



STAFF REPORT TO COMMITTEE

DATE OF REPORT September 25, 2023

MEETING TYPE & DATE Electoral Area Services Committee of October 18, 2023

FROM: Development Services Division
Land Use Services Department

SUBJECT: Application No. SC23D01 (5301 Chaster Road/PID: 028-237-765)

FILE: SC23D01

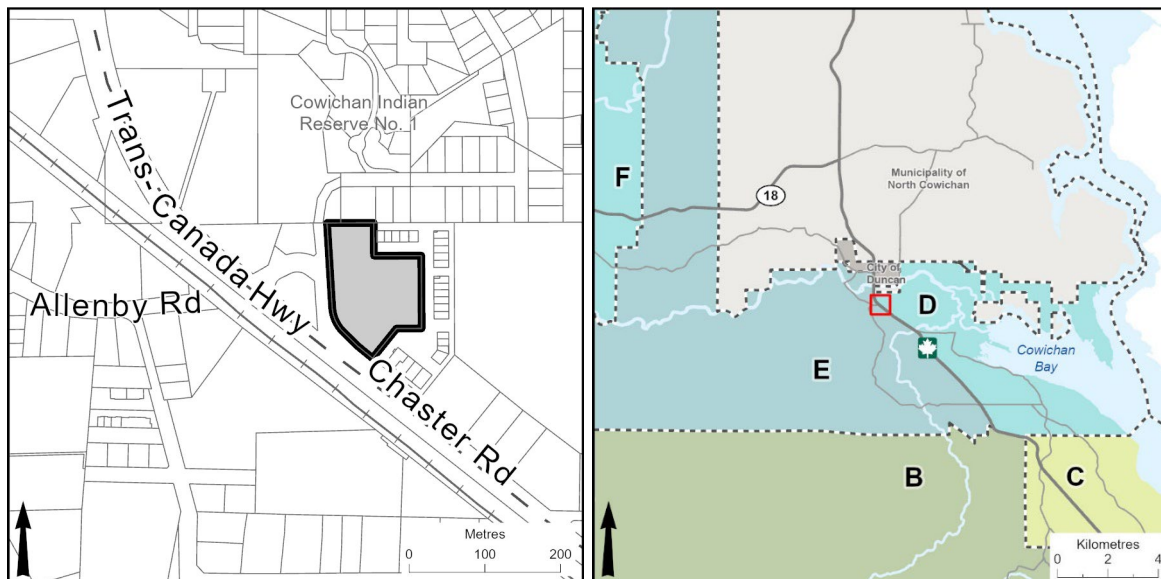
PURPOSE/INTRODUCTION

The purpose of this report is to present an application to strata title a previously occupied 5-unit building located at 5301 Chaster Road, in accordance with Section 242 of the *Strata Property Act*.

RECOMMENDED RESOLUTION

That it be recommended to the Board that Application No. SC23D01 (5301 Chaster Road, PID: 028-237-765) for phased strata plan EPS1665, be approved.

LOCATION MAP



BACKGROUND

The subject property is located in Electoral Area D – Cowichan Bay, and was rezoned in 2010 to permit a mixed industrial and commercial development. The objective of the 2010 application was to permit a mix of commercial and low impact light industrial uses within a comprehensively designed, business park setting. Multiple development permits have been issued for various phases of this project.

Strata Property Act

Under typical circumstances *Part 14, Section 242* of the *Strata Property Act* allows strata plans to be registered without local government involvement, provided that the buildings have not been previously occupied.

- A surveyor must certify that the building has not been previously occupied (surveyor's endorsement of non-occupancy).
- The strata plan must be deposited with the BC Land Title and Survey Authority **within 180 days** of the surveyor's endorsement of non-occupancy.

Since the subject property was not stratified within 180 days of the surveyor's endorsement of non-occupancy, and since tenants occupied the units within this 180-day period, the building in phase 6 is considered to be previously occupied. When buildings have been previously occupied by owners/tenants *Part 14, Section 242* of the *Strata Property Act* triggers local government approval for the conversion of previously occupied buildings.

