can provide the following preliminary recommendations for the rezoning application in regards to the *Drinking Water Protection Act [SBC 2001] CHAPTER 9 (DWPA)* and *Public Health Act [SBC 2008] CHAPTER 28*, at this property:

1. Routine and ongoing monitoring of groundwater in the area be required.

We strongly encourage a robust groundwater monitoring plan be required for the ongoing operation of the Schnitzer Steel operation. The groundwater monitoring plan must be informed by varied inputs including groundwater experts. At minimum, monitoring should be conducted in monitoring wells BH15-03 and BH15-01 as identified in the *2015 Groundwater Quality Review report*.

Identified chemical parameters in the ground water monitoring plan should be tested for at least twice per year. The identified parameters are included in the 2020 – 2022 post-fire ground water monitoring plan that was required by the Ministry of Environment and Climate Change Strategy. Parameters will be compared and exceedances highlighted to the Health Canada Guidelines for Canadian Drinking Water Quality (HCGCDWQ) (<https://www.canada.ca/en/health-canada/services/environmental-workplace-health/reports-publications/water-quality/guidelines-canadian-drinking-water-quality-summary-table.html>).

Following the *2015 Groundwater Quality Review report*, Schnitzer Steel acknowledged in the October 6, 2016 letter “Summary of Environmental Improvements”, that groundwater monitoring should occur every two years. The rezoning was not approved at that time, however, and Schnitzer Steel did not commit to the recommended groundwater monitoring. Island Health strongly recommends that Schnitzer Steel do their due diligence and commit to the initiation of a groundwater monitoring program immediately. In order to capture seasonal variation, it is recommended that sampling be conducted no less than every six months.

**NOTE: Manganese levels observed during the 2015 review exceeds the current maximum allowable concentration (MAC) for Manganese that was implemented in 2017. Future groundwater monitoring should reference this new MAC level.**

2. Adequate measures should be in place to prevent leachate, as defined in the CVRD Bylaw 2570, from discharging from the storm water channels and the infiltration pond. It is recommended that monitoring of the water quality of the infiltration pond be conducted to inform response to any spills or accidental releases from the pond.
3. Records of groundwater monitoring program, any additional monitoring, and notifications of spills/accidental releases/etc. be forwarded to CVRD, First Nations Health Authority and Island Health.

4. Inspection findings and non-compliance issues related to MoECCS Authorization Number 100462 be forwarded to CVRD and Island Health.
5. Construction infrastructure and best management practice guidelines are followed in accordance with MoECCS to prevent contamination of groundwater and aquifers which may include but are not limited to the following:
  - a. Impermeable surfaces
  - b. Covered storage areas
  - c. Leachate and surface water runoff collection and treatment systems
6. Ensure the existing fugitive dust management plan is updated and maintained as required.
7. Existing Environmental Management Plan and respective spill response procedures be updated and maintained as required. The most recent available plans are from 2015 and are required to be updated every five years. Consideration for mitigation actions should be given to the scenario that contamination of the groundwater does occur.

In addition to the above, Island Health also offers the additional recommendations based on healthy built environment, climate change adaptation, and other impacted agency considerations:

- Cumulative environmental and groundwater impacts with the existing and proposed industrial and commercial uses in the area be considered. Aquifer 161 which underlies this property is reported as being a highly vulnerable aquifer which is susceptible to surface contamination and having a high transmissivity which can allow for rapid transport of potential contaminants<sup>1</sup>. Watershed level monitoring, conducted by the CVRD, is encouraged.

#### References

<sup>1</sup> Barriso, S., Ormond, R., and Lapoene, P. (2015). Groundwater Quality Survey of Aquifers in South Wellington, Cassidy and North Oyster, Vancouver Island retrieved from [https://a180.gov.bc.ca/pub/acat/documents/r52354/WSBGWQ\\_SWCND\\_1491601289654\\_1600967141.pdf](https://a180.gov.bc.ca/pub/acat/documents/r52354/WSBGWQ_SWCND_1491601289654_1600967141.pdf)

**Organization:** Island Health (second response)  
**Name/Title:** Stacey Sowa

**Date of Response:** August 23, 2023

**Level of Support:**

**Comments:**

**Re: Rezoning Application CVRD File: 03-H-16-RS (Schnitzer Steel) - Electoral Area H - 13271 Simpson Road PID 008-903-603**

Island Health provided preliminary comments to the above mentioned rezoning application on July 18, 2023. Upon receipt of the referral on July 24, 2023, Island Health – Environmental Public Health (EPH) reviewed the new information made available at this link: [3-H-16 RS | 13271 Simpson Rd \(Schnitzer Steel\) | Plan Your CVRD \(planyourcowichan.ca\)](#) for the proposed amendments to Electoral Area H Zoning Bylaw, to establish a new I4 – Industrial Recycling Zone at the aforementioned property. The property is currently zoned as I1 – Light Industrial and the existing use is non-conforming to the current zoning designation.