The Board has not received a Strata Conversion Application for any of the buildings in previous phases as these buildings were all new buildings that were previously unoccupied and, therefore, did not require local government approvals to stratify.

Strata Properties

A strata development can be buildings or land, divided into separate units, called strata lots. This allows for individual ownership of a strata lot, with common property managed by the strata corporation. In the case of a building strata, this means that one building with multiple units can have multiple owners. Common property in a building strata typically consists of driveways, parking areas, exterior landscaping, etc. It can also include roof and attic truss systems.

For example, if an apartment building is not a strata it can only have one title – even if it has multiple units. This is typical for purpose-built rentals where a building owner can rent out the various units in the building, but they cannot sell individual units (they can simply sell the whole building to a new owner/landlord).

There are two scenarios where a landowner/developer can create a building strata:

1. If a building has not been previously occupied (e.g. a new building) a landowner/developer can work with their Surveyor to register a strata plan;
2. If a building has been previously occupied (e.g. an older building) a landowner/developer can seek permission from an approving authority.

The CVRD occasionally deals with the conversion of previously occupied buildings into building strata's, however, the Board does not generally deal with new buildings as landowners/developers do not require local government approvals to register a strata plan for a building that has not been previously occupied.

The subject property is a business park complex with ten buildings being constructed over 10 phases. As of the date of this report, the buildings in phases 1-7 have been completed. Buildings in phases 8-9 are under construction, and an application for the building in phase 10 has yet to be submitted.

OFFICIAL COMMUNITY PLAN / POLICY CONSIDERATIONS

Official Community Plan for the Electoral Areas Bylaw No. 4270 (HOCP):

The subject property is designated Commercial in the Official Community Plan and Koksilah Village in the Local Area Plan. The property is within the Koksilah Village Growth Containment Boundary.

The Commercial Designation is envisioned to generally consist of a diverse range of small-scale neighbourhood or village commercial uses, and personal services. It is anticipated that increased demand for various types of commercial uses will develop, particularly for highway-oriented commercial uses adjacent to the Trans-Canada, particularly at major intersections.

The Koksilah Village designation is intended to accommodate a mixed-use village area located in the northwest corner of Electoral Area D Cowichan Bay, east of the Trans-Canada Highway and opposite the Koksilah Industrial area in neighbouring Electoral Area E. The Village is envisioned to feature a mixture of commercial, retail, office, light industrial processing, services and accessory residential uses along with community services and amenities that lessen dependence on automobile use.

Cowichan Valley Regional District Electoral Area D – Cowichan Bay Zoning Bylaw No. 3705:

The subject property is zoned [C7 – Village Business Park Commercial Zone](#). The use and density are permitted under the zone.

The zone specifies that impervious surface coverage shall not exceed 55%, of which not more than 45% may be parcel coverage. An open application to amend DP18D04 has been made to adjust the overall site plan to allow for 64.7% impervious surface coverage. This application is incomplete, a development variance permit application was made on September 19, 2023. The EASC will consider the variance at a future meeting.

Development Permit Areas:

The subject property is within the following development permit areas:

- DPA 1 – Riparian
- DPA 4 – Aquifer Protection
- DPA 11 – Commercial and Mixed-Use Development
- DPA 13 – Energy & Water Conservation; Greenhouse Gas Emissions Reduction

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

Building Inspections and Bylaw Enforcement Division:

1. The building substantially complies with the applicable bylaws of the regional district.
2. The building substantially complies with the building regulations within the meaning of the *Building Act*.

For Background:

- This is a continuation of a routine phased strata.
- The building associated with phase 6 was constructed under Building Permit 20-D-348 and is substantially complete subject to minor building envelope completions such as miscellaneous painting and caulking.
- Four tenant improvement permits have been issued for individual units under permits 21-D-371, 21-D-372, 21-D-412 and 21-D-413.
- All tenant improvements have paid their respective sewer fees to Eagle Heights Sewer and have been awarded an Occupancy Permit.

- All work was completed under the supervision of a registered Architect to the *BC Building Code* 2018 standard.
- Inspections & Enforcement support the application and continue to have a good working relationship with Parhar Developments and Newell Architects.

Utilities Division:

- This property is within the City of Duncan Water service and CVRD Eagle Heights Sewer Service Area, and is serviced by both.
- Utilities has no objection to a strata title conversion for this property, provided it meets Land Use Services objectives.
- All sewer fees have been paid for building 8 (5 units), part of the 5301 Chaster development in Eagle Heights Sewer system.

PLANNING ANALYSIS

Strata Property Act Considerations:

The Regional District Board of Directors is provided guidance in the consideration of Strata Title Conversion through provincial regulations under Section 242 of the [Strata Property Act](#). The CVRD Board must consider the following criteria as it relates to the existing building:

<i>Criteria</i>	<i>Notes</i>
1. The priority of rental accommodation over privately owned housing in the area.	The development is not residential.
2. The proposal of the owner-developer for the relocation of residential occupants.	There are no residential occupants.
3. The life expectancy of the building.	The building was recently constructed to the <i>BC Building Code</i> (2018) standard.
4. Projected major increases in the maintenance costs due to the condition of the building.	The building was recently constructed. All tenant improvements received an Occupancy Permit.
5. Other matters it considers relevant.	Matters (if any) that the Board considers relevant may be flagged prior to a final decision.

The majority of the criteria set by Section 242 of the *Act* is largely applicable to older residential buildings. Since the building associated with phase 6 of the strata subdivision on the subject property is a commercial building, much of this criteria is not applicable.

For instance, if the building were older, the CVRD Board could require a report from a qualified professional detailing what (if any) aspects of the building must be upgraded to substantially comply with the present code. Such a request is not necessary in this case as the Building Official has confirmed that construction was completed under the supervision of a registered Architect to the current *BC Building Code* standard. Staff have recommended approval on the basis that the building is recently constructed.

Delegation of Authority:

[CVRD Bylaw No. 4483](#) (Sec. 10) delegates to the Corporate Officer and CAO authority to execute and submit (to the land title office) strata plans for previously occupied buildings, under the *Strata Property Act* – but only when such applications have been approved by the Board (or their delegate).

Sec. 242 (10) (a) of the [Strata Property Act](#) enables the Board to delegate the authority to approve the conversion of previously occupied buildings (subject to conditions). This authority was delegated to the General Manager of Land Use Services in 1984; however, staff have determined that the 1984 delegation is no longer valid.

Should the Board wish to reconsider the delegation of authority it may direct staff to update Bylaw No. 4383.

OPTIONS

Option 1 (Approve the Application):

That it be recommended to the Board that Application No. SC23D01 (5301 Chaster Road, PID: 028-237-765) for phased strata plan EPS1665 be approved.

Option 2 (Request Additional Information): That it be recommended to the Board that the preliminary staff report for Application No. SC23D01 (5301 Chaster Road, PID: 028-237-765), be referred back to staff for the following information [*requested information to be provided by the Board*], prior to further consideration.

Option 3 (Deny): That it be recommended to the Board that Application No. SC23D01 (5301 Chaster Road, PID: 028-237-765) for phased strata plan EPS1665 be denied, [*specific reasons to be identified by the Board*].

Prepared by:



Richard Buchan, B.A, M.A.
Planner III

Reviewed by:



Michelle Pressman, RPP MCIP, MPlan
Manager



Ann Kjerulf, MCP, RPP, MCIP
General Manager

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

Resolution:

☒ Corporate Officer

Financial Considerations:

☒ Chief Financial Officer

ATTACHMENTS:

Attachment A – Rationale

Attachment B – Application to Deposit Phase 6

Attachment C – Elevations

Attachment D – Site Plan