Based on the information, this office does not have any additional recommendations to add to our preliminary comments and we encourage the CVRD to consider all of the recommendations previously made.

**Date of Response:** August 16, 2023

**Organization:** North Oyster Fire Department  
**Name/Title:** Florian Schultz, Fire Chief

**Level of Support:** Not Specified

**Comments:**

The applicant shall register a covenant on the property title requiring the installation of a water storage tank(s) with a minimum capacity of 66,000 gallons with a fire hydrant or other appropriate connection for fire protection purposes to the satisfaction of the Cowichan Valley Regional District prior to final building inspection.

The applicant shall be required to consult with registered professionals (engineers) to:

- Determine the impact of spills, runoff, overflow
- Design catchment and separation of spills & runoff
- Design the catchment to be able to handle fire suppression activities

All existing buildings shall be brought into compliance with the BC fire code / building code:

- all life safety related code infractions should be brought up to current building/fire code. For example: exit path requirements, emergency lighting, emergency exit lighting etc.
- fire code and fire department access should be brought up to current fire code
  - Div B, Part 3, Section 3.3 is pretty descriptive regarding 'Outdoor Storage'

**Date of Response:** August 28, 2023

**Organization:** Ministry of Environment and Climate Change Strategy, Compliance and Environmental Enforcement

**Name/Title:** Vahab Nazeri, Environmental Protection Officer

**Level of Support:** No comment

**Comments:**

Ministry of Environment and Climate Change Strategy (ENV) can not provide comments on rezoning application as it is out of the ENV's jurisdictions. However according to the Ministry Authorizations Management System, publicly available at

<https://j200.gov.bc.ca/pub/ams/Default.aspx?PossePresentation=DocumentSearch>, Schnitzer Steel Canada Ltd., Located at **13271 Trans Canada HWY, Cassidy, BC**, has the following Authorizations with ENV:

- Authorization# 108418 under [Hazardous Waste Regulation](#)
- Registration# 100462 under [Vehicle Dismantling and Recycling Industry Environmental Planning Regulation](#)

Additional information may be found in the following links:

- Publicly available inspection reports: <https://nrced.gov.bc.ca/records;ms=643;currentPage=1;pageSize=25;sortBy=-dateIssued>
- Waste Discharge Authorizations process: <https://www2.gov.bc.ca/gov/content/environment/waste-management/waste-discharge-authorization>
- Hazardous Waste Legislation and regulation: <https://www2.gov.bc.ca/gov/content/environment/waste-management/hazardous-waste/legislation-regulations>
- Vehicle Recycling and Dismantling: <https://www2.gov.bc.ca/gov/content/environment/waste-management/industrial-waste/vehicle-recycling>

The Ministry's Authorizations team can also be reached through the Waste Discharge Application Enquiry portal at: <https://forms.gov.bc.ca/environment/wda-enquiry/>

**Date of Response:** September 7, 2023

**Organization:** Ministry of Agriculture and Food

**Name/Title:** Reed Bailey, Land Use Planner

**Level of Support:**

**Comments:**

Thank you for providing the opportunity for Ministry of Agriculture and Food (Ministry) staff to comment on File 03-H-16-RS that proposes to rezone the Subject Property from I-1 (Light Industrial) to I-4 (Industrial Recycling) to permit the existing auto/metal recycling use that is occurring on the Subject Property. From an agricultural planning perspective, Ministry staff offer the following comments:

- Ministry staff note that the Subject Property has been used for industrial activity since the early 1970's, that the applicant is solely seeking to legalize their existing operation and that no new structures are proposed to be constructed.
- Ministry staff also note that an existing vegetative buffer exists between the Subject Property and the adjacent properties to the east that are located within the Agricultural Land Reserve (ALR) and appear to be used for forage production.
- Ultimately, the proposed rezoning is unlikely to impact agriculture on the adjacent ALR properties to the east or other ALR properties in the surrounding region.
- If in the future, the owner proposes to use the Subject Property for a different use or construct any buildings/facilities, Ministry staff would appreciate the opportunity to comment on the prospective application.

Please contact Ministry staff if you have any questions regarding the above comments.

**Date of Response:** August 21, 2023

**Organization:** Ministry of Environment, Aquatic  
Habitat Branch

**Name/Title:** Nicholas Schwetz, Riparian Areas  
Biologist

**Level of Support:** Support with conditions

**Comments:**

Industrial development is subject to the Riparian Areas Protection Regulation. It is recommended that streams (defined term) on and adjacent to the subject property are identified and corresponding setbacks are known prior to rezoning approval to ensure regulatory restrictions are known and informed.

**Organization:** Regional District of Nanaimo

**Name/Title:** RDN Board

**Comments:**

At the September 7<sup>th</sup>, 2023 EASC meeting the RDN Electoral Area Service Committee passed the following on the Request for Endorsement of Comments on Cowichan Valley Regional District Rezoning Application, 13271 Simpson Road, Electoral Area H, Cowichan Valley Regional District

It was moved and seconded:

1. That the Board provides the following comments in response to the Rezoning Application referral from the Cowichan Valley Regional District dated July 21, 2023 with respect to 13271 Simpson Road, in Electoral Area H of the Cowichan Valley Regional District:
2. In response to community concern about aquifer protection, the Regional District of Nanaimo requests that Schnitzer Steel's Environmental Management plan address the protection of the Cassidy Aquifer and that any surface water runoff is captured in an oil/water separators to avoid the contamination of the aquifer; and,
3. Request that screening and buffering along the Trans Canada Highway be a condition of approval.

CARRIED UNANIMOUSLY

**Date of Response:** November 23, 2023

**Organization:** Nanaimo Airport Commission

**Name/Title:** Don Goulard, Vice President,  
Operations & Regulatory Affairs

**Level of Support:** No comment

**Comments:**

Allowable Heights:

- Schnitzer Steel's request to operate to a maximum height of 10 meters is acceptable.

Permitted Uses:

- Schnitzer Steel's existing use does not impact airport operations.

Noise Exposure:

- Schnitzer Steel's operations do not impact airport operations.

Associated Concerns:

- Aquifer protections.
- Environmental protections.
- Firefighting capabilities.



Ministry of Environment  
& Climate Change Strategy  
Environmental Emergencies and  
Land Remediation Branch

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July 11, 2023

File: DGIR 202063/Schnitzer Steel

**To:** Nures Kara  
Schnitzer Steel

**From:** Kristina Cary  
Recovery Specialist  
Environmental Emergency Program  
Ministry of Environment and Climate Change Strategy

**Re:** Schnitzer Steel Spill Recovery

---

The purpose of this letter is to provide documentation of the status of spill recovery associated with file DGIR 202063 at the Schnitzer Steel facility in Cassidy, British Columbia. A groundwater sampling plan was requested by the Environmental Emergency Program for the purpose of monitoring potential migration of contaminants from the incident at the Cassidy facility in September 2020.

We have reviewed the final groundwater sampling report and test results and have determined that this groundwater sampling report fulfills requirements as described in Division 2.1, Section 91.2 (2) of British Columbia's *Environmental Management Act*. As such, no further spill response or recovery actions are required from the Environmental Emergency Program for the September 2020 spill.

In collaboration with Island Health, groundwater sampling reports and test results for on and off site wells were also reviewed against the Guidelines for Canadian Drinking Water Quality. It was determined that the chemical results were within the maximum allowable concentrations for health related parameters. Chemical analysis reports from August 2022 appeared to be consistent with historical background concentrations.

As we conclude the follow up for the emergency in 2020, to ensure confidence in operations going forward, BC Ministry of Environment and Climate Change Strategy will maintain regulatory oversight, and Island Health and the Cowichan Valley Regional District staff will provide guidance for monitoring the operations of the site, including re-zoning and

compliance monitoring. To that end, these partners are copied on this letter.

Thank you,

Kristina Cary  
Recovery Specialist

Cc: Cowichan Valley Regional District  
Island Health